

ACCEPTING EQUALITY: RHETORICAL REACTIONS TO THE  
CHANGING POLITICS OF *DE JURE* SEGREGATION

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# ACCEPTING EQUALITY: RHETORICAL REACTIONS TO THE CHANGING POLITICS OF *DE JURE* SEGREGATION

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After the passage of the Voting Rights Act of 1965, advocacy of *de jure* segregation quickly ceased to be an acceptable position within American political discourse. The speed of the political shift left figures who had openly supported *de jure* segregation with a political problem: how would they explain their former support for a position which had rapidly become not only discarded, but actively disreputable to have held? This study explores the responses to this dilemma through a series of case studies, highlighting different characteristic approaches that various figures took. George Wallace is examined as an example of a politician who tried -- although less effusively than is commonly believed -- to apologize for his former position. Strom Thurmond is examined as an example of a politician who, to the greatest extent possible, took refuge in silence about his former political stances. Robert Bork, whose opposition to the 1964 Civil Rights Act became infamous during the hearings about his nomination to the Supreme Court, is considered as someone who wrote off his former position as a technical (and therefore reasonable) mistake. The case of Herman Talmadge is used as an example of a politician who took refuge in a thin veneer of technical denials. Political commentator William F. Buckley's inconsistent and evasive answers present yet another

strategy. And one politician who refused to accede to the new political consensus, Lester Maddox, is used to explore what happened to those who failed to shift with the times. A final chapter explores the attempts of later self-identified conservatives to grapple with the oft-overlooked roots of the conservative movement's political successes in segregationist ideology and Jim Crow's former supporters.

## BIOGRAPHICAL SKETCH

Stephen Frug was born in New York City in 1971 and grew up in Cambridge, Massachusetts. He was educated at the Commonwealth School, and received his A.B. degree from Harvard College in 1993 with a concentration in philosophy. He received an M.A. in history from Tufts University in 1997. From 1997 - 1999 he taught history and mathematics at the New Jewish High School of Greater Boston (since renamed Gann Academy). In 1999, he enrolled in the Ph.D. program in history at Cornell University, receiving his second M.A. in history in 2002. In recent years he has served as an Instructor at Hobart and William Smith Colleges in Geneva, New York. He lives with his family in Ithaca, New York.

For  
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## INTRODUCTION: A PROBLEM OF POLITICAL POSITIONING

In 1954, when a unanimous Supreme Court handed down its decision in the historic case of *Brown v. Board of Education*, opposition to their decision was immediate, fierce and sustained. In response to *Brown*, southern politicians devised the policy of "massive resistance," hoping to undermine and ultimately reverse what they saw as an overreach by the Court.<sup>1</sup> Two years later, the infamous "Southern Manifesto," signed by an overwhelming majority of the southern congressional delegation, "commend[ed] the motives of those States which have declared the intention to resist forced integration by any lawful means," and "pledge[d]... to use all lawful means to bring about a reversal of this decision which is contrary to the Constitution and to prevent the use of force in its implementation."<sup>2</sup> Opposition to *de jure* integration of schools, as well as the numerous other institutions to which the basic principles of *Brown* were soon extended, continued for more than a decade, both in practical terms—the struggle of integrationists to get the principles of *Brown* put into practice was arduous—and in ideological terms, as white southerners, joined by conservatives from

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<sup>1</sup> The classic study is Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950s*. (Baton Rouge: Louisiana State University Press, 1969). For more contemporary studies, see Clive Webb, ed., *Massive Resistance: Southern Opposition to the Second Reconstruction*. (Oxford: Oxford University Press, 2005).

<sup>2</sup> The Strom Thurmond Institute of Government and Public Affairs at Clemson University reprints the Southern Manifesto on its web site, available at <http://www.strom.clemson.edu/strom/manifesto.html>.

around the country, argued against the basic principle that "the doctrine of 'separate but equal' has no place" in American law.<sup>3</sup>

But by the thirtieth anniversary of the *Brown* decision in 1984, the landscape had changed dramatically. While there were ongoing concerns about the practical success of desegregation,<sup>4</sup> there was almost universal agreement as to the justice of its underlying principles. The Warren Court's position about the immorality of segregation—"the doctrine of "separate but equal""—had become the default position across the American political spectrum, opposed only by the smallest and most marginal of fringe groups. Even if academics or judicial theorists criticized the grounds of *Brown's* decision, they would typically try to find other ways to achieve the same result—at the very least, would protest loudly that they thought that the result would be worth keeping. An open avowal of the principles of *de jure* segregation—such as that made by nearly the entire southern congressional delegation in 1956—would have been a politically disastrous move, one which would result in the speaker's immediate marginalization. So clear was this, however, that the preceding sentence must remain hypothetical: no politician was so careless of their career that they decided to test the matter.

This nearly unanimous acceptance of both the specific judicial decision and the broader principles behind it is hardly the normal course of events with controversial topics. In contrast to *Brown*, many of the other controversial decisions of the Warren Court—on school prayer, on

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<sup>3</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

<sup>4</sup> See for example Walter Goodman, "Brown v. Board of Education: Uneven Results 30 Years Later", *The New York Times*, May 17, 1984, p. B18.

the rights of the accused and many other topics—remained controversial. Perhaps the best contrast with *Brown*, however, is the most controversial decision of the Burger Court: *Roe v. Wade*. *Roe v. Wade* is an obvious parallel to *Brown* in that, just as *Brown* played a central role in the struggle for civil rights, *Roe* was the legal case which played the biggest role in the women's movement in late-twentieth century America (albeit not as central a role as *Brown* played in the Civil Rights Movement). Thirty years after the Supreme Court decided *Roe*, however, both the case itself and the issue which they purported to decide (the legality of abortion) remained one of the most contested issues in American politics. On the broader issue, both extremes—that abortion should be legal throughout a term of pregnancy in all cases, subject only to the control of the pregnant woman, and that abortion should be illegal in all cases regardless of circumstances—had advocates in every major branch of the government, as did many positions in-between.<sup>5</sup> Many observers thought

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<sup>5</sup> A year after that three-decade anniversary, the two major political parties would take diametrically opposite positions on the issue. The Republican party platform stated that "the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make it clear that the Fourteenth Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protection of that right against those who perform abortions", whereas the Democratic party platform said that "Because we believe in the privacy and equality of women, we stand proudly for a woman's right to choose, consistent with *Roe v. Wade*, and regardless of her ability to pay ". (2004 Republican Party Platform, at <http://www.gop.com/media/2004platform.pdf>; 2004 Democratic Party Platform, at <http://a9.g.akamai.net/7/9/8082/v002/www.democrats.org/pdfs/2004platform.pdf>.)

that, notwithstanding the issues of terrorism, war and the economy, the so-called "culture wars" were *the* issue which most fundamentally defined the politics of the day—and all agreed that disagreements over abortion and the *Roe v. Wade* decision were fundamental to the culture wars. Despite the decision of the Supreme Court three decades prior, abortion continued to be among the most contested issues in American politics.<sup>6</sup>

*Brown's* universal acceptance was not specific to the decision itself; indeed, it had comparatively little to do with the details of the legal proceedings or of Earl Warren's oft-maligned decision. Rather, *Brown's* changed reputation was a result of the larger social, cultural and political changes wrought by the Civil Rights Movement. For all the remaining problematics of race in twenty-first century America, positions once widely held—that public segregation, or *de jure* segregation, was one of the options for American society—had been removed as an option.

Jim Crow was not simply dismantled by the Civil Rights Movement; it was *discredited*—taken down not only in practical terms, but removed as an ideologically defensible position in American life. Indeed, if anything the dismantling was far *more* complete in ideological

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<sup>6</sup> The contrast between the subsequent history of *Roe* and *Brown* has been made before—often in the opposite direction, as *Brown* is used to illustrate the ongoing contentiousness of *Roe*. The thirtieth anniversary of *Roe*, for example, produced articles such as Columbia Law Professor Michael Dorf's "The Thirtieth Anniversary of *Roe v. Wade*: Was It Rightly Decided? Will It Be Overruled?" (Findlaw, January 22, 2003, online at <http://writ.news.findlaw.com/dorf/20030122.html>) and Yale Law Professor Jack Balkin's essay "Thoughts on *Roe*, Part 1" (online at [http://balkin.blogspot.com/2003/01/thoughts-on-roe-v\\_13.html](http://balkin.blogspot.com/2003/01/thoughts-on-roe-v_13.html)), both of which contrast the nearly universal acceptance of *Brown* with the ongoing debate over *Roe*.

than practical terms: ongoing segregation of public life was a persistent reality even after the high-water mark of the Civil Rights Movement, but open advocacy *for* segregation was not. Given the persistent realities of racism in American life, this level of ideological success—in which the opposing view was decisively removed from the Overton window<sup>7</sup>—has been somewhat underappreciated.

After all, it is rare, in politics, to have a position so thoroughly abandoned as the argument for *de jure* segregation has been. It is far more typical for support for even long-since hopeless political causes to persist for decades after a new political reality had been thoroughly integrated into American political life. (Opposition to the New Deal, to mention just a single example, persists to this day.) And in those cases where a position has been thoroughly abandoned—such as isolationism in the wake of the attack on Pearl Harbor—things changed in such a way that the position's erstwhile proponents could quite credibly claim that events on the ground had changed their minds. There is generally little sense that *having* supported a view, rather than simply *still* supporting a view, is in any way disreputable.<sup>8</sup>

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<sup>7</sup> The "Overton Window" is a concept from political science and public policy (named after the late Joseph Overton) describing the range of acceptable stands within public discourse. See Nathan Russell, "An Introduction to the Overton Window of Political Possibilities," January 4, 2006, at <http://www.mackinac.org/article.aspx?ID=7504>.

<sup>8</sup> The closest analogy, in fact, may be to an example in European rather than American politics, where, in the post-war environment, not only was fascism no longer an active political option, but even *having* supported fascism back in its heyday was considered disgraceful; hence former German Chancellor Helmut Kohl's oft-quoted phrase about "the grace of late birth"—i.e. one which allowed its subject to have avoided any stance

But in the wake of the Civil Rights Movement this was the fate of those who openly supported *de jure* segregation. To have spoken against the Civil Rights Movement—a movement increasingly described across the political spectrum as a moral triumph, with its most widely known spokesman, Martin Luther King Jr., increasingly depicted in hagiographic terms—became a mark of racism. This is not to say that there were no excuses that were accepted, nor that former proponents of *de jure* segregation were driven out of American political life; on the contrary, this study will attempt to show how little was actually required for politicians to climb their way out of perceived culpability for their support of Jim Crow. But that nearly any explanation or political strategy sufficed to deal with a segregationist past does not change the fact that *some* explanation, *some* political strategy, needed to be adopted. A past as a segregationist became something that called for an explanation—even if, as shall be argued here, politicians often managed to avoid giving one.

It is important to emphasize that I do not mean, in the least, to deny the ongoing importance of racial divides, and racism, in American politics. Those who so avidly supported Jim Crow did not vanish overnight in the mid-sixties; on the contrary, their persistence in politics is central to the question I am attempting to examine. The claim here is a far more specific one: that a particular, comparatively well-defined set of positions became an anathema in American political life, even as their ideological kin remained viable political positions; and, thus, those who

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from the period. Quoted in Jay Howard Gellar, "Germany, Federal Republic of", in Richard S. Levy, ed., *Antisemitism: a Historical Encyclopedia of Prejudice and Persecution*, Santa Barbara: ABC-Clio, 2005, vol. 1, p. 271.

had once prominently held the now-forbidden views were required to shift their political position—a shift that required devising some sort of new political stance, even if that was only a refusal to address the obvious questions.

Dan T. Carter's brief but important book *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution: 1963-1994*<sup>9</sup> is a study of the ways in which the conservative movement (or, to use his word, counterrevolution) continued to use race and racially coded language to appeal to voters. Carter focuses on the ongoing use of coded racial appeals—appeals to tropes such as Reagan's "welfare queens", or political images such as the elder George Bush's use of Willie Horton in a political advertisement. (Carter also discusses the ideological links between pro-segregationist politics and contemporary conservative political positions.) Nothing in the present study is intended to deny the reality of the phenomenon that Carter describes. On the contrary, its reality is central to the issues discussed here.

Accepting Carter's argument, after all, means seeing that for all that racial appeals retained their importance in American politics, they were no longer the open appeals of the previous decades. For all that Carter convincingly traces ideological links between pro-segregationist politics and later conservative political positions, the lack of the central organizing tenet in the former to play any role in the latter is itself noteworthy and important. Towards the conclusion of his study, Carter

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<sup>9</sup> Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution: 1963-1994*. (Baton Rouge: Louisiana State University Press, 1996.)

says that "racism—though it continues as a subtext in American politics—no longer wears the rhetorical garments of earlier generations."<sup>10</sup> While fully accepting Carter's argument about the continuities of racial appeals in the post-Civil Rights Movement world, this study is premised on the notion that there is a flip side of these continuities—the fact that the rhetoric of racism *has* had to change, since not only the raw racial rhetoric of pre-Movement politics but also the open embrace of legalized segregation has now become politically anathema.

The abridged version of Carter's argument can be found in an admission from conservative strategist Lee Atwater, who described the evolution of the political uses of race thusly:

You start out in 1954 by saying, 'Nigger, nigger, nigger.' By 1968 you can't say 'nigger' - that hurts you. Backfires. So you say stuff like forced busing, states' rights and all that stuff. You're getting so abstract now [that] you're talking about cutting taxes, and all these things you're talking about are totally economic things and a byproduct of them is [that] blacks get hurt worse than whites.<sup>11</sup>

Atwater, like Dan Carter, is speaking of the emotional appeals to racism as a political strategy. But the same trajectory held for the political positions supported. It was not only the rhetoric that changed; the conservative fight against busing and affirmative action replaced the fight

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<sup>10</sup> Ibid., p. 122.

<sup>11</sup> Quoted by Bob Herbert, "Impossible, Ridiculous, Repugnant", *The New York Times*, October 6, 2005. Herbert used the same quote in his September 25, 2007 column, "The Ugly Side of the G.O.P." Atwater himself played a crucial role in working to reverse this trend, at least to a limited extent, through the infamous "Willie Horton" ad he devised to attack Democratic nominee Dukakis during the 1988 Presidential campaign (see Carter, op. cit., chapter three.)



against integration not only as a matter of political rhetoric, but as a matter of expressed political goals. Politicians who wished to appeal to conservative whites—particularly but not exclusively conservative white southerners—now spoke of their opposition to busing and affirmative action, because support for *de jure* segregation was no longer a political option.

This left a problem for those who had supported segregation—whether out of expediency or conviction hardly mattered—back in the days in which such support had been a politically tenable position. Many of its supporters, naturally, left political life before, or during, the change in the political climate, such that they never had to deal with the reality of a newly embarrassing past. But this was hardly true of all of them. The struggle for the social acceptance of *de jure* integration—inextricably linked to the legal, political and cultural struggles for it—was, from the viewpoint of the activists fighting for it (and the African Americans living under Jim Crow) a long one; but measured by the span of a political career, it was comparatively short. It was certainly possible to be speaking and writing at a time when segregation seemed well within the political mainstream of American life, and then to still be speaking and writing after segregation, with comparative speed, ceased to be an acceptable option.

Political figures—by which I mean to include not only candidates for electoral office, but also writers and intellectuals with a desire to shape the American political dialogue—whose career bridged this gap thus faced a political problem. They would have to explain a past that had rapidly come to seem to be disgraceful.

This was a challenge even more complicated than it appeared at first glance. After all, the speed of the change in the political culture left such political figures with constituencies (intellectual or electoral) composed of people who had quite recently supported *de jure* segregation—often fervently. And while some of those constituents might have had changes of heart due to the intervening events, some clearly had not. For that matter, even those who had changed their minds could easily be alienated by describing a past they shared in the wrong way. At the same time, other constituents (having more thoroughly reevaluated their views, or perhaps come of age in the post-Jim Crow era) would require a convincing articulation of a political figure's past in terms acceptable within the new civic framework.

This study will examine a number of different figures, and discuss how they met this particular challenge. Those discussed will include Robert Bork, William F. Buckley, Lester Maddox, Herman E. Talmadge, Strom Thurmond and George C. Wallace. In differing ways, and to differing degrees, all six of those men supported some aspect of the legal structure of Jim Crow; and all six continued in political life long enough that they were forced to confront that past. In addition, other sections of this study will focus on figures who, through ideological identification, linked themselves with supporters of *de jure* segregation even if they did not personally support it; this will include an examination of Senator Trent Lott's retrospective endorsement of Strom Thurmond's 1948 Presidential bid, and a broader examination of the place of the struggle over Civil Rights in historical memory for those avowedly identified with the conservative movement.

The choice of case studies represents an attempt to capture a variety of different approaches that former supporters of *de jure* segregation took in dealing with their increasingly controversial pasts. In this study I have conceptualized the different figures as utilizing different strategies. Those strategies included repentance, denial, equivocation, and silence. (Lester Maddox is included as the equivalent of an experimental control: someone who refused to back away from his avowedly segregationist beliefs in any fashion, and who suffered marginalization as the price for sticking to his political guns.) It would be convenient for the intellectual historian—whose task has been aptly likened to "nailing jelly to the wall"<sup>12</sup>—if these strategies were consistently and purely held; but in the mess of reality it turns out not to be the case. While certain figures emphasized different strategies in their later careers—Strom Thurmond using above all the strategy of silence, and George Wallace famously adopting the strategy of repentance—a closer look at their records shows that almost all these figures adopted multiple strategies at different times—often, indeed, at the same time, weaving from denial to avoidance to apology, sometimes within a single sentence.

Other considerations have affected the selection of case figures too. Bork and Buckley are discussed in part to emphasize that support for *de jure* segregation was not simply a southern phenomenon, and thus the need to deal with that past was not either. They also help tie together an important secondary theme in this work, namely, the underappreciated

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<sup>12</sup> Peter Novick, *That Noble Dream: the "Objectivity Question" and the American Historical Profession* (Cambridge: Cambridge University Press, 1988), p. 7.

role that former supporters of *de jure* segregation played in the post-Sixties rise of the conservative movement to a dominant role in American politics. The successes of the Civil Rights Movement were among the chief triumphs of the left in post-war America—and perhaps the only such triumph to now be openly celebrated across the political spectrum. Given the dominant role of the political right since the 1960s—in particular, given the fact that this dominant role was crucially enabled by the very successes of the Civil Rights Movement—it is worth both remembering the political genealogy of today's conservative movement, and exploring the ways in which conservatives conceptualize going from defeat on the chief domestic issue of the immediate post-war era to their subsequent political dominance. This is also one of the rationales for the chapter exploring the way that avowedly conservative figures who were too young to personally confront the Civil Rights Movement look back on the past of their ideological forebears.

This study sits at the intersection of several different lines of historical research, and it is hoped that it will shed light on all of them. First and foremost, this study is part of the ongoing research into white reactions to the Civil Rights Movement. For obvious and important reasons, most histories of the Civil Rights Movement have focused on telling the story of the Movement itself, highlighting the efforts, successes and failures of the African Americans who worked to secure themselves an equal place in American life. But there have always been works which sought to tell the other side of the story: to understand the actions of whites in response to the Movement, with particular focus on those who

resisted the fight for integration. These works range from Numan V. Bartley's classic study *The Rise of Massive Resistance* to important recent works like Jason Sokol's *There Goes My Everything : White Southerners in the Age of Civil Rights, 1945-1975*.<sup>13</sup>

These histories, generally, have tended to focus on the actions and statements of white southerners *during* the movement. To the extent that they have dealt with the post-Movement environment, they have either been focused on single figures (as in the many biographies of principal opponents of the Civil Rights Movement), or they have focused, as Sokol does, on larger social changes. This study will attempt to deal with a larger set of figures, while still focusing on individual political actors. In a related vein, earlier studies have also tended to focus on social and cultural history or political history. While those areas are important in this study too, the primary focus here will be on the intersection of political and intellectual history: I shall examine issues ranging from political rhetoric (how to explain one's past) to the effect of the changing political culture on the articulation of political ideas. I hope that this somewhat different focus will provide a useful addition to an ongoing, important and rich area of research.

Secondly, this study also fits within the increasingly active area of research focusing on the roots of the successes of the conservative movement over the past several decades. As was the case with the previously mentioned area, studies of the history of the conservative

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<sup>13</sup> Bartley, op. cit.; Jason Sokol, *There Goes My Everything : White Southerners in the Age of Civil Rights, 1945-1975*. (New York : Alfred A. Knopf, 2006.)

movement reach back several decades. But in recent years, largely in reaction to ongoing political events, the conservative movement has received an increasing amount of study. This additional attention comes in many forms. In some cases, such as Lisa McGirr's important study *Suburban Warriors: the Origins of the New American Right*, this has taken the form of specific studies exploring the topic directly. In other cases, however, broader histories have simply given an increased amount of attention to the issue of conservative history, such as in Maurice Isserman and Michael Kazin's recent history of the 1960's, *America Divided*, where an increased amount of attention has been devoted to conservative developments, in contrast to earlier studies which have focused more on the better-known liberal tendencies of the decade.<sup>14</sup> In either case, the enduring power of the conservative movement in American political discourse has encouraged scholars to focus more directly on its roots and its development. In that area, too, this study hopes to contribute to an important ongoing conversation.

These two areas, naturally, overlap, and this is not the first study to try and draw connections between them. One important precursor in this field is Kevin M. Kruse's *White Flight: Atlanta and the Making of Modern Conservatism*.<sup>15</sup> Kruse's focus differs from that of the present study in multiple ways, however; Kruse examines the ways in which the shifting political culture directly affected the creation of a social and political

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<sup>14</sup> Lisa McGirr, *Suburban Warriors* (Princeton: Princeton University Press, 2001); Maurice Isserman and Michael Kazin, *American Divided: the Civil War of the 1960s* (Oxford: Oxford University Press, 2000).

<sup>15</sup> Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism*. (Princeton: Princeton University Press, 2005).

milieu in which the new conservative politics could flourish; this study shall focus on the way that transition was explained and conceived after the fact. Nevertheless, the present study, like Kruse's work, might serve to further draw together these two important areas of historical inquiry, casting further light on their ultimately inextricable nature.

Finally, this study is in some sense an examination of the uses and abuses of the past in American political life. As such, it is in dialogue with the extensive literature about American memory, of which the founding text is Michael Kammen's now-classic work *Mystic Chords of Memory*.<sup>16</sup> Even more than the aforementioned areas, which are limited in chronological scope, the potential explorations of historical memory are endless. While the present study is, in comparison to a sweeping overview such as Kammen's work, a microhistory, it may still provide some insight into the ways in which a specific aspect of the American past—the Civil Rights Movement and the social, cultural and political changes it engendered—was remembered, or at least portrayed, within a political culture that was descended from its opponents; which, in turn, might cast light on some of the broader dynamics through which Americans relate to their past—even (or perhaps especially) to their comparatively recent past.

Before turning to the case studies, a few specific caveats and terminological explanations are in order.

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<sup>16</sup> Michael Kammen, *Mystic Chords of Memory : The Transformation of Tradition in American Culture*. (New York : Knopf, 1991).

In the course of working on this dissertation, I have encountered a great deal of enthusiasm when I first described this project. Gratifying as this has been, it has also been somewhat disconcerting as further conversation has almost inevitably revealed that that excitement focused on an issue which I have *not* been concerned with, namely, with the inner feelings of segregation supporters—or, as it was often put to me, what they "really" thought and felt.

Given the strong inclination towards this misunderstanding, it is worth emphasizing that this will not be the subject of my inquiries. My purpose here is to look at what former supporters of segregation *said* about their pasts—not what they *thought* about them. In some cases, to be sure, these two issues may be synonymous; but to the extent that the word "really" has force in the phrase "what they really thought", it is in precisely those cases that the inner feeling departed from the spoken word. For that matter, to what degree these two diverge is fundamentally unknowable; historians are not mind readers. But even to the degree that there exists evidence to probe this gap—private letters and diaries, for instance, which might be contrasted with public statements—this has not been my focus. I have not attempted to explore what my subjects "really" thought, to distinguish their public articulations from their private views. Rather, this study is attempting to study the various *public* stances taken by political figures who supported—in one fashion or another—the legal edifice behind Jim Crow. The interest here has been the public grappling (or lack thereof) with a newly-untenable political past. In the end, even if they were knowable, a private individual's "real" feelings would remain precisely that, private. But their public utterances reveal something not



only about those who made them, but about their conception of those who listened. Such is the topic of the present study.

I also wish to make a few remarks on some of the terminology used in this study. "Racism" and its various derivatives is, naturally, a recurring term -- this discussion will touch on both its presence and its absence, and forms of racism from overt to implicit to hotly denied. As such it is perhaps important to note that the term itself is not only a contested and problematic one, but it is contested along precisely the ideological fault lines which are explored in this study. Liberals -- from politicians to intellectuals -- tend to see racism as a social problem, one which is manifested in inequities in social, political, economic and other realms of life. From a liberal point of view, the racism in the system of Jim Crow was bound up with the economic, social and political effects suffered by African Americans living under it. Conservatives, in contrast, tend to define racism as a matter of personal feeling. Racism, from this perspective, is a matter of "dislik[ing] a man for his color," to use the 1964 words of George Wallace.<sup>17</sup> It is in the latter sense that many of the proponents of segregation, including many of the figures in this study, hotly denied being racists at all -- even while supporting a system of legal, social and political inferiority based explicitly upon race.

To be sure, these areas are inevitably intermingled. Many of the mechanisms of social inferiority used within the Jim Crow system depended upon the personal feelings of the system's supporters; the violence that was integral to its maintenance, for instance, was certainly spurred by personal feelings. In this analysis, racial animosity can be a

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<sup>17</sup> George C. Wallace, *"Hear Me Out"* (Anderson, S.C.: Droke House, 1968), p. 120.

part, even a crucial part, of a racist system without racism being reducible to merely "dislik[ing] a man for his color," or for that animosity to be a necessary component of any particular individual's support for, and participation in, a racist system. Nor would liberals discount the importance in subtle perceptions of bias in the persistence of racially charged politics; liberals certainly recognize, perhaps even more than conservatives, the reality of so-called "dog-whistle" appeals to racism, in which racially categories are implicitly drawn upon but not explicitly referred to. Liberals, however, do not see the success of these implicit racial appeals as depending upon any explicit, acknowledged bias; rather, they often understand racial appeals to work through cultural categories which are not only not consciously racist, but which may not even be recognized by those whose knowledge is structured by them.

On the flip side, even conservatives who tend to equate racism with personal feelings of racial animosity will recognize the broader effects of a racist social system (although this is more often true in the days since the demise of Jim Crow than in its heyday, since before its end conservatives were more concerned with a denial of the system's negative effects). They will simply ascribe the social, economic and political effects as being fundamentally caused by -- fundamentally *about* -- racial animosity as such. Hence the argument frequently made against Civil Rights Bills that 'the law can't change a man's heart': if a racist system is reducible to the content of people's hearts than this is a plausible argument, whereas if racism is seen as a larger social structure than that argument is a non sequitur. Conservatives will often discount implicit racial undertones in a particular sample of political rhetoric as long as the

core element of racial animosity was not present; for conservatives, the lack of an intentional appeal to racial stereotypes or categories will render them, if not innocuous, then at the very least not properly describable as racist.

This study will most often use a conception of racism that is closer to the liberal than the conservative view. It assumes that the nature of Jim Crow was racist, not simply because of the negative feelings that whites at the time had for blacks, but because African Americans were treated as second class citizens in numerous ways, many of which do not require any sort of direct negative intent on the part of (many of) those who uphold it. But it is worth recognizing that this very notion of racism is itself a contested issue, and that many of the figures in this study would and did dispute the use that will be assumed herein.

And not every use of the term will fit easily into one or the other conception of what racism is and how it works. Thus, when I claimed above that, in recent takes, to have spoken against the Civil Rights Movement came to be regarded as a mark of racism, this is true across the political spectrum, but what this means is contested. Conservatives tended to see the contemporary advocacy of such positions to be a mark of personal racial animosity, even if they didn't ascribe those motives universally to past supporters of Jim Crow; liberals will see advocacy for *de jure* segregation as a racist position regardless of motives. Thus the details of precise cases will be hotly contested. In one case, to be examined in chapter two, Senator Trent Lott's retroactive endorsement of Strom Thurmond's 1948 Dixiecrat presidential campaign, which caused a media firestorm, and while all participants agreed that advocating the

principles of Thurmond's 1948 campaign in 2002 would be a racist stance, there was intense disagreement about whether there could be any acceptable nostalgia for that campaign, about whether it had been racist to have supported it in 1948, and so forth. In such cases, the debate about the meaning of the term "racist", and its derivatives, will be precisely the issue under examination, and seeming points of agreement -- that Jim Crow was racist, and therefore wrong -- will, under examination, be shown to be very differently understood by different parties.

Another key pair of terms that will recur throughout this study are the notions of 'strategies' and 'narratives'. In discussing the political predicament of *de jure* segregation's former supporters, I shall use the term "strategy" to refer to the specific, personal approaches with which each figure customarily responded to the shifting the political climate. While these responses were always taken with a certain amount of deliberation -- all of the figures examined are politicians and writers, and are well aware of the effect that their choice of words can have -- I do not mean to imply with this term that the overall strategy of any of these figures was purely a product of deliberation or calculation. The strategies by which the examined figures confronted a newly-discreditable past were the result of a complex and usually shifting mix of calculation, happenstance, political necessity, moral reflection, verbal flailing and many other factors. Nor were these strategies perfectly consistent; a figure who generally adopted an apologetic tone might (for any number of reasons) have moments of defensiveness, evasiveness, or other quite different strategies. I use the term largely to highlight that, regardless of the factors that went into their responses, all of these figures faced a

political problem caused by the changing political consensus, and that the solutions they devised often had quite different natures from those devised by other figures in similar situations.

In contrast, the related term "narratives" refer to more widely held cultural beliefs and patterns, ones which transcend the specific situation of any given individual. Naturally, since narratives are more broadly shared, they are inevitably more amorphous even than the individual strategies under discussion. But the two terms do relate to each other in complex ways. To say that a figure employs a strategy of repentance is to say that he or she invokes a common cultural narrative. At other times, a figure's strategy will itself create a narrative, that is, a common understanding of that figure's political transformation and history (one which may or may not be accurate). In turn, the existing (and developing) cultural narratives -- for instance, the widely-held political belief that the reality of Jim Crow was negative, but that America, to its credit, has transcended it to become a post-racial society -- will shape the possible strategies available to individual political figures in describing their own history. For all their theoretical (and empirical) complexity, an invocation of these common narratives is essential to understand the various strategies available to, and chosen by, the figures studied herein as they sought to articulate their shifting political positions.

Finally, the present study makes a sharp distinction between support for legal segregation and social or economic segregation—between, in other words, *de jure* and *de facto* segregation. *De jure* segregation was largely dismantled by the end of the 1960s, with its legal underpinnings stripped away (both by the series of court cases descending

from the *Brown* ruling and by the various acts of Congress, in particular the 1964 Civil Rights Act and the 1965 Voting Rights Act), and by the intense, multifaceted efforts of the Civil Rights Movement to ensure the implementation of those legal changes. In contrast, *de facto* segregation continues to the present as a major feature of American life, with many studies showing that (for example) schools are *more* segregated today, fifty years after the *Brown* decision, than they were at the time "separate but equal" was held to have no place in American education. The remedies for *de jure* segregation are by now uncontroversial—no major political figures still hold that restaurants should be allowed to exclude African American customers, or that public schools should be allowed to segregate by race. In contrast, however, the remedies for *de facto* segregation—busing, which tries to remedy the effects of segregated residential patterns by mixing student bodies from diverse areas, or affirmative action, which tries to remedy the effects on remaining social divisions by deliberately increasing minority presence in schools or jobs—remain distinctly controversial, with no political consensus in sight.

Admittedly, the lines between *de jure* and *de facto* segregation are not always clear. For example, the 1974 Supreme Court decision *Milliken v. Bradley*, which ruled that busing could not be legally required across city lines, certainly ruled against a method for dismantling *de facto* segregation, but it was also providing legal tools for anyone who wished to maintain such segregation, namely, the city lines themselves, which could serve (in concord with zoning laws and other legal structures) to legally perpetuate what was seen (in political terms) as *de facto* segregation. The Court may have seen "evidence of *de jure* segregated

conditions only in the Detroit schools",<sup>18</sup> and not in the surrounding suburbs, but it did not consider whether white flight to those suburbs was an attempt to use the legal existence of city lines to recreate now-forbidden *de jure* segregation. What the Court saw as merely *de facto* segregation is easily conceived of as simply a subtler form of *de jure* segregation.

Yet the lines between *de jure* and *de facto* segregation, for all their theoretical complexity and arguable blurriness, are nevertheless crucial for this study because those are the lines that have been drawn within American political discourse. Scholars might well argue that some seemingly *de facto* segregation was in fact upheld only through the use of legal tools, but this is not how the matter was understood in the broader American political conversation. By the end of the 1970s, if not before, these lines dividing the politically acceptable from the politically indefensible were well understood. Segregation enforced explicitly as such—even by private parties—was anathema in most American political communities in the wake of the Civil Rights Movement; but segregation which arose out of past discrimination, or as the result of factors which were even arguably non-racial (such as income), was still well within the bounds of acceptable political discourse. Efforts to overturn *de facto* segregation—or segregation which was at least popularly understood to be the result of private acts and which (unlike the professedly private segregation of public accommodations outlawed by the 1964 Civil Rights Act) was at least, on its face, describable in non-racial terms—remained within the bounds of the American political spectrum. Indeed, efforts to

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<sup>18</sup> *Milliken v. Bradley*, 418 U.S. 717 (1974).

dismantle such segregation, which included the busing of school children to increase racial diversity in public schools, and a broad spectrum of affirmative action programs, remained key points of political contestation throughout the 1970s and indeed through the rest of the twentieth century. In contrast, efforts to uphold *de jure* segregation, or even supposedly private segregation which was explicitly based upon race (such as white-only public accommodations) were no longer acceptable positions in public discourse.

In fact, the shift in political rhetoric was even more profound than this would suggest. For the political assaults on proposed remedies for *de facto* segregation were usually couched in terms which derived from earlier battles against *de jure* segregation. Those who argued against busing did to some degree keep old segregationist rhetoric about local control (transferred from the state level to that of the local school district), but there was also a newly expressed concern about racial categorization on the part of the state by those who had in the near past fought fiercely in favor of allowing those categorizations. Opponents of Affirmative Action did not excoriate integration, but rather seized upon some of the most famous words of integration's most widely-known champion, and claimed that the imperative "not be judged by the color of their skin but by the content of their character" rendered Affirmative Action an immoral—indeed, a discriminatory—remedy.

In short, efforts to overturn *de facto* segregation were now attacked in terms derived from the Civil Rights Movement's incredibly successful assault on *de jure* segregation. This may be the single most powerful indication of the magnitude of the shift in the political discourse brought



about by the Civil Rights Movement: so complete was its transformation that its latter-day opponents were obliged to argue against its ongoing moves by using the very rhetoric that the Movement itself had legitimized. The Movement had won, at least in one small yet significant corner of the conversation; but those who opposed the proposed remedies for *de facto* segregation learned to express their new opposition in the terms established by the new political order. Instead of fighting over the propriety, legality and morality of legal segregation, the fight came to be framed in terms of what *counted* as legal segregation. (Was an affirmative action program an attempt to counter segregation, or was it an example of it?) The success of the Civil Rights Movement was such that all participants in the American political dialogue had come to agree that racial discrimination was wrong; the success of the conservative movement was to reframe proposed solutions to enduring racism as themselves racially discriminatory.

It is the boundaries of this shift-- in which open expressions of support for racial segregation, undisguised by any alternate explanations providing plausible deniability—which the present study seeks to explore. For all the theoretical connections between *de jure* and *de facto* segregation that might be drawn, the distinction is at the very least held to be clear in American political discourse. Proponents of Civil Rights might quite rightly bemoan the ongoing reality of segregation; scholars such as Dan Carter might unveil the subtle appeals to persistent racial stereotypes; but there nevertheless remained a distinct realm in which the efforts of the Civil Rights Movement were successful. *De jure* segregation (as, despite the complexities referred to above, I shall

continue to term it) was no longer a political option for anyone who wished to remain within the mainstream of American political life. However small that success might seem to those studying the continued inequalities of American life, it nevertheless persisted, and posed a challenge to those who had formerly been on the wrong side of that now unbridgeable divide.

Regardless of the unfinished nature of the journey, a certain distance has been definitively traveled. Those late in making the trip were left to make their excuses, or to escape that necessity in one of various ways. And it is to that squirming in the face of history's powerful, glacial movement that this study shall now turn.

## CHAPTER 1:

### REPENTANCE, REALITY AND MEMORY: THE LONG AND WINDING RHETORICAL ROAD OF GEORGE C. WALLACE

On January 14, 1963, George Wallace gave the most famous gubernatorial inaugural address of the Twentieth Century.<sup>1</sup> Standing on the steps of the Alabama state capitol, George Wallace uttered the words that would catapult him to the status of the most prominent defender of segregation in the country:

Today I have stood, where once Jefferson Davis stood,  
and took an oath to my people. It is very appropriate then  
that from this Cradle of the Confederacy, this very Heart  
of the Great Anglo-Saxon Southland, that today we  
sound the drum for freedom as have our generations of  
forebears before us done, time and time again through

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<sup>1</sup> The literature on George Wallace is vast. For my purposes, the two most useful biographies have been Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995; Second Edition, Baton Rouge: Louisiana State University Press, 2000), and Stephan Leshner, *George Wallace: American Populist* (Reading: Addison-Wesley, 1994). Jeff Frederick's *Stand Up for Alabama: Governor George Wallace* (Tuscaloosa: University of Alabama Press, 2007), while admirably fulfilling its stated intention of addressing Wallace's governance as a balance to earlier emphases on his opposition to the Civil Rights Movement and his national political ambitions and influence, has been less useful to the present project. Lloyd Rohler's *George Wallace: Conservative Populist* (Westport, Conn.: Praeger, 2004), in addition to providing a brief overview of Wallace's career, also reprints many of Wallace's important speeches and provides a useful chronology (albeit one covering thoroughly only dates up to the mid-1970s).

history. Let us rise to the call of freedom-loving blood that is in us and send our answer to the tyranny that clanks its chains upon the South. In the name of the greatest people that have ever trod this earth, I draw the line in the dust and toss the gauntlet before the feet of tyranny, and I say segregation now, segregation tomorrow, segregation forever!<sup>2</sup>

Forever, for George Wallace, turned out to be approximately a decade. In the early Seventies Wallace began retreating from his forceful stand supporting Jim Crow. He moved by fits and starts from a position of aggressively advocating *de jure* segregation to one of apologizing for the harm he had caused by doing so. At the end of his life, Wallace had gone farther than almost any other prominent pro-segregation politician in trying to articulate his regrets, expressing, ultimately, both his sorrow for the harm his stance and actions had caused, and support for the goals of those he had so forcefully opposed.

But Wallace's transition to a rhetoric of apology was a long and slow one, a process filled with hedging, justifications and excuses. Wallace did not simply wake up one day and decide he had been wrong on the issue upon which he had staked his political career. Rather, Wallace went through several different stages in dealing with his own past—stages which blurred into each other, early ones at times showing a prefiguration of later ones and later ones at time slipping into earlier

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<sup>2</sup> Reprinted in Rohler, pp. 111-20; the cited passage is at p. 113. The complete speech is also available on the official Alabama web site at [www.archives.state.al.us/govs\\_list/inauguralspeech.html](http://www.archives.state.al.us/govs_list/inauguralspeech.html). Interestingly, in the prepared version Wallace's infamous phrase begins with the words "segregation today" instead of the words he actually said, "segregation now". I have cited the speech as delivered rather than as prepared.

modes—ending up at a strategy of forthright repentance, or at least something close to it.

At the same time, Wallace's reputation for having apologized raced ahead of his actual articulations of regret. This is not simply a case, such as will be seen with other figures examined in this study, of journalists and politicians describing a change of heart (or at least of rhetoric) in far more extravagant terms than the words and deeds of the figure actually warrant. In Wallace's case, this distortion of memory occurred among the very people whom he had harmed, and to whom he had made his excuses. The desire to believe in Wallace's redemption was strong enough that people heard—or remembered—apologies of a type he had not (yet) made. And since Wallace did move towards a position of apology (albeit slower, later, and with more caveats than he was credited for) his statements were in fact aided by the desire of his listeners to hear what he wanted them to. Small hints were grasped as full-throated articulations; Wallace was soon seen as repentant—just as he, ultimately, wished to be seen.

It is therefore too simple to say that Wallace apologized for having supported segregation, let alone that he in fact regretted doing so.<sup>3</sup>

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<sup>3</sup> Even more than for other figures in this study, the question of whether Wallace was "really" sorry has been a recurring and pressing one—often linked with the question of whether or not Wallace was "really" a racist or supporter of segregation at all, or simply posed as one to achieve political power. (Wallace's early record as a comparative liberal on race is frequently cited in this context.) As always, this study will focus on the public words and deeds, not the unknowable hearts, of its case studies—which is to say, that I don't know, and can't know, what Wallace "really" thought. But it is notable that Wallace has inspired more curiosity and speculation on this front than most former segregation supporters—

Wallace came to apology by way of many other rhetorical positions — ones which continued to inform the specific articulations of his regrets. Wallace's position, in other words, remained, for many years, complex — far more complex than either people wished to believe, or than he himself (ultimately) wished them to believe.

One way to look at the various stages of Wallace's evolution is to see them as connected with the various campaigns he ran later in his life. In this understanding, Wallace's first stage is linked with his aborted 1972 campaign for the Democratic presidential nomination, as he sought to play down his past in preparation for a new run for national office. Wallace's second stage was linked with his two mid-seventies runs — those which occurred after Wallace's crippling shooting but before he abandoned his national political ambitions — namely, his successful race for re-election as Alabama governor in 1974 and his unsuccessful race for the Democratic presidential nomination in 1976. The third stage of Wallace's regrets seemed to develop after not only his injury but also after it became clear to him that — because of various factors including not only the changed political climate of the mid-1970's but his own changed fortunes after Bremer's attempted assassination landed him in a wheelchair — he would never succeed in attaining national political office. (His considered but ultimately rejected notion of running for the Senate in 1978 was the true last gasp of those ambitions.) This stage is associated above all with Wallace's final (and, once again, successful) run for the

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presumably because repentance is always questionable, always suspect, being something that is both easily and profitably faked, whereas the other strategies used — denial, ambiguity, silence and so forth --- are ones where issues of sincerity do not naturally arise.

Alabama Governorship in 1982. A fourth and final stage includes Wallace's post-political life, as his articulations of regret lost some of their hedging and caveats, as his historical reputation and looming mortality began to make their presence felt in his apologetics.

This reality is at odds with the narrative as it has come to be remembered. Wallace is remembered simply for repentance: this is often portrayed as a full, sudden conversion, the result of a road-to-Damascus-style seeing of the light; even more, it is portrayed as a *total* conversion, a complete repudiation of his earlier positions. Often in this telling Wallace's conversion is believed to be a result of the life-altering injuries that Wallace sustained during the attempt on his life by Arthur Bremer on May 15, 1972.

This narrative arose from a collaborative effort on the part both of Wallace and his listeners, particularly sympathetic ones in the African-American community, who found it easier to hear a narrative of fast conversion than slow and unsteady revision. In fact, the primary "author" of this narrative was in fact an audience so eager to see repentance and grant absolution, since Wallace himself, in actually expressing his sorrow and regrets, never really told a story of sudden and overwhelming regret. That the narrative of sudden repentance fit nicely into the cultural model of Christianity shared by both Wallace and his sympathetic audience simply enhanced this easy, if overly simplistic, embrace.

In truth, Wallace's turn away from his defiant cry in favor of "segregation forever!" did not fit comfortably into this narrative of Christian repentance. Contrary to popular memory, Wallace's attempts to justify (rather than reiterate) his support for segregation did not begin with

the 1972 attempt on his life and the lifelong disabilities that resulted from it. Rather, the first stage of Wallace's retreat in fact began more than a year earlier, after Wallace's 1970 gubernatorial election campaign—which was perhaps the nastiest that Wallace ever waged—and lasted up until his May 15, 1972 shooting. This earliest stage of Wallace's distancing himself from his past was not couched in the language of regret, but rather in a denial of his past's true nature. At first, rather than apologizing for his segregationist past, Wallace denied that it was racially motivated or hurtful. In other words, at first, while admitting that he no longer supported segregation, Wallace continued to defend the reasonableness of having done so.

Yet even saying that these denials were the first stage of Wallace's retreat is somewhat misleading. For even while Wallace was still a professed segregationist he denied both that he was a racist and that his pro-segregationist stance was in any way racially motivated. This was, of course, a time-honored move for pro-segregation politicians in the final decades of Jim Crow, once racism had become sufficiently widely questioned that simply professing it had become impolitic. A whole arsenal of standard non-racial reasons for supporting segregation had been assembled, from a support for "states' rights" and federalism to the supposed Communist roots of the push towards integration, and Wallace indulged in all of these defenses.

There is, in other words, a continuum between the kinds of things Wallace was saying—at least to a national audience—in the late Sixties and the sorts of things he began saying after his 1970 election as governor. In the earlier period he claimed to support segregation, but



denied that his motives were racial; in the latter period he (generally) claimed to *no longer* support segregation, and denied that his motives for having formerly supported it were racial. (As will be discussed below, he did on occasion deny ever having supported segregation at all, but usually he simply claimed to have done so out of benevolent motives, and to have changed his mind.)

This does *not* mean that his stance from 1970 to 1972 was simply identical to his earlier stance—hence the importance of seeing it as the first stage in Wallace's attempt to distance himself from his past. Wallace was beginning to try to move away from his image as a proponent of racial divide in contrast to earlier, when he was simply trying to justify that image. But it is important to keep his early 70's views as part of a rhetorical continuum with his pro-segregationist stance. In the early 70's, Wallace denied he had been a racist, and said he no longer supported segregation; a few years earlier Wallace had denied he was a racist, and supported segregation. Much of his vaunted new rhetoric in the early 70's was simply a case of him altering the emphases in otherwise similar statements.

Similar to *some* of his rhetoric, the sort that he used when putting the best face on his record for the national press: Wallace had always been notable for the vehemence and anger in his speeches, and that did indeed wane after the 1970 gubernatorial election. That part of Wallace's rhetorical shift was very real indeed. But what he said was continuous with other things that he had said before, even if it was not continuous with *all* the sorts of things he had said before. Wallace's first move was to more loudly trumpet long-held rhetorical positions, adding to them a

small—and, as he presented it, almost technical—detail, that he no longer supported *de jure* segregation. Wallace's distortions of his past, in brief, began long before he attempted to distance himself from his segregationist position at all.

A good example of the sort of denial Wallace practiced even before he gave up advocating for segregation as a specific political stance can be found in the 1968 assemblage of his positions on various issues, "*Hear Me Out*".<sup>4</sup> The book consisted of quotes from earlier in Wallace's career—largely from the previous few years—grouped under headings ranging from "Alabama" to "Wealth". Obviously, in crafting this attempt to promote his views to a national audience, Wallace selected the quotes that he wished to be most widely known; thus this book is a good example of the presentation which he felt put a positive face on his record to date.

It is therefore unsurprising that in his 1968 book Wallace reprinted some of his repeated denials that he was a racist. Under the heading "racism", for instance, Wallace reiterated three separate denials of his own racism, one from 1967 and two from 1964:

I've never made a racist speech in my life. (1967)<sup>5</sup>

Life is too short to dislike people because of their race,  
color, creed or national origin and I would feel sorry for a  
person who dislikes a man for his color if he were to die

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<sup>4</sup> George C. Wallace, "*Hear Me Out*". (Anderson, S.C.: Droke House, 1968). The quotation marks in the title are in the original.

<sup>5</sup> Wallace, 1968, p. 119. As in all further citations from this work, I have substituted a simple date for Wallace's fuller citation of the quotation's original source. Additionally, in the original every quotation in the book is preceded by an ellipsis, which I have in most cases omitted.

at this moment because I think he wouldn't have a nice after-life. (1964)<sup>6</sup>

No one voted for me in the 1964 Presidential primary who is anti-Negro. I am not myself, and I ran no such campaign, nor have I ever run a campaign that was anti-Negro. (1964)<sup>7</sup>

Similar remarks can be found elsewhere in the book; Wallace's denial of his own racism (as well as denials of any hatred, bigotry and similar characteristics) was a major theme in this work. It is perhaps worth noting that in addition to denying his own racism, he in fact denied that *any* of his 1964 supporters were motivated by racism. As was typical of this particular sort of defense of segregationist views, Wallace ended up defining racism so narrowly—and refusing so resolutely to see what would fit under even so restrictive a definition—that he more or less denied its existence.

But these denials of both his own racism and that of his supporters does not mean that Wallace had given up open advocacy for segregation; quite the contrary. Indeed, just below the three quotes under the "racism" heading cited above, Wallace gave a fourth quote—once again from 1964—under a subheading for "racism ...and segregation." On the relation of racism to segregation, Wallace quoted himself as follows:

A racist is one who despises someone because of his color, and an Alabama segregationist is one who conscientiously believes that it is in the best interest of

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<sup>6</sup> Ibid., p. 120.

<sup>7</sup> Ibid., p. 120.

Negro and white to have a separate educational and social order. (1964)<sup>8</sup>

This is, as noted, in line with the broad rhetorical shift in which (largely post-war) segregationists found it expedient to defend their policy not simply as favoring whites, but as best for African Americans as well. Nor was Wallace shy about describing himself as one of those (supposedly non-racist) Alabama segregationists:

Of course I believe in segregation. Everybody does when you get right down to it.<sup>9</sup>

...I am an Alabama segregationist because we have found, as have others in other parts of the nation and world, that race-mixing where there are large numbers of each race simply does not work in the interest of anyone.<sup>10</sup>

In other sections, however, Wallace emphasized that his segregationist beliefs were not ones he intended to export:

I believe in segregation all right, but I believe in segregation here in Alabama. What New York wants to do, that's New York's business. Same for Ohio. Same for Louisiana. Let folks decide for themselves. I don't care whether the owner of a restaurant serves Negroes or doesn't serve them. It's his business. Just don't make him look after customers in his own place against his will.<sup>11</sup>

Similar remarks pepper the book. Wallace returned to these themes — often in nearly-identical wording over and over, reiterating his claims that he's not a racist, that segregation is best for both races — at least in

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<sup>8</sup> Ibid., p. 120.

<sup>9</sup> Ibid., p. 132.

<sup>10</sup> Ibid., p. 132; ellipsis mine (I have omitted the first half of the passage).

<sup>11</sup> Ibid., p. 131.

Alabama. In addition to this overt support for segregation, Wallace devoted a lot of his book to forthright attacks on the instruments of *de jure* integration. More pages were devoted to the topic "Civil Rights Bill"—more than ten pages of various denunciations—than practically any topic in the book. While parading his claims of racial benevolence, Wallace was simultaneously emphatic about both supporting *de jure* segregation and decrying the legal means of its dismantling.

The point is that while Wallace was still aggressively defending Alabama's right to a segregated society in 1968, and still vigorously attacking the legal instruments of *de jure* integration (as well as those of *de facto* integration such as busing), Wallace already was busy emphasizing the purity of his motives and denying any racial motivation not only to himself but to his supporters.

Thus after his 1970 gubernatorial race, when Wallace began to openly support (de jure) integration in schools—or, rather, to accept the change that had occurred as permanent—this was not as big a shift as it might at first blush appear. This is not to deny that Wallace's rhetoric changed significantly. As biographer Dan Carter related,

Less than a month before his inauguration in early 1971, [Wallace] told the National Press Club that he had "always been a moderate" and no longer believed segregation was desirable. The nation, he told his audience, "ought to have non-discrimination in public schools" as well as "public accommodations open to all."<sup>12</sup>

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<sup>12</sup> Carter, p. 417.

Obviously Wallace had already begun changing his proclaimed views: as early as 1971 he disclaimed support for the segregation that he recently championed. But there is little sign that Wallace saw anything wrong with his recently-abandoned stances. He was still far from saying that what he *had* said and done was wrong. He had changed his fundamental position—but in a way that bowed to the inevitable, rather than signaled any regret. If Wallace was moving towards a stance of remorse—whether for political reasons, personal reasons, or both—he was doing so slowly. As of his 1972 run for the presidency, Wallace no longer called for "segregation forever", but he made no apologies for having done so, either. He had simply accepted the changed political reality.

And this was made easier by the fact that the political effects he had created—the anger he stirred up and transmuted into political support—were now achievable by other means. Wallace's 1972 campaign turned its focus away from the issues of *de jure* segregation, whose appeal was regionally limited, which for all its attraction to some whites turned off many white voters as well, and which was hard to defend on the purportedly non-racial grounds which Wallace increasingly sought to articulate; in its place, however, Wallace's campaign focused on opposition to measures designed to remedy *de facto* integration—primarily the busing of school children to prevent segregated residential patterns from leading to *de facto* segregated schools. Opposition to busing provided Wallace many of the political benefits of his earlier segregationist stances, with few of the downsides: it was still respectable, it appealed to white voters across the country (and even to some non-white ones), and it could be more convincingly argued for in rhetoric of

local power and anti-big-government stances which Wallace had earlier used to try to justify (to less friendly audiences) his segregationist stances. And, indeed, Wallace had considerable political success with this issue; Wallace's crucial success in the Florida primary was based largely upon his opposition to busing.<sup>13</sup>

Wallace formally abandoned *de jure* segregation in the early 1970's because he had found something just as effective for his political career, something which retained respectability in far more quarters: opposition to *de facto* integration. His rhetoric in support of one slid easily into his rhetoric in opposition to the other. Had not Arthur Bremer's assassination attempt effectively ended Wallace's 1972 campaign, Wallace would probably have had continued success with the rhetoric he had employed for the previous decade.

In later years, Wallace would often trace his repentance of his prior record on segregation to his crippling wounding at the hands of Arthur Bremer. But as we have just seen, Wallace ceased proclaiming his support for segregation even before the attack. And conversely, in the early years following Bremer's assassination attempt—particularly in the years between that and Wallace's last run for national office, in the 1976 Democratic primary race—Wallace's regrets were expressed in a much more measured way than they would be in later years. Wallace's claims about segregation in the mid-seventies at times included a certain

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<sup>13</sup> Jody Carlson, *George C. Wallace and the Politics of Powerlessness: the Wallace Campaigns for the Presidency, 1964 - 1976*. (New Brunswick: Transaction Books, 1981), p. 160. See more generally Carlson, chapters ten to twelve.

measured expression of regret, but they were far more focused on defenses of having held that position than apologies for it. As was true in his articulations of his position in the pre-Bremer years, Wallace was still engaged in a sort of denial—denying not the fact of his earlier pro-segregationist stances, but rather the racism behind them. Bremer's bullets did not influence his position—at least not in the first few years after they lodged in his spine.<sup>14</sup>

To be sure, many of Wallace's acts were unspoken acknowledgments of a change in stance. He met with interracial school groups; he crowned an African American as homecoming queen of the University of Alabama.<sup>15</sup> He began appointing African Americans to governmental positions in Alabama, and making a larger effort to be responsive to his African-American constituents. To a large extent Wallace did not need to say he was sorry, because his changed behavior communicated that to people without his needing to say it—indeed, regardless of whether, asked directly, he *would* have said it.

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<sup>14</sup> The fact that Wallace's change in rhetoric did not occur until a number of years after his shooting does not mean, of course, that the latter had no role in it. In addition to the daily difficulty of life in a wheelchair, Wallace had to endure daily pain due to the effect of Bremer's bullets. So his attribution of his change of heart to his suffering, and the increased empathy it brought him, is certainly believable, even if delayed, since the suffering continued. After it played a role in ending his national political ambitions (which, of course, might have been curtailed even without it by the change in the political culture—but this is, naturally, a hard thing for a politician to admit to himself), after his divorce from his second wife, perhaps Wallace's ongoing pain and consciousness of his own mortality turned his mind to mistakes of the past. But they certainly did not do so right away, nor all at once.

<sup>15</sup> Carter, p. 417; Leshner, caption to photo page (between pp. 365 - 365).



Still, it is instructive to look at what Wallace did say about his past in the mid-1970's on those occasions when he was asked directly.

One telling example of Wallace's stance as of the mid-1970's is the 1974 interview conducted with him as part of the "Documenting the American South" series of oral histories, housed at the University of North Carolina at Chapel Hill.<sup>16</sup> In many ways, this would seem to be a forum designed to emphasize any expression of Wallace's regrets—particularly if those regrets had become a recurring part of his articulated world view, and not a one-off expression brought on by the contingencies of a particular moment. It was an interview declaredly aimed at history; it was a setting conducive to reflection and measured words; it was without the pressures of a campaign appearance.<sup>17</sup> But despite a great many questions about his past words and actions regarding segregation and race, Wallace did not express any regrets about his pro-segregation stances in that interview, and he expressed only extremely mild regret about any of the specifics of his record on the issue.

For the most part, Wallace's stance in the interview continued to be one of denial—not in the sense of denying having supported segregation at all, but rather denying that there was any racial component to the

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<sup>16</sup> George Wallace, interviewed by Jack Bass and Walter DeVries, Documenting the American South, University Library, The University of North Carolina at Chapel Hill, July 15, 1974. Accessible online at: <http://docsouth.unc.edu/sohp/A-0024/A-0024.html>.

<sup>17</sup> To be sure, it was during Wallace's re-election campaign for Governor. And certainly certain campaign settings—specifically, appearances before primarily African American audiences—would be even more conducive to apologies, albeit of a different sort and in a different mode. (One such circumstance will be examined shortly.) But this was close to ideal for careful, reflective regrets.

stances he took. For example, in response to the question of whether he was surprised by getting some black support in his 1974 gubernatorial race, Wallace replied:

...there was nothing I ever said during the times of '63 or '64 that would offend anybody because of his race. Unless, being for the system that had existed for so long, our school system . . . if that offended you, being for that, then you'd be offended. But as far as getting up and talking about people. . . . I've never talked about inferiority. I never talked about anybody had less rights than others. Talked about every citizen's entitled to equal rights under the constitution of Alabama and under the constitution of the United States. And I was not surprised.<sup>18</sup>

Wallace not only did not apologize for or regret his earlier stances, not only said that no one *should have* been offended by his words, but he came very close to saying that no one *was* offended by his words. Surely even if Wallace (at the time or in 1974) thought that they were right, he had to know that things he said in '63 and '64 were offensive on racial grounds? Similarly, Wallace simultaneously dismissed people who were offended by "our school system", and claimed to have "talked about every citizen's entitled to equal rights under the constitution of Alabama and under the constitution of the United States", as if there weren't the obvious contradiction that, according to the Supreme Court, an integrated school system was integral to those equal constitutional rights. Far from expressing regrets, Wallace's claim that "I've never talked about inferiority" was, in fact, continuous with standard defenses of

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<sup>18</sup> Wallace interview, op. cit., p. 11. All ellipses save the first in the original.

segregation—not least his own earlier ones—in taking "separate but equal" at face value. Wallace was not apologizing here, but rather offering a continued defense of Jim Crow.

A second example shows a similar dynamic at work. Wallace replied to a question about whether racial politics in Alabama had changed during his political career by denying that the politics he had practiced was racial at all:

And just like in 1963, my opposition to the take over of the public school system and the University of Alabama was not motivated as much by race as you think, but by big government. Actually the taking over of the Congressional district, redistricting, and legislative districts. That's not racial. That's purely political because I have no objections. I think it's good for blacks to serve in the legislature. But nobody could get elected to office in Alabama during the time that I ran getting up talking against people because of their color. He could get up and be elected talking about the [federal] government trying to take over and run everything in your state when the good white and black people of this state ought to make some of the decisions themselves. Now you can call that race if you want to and it probably did have a racial tinge, but for a man to get up and say "I am against people because of this race," you didn't get anywhere in politics in the days that I was coming up in politics.<sup>19</sup>

Admittedly there is a slight hedge to this that Wallace might not have offered a few years before, when he conceded that his stance "probably did have a racial tinge" (although note that even here Wallace distanced himself from this by talking of an abstract, hypothetical "he"—referring back to how someone in general might get elected). And he expressed

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<sup>19</sup> Ibid., p. 14.

support for the Warren Court's redistricting decisions and the increased African American presence in the legislature that they engendered, which he probably would not have done a few years before.

Nevertheless, the dominant tone in Wallace's answer was to retreat to the claim that his actions were about big government, not segregation. He claimed that "nobody could get elected to office in Alabama during the time that I ran getting up talking against people because of their color," as if he had not himself been elected on strategies of racial backlash. Granted, it is quite possible that, under the most generous possible interpretation of Wallace's words—understanding "talking against people because of their color" as equivalent to "for a man to get up and say 'I am against people because of this race,'"—that Wallace didn't do, precisely, that. But this is simply to so narrowly and so tendentiously define racism as to all but define it away in the post-war period. "I am against people because of their race" was simply not the typical language used by those who spoke in favor of Jim Crow, nor who appealed to voters on a racial basis, in the decades following World War II. It required a studied ignorance, a deliberate blindness, to imagine that that is all that might be said.

And, indeed, define away racism was precisely what Wallace tried to do in this interview. At one point, Wallace sought to characterize himself as non-racist by equating himself with some of the most forceful proponents of Jim Crow from the era. (It is worth noting that this comes in response to a question about the infamous incident from 1965 in which Alabama State Troopers beat and gassed Civil Rights protesters

attempting to cross the Edmund Pettus Bridge out of Selma, and not about his general reputation or attitudes.) Wallace complained:

You people all consider Sen[ator] Richard Russell and Spessard Holland and Farris Bryant and Kenneth McKeller and Walter George and Herman Talmadge and and [*sic*] Fulbright and you name them. Hooey, Sam Ervin. You all consider them non racist types of southern politicians. And everything that I have ever said, they said it before I did. And many of the things I said, I got it from them. So why is it that I am the one who is something that they aren't when they are the ones that started it and said it first? And even stronger.<sup>20</sup>

But most of those who complained about Wallace's history *would* have considered those men to be quite culpable, even if not all of them were quite at Wallace's level. Wallace clearly felt he was being singled out here—which was, seemingly, the motive for this answer; yet it showed a willful ignorance of the larger context of the Civil Rights struggle.

Wallace listed prominent supporters of segregation as "non racist types of southern politicians," and presumed that his interviewers would agree.

Whatever his actions, Wallace continued to insist that he wasn't a racist.

(It was this sort of claim that caused a "white Alabama politician" to say, a year later, that "If George Wallace ain't a racist, then thank God we got nothing to worry about, 'cause there just ain't any in this whole country. In fact, there ain't any such thing as a racist—they don't exist, like unicorns."<sup>21</sup>) The implication of this particular claim of Wallace's is that, as of 1974, he did not see support for segregation as anything to apologize

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<sup>20</sup> Ibid., pp. 15 - 16

<sup>21</sup> Cited in Marshall Frady, "The Return of George Wallace", *The New York Review of Books*, October 30, 1975.

for—and didn't even see it as anything that others would regard as requiring apology.

At one point, in fact, Wallace questioned the degree to which the South was segregated at all. Asked if he thought the days of segregation were over, Wallace replied:

Well, we never had segregation in the sense that we had separation ever. We had segregation in the school system but we didn't have it in working conditions. We didn't have it in where we lived. Always did live close together but they did have. . . . Yes, there will be no more segregated schools in the sense of compulsory segregation. There may be segregation by choice in some places. That is, some blacks may want to go to schools that are for blacks and some whites vice versa and all of that. But no, no more legal. . .<sup>22</sup>

Wallace was claiming that segregation was essentially a matter of schools—and not working or living conditions—an assertion that would certainly have been challenged by those who lived under Jim Crow in its heyday. It is difficult to reconcile this level of denial (or ignorance) about the reality of segregation with any meaningful sense of regret about supporting it. For that matter, in Wallace's rather disjointed claim that "There may be segregation by choice in some places. That is, some blacks may want to go to schools that are for blacks and some whites vice versa and all of that," one can hear an echo of his 1968 claim that "everybody" believes in segregation "when you get right down to it"—itself a version

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<sup>22</sup> Wallace interview, *op. cit.*, pp. 40-41. Both ellipses are in the original; in both cases the sentence fragments are due to Wallace's leaving a thought unfinished.

of the old segregationist claim that segregation was natural and desired by both races.

It is important to emphasize the fact that Wallace had, in fact, changed his position somewhat. "There will be no more segregated schools in the sense of compulsory segregation" is a far cry from "segregation forever", even if Wallace is not quite articulating an apology for the latter. Wallace in 1974 recognized the reality of the end of *de jure* segregation in a way that he had not done even half a decade before, and did not call for its return. But he showed no remorse for his past support of it, and clearly did not recognize the social reality of the system that he had so prominently fought for.

Nor had Wallace yet arrived at the idea that the suffering brought upon him by Arthur Bremer's gun had changed his mind about his support for segregation. Tellingly, though, that notion *was* around, since it was raised by the interviewers. One of the interviewers said to Wallace:

Some people have said that you, having undergone an experience very, very few people go through, and have survived it and have overcome a great deal of adversity, that that has resulted in some change in your own outlook, particularly on racial matters.<sup>23</sup>

Thus in 1974 the story of Wallace's redemptive suffering was already widespread enough for him to be asked about. It was not yet, however, a story that Wallace himself had embraced, since his response to the question was not to speak of how his injuries had changed his mind, but rather to once again deny that he had anything in particular to apologize for:

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<sup>23</sup> Ibid., p. 27.

Well, I don't know where people. . . . I'm not a psychologist or psychiatrist and all of that. So it's hard for me to tell what's on your subconscious mind or my subconscious mind. My conscious mind . . . I never have been, prior to being shot, anti-anybody. In fact I was raised in the religious atmosphere. And even though I admit that when I was a youth the attitude toward certain people was paternalistic because they needed help. Lack of education and so forth. They needed help. Of course now we have the government trying to be paternalistic to everybody. I don't know which is better. But there never was any. . . . And I can understand how people today would reject the paternalism. It's not needed any more because of the advent of educational opportunities for people of all races and the economic upsurge in the South that's brought about opportunities for more than a few. But I wasn't raised that way. I was raised with black and white people living and playing together, close to one another. We had a different social order, no question about that. But it wasn't hypocritical. It was honest. That's the least you can say about us. It was honest. It wasn't dishonest, like it is in Washington today, where they all get up and spout children over to an exclusive private school in Montgomery county, Maryland.<sup>24</sup>

The closest Wallace got to an apology in this answer was his admitting that "when I was a youth the attitude toward certain people was paternalistic because they needed help": he "admits", in other words, that the attitude towards African Americans in his youth was *too helpful*. And said that he "can understand how people today would reject the paternalism". This is not an apology for segregation, but a *defense* of it. (Paternalism was, in fact, one of the rather standard defenses of segregation.) It is a defense which argues that segregation's time has

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<sup>24</sup> Ibid., p. 28.



passed—"it's not needed any more"—but a defense none the less. He presented the world of his childhood as a sort of prelapsarian racial paradise, talking about how he "was raised with black and white people living and playing together, close to one another." Granted, this lacks the anger of Wallace's 1960's defenses of segregation; but it is nevertheless decidedly in the mainstream of post-war defenses of Jim Crow. Wallace recognized that the system is gone—"We had a different social order, no question about that"—but he turned this around to mount an attack on the hypocrisy of liberals who simply won't admit their own racial biases.

After speaking for a while about the hypocrisies of liberals and his efforts to help African Americans, Wallace returned to the question of whether his injuries had changed his views:

I do know that when you get shot and face death and almost die that you do understand the frailty of human life. And it makes you more compassionate toward those who suffer. And you understand now, today, better than I did before what a fellow goes through when he's short of money and he's a paraplegic or quadriplegic or when he's a tubercular. When he's crippled and when he can't get a job. So I've started some programs. I started a program quietly in 1973 in the legislature for teams to go out and teach people how to look after folks in my shape. You know, because they've been sort of neglected because there's so few of them, comparatively speaking. But black ministers prayed for me in Alabama just like white ministers prayed for me. And they were upset, too, about my being shot. And I appreciate that very much because I probably got as many prayers from black churches as white churches. And I won't say that that changed my attitude, because my attitude never was anti. Because that's contrary to my religious upbringing. But I suppose that I can better sympathize with the plight of anybody

that happens to be unfortunate better than I used to. I used to see a man in a wheel chair. I knew he suffered, but I didn't know . . . I just knew it abstractly, you know. In my mind. But I didn't feel it.<sup>25</sup>

Wallace here admitted that he now empathizes more with "a man in a wheel chair" than he did before; but the emphasis was on the support he received from African Americans when he was injured, and the fact that "I won't say that that changed my attitude, because my attitude never was anti." Rather than a question about his own suffering eliciting empathy for the suffering of African Americans under Jim Crow, Wallace instead repeated many elements of his standard defenses of segregation. Aside from his own sense of mortality, the empathy expressed in this passage was for people in situations parallel to Wallace's own—"paraplegic[s] or quadriplegic[s] or when he's a tubercular," with the added compassion for the 'little guy'—someone who's "short of money" or "can't get a job"—a compassion that in Wallace's earlier career had always been limited to poor whites. As of 1974, Wallace's injuries were used to confirm more than change his old views.

A more specific interplay of denial and (extremely limited) apology can be seen in Wallace's account of the 1965 clash at the Edmund Pettus Bridge. After his off-topic opening (cited above), Wallace addressed the incident as follows:

But the Selma bridge. The Selma bridge was an unfortunate incident. No use to talk about it now. It wasn't handled the way I wanted it handled. My only concern about marching at that time was the distance between here and Selma and the report I got informed me

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<sup>25</sup> Ibid., p. 29.

that I did not have enough personnel to guarantee maximum safety, including the numbers and vehicles and so forth and the cars. And I wanted to delay until I could get sufficient forces. And I had to get them from the federal government. To guarantee absolute safety. Because I did not want anybody hurt on that march. In the Selma bridge incident nobody got hurt. Nobody had to go to the hospital.<sup>26</sup>

Informed by one of the interviewers that people were indeed hurt at the Selma Bridge, Wallace (who failed to recognize the name of John Lewis) expressed his surprise. He then concluded:

. . . the bridge confrontation could have been handled differently exactly like it was. But actually the troopers were worried about them getting across the river where there was a group of . . . people . . . antagonists on the other side and were trying to keep them from getting over there. Because they thought if they did get over there and got tied up, they couldn't get them separated.<sup>27</sup>

Wallace said that the "Selma bridge... wasn't handled the way I wanted it handled"; but he nevertheless focused on a defense of his actions—one that is based in part on a fundamental ignorance of the actual events as they played out. Wallace's regrets here were limited, and clearly lack the expressed force of his defense of his actions, upon which he spends far more verbal energy. The errors were largely others' doing; he was simply trying to protect people. The reality of his attempt to stop what was (it was clear by 1974 if not at the time) the climactic march of the Civil Rights Movement was lost in his defense of his actions.

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<sup>26</sup> Ibid., p. 16.

<sup>27</sup> Ibid., p. 17. Ellipses in the original.

As if to cement Wallace's lack of regrets about his past stances on segregation, one of the interviewers asked him, towards the end of the interview, if he had any regrets about his past, broadly speaking. Wallace—after first quipping that he regretted getting shot—replied as follows:

Oh yes . . . when I say regrets . . . I don't have any regrets. I have made mistakes. I haven't been perfect and there would be things I would do differently. I don't know that I could categorize them all now. I've been a human and I've made errors and I've made mistakes. If hindsight . . . if foresight was as good as hindsight, I would have made a better governor.

Pressed further to name some mistakes, his sole example was "maybe not carrying the press around with me in '68 in the presidential campaign. Maybe not letting them go on the airplane with me." In other words, support for segregation was simply not among Wallace's regrets in 1974.

Wallace's remarks in the oral history interview support historian Dan Carter's interpretation of Wallace's famous 1974 visit to the Dexter Avenue Baptist Church in Montgomery, the church for which Martin Luther King was pastor. Carter notes that there is a real disjunction between people's memories of Wallace's visit, and contemporary press accounts. Carter describes the popular memory of Wallace's visit as stemming from the fact that "most Alabamians—most Americans—willed [Wallace's] redemption".<sup>28</sup> Carter writes:

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<sup>28</sup> Carter, p. 462.

In later years, that historic occasion still echoed in the memories of those present and those who had only heard of the event secondhand. The Charlotte Observer described what it called the former governor's "impromptu" appearance at Martin Luther King's old church in Montgomery and described how Wallace had related his own suffering to the sufferings of black people and asked for their forgiveness.

"When he came in, in his wheelchair, it was an event that I shall never forget," remembered Dr. Dickerson twenty years after the event. "He [Wallace] said some things there that some thought he would not ever say... People stood—blacks and whites—and cried.... I thought it was a time of healing."

Such is the power of memory.<sup>29</sup>

If, indeed, Wallace had made such a plea, it would have been a real departure from his otherwise quite measured remarks on his own segregationist past from the time. Yet as Carter notes, there is every reason to think that this event has been distorted by popular memory:

Contemporary newspaper accounts tell a somewhat different story. Far from being unannounced, the Wallace visit was a carefully choreographed media event with print and television reporters present. John Cochran covered the occasion for NBC. News accounts gave no hint that Wallace explicitly asked for forgiveness. He simply stated what was, at that time, his standard line: His remarks about segregation had all been misunderstood. He had stood in the schoolhouse door because of his commitment to states' rights, not because of any racist feelings.<sup>30</sup>

Carter is, if anything, understating the matter. The news reports in local newspapers were brief—one a squib, the other a page-thirty story of

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<sup>29</sup> Ibid. First ellipses in the original.

<sup>30</sup> Ibid., pp. 462 - 463.

merely a few paragraphs. The former described Wallace as merely "giving a welcoming address."<sup>31</sup> The latter describes Wallace as having "attended services", been the "keynote speaker" at the Progressive Baptist State Convention (which was the event which the Dexter Avenue Baptist Church was hosting during Wallace's visit), and quotes him directly as saying that he was the "governor of all Alabamians."<sup>32</sup> It is almost unimaginable that if Wallace had asked for forgiveness, even in a cursory way (let alone in the dramatic fashion that some present later recalled) that these reporters would have failed to mention it. The articles were clearly describing what was—for Wallace at the time—a fairly ordinary speech.

Which is not to deny that Wallace's speech was made in a rather extraordinary venue. This is, unsurprisingly, the focus of the news articles at the time—the longer of which is centered around the history of the Dexter Avenue Baptist Church, the political fortunes of, and the violent attacks upon, both King and Wallace, and the visit itself as a sign of changing times. And it is certainly true that the symbolism of Wallace's visit was stark. It is even arguable that his mere presence conveyed as powerfully as words could—certainly more powerfully than his actual words from the time *did*—his changed position as of the mid-70's. But it seems that it was his presence, not his words or deeds while there, that was remarkable.

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<sup>31</sup> *The Montgomery Advertiser*, November 7, 1974, p. 2.

<sup>32</sup> Ralph Holmes, "Dexter Avenue Church Has Seen Big Changes in 18 Years", *The Birmingham News*, November 7, 1974, p. 30.

It is worth noting in this context Wallace's *own* description of the event, as recorded two years later in his campaign memoir *Stand Up For Alabama*. Wallace mentioned the visit in the context of a passage defending his consistency over time (see below)—citing it as an example of continuity, not change. In describing the event, Wallace wrote:

The pastor of the Dexter Avenue Baptist Church in Montgomery invited me to speak. It was not a civil-rights meeting but a worship service. I expressed my thanks to the pastor and to the congregation for their prayers when my condition was delicate. In order to avoid turning the meeting into a press show, I deliberately did not notify the press.<sup>33</sup>

Certainly, if Wallace had asked for, and received, forgiveness, this is something he would have wished to *trumpet* to a national audience whose suspicions of his racist past formed one of the central barriers to Wallace's national political ambitions—a national audience which was the target of this 1976 work; it is nearly unimaginable that Wallace would have instead downplayed such an event. Wallace's own account supports that of the newspapers of the time: his words at the Dexter Avenue Baptist Church were unremarkable; he did not apologize for his earlier actions on that occasion.

It's worth noting that Wallace's visit occurred the day *after* his 1974 reelection to the Alabama governorship. This timing was presumably

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<sup>33</sup> George C. Wallace, *Stand Up For America*. (Garden City, New York: Doubleday & Co., 1976), p. 177. Wallace's claim that he "did not notify the press" is doubtful in the light of the coverage of the events in newspapers and on television, although it is at least possible that the press was notified by someone connected with Dexter Avenue Baptist Church rather than Wallace himself.

dictated by the scheduling of the Progressive Baptist State Convention—the event which occasioned Wallace's visit to the Dexter Avenue Baptist Church—rather than by any political calculations on Wallace's part. Nevertheless, the timing affects the meaning of his presence in contradictory ways. On the one hand, Wallace could not be accused of staging his visit simply to pander to newly enfranchised (and increasingly active) African-American voters, since the visit could not have affected the election. On the other hand, a cynic might argue that the visit also was conveniently timed to avoid any impact on Wallace's base among voters who still appreciated his once-fiery segregationist rhetoric. Either way, the event's timing largely eliminated any electoral impact that its symbolism might have had.

In later years Wallace would more explicitly ask for forgiveness, as will be discussed below. But it was simply not his rhetorical stance in 1974, when he went to the Dexter Avenue Baptist Church, and Carter's argument that the memories people related years later are exaggerated because "Black Alabamians wanted Wallace to be forgiven" is persuasive.<sup>34</sup> The available evidence indicates that while the *forum* for Wallace's statements the day after his reelection was quite notable—and, indeed, arguably itself carried a dramatic admission of a change of heart if not quite an apology—the words he *spoke* at that forum were substantively similar to his other remarks in 1974, and conveyed none of the penitence that some memories have ascribed to them.

(A brief detour into a seemingly spurious account of a later Wallace apology is necessary here, since while it is a powerful enough—and

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<sup>34</sup> Ibid., p. 463.



frequently repeated enough—story to require mention, the balance of the available evidence indicates that it is, in fact, a myth based upon this 1974 visit to the Dexter Avenue Baptist Church. One of Wallace's other biographers, Stephan Leshner, reports a spontaneous visit by Wallace to the Dexter Avenue Baptist Church as occurring in the *late* 1970's—either in late 1978 or in late 1979.<sup>35</sup> This visit is described as unannounced, and Wallace is quoted as fervently apologizing for his support of segregation; "Amazing Grace" is, movingly, sung. Leshner cites no contemporary sources, however.<sup>36</sup> This story far more powerfully serves the redemption narrative that both Wallace and Americans of both races wanted to believe (it was used as the template for the climactic scene in John Frankenheimer's 1997 televised dramatization of Wallace's life), but given the story's uncertain timing, thin sourcing—almost all from far later interviews—and oddly repetitive qualities with the well-documented 1974

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<sup>35</sup> Leshner's account changed between the hardback edition of his book (Reading, Mass: Addison-Wesley, copyright 1994, published December 1993) and the paperback edition (Reading, Mass: Addison-Wesley, 1994, published November, 1994); the former gave the event as occurring "late in 1979, almost a year after [Wallace] had left office" (Leshner, Addison-Wesley edition, p. 502), where the latter gave the event as "late in 1978, shortly before he was to leave office" (Leshner, Da Capo edition, p. 502.)

<sup>36</sup> The story in the Addison-Wesley edition is cited to an "unpublished essay" by Dan Carter (p. 567, note 13). Dan Carter (personal communication, 2008) explains that this work was in fact a proposal for his own eventual biography, and that he later came to believe (as noted in his own biography of Wallace and cited above) that the events described to him by witnesses were, in fact, misremembrances of other occasions. In the Da Capo edition of Leshner's biography the story is cited to interviews with Wallace from the late 80's and early 90's, and to two 1994 interviews with purported witnesses, Cecilia Evans and Ed Wesson (p. 567, notes 12 & 13.)

visit—did Wallace make *two* pilgrimages to the Dexter Avenue Baptist Church, one in 1974 and another in the later 70's?—it seems reasonable to conclude that the visit Leshner describes, however vividly portrayed and adorned with supposed quotes—was, in fact, a product of *ex post facto* memory.)

In 1976, prior to his final campaign for the Democratic presidential nomination, Wallace published a memoir, titled *Stand up For America*.<sup>37</sup> His concluding chapter is entitled "With Malice Towards None"—a telling reference from the man who thirteen years earlier was comparing himself to Jefferson Davis. While the chapter deals with many subjects (including Wallace's thoughts concerning his would-be assassin, Arthur Bremer<sup>38</sup>), he did prominently discuss his position on racism and segregation.

On the issue of race, Wallace again repeated many of his by-then familiar claims not to be a racist, to have made the stands he did on the basis of a states' rights philosophy and not any appeal to racist constituents. Of his famous stand in the school door, Wallace wrote that "The issue did not involve the color of the students... For me, the issue was whether local and state institutions could survive"<sup>39</sup>—which is to say,

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<sup>37</sup> Op. Cit., Wallace, 1976.

<sup>38</sup> Wallace said that "it has been no easy task to dig deep into my Christian faith to forgive the culprit. Nevertheless, I have come along way toward this goal." (p. 173) Interestingly, he also supported a Congressional inquiry into the "gnawing questions" around not only his own shooting, but those of John Kennedy, Robert Kennedy and Martin Luther King, which he grouped with his own. (p. 175)

<sup>39</sup> Ibid., p. 76.

Wallace repeated his familiar disingenuous claim about the issue in his most famous defense of Jim Crow. More generally, he repeated his standard insistence that he not only wasn't, but had never been, a racist:

For years my political foes and the mass media have tried to stereotype me as a Southerner who dislikes people because of race. But it's a brand that won't stick... We have racial peace in Alabama because the good people of both races make a sincere effort to get along with each other.<sup>40</sup>

It is worth noting here not only Wallace's claim to never having been racist (and his flattening of racial inequality into the question of whether or not one "dislikes people because of race"), nor Wallace's claim of "racial peace" without any sense of the dynamic of the historical movement he opposed. It is also worth noting that Wallace portrayed his career trajectory as one of *continuity*, not change. Wallace depicted an ongoing, unchanged attempt by "my political foes and the mass media" to portray him as a racist, without the slightest indication that his own stance on racial issues had changed at all during those years. Wallace saw the battle as continuous, which makes sense only because he portrayed himself as unchanged, at least in any important sense.

On the issue of segregation, Wallace wrote the following:

Times have changed. Segregation in public facilities is now out of the realm of discussion, and I certainly have no intention and no desire to turn back the clock. Segregation has been outlawed by legislative and judicial action, and people have accepted these changes, because they are basically law-abiding. Racial harmony in our

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<sup>40</sup> Ibid., p. 176.

region comes as no surprise to me. The two races have lived side by side for hundreds of years.<sup>41</sup>

In his 1976 book, Wallace accepted the demise of segregation; but he quite blatantly did *not* apologize. He accepted—and portrayed others as accepting—the demise of *de jure* segregation "because they are basically law-abiding"; but he did not say anything to indicate that that change was a positive one, or that he regretted in the least his role in trying to hold it back. Wallace portrayed himself not as embracing the end of segregation, but as acquiescing to it.

Just as in his paragraph on his lack of racism, in this passage Wallace implicitly focused on his own lack of change, rather than on his changed stance, in this case on legalized segregation—a change that he therefore suggests, by own implication, was comparatively trivial. Nor was it only his own personal continuity that he emphasized over any changes; he did the same for the South as a whole. In the context of the demise of Jim Crow, Wallace emphasized the fact that "the two races have lived side by side for hundreds of years"—as if the changes within his own lifetime (to say nothing of slavery!) were simply minor alterations of an ongoing status quo. Wallace in the end portrayed the demise of segregation as a minor change in mores, one that law-abiding people acquiesced to, but which ultimately changed little. Wallace here admitted to changing his position on segregation, but at the same time very clearly implied that it hardly matters.

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<sup>41</sup> Ibid, p. 177.

Wallace's denials of any change in stance were not merely implicit; in his 1976 memoir, Wallace quite blatantly claimed not to have changed. Rather he defended, somewhat indignantly, his consistency:

Many newsmen accuse me of trying to change my image.... I frankly don't care too much about what journalists write. My conscience, not the mythmakers, tells me who I am.... Newspapers and TV people would have it appear that I have deliberately courted black favor. In one sense they are right, because as a politician I court favor wherever I think I can find it. But I am not trying to give a face-lift to my image. The media wrote that I "dropped in" on the black mayors conference in Tuskegee. Both times I was invited... I told them—as I have told all—that I am still opposed to big government. I pointed out that "Big Brother" government is just as much a threat to blacks as to whites. We should all unite to curtail federal power in Washington.<sup>42</sup>

This is consistent with his rhetoric of the previous years: he was never a racist, and his message was always against big government rather than for segregation; his actions were for the good of African Americans as well as whites. Wallace invoked his conscience not in any attempt to apologize, but rather in a denial that he has anything to apologize for. He was indignant about attempts by the media to present him as a changed man; rather, he insisted, he remained who he has always been. This bound him, of course, to a different rhetorical strategy than the rhetoric of repentance he would eventually adopt: to repent one must, necessarily, see oneself as having *changed*. As of 1976, Wallace emphatically denied that he had.

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<sup>42</sup> Ibid., p. 177.

Finally, Wallace continued to see no connection between the violence of his rhetoric and actual violence in Alabama. In his memoir, he told the following anecdote—not in the context of the event it describes, but in the context of discussing his overall record on race and segregation. Wallace related:

I don't get cables like that any more. But if I did I have the maturity just to ignore them.

When Mrs. Liuzzo was tragically killed in Alabama, I received a cable from some official in Alaska, blaming me for the senseless murder. In anger I wired back, "I hold you personally responsible for the earthquake in Alaska. By running off at the mouth you set off the earth tremors."<sup>43</sup>

It hardly needs saying that the equivalence between angry speech inspiring violence and speech causing earthquakes is absurd. But it is worth noting what Wallace did and did not express regret for here. He did—implicitly—acknowledge immaturity in *sending the memo*. But Wallace showed no sense of any personal responsibility *about the Liuzzo murder* here.<sup>44</sup> Indeed, he told the anecdote as if, whether sending the

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<sup>43</sup> Ibid., p. 176.

<sup>44</sup> Nor, for that matter, elsewhere. In his original accounting of the incident, Wallace wrote "Nothing could have made me sadder than this senseless shooting, after all our efforts to prevent this sort of thing from happening.... I was no more responsible for the shooting of Mrs. Liuzzo than Governor Rockefeller was for the death of Malcolm X in New York, or Governor Reagan for the killings in Watts, or the governor of Michigan for riots in his state.... Two days later, the whole unpleasant episode was behind us." (Wallace, 1976, pp. 105 - 106.) Wallace was, if anything, proud of his handling of the episode (just prior to this, he said that "the real heroes of the [Selma to Montgomery] march were the average citizens of Alabama, black and white, who remained calm and peaceful despite strong provocation from many of the agitators." (Ibid.) Despite

cable was immature or not, the line itself was still a reasonable, and amusing, comeuppance to an outrageous slander—not as if he had since come to see that the Alaskan official might have had any sort of a point.

As of 1976, Wallace still felt he had nothing to apologize for.

In the late 1970's—following his final run for national office, both towards the end of and after his third term as governor (and probably before he envisioned a fourth), Wallace began to apologize directly to various of the figures in the Civil Rights Movement. As reported by those he spoke with, Wallace was more effusive in these interviews than he was in public at the time or for a number of years to come. But reports of these meetings filtered out—as, presumably, Wallace wished them to—and began to serve their role in crafting his new image.

It is unclear how many people Wallace contacted privately in order to apologize for his earlier conduct; while several sources imply the number is high, only a few names are listed. Wallace met with Civil Rights Movement legend Rosa Parks—but photographers were present, and she felt, resentfully, as if she were being used as a prop for a photo op.<sup>45</sup>

A far more significant meeting took place with future congressman John Lewis (whose name Wallace had failed to recognize in an interview only a few years before, as noted above). This was *not* a meeting at

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his token inclusion of black as well as white in that sentence, Wallace in 1976 still saw a *lack* of violence against Civil Rights marchers as a heroic level of restraint.

<sup>45</sup> Carter, p. 471.

which photographers were present.<sup>46</sup> In an op-ed Lewis wrote in the *New York Times* almost two decades later (it was published a few days after Wallace's death in 1998), Lewis recalled their meeting:

Although we had long been adversaries, I did not meet Governor Wallace until 1979. During that meeting, I could tell that he was a changed man; he was engaged in a campaign to seek forgiveness from the same African-Americans he had oppressed. He acknowledged his bigotry and assumed responsibility for the harm he had caused. He wanted to be forgiven.<sup>47</sup>

It is hard to know how to interpret Lewis's memory that Wallace "acknowledged his bigotry." Certainly Wallace insisted often—both before and after Lewis's meeting with him—that he was not, and never had been, a bigot. Possibly Lewis, having lived under the system of segregation, saw an acknowledgment of supporting segregation as tantamount to an acknowledgment of bigotry—missing Wallace's self-serving insistence upon distinguishing them. Or perhaps Lewis simply remembered Wallace's asking for forgiveness and acknowledgment of his mistakes, and the power of that experience combined with the inevitable distortions of memory added a dimension to Wallace's plea that it did not originally possess.<sup>48</sup> Or, just possibly, Wallace was able to acknowledge in private what he never quite articulated in public: his own racist past. This

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<sup>46</sup> Carter, p. 471.

<sup>47</sup> John Lewis, "Forgiving George Wallace", *The New York Times*, September 16, 1998.

<sup>48</sup> Or, in a combination of these two possibilities, Lewis heard in 1979 an acknowledgment of support for segregation which he, nearly twenty years later, took as equivalent to an acknowledgment of bigotry, forgetting in the meantime the nuances of Wallace's apologetics.



final interpretation seems dubious, with some combination of misunderstandings and misrememberings the more likely explanation; but because no record of the meeting exists, it is impossible to say for sure.

Regardless of these specifics, however, Wallace was clearly emotional, and approached Lewis in a far more penitent spirit than he displayed in public. Lewis again described the meeting for a PBS Television special which aired after Wallace's death:

He was very candid, very frank, I thought. He literally poured out his soul and heart to me. Uh, it was almost like a confession, like I was his priest. He was telling me everything. That he did some things that was wrong, and that he was not proud of. He, he kept saying to me, "John, I don't hate anybody. I, I don't hate anybody."<sup>49</sup>

It is easy to imagine (if hard to confirm) that the experience of a man in constant pain, out of office for what he might well have thought was the final time, might have a dark night of the soul in private in a way that he wouldn't while actively campaigning in public. Certainly Lewis's memories were specific enough—and consistent enough over time—to confirm that Wallace spoke to Lewis in a way he did not speak in public. Wallace spoke here as a suppliant, as one not just excusing his past or seeking a clean political slate, but as one seeking absolution. The atmosphere was apparently more religious than political; more about the soul than the ballot.

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<sup>49</sup> *American Experience: George Wallace: Settin' the Woods on Fire*, produced & directed by Daniel McCabe and Paul Stekler. (Washington: PBS Video, 2000); transcript online at <http://www.pbs.org/wgbh/amex/wallace/filmmore/transcript/transcript1.html>

Even at this private extreme, however, Wallace at least *began* with his usual defenses. The words that Lewis recalled Wallace repeating—"I don't hate anybody"—are, in fact, a version of his long-standing defense: he wasn't a racist. To be sure, said in a penitent context, the words take on a different resonance; said in supplication to John Lewis, even more so. But it nevertheless remains a defense, and a long-standing one. Indeed, Wallace's biographer notes that

Wallace opened the conversation with the argument that had become routine for him. It was simply a matter of states' rights, "standing up and defending the state of Alabama against the national government,"

Yet this defensiveness did not last. The passage continues:

...but it was clear to Lewis that Wallace was concerned about more than his place in history; their dialogue was more like a "confession, like I was his priest," said Lewis.... [Wallace] asked for absolution. "I've come to ask your forgiveness," he told Lewis. "I want to ask your forgiveness for anything I've done to wrong you.... As Lewis prepared to leave, Wallace once more turned to his plea for forgiveness. If "I hurt anyone or caused anyone harm, I want people to forgive me," said Wallace. "I want to get right with my... maker." At the end of their meeting, the two men grasped hands and prayed together.<sup>50</sup>

Here, at last, is the full-throated repentance that some had credited Wallace for years before. Admittedly these were private words. That fact, however, cuts both ways. Those interested in the state of Wallace's soul are likely to credit him with far more sincerity here precisely *because* they were private, were not offered during a campaign or at any moment

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<sup>50</sup> Carter, pp. 461 - 462.

when Wallace was likely to get anything out of them. Of course even here cynicism is possible; perhaps Wallace (despite Lewis's denial) was worried about his place in history, or perhaps, as civil rights advocate Virginia Durr would claim later, Wallace was "just afraid he's going to hell."<sup>51</sup> This motive does not change the fact of his apology, however.

Similar scenes—it is, again, unclear how many—seemed to play themselves out at various points in Wallace's later life. After the conclusion of his final term as Alabama governor, for example, Wallace had a similar meeting with Jesse Jackson, then preparing for his own second run at the Democratic presidential nomination. As he had with Lewis, Wallace asked Jackson to pray with him apart from the presence of the press or public, or anyone save a few aides.<sup>52</sup>

As these were private meetings, generally unrecorded save by long-after-the-fact interviews with the participants, it is hard to know the details of what Wallace said. Nor does it bear on the question of Wallace's *public* strategies for dealing with his segregationist past (save insofar as he wanted these private meetings to seep into the public discourse—itsself unknown and probably unknowable).

It was Wallace's final campaign for the Alabama governorship in 1982 that propelled Wallace towards a more public articulation of regret—one that was, as yet, less fully penitent than Wallace was in his meeting with John Lewis, but one that was nevertheless *apologetic* in a

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<sup>51</sup> Leshner, p. 502; Durr added, "He ought to be."

<sup>52</sup> The meeting is described in Leshner, p. 505; Leshner himself, who at that time was acting as Wallace's official biographer (although his final book was not published under that rubric), was apparently at this meeting as well.

way that Wallace had not been, publicly, before. Wallace's 1982 campaign certainly pushed him to the next stage in his slow shift: instead of simply saying, as he had in the mid-70's, that he *no longer* supported *de jure* segregation, Wallace now went on to say frankly that it was a mistake to have done so. He even—glancingly—began publicly asking for forgiveness for this mistake, albeit not yet in the gushing terms that he apparently did in private conversations.

As part of his 1982 campaign for a fourth term as Alabama Governor,<sup>53</sup> Wallace made one of his most dramatic pilgrimages on his journey of regret when he attended the 25th annual convention of the Southern Christian Leadership Conference at St. Joseph's Baptist Church in Birmingham.<sup>54</sup> Unfortunately, there does not seem to be a surviving recording nor text of Wallace's remarks.<sup>55</sup> But contemporary press accounts show Wallace as having expressed forthrightly that his earlier stance had been a "mistake", but otherwise maintaining something close to his mid-1970s line—namely, insisting that it had been a mistake made, as it were, in good faith.

This is not to deny the rather stunning symbolism of Wallace attending a meeting of the SCLC at all. As SCLC President Reverend Joseph Lowery said to a reporter, "it was a historic event 'that Wallace would come, and we would have him.'"<sup>56</sup> Interestingly, it does not appear

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<sup>53</sup> Or, if you count Lurleen Wallace's governorship in his column—which it was *de facto* if not *de jure*—for a fifth term.

<sup>54</sup> Julia Cass, "SCLC Hears Old Foe: George Wallace", *The Philadelphia Inquirer*, August 12, 1982, p. A3.

<sup>55</sup> Rohler, p. 86.

<sup>56</sup> Cass, op. cit.

that the SCLC sought him out specifically, nor even particularly wanted him to come; Reverend Lowery was quoted in the same paragraph as saying that the SCLC "had invited all the gubernatorial candidates running in the September primary to appear and didn't think it would be right to eliminate Wallace." Lowery sounded almost taken aback that Wallace had accepted the invitation; and Wallace's decision to do so unquestionably demonstrates a powerful change in his political stance, whatever the content of Wallace's remarks.

Lowery was not the only one to be disconcerted by Wallace's presence. Reporter Julia Cass, writing for the *Philadelphia Inquirer*, described the scene:

...the atmosphere in the St. Joseph's Baptist Church, where the meetings were held, was one of polite hostility. Most of the 300 or so people in the sanctuary sat quietly as Wallace spoke, although one man muttered under his breath, "Get that man out of here," and two young men at the back were engaged in a heated debate. "I can't believe we're letting this man in here," one said. "He's got a right to speak. You don't have to vote for him," the other said.<sup>57</sup>

Wallace was hardly received as a welcome penitent. His presence was tolerated out of politeness; but if, as some have speculated, this meeting was part of what fed the myth of Wallace's unannounced "Amazing Grace" visit to a Baptist Church, the actual atmosphere was clearly rather different.

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<sup>57</sup> Ibid.

Cass summarized the content of Wallace's speech as "say[ing] that he had made a mistake, that he had always liked black people and that he hoped he'd have their support in the governor's race." She elaborated:

Wallace was undaunted by the cool reception. He said that he was always for the average man, "black and white." And as governor he had gotten free textbooks for Alabama's schoolchildren, "black and white." He also said that the door of his office had always been open to anyone, "black and white."

He mentioned the past, just briefly, saying that he didn't expect the audience to like what he had done then, and that he now thought his opposition to integration was a "mistake."<sup>58</sup>

As Cass reported the matter, Wallace's speech sounded similar to his earlier stances: the reiteration of his record of always trying to help "the average man, 'black and white,'" and his insistence that "he had always liked black people" are very similar to the sort of protestations he made in the mid-70's. The admission that "his opposition to integration was a 'mistake'" was, of course, new. But as Cass described it, it was not an effusive apology, nor one done for redemption so much as for votes.

A few days later, SCLC President Lowery recalled the speech in somewhat different terms, describing the scene as Wallace "began to confess his mistakes and ask, almost beg, for votes."<sup>59</sup> Lowery's recollection portrayed more emotion on Wallace's part than Cass's does — although, of course, the majority of that emotion went towards his solicitation of votes rather than forgiveness. Nevertheless, Lowery's description of Wallace's apology as a "confession" was notable.

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<sup>58</sup> Ibid.

<sup>59</sup> Quoted in Rohler, p. 86.

Nevertheless, Wallace's speech was obviously not an extended *mea culpa*; his mention of the past was "brief" according to Cass, and the term "mistake" (recalled by both Cass and Lowery) hardly carried the weight of repentance that many other terms might. The word "mistake" is naturally applied to an error which is both understandable (everybody makes mistakes) and non-essential, one that does not speak to a person's core. It is not a term weighted with emotional repentance (compare confessing to a crime, or a sin, or a terrible deed). It is a term which, while apologetic, also implies that the error was comprehensible and normal.

And for all his acknowledging of mistakes, Wallace continued to maintain the core of his long-term defenses: he had always cared for, and worked for, his African American constituents. Cass reported one more exchange that is telling in this regard:

During the question and answer session, one man said that he'd never tried to go to Wallace's office but that Wallace had called out federal troops to keep his children out of a white school when integration was ordered. He wanted to know whether Wallace "still cared about black children." Wallace ignored the sarcasm in the question. "I've always cared about black children. You know that," he answered.<sup>60</sup>

Wallace's response was not to say he's sorry, or to reiterate his acknowledgment of mistakes; rather, he insisted not only on his *current* good will but his *long term* good will: he has "always" cared about black children. Further, he insisted that "you know that"—as if he could not even understand how an African American could have gotten the opposite

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<sup>60</sup> Cass, op. cit.

impression. If Wallace was willing to acknowledge a mistake, he had not integrated that mistake deeply enough into his world view to see that a very natural (indeed, arguably inarguable) interpretation of his self-described mistake would be precisely to see him as not caring about black children at all. He had verbally conceded error; he had not fully understood the depth of that error, at least as it appeared to its victims.

Further evidence that, during the 1982 gubernatorial race, Wallace's public statements had only taken a single step away from his earlier rhetoric—that he acknowledged error while retaining many of his old defenses—can be found in Wallace's other statements from the time. (At the very least, they imply that this interpretation is consistent with his other statements from the time, which provides supporting evidence for it.)

One of the more interesting expressions of Wallace's stance during the 1982 race came in an interview with Roy Reed, then a professor of journalism at the University of Arkansas, which was published in the *New York Times*. In the midst of a lengthy profile, Reed described an exchange in his interview with Wallace in which Reed asked "whether [Wallace] regretted the pain he had brought to black people and the ill will that he created during the 1960's and 70's."<sup>61</sup> Reed described Wallace's response as follows:

"Yes," [Wallace] said, "and I was to blame for a lot of it." But he was reluctant to talk about it in any depth. He moved away to his old defensiveness, saying he had never held any personal animosity toward black people,

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<sup>61</sup> Roy Reed, "George Wallace's Bid for the New South", *The New York Times*, September 5, 1982, Section 6; Page 14, Column 3.



that he had never made a speech expressing dislike or hatred toward them, that he had always made it clear that his fight was not against blacks but against Government control from Washington.<sup>62</sup>

Wallace's expression of regret and his admission of fault—"I was to blame for a lot of it"—were stronger than his mid-70's public statements. At the same time, Reed noticed the same defensiveness in Wallace's 1982 response that we have seen as a frequent component of his earlier explanations; indeed, this defensiveness manifests itself in nearly identical rhetoric.<sup>63</sup> Nor was Wallace aggressive about articulating his regrets, as those who have experienced a road-to-Damascus-style conversion can often be; Wallace was, Reed reported, "reluctant to talk about" his regrets "in any depth." Wallace acknowledged his wrongdoing; but he wanted to—and felt he could—put it behind him.

One interesting twist in Reed's interview was that Wallace here denied quite explicitly the oft-made interpretation that his support for segregation was not honestly felt, and that he had taken the stances he did only for political gain:

Mr. Wallace also resisted any suggestion that his previous stand might have been based on expediency. It is well known, if slightly faded by time, that he began his political career as a racial liberal, and that, beaten by a racist, he changed because the times seemed to require a change.

He said to me with a flash of heat, "I was for school segregation in those days. I've had black leaders say to

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<sup>62</sup> Ibid.

<sup>63</sup> So far as can be gleaned from Reed's summary—he does not quote Wallace verbatim on this point—Wallace gave his absolutely standard lines.

me, 'We know why you said what you said.' And I tell them, 'No, you're wrong. I wasn't saying that for expediency. I believed in segregation.' "

Mr. Wallace put down his cigar and turned in his wheelchair to face me squarely. "Now," he said, "I believe that segregation is wrong. And I don't want it to come back. I see now that we couldn't live in a society like that. In those days, I thought segregation was best for both races. But a short time after that, I came to see that this society can't exist with a dual system."<sup>64</sup>

Wallace was no longer saying that segregation was right at the time, nor that it was an attempt at uplift, or any of the similar excuses he had used in the 1970's. In 1982 he was saying quite clearly that it was not only wrong in the present (when he is speaking) but that it was wrong back when he was supporting it too. He also was no longer denying that he actually supported segregation—he was no longer claiming never to have supported segregation at all, and to have fought *only* against the power of big government; rather, he stated frankly that "I was for school segregation in those days.... I thought segregation was best for both races."

At least here he did. But it appears—although given Reed's mediation of Wallace's words, it is hard to be certain—that Wallace did make (some version of) those claims earlier in the interview; that is how I read Reed's summary that Wallace claimed, with his "old defensiveness" that "he had always made it clear that his fight was not against blacks but against Government control from Washington". Wallace, in other words, hedged in the very moment he admitted blame; he claimed—perhaps even with a touch of pride—that he was not, at least, *pandering* in his

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<sup>64</sup> Ibid.

segregationist views, while also saying that he was fighting against government (a still-popular target) and not blacks (a no-longer popular one).

None of this, perhaps, is surprising. It is true that in the evangelical Christian tradition to which Wallace belonged, a position of proclaimed depravity is possible—in which a penitent's self-description as "a wretch like me" is preparatory to a narrative of conversion. But in the majority of human apology the standard position is a thorough blending of regret with defensiveness and justification. It is a hard thing to do to admit, fully and without a trace of defense, one's wrong-doing; most people who come to see that they were wrong about something significant do not reach that stage. (It is certainly common not to reach it immediately, for early articulations of apology to be less fully felt than later ones.) Still, for all of Wallace's self-proclaimed attachment to the Christian tradition of repentance, he had not yet brought himself to the point where he described his own actions in the terms that his listeners willed him to have.

Over the years, however—particularly after he left the Alabama governorship for the final time, once all that he had left to do was contemplate his legacy—Wallace began to sound more and more penitent in his public statements.

In a 1994 profile in the *New York Times* (on the occasion of the publication of Stephan Leshner's comparatively sympathetic biography), Wallace was described as "contrite" and quoted as saying, at a book

signing, "I was wrong, and I'm sorry."<sup>65</sup> In an interview he did for the *Times* profile, he repeated the sentiment, saying, "Segregation was wrong... It's gone, and I'm glad it's gone. It's so much better to see people together the way they are now." He even went so far as to say that he was concerned that "much of this country is turning away from trying to overcome our differences and is retreating to resegregation.... If it was wrong when I was supporting it, it's no less wrong now."<sup>66</sup> Wallace had become a proponent of integration.

At the same time, however, Wallace had still not lost all his defensiveness. In the ellipsis of the above quotation, after the words "segregation was wrong", Wallace in fact added "But I didn't bring segregation about. It was there when I got to the Governor's office." For that matter, his defensiveness went past that, as he continued to insist upon the purity of his previous intentions, and to defend at least the *intentions* (if not the reality) behind the system of segregation:

"The New York Times, the Eastern establishment newspapers never did understand that segregation wasn't about hate," [Wallace] said, his eyes watery but clear. "I didn't hate anybody. I don't hate the man who shot me. When I was young, I used to swim and play with blacks all the time. You find more hate in New York, Chicago, and Washington, D.C., than in all the Southern states put together."... Mr. Wallace maintains that he supported segregation not because of racism but because he believed—incorrectly he now says—it was best for whites and blacks.

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<sup>65</sup> Peter Applebome, "George Wallace Rues and Relishes the Past", *The New York Times*, February 11, 1994

<sup>66</sup> Ibid.

By the end of his life, Wallace was remorseful, and asked—repeatedly—for forgiveness. But he never was quite able to face the rank bigotry behind segregation, the hatred that sustained it, nor, indeed, the hatred that he himself did so much to inflame. Wallace increasingly acknowledged his mistakes; he sought out many of those he had wronged to tell them so personally. But he never stopped insisting upon the fact of his good will even during what he would come to see himself as his time of supporting the insupportable. He continued to insist that the Jim Crow system he had grown up under was—in some sense—a period of racial harmony; his reminiscing about how he "used to swim and play with blacks all the time" continues to romanticize the segregated South whose defense he had come to apologize for. Wallace's insistence that "you find more hate in New York, Chicago, and Washington, D.C., than in all the Southern states put together" not only denied the past and present racial hatred in the South (even if he is all-too-accurate about its existence (if not its extent) in the North as well), it also ignored the fact that the problem with segregation was not (simply) the hatred behind it but its actual effect on the lives of African-American citizens. Wallace still seemed to think that hatred was the *extent* of the issue—which indicates a fairly basic lack of understanding about the nature of the system whose defense he had abandoned. Wallace apologized, and sought forgiveness; but it is far from clear that he understood what it was he had done wrong, or precisely what he was apologizing for.

Perhaps Wallace's most symbolically significant act of repentance was to attend the 1995 commemoration of the thirtieth anniversary of the

climactic march of the Civil Rights Movement from Selma to Montgomery. While the clash at the Edmund Pettus Bridge did not have quite the *personal* symbolism for Wallace that his stand in the school house door did—since even though the former was done by troops under his command, it was the latter that involved him on the scene—nevertheless, it was an incident in which he had been intimately involved, and one which had become one of the central iconic moments of the Movement. In the story of the 1965 March, Wallace is typically—and justly—cast as the main villain, the man trying to prevent both the march and, more broadly, the enfranchisement of Alabama's African-American citizens. Thus for Wallace to speak—indeed, to *request* to speak, not to be (as he had been so often before) simply invited, but to himself prompt his own inclusion<sup>67</sup>—was an act of extraordinary symbolic significance, the culminating act of Wallace's increasingly vocal and forceful attempt to make amends for the politics of his past.

As it happens, this was not the first time that Wallace met with people commemorating the 1965 march which he had tried to prevent; at the twentieth anniversary recreation, a decade before, Wallace had met with marchers too. Wallace had received praise after that meeting from Jesse Jackson, Coretta Scott King and Joseph Lowery. Then, however, Wallace—in the midst of his final term as Alabama's governor—only met with the marchers privately, not publicly; and it occurred at the request of the marchers, and not Wallace himself.<sup>68</sup> A decade later, Wallace actually

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<sup>67</sup> Rohler, p. 86.

<sup>68</sup> Marie Pratt, "Marchers Reach Montgomery After Re-Enactment Of '65 Protest, Wallace Meets With Group ", *The Boston Globe*, March 8, 1985, p. 3; Julia Cass, "Cheers and Waves Salute the Selma Marchers Of '85",



*Wallace at the 1995 commemoration in Montgomery, holding hands with former SCLC President Joseph Lowery. (Photograph by Mark Miller, Montgomery Advertiser<sup>69</sup>)*

joined the marchers at their rally, and did so of his own accord. The thirtieth anniversary march recreated the five-day trek from Selma to Montgomery that the original one had made; at the concluding rally in Montgomery, Wallace joined the marchers, appearing on the stage with many of the nation's most prominent Civil Rights leaders.

And he made a speech.

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*The Philadelphia Inquirer*, March 8, 1985, p. A1; Billy Bowles, "Black Leaders Laud Gov. Wallace", *The Detroit Free Press*, March 8, 1985, p. A11; Rob Levin, "The 'dream still lives' for marchers - Group completes trek, meets Gov. Wallace", *The Atlanta Journal and Constitution*, March 8, 1985, p. A1.

<sup>69</sup> Republished at

[http://www.emory.edu/EMORY\\_MAGAZINE/spring96/wallace.html](http://www.emory.edu/EMORY_MAGAZINE/spring96/wallace.html).

By the 1995 March, Wallace was too feeble to read his speech himself; but he attended the rally in Montgomery, and had a statement read for him by an aide. Wallace's statement, in full, was as follows:

My friends, I have been watching your progress this week as you retrace your footsteps of 30 years ago and cannot help but reflect on those days that remain so vivid in my memory. Those were different days and we all in our own ways were different people. We have learned hard and important lessons in the 30 years that have passed between us since the days surrounding your first walk along Highway 80.

Those days were filled with passionate convictions and a magnified sense of purpose that imposed a feeling on us all that events of the day were bigger than any one individual. Much has transpired since those days. A great deal has been lost and a great deal has been gained, and here we are.

My message to you today is, Welcome to Montgomery.

May your message be heard.

May your lessons never be forgotten.

May our history be always remembered.<sup>70</sup>

Wallace's statement was, perhaps above all, the statement of an old and sick man. His references to what has been lost, to the vividness of his memory and to the fact that "we all in our own ways were different people" thirty years before cannot help but be understood in that context.

Wallace's statement was filled with profound but always implied regret. He did not, as he seems to have done in private, beg for forgiveness. As one historian noted, "it does not contain the words 'apology' or 'sorry' or even 'regret'."<sup>71</sup> But Wallace's 1995 statement

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<sup>70</sup> Reprinted in Rohler, p. 177.

<sup>71</sup> Rohler, p. 86.



embraced the Civil Rights cause in a way unthinkable thirty years before; "May your message be heard. May your lessons never be forgotten" are words that brought Wallace an almost inconceivable distance from his stance thirty years before. Even if one questions the degree to which Wallace himself had fully integrated the lessons of the past into his own world view, his endorsement of them is no less astonishing. The man who sought to prevent the marchers' protest, who refused to meet with them, had come out to welcome them to Montgomery and endorse their message. Eternity has switched sides: it was no longer segregation that was to last "forever"; it was instead the message of the Civil Rights Movement that should "never be forgotten".

At the same time, echoes of other themes continued to sound, albeit faintly, in Wallace's words. His statement that "Those were different days and we all in our own ways were different people" can be read as apology, but it can be equally well read as one of the standard excuses for having adopted segregationist politics: that times were different then. Indeed, it is only a slight rephrasing of Wallace's words from his 1976 book: "Times have changed." And the message of unity in the words "we have learned hard and important lessons in the 30 years that have passed" disguised the fact that one side of the dispute has come to see that it was wrong. Wallace's rhetoric here invoked "the technique [of] 'transcendence,'" <sup>72</sup> a move that invokes the historical equivalent of the passive voice in shedding any particular responsibility.

One can even wonder whether there was a slight note of pride at his own role in the already mythic events of 1965; his claim that "Those days

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<sup>72</sup> Ibid.

were filled with passionate convictions and a magnified sense of purpose that imposed a feeling on us all that events of the day were bigger than any one individual" has almost a touch of nostalgia about it. And Wallace's concluding plea that "our history be always remembered" was quite ambiguous: was the "our" those who were involved in the 1965 confrontation (who made up his audience)? Was the "our" an inclusive one, a call to pride in Alabama's history which encompasses the "lessons" of the Civil Rights Movement which he invoked in the previous sentence? Or was this in fact a reiteration of a more traditional form of southern nostalgia, one which speaks only to whites, and which retains its pride in its history despite the fundamental wrongs which his other words served to repudiate? Wallace did not clarify this matter, leaving it is up to his audience to decide if his final sentence was a simple continuation of the rest of his remarks, or an invocation of a form of historical memory typically held to be at odds with the cause Wallace was otherwise embracing.

But if anyone noticed the slight hints of Wallace's long-time hedging, they didn't seem to care. SCLC Joseph Lowery made Wallace's transformation the anchor of a hopeful op-ed he published a few weeks later (on the anniversary of the original march's arrival in Selma).<sup>73</sup>

Lowery wrote:

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<sup>73</sup> Since the original march was blocked by Wallace's police, there was a several week gap between the first attempt to cross the Edmund Pettus Bridge and the final march which successfully traversed from Selma to Montgomery. The event at which Wallace spoke was held on the anniversary of the first march, prevented by his actions; Lowery's op-ed was published on the anniversary of the end of the second, successful, march.

...we did find at the end of our journey one reason to hope that the country might change for the better yet again. We found it in the person of George Wallace... This year, the message came that Mr. Wallace—now weak, crippled and ill—wanted to greet and welcome us when we arrived at St. Jude's High School in Montgomery. That he wanted to come and welcome us and affirm our purpose was like a flash of lightning that blinds and yet shines across a way filled with shadows... The arc of the universe bends towards justice. I thanked George Wallace for his act of courtesy. Marchers could not, would not, deny him an act of repentance. We serve a God who makes the crooked places straight, makes the desert bloom and makes the lion to lie down with the lamb. There was an air of regeneration and caring in those moments! Isn't that what the world needs now? I think so!<sup>74</sup>

Lowery's op-ed sounded themes that many of the leaders of the Civil Rights Movement would return to in their reactions to Wallace's quest for redemption. The most prominent of those themes are the religious connotations present in the very word "redemption". A significant part of the Civil Rights Movement—particularly the part embodied by the SCLC—had been motivated by a Christian effort to change the hearts of its enemies, and had been structured around a Christian rhetoric of sin and repentance, a classically American call for the nation to return to its better self. Lowery's reaction to Wallace's presence quite clearly had far more to do with this tradition than it did with any particular thing that Wallace said or did. Lowery's text was filled with the words of Martin Luther King: "The arc of the universe

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<sup>74</sup> Joseph E. Lowery, "The Arc of Justice", *The New York Times*, March 24, 1995, p. A31.

bends towards justice" was, of course, a line from the speech King had given in Montgomery thirty years to the day before Lowery published his op-ed, and the biblical invocation of "a God who makes the crooked places straight..." was rhetorically indebted to King as well.

Given the Civil Rights Movement's grounding in a rhetoric of sin and repentance and redemption, Wallace's request to join them was both undeniable and politically useful. Lowery, for all his praise of Wallace, clearly had a certain hesitation in embracing him fully: "I thanked George Wallace for his act of courtesy" is not the whole-hearted welcome that one gives to a prodigal son. The undeniability is clear in Lowery's words too: "Marches could not, would not deny him..." implied the temptation even as it admitted the necessity to resist it. However dark their memories of Wallace were, the marchers—or, at least, their leaders—had to admit Wallace, now formally repentant (for whatever his words, his very presence ensured that) to their company. This necessity was made all the stronger by Wallace's condition—in Lowery's words, "weak, crippled and ill"—which for Lowery (as for so many others) overwrote earlier images of rage and hate with the present reality of weakness. It is easier to forgive those who seem already made low.

And, of course, Wallace's presence was politically (and morally) useful too. It is uplifting to believe that you have changed the minds of one of your staunchest enemies. And it is politically useful to hold that out as a pattern for others to follow. (Much of Lowery's op-ed presented Wallace's new stance as contrasting with what he saw as the ongoing racism of the then-current political establishment, particularly—by clear implication if not by name—the Reagan administration.) Wallace was

old, sick and out of power; what was the use in parsing his words for any remaining hesitation? Far better to embrace him as an example of the movement's success, hoping that it would inspire other opponents to follow more rapidly in his footsteps.

If Wallace used the march as a prop in his ongoing quest for redemption (however sincere that quest might or might not have been), the marchers used him right back as a prop in their ongoing quest to present the continuity of their past and current struggles, and to frame them in a moral-religious language which had proved triumphant in the fight against *de jure* segregation, but which had not—and to date still has not—yet been as broadly accepted in various measures against *de facto* segregation and poverty relief, that the marchers embraced as their current cause. Wallace was as helpful to them as they were to him.

What were the effects of Wallace's attempts to apologize, to explain, to put himself finally on the right side of history?

As far as Wallace's political career went, its effects were somewhat complex. Wallace did, famously, win significant shares of the African-American vote in his later elections, particularly in his final race for governor in 1982. But he was certainly not supported by the African-American political establishment in that campaign; indeed, prominent African Americans remained somewhat horrified by the support he did get from black voters, and Coretta Scott King and Joseph Lowery worked hard in a futile effort to prevent Wallace from getting African-American

votes in the 1982 Democratic primary.<sup>75</sup> And, anecdotally at least, many of those African-American voters who did support Wallace did so for reasons unrelated to his apologies—his practical support for issues they cared about (education being one frequently-cited issue), or simple familiarity, always a major force in American politics. Nevertheless, it is hard to imagine that Wallace could have gotten their support even on those grounds without at least a token effort towards repentance.

In that sense, Wallace's caveats and continued defensiveness mattered less than the mere fact that he had—or even just that, rightly or wrongly, he could be seen to have—changed at all. Once that threshold was passed, other issues were allowed to matter more. Wallace, it might be said, apologized precisely as much as he had to: sufficiently to make voters—or enough voters—not care about the details any more. The existence of some sort of apology was more important than anything else.

But, of course, for all that he devoted his life to politics, Wallace did not care *only* about politics—and neither did those to whom he apologized. Wallace cared also about his place in history—and, even, his soul. While history cannot speak to the latter, it can look at people's *perception* of the latter. How were Wallace's regrets received?

As with their political effects, the effects of Wallace's apologies on his broader reputation were mixed. Wallace's regrets were received with a mixture of acceptance and refusal, openness and cynicism. A great many of his old opponents welcomed his change of heart with open arms—indeed, as we have seen, they may even have willed it more

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<sup>75</sup> See Bill Rose, "Blacks Invoke Past In Stop-Wallace Bid", *The Miami Herald*, September 27, 1982, p. A1.

swiftly and more completely than it in fact occurred. For many, the desire to put the past behind them, the eagerness to see a fundamental change in American society, seemed to be the decisive factor: as with Wallace's political fortunes, people who reconsidered his reputation did so far more because he had apologized than owing to the details of what that apology was.

One prominent opponent of Wallace's who accepted his repentance fully and publicly was Congressman John Lewis. Lewis wrote an op-ed in the *New York Times* a few days after Wallace's death entitled "Forgiving George Wallace". After remembering the firebrand segregationist from the 1960s, Lewis declared:

But the George Wallace who sent troops to intimidate peaceful, orderly marchers in Selma in 1965 was not the same man who died this week. With all his failings, Mr. Wallace deserves recognition for seeking redemption for his mistakes, for his willingness to change and to set things right with those he harmed and with his God.

Rarely does our country witness such a conversion by an elected official. Such a conversion of principle can be shaped only by courage and conviction.

In much of Lewis's op-ed, the acceptance of Wallace's repentance was presented as a benefit, not to Wallace, but to the country. Lewis wrote:

The very essence of the civil rights movement was its appeal to the conscience of those who beat us with batons, attacked us with dogs and stood defiantly at the schoolhouse door... When I met George Wallace, I had to forgive him, because to do otherwise—to hate him—would only perpetuate the evil system we sought to destroy. George Wallace should be remembered for his capacity to change. And we are better as a nation because

of our capacity to forgive and to acknowledge that our political leaders are human and largely a reflection of the social currents in the river of history.... The civil rights movement achieved its goals in the person of Mr. Wallace, because he grew to see that we as human beings are joined by a common bond.... But our ability to forgive serves a higher moral purpose in our society. Through genuine repentance and forgiveness, the soul of our nation is redeemed. George Wallace deserves to be remembered for his effort to redeem his soul and in so doing to mend the fabric of American society.

As had been true for Joseph Lowery three years before, the reasoning behind Lewis's forgiving Wallace had far more to do with the nature of the Civil Rights Movement, its religious source and goals, than with Wallace himself. Lewis forgave Wallace because "to do otherwise... would only perpetuate the evil system we sought to destroy"—not because of Wallace's evident sincerity or the power of his regret. To be sure, Lewis also insisted on "*genuine* repentance"<sup>76</sup>—a genuineness that he, personally, felt Wallace had achieved. Still, the repentance was received not only because it is genuine, but because of what it does for the country: that way, "the soul of our nation is redeemed", and that way helps "mend the fabric of American society." Forgiveness was granted because it was right—including, perhaps above all, right for us: for our souls, and for our country.

For many of those who forgave him, the religious impulse was paramount. In the week following his death, many were quoted as forgiving him in precisely those terms: "Anybody can have my forgiveness if they ask the Lord to forgive them," said one black

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<sup>76</sup> Emphasis added.



Alabamian the day after Wallace died; "God forgave him," echoed another on the day of Wallace's burial. Others spoke in simple human terms; an African American who worked for Wallace in his 1982 gubernatorial bid said of him that "He has made some mistakes. But haven't we all?" <sup>77</sup>

Adding to the national, religious and human impulse towards forgiveness was the sheer fact of Wallace's crippled condition. Whether or not his injuries drove him to repentance, they certainly drove others towards forgiveness. References to Wallace's illness, his injuries, his age and frailty are all extremely common among those who came to forgive him—pity often trumping any other emotion. As John Lilley, who had said that "anybody can have my forgiveness if they ask the Lord to forgive them", put it, "I don't know if George Wallace is in heaven... the only thing I know is he's been in hell long enough."<sup>78</sup> All the other reasons to forgive Wallace were simply magnified by his disabilities.

In almost every case, however, the imperative—whether religious or simply human, whether motivated by pity or mercy or the greater good of the country—was more general than specific, predicated at most upon some act of contrition, and not upon its nature or details. Wallace was judged upon his record; he was forgiven upon his request, but for reasons unrelated to it. Still, that forgiveness was widespread. In the end, a great

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<sup>77</sup> Rick Bragg, "A Symbol of Alabama's Past, Indelible to Black and White", *The New York Times*, September 15, 1998; Rick Bragg, "A Flash in Time Is Buried in Alabama", *The New York Times*, September 20, 1998; Lance Morrow, "Requiem for an Arsonist", *Time*, September 28, 1998.

<sup>78</sup> Bragg, September 15, 1998, op. cit.

many people—from famous leaders of the Civil Rights Movement to its local footsoldiers to those who just observed, or were born after its heyday had passed—were prepared to forgive Wallace. All he had to do was ask; precisely how and in what way he asked was not critical.

(It's worth noting that his contrition was also irrelevant to some who continued to admire, even revere, the old Wallace. A white Alabamian was quoted two days after Wallace's death as saying:

I voted for him. Every time. I liked him standing up there in that school door, by God... And the Federals had to move him... He was a man, by God. He wasn't no boy.... I loved that man.... I worshiped the ground he walked on.<sup>79</sup>

Writing in the *New York Times*, journalist Rick Bragg noted that this on-going Wallace supporter did not seem to have assimilated, or at least did not seem to care, about Wallace's later acts of apology and contrition.)

For many, however, forgiveness was a qualified thing—an obligation which came out of religious or human motives, but one whose emotional force was clearly blunted by the memories of his fouler deeds. J. L. Chestnut, an Alabama attorney who remembered Wallace as one of the first judges to call him "Mister" in court,<sup>80</sup> was willing to forgive Wallace, but that forgiveness sounds fairly pro-forma, an obligation fulfilled but not felt:

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<sup>79</sup> Bragg, September 15, 1998, op. cit.

<sup>80</sup> Interview associated with the PBS Film *George Wallace: Settin' the Woods on Fire* (op. cit.); available online at [www.pbs.org/wgbh/amex/wallace/filmmore/reference/interview/chestnut01.html](http://www.pbs.org/wgbh/amex/wallace/filmmore/reference/interview/chestnut01.html).

I have no problem forgiving George Wallace. I will not forget George Wallace because we must deal with the reality of Wallace. How is it that a demagogue, insulting twenty million black people daily on the television, can rise to the heights that Wallace did? Forgive, yes. Forget, never.<sup>81</sup>

Similarly, one African-American Alabamian who had been just a child during Wallace's heyday said while viewing Wallace's body as it lay in state in the Alabama capitol that "You forgive; you don't forget."<sup>82</sup> For a great many of those who had bitterly opposed his policies, forgiveness was a religious imperative, but memory the stronger force: Wallace's soul might be forgiven, but the historical memory of his most bellicose days had far more ongoing weight.

And, unsurprisingly, some could not bring themselves to accept Wallace's apologies at all. Ruth Johnson, whose husband was Frank Johnson, a judge whose civil rights rulings Wallace had attacked in bitter and personal terms, told Wallace that "if he wanted to get forgiveness, he'd have to get it from the lord."<sup>83</sup> And placing more emphasis upon Wallace's foul deeds than his apologetic words was not limited to those who had a personal stake in Wallace's career. The Alabamian musician Patterson Hood (a member of the rock group the *Drive By Truckers*) put the following words into the mouth of the Devil in a song, "Wallace", written upon the occasion of Wallace's death in 1998:

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<sup>81</sup> Interview in the PBS film, *George Wallace: Settin' the Woods on Fire*, op. cit.

<sup>82</sup> Rick Bragg, "Quietly, Alabama Troopers Escort Wallace for Last Time", *The New York Times*, September 17, 1998.

<sup>83</sup> Carter, p. 463.

Throw another log on the fire, boys, George Wallace is  
coming to stay  
When he met St. Peter at the pearly gates, I'd like to think  
that a black man stood in his way.  
I know "All should be forgiven", but he did what he done  
so well  
So throw another log on the fire boys,  
George Wallace is a coming...<sup>84</sup>

Of course, even if Hood pictured Wallace in hell, he still accepted Wallace's repentance at more-or-less face value; in Hood's telling, it was simply that Wallace's actions were too severe — "he did what he done so well" — to make even a sincere repentance sufficient. If many of those who forgave Wallace did so without regard to the details of his penitence, then Hood likewise condemned him without regard to those details. For those who forgave Wallace, any apology was enough; for those who didn't, no apology could be.

And perhaps it was because of this that the depth of Wallace's apologies were at times exaggerated, the details overlooked. To those who continued to condemn Wallace, the insufficiency of his apologies were unimportant — so why dwell on them? It is the crimes of the past that mattered. And to those who did forgive Wallace, the details were even less important. Wallace was forgiven — by those who did forgive him — far more because people cared about the act of forgiveness, or what the story of repentance said about America, than they did about the reality

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<sup>84</sup> Drive-By Truckers, *Southern Rock Opera* (Soul Dump Records, 2001), "Wallace". Lyrics reprinted at [http://www.drivebytruckers.com/lyrics\\_sro.html#wallace](http://www.drivebytruckers.com/lyrics_sro.html#wallace); ellipsis in the original. Hood noted on his band's web site that he wrote the song the week of Wallace's death. ([http://www.drivebytruckers.com/writeup\\_sro.html](http://www.drivebytruckers.com/writeup_sro.html))

of Wallace's story. John Frankenheimer ended his television drama about Wallace's life with the (seemingly spurious) story of Wallace going to the Dexter Avenue Baptist Church unannounced, begging for forgiveness, and being greeted by the singing of "Amazing Grace" because it made for a better story. As Dan Carter said, "it was precisely the image of himself George Wallace had sought to create during the last years of his life."<sup>85</sup> But this in the end mattered less than the fact that it was the image of America and American history—our image of ourselves—that we have sought to create in the years since the Civil Rights Movement passed into history. It was not only that it was a better story about Wallace: it was a better story about *us*. So it was the one that many people believed. For them the details, in the end, were just a distraction from the moral.

Wallace did apologize—and did so far more than most supporters of segregation. Wallace did acknowledge that he had been wrong. But Wallace never quite admitted to the full degree of either the harm he did, or the malice it involved (in—at the very least—his supporters). To that admittedly small extent, he kept to his pledge from his first inaugural address, and defended the system of segregation forever.

If he got credit for far more than that, it was most likely because so few others were willing even to go that far. Wallace did not—at least not in public, at least not in so many words—fully recognize all the evils of segregation; most particularly, he never stopped insisting that it was not motivated by racism (a claim which, in addition to being incorrect in its

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<sup>85</sup> Carter, p. 468. See also Dan T. Carter, "Fact, Fiction, and Film: Frankenheimer's George Wallace", *Perspectives* (American Historical Association), January 1998, available at: <http://www.historians.org/perspectives/issues/1998/9801/9801FIL.CFM>.

own terms, also deeply misunderstands the nature of racism as a phenomenon.) But very few have noticed, and almost no one has seemed to care. Wallace said he was sorry: in the eyes of many, that was enough for Wallace to be granted the absolution he had—finally, and always with a small bit of hedging—sought. The most prominent supporter of segregation had become its most prominent repentant as well. Precisely what he did or did not say would not keep people from seizing upon him as the symbol of a long-sought and deeply desired reconciliation, a powerfully willed burial of an ugly past.

Whatever else he did, and whatever else he never did, Wallace said he was sorry. Particularly since so few others did, that was—for a great many people—enough.

## CHAPTER 2:

### THE POLYVALENT SILENCES OF STROM THURMOND (AND THE DANGEROUS UNAMBIGUITY OF WORDS ABOUT HIM)

Perhaps the most common reaction of former supporters of *de jure* segregation to its increasing political ineffability was simple silent acquiescence. Supporters of a defeated position will nurse their grievances, plot reversals, and celebrate the rightness of a lost cause, often for decades; but supporters of a *discredited* position will rarely wish to discuss, let alone trumpet, their former stances. While a narrative of repentance may require such direct confrontation, and a sufficiently complete memoir may make some public reconsiderations unavoidable, absent these motives it is often easiest to let the matter lie. This silence can cover a wide range of actual responses, from continued private adherence to a publicly abandoned position to an actual change of heart, and all the many complex (and often conflicted) variants that lie between them. By its very nature we can rarely know for sure precisely what view a silent acquiescor holds; that, in fact, is one of the position's chief appeals, both for private reasons (avoiding any uncomfortable reckoning with one's own changing views or that of the public's), and for public ones, since silence allows the projection of a friendly position by parties from all over the ideological map.

Common as this response is, the present analysis needs to address it; however, silence, by its very nature, leaves little evidence on which to base an analysis. As politicians and public intellectuals dropped their support for a legal and social system that was, by increasingly strong

consensus, outmoded if not immoral, they typically left few clues as to their thinking, and no reaction to analyze. Within the domain of the various possible responses to the political discrediting of their previous positions, silence plays the role of the galaxy's dark matter, clearly a majority of its mass, but visible only in its effects.

Some silences, however, are louder than others. Those who had previously made the most noise become the most conspicuous with its sudden absence. And those who supported segregation most prominently were often unable to be as silent as they wished—unable to completely dodge the relevant questions even if they tried their best to do so. This means, of course, that they did not remain fully silent; but since they came as close as they could politically manage, they can still tell us something about the way strategies of silence worked. Indeed, in practical terms they can tell us more than those who managed to dodge all the relevant questions, since unlike them, the nearly-silent left evidence for their thinking and how their silences were received. Temperatures a degree above absolute zero can still tell us something about how materials function at the coldest possible temperature, even if absolute zero itself is in practice unattainable.

Of the silences that ensued after the end of *de jure* segregation, probably the most notable was that of South Carolina Senator Strom Thurmond.<sup>1</sup> Although his position as segregation's most prominent and

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<sup>1</sup> The best biography of Thurmond is Nadine Cohodas, *Strom Thurmond and the Politics of Southern Change*. (New York: Simon & Schuster, 1993). Jack Bass and Marilyn W. Thompson's *Strom: the Complicated Personal and Political Life of Strom Thurmond* (New York: Public Affairs, 2005), is also useful, particularly since its later date leads to its



ardent defender had arguably been eclipsed in the early 1960's by Alabama Governor George Wallace, Thurmond was post-war America's preeminent champion of legal segregation for more than a decade. His 1948 presidential run as a Dixiecrat was a harbinger of the intra-party stress over support of Civil Rights that would eventually drive so many white Southern Democrats to become Republicans—including, as one prominent early example, Thurmond himself. Thurmond was instrumental in the creation of the infamous "Southern Manifesto" against the Brown decision (signed by nearly the entire Southern delegation to Congress in 1956), both originating the idea and writing the initial draft.<sup>2</sup> And his record-setting 1957 filibuster against a largely toothless Civil Rights Bill—a filibuster that did not have the support of his colleagues and therefore did not have a reasonable chance of success—was an extreme example of an obstruction tactic, one which admittedly did more to bring its proponent attention than to practically assist in the upholding of *de jure* segregation.

Given Thurmond's profile as a well-known defender of segregation, his eventual abandonment of the issue was especially significant.

Thurmond was above all a *symbol* of resistance to integration. His acts of

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inclusion of some material omitted from Cohodas, both on Thurmond's later career and on the revelations, after Thurmond's death, that the rumors about his having fathered an African American daughter (which he long denied) were true. On this topic, see also Essie Mae Washington-Williams and William Stadiem, *Dear Senator : A Memoir by the Daughter of Strom Thurmond* (New York: Regan Books, 2005.) A third study of Thurmond's career, to which I have also referred, is Joseph C. Eilers, *Strom Thurmond: the Public Man*. (Orangeburg, South Carolina: Sandlapper Publishing, 1993).

<sup>2</sup> See Cohodas, pp. 283 - 287, and Bass and Thompson, pp. 162 - 166.

ground-breaking defiance had made him a hero to many white Southerners. One scholar has characterized Thurmond's role in the "massive resistance" to integration as being one of four key "tutelary geniuses":

The tutelary geniuses of Massive Resistance were those men who exercised a kind of guardian authority over the movement by determining basic strategy while avoiding the involvement with everyday tactical problems. Four southern leaders appear to merit the tutelary genius label, and all of them were members of the United States Senate in the post-Brown era... [Strom] Thurmond embraced the myths of Massive Resistance with a passion that few of his colleagues could equal.... Throughout his long career, Thurmond has exhibited a positive genius for manipulating words that block reasoned argument by arousing racial emotions and prejudice.... Thurmond was rarely silent or inactive in the decade after Brown... While [Senators Henry] Byrd and [Richard] Russell were reluctant to address large public rallies of segregationists, Thurmond rarely passed up a chance to appear at one. He pulled out all the oratorical stops when he lit into the Supreme Court and the "race mixers," and the Massive Resisters loved him.... [Thurmond's] racist rhetoric was so extravagant that only those who were already true believers took him or his message seriously. The rest dismissed him as a fanatic on race—clever but still fanatic.<sup>3</sup>

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<sup>3</sup> Francis M. Wilhoit, *The Politics of Massive Resistance* (New York: George Braziller, 1973), pp. 76, 80-81. The other three Senators Wilhoit cites as "tutelary geniuses" of massive resistance were Henry Byrd of Virginia, Richard Russell of Georgia and James Eastland of Mississippi. Thurmond's political career lasted several decades beyond the other three, which largely spared them from the sort of dilemma which might have secured them a place in the present study, although Eastland (a Senator until 1978) had a late career which, in its combination of practical change and denial of regret, resembled Thurmond's in some respects.

Thurmond was not only a shrewd tactician of Senate parliamentary maneuvers, and not only a leader in congressional circles; he was a rhetorician of resistance, who spoke to crowds as well as to congressmen. This, of course, only served to heighten his *public* role in the movement—and hence his potency as the political voice of segregation's supporters.

And then that voice fell silent. Thurmond slowly moved away from his strident advocacy against integration. He did not, however, speak in any significant way about his past. Thurmond—unlike others, covered in other chapters of the present work—did not explain. He neither defended nor repented his past; he did not apologize, justify or deny his past. He simply let it pass in silence. However central it was to his early political identity, in his later career Thurmond did not address the issue of *de jure* segregation in any notable fashion—save for the pronounced absence of his voice on the issue.

More than speak about his past, Thurmond signaled a change in his stance through his actions. This was, I shall argue, an essential aspect of his silence: it allowed the public (particularly newly enfranchised African American voters whose support Thurmond soon hoped to woo) to imagine their own narrative of regret, conversion or simply practical accommodation, as they preferred, without Thurmond's making any explicit repudiations of stances still dear to his core supporters. Actions speak louder than words, the platitude holds; but they also speak more ambiguously, allowing room in the silent interstices of their possible meanings for Thurmond to avoid any explicit reckoning with his past.

This worked in large part because the explicit segregationist arguments were themselves intricately bound up with silence, at least by

the post-war period. As I have discussed previously, segregationist arguments were rarely made on the merits in the 1950s and early 1960s; rather they were couched in a variety of rhetorics that allowed their indirect defense. The most prominent of these, of course, was the rhetoric of states' rights. It was widely known *what* rights states' rights advocates were defending—the right to maintain a legally and socially (and ultimately violently) upheld apartheid system in the American South. But to phrase the issue in terms of "states' rights" allowed segregation's defenders to avoid the increasingly thorny issue of whether *de jure* segregation *was* right by focusing on the issue of whether or not it was, right or wrong, *within their rights*. Other pro-segregationist arguments followed this logic too—by criticizing segregation's opponents for seeking to implement a communist program, to take another prominent example, segregation's supporters could besmirch integration without having to defend it on the merits.

But this very lack of an explicit defense meant that even so prominent a supporter of segregation as Thurmond could take refuge in silence once the political climate changed. Hiring a black staffer was, clearly, a *tacit* admission that his old beliefs (or anyway political practices) were no longer sustainable. But it did not need to be an *explicit* admission, since Thurmond had not spent his Senate years railing against integrated congressional staffs. He, like other segregationists, had spoken of tradition and freedom and states' rights, for all that everyone knew that he had meant the traditional freedom of states to discriminate among their citizens on the basis of race. So he could pretend—to his long-time supporters, and possibly even to himself—that nothing had changed,

while in practice admitting to his potential new constituents that the opposite was more nearly the case.

Thurmond's actions—in hiring a black staff member, in eventually shifting the way he voted on symbolic issues such as the Martin Luther King Birthday holiday and the 1982 renewal of the Voting Rights Act—were not *exceptions* to his strategy of silence in dealing with his now-untenable political past; they were rather a crucial part *of* that strategy—essential to its workings.

Apart from silence, another aspect of Thurmond's strategy in dealing with his past might be termed the embrace of contradiction. It is true that Thurmond not only refused to apologize but tried hard to avoid the issue entirely, essentially staying as silent on it as so prominent a former segregationist could practically be. Still, ultimately he was forced to say *something*: and what he did was to say that his position hadn't changed, while voting (if not exactly leading) in ways directly opposite to the stance that he had taken in earlier years. Alternately, and repeatedly, he also denied any regret for his past while blatantly misrepresenting what that past was. This, too, I shall argue, was in essence a continuation of his essential strategy of silence, of avoiding the issue. Thurmond's answers to questions about any possible regrets were so terse, so contradictory, that they served, in essence, to allow him to use words to say nothing.

In the absence of any public statement of political shift, given the lack of any expression of regret or even any admission of a change in stance, the present examination will begin with Thurmond's actions. Since, as I have argued, Thurmond's shifts were deliberately partial,

allowing various constituencies to see different things in his later political stances, it will be particularly illuminating to examine how Thurmond himself described those actions. If ambiguity, and a desire to avoid explicit regret, were Thurmond's goals, then his words were in some sense a threat to both; nevertheless Thurmond managed to speak of his new stances in such a way as to maintain his silence on questions of contradiction and change, of how his new behavior related to the central focus of his political past.

The first signaling action that Thurmond took to indicate his shift on the issue of segregation (and race relations more generally) was his hiring of Thomas Moss. In 1971, Thurmond hired Moss, his first African American staff member, to serve as his liaison with the African American community.<sup>4</sup> Moss's primary job was, in Thurmond's words, "to facilitate my service to the black people of South Carolina"<sup>5</sup>—cynically, to help Thurmond win African American votes and to signal a shift on racial issues away from his earlier die-hard segregationist stance. That he considered it a signal as well as a practical political move can be seen in his bragging about it in *Ebony* in the very year that Moss was hired. It certainly became the cornerstone of the narrative of the "new Thurmond"—rhetoric presumptively borrowed from his political ally, Richard Nixon—that came to be the standard media line on Thurmond's political trajectory.<sup>6</sup>

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<sup>4</sup> Associated Press, "Sen. Thurmond Hires a Black", *Washington Post, Times Herald*, Feb 16, 1971

<sup>5</sup> *Ebony*, August 1971, p. 166.

<sup>6</sup> For instance, in the *Time* story on Thurmond's 1978 Senate race: "Challenging A Southern Legend", *Time*, October 16, 1978. A later

Notably, however, Thurmond insisted that his hiring of Moss did *not* signal a change in his views—in the very news article that reported the hiring as noteworthy. The brief, unsigned Associated Press piece which discussed the matter—headlined "Sen. Thurmond Hires a Black"—paraphrases Thurmond as saying that "Moss's appointment does not change his views about anything," and directly quotes him as saying "I wouldn't change my vote on any vote I made in the Senate."<sup>7</sup> While Moss's hiring might seem on its face to demonstrate a new concern for the interests of his African American constituents—which, for the majority of his prior tenure, might be seen as practically identical with the ending of *de jure* segregation—not to mention a tacit move towards integration in (at least) Thurmond's office—Thurmond insisted that that was not the case.

Perhaps this insistence was a deliberate obfuscation, a way to spin the action in two ways: African American voters would see the hiring as an implicit admission of a changed view (even if Thurmond couldn't or wouldn't admit it), while the still-substantial pro-segregation voters in Thurmond's state would see it as a forced concession (that didn't change his ongoing essential agreement with their beliefs). Or, perhaps, Thurmond simply didn't want the political hassle of admitting publicly that he had changed his mind on the signature stance of his political life, and thereby made a pro-forma denial while making a practical change of course.

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example is Maureen Dowd, "On Washington: Old Smoothie", *The New York Times*, October 23, 1994, section 6, p. 26.

<sup>7</sup> Associated Press, op. cit..

But there is a reasonable case to be made that Thurmond was right—that the hiring of Moss was *not* a significant change in his stance on *de jure* segregation. Thurmond remained a staunch opponent of many Civil Rights measures throughout the 1970's, even while he was trying to court the African American vote in his reelection campaigns. His period of genuine change on Civil Rights issues dates more properly from the early 1980's, when Thurmond—unprecedentedly—voted for the extension of the Voting Rights Act, one of the signal pieces of legislation which dismantled *de jure* segregation in the United States. To be sure, even under this interpretation Thurmond's views must be seen to have shifted *slightly* since his halcyon days of being segregation's staunchest supporter. But while the hiring became a standard part of the impression that Thurmond had softened his views, it is arguable that this has been significantly overstated.

Thurmond, as is widely acknowledged, hired Moss in a direct effort to court African American votes, newly important to him after the Voting Rights Act had added many to the rolls. Indeed, Thurmond was (arguably) up-front about it: Moss was hired as a liaison to African Americans, not as a more general member of Thurmond's staff such as a speechwriter. Perhaps we should give Thurmond the benefit of the doubt, and see Moss's hiring as precisely what he proclaimed it to be: a blatant act of political pandering, untainted by any ideological conviction whatsoever.

Thurmond's ultimate support of the 1982 extension of the Voting Rights Act, however, cannot be seen this way. Hiring an African



American staff member might be reasonably conceived as a personal rather than a political act; voting on one of the signature pieces of Civil Rights legislation is blatantly and inarguably political. A staff hiring might be thought of as irrelevant to one's political stances; a vote in the Senate is as distinctly political an act as one can imagine. Thurmond's vote for the bill was all the more significant because support for its passage was hardly assured. If the vote had been unanimous, or debate had been merely a formality, then Thurmond's vote would not necessarily have said much. But in fact the 1982 bill *was* loudly and roundly opposed by some in the Senate. The opposition, however, was led by Jesse Helms—not Strom Thurmond. That a vocal opposition to the bill—including an attempted filibuster—was mounted without Thurmond being a part of it shows how Thurmond's role in the Senate had changed since he was among the leaders of filibusters of civil rights legislation in the middle of the century.

Thurmond said little about the relationship between his original opposition to the Voting Rights Act and his 1982 vote to renew it—and what little he did say was a defense of his earlier position, and not an apology for it. But Thurmond didn't need to say much: his action spoke loudly enough—and was further distorted in its echoing over time. His 1982 vote become, inevitably, central to any discussion of the shifting trajectory of Thurmond's career. It is therefore worth examining carefully the meaning that he himself gave it at the time, since this was different from the meaning so often ascribed to it by others.

Thurmond's vote for renewal was vocally reluctant. He spelled out at length—and repeatedly—his objections to the renewal:

Throughout consideration of this legislation I have expressed concern over three important aspects of the bill. First, I have sought assurance that the proposed changes in section 2 of the act would not result in court-ordered establishment of systems of proportional representation by race. Second, I have sought the inclusion of a reasonable bailout provision so that jurisdictions subject to the preclerance requirements of section 5 would have a genuine incentive to rid themselves of any lingering discrimination. Third, I have sought a period of extension that is responsive to present conditions.<sup>8</sup>

Thurmond went on to elaborate each one of these concerns at considerable length. His concerns were, in fact, a muted version of the sort of objections that others offered as reasons (or rationalizations) to vote *against* the bill. The objections were versions of the claims that the Voting Rights Act was a form of affirmative action, called 'reverse racism' by its opponents (first objection); that a given Senator's particular state—for Thurmond, South Carolina --was not (or no longer) discriminating against African American voters and should therefore be exempt (second objection); and that the extension was for too long a period (third objection). Unlike some senators, Thurmond did not use these claims to argue against the extension's passage; but he did make them nonetheless.

Thurmond also did not say much in favor of the bill that he nonetheless ended up supporting. He did say, repeatedly, that he supported the right to vote—indeed, he claimed that "throughout my years of public service I have unyieldingly sought to protect the right to vote."<sup>9</sup> But Thurmond gave little indication that he saw the importance of the

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<sup>8</sup> *Congressional Record*, June 17, 1982, p. 14116.

<sup>9</sup> *Congressional Record*, June 17, 1982, p. 14115.

Voting Rights Act in helping to end the political dimension of segregation. He made no mention of the long history of denying the franchise to African Americans in the South; he referred to the increased numbers of African American voters only as a sign that the extension was unnecessary, not as evidence for its importance and effectiveness.<sup>10</sup> (He even denied that South Carolina had discriminatory voting laws in 1965, saying that it had been "caught in that net" of the Voting Rights Act's criteria—by clear implication, unfairly so.<sup>11</sup>)

Indeed, Thurmond even reiterated some of the constitutional objections that he had forcefully raised in 1965 in the debate prior to passage of the original Voting Rights Act in regard to the 1982 extension—albeit in greatly muted form. Thurmond asserted:

The constitutional foundation of the Voting Rights Act rested, in large part, upon its temporary and remedial nature. While recognizing that the act was an "uncommon exercise of congressional power, the Supreme Court in *South Carolina against Katzenbach* nevertheless concluded that "Exceptional circumstances can justify legislative measures not otherwise appropriate." While recognizing the intrusions upon traditional concepts of federalism by the Voting Rights Act, the Court upheld the preclearance procedure as a purely remedial measure premised upon the enforcement authority of Congress under section 2 of the 15th amendment. It is difficult for me to understand how such circumscribed authority in Congress can justify a 25-year extension of this "uncommon exercise" of legislative power.<sup>12</sup>

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<sup>10</sup> See the *Congressional Record*, June 17, 1982, p. 14126.

<sup>11</sup> *Congressional Record*, June 18, 1982, p. 14295.

<sup>12</sup> *Congressional Record*, June 17, 1982, p. 14118. Thurmond takes Chief Justice Earl Warren's phrase somewhat out of context; at the very least, in

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Warren's original opinion, the concern is weighted far less than the overriding necessity:

The Act suspends new voting regulations pending scrutiny by federal authorities to determine whether their use would violate the Fifteenth Amendment. This may have been an uncommon exercise of congressional power, as South Carolina contends, but the Court has recognized that exceptional conditions can justify legislative measures not otherwise appropriate... Congress knew that some of the States covered by § 4(b) of the Act had resorted to the extraordinary stratagem of contriving new rules of various kinds for the sole purpose of perpetuating voting discrimination in the face of adverse federal court decrees. Congress had reason to suppose that these States might try similar maneuvers in the future in order to evade the remedies for voting discrimination contained in the Act itself. Under the compulsion of these unique circumstances, Congress responded in a permissibly decisive manner.

Warren also writes far more powerfully and sweepingly of the Act's importance than Thurmond's citation would imply:

The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting, which has infected the electoral process in parts of our country for nearly a century... After enduring nearly a century of widespread resistance to the Fifteenth Amendment, Congress has marshalled an array of potent weapons against the evil, with authority in the Attorney General to employ them effectively... We here hold that the portions of the Voting Rights Act properly before us are a valid means for carrying out the commands of the Fifteenth Amendment. Hopefully, millions of non-white Americans will now be able to participate for the first time on an equal basis in the government under which they live. We may finally look forward to the day when truly "[t]he right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

This was, to be sure, a far cry from the sort of rhetoric Thurmond employed in 1965, when he said that there had been no previous proposal to Congress that was "more obviously unconstitutional than the so-called voting rights bill," referred to "the tragic experience which will inevitably flow from the passage of this bill," claimed that "the effect of the passage of the proposed Voting Rights Act of 1965 will be to suspend the Constitution" and even said that the Voting Rights act would set "the precedent... for establishing a totalitarian form of government which, of course, invariably results in a dictatorship."<sup>13</sup> Nevertheless, Thurmond is still clinging here to some of his previous claims about the constitutionality of the Voting Rights Act : no longer claiming that it is absolutely unconstitutional, he is still arguing that it is constitutionally

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(Chief Justice Earl Warren, *South Carolina v. Katzenbach*, 383 U.S. 301 (1966)) Nowhere in his comments about the renewal of the Voting Rights Act does Thurmond even approach Warren's descriptions of Jim Crow, with its talk of "the blight of racial discrimination in voting" as an "evil",<sup>13</sup> *Congressional Record*, May 13, 1965, p. 10447; May 26, 1965, p. 11730; May 26, 1965, p. 11731 and May 3, 1965, p. 9241. It is perhaps worth noting Thurmond's odd formulation that "a totalitarian form of government... invariably results in a dictatorship". Most people would see a totalitarian government as equivalent to—or even a sub-category of—dictatorship. Nevertheless, I do not believe that Thurmond's phrase was a mere slip of the tongue. Rather, it reflected a fundamental belief (and rhetorical strategy) of pro-segregationist politicians, who had to claim that civil rights laws were undemocratic—in Thurmond's extreme rhetoric, totalitarian—without actually claiming that an integrated society was itself a "dictatorship". Thurmond is claiming here that the passage of a law which overrides state control of voter registration is itself "totalitarian", but since even he couldn't straight-facedly claim that it would result directly in a dictatorship, he merely claims it will lead to one. Such are the rhetorical gymnastics required of a politician arguing against democracy-broadening measures on supposedly democratic grounds.

exceptional, acceptable only due to extreme circumstances and (therefore) for a limited time. If Thurmond abandoned his views about the constitutionality of the bill in 1965, he still retained a sense that it was pushing the constitutional envelope in something like the way he previously thought. Even in 1982, Thurmond resisted the straightforward notion that Congress was enabled by the Fifteenth Amendment to ensure that states did not discriminate by race in their registering of voters.

Despite these articulated reservations, however, Thurmond did nothing to actually stop the renewal from occurring. It is not simply that he voted in its favor; as chairman of the Judiciary committee, he could have worked to block it. Observers expressed surprise that Thurmond did nothing; one notable exchange was his questioning of the American Civil Liberty Union's Atlanta-based regional director Laughlin McDonald, when Thurmond had no questions for him save for some good-natured chatting about McDonald's relatives.<sup>14</sup> Thurmond not only refrained from joining the attempted filibuster of the renewal, he did not even aggressively question witnesses who supported it. Thurmond's reservations may have been expressed at great length, but they were then dropped.

So why, given his stated reservations about the renewal of the Voting Rights Act, did Thurmond vote for it? In his own words, Thurmond explained his vote this way:

...I must take into account the common perception that a vote against this bill indicates opposition to the right to vote

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<sup>14</sup> Details on the exchange can be found in Bass & Thompson, pp. 294 - 295, and Cohodas, pp. 470 - 471.

and, indeed, opposition to the group of citizens who are protected under the Voting Rights Act. I firmly believe that this perception is incorrect... a vote against this bill on my part would not represent a rejection of the right to vote nor a rejection of the civil rights of persons protected under this act. However, I must pay attention to this perception and the potential effect on my ability to secure full satisfaction of my concerns about this legislation. Therefore, I have decided to support [the bill]... while at the same time committing myself to securing necessary relief through future legislative action. In this way, I can make clear once and for all, my resolute commitment to the right to vote and at the same time gain support for future improvement in this legislation.<sup>15</sup>

Thurmond voted for the bill explicitly *as* a symbol. He denies that a negative vote would be anti-black (the plain meaning of his circumlocution "the group of citizens who are protected under the Voting Rights Act"), but the *perception* that it would be was enough to change his vote. The symbolic value of "mak[ing] clear" his "resolute commitment to the right to vote" trumps what he says are his concerns about the bill's fairness and even its constitutionality.

Thurmond manifestly did not apologize for his earlier positions. Indeed, he defended the rationalizations that he had previously used (and that other senators used in 1982), reiterating, albeit in a less forceful way, some of his "concerns" about the bill that he based his opposition to it on in 1965. He even defended the negative vote he doesn't cast, saying that it "would not represent a rejection of the right to vote nor a rejection of the civil rights of persons protected under this act." But he didn't, in fact, cast

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<sup>15</sup> *Congressional Record*, June 18, 1982, p. 14316.

it. Without apology or explanation, Thurmond changed his vote while articulating similar (but far fainter) views).

Thurmond's rhetorical down-playing of his vote continued his studied ambiguity, giving those of his constituents who remained uncomfortable with integration something to latch on to. It also helped give rhetorical cover to those senators who opposed the renewal. But this rhetorical cover could not disguise the profundity of the change—if not in Thurmond's rhetoric or his politics, then at least in the bottom-line of what vote he cast. Whatever the reasons he advanced for it, Thurmond's vote was an epochal change in his politics. His quibbles and caveats were soon forgotten; but his vote would not be. (Indeed, as we shall see, its meaning was eventually inflated beyond any reasonable interpretation of either his action or his words.) While he would not apologize for his past politics, he did not continue them either.

Less important as a matter of practical law—but arguably more symbolically significant—was Thurmond's 1983 vote in favor of a holiday honoring the birthday of Martin Luther King, Jr.

In the narrowest, most technical sense, a vote for a holiday honoring Martin Luther King is not a vote against segregation, just as, technically, a vote against it is not a vote for the maintenance of segregation. Certainly, opponents of the holiday offered other reasons for their opposition, even if these were frequently seen as rationalizations—merely the cover-story for dog-whistle politics—by most people. Regardless, the symbolism of Thurmond's supporting a national holiday honoring Martin Luther King was profound. However central Thurmond



was as a symbol of Southern resistance to integration, King was even more central as a symbol of the drive for it. And the degree to which King was seen as *the* Civil Rights symbol had only increased in the years since his death. Thus whatever meaning Thurmond might have intended it to have, for him to vote for a holiday honoring Martin Luther King was seen as his admission that the fundamental goals of the Civil Rights Movement—integration and the end of Jim Crow—were right; and therefore seen as an implicit admission that Thurmond himself had been, on the central issues of his early political life, wrong. He never said that: but his vote was *seen* as having said it, whether he wished it to or not.

Thurmond's vote took on all the more significance because of his long history of disdain for King personally. It almost goes without saying that one of the most prominent segregationists in the country would oppose the goals of the most prominent Civil Rights Leader. But Thurmond's opposition to King was not one of respectful opposition. Thurmond saw King as a communist dupe, and his anti-communist venom was poured out upon not only King's lieutenants—including, famously, Bayard Rustin on the occasion of the 1963 March on Washington<sup>16</sup>—but upon King himself. Also in 1963, Thurmond red-baited King by discussing how King "has been a lecturer at the Highlander Folk School (in Tennessee) with admitted communists and pro-communist characters."<sup>17</sup> Two years later, in the debate over the Voting Rights Act, Thurmond repeatedly ascribed to King motives both venal and sinister:

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<sup>16</sup> See Taylor Branch, *Parting the Waters: America in the King Years, 1954-1963*, New York: Simon & Schuster, 1988, pp. 861-862.

<sup>17</sup> Cited in Cohodas, p. 345.

On the subject of Martin Luther King going to Alabama to conduct demonstrations, he went there for a very obvious purpose... provocation, designed to produce resistance, which almost invariably leads to violence... He got exactly what he wished. There comes to mind at least two reasons for wishing this result: First, to raise money all over the Nation... He wanted to raise money. That was one of the reasons for fomenting violence. The other reason... [was that] he wanted to get Congress to enact a law to bring more power to Washington. ... Martin Luther King is not going to be satisfied. Martin Luther King wants the government to be centralized in Washington. He wants all power to emanate from Washington, along with his opportunity to raise money.<sup>18</sup>

What I am drawing attention to here is not Thurmond's opposition to King's goals, but his clear animus towards King personally, with the repeated claims that he was both an opportunist and a seeker after centralized power for its own sake.

In addition to despising—and attacking—King personally, Thurmond had long detested King's methods. Thurmond spoke out often and bitterly against civil disobedience, claiming that it bred disrespect for the law and, ultimately, violence. Shortly after King's assassination, Thurmond wrote, "Both the assassination of King and the rioting that followed his death spring from the philosophy that each man is free to obey the laws which please him."<sup>19</sup> The phrase "the philosophy that each man is free to obey the laws which please him" is Thurmond's dismissive description of civil disobedience;<sup>20</sup> Thurmond, in essence, blamed King

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<sup>18</sup> *Congressional Record*, May 3, 1965, pp. 9241-9242.

<sup>19</sup> Strom Thurmond, *The Faith We Have Not Kept* (San Diego: Viewpoint Books, 1968), p. 7.

<sup>20</sup> Thurmond had previously used the phrase in reference to King personally, and in regard to civil rights demonstrations specifically. For

for his own assassination, as well as for the riots that followed it. Later in the same work, he spelled out the connection he saw at somewhat greater length:

Criminals are men who break the laws for any reason whatsoever, even if they are protesting what they conceive to be injustice.... "Civil disobedience" is an attack on freedom. It encourages citizens to take the law into their own hands. Even when a "civil disobedience" program is aimed at one particular practice, its psychological carryover is distributed throughout the entire system of law. Every law, at some point, is going to contradict the desires of some citizen. If each citizen becomes his own judge, then impartial justice will disappear.... Most often, the call to "civil disobedience" is pressed upon those who suffer severely from the depravations of criminals. It is sad that those who are the victims of criminals are also the victims of false prophets who come to destroy the law.<sup>21</sup>

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instance, Thurmond said three years earlier that "When Martin Luther King announced that a mass march on Montgomery, Ala., would take place regardless of the decision of the court, that man held himself up as being a man who does not favor the rule of law.... One of the leaders of the recent demonstrations was not a man who was willing to observe the law; and that he was a man willing to observe only laws of which he approved, but not the rule of law." (*Congressional Record*, May 3, 1965, p. 9247.)

<sup>21</sup> Thurmond, pp. 26 - 27. It is worth noting the direct ideological and rhetorical connection between Thurmond's opposition to the Civil Rights Movement (both in his scorn for King's methods and in his trivialization of African American concerns about segregation as merely a law "contradict[ing]... desires"), and Thurmond's early adaptation of the conservative rhetoric about "law and order" which was part of the Republican take-over of the South in the later Twentieth Century (a takeover for which Thurmond's party-switch was a harbinger, and one which Thurmond also aided in his considerable efforts to help Nixon, in part on a "law and order" program, win in the South in the year this was

Not only did Thurmond not see King as the proponent of a worthy cause, he saw him as a force whose means as well as his ends were malevolent. Civil disobedience he saw as mere criminality; King he described as a lawless man and a "false prophet". It is no exaggeration to say that Thurmond despised everything King was and stood for: the man himself, his cause, and his methods.

Thus the symbolism of Thurmond supporting a holiday to honor a man who not only epitomized what he had spent his career fighting, but a man whose methods Thurmond had railed against and whose loyalty he had questioned, was profound. In crucial ways, it transcended whatever symbolism Thurmond might have wished to promote with it, as it was incorporated into the flow of public discourse in ways beyond his control.

But while the symbolism of Thurmond's vote did not depend upon his own construal of it, it is nevertheless illuminating to see how Thurmond himself articulated why he voted for the Martin Luther King holiday. In the Senate, Thurmond first defended his previous opposition as "center[ing] on the excessive cost", and claiming that he "never opposed a day of recognition for Dr. King" apart from that.<sup>22</sup> Claiming

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written.) This metamorphosis of segregationist rhetoric into standard post-70s Republican rhetoric—which, as I have said earlier, is arguably the flip side of my current argument—has been discussed in many places; see, for example, Dan T. Carter, *From George Wallace to Newt Gingrich: Race in the Conservative Counterrevolution, 1963-1994* (Baton Rouge: Louisiana State University Press, 1999).

<sup>22</sup> *Congressional Record*, October 3, 1983, p. 26880. Thurmond's claim to have previously opposed a Martin Luther King holiday solely on financial grounds was false. As Nadine Cohodas points out, four years previously Thurmond had opposed a King holiday in the Judiciary Committee vote not only on the grounds of cost, but because of his

that an alternative means of dealing with this issue was available, Thurmond went on to state the heart of his reasons for supporting the holiday:

I fully recognize and appreciate the many substantial contributions of black Americans and other minorities to the creation, preservation and development of our great Nation.... [O]ur minority citizens are surely deserving of the highest honor and recognition. Many feel that a Federal holiday is a means of annually commemorating those significant aspects of American history which are of special importance to our minority citizens. Furthermore, the preference of the black leaders with whom I have conferred is that the birthday of Dr. Martin Luther King, Jr., should be the focus of such a holiday... the overwhelming preference among our minority citizens is for a holiday honoring Dr. King, and I respect those views.<sup>23</sup>

Thurmond says nothing about the worthiness of honoring King, nor about the importance of the work King did nor the cause he fought for.

Thurmond says nothing about King at all. For Thurmond, what is worthy of "honor and recognition" are "the many substantial contributions of black Americans" to the country. The choice of a federal holiday—and in particular the choice of Martin Luther King as the "focus" of it—is put down to the preference of those to be honored.

Thurmond, in other words, is saying that *African Americans* deserve recognition, and that if they want to express that recognition by honoring Martin Luther King, he's prepared to go along with that choice.

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opposition to honoring someone "in the contemporary years following his death [with] an official holiday of national recognition"; Thurmond went on to list influential people who had never "been honored with a national holiday". (Cohodas, p. 482.)

<sup>23</sup> Ibid.

He expresses respect not for the Civil Rights Movement, but for the (unspecified) "contributions" of African Americans to the U.S. He is bowing, quite explicitly, to what he sees as the preference in the African American community—not saying that he agrees with it. Indeed, the fact that King made his mark on American history by so powerfully (and successfully) opposing everything that Thurmond himself stood for during King's lifetime is not remarked upon at all. Certainly Thurmond said nothing that would lead one to describe him as being a civil rights supporter; this was, presumably, deliberate, in an attempt to mollify those of his constituents who might still fervently hold Thurmond's old, disdainful views of King and his work. Thurmond's speech allowed him to honor those King sought to help, while avoiding the issue of King's goals more or less entirely.

It is worth noting that there is some evidence for a genuine change in Thurmond's views of King—or, rather, his views of African Americans' views. He seems to have been quite genuinely surprised at the powerful chorus of African American support for King as the "focus" of a national holiday. Thurmond was taken aback when, in a speech at Voorhees College, students applauded King far more than Thurmond's other suggested African American leaders to honor with a holiday, George Washington Carver or Booker T. Washington; he is said to have told his staff "that now he realized how important King was to twentieth-century black America."<sup>24</sup> At first blush it might be considered surprising that Thurmond would fail to grasp the importance of King—and, by

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<sup>24</sup> The speech at Voorhees College is discussed in Cohodas, p. 483, and Bass and Thompson, p. 301; the quotation is from Cohodas.

implication, the Civil Rights Movement more broadly. Surely he couldn't have failed to notice the passion and commitment of those whom he opposed so long? But this is not the contradiction it may seem. Opponents of Civil Rights often claimed that African Americans were happy under segregation; movements for change were ascribed to various "outside agitators", particularly "communists" (a life-long obsession of Thurmond's.) Blind to the suffering engendered by Jim Crow, many opponents of the Civil Rights Movement sincerely believed their own rhetoric on this matter. It was only when Thurmond began genuinely listening to his African American constituents that he was able to see past the rhetoric of his own cause.

But as with many of his statements and actions in his latter career, both sides could see at least what they wished in his statement: African Americans could see the leader they wished to honor recognized, whereas those who longed for the days of segregation could console themselves that Thurmond was simply bowing to political reality. In his own telling, he was honoring not a leader, and not a cause, but a group of people—cynically, a voting block—by giving them what they wanted. For Thurmond, the establishment of a national holiday honoring Martin Luther King, Jr., was, finally, simply another form of constituent service.

While Thurmond cast other votes on civil rights issues that helped perpetuate the sense that he had shifted his views, it was his votes on these two issues—the Voting Rights Act extension and the Martin Luther King holiday—that established Thurmond's reputation as a changed man. It was those two votes that would be repeated in article after article,

profile after profile, to balance the facts of his Dixiecrat presidential bid and his 1957 filibuster. His record on civil rights matters was hardly that of a liberal; in 1990 he voted (with the majority of his party) against the proposed 1990 Civil Rights Act.<sup>25</sup> But it was enough to enable the narrative of his change—generally unencumbered by Thurmond's own explanations for his more recent votes—to become the standard story in the American media.

But there was one other aspect of Thurmond's shift which, while less frequently mentioned, was essential to this new image. The last and perhaps most significant thing Thurmond did to change his public stance on civil rights issues was simply to fall silent. Thurmond articulated the heated opposition to the Civil Rights Movement, and to any suggestion of *de jure* integration, for which he was famous less and less often, until at last the issue simply dropped out of his political repertory.

This silence --- this lack of rhetoric, this absence of passion where once he spoke with fiery zeal—is the most difficult aspect of Thurmond's shift to elucidate. Unlike his pattern-breaking votes, or even his occasional response to interview questions on his political metamorphosis (discussed below), it has left little trace in the historical record. It is the story of things Thurmond failed to say—not even words he didn't use (he was never a big user of racial epithets), but ideas he didn't express.

Ever a political realist, Thurmond's shift can be—and often has been—seen as purely expedient, a recognition of the changed political climate to which he was willing to adapt. His silence was an inescapable, crucial part of that adaptation. Did his lack of emotive rhetoric mean he

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<sup>25</sup> Cohodas, p. 495.



had changed his mind (but was too ashamed or pragmatic to say so)—or that he continued to hold now untenable positions? No one could know for sure. But if he had continued to speak as he had, he would not have had that ambiguity to hide behind. He would have had to answer for—to explain—a past that was increasingly seen as at the very least embarrassing.

Impossible though it is to hear, Thurmond's silences enabled his political longevity, and were the foundation upon which his other actions and words were based. The fiery segregationist was gone: whether he had been replaced by a quiet one or a reformed one was only able to become a question in the absence of the obvious counter-evidence. Without that absence, nothing else Thurmond did or said would have mattered.

Yet while Thurmond may have fallen silent—may have ceased to give speeches about the evils and dangers of the Civil Rights Movement and all it stood for—he could not fall completely silent on the issue, even if he wished to. Thurmond may never have spoken at the lengths that other former supporters of *de jure* segregation did about his past positions; but he could not totally avoid questions about the issue of how his past could be reconciled with his (and the nation's) present. He had simply been too prominent a supporter of segregation not to be asked the question. (He is not, therefore, one who strictly and purely held to the strategy of silence; but of course, someone who literally says nothing about their past leaves nothing to analyze. Following the lead of the Calculus, however, whose key insight is to treat "almost nothing [as]

tantamount to nothing",<sup>26</sup> perhaps something close to silence, approached as a limit, can tell us what silence means.) However unwilling he was to probe the matter, a still-active politician like Thurmond could not avoid it entirely.

But Thurmond's discussions of his segregationist past were invariably brief. They were usually less attempts to answer questions about how (or if) he had changed than to dodge them to the greatest extent possible. (Indeed, Thurmond's ability at putting off the obvious questions is remarkable, particularly given the centrality of segregation to his earlier political persona, as well as his prominence in the ranks of segregation's former defenders.) Unlike other figures, who addressed the issues on their own initiative in speeches or memoirs, Thurmond only responded to questions he could not avoid. And those answers—clipped and contradictory—were as close to silence as he could come while still speaking.

The following passage is typical of Strom Thurmond's response to his past late in his career. In a 1997 profile of South Carolina's senior Senator, Steve Piacente of the *Charleston Post and Courier* wrote:

Rep. Jim Clyburn, D- S.C., the only black member of the delegation and South Carolina's first black congressman since Reconstruction, takes a different view... "[Thurmond] was symbolic of states' rights and we knew what states' rights meant... It meant states had rights and individuals didn't."

Thurmond's response: "At the time, you see, the law of my state and most of the states in the South ... provided for

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<sup>26</sup> Robert Kaplan, *The Nothing That Is: A Natural History of Zero* (Oxford: Oxford University Press, 2000), p. 153.

separation of the races. And we merely followed the law and followed the custom, that was all."

"After that, the law changed ... the people of the South accepted that," Thurmond said.

Clyburn agrees that, "Times change and people change. Thurmond is the best I know at changing with the times. He'll have to tell you what's in his head and in his heart."

"Certainly his practice of politics changed," Clyburn said. Asked if desegregation has helped the nation, Thurmond - who became the first Southern senator to hire black staffers and who today is an advocate for historic black colleges and universities - says, "As a whole, it has worked out well."

Thurmond makes no apologies and says he has no regrets.

"I only obeyed the law," he said.<sup>27</sup>

Thurmond here combines an implicit admission of error, a refusal to express regret and a flatly mendacious denial of his past. The impression which resulted from his brief, scattered and contradictory responses was continuous with his more general avoidance of the issue: it allowed his die-hard pro-segregationist supporters and potential African American voters to equally imagine Thurmond's position as according with their desires.

To begin with, Thurmond's claim that he "only obeyed the law" — a claim he repeated multiple times over many years — begs the question in the most profound possible sense. None of Thurmond's most famous actions in support of legalized segregation — his 1948 run as a Dixiecrat, his record-setting 1957 filibuster, his numerous other maneuvers in the Senate which delayed or defeated civil rights legislation — had anything to do with obeying any laws. (The Southern Manifesto, which originated

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<sup>27</sup> Steve Piacente, "Thurmond of today looks back on yesterday", *Charleston Post and Courier*, May 25, 1997, p. A1.

with Thurmond, was arguably an attempt to support *breaking* the law, i.e. disobeying the *Brown* decision; but even if one takes it at face value, that it was only supporting "lawful" resistance, it was certainly not 'merely following' the law in any sense.<sup>28</sup>) What Thurmond was doing in each and every case was seeking to *make* laws—or, more precisely, to prevent others from doing so. He became the most famous defender of segregation of his age not by obeying any laws, but by doing everything in his power to shape the laws that others would be obliged to obey.<sup>29</sup>

Indeed, saying that Thurmond is "begging the question" here is hardly adequate: he is, by inescapable implication, lying. He did not "only" obey the law: he shaped the law—and worked hard to do so. His claim distances his self—his political views, his actions, his life's work—from the issue, making it purely *external*: customs and laws that he merely followed. The essential nature of Thurmond's career—his *active* support of segregation, his embrace of the legal as well as customary aspects of Jim Crow—are left out of his explanation. This is as close to a denial of his record as a man with Thurmond's prominent past could come without provoking laughter. The same remarks apply to Thurmond's parallel claim that southerners—and, by implication, he himself—"merely followed... followed the custom". Like Thurmond, southerners *enforced* the custom, legally as well as socially (with, in the broader society if not in Thurmond's specific case an ultimate underpinning of violent threat).

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<sup>28</sup> The Southern Manifesto has been frequently reprinted; it is conveniently available at the web site of the Strom Thurmond Institute at Clemson University: <http://www.strom.clemson.edu/strom/manifesto.html>

<sup>29</sup> Crucially, this was not a single example of Thurmond's use of this rhetorical device; it was one of his standard answers to this question.

If the words "only" and "merely" are to have any meaning at all, they must be seen as falsifying—as proving to be a lie—Thurmond's statements here.

The other parts of Thurmond's statements are equally contradictory. To say of something which one sought to prevent that "[a]s a whole, it has worked out well" is to say that one was wrong—or that, at the very least, one's efforts were in vain. And in Thurmond's case it is necessarily to say a great deal more than that, for he not only sought to perpetuate *de jure* segregation, but he based a great deal of his life and the crux of his career on its continuance. It is hard to reconcile the failure of that large an effort with the casual admission that the success of the other side "has worked out well": surely he must either be dissembling about his lack of regrets or about his admiration of its effects? At the very least, saying that integration "has worked out well" implies—although Thurmond never acknowledges the implication—that his earlier dire warnings about its consequences were in error.

In Thurmond's answer one can hear the echoes of an earlier rhetoric, the one of the "lost cause" of the Civil War, in which many among the later generations of Southerners honored the struggle while not regretting its loss. But it rises to a whole new level of contradiction to have such an attitude about one's own self, and not simply one's ancestors. It is one thing to have neither apologies nor regrets for another's action, in which one can see a misplaced if nevertheless admirable nobility; but it requires an alchemical mix of denial and obfuscation to maintain this about one's own earlier efforts.

A year later, Thurmond gave a different answer to a similar question—this time a question which focused specifically on his 1948 campaign. As this answer was also characteristic of Thurmond's (few and brief) statements on this issue, but displays a different selection of the rhetorical tropes Thurmond employed to weave around a real confrontation with his past, it is also worth some examination. In the South Carolina newspaper *The State* in 1998, in an article on the fiftieth anniversary of Thurmond's Dixiecrat presidential bid, Thurmond responded to a reporter's probing as follows:

Thurmond himself says of the 1948 campaign: "I don't have anything to apologize for. I don't have any regrets."

"I may have said some things that I could have left off," he said in a recent interview, "because I favor everybody receiving equal treatment. Race should not enter into it. It's merit that counts."

But Thurmond said he still believes the Dixiecrats were right.

"The States' Rights Party addressed a legitimate issue in 1948 America - whether our states should surrender power to the federal government," Thurmond said.<sup>30</sup>

As with Thurmond's other answers to questions about his past, this mixes regrets with the denial of regrets, and simultaneously distorts and celebrates his previous stances.

Thurmond says in a single breath that he has no regrets, and expresses what in any other context would naturally be described as a regret—"I may have said some things that I could have left off." The contradiction here is central to Thurmond's strategy: by simultaneously

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<sup>30</sup> Joseph S. Stroud, "Day of the Dixiecrats", *The State* (Columbia, SC), July 12, 1998, p. D1.

denying and expressing regrets, a wide constituency can see what they wish in Thurmond's statement. By speaking in such flat contradictions, he is in essence saying nothing—as close as speech can come to the "no comment" he obviously feels unable to get away with.

One plausible reading of conjoining "I may have said some things that I could have left off" with "I don't have any regrets" is that Thurmond is simply minimizing the import of the things he wishes he hadn't said—that he is saying that while it might have been better not to say some things, they were not even important enough to regret (let alone apologize for). This is the point at which the contradiction about his regrets turn to a denial of the plain nature of his 1948 bid—that it was a bid to reverse Truman's modest moves towards a Civil Rights stance, and to prevent any further movement towards African American equality.

The denial inherent in Thurmond's description of his own past is actually a continuance of a sort of denial often articulated by pro-segregationist advocates at the height of the Civil Rights Movement. States' rights was, of course, one of the classic rationalizations for segregationists—a way of avoiding the merits of the issue of Jim Crow by discussing instead the proper forum for settling the matter. (This arose, as I have discussed elsewhere, by the discrediting of more forthright pro-segregationist arguments by the early 1950's—a discrediting that was itself one of the key preconditions for the success of the Civil Rights Movement.) Thurmond here retreats behind this thin alibi to claim simultaneously that "I favor everybody receiving equal treatment. Race should not enter into it" and that the Dixiecrats "addressed a legitimate issue in 1948 America - whether our states should surrender power to the

federal government." Of course, the central (if not the only) issue upon which the Dixiecrats fought for state over federal power was precisely the preservation of the lack of equal treatment among races. To claim that the Dixiecrats "addressed a legitimate issue in 1948" while in the same breath saying that "Race should not enter into it" is mendacious. (Even here, however, Thurmond leaves himself some wiggle room: his remarks about racial equality are entirely in the present-tense; his claim for the Dixiecrats' rightness are in the past. To read this as an implicit admission of a change of heart is certainly a stretch—and the fundamental contradiction between the lack of apology and the denial of his own political platform remains—but it does show the slipperiness of Thurmond's evasiveness once again.)

Thurmond's answer is all but impossible to paraphrase, for he is saying everything at once—and, therefore, nothing. What he did was not what he did; what he said was not wrong, although its converse was right; he has no regrets about a battle on which he now agrees with the opposition.

Certainly none of this could be said to be a confrontation with his past. In the face of unavoidable questioning (given the shape of his past career), Thurmond makes contradictory, evasive and flat-out untruthful statements—a mix which allows him to avoid reply without seeming to do so. Thurmond neither defends nor regrets, neither denies nor apologizes for, his past: or, rather, by doing all of the above at once, no single element can be taken straight. As was the case with his Senate votes, Thurmond's statements allow supporters of every stripe to see their own position reflected in his words. Fervent supporters of integration—



including, presumptively, the majority of African Americans and at least some number of whites—can focus on his statement that "[a]s a whole, it has worked out well" and imagine that he has in fact changed his position, even if only passively. Dead-enders who continue to believe segregation desirable can take to heart Thurmond's professed unwillingness to apologize and his claimed lack of regret. Those whose position is intermediate can see in Thurmond's contradictory claims an ambivalence which mirrors their own.

Thurmond said almost nothing—certainly nothing of any consequence—about his past. And that silence, finally, spoke volumes.

But if Thurmond said nothing of significance about his past, another politician said what turned out to be—for him—too much. This episode in recent American political history does not, of course, speak to Thurmond's own confrontation with his past; but it speaks in very telling ways about the broader nation's confrontation with it—and, in fact, speaks to the nation's confrontation with the overall history of segregation as well as more narrowly to the specific meaning of Strom Thurmond's career. At the very end of Thurmond's political career, more than a month after he finally decided (at the age of 100) not to run for re-election, Thurmond's history of vigorous support for segregation became, briefly, the chief historical fact in a recent political tumult, leading to a revealing series of media spotlights on both Thurmond's career and the place of segregation's erstwhile defenders in American public life.

The episode I refer to is the now-notorious Trent Lott affair, in which then-majority leader Lott's remarks about Thurmond's 1948

presidential bid caused an uproar that eventually led to Lott's resigning his position as majority leader (although not his Senate seat).<sup>31</sup> Unlike Thurmond's remarks on his own past, Lott's praise of Thurmond was not subtle enough—not ambiguous enough—for him avoid offering an explanation for it. Because of this, Lott's words briefly brought the nature of Thurmond's early career into prominent public view—but did so in a distorted fashion, a distortion that itself can tell us much about the place of segregation's supporters in national memory.

The media furor over Lott's comments began on December 5, 2002, at a one-hundredth birthday celebration for Strom Thurmond.

Thurmond had just declined to stand for re-election to the Senate, thereby ending his then-unmatched forty-eight year tenure as a United States Senator;<sup>32</sup> and while no one could have known for certain that Thurmond would die within the year, he was an ill, retiring centenarian whose days were clearly numbered. The celebration was intended as a piece of intra-Washington flattery, and Lott had no reason to think that his remarks would cause a stir. A live-action puff-piece, the assembled

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<sup>31</sup> Lott was not, technically, majority leader at the time; he had been majority leader until the Republicans lost control of the Senate (due to the party switch of Vermont Senator James Jeffords), had remained as minority leader since that time, and was, as of December 5, 2002, certain to resume the role when the Congress reconvened in January, 2003. At the time, he was referred to as having lost his position as majority leader, and that convention will be followed here.

<sup>32</sup> Senator Robert Byrd has since surpassed Thurmond as the longest-serving Senator.

crowd's attention was on the Marilyn Monroe impersonator, not on the segregationist foundations of the career of the man she sang to.<sup>33</sup>

Trent Lott, leader of Thurmond's party in the Congressional branch Thurmond had served in for so long, was naturally one of the featured speakers at this celebratory fete. As part of his remarks at the celebration, Trent Lott said,

I want to say this about my state: When Strom Thurmond ran for president, we voted for him. We're proud of it. And if the rest of the country had followed our lead, we wouldn't have had all these problems over all these years, either.<sup>34</sup>

Lott's comments were initially unremarked: the celebration itself was little discussed in the news (the *New York Times*, the oft-described newspaper of record, did not mention it at all), and most sources that did mention the birthday bash didn't note Lott's comments.<sup>35</sup> It took several days for reports from the internet, in particular in the then-new medium of web

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<sup>33</sup> Mark Leibovich, "Strom of the Century: The Hill Sings 'Happy Birthday' As Sen. Thurmond Turns 100", *The Washington Post*, December 6, 2002. Leibovich did not mention Lott's soon-controversial remarks in his article, and while he did mention Thurmond's segregationist past, he did so with less prominence than he did the "chocolate-covered strawberries and bowls of banana and butter pecan ice cream" that was served. He also paired the description of Thurmond's past with the standard repentance narrative of Thurmond's career, claiming that he "became a supporter of civil rights, whether a signal of personal change or political pragmatism."

<sup>34</sup> Sheryl Gay Stolberg, "Under Fire, Lott Apologizes for His Comments at Thurmond's Party", *The New York Times*, December 10, 2002.

<sup>35</sup> Oliver Burkeman, "Bloggers catch what Washington Post missed", *The Guardian*, December 21, 2002. Accessed at: <http://www.guardian.co.uk/technology/2002/dec/21/internetnews.usnews>.

logs (or "blogs"), to percolate into the mainstream media.<sup>36</sup> Lott himself seemed surprised when his comments began to be more and more aggressively questioned, and his initial apologies were short and sounded perfunctory; a few years later, even he conceded that his initial response was "not good enough".<sup>37</sup>

One reason why Lott might have expected his remarks to pass without comment is that he had said nearly the same thing before. At a 1980 campaign rally for then-presidential candidate Ronald Reagan in Jackson, Mississippi, both Lott (at the time a member of Mississippi's delegation to the House of Representatives) and Thurmond spoke. Thurmond, speaking first, spoke of his belief that those in the "federal government... [should] keep their filthy hands off the rights of the states." After Thurmond's speech, Lott took the stage and said of him that "if we had elected this man 30 years ago, we wouldn't be in the mess we are today."<sup>38</sup> While reported at the time in the Mississippi papers, this statement did not make national headlines, and was only remembered once Lott's 2002 reiteration of the sentiment became a political embarrassment.

Lott himself repeatedly denied that he had meant to endorse Thurmond's 1948 segregationist positions, but given the historical facts

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<sup>36</sup> The incident is often cited as the first notable influence of blogs on mainstream politics; see *ibid.*; see also Lawrence Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity*. (New York: the Penguin Press, 2004), pp. 43 - 45.

<sup>37</sup> Trent Lott, *Herdning Cats: A Life in Politics* (New York: Regan Books, 2005), p. 255.

<sup>38</sup> Thomas B. Edsall and Brian Faler, "Lott Remarks on Thurmond Echoed 1980 Words", *The Washington Post*, December 11, 2002.

about Thurmond's Dixiecrat run, no other interpretation was plausible. The maintenance of segregation was the *raison d'être* of Thurmond's presidential bid; to be proud of a vote for Thurmond was necessarily to be proud of a vote to uphold a Jim Crow society. Lott was unable—even in the favorable context of his own apologetic memoir—to state what "problems" he might have referred to (given his contention that he was not speaking, as he seemed to be, about the "problems" of the Civil Rights Movement and the broader moves towards integration).

Lott's attempts to explain his statement tacked between two approaches. At times Lott sought to give a different substantive meaning to his claim that "if the rest of the country had followed our lead, we wouldn't have had all these problems over all these years." For example, when asked point-blank by an interviewer on Black Entertainment Television what problems he had alluded to, Lott replied: "I was talking about the problems of the defense and communism and budgets and governments sometimes that didn't do the job."<sup>39</sup> But, of course, defense, communism and budgets were not the central issue in Thurmond's run—they were certainly not the reason that he broke (in an unprecedented move for a Southern Democrat in the 20th Century) from his party to launch an independent bid for President. Even a rudimentary knowledge of the history of Thurmond's bid—one that hardly required a personal memory of the era (which Lott repeatedly pointed out he lacked)—would have told Lott this. Nevertheless, caught in his praise for a campaign founded on its support for segregation, Lott tried to claim that he had in

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<sup>39</sup> Transcript of Trent Lott's BET Interview, December 17, 2002, available at: <http://www0.eurweb.com/printable.cfm?id=8182>.

fact been praising Thurmond as a standard post-Goldwater conservative, concerned with budgets, anti-communism and the problems of malfunctioning government.

This explanation coexisted uneasily with Lott's other defense, which boiled down to the notion that he hadn't really meant what he said at all. This explanation, while certainly offered by Lott at the time, is most clearly presented in Lott's memoir, which was entitled *Herding Cats: A Life in Politics*,<sup>40</sup> and published three years after he stepped down as majority leader. Lott's book is framed by the furor over his nostalgia for Thurmond's presidential campaign, which forms the subject of both the first and the final two chapters; it was clearly intended, in significant measure, as a final attempt to explain and justify his comments (it is also an expression of his not inconsiderable bitterness towards those—particularly within his party—who did not support him at the time). In this most generous of contexts, Lott portrayed his words as a piece of insincere—and therefore harmless—flattery of a man who, in Lott's own words "had treated me almost like a son."<sup>41</sup> Lott explained his praise of Thurmond's Dixiecrat run as a frequently-told in-joke. He writes:

As the years went by, and Strom grew more feeble, my affection for him increased... the years weighed upon him as he neared one hundred, and he slipped easily into bouts of depression. I often rushed over to lighten his mood. One way to brighten his spirits instantly was to spin jokes about his run for president in 1948 on the breakaway Dixiecrat ticket, which opposed integration in any form. I was only seven when Strom was barnstorming the South,

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<sup>40</sup> Lott, op. cit.

<sup>41</sup> Lott, p. 243.

and I remembered nothing about the election or the furor that surrounded it. So I'd kid him, "You know, you would have made a great president." His eyes would light up, and you could sense that he savored the compliment. I never mentioned the segregation platform he supported half a century earlier, and neither did he.<sup>42</sup>

In this telling, Lott's remarks on December 5, 2002, were simply the latest iteration of an ongoing joke, one without the slightest political content at all: telling an old, "feeble" man that he would have been "a great president".

Unfortunately for Lott, this version does not persuade. It is difficult to reconcile his portrayal of his birthday praise as the outgrowth of a private relationship with the fact that he had said almost precisely the same words in 1980, long before he and Thurmond had grown close (and, indeed, before Thurmond had taken most of the actions that would later be used as evidence that he had put his segregationist views behind him). Further, the difference in wording between "you would have made a great president" and "if the rest of the country had followed our lead, we wouldn't have had all these problems over all these years" is significant: the former is far more credible as a piece of insincere but harmless flattery; the latter is more inescapably a political sentiment.

Finally, as noted, Lott's two explanations coexisted uneasily; the former seemed to belie the latter. Perhaps if Lott had immediately abandoned the former in favor of the latter he might have had better luck at riding out the political storm. As it was, any attempt at a substantive defense of his words linked Lott more and more tightly with the

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<sup>42</sup> Lott, p. 245.

sentiments which, on their face, his words expressed—namely, nostalgia for the lost cause of Jim Crow.

Worse still for Lott's political fortunes, his 2002 words began to be put in the context of his earlier actions and words on racial issues—a context that did not cast them in a favorable light. The precise list of previous indications of Lott's questionable history on racial issues varied with each media story, but the following can be considered representative of the litany of facts (and the reportorial tone) which served to deepen his political woes:

The Senator from Mississippi appeared as recently as the 1990s before a white-supremacist group, the Council of Conservative Citizens, telling its members that they stand for "the right principles and the right philosophy." When confronted over the remarks later, he denied any "firsthand" knowledge of the group's beliefs... TIME reported on its website that in college Lott had led the fight to keep his fraternity all white, not just in Mississippi but in chapters across the U.S. In Congress he had voted against nearly every contentious civil rights measure, including some that most in his party had supported. He had filed a friend-of-the-court brief to argue for maintaining the tax-exempt status of Bob Jones University, despite its discriminatory policies and its ban on interracial dating.<sup>43</sup>

Much of this history, such as Lott's actions as a college student, his relationship with the Council of Conservative Citizens and his brief in support of Bob Jones University was personal to Lott himself, and did not allow for ready comparisons with his fellow Senators. But Lott's voting

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<sup>43</sup> Dan Goodgame and Karen Tumulty, "Tripped Up By History" *Time*, December 15, 2002. Accessed at <http://www.time.com/time/printout/0,8816,399922,00.html>.



record lent itself to ready comparisons, and his votes—unusually strong against Civil Rights bills even by the standards of Southern Republicans—were raised repeatedly in the weeks that followed his praise of Thurmond's Dixiecrat Presidential bid.

Unsurprisingly, given the nature of the scandal, one of the most frequent comparisons was of Lott's record with that of Thurmond himself. Two votes in particular—on the 1982 renewal of the Voting Rights Act, and on the establishing of Martin Luther King's birthday as a national holiday—made for particularly poignant contrast. In both cases, Lott—then in the House of Representatives—had voted with the minority, against the (respectively) practical continuance and symbolic honoring of the Civil Rights Movement's legacy. Whereas Thurmond, as discussed above, had actually used those two votes to (ambiguously, and partially) signal his political shift away from the politics of his earlier career. That Lott had voted against these Civil Rights bills when even the once-ardent segregationist Thurmond had voted for them made him seem all the more die-hard in his nostalgia for Jim Crow. The narrative pleasures of this contrast led to its frequent repetition during the height of the scandal. To take one example among many, at Lott's press conference following his fourth apology for his remarks, one reporter said, as part of his question: "Strom Thurmond voted for a Martin Luther King holiday. You voted against it."<sup>44</sup>

In reporters' delight in the nettlesome contrast, however, they ended up distorting the nature and extent of Thurmond's own transformation. As will be discussed below, the media's descriptions of Thurmond's

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<sup>44</sup> From the transcript in *The New York Times*, December 14, 2002.

turnaround simplified a complex, and at best partial, shift into a full reversal of his views.

Given the ever-lengthening list of impolitic words and actions exhumed by the media from Lott's past as the scandal mounted, it is unsurprising that Lott's early apologies were received as typical beltway back pedaling. His words convincingly conveyed neither genuine contrition nor a genuine empathy for the suffering of African Americans during segregation:

My remarks were a poor choice of words that conveyed the impression that I embraced the discarded policies of the past, and I apologize to anyone who was offended by my statement.<sup>45</sup>

The inadequacy of these words was captured by blogger Josh Marshall, who was one of the online voices which pushed the story into the mainstream media despite its initial apathy about it:

...frankly this strikes me as a pretty feeble apology. He won't say what 'policies' he's talking about. He won't say they're wrong, just that they were 'discarded'. It's probably too much to ask for him to get down on his knees and confess his sins. But given Lott's history of flirtation with neo-segregationist politics and the seriousness of the original statement, something a bit more explicit and specific was and is in order.<sup>46</sup>

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<sup>45</sup> Lott, op. cit., p. 252.

<sup>46</sup> Josh Marshall, Talking Points Memo, December 9, 2002; available at: <http://talkingpointsmemo.com/archives/000484.php>.

And in a good example of the way in which powerful political voices echoed online writers in this scandal, those words were echoed two days later by Lott's fellow Senator, Joe Lieberman:

The policies of the past that Senator Lott's initial statement appeared to embrace—specifically, racial segregation—are not just "discarded," as his apology put it. They are deeply offensive, morally wrong, and wholly contrary to our nation's most important ideal.... I would urge Senator Lott to come forward with a specific renunciation and repudiation of the indefensible days of segregation, which are a painful stain on our history, and which either ruined the lives or compromised the freedom of millions of our fellow Americans. It's not enough to say his words may have been misinterpreted. He needs to speak from his moral center and make clear his commitment to racial equality.<sup>47</sup>

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<sup>47</sup> Joe Lieberman press release, December 11, 2002, available at: <http://lieberman.senate.gov/newsroom/release.cfm?id=208178&&>. It is worth noting that one politician who does not seem to have commented upon Lott's remarks was Thurmond himself. Of course, any direct comment by Thurmond would have threatened his long-term strategy of silence about his past. Most likely, however, Thurmond did not comment because he was not able. By the time of his retirement in 2002, questions were being openly asked about his mental state. As the *New York Times* noted in an article about Thurmond's retirement that predated Lott's remarks,

The matter of his mental acuity is a delicate one. Mr. Thurmond is surrounded by a protective coterie of aides who will not let him be interviewed and who publicly insist that his mind remains sharp. But it is well known in the Capitol that the senator's chief of staff, Robert Short, makes the decisions in his office. Privately, Mr. Thurmond's friends confess that the senator is often confused.

(Sheryl Gay Stolberg, "Thurmond, Set to Retire, Awaits a 100-Candle Cake," *The New York Times*, November 22, 2002.) Given this situation,

One apology was clearly insufficient for Trent Lott to put his praise of Thurmond's past behind him. Two more equally bloodless apologies did not improve the situation. In an attempt to defuse the growing uproar, Lott decided to hold a press conference, and issue his most extensive apology to date.

Eight days after he made his remarks at Thurmond's birthday celebration, Trent Lott gave his fourth apology, this time in the form of a speech to the press (rather than a printed press release or a radio appearance), followed by a press conference. In contrast to his earlier reactions, Lott's fourth apology was more effusive and more direct; in his memoir he calls it "as close to a manifesto on racism as I would ever give."<sup>48</sup> Lott opened by saying:<sup>49</sup>

Segregation is a stain on our nation's soul. There is no other way to describe it. It represents one of the lowest moments in our nation's history. And we can never forget that. I

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Lott's aides probably worked to avoid having Thurmond comment upon Lott's controversial remarks.

<sup>48</sup> Lott, p. 261. In the index the term is used without the qualifier.

<sup>49</sup> Lott reprints an edited version of his prepared statement (unlabeled as such) in *Herding Cats*, pp. 262 - 263; a longer version, plus excerpts from his press conference afterwards, was printed in the December 14, 2002 edition of the *New York Times*. Apart from omitted passages, the version in Lott's memoir differs slightly from the version in the *Times*; for example, in one of the sentences discussed below, the version in Lott's memoir reads "...the wrongness of his own, early views" while the version in the *Times* simply reads "the wrongness of his own views". This may reflect the difference in the prepared versus the delivered remarks, or it may simply reflect the more general redaction of Lott's statement in his memoir. Lott's editing of his own statement in his memoir does not change its basic message or tone; nevertheless, in the discussion that follows, I have followed the version from the *Times*.

grew up with segregation here in these communities. But I want to note that in these communities of Pascagoula and Moss Point and Gautier and Ocean Springs, Miss., we worked hard to overcome that and to bring about reconciliation and to work together. I grew up in an environment that condoned policies and views that we now know were wrong and immoral, and I repudiate them.

Let me be clear. Segregation and racism are immoral. I feel very strongly about my faith. I grew up in a local church here. I actively participated. And as I've grown older, I have come to realize more and more that if you feel strongly about that you cannot in any way support discrimination or unfairness for anybody. It's just not consistent with the beliefs that I feel so strongly about. I've seen what that type of thing in the past can do to families, to schools and to communities. I've seen personally the destruction it's wrought on lives, good people. I've known many of them personally and I know that there are terrible harms that have come out of that era.

For a self-proclaimed "manifesto on racism," Lott's statement spoke little about it. Each statement about racism's immorality is followed quickly by a bromide about Lott's past. He spends more energy on platitudes about his faith than he does on his condemnations of racism. (The two sentences—"Segregation and racism are immoral. I feel very strongly about my faith."—are oddly paired: as if most of segregation's defenders were not strongly faithful churchgoers!) And much of the focus is about how racism *is* past—how Mississippi communities have overcome it, and how Lott himself has learned better—instead of on the "stain on our nation's soul", which Lott barely alludes to formerly supporting. Even Lott's description of segregation as "one of the lowest *moments* in our nation's history" (emphasis added) minimizes what was a period of nearly a century.

It is also worth pausing for a moment on Lott's description of Thurmond's own change in views in his December 13 apology. Lott's description of Thurmond's political evolution was an extreme version of the narrative repeated in the national media, but it was very much in the same vein. In his prepared remarks, Lott said of Thurmond that he "came to understand the evil of segregation and the wrongness of his own views. And to his credit he said as much himself." A few paragraphs down, Lott adds:

By the time I came to know Strom Thurmond some 40 years after he ran for president—I knew of him when I was in the House of Representatives, I didn't really get to know him till I started running for the Senate and moved over to the Senate—he had long since renounced many of the views of the past, the repugnant views he had had. And he made that public himself.

As discussed above, the notion that Thurmond "came to understand the evil of segregation and the wrongness of his own views" is at best a generous reading of Thurmond's later position. And as for Lott's repeated claim that Thurmond "said as much himself," my research has not uncovered any such statement. To term segregation "evil", and to speak of "wrongness" inherent in his once-signature political stand, would be to deal with his past very differently than Thurmond in fact dealt with it. It would be to embrace not a largely silent, all-but-unacknowledged shift, but rather to explicitly apologize. There are politicians and political writers who did just that; but Thurmond was not one of them.<sup>50</sup>

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<sup>50</sup> Nor was this simply a casual gaff of a politician in the midst of a scandal; Lott repeated the claim in different words in his memoir: "Over the years, [Thurmond] had transformed himself from one of the nation's

Lott's most desperate attempt to quell the furor was an appearance on the cable channel Black Entertainment Television, for a half-hour interview with journalist Ed Gordon. In that interview, Lott sought even more than in his previous four apologies to remake himself as a champion of black America. Among other things, he said "I would vote now for a Martin Luther King holiday," disavowing one of the main items in the litany of past actions which were being repeated to give context to his birthday remark about Thurmond's Dixiecrat bid. Lott also, in a highly unusual move for a Republican in the early Twenty-First Century, declared "I am for affirmative action."<sup>51</sup> CNN characterized Lott during the interview as "abjectly contrite and apologetic"; Lott himself later characterized himself as having "groveled through yet another confession". It is hard to argue with Lott's later characterization of the interview as having "achieved absolutely nothing."<sup>52</sup>

Lott's groveling did not avail him. Even after all five of Lott's apologies, the media furor around Lott's words continued to build, until it finally became clear to him that apologies would not suffice to dissipate it: he had to resign his position as majority leader.<sup>53</sup> With considerable reluctance, Lott stepped down.

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leading defenders of segregation to an unalloyed supporter of civil rights legislation." (*Herding Cats*, p. 244.)

<sup>51</sup> Lott, BET Interview, Op. Cit.

<sup>52</sup> Lott, *Herding Cats*, p. 270.

<sup>53</sup> In his memoir, Lott attributes this less to the media scandal than to his lack of support among his fellow Republicans, particularly within the Bush administration.

And that—as it turned out—was the scandal's end. Lott kept his Senate seat; few questioned the propriety of his doing so. Lott continued in the Senate another five years without further censure or consequences, even considering a bid to regain his leadership among Senate Republicans in the wake of his party's 2006 electoral losses. After his resignation symbolically ended the scandal, his praise of Thurmond's segregationist presidential bid was largely forgotten.<sup>54</sup>

This raises the question of why Lott's resignation of his leadership was seen as necessary, whereas his retaining his Senate seat was regarded as completely appropriate. Having examined both why what he said became a scandal and Lott's reaction to it, what is to be made of precise way in which the scandal played out?

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<sup>54</sup> Indeed, it was even remembered by some as an injustice. On December 18, 2007, upon the occasion of his resigning his Senate seat to pursue work as a lobbyist, Lott was honored by his colleagues in the Senate. No less than three Senators—Gordon Smith of Oregon, Orrin Hatch of Utah and Arlen Specter of Pennsylvania—included defenses of Lott's remarks in the course of their encomia. (See information at the Talking Point Memos web site: <http://talkingpointsmemo.com/archives/061328.php>, [~/061330.php](http://talkingpointsmemo.com/archives/061330.php) and [~/061336.php](http://talkingpointsmemo.com/archives/061336.php).) Ironically, Senator Smith's comments contradicted his remarks in 2002 condemning Lott's praise of Thurmond. (Greg Sargent, "GOP Senator Smith Defends Lott's Segregationist Comments—But He Condemned Them At The Time", at [http://tpmelectioncentral.com/2007/12/gop\\_senator\\_smith\\_defends\\_lotts\\_segregationist\\_comments\\_but\\_he\\_condemned\\_them\\_at\\_the\\_time.php](http://tpmelectioncentral.com/2007/12/gop_senator_smith_defends_lotts_segregationist_comments_but_he_condemned_them_at_the_time.php).) This second-hand praise of Thurmond's segregationist bid does not seem to have produced any political problems for any of the three Senators; indeed, it seems to have been barely noted in the media apart from mentions on various blogs (the same venues, of course, that propelled Lott's original remarks into the national conversation.)



At the time some presented Lott's retaining of his Senate seat as evidence of the lack of concern that the American political establishment had with the issue of segregation—evidence, that is, that in American political culture, the support of segregation was simply not such a big deal: worth ousting someone from a leadership position over, but not from a Senate seat.<sup>55</sup> I would argue, however, that this is a misinterpretation. It is not that the political culture of early Twenty-First Century America sees support of segregation as trivial; it is that it sees it as easy to make amends for. Indeed, it *necessarily* sees it as easy to make amends for, given the continued power of race (and the prevalence of the political descendants of segregationists in American politics).

Partly, to be sure, the nature of the end of the Lott Affair is a function of the social rituals that surround contemporary American political scandals: for scandals of a certain type, one level of "demotion" is implicitly held to be sufficient, and termination of a person's career is not pushed for (this is a strong tendency among Washington reporters and pundits who are frequently friends with, and certainly of a social class with, the politician at the center of the political scandal.<sup>56</sup>) But this simply

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<sup>55</sup> Other interpretations focused upon Lott's likely replacement in the Senate by a Democrat, and argued that support for Lott's remaining in the Senate was pure partisan politics. Indeed, Lott himself describes this as his primary rationale in *Herding Cats* (op. cit., p. 274).

<sup>56</sup> Journalist Andrew Sullivan argued at the time that this was why Lott's remarks initially were more widely condemned on the internet than in more traditional media: "...the media bigwigs really do operate socially in Washington and find it hard to pounce on people they know, like, respect or need as a source... [that] people like David Broder or Bob Novak simply brushed this one aside is a sign, I think, less of their craven politics than of their DC socialization." (from his web log; available at:

explains the (ultimately ritualistic) nature of the scandal, Lott's apologies, and his ultimate resignation; it does not explain why that particular ritual pattern came about.

American political culture could not ultimately take Lott's remarks too seriously, lest Americans be forced to reckon with the living nature of segregationist politics, and the powerful legacy of segregation affecting every aspect of American politics. Those realities are commonplaces in academic history and political science, but they are truths best left unspoken in the world of actual politics. For Lott's remarks to have had graver consequences than they did would force the reexamination of too many still-living politicians and, even more, the ideology that many politicians have been elected on.

In his memoir Lott expresses considerable bitterness that members of his own party did not lend him greater support—an ire that focuses especially upon President George W. Bush and his staff, whom Lott felt played a key role in his political fall. For the most part this bitterness was dependent on Lott's unconvincing interpretation of his own remarks, and his tendentious presentation of his own overall record on racial issues.

There is one sense, however, in which Lott's bitterness was justified. The roots of so many contemporary conservative political positions and rhetorical commonplaces—to say nothing of the Republican coalition as a political entity, based as it is in the post-Jim Crow white South—lie unmistakably in the era of segregation: stances in favor of

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[http://time-blog.com/daily\\_dish/index.php?dish\\_inc=archives/2002\\_12\\_01\\_dish\\_archive.html#390036241](http://time-blog.com/daily_dish/index.php?dish_inc=archives/2002_12_01_dish_archive.html#390036241))

"state's rights" and "law and order," attacks on welfare dependency, and much more, have been lifted wholesale from the fight to preserve a segregated society.<sup>57</sup>

By linking his views so explicitly with the segregationist past, Lott—as the third-highest ranking Republican in the country—risked pushing these roots into the mainstream of the national political conversation. Lott's words stripped away the polite fiction that the supporters of Jim Crow had vanished without a political trace—a fiction that at times extends into barely imagining them at all, as Martin Luther King is reimagined as a fighter without enemies, the leader of a struggle not against specific people and powerful ideologies, many of whom remained strong even after their political defeat, but against comfortably vague and unnamed forces.

Lott had a certain right to his bitterness: Thurmond was in some ways far more the forerunner of contemporary Republicans than the 1948 Republican candidate, Thomas Dewey. Lott might legitimately wonder why he was to be punished for speaking that basic truth—that a significant portion of the supporters of the contemporary Republican party do in fact wish Thurmond had been elected president in 1948, and that that fact shapes their contemporary political attitude. Lott was thrown overboard, at least in part, to maintain a polite fiction.<sup>58</sup> It is

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<sup>57</sup> See Carter, *op. cit.*

<sup>58</sup> This was noted at the time by former President Bill Clinton, who said of the Lott scandal that the Republicans were being "hypocrites", adding: "How do they think they got a majority in the South anyway?... I think what they are really upset about is that he made public their strategy." ("Clinton calls GOP 'hypocritical' on Lott", no author listed, CNN web article, December 19, 2002, available at:

understandably galling to be sacrificed for a public hypocrisy, however politically necessary.

Lott may have felt he was doing nothing more than praising a amiable old man; but in truth he was rattling a skeleton that many want desperately to keep in the closet.

Even more than Thurmond's death sixth months later, the Lott affair gave the country a chance to publicly grapple with the meaning of Thurmond's career.

One noteworthy aspect of the Trent Lott affair was the media's embrace of the narrative of Thurmond's change. Thurmond's voting record in the 1980's—particularly his votes on the 1982 renewal of the Voting Rights Act, and the Martin Luther King holiday—was cited repeatedly as an indication of his changed political position; Thurmond's refusal to apologize, or his prevaricating about his earlier motives, were rarely if ever mentioned. To be sure, Thurmond's 1980's voting record was mentioned in a specific context, for the purposes of a dual contrast. The contrast was not only between earlier in Thurmond's political career (particularly his 1948 presidential bid) and his later career, but also between Thurmond's voting record and Lott's. In both cases the natural tendency is to focus on Thurmond's changed voting pattern rather than the degree to which he equivocated about it; it simply makes for more compelling journalism.

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<http://archives.cnn.com/2002/ALLPOLITICS/12/18/clinton.lott/index.html>l).

At the same time, in highlighting the contrast with Lott's own record, journalists would go beyond the truth of Thurmond's record and invent apologies that never existed. For example, in his interview with Lott on Black Entertainment Television, interviewer Ed Gordon asked:

Why didn't you come out, as Strom Thurmond did at one point, and say, "Look, I'm a changed man, I was wrong in the past, this is how I'm going to right it now"?

Perhaps a fair question to Lott in the abstract, but as asked, the question is premised on a falsehood, for Thurmond never said those words, nor anything that could reasonably be paraphrased with them. Similarly, journalist Clarence Page said on PBS's Newshour that "Strom Thurmond has renounced the Strom Thurmond that Trent Lott has endorsed."<sup>59</sup> This, too was a gross distortion of Thurmond's record. Such remarks by Republican politicians were even more common (including, as cited above, Lott himself.)

As we have seen, Thurmond never apologized for his vigorous support of segregation; indeed, without ever flatly denying it, he mendaciously downplayed what was for decades the center of his political life. But the American media was eager not to taint a prominent politician with what had come to be a political sin, and was even more eager to forget how recent was segregation's existence as a live issue—and thus to cover through the celebration of a whiggish progress narrative the lingering and powerful effects of that longstanding American system of injustice and brutality. Thus Thurmond's weak acquiescence to the

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<sup>59</sup> PBS Newshour, December 16, 2002; transcript available at: [http://www.pbs.org/newshour/bb/politics/july-dec02/lott\\_12-16.html](http://www.pbs.org/newshour/bb/politics/july-dec02/lott_12-16.html).

political reality of *de jure* integration was built up into a full acceptance of—or even, at times, being a full-blown advocate for—civil rights.

Trent Lott, in contrast, had said something which could not be spun as being within the political consensus, and thus, despite his multiple apologies, he was forced to enact a repentance narrative by resigning his leadership position. Maintaining the myth that the Civil Rights Movement overcame opposition without enemies, that segregation's proponents all became enthusiastic proponents of a race-neutral philosophy, required that anyone who punctured that myth be forced to confess his sins.

Thurmond managed to avoid a confrontation with his past through artful silence, ambiguous actions and clever dodging of questions. Had Lott not blundered into a media storm, he would probably have never been questioned about his stance on racial issues either: American political discourse remains fairly tolerant for voting against key civil rights measures (such as the 1982 extension of the Voting Rights Act) or powerful symbols of the national embrace of the civil rights movement (such as a national holiday for Martin Luther King). Only an explicit embrace of segregation calls for an explicit defensive strategy by its proponents. Lott's making such a statement in favor of segregation (even if he denied it was such) put him beyond the reach of strategies that Thurmond used. He was forced—verbally, and with a limited renunciation of his power—to enact out a ritual of repentance. But since Americans also do not want to probe too deeply into the persistence of the segregationist past, that was held sufficient. The same desire to believe that things have changed—to smooth things over—that enabled

Thurmond's silence to be so effective ultimately enabled Lott's repentance to be so readily accepted. America's political culture no longer tolerates explicitly pro-segregationist sentiment: but it does not ask of its politicians much effort to hide any such lingering sentiments. A small effort will do.

### CHAPTER 3:

## ROBERT BORK: OPPOSITION TO CIVIL RIGHTS AS A TECHNICAL ERROR

A common segregationist argument was that segregation, regardless of its merits, must be allowed as a matter of freedom, either individual or federal (i.e. as a matter of states' rights). This defense became increasingly common among segregationists as more substantive defenses of segregation became harder to maintain, both politically and socially. Yet in a great many cases this defense was combined with others which did defend segregation in a substantive way; in many such cases it was combined with specific approval, whether in action or words or both, of segregation as a social system. (One example which will be looked at later is the case of Lester Maddox, the owner of a segregated restaurant who latter became governor of Georgia.)

One version of the argument, however, might be distinguished: the argument in which the individual admits, even proclaims, segregation's immorality—claiming personally to oppose it, whether simply socially or politically as an individual voter—but nevertheless maintains that segregation must be legally permitted. The most prominent advocate of this position was probably 1964 Republican presidential candidate Barry Goldwater, who in fact had a record of opposing segregation in some instances but voted against the 1964 Civil Rights Bill as a matter of political principle (on the grounds of states' rights)—an argument from which he never retreated. Although this argument was often formally identical to the parallel arguments from segregationists who additionally



advocated on more substantive grounds (that is, the legal or philosophical reasons why segregation must be permitted were the same), it was quite different as a matter of political rhetoric. In cases where proponents claimed to oppose segregation notwithstanding their defense of it (particularly common among defenders of segregation who were not from the South), the argument from principle generally stood as the only defense offered: the claim that overt segregation was personally disapproved of but must, for reasons of principle, be permitted in some fashion or another did not mix well with most other arguments for segregation, since those depended, generally, on some form of personal agreement with the policy.

Denials of racist motivations were generally an important part of the rhetoric of Goldwater-style arguments, since the claim that although segregation is wrong (morally) it must be permitted (legally) lent itself to suspicion of ulterior motives. These denials were all the more heated since, as previously noted, a great many people who *made* legalistic arguments for permitting segregation actually *were* in favor of it for other reasons as well; still others, doubtlessly, were in fact hypocritical about their motives for espousing what was presented as a purely formal defense of segregation. In any given case there is usually no reason to suspect hypocrisy; the most that can be said is that the argument was far more widely held, and far more heatedly made, than most purely formal legal arguments, and that those who propounded the purely formal arguments could thereby appeal to those whose belief in segregation arose from very different sources—as Goldwater clearly did as demonstrated by his 1964 electoral bid's then-unprecedented success in the former confederacy.

Robert Bork, the former Solicitor General and Appeals Court Justice who was nominated to the Supreme Court by Ronald Reagan in 1987 but was, in a highly contentious political process, rejected by the Senate,<sup>1</sup> is another of those who, like Goldwater, defended *de jure* segregation on the grounds that it must be permitted for the sake of individual liberty while simultaneously avowing his personal disapproval of the system. Indeed, Bork would argue that in his case the phrase "*de jure* segregation" is inappropriate, since he claims that he has always opposed state-imposed segregation (supporting the ruling of *Brown*, for example, even if he critiqued its reasoning); what he defended was simply the right of individuals to legally discriminate on the basis of race if they chose to do so. Yet if the sort of segregation that Bork defended was not strictly *de jure*—that is, was not mandated by law—it was not strictly *de facto* either, since it did not come about due to non-racial factors (such as income or previous patterns of housing), nor did it even have non-racial factors serving as a thinly-disguised cover for racial discrimination. The segregation which Bork defended was based explicitly and openly on race (unlike typical *de facto* segregation which arrives at racial separation through a purportedly non-racial mechanism), but was not imposed by the state at any level (unlike situations that can be strictly termed *de jure*).

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<sup>1</sup> Although there has not yet been a comprehensive biography of Robert Bork, a number of books were written about the nomination battle, often from a highly tendentious, partisan perspective. I have found the most useful account to be Ethan Bronner, *Battle for Justice: How the Bork Nomination Shook America* (New York: W. W. Norton & Company, 1989). Bork's own account can be found in the final section of his book *The Tempting of America: the Political Seduction of the Law* (New York: Simon & Schuster, 1990).

Say, then, that Bork defended maintaining the legality of explicit, unapologetic segregation—*de jure* segregation where the law in question was not the law of the state but the rule of a restaurant or hotel.

It is perfectly true that Bork never defended segregation as a good idea or one he personally approved of, rather than simply a practice which he felt was and should remain legal (at least in part). Nor is there any conclusive basis upon which to ascribe to Bork any personal racial animosity as the motivation for those views—a motivation he has always denied, at times angrily.<sup>2</sup> What makes Bork interesting as an example of the defenses of segregation *purely* as a matter of law and individual rights is that (unlike, for example, Goldwater) Bork changed his mind on the technical merits in later years. Despite prominently opposing the Civil Rights Act in late 1963 and 1964, Bork declared that he had changed his mind on the matter in 1973—a declaration he elaborated on during and after the political controversy over his nomination to the Supreme Court. Further, Bork's change of position was not founded on an evidence-based recalibrating of the pros and cons—he did not say that, in retrospect (or given the new evidence), the need was sufficiently great or its feared impact sufficiently benign that the balance shifted in its favor. Rather, Bork's change of position was presented as being as technical as his opposition had been. He had, Bork said, simply made a technical

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<sup>2</sup> At the time of his 1987 Supreme Court nomination, some opponents of his confirmation argued that his ongoing pattern of opposition to measures intended to help minorities indicated an undisclosed bias; Bork's reply was that this opposition was, like his opposition to the 1964 Civil Rights Act, based on legal principle not racial animus. Unless some evidence of his personal feelings turns up (a letter or a diary, for instance), this is not a matter that can be definitively settled one way or another.

mistake—an error in his reasoning. Once he saw the error, he changed his position. By his own account, Bork's professed disapproval of segregation had no more to do with his latter support of the Civil Rights Act than it had to do with his earlier opposition to it.

Bork thus serves as not only an interesting example of the formalistic defense of segregation but also as an example of one who abandoned it—while defending his earlier position as well-intentioned and (therefore) unembarrassing, albeit mistaken. Bork first defended segregation as a matter of legal form rather than on the merits; he then defended this defense as having been simply a matter of legal form, rather than a substantive position. After presenting a formal defense, he then defended the notion of such a formal defense—a formal defense of the second degree, one might say. This highlights in an especially illuminating way the issues surrounding the notion of defending what one claims to despise, particularly in an era when the very notion of defending segregation at all had become political anathema.

Robert Bork first made his opposition to the 1964 Civil Rights Act public with an article in the August 31, 1963 issue of *The New Republic* entitled "Civil Rights—A Challenge."<sup>3</sup> He was invited to do so by his friend and colleague Alexander Bickel, a contributing editor at *The New Republic* and professor at Yale Law School where Bork was teaching at

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<sup>3</sup> Robert Bork, "Civil Rights—A Challenge", *The New Republic*, August 31, 1963, pp. 21 - 24.

the time.<sup>4</sup> *The New Republic*, a liberal journal, took the unusual step of publishing an editorial rebuttal to Bork's essay immediately after it; the editors declared, however, that since Bork's "fears about the proposed legislation are shared by many Americans, including many readers of *The New Republic*," they therefore merited "both a forum and an answer."<sup>5</sup> Bork's piece was, therefore, presented as representative of a common view, and as a stalking-horse for refuting that view.

Throughout his essay opposing the proposed civil rights legislation Bork carefully expressed his own disapproval of racial discrimination. He referred to the motive behind the impending legislation as a "justifiable abhorrence of racial discrimination."<sup>6</sup> Later in the piece he wrote:

Professor Mark DeWolf Howe, in supporting the proposed legislation, describes southern opposition to "the nation's objective" as an effort "to preserve ugly customs of a stubborn people." So it is. Of the ugliness of racial discrimination there need be no argument...<sup>7</sup>

Bork further began his concluding paragraph by noting that "the trouble with freedom is that it will be used in ways we abhor."<sup>8</sup> Bork was evidently at pains to make it clear that he was not defending segregation on its merits—that his was a formal, not a substantial, defense. At the same time, Bork expressed that abhorrence only in a rather clinical

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<sup>4</sup> Robert Bork, *The Tempting of America: the Political Seduction of the Law*. New York: Simon & Schuster, 1990; quotations from Touchstone edition, New York 1991; p. 80.

<sup>5</sup> "Civil Rights—A Reply" (unsigned editorial), *The New Republic*, August 31, 1963, p. 24.

<sup>6</sup> Bork, 1963, p. 21.

<sup>7</sup> Ibid., p. 22.

<sup>8</sup> Ibid., p. 24.

fashion. He began by noting that "passions are running so high over racial discrimination...",<sup>9</sup> but did not give any sense that he felt those passions, nor even any particular sense that he understood the passionate urgency of others. He did not exhibit any sense of what Martin Luther King, only a few months before Bork's article was published, termed the "legitimate and unavoidable impatience" of supporters of the Civil Rights Movement.<sup>10</sup> Bork's essay conveyed little if any sense that its author appreciated the actual, lived experiences of African Americans under Jim Crow; what passion was displayed was for the freedom to discriminate.<sup>11</sup>

Given Bork's later history as a self-proclaimed advocate for the sacrosanctity of the constitution, it is worth noting that Bork's objections to the proposed Civil Rights Act were not, in his 1963 article, constitutional; they were based primarily on arguments about political principle. Indeed, Bork says as much explicitly:

Heretical though it may sound to the constitutional sages, neither the Constitution nor the Supreme Court qualifies as a first principle. The discussion we ought to hear is of the cost of freedom that must be paid for such legislation,

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<sup>9</sup> Ibid., p. 21.

<sup>10</sup> Martin Luther King, Jr., "Letter from a Birmingham Jail", April 16, 1963; online at <http://www.nobelprizes.com/nobel/peace/MLK-jail.html>.

<sup>11</sup> Some commentators at the time went so far as to read Bork's statements as equivocal on the underlying issue of segregation's morality. Stephen Gillers, in "The Compelling Case Against Robert H. Bork" (Cordozo Law Review, vol. 9, no. 1 (October 1987), pp. 33 - 62), for instance, focuses on Bork's phrase that opposition to segregation was "*said* to be rooted in the moral order" (Gillers' emphasis) to cast doubt on this point. I do not think this is a fair reading of Bork's piece; I suspect that what Gillers is hearing is less doubt about the fact of segregation's immorality than simply Bork's lack of concern about that fact.

the morality of enforcing morals through law, and the likely consequences for law enforcement of trying to do so.

Bork's argument was not that the proposed law would be unconstitutional. Rather, he made a three-part case, with two of his objections relying upon basic political principles, "the cost of freedom" and a question of a law's "morality", and the third being a consequentialist argument about the enforcement of the measure. And of the three, the first two form the bulk of his essay. Bork objected to the law, not on constitutional or legal grounds, but primarily as a matter of principle.

Bork's arguments rested upon framing the Civil Rights Act as an imposition of a majority's *moral* beliefs upon a minority. He said that the "danger" in the legislation was that it would result in "the morals of the majority [being] self-righteously imposed upon a minority"; he went on add that this "has happened before in the United States—Prohibition being the most notorious instance".<sup>12</sup> The rhetorical invocation of Prohibition is telling. First, by 1963 the vast majority of the country had rejected the notion of banning alcohol; thus Bork was comparing the banning of formal segregation to a moral cause which, in the eyes of his audience, would seem puritanical if not quaint (rather than to a cause that they would agree was a worthy one, whether or not they would wish those preferences inscribed into law). In addition, there is no way that Prohibition can be seen as an advance of freedom, or even as an issue in which liberty claims exist on both sides of the debate: it was a straightforward case of restrictive legislation. But, of course, in speaking of the ending of segregation, this could hardly be said: the proponents of

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<sup>12</sup> Bork, 1963, p. 21.

integration were acting in the name of freedom—in this case, the freedom of African American citizens to eat at the same restaurants, stay at the same hotels and shop in the same stores as whites. Even if one fully credits Bork's concern for the freedom of shopkeepers to deny service to whom they wish, the issue must certainly be seen as a balancing of liberties (of different sorts, for different people). Yet Bork's framing of the issue cut off this possibility: he presented the matter as a straightforward case of moral imposition—which makes the weight of "freedom" an entirely one-sided affair. His description of the purpose of ending segregation as the imposition of a moral position was one that would certainly not have been accepted by those who supported the legislation he wrote in opposition to.

Within Bork's framing of the issue as the moral imposition of a majority on a minority, Bork's central argument was that the proposed law was unacceptable because it was an infringement on freedom of association. Bork wrote:

Few proponents of legislation such as the Interstate Accommodations Act seem willing to discuss either the cost in freedom which must accompany it or why this particular departure from freedom of the individual to choose with whom he will deal is justified.... There seems to be a strong disposition on the part of proponents of the legislation simply to ignore the fact that it means a loss in a vital area of personal liberty.... The legislature would inform a substantial body of the citizenry that in order to continue to carry on the trades in which they are established they must deal with and serve persons with whom they do not wish to associate.... The fact that the coerced scale of preferences is said to be rooted in a moral order does not alter the impact upon freedom....



The principle of such legislation is that if I find your behavior ugly by my standards, moral or aesthetic, and if you prove stubborn about adopting my view of the situation, I am justified in having the state coerce you into more righteous paths. That is itself a principle of unsurpassed ugliness.<sup>13</sup>

By sticking to the conception of integration as purely moral issue—indeed, as an issue that is reduced practically to a matter of taste (Bork compares ending Jim Crow with the imposition of "aesthetic" standards, after all)—Bork was able to avoid confronting the lived experience of African Americans under segregation. Bork's approach also avoids the issue of African American freedom—the freedom of tradesmen to deal with whom they wish is discussed, but the freedom of customers to likewise is not. These two omissions combine to a picture of "coercion" that is distinctly distorted—and enables the Civil Rights Act to be presented simply as a matter of good taste, rather than moral necessity. Bork's claim that government intervention to end Jim Crow was "a principle of unsurpassed ugliness" (unsurpassed, presumably, by the ugliness of segregation) drew much criticism at the time of his Supreme Court nomination over two decades later. Rhetorically, of course, it is simply meant as a parallel construction to his earlier admission of "the ugliness of racial discrimination," but one can see in context how it seemed more heated than Bork's bloodless avowals of commitment to race-neutrality.

Bork also expressed his concern that there is no principle behind the legislation which might limit similar legislative efforts. He criticized

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<sup>13</sup> Ibid., p. 22.

Attorney General Robert Kennedy for not "defend[ing] the bill on general principles."<sup>14</sup> He worries that the law might be extended:

Freedom is a value of very high priority and the occasions upon which it is sacrificed ought to be kept to a minimum. It is necessary that the police protect a man from assault or theft but it is a long leap from that to protection from the insult implied by the refusal of another individual to associate or deal with him. The latter involves a principle whose logical reach is difficult to limit. If it is permissible to tell a barber or a rooming house owner that he must deal with all who come to him regardless of race or religion, then it is impossible to see why a doctor, lawyer, accountant, or any other professional or business man should have the right to discriminate.... It is difficult to see an end to the principle of enforcing fair treatment by private individuals.<sup>15</sup>

This is the main argument which Bork would later claim was mistaken when explaining his change in position, so it is worth noting that this is an extension of his earlier argument rather than the entirety of it. Bork's concern for the restriction of freedom (as he saw it) was *enhanced* by what he saw as its lack of an underlying principle (which in turn made him concerned that it would be further extended), but it was also expressed as a full objection in and of itself. It should also be noted that in Bork's language here we again find a lack of visceral understanding of segregation. It is at best misleading to refer to a refusal to serve African Americans as "the insult implied by the refusal of another *individual* to associate or deal with him"; the fundamental structure of Jim Crow, after all, was the separation of a *class* of people by another as a means of

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

maintaining a two-tiered society. Further, a stronger sense of the history of Jim Crow in the nation might well have been sufficient to ease any fears about the needless extension of government interference, since it certainly would provide grounds for a "logical" limit to what Bork saw as the law's pernicious effects.

After outlining his central argument that the Civil Rights Act was an unacceptable violation of principles of liberty, Bork made a number of other, briefer arguments, largely replying to arguments by the law's proponents (in part to demonstrate what he took to be the dangerously unlimited principles behind the bill.) He attacked the notion that, since the institutions in question require government licenses, they are essentially public and can be regulated as could government functions, since that argument would lead to "discern[ing] the hand of the state in every private action." Bork dismissed the justification for the proposed legislation that "barbers, lunch counter operators, and similar businessmen" should "serve all comers.... because they 'hold themselves out to serve the public,'" arguing that the current discrimination shows that "some individuals... do not hold themselves out to serve the public."<sup>16</sup> He attacked the distinction between human rights and property rights that some advocates of the bill drew. And he heaped scorn on the notion that passing the law was "necessary to provide legal redress in order to get the demonstrators out of the streets"—again, and tellingly, raising the analogy of prohibition, saying that those in the Civil Rights Movement were "part of a mob coercing, and disturbing other private individuals in the exercise

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<sup>16</sup> Ibid.

of their freedom. Their moral position is about the same as Carrie Nation's when she and her followers invaded saloons."<sup>17</sup>

Finally, in his antepenultimate paragraph, Bork raised the issue of the law's enforcement. Bork clearly stated, however, that this argument is not his main concern; "the basic objection is to the law's impact upon individual liberty", he wrote, saying simply that "it is also appropriate to question the practicality of enforcing a law which runs contrary to the customs, indeed the moral beliefs, of a large proportion of the country." (There is perhaps a subtle contradiction between his previous implicit criticism of allowing popular objections, in the form of demonstrations, to compel a law's passage and his concern here that evasion of the law was reason enough to question its passage—although Bork might well claim that the relevant distinction was between passive evasion and active demonstrations with the possibility of provoking violence.) In any event Bork proceeded to question the enforceability of the proposed law, arguing that

It is not difficult to imagine many ways in which barbers, landlords, lunch counter operators, and the like can nominally comply with the law but effectively discourage Negro patrons. Must federal law enforcement agencies become in effect public utility commissions charged with the supervision of the nation's business establishments or will the law become an unenforceable symbol of hypocritical righteousness?<sup>18</sup>

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<sup>17</sup> Ibid., p. 23.

<sup>18</sup> Ibid.

Bork then concludes his essay with another invocation of the dangers to liberty presented by the proposed legislation, warning about "spend[ing] freedom" simply because "an intensely-felt moral principle is involved."<sup>19</sup>

In places some of Bork's specific language was perhaps even more inflammatory than he intended. Journalist Ethan Bronner noted that Bork's "references in the article to the rights of barbers and chiropodists... were especially ill-chosen. Bork may not have known it, but those were codes at the time for the feelings of racists who did not want to have to touch blacks."<sup>20</sup> Even if Bork's invocation of these racist code-phrases was unintentional, however, there is a sense in which they fit the thrust of his argument: Bork was, after all, defending the right of racists to act on precisely those feelings. If there was an ugliness in the phrases, it mirrored the ugliness of the reality whose legality Bork was seeking to preserve. It is hard to make a case for practices which were grounded in admittedly abhorrent attitudes without picking up some of the language of those attitudes.

As previously noted, the editors of *The New Republic* published a collective rebuttal to Bork's essay immediately following the essay itself. The rebuttal picked up on Bork's abstraction from the realities of segregation, invoking "Justice Holmes' preference for appeals to experience rather than logic" in the law; they also invoked the competing claims of rights that Bork seemed to pass over. In perhaps their most telling point, they noted that laws requiring innkeepers to serve all

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<sup>19</sup> Ibid., p. 24.

<sup>20</sup> Ethan Bronner, *Battle for Justice: How the Bork Nomination Shook America*. New York: W. W. Norton & Company, 1989, p. 68.

customers were long established, thereby calling into question the existence of (or at least pointing out the pre-existing limits to) the freedom on whose importance Bork placed such emphasis.

This reply elicited from Bork another statement of his views, a riposte to their collective parry, in the form of a letter to the editors that was published three weeks later, in the September 21, 1963 issue of *The New Republic*. For the most part this letter was a brief restatement of the arguments he had made in his main essay. Bork wrote:

I find it hard to believe that [the editors] are among those who require no license for coercion other than their own preferences (read "intense moral convictions" if you like).... I suggest that the proposed legislation, which would coerce one man to associate with another on the ground that his personal preferences are not respectable, represents such an extraordinary incursion into individual freedom, and opens up so many possibilities of governmental coercion on similar principles, that it ought to fall within the area where law is regarded as improper.<sup>21</sup>

The remainder of Bork's letter replied to specific rejoinders made in the editors' rebuttal. He again rejected the distinction between rights of property and other rights; he also rejected a comparison the rebuttal had drawn between owners refusing customers and employees refusing them (on the grounds that the latter could quit, while owners would be unable to avoid the proposed law). Finally, Bork replied to the editors' invocation of pre-existing public accommodation statutes with the truism that "the historical existence of common law duties and local statutes paralleling the

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<sup>21</sup> Robert Bork, "Civil Rights—A Rejoinder", *The New Republic*, September 21, 1963, p. 36 (in "Correspondence").

proposed federal law does not in any way demonstrate their wisdom or that their principle ought to be extended."<sup>22</sup> Nothing in the editors' objections—not their invocation of the actual experience of segregation, nor their pointing out the competing nature of rights that were at stake—caused Bork to retreat from his original stance. The rethinking that he would later do on this issue had not yet begun.

Bork's other major essay in opposition to the pending Civil Rights Act was an article published in the *Chicago Tribune* on March 1, 1964, as part of a series of opinion pieces the paper was publishing on the legislation; Bork's *Tribune* essay in opposition to the law was paired with a pro-Civil Rights Act piece by another law professor.<sup>23</sup> As in his earlier essay, Bork made clear his personal opposition to segregation, affirming without qualification that "racial prejudice is unjust." In his second essay he went farther and condemned those remaining laws which enforced Jim Crow (as opposed to its enforcement by individual practice), calling such laws "completely unjustifiable" and saying that "it seems certain that all of them will meet the constitutional doom they deserve." Along the same lines, he endorsed parts of the proposed Civil Rights Act—specifying "the sections on voting rights and desegregation of public education"—saying of them that they were "excellent and should be enacted". But the bulk of his essay was, of course, an attack on the bill.

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<sup>22</sup> Ibid.

<sup>23</sup> Robert Bork, "Against the Bill", *Chicago Tribune*, March 1, 1964, p. A1.

Bork's *Tribune* argument was a variation on his *New Republic* one, with differing emphases and a number of additional points. Bork's own outline of the piece listed four arguments, of which the first encompasses the major two arguments of his earlier essay, that the law would restrict freedom and serve as a precedent for further such restrictions; what had been his central concern became in this new presentation simply one of several. Nevertheless, Bork began his *Tribune* essay with the same argument that he made six months earlier, maintaining that the bill would be an unwarranted restriction on liberty; in his own words, Bork argued that "the intrusion upon freedom [by the bill]... would be of an extraordinary nature—for it is extraordinary that government should regulate the associations of private persons."<sup>24</sup> However, this section of Bork's argument is far briefer than the equivalent portion of his earlier essay (in both absolute and proportional terms), receiving only a few paragraphs rather than the bulk of the argument. Perhaps as a result of this brevity, in Bork's second essay he adopts his earlier framing of the issue as an imposition of morality only in passing; for the most part he simply decries a restriction on liberty without also characterizing it as an imposition of morality.

As he had in his earlier piece, Bork again followed this argument with warnings about possible extensions of the law, giving this argument a larger place in his overall essay than he had previously. Bork wrote:

And this law would set a particularly dangerous precedent because of the logical and political impossibility of confining its principle of coercing

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<sup>24</sup> Ibid.



private associations to the particular areas it covers....  
The accommodations and employment provisions of the civil rights bill cannot be viewed in isolation but must be assessed as only a modest first step in a broad program of coerced social change. If, therefore, the principle of enforced association which underlies this bill were uniformly applied (and, of course, if it is a good principle, it ought to be uniformly applied), we would have a greatly different society than the one we now enjoy. The new one might possibly be more just and moral, but it would quite certainly be far less free. It seems a bad exchange. We would do better to continue to rely upon social change, which is taking place, [through] free and uncoerced evolution.

As in his earlier essay, Bork's argument seems oddly divorced from the historical moment in which he wrote it. It is somewhat strange to consider abstract possible extensions of the principles behind the Civil Rights Act as if it were being enacted in a vacuum, rather than after ten years of intense social struggle over the dismantling of Jim Crow. Placed in that context, fears about the bill's being "a modest first step in a broad program of coerced social change" seem less compelling, since the law might naturally be seen rather as a culmination of moral and political struggle (although Bork might reply with some justice that it is only in retrospect that the law's nature as a capstone rather than a step in the larger process would become apparent). It is also somewhat strange to refer to the society that would be brought into being by the Civil Rights Act as "far less free" without any consideration of the freedom whose denial impelled the bill in the first place—given that freedom was, after all, the rallying cry of the Civil Rights Movement.

The final sentence of the above passage reiterated a common segregationist argument, namely, that changes were taking place naturally and hence there was no need for legal efforts to dismantle Jim Crow. Typically these arguments were a thin cover for those who hoped that "slow" would mean beyond the scope of their lifetime, if ever—as some of the argument's proponents candidly admitted. There is no reason to believe that Bork made this argument for those reasons, but he did adopt the rhetoric and the accompanying assumptions (that Jim Crow would, as it were, naturally dismantle itself), of those who did. This assumption is one example of the way in which Bork, in this essay as in his earlier one, failed to demonstrate an appreciation of the lived experience of segregation, describing it instead in cold, clinical terms.

Bork's second major argument against the Civil Rights Act in his *Tribune* piece was the question of its constitutionality—an issue which, as previously noted, he explicitly disclaimed as his concern six months before. He questioned the bill's grounding in the commerce clause, arguing that "if Congress can dictate the selection of customers in a remote Georgia diner because the canned soup once crossed a state line, federalism... is dead."<sup>25</sup> Although he noted that this extension of the commerce clause was in fact well underway, Bork argued that the Civil Rights Act would be "the last nail in the coffin lid." He also implicitly charged the Congress with hypocrisy, noting that "no one even seriously pretends that regulation of commerce is the real motive here."<sup>26</sup> Bork then went on to discuss what he termed the "perplexing questions" that would

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

arise if the law were based upon the Fourteenth Amendment, due to the law's crossing of the boundary between public and private action (in a sense, a constitutional expression of his argument about the loss of freedom from government regulation of private action.) Bork also worried that the detailed enforcement of the law would require Courts to "under[take] political judgments of the most detailed and sensitive kinds"—leading, ultimately, to a "government by judiciary."<sup>27</sup> In this worry, one can see the origins of the line of argument that Bork has gone on to champion as one of his chief political causes.

Bork paid considerably more attention to the issue of the bill's enforceability in his second argument against it than he had in his first—what was previously a tertiary point became one of his central complaints with the law. In addition to his constitutional concerns about the boundaries courts would have to cross to enforce the law, he argued that the law would be unenforceable as a practical matter, both because of "the sheer number of establishments covered" and because of "the fact that the law would run directly contrary to the customs and moral beliefs of a majority of the population in a large part of the country."<sup>28</sup> Either, Bork claimed, the law "would completely overload the enforcement machinery," or its treatment as a purely symbolic measure, not to be actually enforced, would lead to "disrespect for law and loss of faith in peaceful solutions to this problem."<sup>29</sup>

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

Bork's final concern was that the law would increase racial and religious tensions. He argued that the bill would lead to increased litigation, which would result in increased tension. Further, beyond the tension he saw arising from specific new legal battles, Bork argued that the Civil Rights Act would "proclaim that law, and hence politics, may properly be explicitly racial and religious."<sup>30</sup> It is rather bizarre to write, at a time before the dismantling of Jim Crow, that something "*will* proclaim that law... may properly be explicitly racial"; he writes as if American law had not been explicitly racial for most of the country's history—as, indeed, in some areas it still was, a fact he actually noted earlier in his essay when he called for laws enforcing Jim Crow to "meet the constitutional doom they deserve." This argument again demonstrates Bork's lack of appreciation for the ongoing reality of segregation; it also is a further example of Bork's adopting, perhaps unconsciously, segregationist rhetoric, for the notion that ending segregation would increase racial tension was a standard segregationist argument.

While his essays in *The New Republic* and the *Chicago Tribune* were Bork's major forays into opposing the passage of the Civil Rights Act, they were not his only ones. Bork gave Barry Goldwater's campaign a position paper arguing against the law which Goldwater used to help formulate his own arguments.<sup>31</sup> At a time when defenders of segregation were increasingly abandoning the fight as lost, Bork, despite his own proclaimed abhorrence of segregation, thrust himself into the forefront of the debate on the Civil Rights Act as one of its most prominent

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<sup>30</sup> Ibid.

<sup>31</sup> Bronner, p. 69.

intellectual opponents. Adopting a controversial position and arguing strongly was hardly a rarity for Bork; throughout his career he often adopted controversial positions, at times seemingly delighting in provocation. Yet having argued against the Civil Rights Act was unusual in the degree to which it quickly became an unacceptable position not only to take, but even to have taken. For one who was desirous, as Bork was, of a role in public, political life, this was a stand which would soon come to require explanation.

Bork's first public disavowal of his opposition to the 1964 Civil Rights Act occurred in 1973, during the course of hearings before the Senate Judiciary Committee on Bork's nomination to be solicitor general. Bork was, of course, subsequently confirmed by the Senate and became solicitor general (in which capacity he notoriously fired the independent prosecutor investigating the Watergate scandal, Archibald Cox, in the so-called 'Saturday Night Massacre'.) Bork's 1973 hearings form a marked contrast to the hearings on his 1987 nomination, the 21 pages which suffice to encompass the entire printed testimony in the former case standing in marked contrast to the five thick volumes that make up the printed version of the latter. While it would hardly be fair to call Bork's 1973 hearing perfunctory, it was routine, and although questions were raised, the answers were not treated with skepticism as they would be fourteen years later.

Even in these less controversial hearings, however, the issue of Bork's earlier opposition to the Civil Rights Act was raised; Senator John Tunney of California asked Bork about his 1963 article from *The New*

*Republic*, citing Bork's follow-up letter at some length. In reply to the questioning, Bork said,

I should say that I no longer agree with that article and I have some other articles that I no longer agree with. That happens to be one of them. The reason I do not agree with that article, it seems to me I was on the wrong track altogether. It was my first attempt to write in that field. It seems to me the statute has worked very well and I do not see any problem with the statute, and were that to be proposed today I would support it.<sup>32</sup>

Another senator then interrupted to raise another line of questioning, and, with the exception of a brief affirmation on Bork's part that as solicitor general he would be willing to "vigorously enforce the Interstate Public Accommodations Act,"<sup>33</sup> the issue did not arise again during Bork's 1973 hearing.

Bork's repudiation of his earlier views was, thus, quite brief. His reference to "some other articles that I no longer agree with" is presumably meant to encompass his 1964 *Chicago Tribune* article on the same topic. Despite its brevity, however, Bork's answer laid the groundwork for his later presentation of his earlier article as simply a technical error by saying that "it seems to me I was on the wrong track altogether. It was my first attempt to write in that field." These are the words of a person who has made a miscalculation rather than a moral

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<sup>32</sup> *Hearings before the Committee on the Judiciary, United States Senate, Ninety-Third Congress, First Session, on Nominations of Joseph T. Sneed, of North Carolina, to be Deputy Attorney General and Robert H. Bork, of Connecticut, to be Solicitor General, January 17, 1963*, Washington: U. S. Government Printing Office, 1973, pp. 14 - 15.

<sup>33</sup> *Ibid.*, p. 16. The words are Senator Tanney's, asking if Bork would be willing to do this, to which Bork replied "Certainly, Senator."

misjudgment. It is also hard to judge what "field" Bork meant when he said that his *New Republic* article was "my first attempt to write in that field." Presumably he meant that it was his first foray into constitutional law—save that his *New Republic* article was explicitly based upon political principles and not constitutional arguments. (Such a description might fit his *Chicago Tribune* article, although even there only a portion of it was devoted to constitutional worries.) Bork certainly does not here grapple with either the actual arguments he made, nor with what problems he had come to see with them. He simply portrays the matter as an immature intellectual effort. While Bork would later claim to have seen the technical mistake he would later describe himself as having made by 1973, he did not in fact go into any detail about what the "wrong track" he was on was. We have no reason to doubt his word that his objections were unchanged, but he certainly did not spell them out in 1973.

The other substantive point Bork made in the course of this first disavowal was that "the statute has worked very well." This is, notably, a reply only to some of Bork's concerns as expressed in his earlier articles on the topic. Bork did raise questions of enforcement in his *New Republic* piece, but only as one of three basic problems he saw with the law—the issue of enforcement was not "the basic objection" which he spent most of his article laying out. In his *Chicago Tribune* piece, the issue of enforcement was given more emphasis; Bork also raised the issue of increased racial tensions, another matter to which the practical experience of the law having "worked very well" was pertinent. So perhaps it is fair to take this statement of Bork's as an admission that experience had shown him to be in error in his previous arguments, as he had come to see

that his specific concerns about the law's practical effects had been shown to be groundless. There is no implication, however, that the practical benefits of the law helped him see the technical mistake he had made in his overall opposition. One might even see his statement here as evasive, enabling him to avoid dealing with his own earlier arguments (the majority of which were based primarily on principle and not practical concerns), but perhaps such a conclusion is unfair given the brevity of Bork's 1973 recanting.<sup>34</sup>

At the time of the political battle around Bork's 1987 Supreme Court nomination, one of Bork's supporters would say that Bork had "acknowledged the insensitivity of his 1963 statement".<sup>35</sup> This, certainly, Bork's 1973 statement did not do—indeed, nothing Bork has ever said on the matter could be fairly characterized as "acknowledging the insensitivity" of his earlier article. Bork's description of his article as an intellectual error—that he had been "on the wrong track altogether"—in fact implicitly denied any suggestion of insensitivity. Bork claimed that he had made a *mistake*, not that he had been *insensitive*. Being "on the wrong track" in a new intellectual field is something that might happen to any scholar. It might be cause for intellectual embarrassment, but it certainly carries no implication that one's earlier view had been *inappropriate*, the way an acknowledgment of insensitivity would.

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<sup>34</sup> Though this is how Stephen Gillers interprets this passage (op. cit., p. 38); Gillers in fact argues that Bork *only* retracted the practical part of his objection, leaving the rest standing. Given Bork's statement that he had been "on the wrong track altogether," I find Gillers' reading unpersuasive.

<sup>35</sup> Gary G. Born, "Robert H. Bork's Civil Rights Record," *Cordozo Law Review*, vol. 9, no. 1 (October 1987), pp. 75 - 94; quote on p. 87.



Insensitivity implies a quite different view of the way one has been led into error, and indeed the kind of error that one was involved in, than Bork's statement described. In 1973 Bork recanted his earlier views; but he did not *apologize* for them.

In the course of the contentious 1987 hearings on Bork's nomination to the Supreme Court, Bork's opposition to the Civil Rights Act of 1964 became a far more controversial point. Bork's record on civil rights was one of the central points upon which opponents to his candidacy based their opposition. Civil Rights groups were prominent in organizing the campaign to oppose Bork's confirmation. A talking points memo summarizing the case against Bork said that "the primary reason for opposing nominee Bork is that he has aligned himself against most of the landmark decisions protecting civil rights and individual liberties that the Supreme Court has rendered over the past four decades"; one of the five categories listed involved cases specifically about racial discrimination.<sup>36</sup> When the time came for the Judiciary Committee to explain its negative recommendation, the issue of civil rights figured prominently.<sup>37</sup> In this context, Bork's opposition to the most important civil rights law of the century was a political flashpoint.

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<sup>36</sup> Cited in Michael Pertschuk and Wendy Schaetzel, *The People Rising: the Campaign against the Bork Nomination*. New York: Thunder's Mouth Press, 1989, p. 127.

<sup>37</sup> In the Judiciary Committee's report on Bork's nomination, they criticized Bork's views ten "leading matters" (iii), one of which was Civil Rights. *Nomination of Robert H. Bork To Be An Associate Justice of the United States Supreme Court: Report of the Committee on the Judiciary, United States Senate, together with Additional, Minority and*

It was Senator Edward Kennedy of Massachusetts who most directly questioned Bork on his earlier opposition to the 1964 Civil Rights Act. Much of the exchange, it should be said, consisted of speeches by Kennedy about the importance of the Civil Rights Movement, and decrying Bork for not having supported it earlier. Kennedy emphasized his view that the Civil Rights Movement was "the most significant moral test of the country in this century," describing "the terrible burden of segregation," quoting his brother Robert Kennedy's description of the specific difficulties segregation imposed upon African Americans.<sup>38</sup> Kennedy was, of course, engaged in an effort to block Bork's nomination, and his rhetoric was designed for that end. Yet Kennedy's speeches placed Bork's replies in a specific context. By invoking the Civil Rights Movement as a moral contest, Bork's description of his view as a dry philosophical belief, a technical error which he had since recalculated, was made all the more stark. Not only did Bork himself not view the Civil Rights Movement, and specifically the drive to pass the Civil Rights Act, in this fashion, he did not even respond to that view when it was expressed to him with a fair amount of genuine rhetorical power.

Kennedy began by pressing Bork on the question of why it took him so long to reverse himself on the issue of the Civil Rights Act. Bork's eventual answer was to say "I do not usually keep issuing my new

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*Supplemental Views*. Washington: U. S. Government Printing Office, 1987, pp. 36ff.

<sup>38</sup> *Hearings before the Committee on the Judiciary, United States Senate, One Hundredth Congress, First Session, on the Nomination of Robert H. Bork to be Associate Justice of the Supreme Court of the United States. (Serial No. J-100-64). (5 Volumes)* Washington: U. S. Government Printing Office, 1989, Volume 1, p. 151 - 152.

opinions every time I change my mind. I just do not. If I re-visit the subject, I re-visit it, but I do not keep issuing looseleaf services about my latest state of mind."<sup>39</sup> Kennedy replied to this by saying that Bork had thought the 1964 Civil Rights Act "sufficiently important to publish your views" on it, and then said to Bork, "I wish you had been as quick to publicize your change of heart as you were to broadcast your opposition."<sup>40</sup> Bork responded by saying that he had been asked for a statement of his views in 1963—the implication being that he did not publicize them particularly out of his own motivation, and perhaps that he would have publicized his change of view earlier had anyone thought to ask.<sup>41</sup>

Although a seemingly trivial issue, the question of why Bork did not proactively make known his change of view on the Civil Rights Act in fact touches on a key issue of how Bork viewed both his earlier and his present position. Bork's reply to Kennedy's question assumes that the issue of Civil Rights is just like any other legal issue—a matter for intellectual consideration and debate. If, indeed, it was simply another legal question, then Bork's reply *was* reasonable: he wrote when asked for an article, and there would be no reason for him to announce that he had altered his position until asked again. If it was simply a matter of a changing political philosophy, or of a technical error in the application of

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<sup>39</sup> *Hearings before the Committee on the Judiciary, United States Senate, One Hundredth Congress, First Session, on the Nomination of Robert H. Bork to be Associate Justice of the Supreme Court of the United States. (Serial No. J-100-64). (5 Volumes) Washington: U. S. Government Printing Office, 1989, Volume 1, p. 153.*

<sup>40</sup> *Ibid.*, pp. 153 - 154.

<sup>41</sup> *Ibid.*, p. 154.

a political philosophy, then why would one bother to make public one's thinking?

On the other hand, if one viewed the civil rights struggle generally, and the debate over the Civil Rights Act more broadly, as a *moral* issue—a crucial moment in the evolution of American values and American society—then having taken the wrong stand is not simply a technical problem, but a moral fault. This is, clearly, how Kennedy sought to frame the issue—in part for political posturing in a nomination fight, to be sure, but also because the debate over civil rights had come to be viewed by much of the country in that way: indeed, it could readily be used as political posturing because it had become common to view the matter in this fashion. And in that case, someone who had come out on the wrong side of the matter would need to make up for having done something wrong—and announcing one's change of heart would be part of such an act of contrition.

Bork's blanket statement that he did "not usually keep issuing my new opinions every time I change my mind" *normalizes* the issue of civil rights—reduces it, if one has Kennedy's view, to just another domestic issue. His statement that he had opposed the Civil Rights Act because he had been asked for his opinion makes perfect sense if it was simply another debate on another law; if, on the other hand, it was an attempt to finish what the Civil War left unfinished, to correct what has been called the 'original sin' of the nation, then having been asked seems an utterly inadequate explanation for having publicly and vociferously taken such a stand.

In addition to responding to Kennedy's questions about why he had not recanted his views earlier, Bork also offered a brief history of his own thought in order to explain how he had come to oppose the Civil Rights Act, and then how he had later come to support it. Bork testified:

I had come to Yale as an avid free market type.... I made, what I now regard as a not uncommon intellectual mistake of trying to apply these principles to social interactions.... I, at that time, thought that any coercion of the individual by government, had to be justified by a principle that did not lead government into all kinds of coercion that should not be there and I could not see a general philosophical principle here that justified this coercion. I also could not see a general philosophical principle that would justify segregation by law. I was leaning on the side of individual freedom. I think that was wrong because I do not think any general principle is available. I would now take what I would call... the Edmund Burke approach, which is, you look at each measure - this is a political matter, not a judicial matter, — you look at each measure and ask whether it will do more good than harm. Had I looked at the civil rights proposals in that way, I would have, as I later came to, recognize that they do much more good. In fact, they make everybody much happier and they help bring the nation together in a way that otherwise would not have occurred.<sup>42</sup>

Bork's description of what he termed "a not uncommon intellectual mistake" was rejected by Kennedy, who replied to this history by saying that "at a time when men and women in the South and the North, Republicans and Democrats, recognized that race discrimination had to be outlawed in America, you strongly and publicly opposed civil rights

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<sup>42</sup> Ibid., p. 153.

legislation, calling its underlying principle one of 'unsurpassed ugliness.'"<sup>43</sup> Kennedy rhetorically framed the issue as a moral one: did one see the harm done? Bork, however, presented it as a matter of political philosophy, both a switch in which philosophy he held (free-market conservatism versus Burkean conservatism) and as a question of the proper application of that principle—an intellectual realization that, since there *is* no general principle, a simple utilitarian test is required.

Nothing in Bork's miniature intellectual autobiography indicated that he changed his mind on the Civil Rights Act because of any aspect of the issue of civil rights, segregation or American race relations *per se*. What he described was a philosophical change in his outlook and a change in how he thought about the applications of that outlook—the sort of considerations that one might bring to any issue. This, too, demonstrates Bork's normalizing of the matter. Bork did not even claim, in 1987, that the way the law actually worked in practice played a major role in his thinking on the matter. In contrast to his testimony at the 1973 hearings, Bork invoked the experience of the law in this case only in a subsidiary sense: the positive experience is only "recognize[d]" after the shift in political philosophy—it is only at that moment that it becomes relevant. Nothing in what Bork said indicated that he had a *moral* change of heart, or that he thought that, given the actual horrors of segregation, he had to change his view. Indeed, by phrasing the matter as a technical change of view, he might seem to leave open the possibility of being persuaded in the other direction by yet another argument, in a way that moral horror would not lend itself to further suasion.

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<sup>43</sup> Ibid.

At various points in the course of his exchange with Kennedy, Bork defended himself by reiterating that he had personally opposed segregation at the time, claiming that he had "said that racial segregation, by law, was also of unsurpassed ugliness."<sup>44</sup> He also defended his record on racial issues by appealing to other aspects of his record, such as his work as Solicitor General and as an appellate judge.<sup>45</sup> There is, however, one way in which such claims represent a continuance rather than a repudiation of Bork's earlier views. After all, Bork had also decried segregation from a moral point of view while he was defending its lawful existence. To point out that one always personally opposed segregation, even while supporting a legal status quo that would allow it to continue, is to imply that such a stance was a reasonable one for an opponent of segregation to have taken. Whereas a narrative of repentance, for instance, would have implied an earlier wrongdoing, Bork's stand contained the implication that his earlier stand, though mistaken, was *simply* mistaken, and not unreasonable or immoral.

After Kennedy further pressed Bork on the question of the timing of his announcement of his change in views, Bork again defended his earlier position—this time emphasizing not the degree to which it was an intellectual error, but the *reasonableness* of having made it:

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<sup>44</sup> Ibid., p. 152; Bork repeated the claim a few minutes later, saying that "If you segregate by race, I said that was a principle of unsurpassed ugliness, too." (p. 154) The claim was not strictly true; while Bork did refer to the "justifiable abhorrence of racial discrimination" and to "the ugliness of racial discrimination," the phrased "unsurpassed ugliness" appeared only in reference to the principle of outlawing private discrimination, not in reference to the discrimination itself.

<sup>45</sup> Ibid., top of p. 153.

The [public expression] of [his] opposition took place entirely because I got into an argument with Alex Bickel. He wrote frequently for the "New Republic" and he asked me to write it up. I must say that when he saw it, he said, your article is a version of liberal thought. Let me say one other thing. The concern about the rights of liberty, as well as equality, was by no means an unusual one then. When Congress came to face the fair housing laws, Congress began to make exceptions for Mrs. Murphy's boardinghouse because they were worried about coercing the individual in that way. A few years after I wrote this article, Justice Harlan dissented in a lunch counter sit-in case, talking about the freedom of the individual and the rights of equality as being competing constitutional considerations. I think I was wrong there. I do not think I was in bad company, with Justice Harlan and this Congress, but those are serious matters and it is no small thing to coerce generally. Now, I was afraid that the principle of this legislation could lead to coercion of association everywhere. I now realize that we legislate partially and never legislate on a general principle so that there is no danger that this kind of thing would expand into other areas of coercion.<sup>46</sup>

Bork came close to once again defending his view here, talking about how others found what he had said reasonable as well. To compare his past position with the specific decisions made by Congress in drafting legislation no longer even portrays his earlier position as a technical mistake but instead as a reasonable position on a continuum; while I would not argue that it was intended this way, it might have even suggested to some observers that Bork remained open to his old view—

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<sup>46</sup> Ibid., p. 154.



since Bork was putting forward what the Congress did as a reasonable thing to do, and then comparing his old view with that.

Further, Bork's statement that he later "realize[d] that... there [was] no danger that this kind of thing would expand into other areas of coercion" raises the question of whether Bork would still retroactively support the Civil Rights Act if there were in fact dangers of its expansion. (Particularly since Bork among others had protested parallels made between racial equality and gender equality—Bork had opposed the ERA—and between racial equality and equality for gays and lesbians, a cause which Bork had also spoken against.) Finally, of course, this statement showed that Bork still thought of the effects of the Civil Rights Act as coercion (rather than, say, liberation), which itself might be seen as a ghost of his old views. For that matter, the phrase "it is no small thing to coerce generally" could easily have appeared in either of Bork's attacks on the Civil Rights Act.

I do not mean to suggest that Bork did, in fact, retain his old views. People often overreact when they perceive themselves as under attack; Bork's defensiveness here presumably led him to say things that he might not have with more reflection. As shall be discussed shortly, when Bork returned to this issue once again in the more leisurely context of a book, his defense resembled the earlier rather than the later parts of his remarks. On the other hand, this sort of slippage might be seen as inherent in the type of defense that Bork was making. A technical mistake is by its nature an understandable one—one which it is easy to imagine making again. To defend something as a technical mistake is to say, ultimately, that it was a possibility within the realm of reason. Adding two and two

and getting five may be a technical mistake, but adding two and two and getting mauve is not. A miscalculation is a limited sort of error.

In this regard, it is worth noting what Bork did *not* say in these hearings. Jeffrey Blattner, an aide to Kennedy at the time of Bork's nomination, imagined a possible reply to Kennedy's questioning about Bork's 1963 article:

This was Bork's moment, Blattner thought. All he has to do is look straight at the camera and say, "Senator, that article was the biggest mistake of my life. I will go to my grave regretting it. I ask the nation's blacks to forgive me." Bork did nothing of the kind.<sup>47</sup>

Blattner, of course, was imagining a *political* response to Kennedy's question; Bork responded with a distinctly academic, even legalistic, one. Blattner was imagining Bork adopting what I have termed a repentance strategy, viewing his earlier stance as a moral fault; Bork instead described his earlier thinking as a technical error—defended it, even, as an understandable one. One does not *apologize* for a technical error or a shift in political philosophy; one simply corrects and explains it. Whether Bork's technique was intellectually valid or not, it was clearly politically ineffective, making him look uncaring about one of the central issues of twentieth century domestic politics.

It should be noted that Bork's civil rights record was criticized on many other grounds as well during the controversy over his Supreme

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<sup>47</sup> Bronner, p. 223.

Court nomination.<sup>48</sup> Many of these involved his criticisms of attempts to remedy *de facto* rather than *de jure* segregation, such as affirmative action programs, and thus fall beyond the scope of this study; others, including Bork's highly controversial criticisms of the Warren Court's reapportionment decisions or his critique of the Supreme Court's decision overturning a poll tax in *Harper v. Virginia Board of Elections*, are likewise too complex to get into here, although at the time they were held by some to show that Bork continued to hold unacceptable views on civil rights issues. In some cases Bork defended his previously stated views head-on; in others, however—such as in the case of Bork's critique of *Harper*—Bork defended his criticisms as critiques simply of the reasoning of the decision and not of its result.<sup>49</sup> Only on the issue of the Civil Rights Act, however, did Bork himself feel a need to so openly disavow his earlier positions.

Yet issues relating to Bork's view of overt segregation did arise in a few other contexts. In one important exchange, the issue of *de jure* segregation also arose when Bork was asked about the case of *Bolling v. Sharpe*. *Bolling* was a companion case to *Brown v. Board of Education*, decided simultaneously, which ruled the segregated schools in the District of Columbia unconstitutional on fifth amendment grounds (*Brown* and the other related cases dealt with segregation by states, and were based on the fourteenth amendment). Senator Arlen Specter of Pennsylvania raised the decision in his questioning—trying to get Bork to admit that some cases

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<sup>48</sup> A useful survey (from the point of view of a supporter of Robert Bork's nomination) is Gary G. Born's previously cited article "Robert H. Bork's Civil Rights Record"; I have drawn on Born's survey in this paragraph.

<sup>49</sup> *Hearings* (1989), pp. 154ff.

relied upon interpretive methods apart from the intent of the framers. After Bork defended *Brown* on originalist grounds, Specter raised the question of *Bolling*, asking "if you turn to due process and take your application of due process of law... how can you justify *Bolling v. Sharpe* applying the due process clause to stopping segregation?" Bork replied, "I do not know that anybody ever has. I think that has been a case that has left people puzzled, and I have been told that some Justices on the Supreme Court felt very queasy afterwards about *Bolling v. Sharpe*."<sup>50</sup> When Specter then suggested that Bork's acceptance of *Brown* and *Bolling* meant he was departing from his legal philosophy of relying upon 'original intent', the following exchange ensued:

BORK. I do not think I am on *Brown v. Board of Education*.

SPECTER. How about *Bolling v. Sharpe*?

BORK. I think there may be a significant difference there, and I did not say I sanctioned it. I think that constitutionally that is a troublesome case. Now it has been suggested that if the Supreme Court had struck down segregation in all the States under the equal protection clause, Congress most certainly would have stopped segregation in the District of Columbia. And it would have been a national scandal if they had not. *Bolling v. Sharpe* seems to have been propelled by a feeling that if we are going to do this to all of the States, we cannot let the federal government do it. I understand that feeling. [...]

SPECTER: ...but if you start to deal with the needs of the nation and you accept in *Bolling v. Sharpe* to strike down segregation in the District of Columbia... what happens to your principle?

BORK: Senator, I did not accept it in *Bolling v. Sharpe*....

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<sup>50</sup> *Hearings* (1989), p. 286.

SPECTER: ...Do you accept *Bolling v. Sharpe* or not?

BORK: I have not thought of a rationale for it because I think you are quite right, Senator.

SPECTER: You say you have or you have not?

BORK: Have not...

SPECTER: Well, I know that you will not reverse *Bolling v. Sharpe* in any event, but it is a very uneasy conclusion, Judge Bork.<sup>51</sup>

Bork had, flatly, stated that he did not accept *Bolling v. Sharpe*.

Under his view of the constitution, it would be perfectly constitutional for the federal government to run segregated schools in Washington, D.C.

This was, politically, an enormous blunder. As one journalist later recounted, "Bork's advisers told him that he could, under no circumstances, leave the discussion where it had been. He must say—and loudly, for all to hear—that he would never touch that precedent."<sup>52</sup>

Therefore, after a brief recess, Bork asked to "supplement" his answer, and stated the following:

I want to make it clear, absolutely clear if I can, that my doubts about the substantive due process approach to *Bolling*—and I really think that *Bolling* said that the equal protection component exists in the—we can get back to that. My doubts about the substantive due process of *Bolling v. Sharpe* does not mean that I would ever dream of overruling *Bolling v. Sharpe*... And furthermore I should make it clear, as I have said repeatedly, segregation is not only unlawful but immoral. And I do not want my doubts about a constitutional mode of reasoning to be turned into anything other than that...<sup>53</sup>

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<sup>51</sup> Ibid., pp. 286 - 287.

<sup>52</sup> Bronner, p. 233.

<sup>53</sup> *Hearings* (1989), p. 288.

Yet while Bork stated that segregation was "unlawful," he did not say that he thought it *unconstitutional*—not if done by the federal government: it was unconstitutional when done by the states, and unlawful under the Civil Rights Act. But nothing in his view of the Constitution ruled it out for the federal government; only morality—and the good sense of Congress—did that. Indeed, Bork has not recanted this view subsequently either.<sup>54</sup>

In a fundamental sense, Bork viewed the constitution *simply* as law—as a technical matter, no different from any other legal statute.<sup>55</sup> In such a view there is no room for the simple immorality, or the broad structural principles of the constitution, to rule out segregation by the federal government. Particularly in the realm of rights and human freedom, Bork's basic philosophy is to emphasize the specifics of the constitution. As one scholar wrote, Bork resists any attempt at "holistic interpretation [in which] the reader tries to understand the text as something more than an odd assortment of particularized commands."<sup>56</sup> In this sort of "clause-bound" interpretation, there is no room for notions of the constitution's fundamental spirit or commitment to liberty, let alone to the history of its moral development as a practical instrument.

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<sup>54</sup> He reiterates his arguments against *Bolling* in his book *The Tempting of America*, for instance.

<sup>55</sup> One (admittedly critical) commentator described Bork's view as one which "reduces a constitutional vision to a set of arbitrary and isolated decrees." Ronald Dworkin, "The Bork Nomination", *Cordozo Law Review*, vol. 9, no. 1 (October 1987), pp. 101 - 114, at 109.

<sup>56</sup> Bruce Ackerman, "Robert Bork's Grand Inquisition," *Yale Law Journal*, April, 1990 (99 *Yale L.J.* 1419); accessed via *Lexus/Nexus Academic*.

Bork's legal philosophy, therefore, leads him to precisely the sort of technical approach to the issue of segregation that he offered in his hearings—a technical approach which is satisfied to conclude that only political will, and not constitutional law, forbid the federal government to segregate. Bork's interrogators saw the question of segregation as a fundamentally moral issue, but Bork's legal philosophy has little room for fundamentally moral issues. Bork was presumably sincere when he asserted that he viewed segregation as immoral; but he did not think that the constitution viewed it that way: it simply outlawed it in certain cases; the rest were left open. Bork's treatment of segregation as simply a technical legal issue is intrinsic, not incidental, to his legal philosophy as a whole.

Bork gave his other extended explanation of his change of view in the book he published in the wake of his tumultuous nomination hearings, *The Tempting of America*. This book is a defense of Bork's legal philosophy of originalism in the form of an overview of legal history and legal theory, with a final section explicitly on his nomination battle. Bork's explanation of his 1963 *New Republic* article (he neither mentions nor cites his 1964 article in the *Chicago Tribune*) occurs in the context of an extended discussion of *Brown v. Board of Education*, in which Bork argued that the result in *Brown* was consistent with his originalist philosophy, while arguing against various other attempts to justify the result, including that in Earl Warren's 1954 opinion (claiming, indeed, that the other arguments in support of *Brown* were not only fallacious but

pernicious.)<sup>57</sup> In the course of presenting the view of Herbert Wechsler, that *Brown* involved a trade-off between various freedom of association claims, Bork digresses to discuss his earlier position on the Civil Rights Act, declaring that his error on that issue was comparable to the error he came to see in Wechsler's arguments.

The public accommodations provisions of the Civil Rights Act were proposed in 1963 as a means of giving racial minorities access to restaurants, hotels, and other facilities that excluded them. This was not a constitutional matter. The fourteenth amendment did not apply because the discrimination was done by private persons, not the state. The result of the law would be to favor the claims of association over the claims not to associate. There seemed to be no generally applicable principle of moral or political philosophy available to justify the legislative coercion and I opposed the bill on that ground. I was, in a word, phrasing the legislative issue much as professor Wechsler had framed the constitutional issue.... Since I operated from a presumption of freedom and required a general principle to justify coercion, I also opposed state-enforced segregation as well as state-compelled association in the [*New Republic*] article. The article was used heavily twenty-four years later in the campaign waged against my confirmation as indicating that I was or had been opposed to civil rights. Nothing could be further from the truth. The position, as I later came to see, was wrong, but the argument proceeded from a concern with the civil rights of all persons.<sup>58</sup>

Bork went on to explicate what he sees as his earlier error:

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<sup>57</sup> Though as previously mentioned, Bork did reiterate his argument against the result as well as the reasoning of *Bolling v. Sharpe*.

<sup>58</sup> Bork, 1990, p. 80.



My position was incorrect because, as I subsequently realized, there are no general principles to decide competing claims of association and nonassociation. There being no correct general answer, the proper approach for the legislator is necessarily ad hoc, to ask whether the proposed law will do more good than harm. What do I mean by "more good than harm"? I mean that society itself will come to see the legislation as beneficial and will do so in the relatively short term. It is a pragmatic test, but none the worse for that, and it is the only test available for legislation. The Civil Rights Act of 1964 passes it easily. I said as much at my confirmation hearings to be Solicitor General in 1973.<sup>59</sup>

Bork then returned his discussion to the issue of the constitutional basis of *Brown*.

This defense was substantively identical to the one he had previously offered at his hearings. Bork's states that his earlier view was mistaken on a technical matter—whether or not legislation ought to rest on a general principle, or whether it was perfectly acceptable to view it as a specific, pragmatic compromise. Having rethought this technical question (as part of a more general shift in his overall political philosophy), Bork now sees that his earlier view was in error. And that is all there is to it.

Indeed, even some of the defensiveness about the reasonableness of such a technical error that he expressed towards the end of his exchange with Kennedy reappears in this version of his defense as well. Just as at his hearings, Bork defended his stand by comparing it to a dissent by Justice Harlan and some aspects of a Congressional statute (thereby

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<sup>59</sup> Ibid., pp. 80-81.

defending the reasonableness of the error even while acknowledging it as one), here Bork compares his self-described mistake to the legal reasoning of Herbert Wechsler, thereby putting himself in good company—and offering a further measure of defense. It is, the implication is, a perfectly reasonable mistake that anyone might have made.

One difference in emphasis between Bork's explanation of his earlier stand in *The Tempting of America* and the one he gave before the Judiciary Committee is that in his book he makes a slight effort to view the matter as a moral issue and not simply as a technical one. Indeed, he claims that the concern that motivated him was the same as that which motivated those who supported the Civil Rights Act; this is the import of his claim that while his earlier "position... was wrong, but the argument proceeded from a concern with the civil rights of all persons." Yet this too shows a continuance of a partial defense of his earlier stance: it, like the Civil Rights Act, was motivated by a concern for civil rights. If by "civil rights" one means a rather abstract due process of law, then Bork's claim has some merit; but if one means instead the problem of American race relations, and in particular the long history of a complex web of laws, customs and threats designed to keep African Americans as second class citizens, then the claim is ridiculous: Bork was earlier opposing civil rights in this latter sense, not supporting them. His explanation for his change of view again shows that he mere recalculated, rather than being (as it were) overcome by the historical realities of the situation whose (partial) continuance he had spoken in favor of.

Bork's technical defense does not even address his entire earlier position. While it might be considered understandable that a spoken

defense, offered in the context of a stressful congressional hearing, would be less than entirely accurate in its portrayal of an earlier view, it is hard to make that excuse in the more considered context of a book. Yet even this version of Bork's explanation for his technical mistake does not capture the various dimensions of the argument he is attempting to explain away. Thus it is not entirely accurate to say, as Bork does here, that he opposed the Civil Rights Act because "there seemed to be no generally applicable principle of moral or political philosophy available to justify the legislative coercion." As discussed above, the lack of a "generally applicable principle" was certainly *one* of Bork's objections to the Civil Rights Act in both its major statements, but in neither was it the only one. Bork also objected to what he described as "coercion" as a concern in and of itself—not simply because there was no principle behind it. His explanation of his old view in *The Tempting of America* does not address that aspect of his earlier argument.

Further, before the passage of the Civil Rights Act Bork had practical concerns about its enforcement and even the exacerbation of racial tensions—in other words, he feared that it would *fail* the pragmatic test that he here claims that it "passes... easily." This is perfectly understandable as a correction of his views in the light of subsequent developments; but Bork does not present the matter that way, or even explain that he had practical concerns about the bill at all. The implication from his statement during his 1973 hearings that he had learned better from experience is here absent. Bork would, most likely, deny that his perceptivity in matters such as the likely impact of the Civil Rights Act could have any bearing on the decisions of a judge; these sorts

of intuitions, he would argue, are relevant only for legislators, who make law, and not judges, who simply interpret it. But in the view of his opponents, Bork's having been "always on the negative side of the ledger by some theory or rationalization"<sup>60</sup> showed the same sort of misjudgment that he had shown in his estimate of the likely effects of the Civil Rights Act; and in their view of the role of a Supreme Court Justice (if not in Bork's), this type of lack of judgment was ultimately a disqualifying characteristic.

At one point in his exchange with Robert Bork, Kennedy said that "lawyers can always make technical points, but a justice ought to be fair."<sup>61</sup> Bork, obviously, would contend that he had been fair—by which he would mean something like "impartial." But Kennedy's statement implied a larger sense of "fair"—a sense of a more fundamental fairness, the sort of consideration that first gave birth to the notion of "substantive due process" that Bork opposed. This notion of fairness implies that not merely procedural correctness—"technical points," in Kennedy's words, which Bork would probably prefer to term being faithful to the original intent of the framers—but a minimal set of specific, substantive, contentful results are required for a situation to be considered "fair." Reversing John Rawls' famous phrase "justice as fairness," the implications in Kennedy's use of the word "fair" is the necessity of fairness as justice—that without a fundamentally just system, no procedural justice will ultimately deserve the name.

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<sup>60</sup> Testimony of Andrew Young, *Hearings* (1989), p. 1075.

<sup>61</sup> *Hearings* (1989), p. 158.

By 1987, the consensus of mainstream American political culture, and the beliefs of the majority of the American people, held that segregation was more than merely immoral, more than merely contrary to a specific amendment of the constitution. It was rather a fundamental flaw in America's past that had to be mended—a flaw that traced its origins to slavery and the very origins of the Republic. In this context, seeing a position on the Civil Rights Act as simply an application of political philosophy seems a diminished view. Bork's "technical points" failed to capture the substantive issue of the sweep of American justice—a sweep in which arguing for the legal maintenance of segregation was more than simply a misapplication of a political philosophy.

As early as 1973, Bork declared that he had been wrong *in* his earlier views. But he has never declared it wrong to *have* held his earlier views. In the view of many, this is as deep a misunderstanding as the one to which he has long since admitted.

CHAPTER 4:  
WILLIAM F. BUCKLEY, JR. AND THE PRO-SEGREGATIONIST  
ROOTS OF THE MODERN CONSERVATIVE MOVEMENT

One of the main schools of thought in the growing historiography of the contemporary American conservative movement—a school of thought that both supporters and critics of that movement have put forward—holds that the rise of contemporary American conservatism can be dated to (or at least was centrally inspired by) the 1955 founding of the *National Review* by William F. Buckley.<sup>1</sup> At the time, the argument runs, liberal principles were dominant in American life: the Eisenhower branch of the Republican party was decidedly moderate, having accepted the New Deal that more conservative thinkers still loathed; liberal assumptions were dominant in political discourse while conservative ideas were marginalized or ridiculed. Into this vacuum stepped William F. Buckley, Jr.. In the *National Review*, he created a platform for

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<sup>1</sup> The most comprehensive biography of Buckley to date is John B. Judis, *William F. Buckley, Jr.: Patron Saint of Conservatives* (New York: Simon and Schuster, 1988). A more recent biography from writers with politics more consonant with Buckley's own is Linda Bridges and John R. Coyne, Jr., *Strictly Right: William F. Buckley Jr. and the American Conservative Movement* (Hoboken: John Wiley & Sons, 2007). In between the first and second drafts of this chapter, a searchable online database of all of Buckley's writings was put on the internet by Hillsdale College; the database can be found at <http://cumulus.hillsdale.edu/buckley/Standard/index.html>. Also online are summaries of Buckley's long-running television program, *The Firing Line*, hosted by the Hoover Institute and available at <http://hoohila.stanford.edu/firingline/index.php>; although, as of this writing, the programs themselves are not available at the site.

unapologetically conservative ideas. More importantly, he managed to bring together two starkly distinct branches of conservative thought: social conservatives, whose beliefs were rooted in the values of community, continuity, religion and established order, and libertarian conservatives, whose beliefs arose out of a commanding belief in the free market as the essential institution for liberty. Buckley united these two branches around the cause whose appeal was most strongly shared between them, namely anticommunism. (Many versions of the story list anticommunist conservatives as a separate, third branch which Buckley combined along with social and libertarian conservatives.) Having forged an intellectual alliance, Buckley and his colleagues gave crucial ideological support to Barry Goldwater, whose 1964 campaign for President, despite the magnitude of its loss, inspired many conservatives and brought others to the cause—a cause which would eventually find its fulfillment in the election of Ronald Reagan, one of Goldwater's most prominent supporters, sixteen years after Goldwater's defeat.

The widespread support for this narrative is due in large part to the truth behind it: Buckley did play an important part in forming the ideas, ideology and rhetoric of modern conservatism, just as Goldwater's losing campaign played an important part in bringing adherents to that cause. Yet for all the truth it contains, this narrative is, I believe, too simple—it tells only part of a larger, more complex story. It ignores the connections between modern conservatism and conservatism from earlier years; it downplays factors such as broader cultural shifts and the impact of political happenstance.

Despite its oversimplification, the story persists because of its extra-historical appeals to three separate groups. For intellectuals of all stripes, this narrative is appealing because it tells of the triumph of a set of ideas and arguments—a version of politics in which fiercely-held intellectual positions, if long maintained, ultimately triumph: for those who care about ideas, and particularly those who care about political ideas—and most people who think about such things as the root causes of the conservative triumph in American politics will fall into both of those categories—this narrative of an idea's ultimate power is obviously tempting. (For conservative intellectuals, who see the narrative as the triumph of right-thinking ideas, it is doubly so.) For contemporary liberals, this narrative is appealing because it offers a model to copy—a model for success involving the adherence to strongly-held political ideals, rather than, say, political compromise or the shifting winds of fortune: however unpopular your position now, it seems to say, all can change if you are faithful to your beliefs. This, too, has an obvious appeal for those who feel that they are helplessly swimming against a powerful ideological and rhetorical tide.

But the appeal for conservatives is slightly less obvious, though no less compelling. This version of conservatism's triumph—intellectual retrenchment in the 1950s, heroic losing battles in the 1960s, followed by institutional development in the 1970s and victory in the 1980s and beyond—isolates the contemporary conservative movement from earlier causes which are now harder to justify, in the contemporary political landscape, than anticommunism, social conservatism or adherence to the free market. By beginning the story in the 1950s, for example, the history



of conservative isolationism—quite strong prior to Pearl Harbor, and maintaining some strength even after the Second World War—is divorced from contemporary conservative thought. Similarly, the history of conservative economic thinking, in particular its record of resistance to the New Deal is passed over, allowing opposition to the policies of a president whose memory has been burnished by time and triumph in war to be separated from opposition to the man himself.<sup>2</sup> The story even manages to elide to some degree the roots of contemporary conservatism in McCarthyism, despite Buckley's open embrace of McCarthy (Buckley's second book was a defense of the Wisconsin Senator, published in the year of his censure by the Senate).

Above all, however, this version of the triumph of conservatism dances around the shift in political demographics that lies at the heart of the *electoral* triumph of contemporary conservatism: the shifting of the South from a virtually one-party region united in its support for Democrats (albeit generally for *conservative* Democrats at a time when party divisions aligned far less well with ideological ones than has since become the case) to a region overwhelmingly dominated by conservative Republicans. It equally avoids the connections of modern conservatism to the mainspring of southern conservatism, namely, racial politics. By telling the story of conservatism's roots as involving three branches—social conservatism, libertarianism and anti-communism—it avoids a

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<sup>2</sup> Openly opposing the New Deal as such, rather than simply promoting ideas which run counter to it, has become more prominent in recent years with the rise of the "constitution in exile" movement among legal thinkers, which holds that the so-called constitutional revolution of 1937 was fundamentally illegitimate and ought to be reversed.

major fourth branch, racial conservatism, that was central to conservatism's ideological and demographic triumph. Even if one accepts the contemporary contention of many southern conservatives, that racial feelings and a concern for racial policy was not at the heart of the South's political shift, it is hard to deny that it was a focus on racial issues that laid the ideological and social groundwork for their receptiveness to other conservative ideological appeals.<sup>3</sup> In contemporary times, racial conservatism seems ugly, and it is understandable that conservative thinkers would be inclined to tell the story of conservatism's rise in such a way as to avoid its historical role.<sup>4</sup>

Yet even this preferred story cannot entirely edit out the connection of conservative thought to racial politics. For in the early days of the *National Review*, support for southern segregationists was a recurring

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<sup>3</sup> While the standard narrative as described above remains a powerful one, the importance of racial politics to the conservative movement is being increasingly written about. The works of Dan Carter—both his biography of George Wallace and his lectures *From George Wallace to Newt Gingrich*—were seminal in this regard. A more recent work exploring these connections is Kevin M. Kruse's *White Flight*. And new books continue to delve into this history; two works, which are both forthcoming as of the current writing, are Allan J. Lichtman, *White Protestant Nation : The Rise of the American Conservative Movement* (forthcoming from Atlantic Monthly Press) and Joseph E. Lowndes, *From the New Deal to the New Right : Race and the Southern Origins of Modern Conservatism* (forthcoming from Yale University Press). So while the above description of the "dominant narrative" remains correct as of the present writing, this dominance is waning, and may eventually erode entirely.

<sup>4</sup> This is, of course, not a phenomenon unique to the political right. It has its parallels in the way that many on the contemporary left seek to play down the attraction of communism in the mid-twentieth century, and to play down the level of (some) leftists' apologetics for the Soviet Union and other communist countries.

stance taken in the magazine, and its influential editor was outspoken in his support for the segregationist position, albeit inconsistently. True, support for segregation was never as central to Buckley and other writers for the *National Review's* political philosophy as support for free markets, anti-communism or other issues. Yet the stance they took was clear. And the later shifting of political fashions and ideological assumptions left them, as it left others, with the task of explaining their earlier positions—to hostile critics, to supporters and to themselves.

William F. Buckley's stance on segregationist politics was a somewhat fluctuating one throughout his career as a public intellectual. Though generally supportive of segregationist stances in the 1950's and 1960's, he was not entirely consistent in that support, backing down slightly from his strongest statement in support of segregation soon after it was made, then later saying other things that continued to put him in the mainstream of segregationist argument. At other times, however, he would put forward somewhat more vacillating positions—while, at the same time, publishing work by less hesitant writers in his magazine. And he was inconsistent in his later explanations of his own previous position, at times declaring it mistaken, but usually in evasive ways; on occasion Buckley even continued to defend his earlier stances. This inconsistency is all the more remarkable since, in other matters, Buckley was remarkably consistent in the political stances he has adopted in his more than fifty-year career as a public intellectual. The cageyness with which Buckley in his later career addressed the issue of Jim Crow reflected the difficulty that the contemporary conservative movement has in confronting head-on its connection to a school of thought now

considered—within as well as outside of the conservative movement—beyond the pale.

William F. Buckley's most prominent statement on segregation came in a 1957 editorial on the issue of voting rights and, more broadly, the place of African Americans in the South. (The editorial was unsigned, but Buckley later admitted to its authorship in the course of a 1985 libel trial.<sup>5</sup>) Buckley's editorial was titled "Why the South Must Prevail," and was set apart from the usual run of *National Review* editorials by receiving cover billing.<sup>6</sup>

Buckley framed his editorial around the issue of jury nullification. He began by celebrating a Senate vote "to guarantee to defendants in a criminal contempt action the privilege of a jury trial"<sup>7</sup> as

...a conservative victory. For the effect of it is—and let us speak about it bluntly—to permit a jury to modify or waive the law in such circumstances as, in the judgment of the jury, require so grave an interposition between the law and its violator. What kind of circumstances do we speak about? ... In some parts of the South, the White community merely intends to prevail—that is all. It means to prevail on any issue on which there is corporate disagreement between Negro and White. The White community will take whatever measures are necessary to

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<sup>5</sup> Lawrence Feinberg, "Lawyer Puts Buckley on Firing Line in D.C. Libel Trial", the *Washington Post*, October 11, 1985, p. C7.

<sup>6</sup> At the time, the standard format for the *National Review*'s covers was to prominently list three articles by title and author, with a list of other contributors below; Buckley's "Why the South Must Prevail" editorial was unusual in being one of the top-billed pieces.

<sup>7</sup> "Why the South Must Prevail", *National Review*, August 24, 1957, pp. 148 - 149.

make certain that it has its way. What are such issues? ... The NAACP and others insist that the Negroes as a unit want integrated schools. ...if the NAACP is correct... [t]he Negroes would, according to democratic processes, win the election; but that is the kind of situation the White community will not permit. The White community will not count the marginal Negro vote. The man who didn't count it will be hauled up before a jury, he will plead not guilty, and the jury, upon deliberation, will find him not guilty. A federal judge, in a similar situation, might find the defendant guilty, a judgment which would affirm the law and conform with the relevant political abstractions, but whose consequences might be violent and anarchistic.<sup>8</sup>

Buckley thus ended up approving of jury nullification—at least in this case, given the ends at stake—which, as Buckley frankly admitted, was the disenfranchisement of African Americans for the purpose of maintaining segregation. An argument approving of an extralegal mechanism such as jury nullification might seem a strange one for a noted conservative to make—as, indeed, Buckley's brother-in-law, L. Brent Bozell, would point out in a reply to Buckley's editorial (discussed in

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<sup>8</sup> Ibid. My ellipses edit out a rather bizarre detour Buckley made, claiming that "The South does not want to deprive the Negro of a vote for the sake of depriving him of the vote" since, after all, "Political scientists assert that minorities do not vote as a unit"—a claim that seemed designed to ridicule sociologists as much as to address the matter at hand, since the progression of his own argument showed that he himself does not believe it (as he went on to deal with precisely the opposite case as the crucial one.) This line of argument may have been intended to demonstrate the good will of white Southerners, or it may have been intended to deal with potential critics who would deny that African Americans would vote differently than whites on issues such as school integration. In any event, he dropped this line of argument and went on to address the issue of African American disenfranchisement as if it *would* make a practical, political and cultural difference.

detail below). But of course the historical context placed defenders of the law as such in a difficult position if they wished to defend *de jure* segregation as well, because since *Brown v. Board of Education* the federal judiciary had come down firmly on the side of integration. Of course, other arguments, such as the claim that the Supreme Court decision itself was unconstitutional or that states could nullify decisions they disagreed with were open to conservatives caught in this dilemma (and these were made as well.) So it is perhaps a sign of the seriousness with which Buckley took the issue of maintaining segregation that he was willing to let it trump issues of formal legality.

After several paragraphs of dancing around the issue of jury nullification, Buckley arrived at the heart of the matter, namely, the disenfranchisement of African Americans—and the consequent perpetuation of Jim Crow—which were the issues that, in Buckley's view, justified jury nullification in the first place. In words that would become somewhat infamous, Buckley wrote the following:

The central question that emerges—and it is not a parliamentary question or a question that is answered by merely consulting a catalogue of the rights of American citizens, born Equal—is whether the White community in the South is entitled to take such measures as are necessary to prevail, politically and culturally, in areas in which it does not predominate numerically. The sobering answer is *Yes*—the White community is so entitled because, for the time being, it is the advanced race. It is not easy, and it is unpleasant, to adduce statistics evidencing the median cultural superiority of White over Negro: but it is a fact that obtrudes, one that cannot be hidden by ever-so-busy egalitarians and anthropologists. The question, as far as the White community is

concerned, is whether the claims of civilization supersede those of universal suffrage. The British believe they do, and acted accordingly, in Kenya, where the choice was dramatically one between civilization and barbarism, and elsewhere; the South, where the conflict is by no means dramatic, as in Kenya, nevertheless perceives important qualitative differences between its culture and the Negroes', and intends to assert its own.

NATIONAL REVIEW believes that the South's premises are correct. If the majority wills what is socially atavistic, then to thwart the majority may be, though undemocratic, enlightened. It is more important for any community, anywhere in the world, to affirm and live by civilized standards, than to bow to the demands of the numerical majority.<sup>9</sup>

More than anything else he ever wrote, Buckley's claim that "the White community... for the time being... is the advanced race" would be cited as proof of his racism. His reaction to that charge will be discussed below. Yet apart from the odiousness of that particular phrase, it is noteworthy that Buckley's argument was quite a *standard* argument for segregation: the notion of cultural superiority—often tied together with notions of "tutelage" (which, as we shall see, Buckley addressed later in his essay)—was one of the common arguments that proponents of segregation used to support their case.

At the same time, however, it is far from the least egregious. Buckley did *not* make simply an argument from freedom of association, for example, arguing that whites have a right not to associate with African Americans if they so choose. Nor did he make the argument that integration is a communist program—which is particularly noteworthy,

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<sup>9</sup> Ibid.; emphasis in the original.

given Buckley's intense, ongoing focus on anti-communism.<sup>10</sup> Such arguments could at least maintain a pretense of racial neutrality; Buckley's arguments, in contrast, were made on what can only be termed explicitly racist grounds. Unsurprisingly, Buckley did not attempt to spell out precisely what he might mean by the necessity "to affirm and live by civilized standards," nor why he believed that an integrated society would make that impossible.

Buckley continued his essay by arguing that the entire notion of universal suffrage is mistaken, citing as among those without the vote twenty year olds<sup>11</sup> and residents of Washington, D.C.; he also cited the fact that many with the franchise do not vote as a count against its importance. (In later years, Buckley would defend his earlier thinking by noting, accurately, that he never believed in universal suffrage as a principle.) Buckley then ended his piece with an exhortation to the (white) South:

The South confronts one grave moral challenge. It must not exploit the fact of Negro backwardness to preserve the Negro as a servile class. It is tempting and convenient to block the progress of a minority whose services, as menials, are economically useful. Let the South never permit itself to do this. So long as it is merely asserting the right to impose superior mores for whatever period it takes to effect a genuine cultural

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<sup>10</sup> Though this argument had recently been made in the *National Review*: Richard Weaver wrote a piece just over a month before titled "Integration is Communization" (*National Review*, July 13, 1957, pp. 67 - 68) in which he argued that "'Integration' and 'Communization' are... pretty closely synonymous."

<sup>11</sup> This was, of course, before the ratification of the twenty-sixth amendment, which lowered the voting age to 18.



equality between the races, and so long as it does so by humane and charitable means, the South is in step with civilization, as is the Congress that permits it to function.

This, as noted above, is in part an evocation of the notion of tutelage, which was a standard part of arguments on the basis of white cultural (as opposed to biological) superiority. In addition, Buckley made the argument for slow, natural, evolutionary change, saying that the South was justified in "asserting the right to impose superior mores for whatever period it takes to effect a genuine cultural equality between the races." This, too, was a standard part of segregationist thought and rhetoric of the day—the notion that equality could not be imposed, that it would come about gradually in due course. In his generally quite fair-minded biography of William F. Buckley, John Judis noted that this editorial "crossed the line between constitutionalism and racism," and that "In the political divisions of the fifties, the [*National Review*] lined up squarely with the southern segregationists."<sup>12</sup> Yet it is not simply that the *National Review* had put itself on the political *side* of segregationists: Buckley had adopted a position that put him, on intellectual and rhetorical grounds, right in the mainstream of segregationist thought of his day.

Buckley's segregationist stance did not go entirely unchallenged within the magazine he founded. L. Brent Bozell, Buckley's brother-in-law and his collaborator on *McCarthy and His Enemies*, published a dissent in the following issue. Yet the ground for Bozell's dissent was not the racism at the heart of Buckley's argument. He signals his possible disagreement with this only obliquely, noting in a footnote that "For reasons of space, I must reserve comment on some of the editorial's

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<sup>12</sup> Judis, pp. 138, 139.

premises, with which I profoundly disagree."<sup>13</sup> Given the sentence to which this was a note, and the remainder of his argument, it seems quite probable that it was Buckley's racist assumptions that Bozell was objecting to; but he did not bother to spell out that objection.

Instead, Bozell objected primarily on legal grounds. After briefly quarreling with Buckley's strange claims that African Americans might not vote against segregation, Bozell reached the heart of his argument, writing:

...the editorial concedes that much more is at stake than the theory of universal suffrage. There is a law involved, and a Constitution, and the editorial gives White Southerners leave to violate them both in order to keep the Negro politically impotent. ...the Fifteenth Amendment is not mentioned, but familiarity with it may be assumed. By resolving the South's dilemma in this way, the editorial calls up the question of how seriously NATIONAL REVIEW takes the law and the Constitution. I had always thought our position to be that observance of and respect for both is indispensable for the well-ordered society, and a minimal requirement for the preservation of conservative values.... [and that] the American system does not permit private judgment as to whether the Constitution should be obeyed. Interposition, yes; the Constitution contemplates no final arbiter of its meaning, and therefore, in the doubtful case, one may choose, as NATIONAL REVIEW has done, between the views of the State of Georgia and those of the Supreme Court, depending on one's own lights. But where the law is clear, as in the case of the Fifteenth Amendment, I have never doubted that NATIONAL REVIEW and persons whose objectives we approve

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<sup>13</sup> L. Brent Bozell, "The Open Question," *National Review*, September 7, 1957, p. 209.

were, equally with the Establishment, bound to confirm.... [I]t is not the sanctity, but the majesty of the Law that wants affirmation.<sup>14</sup>

Bozell's objection, then, was essentially to what he saw as the lawlessness of Buckley's framing point about jury nullification. And Bozell went out of his way to state that he was not a stickler for obeying Supreme Court decisions, noting that "one may choose... between the views of the State of Georgia and those of the Supreme Court,"—hardly the legal consensus of the day (although it was the standard segregationist argument). But the blatant unconstitutionality of African American disenfranchisement, and the blatant illegality of the means Buckley proposed to uphold it were too much for him.

In response to his brother-in-law's critique, Buckley<sup>15</sup> responded with an editorial paragraph labeled "A Clarification." Buckley wrote that

NATIONAL REVIEW believes that a) the doctrine that everyone has the right to vote conceivably can, and indeed sometimes does, conflict with the right of the few to preserve, against the wishes of the many, a social order superior to that which the many, given their way, might promulgate; that b) a valid distinction exists between a culture preeminently white and one which would issue upon the political predominance of Southern Negroes in their present stage of development; that it is to guard against the emergence of the latter via electoral

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<sup>14</sup> Ibid.

<sup>15</sup> Given Buckley's admitted authorship of the original editorial, and the fact that he wrote most of the *National Review's* editorials at the time, his authorship of the subsequent unsigned editorial may be assumed (as it is, e.g., by John Judis in his biography, p. 139); but to my knowledge Buckley has never addressed the issue directly. I will nevertheless proceed on the assumption that he wrote the clarification, just as he did the original piece.

mechanisms responsive only to quantitative pressure that many responsible Southerners refuse to enfranchise the marginal Negro; that c) the Fourteenth and Fifteenth Amendments to the Constitution are regarded by much of the South as inorganic accretions to the original document, grafted upon it by victors-at-war by force; that d) the South should, if it determines to disfranchise the marginal Negro, do so by enacting laws that apply equally to blacks and whites, thus living up to the spirit of the Constitution, and the letter of the Fifteenth Amendment to it.<sup>16</sup>

Buckley, in other words, *defended* his beliefs about both the cultural inferiority of African Americans, and the consequent right (in his view) of a minority to disenfranchise the majority to maintain it. He also disparaged, to an astonishing degree, the Fourteenth and Fifteenth Amendments. But granting Bozell's argument about the necessity of not promoting illegality, Buckley retreated to the notion that whites as well as African Americans could be disenfranchised "equally" — meaning, presumably, with criteria that would be applied evenhandedly but which would *de facto* result in predominantly African-American disenfranchisement. Buckley's claim that such an arrangement would live up "up to the spirit of the Constitution" seems to refer to the Constitution *apart* from the Fourteenth and Fifteenth amendments; and his admission that this would live up to "the letter of the Fifteenth Amendment" seems an implicit acknowledgment that he was suggesting mechanisms specifically designed to circumvent the Fifteenth Amendment's spirit. Despite being challenged to rethink his position by a member of his own

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<sup>16</sup> "A Clarification," *National Review*, September 7, 1957, p. 199.

staff, what Buckley reconsidered was his legal and not his racial point of view.

Buckley's (slightly) reconsidered position persisted for some time. In his 1959 book *Up from Liberalism*—a book that biographer John Judis described as "the fullest statement of Buckley's political philosophy that he would ever make... [and] a milestone not only in his own political development but in that of the political right"<sup>17</sup>—Buckley repeated the arguments made in his 1957 editorial almost verbatim. (Judis notes that the entire book was, in fact, assembled from his earlier writings.<sup>18</sup>)

*Almost* verbatim: Buckley incorporated some of the ideas in his "clarification" into the main body of his argument, putting up front his belief that "The South should prove its bona fides by applying voting qualification tests impartially, to black and white"; the thought that this is something other than a defense of a mildly altered *status quo* is quashed by his immediate citation of Alabama as a model to follow.<sup>19</sup> (Later, in a 1968 television interview with George Wallace, Buckley himself would mock Wallace's claim that voting was fairly handled in Alabama.<sup>20</sup>)

In addition to underlining his belief in a formal, *de jure* color blindness, Buckley made a number of other revisions to his language: his notorious phrase "the White community is so entitled because, for the time being, it is the advanced race" becomes, in *Up from Liberalism*, "the

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<sup>17</sup> Judis, p. 167.

<sup>18</sup> Ibid.

<sup>19</sup> William F. Buckley, *Up from Liberalism* (New York : McDowell, Obolensky, 1959); citations from the paperback edition (Honor Books). Quotation on p. 129.

<sup>20</sup> Judis, pp. 286 - 287.

white community is entitled to put forward a claim to prevail politically because, for the time being anyway, the leaders of American civilization are white" —a phrase that sounds less like biological racism, perhaps, but one which is in context almost identical in meaning.<sup>21</sup> Yet the structure of the argument is the same, down to the inclusion of a (far briefer) invocation of jury nullification as a tactic for ensuring that whites would "prevail." Buckley's incorporation of this editorial shows that he did not immediately disavow it, but remained satisfied with its basic line of argument for some years at least.

His 1957 editorial was William F. Buckley's most prominent support for the segregationist position—and the one which was most explicitly wedded to overtly racist arguments. Yet he continued to support the segregationist stance, to varying degrees, until the final legal defeat of *de jure* segregation in the mid-1960's. This support remained within certain limits. Buckley always denounced the violence of die-hard segregationists. Nor was he an admirer of George Wallace—and although some of his disdain was due to Wallace's economic populism, he also condemned Wallace's racism on multiple occasions. Nevertheless Buckley's sympathies remained distinctly with opponents of the Civil Rights Movement, and, at times, he himself expressed explicit support for segregationist positions as well.

In a 1961 interview with *Esquire*, for example, Buckley expressed the following personal opinions on segregation:

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<sup>21</sup> Ibid., p. 127.

If I lived in South Carolina, I would vote for segregated schools in my community; in Stamford, where I live, I'd vote for integrated schools. I hope that if I lived in South Carolina, I would take a position aimed at doing what I could to increase the opportunity of Negroes to the point where I no longer felt segregation was necessary.<sup>22</sup>

Buckley's view here was essentially similar to that which he expressed in his 1957 editorial. He believed in the existence of a cultural gap, and saw a necessity for whites to work to overcome that gap; he also seemed to believe that the gap was less in Connecticut than in South Carolina. Nevertheless, while he eventually ended up endorsing a (technically) race-neutral position in his 1957 "clarification," here he did not bother: he openly stated that in some cases he would support segregation, and he certainly seemed to presume that voting upon whether or not schools should be segregated is a reasonable way to proceed (rather than, for instance, declaring that the Supreme Court had settled the issue with *Brown*).

But Buckley's attitude was not entirely one-sided; typically Buckley's editorials were ambivalent in their commitments. A 1963 essay, for example, was essentially a defense of the right of Civil Rights protestors to march as a basic First Amendment freedom. It was tempered, however, by questions about whether doing so was "prudential" and by considerable attention to the demands of "the need for public order," which Buckley asserted is a coequal concern with the right of peaceable assembly. And it was tempered by a great deal of

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<sup>22</sup> Cited in Charles Lam Markmann, *The Buckleys: A Family Examined* (New York: William Morrow & Co., 1973), p. 167.

understanding for the roots of the white South's anger. Thus Buckley wrote:

What we need to ponder is why the Southern community, made up as it is of men and women who share our history, speak our language, fight under the same flag, see the same movies and read the same books—why they are [so] hostile to these demonstrators... It is because they feel that the demonstrators have their eye on the jugular vein of Southern life. Whatever "Southern life" is, and there are many disputes about its meaning, that life calls for the management of the South's destiny, at least for the time being, by the white majority. The typical Southerner sees the demonstrators as agents of forces determined to break down the public order.... That is why the Southerners lash out with sticks and stones... The South has reasons to be deeply distressed, and the externalization of deep distress takes ugly forms.<sup>23</sup>

It is difficult to imagine Buckley writing that, say, African Americans have "reasons to be deeply distressed, and the externalization of deep distress takes ugly forms" after the Watts riots—just as it is easy to imagine the scorn Buckley would have heaped upon a liberal who wrote that sentence in such a context.<sup>24</sup> Buckley's visceral identification with

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<sup>23</sup> Wm. F. Buckley Jr., "On the Right: Birmingham and After," *National Review*, May 21, 1963, p. 397.

<sup>24</sup> Indeed, he has expressed sentiments such as these on a number of occasions. In March, 1968, for instance, Buckley wrote about race riots that what causes them "isn't segregation or poverty or frustration. What caused them is a psychological disorder which is tearing at the ethos of our society as a result of boredom, self-hatred, and the arrogant contention that all our shortcomings are the results of other people's aggressions upon us." (Cited in William F. Buckley, *Quotations from Chairman Bill: the Best of Wm. F. Buckley Jr.* Compiled by David Ranke. (New Rochelle: Arlington House, 1970,) p. 235.) Buckley expressed no concern for any



the white South is palpable, with his extended list of how they "share our history, speak our language, fight under the same flag, see the same movies and read the same books." He expresses an immense amount of empathy.

Buckley might even be read as endorsing the fundamental aims of those who oppose the civil rights demonstrators. He asserted that an indispensable part of the maintenance of "Southern life" (for all that he admits that it is a contested term) is that it "calls for the management of the South's destiny, at least for the time being, by the white majority." In this piece, Buckley did not say straightforwardly that this is an acceptable or laudatory aim; he merely expressed an opinion that that is what the white South wants in the context of expressing understanding of their point of view. Perhaps he would have denied that their aim was acceptable if pressed; but he certainly did not deny it in the essay he wrote. Yet all of this is in the context of an essay which—however hesitantly, however strewn with caveats about public order and with paeans to the good will of those who oppose the demonstrators—nevertheless firmly declared that the right of peaceable assembly must be respected. So while his sympathies did not lie with the Civil Rights Movement—and while he can be read as continuing to endorse the aims of its opponents—at least on the immediate issue, the stance taken in his essay was to support the Movement.

In another essay from the same period, however, Buckley took what was almost the opposite position—that the methods sought to

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"reasons to be deeply distressed" or recognition that " the externalization of deep distress takes ugly forms" in *that* context.

achieve integration (in this case, federal intervention) were too extreme even if the ultimate aim was worthy. Or at least he appeared to: a close reading of his language shows that his embrace of the aims of the Civil Rights Movement was almost entirely in the language of stipulation:

Let us take the word of the predominating school of social scientists and stipulate that segregation is the cause of personality disturbances.... Assume, also that the legal and political power is wholly at the disposal of the society to effect its point of view in the south. Assume, in other words, that *Brown v. Board of Education* and the supporting decisions of the Supreme Court deconstitutionalized segregated public schooling beyond the point of argument.... Should the federal government then proceed?<sup>25</sup>

Even with such stipulations, Buckley expressed some skepticism about the ultimate worth of integration, questioning the sociology used in *Brown*, and asserting his belief that, in any event, "the *forms* of segregation, which so much engross us at the moment and which alone are within the reach of the law to alter, are of tertiary importance, and of transitory nature."<sup>26</sup> At the same time, Buckley did refer to the ongoing racial problems (or possibly even racial disparities—the context makes it ambiguous) as a "cancer" in the course of analogizing federal intervention to surgery.<sup>27</sup> But Buckley ultimately came down against such intervention, declaring that the ends were not worth such means:

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<sup>25</sup> "Can We Desegregate, Hesto Presto?" in Wm. F. Buckley, Jr., *Rumbles Left and Right: A Book About Troublesome People and Ideas*. (New York: G. P. Putnam's Sons, 1963), p. 123.

<sup>26</sup> *Ibid*, p. 125.

<sup>27</sup> *Ibid*.

A conservative is seldom disposed to use the federal government as the sword of social justice, for the sword is generally two-edged... If it is doubtful just what enduring benefits the Southern Negro would receive from the intervention of government on the scale needed to, say, integrate the schools in South Carolina, it is less doubtful what the consequences of interposition would be to the ideal of local government and the sense of community, ideals which I am not ready to abandon, even to kill Jim Crow.<sup>28</sup>

Thus despite some (highly qualified) sympathy for integration as a result, Buckley found the means of federal intervention, and the expansion of federal power it would entail, far too drastic to support. It is important to note that, like the position Buckley took in his 1957 editorial, this was an extremely common argument from moderate segregationists: the rhetorical tactic of claiming to admire the ends but declaring that the means were unacceptable—claiming, in fact (as Buckley does as well) that there exist no acceptable means—was quite standard. Despite his "assuming" the rightness of the cause of desegregation, Buckley's arguments here in fact placed him well within the mainstream of moderate segregationist thought at the time.

At the height of the crisis in Selma which would mark the culmination of the Civil Rights Movement, Buckley once again weighed in on the Civil Rights Movement—this time staking out a position on the very issue, voting rights, that he had written about in such incendiary terms eight years earlier. And while his position had not changed from where he ended up after his clarification, his tone had. By 1965 Buckley was straightforward about the need for *de jure* colorblindness:

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<sup>28</sup> Ibid., p. 126.

Of course [African Americans] should have the vote—to the same degree that white people and yellow people and blue people should have the vote. ... On the single issue of whether a Negro in Alabama should be deprived of the vote simply because of the color of his skin, it seems to me that there cannot be any argument: none moral, and certainly none constitutional.<sup>29</sup>

There is a conviction and clarity about the need for *de jure* racial equality in this passage which was lacking from his piece on the same topic eight years before. Yet Buckley was still quite hesitant about the idea of African Americans voting; and he was still willing to endorse measures that would significantly disenfranchise African Americans so long as those measures were technically color blind. Thus Buckley also wrote:

But note the qualifier, "to the same extent." It may very well be that what Alabama ought to do is not to enlarge the franchise but to restrict it—irrespective of race, color or creed.... [The issue of denying the vote based solely on race] is altogether a different question [from] whether the State of Alabama would be better governed if every single Negro over the age of twenty-one were to participate at the polls.... In much of the South, what is so greatly feared is irresponsible, mobocratic rule, and it is a fear not easily dissipated, because it is well-grounded—that if the entire Negro population in the South were suddenly given the vote, and were to use it as a bloc, and pursuant to the directives handed down by some of the more demagogic Negro leaders, chaos would ensue.... True reform in the South would involve raising the standards for voting—and raising them impartially, for black and white alike. ... For the time being the imposition of such a test would undoubtedly mean the

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<sup>29</sup> Wm. F. Buckley Jr., "On the Right: The Issue at Selma," *National Review*, March 9, 1965, p. 183.

disqualification of more Negroes than whites, but that is merely a mechanical reflection of the existence of a disparity in training and accomplishment at the present moment which is precisely what the fuss is all about. What, after all, does the national association mean when it calls for the *advancement* of colored people?<sup>30</sup>

Buckley then closed his essay by noting the difficulty for Southern legislators in trying to disenfranchise some of those who currently elect them, but nevertheless recommended that "at least the South should consider the alternative," ending by raising the specter of

...a suddenly enfranchised, violently embittered Negro population which will take the vote and wield it as an instrument of vengeance, shaking down the walls of Jericho even to their foundations, and reawakening the terrible genocidal antagonisms that scarred the Southern psyche during the days of Reconstruction.<sup>31</sup>

So while Buckley was firm in his insistence upon *de jure* color blindness by 1965, he was unwilling to push it very far. He still described the African American population of the South, collectively, as culturally beneath the white South—albeit not in such provocative words as he had eight years before. He still was willing to endorse measures that would openly lead to widespread African American disenfranchisement as one of their goals, although his fears of African American suffrage have mixed with concerns about the suffrage of less-educated whites (he cited what he saw as the problems with "The red-neck vote, dominated by primitive and earthly passions; and the big-city vote, dominated by special-interest manipulation.") And he is still willing to raise as a horror

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<sup>30</sup> Ibid.; emphasis in the original.

<sup>31</sup> Ibid.

the image of a united and empowered African-American population—doing so in terms which would certainly have been considered insensitive if not racist just a few years later (and probably were in 1965 as well).<sup>32</sup> If his views changed between 1957 and 1965, it can't be said that they changed very much.

In addition to Buckley's personal essays, the *National Review* continued to publish pro-segregation arguments by other writers throughout the late 50's and early 60's.<sup>33</sup> While it is obviously true that no single piece in the magazine can be considered to have Buckley's personal endorsement nor to reflect his personal thinking, nevertheless his magazine was designed to promote a general school of thought (he did not publish liberal opinion pieces), so the recurrence of a point of view in the journal he edited signifies that it was one which, at the very least, he thought represented a serious view worthy of significant consideration, whether or not he personally agreed with it. And, of course, his influence as an editor and molder of opinion finally outweighed his influence

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<sup>32</sup> It is also perhaps noteworthy that Buckley speaks so sympathetically of the Southern memories of Reconstruction, even referring, rather histrionically, to that period as involving "genocidal antagonisms."

<sup>33</sup> In 2000, the avowedly white supremacist journal, *American Resistance*, published an article by James P. Lubinkas entitled "The Decline of the National Review" (<http://www.amren.com/009issue/009issue.html#cover>) with the sub-heading "NR was once a voice for whites." This article lamented the *National Review's* change in attitude towards racial matters, citing with approval many examples of the *National Review's* former support for segregation. While I obviously oppose to the strongest possible degree the views expressed, Lubinkas' essay did (along with other sources) direct me to some useful examples of the *National Review's* former support for segregation.

simply as a writer, so his willingness to publish and promote pieces supporting segregation—even if they did not reflect his precise personal views—was nonetheless significant.

To be sure, there were pieces published on the other side as well. In particular Garry Wills (who was later to move to the left in part due to his response to the Civil Rights Movement) published a number of pieces more supportive of the various aspects of African American struggles, publishing a positive review of James Baldwin's *The Fire Next Time* and even making an early case for Affirmative Action ("preferential hiring") in the magazine.<sup>34</sup> But for the most part the articles in the *National Review* were at best skeptical towards the Civil Rights Movement, and many were flatly opposed to it or its goals.

Thus, for instance, Buckley published a number of articles by Richmond-based James Kilpatrick in the *National Review*, including a supportive analysis of Orval Faubus's position during the Little Rock crisis of 1957, a cover story attacking the proposed Civil Rights Act entitled "Civil Rights, Legal Wrongs" and an extended attack on the Voting Rights Act under the title "Must We Repeal the Constitution to Give the Negro the Vote?"<sup>35</sup> He published several defenses of the (white)

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<sup>34</sup> Judis, p. 273. Judis also notes that it was a 1968 essay sympathetic to black militants that eventually caused Wills to break relations with Buckley (p. 322).

<sup>35</sup> James Jackson Kilpatrick, "Right and Power in Arkansas," *National Review*, September 28, 1957, pp. 273 - 275; "Civil Rights, Legal Wrongs," *National Review*, September 24, 1963, pp. 231 - 236; and "Must We Repeal the Constitution to Give the Negro the Vote?," *National Review*, April 20, 1965, pp. 319 - 322.

southern position by Richard Weaver.<sup>36</sup> A piece by Will Herberg after the Watts riots blamed them on damage to the "secure internal order" caused by

the doings of such high-minded, self-righteous "children of light" as the Rev. Dr. Martin Luther King and his associates in the leadership of the "civil rights" movement. If you are looking for those ultimately responsible for the murder, arson and looting in Los Angeles... they are the guilty ones, these apostles of "non-violence."<sup>37</sup>

(Note the quotations marks around the words "civil rights"—in the title as well as in the passage cited—which implies that in addition to decrying the method of the Civil Rights Movement (non-violent civil disobedience), Herberg thought little of their aims as well.) And an extended piece by Ernest van den Haag, "Intelligence or Prejudice?", argued that African Americans were innately less intelligent than whites, and that other scholars got this matter "clearly and overwhelmingly wrong" because of their desires to believe the contrary.<sup>38</sup>

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<sup>36</sup> Richard Weaver, "The Regime of the South," *National Review*, March 14, 1959, pp. 587 - 589.

<sup>37</sup> Will Herberg, "'Civil Rights' and Violence: Who are the Guilty Ones?," *National Review*, September 7, 1965, pp. 769-770;; quotation on p. 769.

<sup>38</sup> Ernest van den Haag, "Intelligence or Prejudice?," *National Review*, December 1, 1964, pp. 1059 - 1063; quotation on p. 1060. Buckley was proud of having published this piece; in a 1969 essay in which he trumpeted other supposedly scientific findings to this same effect, Buckley cited van den Haag's earlier essay, referred to it as "brilliant", quoted several paragraphs from it and suggested that those be "committed to memory"—though, in fairness, the paragraphs Buckley cited included several denying possible implications of this finding (such as unfitness for political office); and Buckley concludes by making the "Christian point" that "all men are equal in the truest sense of the word." Wm. F. Buckley



All these—and they are just a sample—were in addition to a steady stream of unsigned editorials supporting, to varying degrees, the segregationist position in the ongoing struggle with the Civil Rights Movement. One *National Review* editorial declared that *Brown* had reversed a period of improving race relations in the South and expressed sympathy for the position of Orval Faubus.<sup>39</sup> Another claimed that the bill which would become the Civil Rights Act of 1964 might worsen race relations and that it was not a situation "about which there is simply no doubting the correct moral course"—and that the 1963 March on Washington was therefore a bad thing.<sup>40</sup> Yet another declared that due to communist infiltration of the March, and their support for the Civil Rights Movement, those who attended "are indeed morally implicated by the coincident Communist purposes."<sup>41</sup> In 1964, in the wake of SNCC members Chaney, Goodman and Schwerner's disappearance, the *National Review* published an editorial warning against "being seduced by our outrage over the act of a few desperadoes in Mississippi" and suggesting the disenfranchisement of whites as well as African Americans as a solution to the state's problems (a position identical with Buckley's previously-cited view).<sup>42</sup> On the tenth anniversary of *Brown* an editorial

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Jr., "On the Right: On Negro 'Inferiority,'" *National Review*, April 8, 1969, p. 350.

<sup>39</sup> "The Court Views its Handiwork," *National Review*, September 21, 1957, pp. 244 - 245.

<sup>40</sup> "When the Plaints Go Marching In," *National Review*, August 27, 1963, p. 140.

<sup>41</sup> "Communists and the March on Washington," *National Review*, August 13, 1963, pp. 93 - 94.

<sup>42</sup> "Mississippi," *National Review*, July 14, 1964, pp. 573 - 575.

called the decision "bad law and bad sociology" and exclaimed: "what a price we are paying for *Brown*!"<sup>43</sup> And the *National Review* said that the situation in Selma in March, 1963 was "not precisely Good Angels vs. Bad" and that "the balance in morality and equity becomes so complex and confused" that it is hard to judge.<sup>44</sup> All these assertions were in addition to many other similar stances.

This is not to claim that the *National Review*'s position was *entirely* one-sided; it regularly condemned the violence used against the Civil Rights Movement (though at times merely on the grounds that it was counterproductive), and would from time to time mention the justice of one or another of the Movement's aims. This is simply to say that the positions taken were—unsurprisingly—practically identical to those published under Buckley's name. But while we cannot know for certain which of these editorials Buckley himself penned (although in some cases the similarity in phrasing with writings he did sign is so close that it is hard to believe he did not write them), these stances, even more than the multitude of articles by other writers published in the *National Review*, show that Buckley was not only personally on the side of segregation, but that the magazine for which he was the guiding spirit was firmly and repeatedly on that side as well. While in later years Buckley would on occasion declare himself to have been "wrong" on this issue, citing it as the foremost (or even sole) example of a stance he regretted taking, at the time, it was clear which side he was on.

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<sup>43</sup> "The Brown Decade," *National Review*, June 2, 1964, pp. 433-434.

<sup>44</sup> "The Selma Campaign," *National Review*, March 23, 1965, pp. 227 - 228

In later years Buckley only occasionally addressed his former support for segregation directly. For the most part Buckley avoided the matter, neither raising the issue or addressing the past—an easy enough route for a political commentator, since in that role it is perfectly natural to focus on contemporary and not historical issues.

But even in his discussions of contemporary politics, one can see one element of Buckley's response to his segregationist past, although an unacknowledged one: Buckley's shifting position on certain race-related issues. This shift mustn't be overstated: he didn't shift a great deal. Buckley retained his caustic scorn for aspects of the post-1965 Civil Rights agenda, such as affirmative action, and expressed it in ways that was often harshly critical of the Civil Rights Movement establishment. And certainly negative reactions to the latter-day agenda of African-American leaders occupied a far larger place in his work than any positive disposition towards achievements of the past.

Yet there were a few of the latter. One notable example was Buckley's endorsement, in 1979, of a federal holiday honoring Martin Luther King, Jr. Buckley's view of King during the latter's lifetime had been far from positive. And even in his endorsement of the King holiday, Buckley felt obliged to mention what he continued to consider King's faults. He mentioned King's sexual escapades; he decried what he saw as King's hypocrisy in selectively condemning persecutions in other countries; he mentioned dismissively King's views on Vietnam. And he singled out for criticism the principle for which King is best remembered, civil disobedience, claiming that "Using the King formula, you could go

on to say that Sirhan Sirhan's assassination of Robert Kennedy was nothing more than an act of civil disobedience," evading the question of how an act of murder might be justly compared to the tactics of a proponent of nonviolence.<sup>45</sup> Yet for all his caveats, Buckley ended up endorsing a holiday for King:

Martin Luther King is the black American who consummated the civil war Abraham Lincoln undertook, largely animated by his belief in metaphysical equality. A gesture of recognition—of King's courage, of the galvanizing quality of a rhetoric that sought out a reification of the dream of brotherhood—is consistent with the ideals of the country, and a salute to a race of people greatly oppressed during much of U.S. history.<sup>46</sup>

Nor is this acknowledgment of King's positive role unique in Buckley's work. Nearly twenty years later, in his "autobiography of faith," Buckley singled out King for praise, decrying that the specifically *Christian* aspect of King's message was forgotten; but in the process of focusing attention on King's Christianity, Buckley says that for a number of reasons, including his leadership of the Civil Rights Movement, King "merit[s] admiration and even devotion."<sup>47</sup>

Apart from various offhand nods towards the past sprinkled throughout his writings, and the above-mentioned rethinking that was implied by the (subtle) shifts in his positions, Buckley directly addressed

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<sup>45</sup> Column from January 23, 1979, , collected in William F. Buckley, *Right Reason*, ed. Richard Brookhiser. (New York: Doubleday & Co., 1985), pp. 374 - 376; quotation on pp. 374.

<sup>46</sup> Ibid, pp. 375 - 376.

<sup>47</sup> William F. Buckley, *Nearer, My God: An Autobiography of Faith*. (New York: Doubleday, 1997), pp. 37 - 38.

his past positions on issues relating to segregation only on a handful occasions. The most extensive of these articulations of his changed stance came in a 1988 letter to the *Policy Review* responding to an essay by Lee Edwards. (Edwards is a life-long conservative activist, with impeccable conservative credentials, having served as a speechwriter for Joseph McCarthy, been a founding member of the Young Americans for Freedom and worked on the Goldwater campaign; he later received a doctorate in world politics from Catholic University, made name for himself as a historian of the conservative movement and has spent much of his recent career at conservative think-tanks, including, as of the present writing, the Heritage Foundation.)<sup>48</sup>

In its Fall, 1988 issue, *Policy Review* (a conservative journal published by the Heritage Foundation) published an essay by Lee Edwards entitled "The Other Sixties: A Flag Waver's Memoir." While the majority of that essay demonstrated Edwards' continued belief in the positions he and other conservatives had taken in the 1960's, he did express a few regrets, which he termed "conservative second thoughts."<sup>49</sup> The most extensive and heartfelt of these regrets were about conservative attitudes towards the Civil Rights Movement. Edwards wrote:

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<sup>48</sup> Rick Perlstein, *Before the Storm: Barry Goldwater and the Unmaking of the American Consensus* (New York: Hill and Wang, 2001), pp. 107, 247; John A. Andrew, *The Other Side of the Sixties: Young Americans for Freedom and the Rise of Conservative Politics* (New Brunswick: Rutgers University Press, 1997), p. 5; online biographies of Edwards at the Heritage Foundation (<http://www.heritage.org/about/staff/LeeEdwards.cfm>) and the Institute of World Politics (<http://www.iwp.edu/faculty/facultyID.3/profile.asp>).

<sup>49</sup> Lee Edwards, "The Other Sixties: A Flag Waver's Memoir." *Policy Review*, Fall 1988 (no. 46), pp. 58 - 65; quotation from p. 65.

And then there is civil rights. We were wrong about civil rights in the 1960s; legally right, perhaps, but morally wrong, and politically wrong as well. Blacks needed legislation in 1964 and 1965 to redress grievances and guarantee certain rights, and because our presidential candidate and movement leader [Barry Goldwater] voted "No" (albeit with the best of intentions) we have been castigated as "racists" and "bigots" ever since. Jack Kemp and other congressional conservatives have been building bridges to blacks. They are to be commended for reaching out to a group that shares our beliefs in family, church, and community. Conservatism will never be the dominant political philosophy of America without broad representation of this country's 30 million blacks.<sup>50</sup>

It is perhaps noteworthy that Edwards frames his regrets in such a way as to justify Goldwater's stance—exempting the question of legal rectitude from his *mea culpa* in contrast to moral and political rectitude, and specifying that Goldwater's vote was cast "with the best of intentions." Indeed, earlier in the article, in delineating the "ambivalence" that 60's conservatives had about Martin Luther King, Edwards had earlier discussed Goldwater's stance, insisting at some length that "Goldwater did not have a racist bone in his body.... As a member of the Phoenix City Council, he voted to desegregate the airport restaurant; he was a member of both the Phoenix and Tuscon NAACP," and describes Goldwater's vote as "a matter of principle" for which he "suffered serious political consequences."<sup>51</sup> Goldwater remained a polestar for Edwards in 1988, and he takes pains to see him in a positive light—and, hence, clear him of the charge of racism. Indeed, Edwards is an example of a conservative

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<sup>50</sup> Ibid.

<sup>51</sup> Op. Cit., pp. 62-63.

who adopted the historical view of contemporary conservatism that I sketched at the beginning of this chapter, writing that "the political impact of the post-World War II conservative movement can be traced essentially to three men—Russell Kirk, William F. Buckley, Jr., and Barry Goldwater."<sup>52</sup>

The other aspect of Edwards's *mea culpa* is that he included "politically wrong" as a category of conservative error in addition to his description (largely uncontested by the time Edwards wrote) of the conservative stance on civil rights as "morally wrong." Edwards based this view on the claim that Goldwater's 1964 vote cost him politically, as well as on the argument that "Conservatism will never be the dominant political philosophy of America without broad representation of this country's 30 million blacks." Yet both of these claims are questionable. Perhaps Goldwater's vote hurt him in some areas of the country, but it was also a central factor in his victory in five of the six states that he captured—the deep south states of Mississippi, Alabama, Georgia, South Carolina and Louisiana. Given the centrality of the racial issue to white voters in those states—and the size of Johnson's victory elsewhere—it seems probable that Goldwater's stance in fact helped him vastly more than it hurt him, at least as far as the electoral college is concerned.

And as for the notion that "Conservatism will never be the dominant political philosophy of America without broad representation of this country's 30 million blacks," that sentiment had probably already been proven false by the time Edwards wrote in 1988, and in any event was certainly proven false by subsequent events. Conservatism *did*

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<sup>52</sup> Op. Cit., pp. 59.

"become the dominant political philosophy of America"—arguably by 1988, and unquestionably subsequently. Yet African Americans remained throughout among the most liberal voters in the country, and very few conservative African Americans have played a prominent role on the American political stage. Edwards's eliding of these political facts—his portrayal of the conservative stance on civil rights as a matter of principle that was politically *harmful*—ignores the enormous political *benefit* that conservatives have gained from their opposition to the Civil Rights Movement. Whether Goldwater's personal stance was principled, tactical or a mixture of both, similar stances have been employed to great political gain by his party in subsequent years. The "Southern Strategy" of the GOP—appealing to southern whites alienated by the Democrats' support of civil rights—has been central to its political success since the time since Goldwater cast his negative vote. "Morally wrong" the conservative stance on civil rights may have been, but it is hard to say that it has proven "politically wrong."

In the light of Edwards's reflections, the editors of *Policy Review* got three prominent conservatives to respond to Edwards's regrets, one of whom was William Buckley. His response consisted of a three-paragraph letter which was his most sustained reflection on the issue of the conservative stance—and, by extension, his own stance—on the Civil Rights Movement. Buckley opened his consideration of the topic by agreeing with Edwards's claims in several respects:

I agree with Lee Edwards that opponents of the Civil Rights Bill of 1964 were wrong to the extent that they opposed that bill for moral reasons; indeed a state should have the right to outlaw Jim Crow laws. And obviously



it was politically wrong to take a position opposed to the direct interest of 20 million people about to be enfranchised.<sup>53</sup>

The first point to notice is that Buckley quite strongly ("obviously") seconded Edwards's claim about the *political* error of opposing the 1964 Civil Rights Bill. As previously noted, this was a rather dubious claim, and by jumping on it Buckley cleared himself, as well as the movement he did so much to inspire, of using its now-admittedly mistaken opposition to the 1964 Civil Rights Act for political ends—a use that it did, in fact, make. It is only *politically* wrong to oppose 20 million people's enfranchisement if you do not reap the benefit of many millions' more outraged at that enfranchisement; but to recognize this is to undermine the notion that the victory of conservative principles was based on their truth and morality—indeed, it is to recognize the degree to which conservative principles have been victorious for admittedly immoral reasons. Edwards, of course, put this idea out in his original piece, but Buckley seized upon it strongly.

It is also worth noting that Buckley surreptitiously narrowed Edwards' admission of error in at least one and possibly two respects. There is a significant difference between saying, as Edwards did, that conservatives' opposition to the Civil Rights Act was "morally wrong" and saying that "opponents of the Civil Rights Bill of 1964 were wrong *to the extent that they opposed that bill for moral reasons*."<sup>54</sup> The former was an admission that the stance taken was flatly wrong, indeed immoral:

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<sup>53</sup> William F. Buckley, letter to the editor, *Policy Review*, Spring 1989 (no. 48), p. 93.

<sup>54</sup> Emphasis added.

the implication is that any legal rectitude the conservative position might have had was outweighed, and should at the time have been allowed to give way to, the moral imperative. It was, in short, an admission of wrongdoing—wrongdoing entered into "with the best of intentions," perhaps, but wrongdoing nonetheless.

Buckley's claim was quite different. First, rather than framing the issue as one of legal versus moral right, Buckley considered motives: opposing the Civil Rights Act for moral motives was wrong—but, by implication, opposing it for other motives was not. Buckley did not concede that a moral imperative outweighed a legal one; he simply said that anyone who viewed opposition to the bill as a purely moral issue was wrong to do so (and, at least publicly, hardly any of its opponents did—as Buckley presumably remembered.) Edwards allowed the pall of immorality to fall over the entirety of the opposition; Buckley segregated it by motive, only critiquing opposition based on moral rather than legal principles. (Note that Edwards himself did not even *raise* the possibility of opposition based on moral motives; that arose in Buckley's take on Edwards' passage.) Further, Buckley even cast doubt on the degree to which that opposition was important—the very language "to the extent that" implies that the extent was not very great. Buckley divided morality from other issues, and then diminished its importance. As admissions go, it was quite a weak one.

Buckley was also arguably narrowing the issue at hand. In Edwards's original text, it was unclear whether he was condemning simply conservative opposition to the Civil Rights Act of 1964, or conservative opposition to the Civil Rights Movement more broadly.

Edwards did narrow the issue by allowing his discussion to come to rest on the fact that "our presidential candidate and movement leader voted 'No,'" which might be read as implying that he was only talking about opposition to the Civil Rights Act. But I believe the overall passage suggested otherwise. Edwards began by saying broadly that "we were wrong about civil rights in the 1960s"—a phrase that implied a broader context than merely opposition to a single bill, especially in the context of a memoir entitled "the other sixties." Under this interpretation, Goldwater's negative vote on the Civil Rights Act stood in Edwards's text simply as a synecdoche for the broader conservative opposition to the Civil Rights Movement. In any event, Buckley unequivocally narrowed the issue to one simply of the Civil Rights of 1964, and perhaps the Voting Rights Act, certainly eliding any possible consideration of the broader conservative record on civil rights—a narrowing that elided other troubling issues, including Buckley's own 1957 statement.

Buckley went on to address his contemporary feelings in the remainder of his letter. Buckley wrote:<sup>55</sup>

Am I glad the civil-rights law (and its successor) passed? I don't find that question easy to answer. I can be glad, in my heart, that the lynch mob hanged the murderer while worried about the strategic effect of direct action. The Supreme Court, after *Brown v. Board of Education*, became a monumental American problem. It might have become that in any case. But before very long it had become the principal moral tribunal of the

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<sup>55</sup> This paragraph is preceded by a boldface header reading "Troubling Means to Worthy Ends"; but it is unclear if this header is Buckley's or was added by the editors—indeed, the latter seems more probable. So I omit it from consideration here.

American people. ("What do I think about busing?" said presidential candidate George McGovern in 1972. "I don't have to answer to that. The Supreme Court hasn't ruled on the subject.") What the reporter wanted was not the view of the Supreme Court about compulsory busing, but the view of candidate McGovern. The psychologists call it transference, and this the American people—or, more accurately, the American clerisy—have done since the Supreme Court took over the business of serving as principal moral exegete of the law.

Those who opposed the Civil War did so not, in many cases (I think of Sam Houston) because they wished to prolong slavery, but because they wished to avoid bloodshed en route to manumission. I don't think it is safe to say that the results brought on by the civil-rights bill would have been long delayed if Congress had not acted, waiting for pressure from the American public, and the states. We have still to catch up with the fallout of the French Revolution, and certainly we have still to catch up with the fallout of the civil-rights laws.<sup>56</sup>

In the first paragraph, Buckley laid out one of the standard conservative critiques of post-1965 Civil Rights law: the overactive role of the judiciary, particularly the Supreme Court. This was a slightly odd response, since the question was not about the propriety of *Brown*; and the Civil Rights Act as such certainly did not lead to the Supreme Court becoming "the principal moral tribunal of the American people." Perhaps we might speculate, given Buckley's invocation of psychologists, whether a strategy of avoidance might be coming into play: after all busing, which remained a topic of some controversy, was far easier ground for a conservative movement stalwart to navigate than was the thornier issue of

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<sup>56</sup> Buckley, *Policy Review*, op. cit.

basic civil rights such as access to public accommodations and the franchise.

In any event, Buckley's overall answer did seem to be well-summarized by the headline given it (whether it was his or not,) "Troubling Means to Worthy Ends." But Buckley certainly did not come clearly down on the side of saying—as Lee Edwards had—that the ends had been important enough that they should have overcome conservatives' concern about the means employed. Buckley put his thumb on each side of the scale, however. He lessened the urgency of the ends by saying that he didn't "think it is safe to say that the results brought on by the civil-rights bill would have been long delayed if Congress had not acted, waiting for pressure from the American public, and the states." Yet if it is not safe to say it would have been long delayed, it is even riskier to assert the contrary—particularly if the scenario contemplated is (as here) the non-involvement of the Federal Government. After all, in such a case, pressure from the American public as such would have had little effect, since the only political force that would have counted would have been the voters in each of the several states—in practice, the white voters, since the enfranchisement of African Americans was one of the issues at stake. Nor is the notion of pressure from "the states" relevant if action by the federal government is not contemplated; each state would then act independently. Buckley was asking his audience to believe, in effect, that the white voters in the states with the greatest resistance to the enfranchisement of African Americans would have swiftly voted *on a state by state level* to allow readier access to the franchise. He was similarly asking his readers to believe that the states with the most

entrenched segregation in the areas covered by the Civil Rights Act (such as public accommodations) would have, in the course of each states' separate political process, outlawed such segregation. Neither scenario seems at all plausible. The kindest thing to say about Buckley's claim that these problems would have been solved *without* Federal intervention is that it seems not to have been well thought through.

On the other side of the scale—on the issue of the impact of the allegedly troubling means—Buckley placed an even heavier thumb on the balance. With the exception of the increased role for the Supreme Court, Buckley did not specifically spell out what negative effects he saw arising from the various pieces of civil rights legislation. But the metaphors he used to describe its effects were extreme. He compared the action of passing the Civil Rights Act and the Voting Rights Act to, in turn, a lynching, the bloodshed brought on by the Civil War and (obliquely) the French Revolution. The mildest comparison involves a murder; the most extensive one is to the single bloodiest war America has suffered. In addition to the violence of the metaphors, the level of implied illegitimacy was strong too: a lynching is, obviously, a crime; the Civil War's legality was complex, but it was unquestionably a failure of the governmental structure of the nation; similarly, the French Revolution was a radical toppling of the old order. If only in the metaphors he chooses, Buckley's sense of the Civil Rights Movement's legal victories as violent and illegitimate was quite strong.

It is also hard to see how such comparisons might be sustained. The Civil Rights Act hardly led to the tyranny that conservatives warned of at the time. The level of legal change involved was at most

evolutionary rather than revolutionary. And, of course, any suggestion of bloodshed arising from the passage of the Civil Rights Act is fairly ridiculous.<sup>57</sup> Buckley, of course, might reply that he was not claiming that the mid-60's legislation led to bloodshed or the overturning of the American governmental structure. But this begs the question of why he invoked these comparisons in the first place. And certainly his final sentence, with its suggestion that the various pieces of civil rights legislation might have long term consequences comparable to the French Revolution, carried rather direct and heavy implications.

In any event, by invoking such events as the comparisons, Buckley made the issue of whether the passage of the Civil Rights and Voting Rights Acts had been worth the price far more complex than it might seem otherwise. In rhetoric, if not in direct argument, Buckley tipped the scale strongly against the moral imperative of integration and in favor of the justification for conservative's opposition. Small wonder, then, that Buckley found the question of whether he was "glad the civil-rights law (and its successor) passed" to be a difficult one.

It should be noted, in passing, that it is a rhetorical tack of considerable gall to compare the passage of the Civil Rights Act to the perpetration of a lynching. Buckley's point may simply have been that while the ends were legitimate the means were not. But since lynchings (and the resultant intimidation of African Americans) were one of the chief forms by which the Jim Crow regime maintained itself via violent intimidation, to compare the *legal* acts which, in essence, finally ended

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<sup>57</sup> In contrast to the bloodshed caused by some of those who sought to block its passage, which is well known.

that regime to the overtly *criminal* means by which it had been sustained is an extreme—perhaps even an offensive—analogy. (Buckley even employed a phrase, "direct action," which was usually associated with the Civil Rights Movement's nonviolent resistance, and used it as his characterization *of* the lynching.) The extremity of the rhetoric was, arguably, simply an extension of the verbal style that brought Buckley his fame and influence; this does not, however, diminish its vulgar shock in this particular instance.

Aside from its shock-value, the analogy also subtly calls into question the moral clarity which Buckley seemingly endorsed in his first paragraph. After all, while one might be glad that a murderer was killed (and thus received some rough form of justice), lynching can't possibly be called a moral act. If the point of Buckley's letter was indeed to say that the Civil Rights Act achieved worthy ends by troubling means, then this metaphor cast into serious question the genuine worthiness of the ends—implying, rather, that while the *intended* goal (justice) might have been worthy, not only the means but the specific ends as well were illegitimate. On close inspection, it seems that Buckley's fundamental view had changed comparatively little from the time decades before when he had declared the trauma of surgery too great to justify the removal of the Jim Crow "cancer."

In the final decade of his life, the topic of Buckley's former support for *de jure* segregation arose several times in interviews and published dialogues. On some of those occasions, Buckley was asked directly about his previous stances; at other times, he was simply asked about any



regrets he might have in a general way, and raised the topic of Civil Rights himself. The latter is perhaps significant: even in a context when the issue was not put to him, Buckley himself was willing to raise the issue. Buckley thus marked out his former opposition to Civil Rights as one of the central regrets—if not the central regret—about his long career.

At the same time, it might also be noted that for all that he would occasionally answer questions about regrets by raising the issue of segregation, he did not see fit to discuss the matter at length. For example, Buckley does not seem to have ever devoted a column to his regrets about his one-time support for Jim Crow. Indeed, Buckley could write at length about the history of American debates over segregation without noting his own role in those debates. In a column about the Trent Lott affair, "In the Post-Lott World",<sup>58</sup> Buckley had a fair amount of mockery to offer about hate crimes and the nature of Lott's career trajectory, but not a hint that he himself had supported the positions, the retroactive endorsement of which Lott was forced to apologize for, far later than the 1948 Presidential Bid Lott was nostalgic for.

And for all that Buckley himself held his former support of segregation to have been a mistake, and something he regretted, his specific comments about the matter were not always forthright, and indeed several of his various stabs at the topic contradicted each other. On this issue, Buckley's convictions lacked the clarity which had helped turn the country's politics towards his own way of thinking.

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<sup>58</sup> William F. Buckley, "In the Post-Lott World", *The National Review*, January 27, 2003, p. 58 (column dated December 24, 2002).

In 2001, Buckley addressed the Civil Rights Act after the topic had been raised in an online discussion he participated in with journalist Michael Kinsley.<sup>59</sup> In the midst of this exchange Kinsley mentioned the Act to clarify a point Buckley had made about Affirmative Action. Kinsley, after a digression about the complexities of changing ethical standards, then "remind[ed]" — whether himself, his readers or Buckley wasn't specified — that "many reasonable people--nonracists--did oppose the 1964 Act," and briefly summarized some of the arguments against the act, in particular Robert Bork's claim that "using the power of the government to tell people whom they must do business with really is a major imposition on private freedom." Accepting this argument as a general principle, Kinsley then said that, in his judgment, there was "no question the imposition is justified--and has been hugely successful," in the case of the 1964 bill, but declared that such impositions were "not cost-free and ought to be reserved for really special cases."<sup>60</sup> Kinsley, in short, raised the topic in a way which was extremely sympathetic to the former opponents of the legislation which had played a crucial role in ending *de jure* segregation, even partially acceding to some of their arguments, while nevertheless coming firmly down on the side of the Civil Rights Act's justice and importance.

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<sup>59</sup> The discussion took place from March 26 to 29, 2001, and remains available at Slate's web site. The first of the fifteen entries, with links to the subsequent ones, can be found at

<http://www.slate.com/id/2000245/entry/1007357/>.

<sup>60</sup> Ibid., in entry 10 (March 28, 2001), available at <http://www.slate.com/id/2000245/entry/1007381/>.

In response to these remarks of Kinsely, Buckley described his position on the 1964 bill as follows:

At National Review we opined against the bill for reasons I suppose are the same as those given by Rehnquist and Bork. What interests me at this point is your saying that it has been a "success." I agree but wonder about the role that retrospective success plays in matters of this sort. Before I forget it, we should pause to note that that was the same act that Sen. Humphrey promised to eat if ever it were adduced as authority to deny to nonwhites a civil liberty. I'd have voted against the bill, but if it were out there today, I'd vote for it, precisely for the reason you gave. I'd vote with trepidation, however, for the obvious reason that successful results cannot necessarily legitimize the means by which they were brought about. If civil war might have been avoided by other of means preserving the union and paving the way for minority rights, that would have been a good thing, right?<sup>61</sup>

Buckley had certainly changed his view since the mid-1960s, as he acknowledged. But it was a change that he was careful to express with numerous qualifications—indeed, with "trepidation." His hesitancy about the matter is palpable, and was emphasized at least as strongly as his newfound support. For instance, Buckley's remark that he "wonder[ed] about the role that retrospective success play[ed] in matters of this sort" is puzzling. Was he claiming that the retrospective view exaggerates the level of success of the Civil Rights Act (as it might seem, given that the phrase is used as a qualifier to his agreement with the claim that the bill was a success)? Or perhaps he was justifying his earlier position by

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<sup>61</sup> Ibid., in entry 11 (March 28, 2001), available at <http://www.slate.com/id/2000245/entry/1007383/>.

claiming that it was *only* in retrospect that the Act was—clearly? at all?—justifiable. The sentence was ambiguous, and Buckley did not clarify the matter; but his hesitancy about the position came through unmistakably.

To a significant extent, Buckley's reflections in 2001 were a reiteration of the themes from his lengthier considerations of thirteen years before. Certainly many of the themes from his 1988 response were repeated, often in almost precisely the same terms. As he had before, Buckley analogized the Civil Rights Act—a piece of legislation—to the bloodiest war in American history. And as before, Buckley was careful to place the bill in the context of twenty-first century conservative views on Affirmative Action, in this case by mockingly recalling a statement of Humphrey's; note also that this statement carries with it the implication that the Civil Rights Act was, in fact, "to deny to nonwhites a civil liberty." All of which indicates that while Buckley may have changed his position to the extent that he would (in 2001) have voted for rather than against the Civil Rights Act, he still considered it a clearly mixed blessing, and found what he regarded as its ill effects as equally worthy of note as its positive ones.

Two further occasions on which Buckley directly addressed the issue of his former support for *de jure* segregation both occurred in 2004. Buckley gave a number of interviews that year, some to promote his autobiography, *Miles Gone By*, and others occasioned by his relinquishing control over the *National Review*.<sup>62</sup> In two of these interviews, one in

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<sup>62</sup> David D. Kirkpatrick, "National Review Founder Says It's Time to Leave Stage," *The New York Times*, June 29, 2004, p. 18.

*Time* and the other in the *New York Times Sunday Magazine*, the topic of his previous stance on Civil Rights again came up. Both times Buckley's responses were brief. Yet the two answers he gave nevertheless managed to be quite different in both spirit and content.

In the first of the 2004 interviews, with journalist James Carney in *Time Magazine*, Buckley essentially brought up the topic himself, and declared rather straightforwardly that he had changed his mind. The exchange reads as follows:

*Over the past half-century, you have engaged in virtually all the great debates in American politics and culture.*

*Have you taken any positions you now regret?*

Yes. I once believed we could evolve our way up from Jim Crow. I was wrong: federal intervention was necessary.<sup>63</sup>

In this interview Buckley was far more straightforward than he had been in his earlier retrospective considerations of the topic. Judging from this exchange alone, it appears that he had changed his mind even since his previous statements. Whereas in 1988 he declared he didn't find it easy to answer the question of whether or not he was glad that the Civil Rights and Voting Rights Act had passed, and in 2001 he imagined himself supporting the 1964 only with "trepidation," in this later exchange Buckley dealt with the issue directly and forthrightly, coming down firmly on the side of the Civil Rights Movement. The contrasts with his 1988 statement are particularly striking. In 1988 Buckley seemed to dodge some of the harder aspects of the matter of his own past stances; in

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<sup>63</sup> James Carney, "10 Questions for William F. Buckley", *Time*, April 12, 2004, p. 8.

the *Time* interview he himself raised the issue in the context of a question about regrets. And while in 1988 Buckley continued to argue that even without the intervention of the Federal Government the issue would have resolved itself naturally, in the 2004 interview he stated openly that he "was wrong," and that "federal intervention was necessary." Buckley did not directly address the issue of his most controversial earlier statement (the 1957 declaration regarding "White community" being the "advanced race"), nor did he belabor his regrets. But he did clearly, even strongly, announce that his old position was in error. Forty years after the fact, Buckley came down unequivocally on the side of the dismantling of *de jure* segregation.

Or so it seemed. In an interview published just two months later, however, Buckley was far more equivocal when asked about the same issue, albeit in different terms. The following exchange took place between Buckley and journalist Deborah Solomon in an interview published in *The New York Times Sunday Magazine*:

*Some of your most inflammatory comments have been made in your essays and columns. In the 50's, you famously claimed that whites were culturally superior to African-Americans.*

The point I made about white cultural supremacy was sociological. It reflected, in a different but complementary context, the postulates of the National Association for the Advancement of Colored People. *What are you talking about?*

The call for the "advancement" of colored people presupposes they are behind. Which they were, in 1958, by any standards of measurement.<sup>64</sup>

Suddenly, Buckley seemed to once again stand behind his earlier position. In fact, he went so far as to claim that his 1957 position was parallel to that of the NAACP! This is an answer which, on its face, is startlingly at odds with his seemingly unqualified statement of just three months before.

Part of what occurred in this exchange may have been Buckley's reaction to perceived hostile questioning. Buckley was famous for his willingness to verbally spar and for the aggression with which he defended his ideas and himself. The question prior to this exchange was: "You have made so many offensive comments over the years. Do you regret any of them?"—clearly a very provocative question if not an overtly hostile one. (Buckley's reply began with the remark that "I regret all spontaneous exchanges"; he then went on to laud the precision of more carefully thought-out expressions of his views—overall, a somewhat strange reply from someone who hosted a television debate show for several decades.) Buckley might well have been defending himself simply as an instinctual reaction to what he perceived, with some justification, as a hostile line of questioning. Yet a debater as talented and experienced as William F. Buckley could surely have come up with a smoother means of deflecting a hostile querist than to defend positions he had come to consider wrong. At the very least it is noteworthy that

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<sup>64</sup> Deborah Solomon, "Conservatively Speaking: Questions for William F. Buckley," *The New York Times Sunday Magazine*, July 11, 2004.

Buckley was willing to defend his 1957 editorial at all, if only to score a debating point.

His defense was also a rather disingenuous one. (Deborah Solomon found it so strange that she blatantly failed to see his point, replying to his initial response by asking "What are you talking about?") The National Association for the Advancement of Colored People sought, of course, to advance the place of African Americans *against the barriers of discrimination* in American society. While there might be some technical sense in which both Buckley and the NAACP saw African Americans in need of "advancement" in 1957, Buckley understood the condition as one of cultural backwardness, whereas the NAACP saw it as an imposed condition of second-class political status. What made the point so especially glib is that Buckley himself surely knew this full well: it was an argument of almost calculated perversity to claim that his argument that the whites were the "advanced race" in the South had been equivalent to the stance of the NAACP.

Yet it is important to note that this was *not* the first time that Buckley had made precisely this argument. Recall that in the 1965 column, cited above, Buckley wrote:

...the existence of a disparity in training and accomplishment at the present moment... [between African Americans and whites] is precisely what the fuss is all about. What, after all, does the national association mean when it calls for the *advancement* of colored people?<sup>65</sup>

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<sup>65</sup> Buckley, "The Issue at Selma," *op. cit.*



And even earlier, in the section of *Up from Liberalism* which recapitulated his 1957 editorial's arguments, he had made this point as well, writing that

It is unpleasant to adduce statistics evidencing the median cultural advancement of white over Negro; but the statistics are there, and are not easily challenged by those who associate together and call for the Advancement of Colored People.<sup>66</sup>

Thus in raising the notion that his 1957 position was comparable to that of the NAACP at the time, Buckley was simply returning to a theme he first put forward nearly fifty years before—at a time when he was still maintaining the view that, in his *Time* interview, he flatly declared to have been "wrong"—that Federal intervention was unnecessary (indeed, at a time when his claim that the "the White community in the South" was "entitled... to prevail" presumably still stood). Any prolific writer and frequent debater will, of course, return to effective formulations they have used in the past, particularly in a context such as an interview which allows little time for reflection; that in itself is not remarkable. But the fact that Buckley would return to *this* formulation shows that, at the very least, some of Buckley's old habits of thought persisted unexamined. Buckley's statement to Deborah Solomon might even be reasonably used to call into question the sincerity of his latter-day commitment to the importance of integration, although I myself would argue that they simply show that commitment to be thin and poorly thought-through rather than hypocritical.

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<sup>66</sup> Buckley, *Up from Liberalism*, pp. 127 - 128.

One final invitation for Buckley to express regret for his past support of Jim Crow came in 2005. As his biographers, Linda Bridges and John R.. Coyne, Jr., write:

In a panel discussion during [the *National Review's*] fiftieth anniversary celebration in October 2005, liberal pundit Jeff Greenfield asked Buckley whether he regretted his own and his magazine's hard resistance to the civil rights movement. Yes, Buckley said, he realized in retrospect that he and his colleagues were relying too much on normal political processes as outlined in the Constitution to fully incorporate blacks into American public life, when in fact the political processes in many Southern states simply did not permit blacks to participate.<sup>67</sup>

Once again Buckley, when invited to, expressed his regret for his old support of Jim Crow. In this case, unlike in (for instance) his 1988 statement, there seems to have been none of the hesitation, none of the strangely conflicted metaphors, that he had earlier used to qualify these regrets.

But even this final expression of his altered views was in some ways notably half-hearted. It certainly defies credibility that a man as

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<sup>67</sup> Bridges & Coyne, pp. 80 - 81. They go on to cite an 1986 article in which Buckley, through quoting a "joke of my youth," recognized the barriers to the African American exercise of the franchise in the Jim Crow South. It is unclear whether this context is from Buckley's 2005 remarks or is simply brought to bear by Bridges and Coyne themselves. The article in question—"Liberty", part of a commemoration of the centennial of the Statue of Liberty (accessed at the Hillsdale College archive, op. cit.)—does indeed mention the disenfranchisement of African Americans during segregation, but it does not mention either Buckley's own support for Jim Crow nor that of his magazine; indeed, it is primarily about other topics.

involved in politics as William Buckley, who wrote repeatedly about the Civil Rights Movement as well as other issues of the day, could have failed to understand that "the political processes in many Southern states simply did not permit blacks to participate." More importantly, by describing his earlier error in those terms, Buckley portrayed his earlier resistance to the Civil Rights Movement as tactical—thinking that its goals could be achieved in one fashion when in fact other means were necessary. Obviously, in a twenty-first century context, it was far more palatable to admit to having had tactical qualms about the methods of the Civil Rights Movement than fundamental disagreement with its goals. And, to be fair, tactical opposition was at least a plausible précis of his many editorials on the matter from the 1960's, although it is a summary which elides his earlier evident sympathy for the upholders of Jim Crow, his partiality for a solution involving wide *de facto* African-American disenfranchisement, and similar issues.

But it was hardly accurate as a depiction of his overall record on the matter of Civil Rights; in particular, it completely ignored his even earlier position, which was active support for the *ideals of de jure* segregation, namely, the notion that "the White community in the South is entitled to take such measures as are necessary to prevail, politically and culturally, in areas in which it does not predominate numerically... because, for the time being, it is the advanced race."<sup>68</sup> That infamous sentence of Buckley's not only demonstrates his contemporary understanding of the fact that "the political processes in many Southern states simply did not permit blacks to participate;" it actually explicitly *supported* that very

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<sup>68</sup> "Why the South Must Prevail", op. cit.

state of affairs. In 2005 Buckley presents himself as simply having made a misjudgment about the means necessary to achieve what he felt at the time was a laudable goal, rather than confronting the fact that, in actuality, he had been (at least at times) on the other side.

It is worth noting parenthetically that Buckley's biographers, Bridges and Coyne, characterize Buckley's above-cited "second thoughts" as "generous", going on to (partially) defend the younger Buckley given "the context of the times," mentioning specifically King's communist associates and an extend defense of the concept of "states' rights" by segregationist James Kilpatrick in a 1960s essay from Buckley's own magazine—both classic tropes from contemporary segregationist writings.<sup>69</sup> (They do not address at all Buckley's 1957 editorial on "Why the South Must Prevail.") In other words, even Buckley's somewhat tepid regrets about his record are a bit too stark for the sympathetic commentators who arise from the ranks of Buckley's ideological heirs. This can be counted as an example of the phenomenon discussed in Chapter 7 below, the resistance of the contemporary conservative movement to a full reckoning with its own former support of *de jure* segregation.

While the above-cited remarks seem to have been the sum of Buckley's published reflections about his one-time support for Jim Crow, it should be noted that the reports of Buckley's friends and associates indicate that Buckley may well have been more fulsome on this topic than

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<sup>69</sup> Bridges & Coyne, pp., pp. 81 - 82. They also mention the generally left-wing nature of the Civil Rights Movement and King's inflammatory characterization of Goldwater.

he was in public. At the very least they characterize his position quite differently than seems justifiable based solely on the published record. Whether this is another example of the phenomenon we have seen frequently in the present study, namely the distortion that occurs when others describe the subsequent regrets of former supporters of *de jure* segregation (as often through failures of memory as through any deliberate exaggeration), or whether Buckley said things in private that he did not see fit to publish, is unclear.

For example, Sam Tanenhaus, a *New York Times* editor who is, as of the present writing, in the process of writing a biography of Buckley, summed up Buckley's views on the Civil Rights Movement in an online question and answer session in the days after Buckley's death in two exchanges:

Q: Did he ever recant his opposition to the civil rights movement? —Chris

A: Yes, he did. He said it was a mistake for National Review not to have supported the civil rights legislation of 1964-65, and later supported a national holiday honoring Dr. Martin Luther King Jr., whom he grew to admire a good deal, above all for combining spiritual and political values.

[...]

Q: Did Buckley ever change his 1950's pro-Segregation stance? —Bill

A: See above. He did, strenuously. He debated George Wallace quite strenuously in the late 1960s. It may seem odd, but Buckley, whose parents were both Southerners, actually inherited views on race that were fairly progressive for his time and place.<sup>70</sup>

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<sup>70</sup> Sam Tanenhaus, "Q & A on William F. Buckley", *New York Times* Web Site, published February 27, 2008, available at:

In addressing the issue of Buckley's possible "recant[ing]" of his earlier views, Tanenhaus correctly adduces Buckley's regrets about the *National Review's* opposition to the Civil Rights Act and his later admiration for Martin Luther King. But given that the second question directly references Buckley's 1950's support of segregation, it should be noted that Buckley seems never to have specifically apologized for or even disavowed his 1957 editorial. And while Tanenhaus's claim that Buckley "strenuously" changed his stance is, perhaps, a matter of interpretation, it seems a tendentious description given the level of evasion and qualification that most (although, admittedly, not all) of Buckley's public comments on the issue included.<sup>71</sup>

In the course of his researches, Tanenhaus interviewed Buckley extensively, so he certainly may in fact have heard Buckley express regrets about his past stances on *de jure* segregation "strenuously". But assuming this is the case, it is notable that someone with the public presence that Buckley had—a national column, a television show, a magazine to showcase his views in—did not express these comments save in personal communications. Perhaps Buckley genuinely felt "strenuously" about his later views, but he did not make this clear in his public statements about the matter. It seems likely that Tanenhaus was misremembering the nature of Buckley's later reflections, given how often

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<http://papercuts.blogs.nytimes.com/2008/02/27/qa-with-sam-tanenhaus-on-william-f-buckley/?st=cse&sq=buckley&scp=3>.

<sup>71</sup> Further, Buckley's 1957 claim that the "White community" was the "advanced race" certainly calls into question Tanenhaus's characterization of Buckley's views as ones that "were fairly progressive for his time and place."

this phenomenon has emerged in the descriptions of other figures who have shifted away from a former support of Jim Crow.

In addition to the various times Buckley directly addressed the issue of his past opposition to the Civil Rights Movement and its long struggle to dismantle the legal edifice of Jim Crow, Buckley made numerous comments about the Civil Rights struggle in the course of his regular commentary about later political events. Given the importance of the Civil Rights Movement as historical background for understanding American Politics since the 1960s, it would be surprising if he had not. But rather than clarifying the ambiguities and vacillations which we have seen in the various more direct expressions of Buckley's later take on that history, Buckley's *en passant* remarks about the Civil Rights Movement capture precisely the same contradictions that his overt reflections do. Unlike his specific remarks on his one-time support for Jim Crow, Buckley's passing references to the history of the Civil Rights Movement are too numerous to consider in full, but a few examples will serve to show how to variations in approach and tone that are present in the former also manifest in the latter.

For example, in the course of an essay on the nomination of Robert Bork, Buckley defended Bork against Ted Kennedy's charge that in "Robert Bork's America... blacks would sit at segregated lunch counters" in the following terms:

And why would blacks sit at segregated lunch counters?  
Where has Robert Bork defended Jim Crow? He was  
always opposed to state laws enforcing racial  
segregation, which is different from upholding the right

of the state to prescribe conduct—though even on this point, libertarian Bork is at one these days with the overwhelming majority of voters who would kick out of office anyone suggesting any return to Jim Crow even privately administered in one's own hot dog stand.<sup>72</sup>

On its face, of course, this is a simple defense of Bork against the charge of favoring segregation, claiming that "he was always opposed to state laws enforcing" it. But note that Buckley here also excused the notion of "upholding the right of the state to prescribe conduct"—in other words, opposing the right of the Federal Government to forbid it; in essence, defending opposition to the Civil Rights Act of 1964. In the course of *defending* Bork from the charge of being a segregationist, Buckley indicated that he saw no problem with having opposed the Civil Rights Act of 1964, possibly even indicating that such might be a reasonable position to take in 1987. To be sure, Buckley hurriedly points out that anyone suggesting such a thing would be voted out of office, by Bork among others; but he seems to have had no sense that adopting a legal position that states do have the right to enforce segregation is in any way problematic, so long as one personally votes against it.

On the other hand, in the course of a (largely scornful) column about Jesse Jackson from 1984, Buckley wrote that

Up to a point, the state can be the effective ally of the oppressed. A convulsive effort, enlisting the police powers of the state, was required to liberate black people from slavery; another statist effort, 100 years later, to

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<sup>72</sup> Column from July 9, 1987 collected in William F. Buckley, *Happy Days Were Here Again: Reflections of a Libertarian Journalist*, ed. Patricia Bozell. (New York: Random House, 1993), pp. 14 - 16. Kennedy quoted on pp. 14 - 15; Buckley quote from p. 15.



give black people the vote and spare them the humiliation of Jim Crow.<sup>73</sup>

Buckley, to be sure, goes on to deride Jackson's implication that there remains any "calculated [system] to exclude blacks from any position of prominence."<sup>74</sup> Nevertheless, it should be noted that Buckley forthrightly said in this passage that a "statist effort" was "*required...* to give black people the vote and spare them the humiliation of Jim Crow." Four years before Buckley declared his difficulty answering the question of whether or not he was glad the Civil Rights and Voting Rights Acts passed, a full two decades before he defended his 1957 wording to a journalist in the *New York Times Sunday Magazine*, Buckley declared that these efforts were "required."

Buckley did not simply change his mind and leave it changed; the implications of his 1984 column were in fact stronger in their retroactive support for the Civil Rights Movement than was his lengthier consideration of the matter from four years later. As was the case with his various direct reconsiderations of his former support for segregation, Buckley's casual references to the Civil Rights Movement simply and plainly contradict each other, in their implications about his later beliefs, and in the tone with which he described that history. Overall, Buckley did not seem to have arrived at a stable reading of the recent past—a past that he had not only lived through but participated in. Certainly Buckley's 1984 assertion that "the police powers of the state" were necessary to end Jim Crow can't be easily reconciled with his 1988 claim that it was *not*

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<sup>73</sup> Column from *Penthouse*, July 1984, collected in Buckley, *Right Reason*, pp. 62 - 67; quotation on p. 65.

<sup>74</sup> *Ibid.*

"safe to say that the results brought on by the civil-rights bill would have been long delayed" without Congressional action.

The question then remains: what is one to make of Buckley's inconsistency, both about the nature of the history he lived through, and about his own later attitudes towards his role in that history? One would think that a man of his intelligence, who had thought so broadly and written so voluminously, must surely have considered so central a fact in American political life as the Civil Rights Movement fairly often. Why then did he not arrive at any considered opinion about his changed views? While we cannot, of course, find a definite answer to that question, Buckley's lack of consistency suggests that, contrary to what one would otherwise have thought, this is an issue which he did *not* think through. Despite his lifelong career as the ideological compass for the conservative movement, on the central domestic political issue of his lifetime Buckley did not arrive at a consistent, settled opinion.

Perhaps it is fair to speculate that this is an issue which Buckley, if only on an unconscious level, preferred not to confront. It reflected, among other things, an ideological fissure within conservative thought: a commitment to legality and (therefore) legal justice on the one hand, and a powerful respect for preexisting social orders and profound resistance to change on the other. Buckley famously wanted to stand athwart history and yell 'Stop'; but this implies a belief in the perfection of the past (or, at least, in the inevitably deteriorating nature of change) which is at odds with other conservative commitments. To grapple too deeply with the issue of why he embraced what he later recognized was the incorrect view of the issue of segregation might have forced Buckley to question

assumptions—about the instinct to resist change, about the value of social continuity as such—that he was too deeply invested in to interrogate.

Buckley, presumably, would have resisted this line of speculation. He might well have insisted that while he got this issue wrong, it was simply a matter of a mistaken judgment call, one that did not in any way cast doubt on any of his other ideological stances or commitments. He might have—save that he never confronted the issue as deeply as he would have had to in order to make such an argument. We are thus left with his contradictions and half-hearted regrets, and led back to the speculation which, however distasteful Buckley might have found it, has few other explanatory competitors to diminish its appeal.

CHAPTER 5:  
"RECONSTRUCTED BUT UNREGENERATE": THE SHIFTING  
STANCES OF HERMAN E. TALMADGE

Herman E. Talmadge's public career spanned almost the entirety of the slow elimination of *de jure* segregation from American public life. In 1947, when he briefly (and under somewhat unusual circumstances) first became Governor of Georgia, segregation was still largely intact, particularly in the South. There had been some victories against it in the previous few decades—for example some of the early cases in the NAACP's legal battle against segregated education, such as *Gaines v Canada*. But for the most part segregation remained firm. Both Truman's order integrating the army and the integration of major league baseball were still in the future, to say nothing of such key events as *Brown v. Board of Education*, the various battles of the Civil Rights Movement, and the Civil Rights Act of 1964 and the Voting Rights Act of 1965. By the end of Talmadge's long career in the Senate—he was defeated in his final re-election campaign in 1980—*de jure* segregation had become a thing of the past. By the time Talmadge last ran for office, open support of segregation was no longer an option for a politician wishing a realistic chance of winning statewide election. And, in fact, by the later stages of his career Talmadge had modified his earlier views (or at least his earlier rhetoric). One historian dates his public shift from 1966, when Talmadge made a pilgrimage to the Atlanta Hungry Club, "expressed the hope that the era of race-baiting was over" and claimed that he "sought 'to represent all the people of Georgia,'" and goes on to note that after this visit

Talmadge did indeed remain "true to his word".<sup>1</sup> After his defeat in 1980, Talmadge retired from politics. In 1987, however, he published *Talmadge: A Political Legacy, A Politician's Life: A Memoir*,<sup>2</sup> written in a folksy, laid-back style, in which he discussed, in the course of reviewing his career, his views from decades before.

Herman E. Talmadge was the son of Eugene Talmadge, the Governor of Georgia from 1933–1937 and again from 1941–1943. The elder Talmadge won another election in 1946, only to die a few weeks later, before assuming office. In the resultant chaos, the Georgia legislature used a technicality to appoint Eugene's son, Herman Talmadge, Governor in the elder Talmadge's stead. This appointment was soon ruled unconstitutional by the Georgia Supreme Court, but Talmadge won election in 1948 to the remainder of his father's four-year term, and then won his own full term in 1950. Shortly after the *Brown* decision, the *New York Times* called Talmadge "the South's foremost spokesman of 'white supremacy.'" A year after the end of his term as governor in 1954, Talmadge published a polemic against the *Brown* decision entitled *You and Segregation*.<sup>3</sup>

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<sup>1</sup> Stephen G. N. Tuck, Beyond Atlanta: the Struggle for Racial Equality in Georgia, 1940 - 1980 (Athens: University of Georgia Press, 2001), p. 193.

<sup>2</sup> Herman E. Talmadge, with Mark Royden Winchell, Talmadge: A Politician's Legacy, a Politician's Life: A Memoir. Atlanta: Peachtree Publishers, Ltd, 1987.

<sup>3</sup> Talmadge, 1987; Roger N. Pajari, "Herman E. Talmadge and the Politics of Power", in Henderson & Roberts, Georgia Governors in an Age of Change; James F. Cook, The Governors of Georgia, 1754 - 1995 (Macon: Mercer University Press, 1995). *New York Times* cited in Numan V. Bartley, The New South, 1945 - 1980 (Louisiana State University Press, 1995), p. 160.

In 1956 Herman Talmadge was elected to the Senate. While in the Senate, he continued to be a prominent spokesman for segregation. He also played a prominent role in the Watergate hearings. In the 1970s, he faced a number of personal crises, including the death of his son, Robert Talmadge, a divorce from his wife of many years, and a struggle with alcoholism. He was also censured by the Senate in 1979 for ethical violations (involving a padded expense account). Finally, after a bruising primary battle against Zell Miller in 1980, Talmadge went on to lose his final Senate race to Republican Mack Mattingly. After this final loss, Talmadge retired from politics. He published his memoir in 1987, and died in 2002 at the age of 88.<sup>4</sup> It is Talmadge's memoir which will receive the bulk of attention here, as it was his most sustained explication of his change of view, and of what he thought about his previous stances in light of that change.

One phrase from Talmadge's memoir which encapsulates all the complexities of his revised position on segregation was used as the title of Talmadge's tenth chapter: "Reconstructed But Unregenerate." This phrase sums up the ambiguity of Talmadge's later position on segregation and the stances he took in support of it. What precisely does it mean, after all, to be 'reconstructed but unregenerate'? If 'reconstructed' is to be now in favor of integration, how does that square with being 'unregenerate'? And

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<sup>4</sup> Talmadge, 1987; Pamela Hackbart-Dean, "'The Greatest Civic Lesson in Our History': Herman Talmadge and Watergate from a Twenty-five-Year Perspective." *Georgia Historical Quarterly* 83 (Summer 1999): 314-321; Adam Clymer, "Herman Talmadge, Georgia Senator and Governor, Dies at 88", *The New York Times*, March 22, 2002, p. B9.

if Talmadge was indeed unrepentant about the stands he took, in what way had he been 'reconstructed'? How could he both have come to support a goal and continue to support the actions he took to oppose that goal? There is an obvious—and obviously intended—contradiction in the phrase. So what did Talmadge mean by it?

Three possible meanings of this phrase emerge. One possible meaning is that while the author came to support integration—was 'reconstructed'—he nevertheless remained unapologetic for having opposed it (unregenerate) because of the circumstances of the times. While support for segregation came to be clearly wrong, it was formerly reasonable: support for it was either unavoidable for a politician, or understandable for someone raised in that culture; or perhaps it was even correct at the time. A second possible meaning would say, similarly, that Talmadge came to support integration, but nevertheless continued to believe that the principles which led him to oppose it, or the grounds on which he opposed it, remained correct; that while these principles might have been misapplied, or might no longer be pertinent to the question of integration, nevertheless they remained important and pertinent in other areas. Therefore Talmadge would be 'unregenerate' because he continued to hold, and believe in, the principles according to which he had defended segregation, whether these genuinely explained his former belief in segregation or whether they had been instrumentally or circumstantially invoked in its defense. On this reading the lack of apology applied not to the issue, but to the principles behind (or before) it.

A final possible meaning of the phrase is that its author was reconstructed only through necessity. This meaning is suggested by the

term 'reconstructed.' The obvious reference is to Reconstruction, which was a recurring reference point for Talmadge, and which, in Talmadge's view, involved the illegitimate imposition of a governmental structure and moral order upon the South by the North through force—"at bayonet point," in Talmadge's phrase.<sup>5</sup> In the context of Talmadge's recurring invocation of this understanding of Reconstruction, his description of himself as "reconstructed" carried at least the suggestion that his shift in views was imposed by force (moral or social force, presumably); that this shift was in some sense unnecessary or even illegitimate; and that, in the privacy of his own thoughts, he remained committed to his earlier views—just as in his view southerners during Reconstruction might have been forced to go along with northern principles and schemes, but never truly believed in them. Thus, in this third possible interpretation, Talmadge implicitly continued to hold his former views, and was thus "unregenerate", being "reconstructed" only because he had no choice.

Talmadge himself never clearly identified his phrase or his position with any of these three possibilities; while he announced that his views had shifted, he did not detail how, when or why they did so, and only tersely laying out his new positions. On an overt level, Talmadge seemed to careen back and forth between the first two interpretations described above. That is, he claimed that he had come to believe in integration, and no longer believed in segregation, but shifted back and forth between the idea that the principles he had invoked to defend segregation with remained unaltered, and had therefore been previously misapplied, and the contrasting idea that their previous application was in fact correct, and

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<sup>5</sup> Ibid., p. 144.



that segregation itself had been understandable, perhaps even correct, in previous eras, even circumstances had changed so that it no longer was. Talmadge also shifted back and forth *within* each of these two positions, implying at various points that segregation was previously understandable if wrong, previously unavoidable (and thus not blameworthy), or even previously correct. He similarly shifted between the idea that the principles he previously invoked in segregation's defense had been correctly applied at the time (but for various reasons no longer implied segregation's validity) and the idea that they had been misapplied in segregation's defense, but were and continued to be valid when correctly applied. Thus Talmadge never clarified the precise sense in which he saw himself as 'unregenerate'—and, consequently, the sense in which his readers should take his claim to have been 'reconstructed'.

This ambiguity, as much as the associated connotations with the word he choose for his title, raises the possibility of the third interpretation: that his 'reconstruction' was just lip service, forced upon him by changing social mores, and that his 'unregenerate' nature began, as it were, just below the surface of his professed beliefs and continued all the way down. Talmadge himself would presumably have denied—probably even taken offense at—this notion, as it implies that his claims to have changed his mind were untruthful if not hypocritical, even cowardly. But of course the logic of this position would require him to say this, at least publicly: that is inherent in the nature of paying lip service to something. So this notion cannot be dismissed on the grounds that he would unquestionably have denied it. And while, unlike the other two possibilities, Talmadge never said anything which would explicitly

imply the truth of this third interpretation, the internal logic of his positions, and the rhetoric with which he defended them, suggested it strongly at times.

Yet I do not mean to suggest that, ultimately, Talmadge necessarily held (in his later career) a single, particular set of beliefs about the morality and justifiability of his earlier views. In fact, given that he never addressed this issue clearly and head-on, and did suggest different things at different times, it seems to me likely that he did not. People's ideas on such matters are often inconsistent. We ordinarily do not bother to think through our ideas to the point of consistency—particularly ideas which are either painful (since they imply old immorality) or embarrassing (since they imply departures from currently held ideas); it is typically easier to let them be, existing in their naturally contradictory state. In the act of describing discarded patterns of thought we are liable to fall back into them find ourselves unable to say precisely how far that reidentification goes; emotions can trump thought and sway us in one direction, while a moment later thought might reign in emotion and sway us in another direction. A focus upon one aspect of an issue will reinforce something that one might, in more reflective moments, have come to profess, even while focus upon a different facet will nevertheless resurrect older ideas, out of emotion or loyalty or habit.

And, as shall be examined in detail below, throughout Talmadge's memoir, these three possible positions (as well as the different variations within them) exist in tension with each other. He never settled on any one of them, but said things which suggest different ones in various places—or even in the same place, since a single passage frequently suggests (or

supports) multiple interpretations. I shall argue that Talmadge's later position was not, in the end, a single, stable one, but rather one existing within a framework of uncertainty and vagueness, with aspects of contradictory positions emerging and retreating, since Talmadge never thought the issue through well enough to smooth them into a consistent whole.

So while I think it is possible that Talmadge never genuinely changed his mind about the issue of segregation (that is, that his professions to have altered his view were in fact merely lip service to the newly dominant consensus), I am inclined to doubt that it was that simple. I believe that emotions and rational thought, conflicting and poorly thought through beliefs, habits of thought old and new all vied within him, with now one aspect, and now another, coming to the fore. This is a question that has no single, clear answer in this case. Thus in analyzing the various different things Talmadge said about his positions old and new, I will attempt to show the very contradictions within them—representing, as I read them, unresolved contradictions within Talmadge's own thought. The phrase 'reconstructed but unregenerate' is, finally, a good phrase for Talmadge's stance not despite but because of its ambiguities.

Talmadge said in his memoir that at the time he was writing he supported the ideals of integration. While this was usually a parenthetical remark, not discussed at length, nevertheless Talmadge was pretty clear about his latter position. At the beginning of his discussion of the

Democratic White Primary<sup>6</sup> Talmadge said that "viewed from the perspective of the 1980's... [it] seemed downright indefensible", and later referred to it as "discriminatory"; he also noted that he was contemplating voting for the extension of the Voting Rights Act prior to leaving the Senate.<sup>7</sup> In his discussion of *Brown v. Board of Education*, he noted that "I have since changed my views about the wisdom of segregated education."<sup>8</sup> Later he said that "In those instances where segregation was used to keep blacks in an inferior position to whites, it violated constitutional law and elemental principles of human decency"; shortly thereafter he remarked that supporting something as "a blow against racial prejudice" is "a very noble sentiment."<sup>9</sup> He described keeping some people out of businesses as "a malicious and bigoted action," and said that "I have no doubt that we are better off living in an integrated society than in a segregated one."<sup>10</sup> Elsewhere he described himself as "a white politician with a segregated past"—implying that it *was* past.<sup>11</sup> And, in a paragraph of summation at the beginning of his Epilogue, he listed the fact that "In my native South every child, regardless of his race or the circumstances of his birth, now has the chance to get a good education and become a productive citizen" as one of the good things he'd seen happen along with economic progress and the moon landing.<sup>12</sup> With all of

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<sup>6</sup> I shall capitalize the phrases "Democratic White Primary" and "White Primary" to accord with Talmadge's usage.

<sup>7</sup> Talmadge, 1987, p. 144.

<sup>8</sup> Ibid., p. 155.

<sup>9</sup> Ibid., p. 182.

<sup>10</sup> Ibid., p. 183, 184.

<sup>11</sup> Ibid., p. 205.

<sup>12</sup> Ibid., p. 357.

these claims, I think it is fair to state that Talmadge presented himself clearly as a man who had come to be against segregation—"reconstructed", to use his word.

Yet these statements, and a few others, are more or less the sum total of Talmadge's reflections on the moral import of integration. It is a point Talmadge made as an aside, not one he presented at length; his statements seemed to come with an implied "of course" before them—as if there remained no possibility that someone could any longer support segregation. And it is true that, as this study has argued, no prominent politician could continue to support segregation by the time Talmadge wrote his memoir. Yet the nature of his "of course" was thin indeed. He continued to oppose nearly all of the measures designed to promote integration that he had opposed during his days in office. He condemned the use of segregation to promote inferiority, but described with gusto his attempts to block actions that would have ended segregation (and without any suggested alternatives). He said that southerners had good race relations in the era of Jim Crow, without taking into account the realities of violence and oppression that elsewhere in the memoir he condemned. Talmadge changed his professed views to the minimum extent possible.

Both the thinness of his support for integration and the absence of any regret for his earlier stances were enabled by Talmadge's avoidance of any direct account of how, why or when he changed his position on segregation. Any description of the process of changing his mind would necessitate portraying what was erroneous about his old ideas; describing the factors which led to the change would naturally lead to questions about to why he didn't see such factors earlier. By passing silently over

this transition, Talmadge managed to portray his new view without dwelling on any faults in the old. It allowed him to try to claim the moral benefits that arose from supporting integration in the political climate of the 1980s without having to pay the price of detailing what he thought he might have done differently, or what if anything he might have done wrong.

Another of Talmadge's rhetorical maneuvers—possibly one which was less a deliberate attempt to distract his audience than it was a genuine ambiguity with which Talmadge fooled himself—was to maintain an ambiguity about the temporal location of his moral judgments. Talmadge often commented on the Civil Rights Movement, and the actions he had taken in support of segregation, without making clear whether the judgment expressed in his memoir was *merely* meant to reflect his old thinking or if it also represented his latter view. (His other comments were ambiguous enough to support both readings.) By obscuring the historical position of his moral judgments, he was able to present old, pro-segregationist stances without having to reconcile them (for the reader, and possibly for himself) with his stated views about his present beliefs. This allowed his historical judgment a safe ambiguity: was he (in his view) right then, and subsequently times simply changed? Or was he in fact wrong even at the time (but it was understandable, and it's merely to communicate that understanding the case is presented so forcefully)? Or did he continue to believe what he said then, denials notwithstanding?

Thus in interpreting Talmadge's claim about Hubert Humphrey's 1948 speech to the Democratic National Convention (in which Humphrey, as Talmadge puts it, "gave a right impassioned speech" supporting Civil

Rights legislation) that "the South had not just been defeated, it had been humiliated,"<sup>13</sup> it is impossible to tell how broadly those words are meant. Would Talmadge have still agreed in 1987 that a speech supporting Civil Rights "defeated" and "humiliated" the South? Or was he simply saying that he and others had felt that way at the time? Since he didn't temporally locate his moral judgments, he didn't have to say; whereas if he had clarified the temporal position from which that phrase was expressed, he would have had to grapple more clearly with the question of what the Southern delegates *should have* (in an ideal world) done in 1948—to what degree their 'humiliation' had been justified and to what degree it hadn't. It was, in many ways, a very convenient ambiguity.

Apart from the brief asides cited above and a few others in the same spirit, the only other passages in his memoir where Talmadge seemed to address his changed views were those in which he extolled his attempts to help African Americans, and discussed his recognition for those attempts. For example, in the headnote<sup>14</sup> to the chapter "Reconstructed but Unregenerate," Talmadge told the following story:

On October 10, 1985, I was awarded an honorary Doctorate of Humane Letters from Morris Brown College in Atlanta. As senator I had helped get books for the school library and had assisted in making it a depository of public records. I had always gotten along well with the school's president, Dr. Robert Threatt, and knew that he appreciated my efforts on behalf of his

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<sup>13</sup> Ibid., p. 148.

<sup>14</sup> Talmadge began each chapter of his memoir with a headnote, a single story or anecdote to set the tone for the whole chapter, typically consisting of a single paragraph and set off from the rest of the chapter by being placed in italics.

college. But I was surprised when the school gave me that degree and declared me Georgia Man of the Year for 1975. ... I've received more honors than I can remember during my years in public life, but this one was kind of special. You see, Morris Brown is a predominately black college. It had been over twenty years since the NAACP had declared me an "enemy of the Negro people". We've all come a long way since then.<sup>15</sup>

Talmadge related this story as a way of indicating that he had changed his views. But, of course, the anecdote did a number of other things as well. Most importantly, the "we" in "we've all come a long way since then" is distinctly ambiguous. It could refer to southern whites, or southern white politicians, describing how the Civil Rights Movement successfully raised their consciousness and changed their point of view. But it seemed to imply that the NAACP (if not the broader African-American community) itself had "come a long way," just as Talmadge had. This perception is bolstered by the remainder of the paragraph. Talmadge began by praising the good work he had done for Morris Brown College, speaking of his having "helped get books for the school library and had assisted in making it a depository of public records," and also speaking of his friendship with Morris Brown's president, while at the same time emphasizing that he did not expect the award. The paragraph implied, without saying it directly, that Talmadge's earlier good deeds for the African-American community were (unjustly) ignored. This lends weight to the reading that the "we" who have "come a long way" encompassed the African-American community as much as it did Talmadge himself.

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<sup>15</sup> Talmadge, 1987, p. 177.



Was this paragraph, then, Talmadge's admission that his views had changed? It seems to be, and was probably meant to be, at least in part. But it can be read equally as a lament of the 'bad rap' that Talmadge felt he got during the Civil Rights Movement. Here again, we can see the power of Talmadge's failure to locate his telling precisely in temporal space. Was Talmadge saying that he had *changed* in those twenty years, and thus was no longer an "enemy of the Negro people"? Or was he in fact including this anecdote to undermine (if not refute) the notion that he ever was? Talmadge left this ambiguous. Thus while the paragraph serves to chart his change—the fact that he, like others, has "come a long way"—at the same time it also partially undermines his earlier self-critiques.

In fact, in the least charitable interpretation, the paragraph might be read not as charting Talmadge's retreat from his segregationist position but rather as his affirmation of it. One standard line of pro-segregationist argument (one that, as will be detailed below, Talmadge returned to) was the notion that African Americans were, in fact, reasonably content with segregation, and the claim that the governments of the segregated South served their needs; a related line of argument denied that pro-segregationist views derived from racist views or antipathy towards African Americans. Thus, on this reading, Talmadge was simply re-asserting the old segregationist line that pro-segregationist politicians did, in fact, have good will towards the African American community (represented in this passage by his friendship with Robert Threatt and his efforts on behalf of Morris Brown), that the segregated governments did work for the good of the African American community (again,

represented by Talmadge's work on behalf of Morris Brown) and that the protests—represented here by the statement of the NAACP—were, in fact, unwarranted and unfair.

I do not think that Talmadge *deliberately* wrote this paragraph as a way of covertly sticking to his segregationist views. As I read the paragraph, Talmadge himself seems to have believed that he had "come a long way". But I even though by 1987 he was willing to state that segregation was wrong, he seems to have retained the sense that it was not as bad as all that, that it was not motivated by malice, and that statements such as the NAACP's had been unfair. In other words, I think that the ambiguity—of thought, of emotion, of position—existed in Talmadge's view, and was accurately reflected in the paragraph, rather than the paragraph exhibiting any attempt to deliberately include an esoteric message under an exoteric one (as if it were a Struassian philosophical text.) Rather, I think that in his sincere attempt to show that he had "come a long way," Talmadge demonstrated, at least to a certain extent, the opposite as well.

While Talmadge claimed in his memoir to support the ideals of integration, he continued to oppose nearly all of the concrete measures that, historically, actually brought about a measure of integration to this country. He continued to write vehemently against both the Civil Rights Act and the Voting Rights Act—although, in another example of temporal ambiguity, he does not clarify whether those passages expressed only his earlier views or his later ones as well, and in at least one place suggested that he had changed (or was in the process of changing) his views about

the Voting Rights Act. He offered only a mixed defense of *Brown*. Further, while Talmadge's admissions about the "wisdom" of integration were generally passed over in an off-hand phrase, his defenses of his earlier positions (or, at least, the principles behind them—sometimes it was the former, sometimes the latter, sometimes it is not clear) were made with fire and passion. The defenses were presented not only without apology, but with utter and powerful conviction. Indeed, Talmadge's admissions that he no longer supported segregation—or that there were *some* problems with it (leaving conveniently open the question of how far that admission goes)—often occurred as preludes to, or within the context of, his longer defenses of his old views. The overall approach Talmadge's memoir took towards issues in the orbit of the Civil Rights Movement was to make a rhetorically slight concession on the basic issue—the justice and "wisdom" of integration— and then follow it with a rousing, passion-filled defense of other, technical aspects of the conflicts (the actual content of 'state's rights') without any acknowledgment that the former and the latter had anything to do with each other.

Thus, a quite typical Talmadge sentence was the following, summing up his feelings, from the perspective of 1987, about his 1955 book *You and Segregation*: "Although I have since changed my views about the wisdom of segregated education, many of the points made in that book are as valid today as when it was written over thirty years ago."<sup>16</sup> The presentation of his changed views about segregation are presented in the weakest form possible: they are in the subordinate clause, tossed off with an "although" that clearly marks them as an aside on a

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<sup>16</sup> Talmadge, 1987, p. 155.

secondary issue. Talmadge (in 1987) said that he had changed his mind on the "wisdom" of segregated education—and not on (for example) its justice, its morality, its decency; "wisdom" is, in context, a very weak word. And, of course, it's only segregated *education* that he disavowed here; the sentence would have worked just as well questioning "segregation"—but it doesn't. On the other hand, Talmadge's defense of the 1954 book was expressed strongly: in the main clause, described with broader terms: "*many* of the points" (and not 'some') are "*as valid*" (and not somewhat valid, still relevant, or understandable in historical context)—and are "*as valid*" (no sense here of any retreat, they are valid rather than, say, having some validity). And Talmadge did not grapple with an important, implicit contradiction. Talmadge's 1955 book was *about* segregation, announcing itself as such up front and boldly in its title; segregation was not a subsidiary or partial topic of his polemic. One wonders how a book *about segregation*—about which Talmadge claimed to have changed his mind—could have been right about so many things.

And, crucially, it is the latter issue—his "many" "valid" points—that Talmadge then went on to discuss, not the "wisdom" of segregation. This cements the impression that it is the book's continued validity, not any sense of regret or rethinking, that Talmadge had strong feelings and solid convictions about. The larger context of the sentence cited above is as follows:

The decision implementing the ruling in Brown versus the Board didn't come down until 1955, which was after I was out of office [as Georgia's governor]. So, that was one battle I didn't have to fight. My one notable contribution to the debate over the Brown decision came

in the form of a little book called *You and Segregation*. This book was published by the Vulcan Press in Birmingham, Alabama, in November 1955. Although I have since changed my views about the wisdom of segregated education, many of the points made in that book are as valid today as when it was written over thirty years ago. There were two primary legacies of the Brown decision. One was the integration of schools. The other was the transformation of the Supreme Court from a judicial to a quasi-legislative body. History has shown the first legacy to have been beneficial. The second has been an unmitigated disaster.<sup>17</sup>

It is worth noting that Talmadge was being somewhat disingenuous when he said that he didn't need to get involved in the *Brown* decision because he was out of office. During his time as Georgia's governor, Talmadge had taken steps in advance of an anticipated ruling against segregated schools to try to prevent integration in Georgia, first by greatly increasing state spending on African-American schools in an attempt to bolster the doctrine of 'separate-but-equal' by more closely approximating its latter half (Talmadge praised this spending increase in his memoir without mentioning its motive), and second by passing a bill to eliminate state funding from any integrated school.<sup>18</sup> To be sure, these actions were in part motivated by earlier anti-segregation court decisions, such as *Sweatt v Painter*; yet they were also taken in view of future decisions—the trend was clear—and some time before the *Brown* decision was handed down Talmadge knew that the issue was working its way through the legal system. So Talmadge had already taken a few shots in the battle over school integration well before he wrote his 1954 book on the subject.

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<sup>17</sup> Ibid.

<sup>18</sup> Tuck, *Beyond Atlanta*, p. 77.

Even from the vantage point of 1987, however, Talmadge's commitment to integration remained at least *rhetorically* weak. Talmadge identified two legacies that he saw arising from the decision in *Brown*, one of which he claimed to approve. But it's clear which one he felt was more important: integration was merely "beneficial", while the change in the role of the Supreme Court "has been an unmitigated disaster." And, in the following page and a half, it was the latter theme that Talmadge continued to hammer home. After a paragraph decrying the changing role of the Supreme Court and its having "effectively wiped out the sovereignty of state governments", Talmadge continued:

...the situation is not so much *judicial* tyranny as tyranny by the judiciary. It wasn't enough to set aside other branches and levels of government, the Supreme Court also began ignoring the decisions of earlier courts. What was important was not the separation of powers and the tradition of constitutional law, but the political and sociological opinions of the justices. ... [The Warren Court] reversed the decision of the Supreme Court rendered in 1895 [*sic*] in the case of Plessy versus Ferguson, a decision that for nearly sixty years had held that separate-but-equal schools were not in violation of the fourteenth amendment. And what great authority on the United States Constitution enabled them to see that the federal courts had been in error for over six decades? It was a Swedish sociologist by the name of Gunnar Myrdal, who took it upon himself to tell black and white Americans how they ought to live together. Yankee carpetbaggers were bad enough, but at least they were fellow Americans. You would think that a Swedish sociologist would have enough to study in his own country, which has got to be the biggest cesspool of social pathologies this side of the Iron Curtain. But the Warren Court laid more store in what he had to say than

in the political processes and legal scholarship of our own country.<sup>19</sup>

Of his claim to see benefit in *Brown* and his claim that his old arguments were still valid, Talmadge's heart was clearly in the latter. His venom towards the Warren Court—accusing them of "tyranny," of ignoring "the political processes and legal scholarship" of the United States—was obvious; his venom towards Gunnar Myrdal (to say nothing of the people of Sweden) was even stronger. None of this proves that Talmadge was lying when he said that he had come to support integration. But it does indicate that he had not thought through very clearly what that meant—in particular, what that meant for his perspective on 1955. His emotional reaction to the issues, while certainly toned down from the histrionics in his 1955 volume, continued to resonate with his old views and not with his purported new ones. He was able to expound his views on "judicial tyranny" at length—indeed, one might imagine that he was hardly able to refrain from doing so. He made his views on integration clear, and then dropped the subject.

Yet he returned to it. While it's true that Talmadge did not *habitually* suggest alternatives to the Civil Rights events he continued to decry, in a few cases he at least hinted at what he saw as the preferable alternatives. Following his lengthy denunciation of judicial tyranny, Talmadge wrote:

The Supreme Court was so strong on the utopian ideal of integration that it forgot that you can't alter the customs and mores of a people overnight, and you can't change a

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<sup>19</sup> Talmadge, 1987, pp. 156 - 157. Talmadge errs in his dating of *Plessy v. Ferguson*, which was of course decided in 1896.

man's heart at the point of a bayonet. I suspect that the Southern position on this great moral issue was best expressed in the following statement: "Ideally there should be brotherhood among human beings; God is our Father; we are adjured to love each other and be each other's keepers. ... In the Southern states there are special conditions of comparative numbers of Negroes and whites and inbred psychological attitudes and customs that constitute as deep-seated a problem as the tangled situations in Ireland, Palestine, and India. Time and tact are necessary parts of the cure." That eloquent statement was not made by Herman or Eugene Talmadge. It was not made by Orval Faubus or Strom Thurmond or any other white defender of segregation. It was made by the black educator Joseph Winthrop Holley. No man did more for the black people of Georgia during the first half of this century, and no man was more committed to the future progress of the black race. But Dr. Holley knew something that Gunnar Myrdal and Earl Warren and Hubert Humphrey never learned—"You Can't Build a Chimney From the Top." (That was Dr. Holley's motto and the title of his autobiography.) Unfortunately, the judges and bureaucrats and "social engineers" thought otherwise. As I left Georgia for the United States Senate in January 1957, court-ordered chimneys were under construction all over the South.<sup>20</sup>

It hardly needs to be said that Holley's quote meant something quite different coming from his own point of view (where it commended patience in a just but difficult struggle) and from the point of view of Herman Talmadge (where—at least in 1955—it suggested that a brake be applied to the success of that struggle). It's also worth noting that Talmadge's claim that "you can't change a man's heart at the point of a bayonet" was refuted rather than upheld by the success of the Civil Rights

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<sup>20</sup> Ibid, pp. 157 - 158.



Movement—and was arguably refuted by Talmadge's own experiences. These points aside, however, this passage does at least imply an answer to the question of what route to his now-favored position of integration Talmadge would have promoted, namely, a voluntary change of heart among Southern whites and patience among African Americans until then.

What, then, is the change of view that Talmadge would attribute to himself? It is true that he was no longer claiming that "God Advocates Segregation" as he had in his 1955 manifesto; nor was he still presuming that "the mere idea of a fully integrated society was enough to discredit" forces supporting the *Brown* decision, as one historian aptly characterized his earlier position.<sup>21</sup> But the *practical* change seems to be limited to the fact that, in the slow struggle to change Southern hearts, Talmadge would say that one heart had been changed: his. There does not seem to be any other suggested method of promoting his newfound views. How these views were supposed to succeed in the face of the opposition that they in fact met without the backing of the federal courts (and the consequent backing of the executive branch)—particularly given the long time that was required for them to be implemented *with* this backing—was not something Talmadge addressed. The fact that one of the leaders of that opposition was Talmadge himself—and that saying that the problem with the Court intervention was the opposition it met was something close to a tautology—was not something Talmadge wrestled with at all.

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<sup>21</sup> Herman E. Talmadge, *You and Segregation*. Birmingham: Vulcan Press, 1955, p. 44; 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, p. 238.

Talmadge's understanding of the American past—especially the history of American race relations—was central to his views, both during the period in which he supported segregation and in his later phase as represented by his memoir. This conception was one that had been quite common among supporters of segregation. Talmadge, however, seems not to have changed his thinking about the historical and social issues when he decided that segregation was no longer something he supported. The ambiguity in Talmadge's memoir about his precise views about segregation, past and present, was crucially enabled by his maintaining historical beliefs that were deeply entwined with segregationist arguments.

Central to Talmadge's view of the past was his conception of Reconstruction. Talmadge's view was one that, while once widespread among historians, has since been discredited by scholars.<sup>22</sup> Talmadge portrayed Reconstruction as a fundamentally illegitimate attempt by the North to control or "terrorize" the South; there was no sense at all that the South had been in any way morally culpable. Early in his memoir, in the course of complaining about one southern politician who was portraying the South in an unfavorable light, Talmadge wrote that:

[The South] sure as hell didn't need our governor traipsing around the nation bad-mouthing us to the very people who were responsible for our plight. Ellis might have told them that General Sherman destroyed our

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<sup>22</sup> Eric Foner's Reconstruction: America's Unfinished Revolution, 1863 - 1877 (New York: Harper & Row, 1988), the standard survey, also presents this rebuttal to the earlier views.

civilization and perpetrated some of the worst civilian atrocities in the history of warfare. He might have told them that Reconstruction crushed our economy and made a mockery of our political system.<sup>23</sup>

Talmadge's belief that the state of the southern economy in the 1940's was still ascribable to northern actions speaks to how *present* the past was for him. Talmadge's emotional tone—his use of words like "plight", "crushed" and "mockery"—showed this as well, but also showed the centrality of his view of history in forming his political views. (One is reminded of William Faulkner's oft-quoted line that "The past is not dead; it's not even past.") This emotional focus also explains how Talmadge could have written that Sherman's march to the sea involved "some of the worst civilian atrocities in the history of warfare" in the same paragraph in which he referred to World Wars One and Two.

Nor is this passage unique. Elsewhere, Talmadge wrote:

During Reconstruction, some of the best educated and most responsible white citizens were disenfranchised at bayonet point, and our local and state governments were turned over to Yankee carpetbaggers, white Southern scalawags, and barely literate freed blacks. Our experience with blacks in politics was that they were manipulated by outside forces that wanted to exploit us socially and economically.<sup>24</sup>

And a few lines later:

The threat to local self government had passed with Reconstruction. But we just didn't want to take any chances.... Maybe they weren't sending the occupying

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<sup>23</sup> Talmadge, 1987, p. 86.

<sup>24</sup> Ibid., p. 144.

army back in, but the whole business smacked of Yankee imperialism.<sup>25</sup>

Talmadge referred in passing to Republicans having "exploited the South socially and economically during Reconstruction"<sup>26</sup> elsewhere in his memoir as well. It is also important to note that his view of Reconstruction surfaced throughout Talmadge's text. For example, in the passage quoted above about the *Brown* decision, Talmadge referred in passing to "Yankee carpetbaggers"—whether in reference to the events of the Reconstruction era or as a term for what he saw as modern analogues is not clear, but in any event Talmadge's use of Reconstruction—and the particular view of it which he endorsed—clearly remained a reference point for him, not only in the 1950's, but even in 1987.

A great many of Talmadge's Reconstruction references occurred in the context of comparisons with the Civil Rights Movement and the actions of the federal government in support of it. These references had been common during the period of Massive Resistance. But while Talmadge was no longer engaged in massive resistance to integration—indeed, by 1987 he claimed to be a supporter of it—his view of Reconstruction, and the relationship between the federal government and the South that he drew from it, had not changed along with his views on segregation. Thus his later views of the Jim Crow period continued to be informed by a (tendentious and fundamentally flawed) view of Reconstruction that had been arrived at in the context of supporting segregation. The contradictions, omissions and problematics of Talmadge's professed later views were informed and enabled by this

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<sup>25</sup> Ibid., p. 145.

<sup>26</sup> Ibid., p. 302.

questionable view of the past, which in turn was buttressed by Talmadge's understanding of more recent history.

Another crucial feature of Talmadge's understanding of American race relations was his belief that relationships between African Americans and whites were better in the South than in the North—not only in the post-Movement era, but also during Jim Crow times as well. This claim was made frequently in Talmadge's memoir. In a chapter about his childhood, Talmadge wrote about a childhood friend of his:

A black boy named Thad and I were particularly close. I couldn't count the number of meals I had at his house. But when it came time to go to school, we went our separate ways. We were still friends, but on a different social standing. I never thought to question the practice of segregation, and I doubt that he did either. Up North, where segregation didn't exist, there were fewer close friendships between black and white. I'm not talking about cause and effect, just social reality. If we are just now beginning to understand the War Between the States, it may take a hundred years for us to understand the way race relations have changed in my lifetime.<sup>27</sup>

While Talmadge's thought about our lack of understanding about changes in race relations was left at that (he moved onto other topics following that sentence), the implication seems to have been that race relations may well have deteriorated due to the changes he witnessed. He was, to be sure, quite careful not to say that explicitly; he hinted at its *possible* truth in oblique terms, while leaving explicit a statement which is hard to disagree with (that historical change becomes clearer with greater distance). This sentence also served, along with the rest of the context, to

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<sup>27</sup> Ibid., p. 13.

undercut Talmadge's denial that he was "talking about cause and effect": Talmadge hinted, again without saying so explicitly, that segregation had, in fact, helped to *promote* close friendships, although he hid the claim behind a vaguer claim about "social reality".<sup>28</sup>

This sense that he was, contrary to his claim, "talking about cause and effect" was strengthened by the context of the larger work, for this passage was hardly unique. On the contrary, it was one of a number of similar passages about the greater degree of friendship and social ease between Talmadge and African Americans particularly and between white and African American southerners more generally. Talmadge's headnote to his chapter "A Time to Build"—one of the central chapters in which he discussed the issue of race and race relations in the South—contained a similar story:

When I was an officer in the United States Navy, I served aboard ship with another white Southern officer, Mack Perry, and quite a few black enlisted men. These blacks were from the North, and they were mostly stewards, cooks, orderlies, and the like. Although their immediate superiors in the chain of command were Northern whites, they would never go to these officers with their problems. Instead, whenever they were in trouble or needed help, they would seek out Mack Perry or myself.

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<sup>28</sup> There are a number of other things to note about this passage. Intentionally or not, Talmadge's mention of the countless meals he had at his friend's house contrasts strongly about the utter silence about any meals his friend might have had with his, Talmadge's, family. (He did not say, after all, "at each other's houses," which is in some ways the more natural phrase in this situation; the topic is left distinctly omitted.) The tension between the phrases "we went our separate ways" and "we were still friends" is also worth noting, as is Talmadge's evident comfort with the idea that they were friends "on a different social standing."

They knew that we lived in a segregated society, and they probably had been taught that in the South blacks were "second-class citizens". But they somehow sensed that Southern whites would have a concern and understanding for them that they couldn't find in their Yankee officers. In talking to white Southerners who served in other branches of the military, I have learned that this was a common phenomenon. that may suggest why, twenty years after the civil rights upheavals of the sixties, race relations are generally better in the South than in the North.<sup>29</sup>

(It is worth noting that Talmadge served in the military in World War Two, when it was still segregated.) As in the previous passage, Talmadge was coy but clear in his suggestion that segregation left a positive legacy, contrasting the better race relations in the South than in the North in the context of information about segregation and the concern of white southerners for African Americans in the military (and not mentioning, for instance, the effects of the Civil Rights Movement itself, or of demographic realities, or any other factors.) Talmadge again started out with a personal story, and extrapolated on the basis of his personal experience to the larger issue of southern race relations.

These stories and claims were, of course, themselves a kind of justification, both retroactive and present-day. To the extent that they were retroactive, they formed part of an argument that segregation had been supported by African American southerners as well as white southerners—or, at least, that it had not been so bad (hence not so strongly opposed) as has been claimed. At the same time, they were an attempt to claim that segregation and its support—in particular,

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<sup>29</sup> Talmadge, 1987, p. 199.

Talmadge's own support for it—had not been motivated by racism. (Talmadge, like many supporters of segregation, had an extremely limited notion of what constituted racism; in a 1986 interview, Talmadge claimed that a racist was (only) someone who "hates blacks or hates Chinese or hates white people or Indians or somebody else", and notes that he never "saw more than two or three of them in my life, and I always thought they were somewhat nutty."<sup>30</sup>) This claim seems to have been intended to cast both Talmadge's past and his present in a particular light—that, by his support among (some) African Americans, his friendships with African Americans, and the like, it was demonstrated both that he had not been motivated by racism while supporting segregation and that he was not, at the time of writing, a racist. This is, of course, an idea that has been reduced to a ridiculed cliché ("Some of my best friends are black") in popular discourse; yet it seems to be the one which Talmadge was making, his rhetoric approaching the cliché if never quite settling upon it.

Intertwined with this belief about the quality of southern race relations was a deep sense of, and resentment about, northern hypocrisy in their approach to race. Many of his more general claims of better southern than northern race relations were made quite explicitly in this context. In the paragraph that directly followed the one cited above, Talmadge wrote:

One of the reasons why Northerners find it so difficult to understand race relations in the South is that Yankees tend to see the race before they do the individual. In fact,

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<sup>30</sup> Mel Steely and Don Wagner, interview with Herman Talmadge, March 14, 1986, at (<http://www.westga.edu/~library/depts/gph/conhtintgeo.html>).



someone once said that the tendency in the North is to love the race and hate the individual, whereas in the South it's just the opposite. In Margaret Mitchell's great Southern novel *Gone With the Wind*, there's one memorable scene where some officious women from Maine become absolutely aghast when Scarlett O'Hara suggests that they hire a black woman to look after their children. Not only do they not want to get that close to a black person, but they also act right condescending to one of Aunt Pittipat's faithful old black servants. This gets Scarlett so indignant that she thinks: "What damnably queer people Yankees are! ... They didn't understand negroes or the relations between negroes and their former masters. Yet they fought a war to free them. And having freed them, they didn't want to have anything to do with them, except use them to terrorize Southerners. They didn't like them, didn't trust them, and yet their constant cry was that Southerners didn't know how to get along with them." Those lines were written in the 1930's to describe the situation during Reconstruction, but they remain largely true today.<sup>31</sup>

It is, perhaps, not surprising that Talmadge held the historical views he did when he cited *Gone With the Wind* as providing the most apt description of race relations in the North versus those in the South, for a period of time ranging from Reconstruction through the novel's writing to the writing of Talmadge's own memoir. (Note also that the phrase "*remain true*" (my emphasis) endorsed the entire passage, including the notion that (white) southerners were being "terrorized" by the North.)

The assertion that race relations were worse in the North than in the South also contains the notion that it was in the post-segregation era, not in the era of Jim Crow, that race relations had grown problematic. In one

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<sup>31</sup> Talmadge, 1987, pp. 199 - 200; ellipsis is Talmadge's.

of his passages about the transformation of Civil Rights laws into Affirmative Action laws, Talmadge wrote:

Civil Rights have created new racial tensions and a special-interest mentality that is tearing this country apart. But, ironically, that is more true in the North than in the South. Blacks and whites in the south have had to learn to live together in a new way. Up north, they're getting acquainted for the first time.<sup>32</sup>

Although the passage ended there, one can detect at least a hint of *schadenfreude* in this final statement—as if northern hypocrites were finally getting their own. In a similar spirit, Talmadge said later that "About the only good that forced busing has done is expose a lot of self-righteous Yankees for the hypocrites they really are."<sup>33</sup> Such statements—anger or sarcasm about northern hypocrisy, both during the time of the Civil Rights Movement and more recently—occurred relatively frequently in Talmadge's memoir.

Part of what these claims demonstrate is the hold that the *emotional* logic of segregationist arguments still had on Talmadge. His irritation at perceived northern hypocrisy, his nearly-audible bellows of outrage, seethed with emotion. This does not necessarily belie his claim to have changed the views behind those arguments: emotional attachment to a position can outlast intellectual conversion to its opposite, as the raw nerves of the past continue to flare. I think that some of Talmadge's contradictions were of this sort, where old habits of thought, intellectual

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<sup>32</sup> Ibid., p. 184.

<sup>33</sup> Ibid., p. 211.

as well as emotional, continued to remain unweeded despite a genuine if shallow conversion to positions that contradict them.

These passages also played an important role in Talmadge's view of Civil Rights legislation. In 1987 he continued to make a standard segregationist argument from the 1960s, namely that Civil Rights legislation was not *really* about improving the lot of African Americans, but about a (white) northern assault on (white) southerners. For this argument to ring true—probably even to Talmadge himself—he had to convince his audience that the laws had been unnecessary (thus making the search for a hidden, hypocritical motive seem plausible). Conversely, Talmadge saw the existence of northern racism, not as showing the need for greater Civil Rights protections than the ones which had been passed, but as demonstrating that those which were passed had nothing to do with the protection of African American rights to begin with.

Closely related to this notion that race relations were better in the South than in the North—even during the time of legalized segregation—was another element of Talmadge's historical view, namely, his belief that segregation had not been as bad as later memory would suggest. This Disney view of segregation was practically necessitated by the idea of the South's more positive race relations: a more realistic picture of segregation, after all, would immediately have called this idea into question (if not flat-out discredit). Yet the causation can just as easily have gone the other way: a rosy picture of segregation naturally created an image of good race-relations—one that colored (at the time as well as in retrospect) actual interactions that Talmadge may have had during his youth. I do not believe that Talmadge adopted either view instrumentally;

they were both part of a larger historical vision that both helped create and was created by the contradictions between Talmadge's earlier stances and his later ones.

Nevertheless, Talmadge's upbeat view of segregation is quite striking. At one point in his memoir he wrote:

When I was growing up in the South, it probably would have come as a shock to ninety-five percent of the white people and a substantial majority of the blacks to learn that some folks thought it downright immoral for persons to prefer associating with others of their own race. To us in the South, that seemed about as natural as chittlin's, okra and country music. It was simply a matter of taste, custom, and individual preference. As long as segregation was not used as an excuse for inequality, it really had no moral significance whatsoever. Of course, any honest person would have to admit that from the time of Reconstruction on, segregation had often been used as a means to assure the inequality of blacks. Nevertheless, as a principle, the notion of a "separate-but-equal" society was sound. I think most Southern blacks would have preferred that kind of society to dealing with the animosities created by outside forces trying to impose integration on the South.<sup>34</sup>

There is a great deal to be said about this passage. First, it is important to note that here, as elsewhere, Talmadge hewed closely to traditional defenses of segregation from the 1950's and before,<sup>35</sup> describing it as a

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<sup>34</sup> Talmadge, 1987, p. 200.

<sup>35</sup> Of course, as has been noted, *many* of Talmadge's arguments are almost indistinguishable from earlier defenses of segregation, including his own. What makes this passage different, however, is that it is an argument directly *about* race relations and the nature of segregation that reads almost as if written thirty years earlier than it was, rather than an

matter of personal preference, as having been desired by African Americans as well as whites, and as not necessarily a marker of inequality—all frequent arguments from defenders of segregation. Talmadge, in 1987, reiterated these views practically unchanged: describing a system constructed by law and inequality of property rights and enforced by terror as a matter of "individual preference", asserting that the system was supported by African Americans at the time, and so forth. This latter claim he buttressed through a false choice between the persistence of segregation and the imposition of white animosity, ignoring the origin of that animosity not in integration itself but in the reaction of whites to it—a reaction which included, at least in small part, Talmadge's own past actions.

There is, of course, that single anomalous sentence standing out from the rest of the passage, the acknowledgment that "any honest person would have to admit that from the time of Reconstruction on, segregation had often been used as a means to assure the inequality of blacks." This sentence stands out in the context the rest of the passage—a bit of honesty nestled inside old arguments without their contradictions being ironed out. It was not a sentiment expressed in Talmadge's 1955 tract; to that degree, this passage departed from his earlier views. Yet Talmadge was again conveniently vague here. He did not go into detail about the ways in which he believed segregation has been used to ensure inequality—and therefore was not forced to confront the fact that these structures were, in fact, coterminous with segregation as a whole; he was also thereby freed

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argument about structural issues such as "states' rights". The line here is even thinner.

from confronting the accuracy of describing segregation in terms of "private" associations, and the ways in which those supposedly-private associations manifested themselves in other people's lives.

The anomaly is striking. How can it be that African Americans were largely happy under segregation—would, indeed, have preferred it to federal intervention—if "segregation had often been used as a means to assure the inequality of blacks"? For that matter, what is the relationship between that "often" and Talmadge's claim that "as a principle, the notion of a "separate-but-equal" society was sound?" Was Talmadge claiming that segregation was a good idea that has never been fairly tried, much as socialists have often claimed for socialism? I think these contradictions remained within Talmadge's thought *as* contradictions—an awareness, perhaps forced by unwelcome facts or perhaps forced simply by political expediency, that segregation was "often" unjust, but a deep emotional conviction that the good people of his youth, people who liked "chittlin's, okra and country music," could not have been the maintainers of an unjust system.

These contradictions were not fully reconciled; one element that took a step towards resolving them, however—or, perhaps, simply enabled Talmadge to simultaneously hold such contradictory beliefs—was yet another of Talmadge's historical convictions, namely, his belief that the segregated South was moving towards equality within the framework of segregation—the achievement of a genuinely "separate-but-equal" society. Shortly after the passage cited above, Talmadge wrote:

Inequality, not segregation, was the major problem that plagued blacks from the time of Emancipation until the

gains of the recent past. In the period immediately following World War II, that inequality was starting to break down even as segregation remained firmly in place. Blacks had previously been held back by a lack of political and economic power. However, in the late forties and early fifties, they began voting in record numbers, and the economy of the South began to expand. So white politicians began courting the black vote by using some of the funds generated by this economic boom to upgrade the facilities serving black citizens. In other words, we began moving toward an equal, as well as separate, society. Whether white officeholders were helping blacks out of the goodness of their hearts or simply to gain political advantage is beside the point. What is important is that significant progress was being made without federal intervention and without forced integration.... As governor I did more for the black people of Georgia than any of my predecessors, and probably more than all of them put together.<sup>36</sup>

What Talmadge says about African Americans' lack of political and economic power was, of course, true, although it is hard to imagine how he could explain it as separable from the realities of segregation rather than as part and parcel of them. It is equally hard to separate out any progress towards a more equal society (insofar as it existed) from the early stirrings of the Civil Rights Movement which Talmadge seems to have believed was made moot by that progress. And, of course, significant political power, at least as measured by voting, was only gained by the struggles which brought about the Voting Rights Act—by, in other words, "federal intervention"—while economic power still remains a problem to this day. It was particularly disingenuous for Talmadge to claim that the matter had been resolving itself without

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<sup>36</sup> Talmadge, 1987, p. 201.

federal intervention, since at the time—particularly during his term as Governor of Georgia—Talmadge was, in fact, actively involved in not only the maintenance of segregation but its retrenchment after a brief period of progress.<sup>37</sup>

By describing—and perhaps believing—a fantasy of retreating segregation, and by maintaining the belief that segregation was not so dire in any event (keeping this belief carefully segregated from whatever he knew about the realities of African American life at the time), Talmadge allowed himself to, if not resolve, then at least maintain many of the contradictions in his own thought. If, contrary to historical fact, federal intervention had not been necessary to end the inequalities in the South, then Talmadge's defense of "states' rights" as an abstract principle would have been easier to reconcile with a stated belief in equality of opportunity and human dignity. If conditions for African Americans in the segregated south had actually been as good as Talmadge seems to have believed they were, then a slow, 'natural' approach to integration might have made moral sense, and the moral justification for Civil Rights laws might more readily have been reasonably seen as simply a front for other motives. If segregation had not been motivated by racism, if it had not disadvantaged African Americans, and if African Americans had indeed been content with it, then the idea that "as a principle, the notion of a 'separate-but-equal' society was sound" might be at least arguable. Needless to say, these hypotheticals were simply not true. It's unclear whether this was willful blindness, genuine ignorance, or a deliberate attempt to deceive his reader. Whatever motivated it, Talmadge's

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<sup>37</sup> Tuck, Beyond Atlanta, pp. 74 - 80.



distorted view of the past made his contradictory positions hang together in a way they could not have if he had confronted the historical realities behind segregation.

These passages of historical justification of segregation led Talmadge almost to the point of saying that he would have continued to support segregation even in the 1980s if it were implemented in a fashion consistent with equality (which Talmadge claimed it could be). He didn't *quite* say so: saying that a principle "*was* sound" leaves open the possibility that it is no longer sound; it is also not *quite* the same thing as endorsing it. If one were to read charitably, one could view his comment that he had come to see the "wisdom" of integration as suggesting he would not have. But taken in isolation, these passages seemed to suggest that Talmadge did, in fact, simply remain in favor of segregation.

Yet this sort of justification—in which race relations in the South were improved by segregation, in which Reconstruction was simply northern aggression, and so forth—was not the only view of the recent past which one finds in Talmadge's memoir. He also used the past as an excuse—a justification for why he, and other white southerners, had held the views that they had. These moments of excuse—not of apology, for he did not apologize—implied a different view of the past. By explaining his and others' views as due to their times, he suggested that those views had been wrong, as they were in *need* of explanation.

This apologetic view of the past, as one might call it, predated Talmadge's memoir. During the primary race in his final, 1980 campaign for Senate, Talmadge responded to attacks from his political opponent about his segregationist past by saying (in a speech to an African-

American church in Atlanta), "I've been accused of being a segregationist twenty-five years ago. It's true. Do you know any white folks in Georgia who weren't segregationists twenty-five years ago?"<sup>38</sup> And this attitude towards his past surfaced in his memoir as well.

These passages were briefer than the passages that seemed to ratify the history of the Jim Crow South, just as Talmadge's claims to have changed his mind about the "wisdom" of integration were briefer than his justifications of the philosophies purportedly behind his old, now-abandoned positions. As with his statements declaring his abandonment of the segregationist position, they generally occurred within a larger passage justifying or excusing his old views, not lamenting them. Nevertheless they were there. At one point, Talmadge admitted that "I'm sure that our Southern opposition to civil rights was largely shaped by the customs and mores of our region. We sincerely believed that we had devised the best means for organizing race relations...."<sup>39</sup> In this passage, unlike the ones cited earlier, there was a genuine sense that he might have been wrong. To be sure, one might read the notion that "customs and mores" shaped the opposition to civil rights as saying that it had only been due to the customs and mores of the South that they had held the (correct) principles, enabling them to take the moral stance. But that isn't the tone of the passage. Instead, it seems to have been a (brief) admission that the customs and mores led them to take a stance that they might not otherwise have taken—that was not, for instance, readily reachable simply from the

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<sup>38</sup> Cited in Richard Hyatt, Zell: the Governor Who Gave Georgia HOPE (Macon, Georgia: Mercer University Press, 1997), p. 208.

<sup>39</sup> Talmadge, 1987, p. 181

point of view of principle. Talmadge never said that Southern means for organizing race relations (i.e. segregation) was *not* the best, and indeed went on to fulminate against northerners who tried, hypocritically, to impose their views on the South. Nevertheless, the phrase "we sincerely believed" carries the implication that "we" were wrong: it is a phrase of *justification*, not of triumphalism. To be sure, it was an *excuse*: we were not motivated by ill-will, the phrase seems to be saying—by, for instance, racism; we *sincerely* believed we were correct. But such a sentiment logically carried within it a recognition that they were, in fact, wrong.

Elsewhere Talmadge seems to have been appealing for historical sympathy. In his discussion of the "White Primary," he began by admitting its indefensibility to modern sensibilities, and then asked for an act of historical imagination:

Viewed from the perspective of the 1980's, that institution seems downright indefensible. (Before I left the Senate, I was even favoring extension of the federal Voting Rights Act.) So it may take a good deal of memory (or imagination) to envision Georgia as it existed forty years ago. I suppose that Southerners have always looked more to the past than the future. As a result, we have produced more than our share of historians and literary folk. But we have also been slow to change.<sup>40</sup>

This passage introduced a longer, justificatory argument. But it is hard to miss the implicit admission that Georgia of four decades prior was at moral fault. The old Georgia needed the aid of imagination to gain sympathy: not because it required imagination to create a past which was

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<sup>40</sup> Ibid., p. 144.

justifiable on its own terms, but because imagination was required to see how such moral errors were at least understandable. Being "slow to change" was held up as a character trait, which, while having good qualities (such as producing historians and "literary folk"), also led to less desirable results. It was an excuse: but we only excuse what we recognize to have been (otherwise) a fault.

At a number of points in his memoir, Talmadge engaged in extended defenses of some of his long-held positions. Most of these defenses were attempts to define a politics of 'States' rights' which was separable from the issue with which it had been most closely and visibly linked for decades, not least by Talmadge himself. Other defenses, however, touched on issues more closely related to segregation. In both cases, Talmadge relied upon all his rhetorical devices to convince his reader—and perhaps himself—of the validity of his viewpoint without quite making it seem to be an explicitly pro-segregation view: he elided the question of whether he was engaged in a defense of his old positions and of whether he continued to hold them; he relied upon a fantasy image of segregation as a system supported by African Americans as well as whites, one which had legitimate uses apart from its role in maintaining racial hierarchy; he combined brief admissions of the immorality of segregation with lengthy, heated defenses of supposedly separable principles.

One such defense occurred in Talmadge's passage describing the institution of the Democratic White Primary, the opening of which is cited above. He continued his defense of the institution at some length,

however. First he set the institution in the context of white southerners' memories of Reconstruction:

During Reconstruction, some of the best educated and most responsible white citizens were disenfranchised at bayonet point, and our local and state governments were turned over to Yankee carpetbaggers, white Southern scalawags, and barely literate freed blacks. Our experience with blacks in politics was that they were manipulated by outside forces that wanted to exploit us socially and economically. These forces invariably belonged to the Republican party. So in the wake of Reconstruction the two political forces most feared by the typical white Southerner were blacks and Republicans. The Democratic White Primary was designed to exclude both.<sup>41</sup>

Here Talmadge's Margaret Mitchell-esque image of Reconstruction was used to explain why white southerners might reasonably wish to exclude African Americans and Republicans. By combining these two categories, he managed to conflate a racist institution (the exclusion of African Americans from voting) with a perfectly ordinary one in American politics (a primary in which members of another party are not allowed to vote.) Talmadge then pushed this conflation further in his next paragraph:

Ignoring the racial aspect for a moment, it's not hard to see why a political party might want to restrict the sort of people who pick its candidates in the general election. ... Even today, quite a few states limit participation in party primaries to registered members of that party. ... In the spring of 1986, a couple of followers of Lyndon LaRouche got on the general election ballot as Democrats in Illinois because the regular Democratic

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<sup>41</sup> Ibid., p. 144.

Party was asleep at the switch during the primary. If an invading army had come into Illinois for the express purpose of installing those LaRouchites into public office and throwing the existing office-holders out, and if the situation had existed for over a decade, you might expect the people of Illinois to take precautions against that happening again. That's the way Southerners felt about blacks and Republicans in Georgia. Originally, the Democratic White Primary was simply a means of assuring that people would have an opportunity to vote for someone who was both white and a democrat. There was no provision, nor should there have been, to prevent blacks and Republicans from voting in the general election.<sup>42</sup>

By focusing the reader's attention on the extreme hypothetical about military occupation of Illinois by the followers of Lyndon LaRouche,<sup>43</sup> Talmadge elided the differences between ensuring that "people would have an opportunity to vote for someone who was... a democrat" (by keeping Republicans from voting in the Democratic primary) and ensuring that "people would have an opportunity to vote for someone who was... white". He also, of course, passed over the fact that, in the segregated south, there was no Republican party of any significance, and thus a vote in the general election was, practically speaking, meaningless. (This was highlighted even further when Talmadge claimed, as will be discussed below, that the Democratic Party was "a private organization".)

In the passages so far cited, Talmadge was completely unclear about whether he was making an *excuse* (for what he had come to see as a

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<sup>42</sup> Ibid., pp. 144 - 145.

<sup>43</sup> A hypothetical which was itself quite revealing about the decontextualization of Reconstruction, in particular the elimination of any question of race or racial justice from Talmadge's conception of it.

moral error) or a *justification* (of a practice he continued to see as perfectly acceptable). Talmadge addressed—but did not answer—this question in the next paragraph. He wrote:

In looking at things with the clarity of hindsight, I have to admit that the Democratic White Primary was not only discriminatory but unnecessary. The threat to local self government had passed with Reconstruction. But we just didn't want to take any chances. Moreover, the fact that it was the federal courts that struck down the White Primary sort of stuck in our craw. Maybe they weren't sending the occupying army back in, but the whole business smacked of Yankee imperialism. This sort of intrusion into the affairs of a private organization, which is what the Democratic Primary was, made the vast majority of white Georgians see red. There was no major politician in the state at that time who really wanted to do away with the White Primary. The question was whether we should fight to keep it. The Talmadgites wanted to restore the White Primary in a way that would pass constitutional muster, and the anti-Talmadgites simply wanted to knuckle under to the court's ruling. When the people voted for Papa in 1946 and me in '48, they made it clear that the fight was to continue.<sup>44</sup>

Talmadge established his credentials as opposing the disenfranchisement of African Americans by admitting that the Democratic White Primary was "discriminatory"; but the admission was buried within a side phrase ("not only..."), and the structure of his sentence gave priority to the fact that the institution was "unnecessary." The "not only.. but [also]" structure made the "unnecessary" the decisive factor, the "discriminatory" merely one to mention in passing. This sidelining of the moral issue was furthered by the fact that it was his judgment that the Primary was

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<sup>44</sup> Ibid., p. 145.

"unnecessary" rather than "discriminatory" that Talmadge went on to expound upon. Further, even that "unnecessary" occurred in the context of an argument making the case that, while "unnecessary," the institution of the Democratic White Primary was nevertheless understandable. By focusing solely on its being "unnecessary," Talmadge did not need to clarify whether the larger argument was an excuse or a justification—whether its being "discriminatory" should have been enough for him (and others) to do away with it, indeed whether this seemed sufficient to him even in 1987.

Talmadge also managed to slip into this paragraph his rhetorical trope of using the past as an excuse. The claim that "There was no major politician in the state at that time who really wanted to do away with the White Primary. The question was whether we should fight to keep it" implicitly excused Talmadge for not opposing the White Primary—since *no* white politicians in the state did, it would be unreasonable to ask him to have done so. Further, by framing the issue as a question of whether to fight for what they had all believed in, Talmadge managed to make the struggle for an institution he admitted in *the very same paragraph* was discriminatory sound courageous. His opponents wanted to "knuckle-under" (they were weak or cowardly). The Talmadgites wanted to "restore" the White Primary—a lofty word that gives the struggle a touch of nobility—and to do so "in a way that would pass constitutional muster," ignoring the fact that to try to keep a whites-only primary was necessarily subverting the Court's ruling, to say nothing of the constitution. Finally, Talmadge passed off the onus of the decision onto the citizens of Georgia (or rather the white citizens, although he didn't



point that out here) by noting that the "people... made it clear that the fight was to continue", which nicely avoids any question of the morality of running a campaign on that basis (and in the process swaying people *in* that direction).

Talmadge's only other passage addressing the "discriminatory" nature of the Democratic White Primary was his opening remark, quoted above, that by 1987 it seemed "downright indefensible," and that he had been in favor of the 1982 extension of the Voting Rights Act. In other words, he had come to see the institution as so clearly wrong that in order to end it he was willing support the sort of government actions that, not only in the past but repeatedly throughout his memoir, he argued against. Yet he did not acknowledge this sense that there was a genuine *immorality* in the position he and others had taken in his discussion of that position; his entire presentation of it was presented as a defense of having done so.

If Talmadge's defenses of his earlier positions on the White Primary and *Brown* were at least somewhat equivocal, including some acknowledgment that on the underlying issue justice was on the other side, his defense of his prior position on the Civil Rights Act of 1964 and the Voting Rights Act of 1965 was less so. His analysis of the Civil Rights Act was phrased in the rhetoric (standard in conservative discourse by the 1980s) of "special rights," a term more typically used to oppose either Affirmative Action or Civil Rights statues for gays and lesbians. This notion of "special rights" was, as I have argued, part of the central rhetorical maneuver used by former supporters of *de jure* segregation to

adopt themselves to an integrationist stance by presenting their goal as race-neutrality: seizing upon the shifting focus of the Civil Rights Movement from combating *de jure* to *de facto* segregation, former supporters of Jim Crow used the earlier rhetoric of the Civil Rights Movement to combat its later goals, in the process discarding their own discredited arguments in favor of *de jure* segregation. But Talmadge was going beyond that particular rhetorical pivot. He was, in fact, continuing to oppose the entire apparatus of Civil Rights law (without openly supporting segregation).

A key step in Talmadge's rhetorical strategy was his concept—probably sincerely held—that, as a *legal* matter, racial equality was an established fact. Talmadge wrote that

It was a tragic mistake to have instituted slavery in this country in the first place. It was also a mistake not to have extended the full rights of citizenship to black people once they were freed. But that situation was largely corrected by the thirteenth and fourteenth amendments to the Constitution.<sup>45</sup>

This was of a piece, of course, with Talmadge's notion that Reconstruction was an illegitimate power-grab (rather than an imperfect and unfinished move towards racial equality); if the situation had already been perfectly resolved, then Reconstruction was necessarily illegitimate; conversely, Reconstruction can only be understood as illegitimate by denying the genuine issues that remained. Thus Talmadge asserted that after 1868, when the Fourteenth amendment was passed, no further action was required. The issue of enforcement mechanisms for the Fourteenth

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<sup>45</sup> Ibid., p. 182.

Amendment was conveniently omitted—if the issue had been raised, then its non-enforcement, and the view that the Civil Rights Act was itself an implementation of (rather than an addition to) the Fourteenth Amendment, would have to be broached. This was particularly pressing in the case of the Fourteenth Amendment, which, in contrast to many constitutional amendments, was extremely general in its language.

(Two other points should be noted about that passage. First, by speaking of both slavery and the ongoing second-class status of African Americans as a "tragic mistake," Talmadge bypassed any moral judgment: it was not a *crime*, but a mistake—something done by good people with genuine good will. Second, Talmadge's omission of the *Fifteenth* Amendment, which secured (at least *de jure*) the right of African Americans to vote, was particularly telling, especially in the context of Talmadge's own efforts in his career to continue the disenfranchisement of African American Georgians.<sup>46</sup>)

Having claimed that Civil Rights laws were *legally* unnecessary freed Talmadge to find an ulterior motive for them:

Under our form of government, blacks had every right to demand equal treatment under the law. In those instances where segregation was used to keep blacks in an inferior position to whites, it violated constitutional law and elemental principles of human decency. But the so-called "civil rights" laws that were proposed in Congress from the late 1940s to the late 1960s had little to do with equality under the law. They were designed primarily to force a mixing of the races at every level of Southern society and to punish any Southerner who valued the right to associate with persons of his own

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<sup>46</sup> See Tuck, Beyond Atlanta, pp. 74 - 77.

choosing.... "Civil rights" laws... [although] usually drafted in neutral language... are intended to confer special privileges upon certain groups of people precisely because of their race or some other distinguishing characteristic. Rather than limiting the power of government over the private life of the individual, civil rights laws greatly expand the power of government to enforce the special privileges of some favored minority group.<sup>47</sup>

Once again, Talmadge's single admission of the immorality of segregation—that there were "instances where segregation was used to keep blacks in an inferior position to whites" which "violated constitutional law and elemental principles of human decency" was separated from any context which might have raised doubts concerning his larger narrative about the Civil Rights Act being legally unnecessary. It is in fact something of a puzzle what Talmadge might have thought he meant—since he had already justified most of the formal system of segregation. Presumably, however, this was not something Talmadge thought through: having accepted a general principle that there were such injustices (and condemned them), he did not press his memories or beliefs to detail what those were or how they differed from the normal practice of segregation. And while Talmadge did admit that such instances existed, he also seemed to be against any remedy for them—save, perhaps, for individual legal action to deal with individual cases.

It is also worth noting in passing Talmadge's continued use of language straight out of pro-segregationist arguments, in particular the phrase "a mixing of the races," with its deliberate ambiguity and its suggestion of miscegenation, as well as the employment of the phrase

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<sup>47</sup> Talmadge, 1987, p. 182.

"associate with persons of his own choosing" to describe public acts of discrimination. Interestingly, this language was used right beside quite modern rhetoric about "special privileges" for "some favored minority group"—showing in a single paragraph the evolution of this particular strand of conservative argument. (It hardly needs to be said that "favored minority" was a strange phrase to use in the context of a group as disenfranchised and oppressed as African Americans were under Jim Crow.)

This mixing of both quite obsolete with quite modern rhetoric was sustained in Talmadge's next two paragraphs. He first continued his "special rights" rhetoric with a passage about the tendency of people to see themselves as members of groups and the prevalence of the politics of victimhood that, apart perhaps from its invocation of Prohibition as an example, would have sounded perfectly up to date in 1987:

Back in the 1950's and '60's folks supported civil rights legislation because it was seen as a blow against racial prejudice. That's a very noble sentiment, to be sure. So was the sentiment that got Prohibition passed right after World War I. The world would no doubt be a lot better place without booze or racial prejudice. But when you try to outlaw either one, you create more problems than you solve. We all know what a travesty Prohibition was. The damage done by the philosophy of civil rights is not so apparent, but it's been every bit as harmful to the social fabric of this country. Over the last twenty to thirty years, too many Americans have stopped thinking of themselves as individual citizens who stand equal before the bar of justice. They see themselves as members of special-interest groups, as "victims" of society who deserve preferential treatment. They look at those of us who don't fall into some government

approved minority group and say: What are you going to do for me?<sup>48</sup>

Note that Talmadge totally elided the issue of the *reality* of racial prejudice. I suspect that even Talmadge, if pressed, would have admitted that under the system of segregation, African Americans were hardly "individual citizens who [stood] equal before the bar of justice." By claiming that opposing racial prejudice was a noble sentiment, Talmadge freed himself to oppose the historical mechanisms that undid, at least de jure, legally inequality—and that were doubtless responsible for Talmadge's own transformed thinking, his protestations about the impossibility of outlawing prejudice notwithstanding.

Also, by comparing Prohibition and the Civil Rights Movement, Talmadge passed over the fact that Prohibition largely failed because far too few people *did* think that "the world would... be a lot better place without booze"—thinking instead that (say) "booze" was fine if not taken to excess—whereas by the 1980s most people would have agreed that racial prejudice should be eliminated entirely, not simply taken in moderation. Further, Talmadge did not confront the historical reality that the Civil Rights Movement was much more successful at eliminating racial discrimination (for all that nevertheless remains) than Prohibition was in eliminating liquor, to say nothing of the lack of an organized crime resurgence to import bootlegged discrimination. (There is a certain unavoidable irony in this comparison given that Talmadge was (as he detailed in his autobiography) an alcoholic—and that he seemed no less in

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<sup>48</sup> Ibid., pp. 182 - 183.

denial about his racist past as for many years he was about his alcoholism.)

After having reached a very modern-sounding argument against Civil Rights legislation, however, Talmadge went on to make an old segregationist argument about the impingement of such laws on private property rights:

With the extension of "civil rights" to so many different groups in society, the property rights of individuals have largely become a thing of the past. Owning property used to mean being able to do what you wanted with it so long as you didn't endanger public health or safety. That included the right to do things that other folks might regard as stupid or unfair. If I wanted to rent an apartment and the landlord said, "I'm sorry, I don't rent to people who smoke cigars and chew tobacco," that would be a malicious and bigoted action on his part. But since it's his apartment, he's got the right to be malicious and bigoted. Unless, of course, he's discriminating against a government approved minority group.

Talmadge here glided over the question of when he would have begun viewing such actions as "malicious and bigoted," and what forces brought him to that point. And while in his memoir he was willing to state that such actions are morally wrong, he still made a standard segregationist structural argument (in favor of private property rights) which had been used to maintain them.

At the end of his attack on Civil Rights laws, Talmadge argued that the two rhetorical streams he employed were, in fact, closer than most modern conservatives would be willing to admit:

Neoconservatives argue that such things as forced busing and racial quotas are perversions of civil rights. That's nonsense. They are logical outgrowths of the sort of special-interest politics that lies behind all the civil rights initiatives of the post-war era. In the Brown decision, the Supreme Court said that separate-but-equal schools violated the constitution because Gunnar Myrdal thought they might have an adverse psychological effect on black children. You have to have racial balance to make the sociologists happy and keep the children well adjusted, even if it means destroying the concept of the neighborhood school. If integration in the workplace is desirable, racial quotas are the next logical step, even if they mean trampling on the rights of white workers with better qualifications and more seniority. I have no doubt that we are better off living in an integrated society than in a segregated one, but I'm also convinced that we would have eventually gotten there without federal intervention.

Talmadge may have claimed to "have no doubt that we are better off living in an integrated society than in a segregated one," but the reader might easily doubt the sincerity of such a claim given his absolute objection to all the means by which such a society had been (imperfectly) achieved—and the means by which Talmadge himself came to that belief, if indeed he had. Yet given Talmadge's distorted view of the past and his rosy picture of segregation, I think it at least plausible that he managed to sincerely convince himself that he did support integration while opposing, indeed ridiculing, the methods by which it was brought about—methods which, had Talmadge had his way decades prior, would have failed, and with them the achievement of whatever degree of integration this country can now claim.



Talmadge's argument against the Voting Rights Act was, by comparison, brief; indeed, he argued somewhat less fervently against it than he did against the Civil Rights Act (perhaps in keeping with his claim to have been leaning towards supporting its extension before leaving the Senate), although he claimed that it, too, was unnecessary. He also argued that it was hypocritical, since it was applied only to the South. He wrote:

Now, if there was any doubt that "civil rights" was primarily an exercise in baiting the South, it was laid to rest with the 1965 Voting Rights Act. For years prior to that act, barriers against black voting had been coming down all over the South, and blacks were registering and voting in record numbers. Moreover, this trend seemed destined to continue and even accelerate in the coming years. You would think that the civil rights activists in Washington would have been delighted to see this voluntary progress on our part. But that's not the way the liberal mind operates. ... liberals are never happier than when they're puttering around trying to fix unbroken things. ... What the 1965 Voting Rights Act did was to put local election laws in the South under federal control. That way, when the expected increase in black voting took place, the Yankee liberals in Congress and the Department of Justice could claim credit for it. ... That legislation seemed a trifle harsh. But we would have been much more inclined to accept it if its benefits had applied to the nation as a whole. We didn't want to be selfish and hog the assistance of those helpful federal bureaucrats. ... [But] all attempts to apply the provisions of that act nationwide have been soundly defeated.<sup>49</sup>

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<sup>49</sup> Ibid., pp. 209 - 210.

Talmadge's claim about the inevitability of African-American voting expansion in the South was, of course, at odds not only with the historical record but with his *own* record as an enabler of racially-based disenfranchisement. But his argument about liberal hypocrisy would probably be accepted by some radicals; as Numan V. Bartley writes, "the hypocrisy of white northern liberals was probably the only thing that patrician James J. Kirkpatrick, radical Stokely Carmichael, and rabble-rouser George Wallace agreed on."<sup>50</sup>

Talmadge segued from his discussion of the Voting Rights Act into a critique of the post-1965 Civil Rights program, focusing on busing and affirmative action. He began with a passage which contradicted, to an extent, his oft-expressed sense that liberal hypocrisy included their exempting themselves from Civil Rights laws:

Now, a person inclined to cynicism might jump to the conclusion that equal rights were meant to be unequally enforced. But that wasn't the case. The recent trend in civil rights that I mentioned awhile ago extended the blessings of federal coercion across the length and breadth of this fair republic. We first saw this happening when federal judges started looking at the Brown decision and saying, "This Swedish fellow doesn't think that our black children will have a very positive self image unless we get them going to school with whites. Now, up there in the North, you folks have got what we call *de facto* segregation. That means that your neighborhood schools are predominantly white or predominantly black. ... Put a bunch of your black

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<sup>50</sup> Numan V. Bartley, The New South, 1945 - 1980 (Louisiana State University Press, 1995), p. 466.

children on some [busses] and a bunch of your white children on others, and bus 'em to each other's schools.["]  
... Many rich folks get out of it by sending their kids to private school where *de facto* segregation (or at least racial imbalance) exists because of income rather than geography. Working class whites (whom liberals always feel free to malign) don't like busing because it undermines the social integrity of their neighborhoods. Blacks (who are supposed to benefit from it) often see it as a form of benign racism. ... About the only good that forced busing has done is expose a lot of self-righteous Yankees for the hypocrites they really are.<sup>51</sup>

Once he turned his attention to the post-1965 era, Talmadge's arguments became indistinguishable from that of a great many conservative politicians. The rhetoric against liberals—that they are hypocritical, that they are against the genuine interests of working-class whites, that they are in fact racist in their good intentions—are quite familiar. At the same time, he abandoned the notion (which he ascribed to "a person inclined to cynicism", for all that he expressed it repeatedly elsewhere in his memoir, including on the previous page) that Civil Rights was a northern plot against the South: now it was transformed into a liberal plot against both working class whites and blacks. In this small section of text, Talmadge recapitulated the phylogeny of much conservative thought, moving from a purely race-based and regional analysis to a class-based and purportedly race-neutral one. The only difference is that while many modern conservative historians, as I will discuss in a later chapter, have tended to obscure the roots of contemporary conservative thought in earlier segregationist thought, Talmadge was up-front about the connections.

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<sup>51</sup> Talmadge, 1987, p. 211.

Talmadge had a similar analysis of affirmative action, again sticking close to many other contemporary conservative politicians, save that he made explicit the connections between segregationist thought and anti-affirmative action thought which others might have wished to pass quickly over:

Over the past few year busing has had to take a back seat to racial quotas as the most flagrant abuse of civil rights in this country. Call it affirmative action, goals and timetables, or compensatory hiring, it amounts to pretty much the same thing—reverse discrimination. It all goes back to the habit of stressing the group and ignoring the individual. Here again, racial balance is seen as the overriding goal. Unlike busing, however, this is a game where there are winners as well as losers. ... [B]y trying to compensate a *group* for past injustices, affirmative action rewards people who have suffered no *individual* harm and does so at the expense of those who have done no *individual* wrong. Most of the white males who support affirmative action are so well established in their professions that they will never have to suffer its consequences... But what of the fireman or the construction worker who is passed over for a promotion to which he would otherwise be entitled? And what of the young person who can't gain admittance to the graduate or professional school of his choice or get a good job simply because of his race and sex? Is it justice or even compassion to rob one group of people in order to bestow undeserved benefits on another? Not in my book it isn't.<sup>52</sup>

Here again Talmadge shifted into a populist mode familiar from conservative movement rhetoric. It is a rhetoric that does, of course, have deep roots among Southern politicians, even self-avowedly conservative

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<sup>52</sup> Ibid., p. 212; emphasis in the original.

ones. But its presence in Talmadge's text unveils its historical roots. Yet for Herman Talmadge—who said in reaction to the *Brown* decision that "there aren't enough troops in the whole United States to make the white people of this state send their children to school with colored children"<sup>53</sup>—to worry without a hint of irony about "the young person who can't gain admittance to the graduate or professional school of his choice or get a good job simply because of his race and sex" was rather remarkable.

Talmadge rounded out this excursion into opposition to the contemporary Civil Rights agenda by protesting that he did, in fact, support the advancement of African Americans:

Obviously, I have serious reservations about some of the laws and court rulings that have been promulgated on behalf of "civil rights". But that doesn't mean I want to see blacks held back. Far from it. I just happen to think that genuine racial progress will come about only when people succeed or fail on the basis of their individual merit, not the color of their skin. Specifically, we need a society in which blacks can compete in the job market without the stigma of affirmative action and rise to positions of political prominence without setting one race against each other. To the surprise of many, we've made much more progress towards these goals in the South than in the North.<sup>54</sup>

For Talmadge—whose electoral success (at least in his early political career) depended upon race-baiting as a central component—to look for a society in which African Americans can "rise to positions of

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<sup>53</sup> Quoted in Clymer obituary, op. cit., *The New York Times*, March 22, 2002.

<sup>54</sup> Talmadge, 1987, p. 213.

political prominence without setting one race against each other" might be read, generously, as a sign of genuinely changed views. Perhaps his professed belief that "genuine racial progress will come about only when people succeed or fail on the basis of their individual merit, not the color of their skin" might be read similarly. But Talmadge showed no self-consciousness about the fact that this is an ideal he had actively fought against. Nor did he give any sign of sensing the contradiction even in the views expressed in his memoir. As discussed above, Talmadge repeatedly claimed that segregation was ending without federal intervention—in other words, that "racial progress" was being made even absent such interventions as the Civil Rights Act and the Voting Rights Act; yet this directly contradicted the notion that "genuine racial progress will come about only when people succeed or fail on the basis of their individual merit, not the color of their skin"—at least when combined with Talmadge's professed view that the move towards an integrated society *was* racial progress. In the space of a few pages Talmadge turned fully around, and adopted standards for the present which flatly deny the historical reality he believed existed in his own recent past.

Since he did not discuss the matter, there is little evidence about what caused Talmadge to finally abandon his segregationist position. But some speculations seem fairly well-grounded. As with many pro-segregationist politicians who wished to continue to serve in office past the mid-1960s, a calculated political advantage was almost certainly a key component in his transition. After the passage of the Voting Rights Act, Talmadge was obliged to seek African American votes more diligently

than he had previously.<sup>55</sup> It is not always an easy thing to profess a view one does not believe in; elements of belief can creep in even if one starts out doing something for purely instrumental reasons. Another common aspect of segregationist transitions that was probably also part of Talmadge's story was the historical reality that the issue simply became moot. The major Civil Rights acts, including the Voting Rights Acts, had passed; *de jure* segregation had been largely abandoned. And, finally, Talmadge—prompted by changing information from the media, from constituents, and elsewhere—may have indeed rethought his position to a certain extent based on the merits.

But Talmadge clearly remained emotionally connected to his earlier positions. At times this manifested itself as passionate defenses of the ideological grounds upon which those positions were defended at the time—without thinking through the conflict between his new beliefs about the morality of segregation and his old commitment to principles such as the idea that beliefs cannot be changed "at bayonet point." At other times Talmadge's emotional connection to his earlier positions led him to a sense that it made sense *then*, whatever is said now—without thinking through what the notion that "it made sense then" might mean or how it might be reconciled with his later beliefs. And at times this might spill into a feeling that, hell, what was wrong with segregation anyway?, as he came, temporarily, to re-credit his old defenses. Talmadge applied new standards to present-day issues and old ones to old issues without thinking through the contradictions therein. He changed but did not

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<sup>55</sup> Although he claimed, in his memoir, to have always sought out African American votes (Talmadge, 1987, pp. 202, 203).

repent, and seems to have lived with this contradiction happily enough. This was, doubtless, enabled by his ongoing belief in old untruths, such as the notion that African Americans were perfectly happy under segregation—were, indeed, just as happy with segregation as whites were.

Talmadge exemplifies what was doubtless a common pattern among defenders of segregation who abandoned their views: say enough to convince others—and perhaps oneself—that one has changed one's views, but do not bother to think through the consequences of those changes, enabling old ideas to persist in contradiction with the new, and enabling old emotions and positions to resurface when considering the past, even if they do so in muted form or in the company of ritual denials. Admit error without admitting wrongdoing; change one principle without considering related principles one continues to hold. Whether motivated by practical considerations, genuine (if shallow) conviction, the insurmountable facts of irreversible change or simple exhaustion with the topic, move on to other issues. The times have changed: what need is there to consider what the old times meant, and how one acted then? Accept new ideas, if one must, "at bayonet point"—be reconstructed—but remain unregenerate: do not apologize, even within one's own mind. Do not think things through too thoroughly, nor seek to explain, lest the contradictions within one's own thoughts prove too sharp to bear.



CHAPTER 6  
THE UNYIELDING: ONGOING ADVOCACY OF *DE JURE*  
SEGREGATION IN THE AGE OF INTEGRATION

Up until this point in this study, I have focused on individuals in the mainstream of American political life. Indeed, it has been central to my argument that within a decade of the mid-sixties climax of the Civil Rights Movement, any individual or organization wishing to participate in political life (save at the fringes) *had* to have rejected, if only implicitly, *de jure* segregation (and, conversely, accepted *de jure* integration). And I have focused on the differing ways in which different figures have made the transition from their pro-segregation stances to the pro-integration ones necessary to keep them within the new political consensus. And among mainstream political figures, such a transition was more common than not—since such figures typically wish to continue their involvement in political life.

But, of course, not everyone made this transition. Through whatever combination of conviction, stubbornness, lack of desire for the advantages that changing their positions would yield, inability to find a palatable way to change their positions, and various other factors, some advocates of segregation continued to maintain their pro-segregation positions years after this ceased to be an acceptable position within American political discourse. They accepted the marginalization that this persistence brought, and, whether bitterly or resignedly, relentlessly or tepidly, continued to advocate a position that, for all practical purposes,

had ceased to be an option—had, really, ceased being seriously considered.

For a study such as this one—whose focus has been on the mainstream of American political ideology and the transition that political figures needed to make in order to stay within its boundaries—there is an unavoidable difficulty in seeking to look at segregationists who never renounced their views. It is fundamental to my argument, after all, that the very notion of figures who both continued to support *de jure* segregation through the 1970s and played a prominent political role in American life is a contradiction in terms, as opposing it had become a prerequisite for participation in the mainstream of American politics. Thus if this study is to examine any figures who remained steadfast in their segregationist convictions, this will necessarily involve looking at more marginal figures than have hitherto been examined—or, at least, figures who became increasingly marginal as time progressed.

Yet such a departure from a focus on more prominent figures is necessary, for any picture of the multiple ways in which segregationists reacted to the changing moral and political landscape is fundamentally incomplete *without* a consideration of those whose reaction was to stick to their guns. While it is true that—as I shall detail below—this very steadfastness marginalized them, they are nevertheless a crucial (albeit minority) part of the response of Jim Crow's political supporters. Those who moderated, obfuscated, denied or radically altered their political stances did so in the context of those who did not. Those who changed saw the fate of those who did not; and, to whatever degree, this doubtlessly affected their decisions to reexamine their views and

pronouncements. To truly understand the transition made by segregationists who accepted integration (in whatever fashion and to whatever extent), we must look at one who did not. One element of American political discourse is that there are those who allow themselves to fall out of it. In this chapter, therefore, I shall examine a figure who, despite the changing consensus about Jim Crow, continued to profess his belief in segregation: Georgia Governor Lester Maddox. Maddox remained constant in his segregationist positions, and was, over time, marginalized as a result. On this issue he was unwilling to yield.

As with practically every category in this study, the term 'unyielding' is slippery. People are not necessarily consistent in how they represent their past views to others—even to the same individuals, let alone when considering various representations to different individuals, groups and institutions. Nor are people consistent even in how they represent their past views to themselves. Some of those previously examined in this study have, at various times and to various degrees, let slip continued sympathy for their old views. Others have continued to hold what might reasonably be considered genuinely segregationist stances while making concessions to the new consensus—continued to oppose the Civil Rights Act and Voting Rights Act as legislation while claiming to believe in the desirability of integration, for example. While figures such as these obviously have been 'unyielding' to an extent, I have considered them elsewhere. Maddox, in contrast, maintained his segregationist views in close to the same fashion in which he had earlier maintained them: with some modification of tone resulting from the

changed views of his audiences, but with his basic beliefs stated in more or less the same manner.

Before discussing someone who maintained his old views even in the face of changing times, it is worth pausing to note one set of figures who might equally be deemed unyielding, but who will necessarily not be examined: those who never moderated their position simply because they did not live long enough so that the new moral consensus forced them to confront their old positions and react to the disjunction. These are segregationists who died before the new consensus was fully in place, and thus were able to avoid deciding between changing their views and paying the price for failing to do so. I have already cited former German Chancellor Helmut Kohl's comment about "the grace of late birth" that some Germans enjoyed.<sup>1</sup> This phrase encapsulates a complex sense of the interaction between identity, morality and history. It captures the truth that, while we make moral choices out of our own consciences, and are responsible for those choices, the design of our consciences is itself a process that takes place within the flow of history; that there are some choices we are fortunate not to have to make, since we could not be certain that we would have chosen well, even though we now find the right choice obvious.<sup>2</sup>

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<sup>1</sup> Quoted in Jay Howard Gellar, "Germany, Federal Republic of", in Richard S. Levy, ed., *Antisemitism: a Historical Encyclopedia of Prejudice and Persecution*, Santa Barbara: ABC-Clio, 2005, vol. 1, p. 271.

<sup>2</sup> One Christian school of thought points to the phrase from the Lord's prayer, "lead us not into temptation," as showing that while our behavior

In speaking of segregation's advocates, one might coin a counter-phrase to Kohl's, and speak of the damnation of early death. It is clearly far too facile to say that even the most determined of segregation's defenders would necessarily have continued to speak on its behalf had they lived deeper into the second half of the twentieth century. We cannot say of (for example) Senator Henry F. Byrd that he would necessarily have remained an unrepentant advocate of segregation had he lived beyond 1966, even though it was he who coined the phrase "massive resistance," and even though his last major effort in the Congress was fighting the Voting Rights Act the year before his death. This is not to say we can know for certain that he would have changed his mind, of course; it is simply that he did not have an opportunity to make that choice in the new environment in which segregation was no longer deemed within the realm of arguable positions.

Many of those whom we have examined previously in this study would appear quite differently from history's vantage point if they had died earlier. Although George Wallace's main legacy remains that of one of segregation's most ardent defenders, this legacy is blurred in a way that it would not have been had he been killed and not merely injured by Arthur Bremer in 1972. So we have no choice but to reserve judgment, at least to a certain extent, on those who died too soon to be compelled to adapt to the new environment, as we have no way to know which of them would have changed, or how.

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in the face of temptation is on our own consciences, avoidance of temptation is a form of grace.

But, of course, the converse is true. In considering the unyielding, it is hard not to reflect that they would look different in retrospect had they not lived so long. About hard-line segregationists who died earlier we can at least speculate that they *might* have moderated their positions if they had lived; with those who did live but did not change, we know for a *fact* that they did not. Coining another phrase after Kohl, we can say that they lacked (as perverse as it sounds) the grace of early death, which would at least have given them a more ambiguous legacy. We know that, had a greater number of segregationists lived a longer time, the unyielding would have counted more among their number; but we can never say precisely who they would have been, save for those who lived to demonstrate it of themselves. Praise them for their steadfastness in their convictions or damn them for their moral obtuseness, those who remained unyielding deep into the new era now appear to us differently than any who even *might* have changed their minds.

For a brief period, Lester Maddox was the most famous segregationist in the country.<sup>3</sup> Maddox, owner of the Pickrick restaurant

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<sup>3</sup> There is no comprehensive, non-partisan biography of Lester Maddox. Most of the non-partisan biographies cover only part of Maddox's career: Justin Nystrom's excellent article "Segregation's Last Stand: Lester Maddox and the Transformation of Atlanta" (Atlanta History, volume XLV, no. 2 (Summer, 2001), pp. 34 - 51) focuses solely on Maddox's career before becoming Governor; journalist Bruce Galphin's *The Riddle of Lester Maddox* (Atlanta: Camelot Publishing Company, 1988) was written halfway through Maddox's tenure as Georgia's governor; Bradley Rice's article in *Georgia Governors in an Age of Change*, "Lester Maddox and the Politics of Populism", does not cover Maddox's time as Lieutenant Governor (nor his later career). The one comprehensive biography, Bob

in Atlanta, Georgia, resisted the integration of his business even after Lyndon Johnson had signed the 1964 Civil Rights Act on July 2 of that year. The day after the law was signed, three African American divinity students attempted to eat at Maddox's restaurant. Maddox confronted them with a crowd of supporters at his back, and ended up driving them off with an axe-handle in his hand; at one point in the confrontation he brandished a gun.<sup>4</sup> An Associated Press photograph of Maddox, pistol in hand, with his son beside him wielding a baseball bat, resisting the integration of the Pickrick, appeared on the front page of the July Fourth edition of the *New York Times*.<sup>5</sup> Later that summer, Maddox, who had repeatedly sworn that the Pickrick would never be integrated, closed his restaurant when a court threatened to begin assessing steep fines for each day he failed to operate his restaurant on an integrated basis. Maddox decided would rather go out of business than serve African Americans at his restaurant. Due to his prominent and aggressive defiance of the new law, and his final evasion of any integration, Maddox had become the

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Short's *Everything is Pickrick: the Life of Lester Maddox* (Macon, Georgia: Mercer University Press, 1999), was written by a former aide and press secretary to Maddox with the explicit intention of rehabilitating his reputation. These four sources, however, along with Maddox's own autobiography, *Speaking Out: the Autobiography of Lester Maddox* (New York: Doubleday & Company, 1975), are the primary accounts of Maddox's life and career.

<sup>4</sup> The Civil Rights Workers claimed Maddox directly threatened them with the pistol; Maddox claimed he held it but did not actually threaten them with it.

<sup>5</sup> Nystrom, "Segregation's Last Stand", p. 43. Nystrom notes that the *Atlanta Constitution*, seeking to put a positive spin on Georgia's reaction to the law, put the photograph on page two.

symbol of last-ditch resistance to integration. On the strength of his reputation, Maddox became governor of Georgia in 1966.

At the time of his greatest fame, Maddox could hardly be said to be a 'mainstream' figure. Maddox had previously run three times for public office: twice for Mayor of Atlanta, in 1957 and 1961, and once for Lieutenant Governor of Georgia, in 1962. For all this exposure, however, he was still viewed by many in Georgia as a distinctly marginal figure—indeed, to some degree *because* he had already lost three races, he was assumed not to be a serious candidate. In the words of former Georgia Governor Herman Talmadge, who notes that he regards Maddox as a "personal friend," Maddox was thought of as a "three-time loser who [was] considered something of a crackpot by the newspapers and the established political powers."<sup>6</sup> During two preliminary stages of the election—the original Democratic primary, and the all-but inevitable run-off that followed—cross-over voters voted for Maddox on the theory that he would be easier for the true candidate to beat: some supporters of liberal Democrat Ellis Arnall voted for Maddox in the first round, thinking that Arnall would beat Maddox in the run-off election; Republican supporters of Goldwater-disciple Congressman Bo Callaway crossed over during the run-off election to vote for Maddox, betting that Callaway (who at that time was favored to win the election<sup>7</sup>) would find it

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<sup>6</sup> Herman Talmadge, *Talmadge: A Political Legacy, A Politician's Life*, pp. 304 - 305.

<sup>7</sup> Callaway had been elected to the U. S. Congress in the wake of Goldwater's campaign in 1964. Despite the solidly Democratic history of Georgia, by 1966 it was thought that the tide had turned and that a conservative, Goldwater Republican (who was also a supporter of



easier to defeat Maddox than he would Arnall. Both times, strategic voters outsmarted themselves and underestimated Maddox. If Maddox had not been a mainstream figure when he closed his restaurant, he had been made one by the voters of Georgia. Any doubt as to his mainstream status was put to rest when, after a term as Governor and unable to legally run for re-election, he ran for and handily won election as Georgia's Lieutenant Governor.

Maddox fell into both demographic categories that most strongly supported segregation in Atlanta: the white working class and the small businessmen. Maddox was born in 1915 to a poor family, and dropped out of high school without getting a diploma. In due time, however, Maddox came to own and operate his own business, the Pickrick restaurant.<sup>8</sup>

It was as a restaurateur that Maddox first built his reputation. Two years after opening the Pickrick in 1947, he began running a weekly series of advertisements to promote his restaurant. The ads were formatted to look like opinion columns, and were interspersed with information about

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segregation) would win the election. See Galphin, chapter eight, and Rice, in *Georgia Governors*, pp. 199 - 200.

<sup>8</sup> The name was more or less random; as he testifies in his autobiography, Maddox had had the name "Pickwick" suggested to him (apparently without any sense of its Dickensian precedent), found that another business in Atlanta already used the name, and came up with "Pickrick" as a replacement, combining "Pick", the syllable from his discarded name, with "Rick", a slang term meaning "to pile up or to heap". He then made a slogan out of the name, giving its etymology at the bottom of each of his weekly advertisements: "You *pick* it out... We'll *rick* it up." (Maddox, 1974, pp. 25 - 28).

the restaurant; they ran in the Saturday *Atlanta Constitution* and the *Atlanta Journal*, the largest newspapers in Atlanta. According to a reporter for the former, the ads were "among the most widely read items" in either paper.<sup>9</sup> At first, these advertisements were largely-non political, but as the 1950's wore on and the Civil Rights Movement increased in both profile and successes, Maddox wrote more and more about politics.<sup>10</sup> By the 1960s, the ads were a paid-for weekly political column, with only a brief advertisement of the day's specials and Sunday's menu to connect it with his business. As regular items in the major Georgia newspapers, the ads as much as his political runs had made Maddox a familiar figure in the state.

But it was in his defending of his restaurant against integration that Maddox truly made his name. There had been a few cursory attempts by activists to integrate the Pickrick prior to the signing of the Civil Rights Act of 1964, but Maddox had driven them off without too much trouble. Once the Civil Rights Act was passed, however, the pressure turned from purely social to legal as well. Maddox's legal claims that the Civil Rights Act did not apply to his restaurant, and was in any event unconstitutional, were quickly dismissed. (He was also hauled into court for brandishing a pistol, although those charges were eventually dropped.) A few weeks after the initial segregation challenge, Maddox closed his restaurant rather than integrate it. He re-opened it immediately as a souvenir stand, selling his own writings and recorded speeches, other books (including *None Dare Call it Treason*), souvenir "Pickrick drumsticks", flags, and the like.

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<sup>9</sup> Galphin, p. 18.

<sup>10</sup> Galphin, pp. 21 - 22.

(He offered this merchandise on an integrated basis.) A few further attempts to evade the law, such as opening his restaurant under a new name, claiming that his refusal of service was on the basis of ideology and not race (he said he refused to serve "integrationists") and trying to claim that his restaurant was not engaged in interstate commerce were all quickly squashed.

But if he lost his legal battles, he gained a national reputation from them. To many, of course, this was a powerfully negative reputation; but Georgian segregationists admired his aggressive stand against integration. The image of Maddox confronting Civil Rights workers, axe-handle or pistol in hand, boosted his reputation as a man of strong conviction; and his decision to close his restaurant rather than go against his beliefs (at, as he would remark, great personal financial sacrifice) made him seem to his supporters like a man of personal integrity. Even his rather theatrical antics were successful in promoting his image.

This reputation helped him stand out in his fourth run for public office, the 1966 race for the governorship of Georgia, a race crowded with segregationists—most of whom, however, were more mild-mannered than Maddox. The tenor of the political times was also in Maddox's favor, as white Georgia was in the midst of a backlash against the recent successes of the Civil Rights Movement. In the Democratic primary, Maddox pulled ahead of a crowded field which included several other segregationists (in addition to a then-unknown state senator named Jimmy Carter) to win a place in the run-off election against Ellis Arnall. Beating Arnall in the run-off, Maddox faced the Republican congressman Bo Callaway. Callaway had been expected to beat the liberal Arnall, but

Maddox drew away hard-line supporters of segregation whom Callaway had thought he would attract; at the same time, Maddox ran as an economic populist, supporting issues (such as the minimum wage) that the Republican Callaway did not.<sup>11</sup> Unable to choose between two such unappealing candidates, liberals staged a write-in campaign for Arnall. This drew away enough votes that neither Callaway nor Maddox won an outright majority, which meant, by Georgia law, that the election would be decided in the legislature. As this was still overwhelmingly Democratic, Maddox won handily, despite having won fewer votes than Callaway. The circumstances were strange enough that his election could be seen, years later, as a "political fluke";<sup>12</sup> at the time, however, it seemed like an endorsement of political backlash.

Unsurprisingly, Maddox's tenure as governor displayed some of the hostility towards African Americans, and in particular towards Civil Rights protestors, that had made him infamous a few years before. During his tenure, Maddox supported (albeit tepidly) last-ditch efforts at resistance to school integration, and encouraged the growing trend of segregation through white abandonment of the public school system in favor of private schools. In one infamous incident, Maddox, while in Washington D.C. to testify against an extension of the Voting Rights Act, encountered African American Congressman from Michigan, Charles Diggs, Jr., and ended up saying that Diggs was "acting more like an ass

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<sup>11</sup> Galphin, pp. 119 - 120, 142.

<sup>12</sup> Jim Tharpe, "Lester Maddox: 1915 - 2003", *The Atlanta Journal-Constitution*, June 26, 2003, p. A1. Tharpe does not mention the obvious comparison with the circumstances surrounding the 2000 presidential election.

and a baboon than a member of Congress."<sup>13</sup> Above all, Maddox was widely criticized for his handling of Martin Luther King's funeral, which occurred in Atlanta during Maddox's tenure as governor. Maddox took a number of steps seen as deliberate snubs of King (whom he had long derided): he kept the Capitol open on the day of the funeral, threatened to have the flags there raised back to full staff (although he never did so), and declined either to attend or to even send a representative of the state government to the funeral. Even worse, he gave orders to police defending the Capitol building that, if any rioting occurred, they were to "shoot them down and stack them up," though fortunately this threat never materialized and only became known after the fact.<sup>14</sup>

In fairness, it must be noted that Maddox's tenure as Georgia's governor was somewhat more mixed than those who knew him largely as an infamous axe-handle wielding segregationist feared it would be. Maddox was spurred to begin a process of prison reform by an encounter with four escaped African American prisoners. He promoted some programs to help the poor, which helped the African American poor as well as the white. Former congressman Charles Weltner, who had declined to run for re-election in 1966 rather than fulfill a pledge to support the democratic candidate once it became clear that that candidate would be Lester Maddox, later said that "He really is for the poor folks, and when you do things for the poor folks, it involves black people."<sup>15</sup>

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<sup>13</sup> Rice, in *Georgia Governors*, p. 207 - 208.

<sup>14</sup> Galphin, pp. 208 - 209.

<sup>15</sup> Rice, in *Georgia Governors*, p 209. Ironically, in the same election Maddox refused to fulfill his pledge and support liberal Democratic candidates, including SNCC activist Julian Bond (Galphin, pp. 135 - 136.)

And Maddox's record at hiring African Americans for white-collar jobs, and appointing African Americans to draft boards and state commissions, was far better than previous governors, even those whose stance on racial matters was outwardly less hostile to African Americans. Among others, he appointed Georgia's first African-American state trooper, who said of Maddox that he "opened the doors for people of color to enter state government." On the other hand, Maddox appointed few African Americans to prominent or powerful positions; and he always seemed comfortable with African Americans in subservient roles, particularly as employees. (Maddox had always prided himself on his willingness to employ African Americans in his restaurant.)<sup>16</sup>

Georgia law did not permit Maddox to run for reelection to the governorship in 1970. Rather than retire from politics, however, Maddox ran for Lieutenant Governor and easily won (winning the Democratic primary without a runoff despite a multi-candidate field). Serving as Governor during Maddox's term as Lieutenant Governor was Jimmy Carter. Unsurprisingly, given Carter's comparatively liberal political leanings, it was a contentious relationship; one Carter biographer called Maddox "Carter's biggest headache throughout his tenure" as governor.<sup>17</sup>

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<sup>16</sup> Rice, in *Georgia Governors*, p. 203; Jim Tharpe, "Lester Maddox: 1915 - 2003", *The Atlanta Journal-Constitution*, June 26, 2003, p. A1; editorial, "Maddox a Man of His Time, But Not of the Future", *The Atlanta Journal-Constitution*, June 26, 2003, p. A18. Quotation taken from Tharpe. Maddox's pride in his African American employees was mentioned frequently in his "Pickrick Speaks" advertisements, as well as in his autobiography (1975) and elsewhere.

<sup>17</sup> Peter Bourne, *Jimmy Carter*, p. 204.

After his term as Lieutenant Governor, Maddox once again ran for Governor. Although Maddox did well enough in the first round of the Democratic primary to be one of the two run-off candidates, he lost in the run-off to George Busbee (who would go on to win the Governorship). During the campaign, Maddox played the race card, referring to Busbee as being "own[ed]" by civil rights activist Julian Bond. Busbee, in contrast, actively courted the African American vote. After the election, Maddox ascribed his loss in part to, in the words of his biographer, his "refusal to lower the state merit system standards so blacks could get more state jobs."<sup>18</sup> The 1974 Governor's race was not Maddox's final campaign; he waged somewhat quixotic campaigns thereafter—for President in 1976, for Governor of Georgia again in 1990. But the 1974 governor's race was the last one in which Maddox was a serious candidate for public office.<sup>19</sup>

After his 1974 electoral loss, Maddox wrote his autobiography, entitled *Speaking Out*. In this volume, Maddox neither retreated from his segregationist views nor apologized for any intemperate language or actions. He stuck to his guns (or his axe-handle), defending his views, his words and his actions. He would continue to do so in occasional interviews for the remainder of his life. Lester Maddox never backed down.

Throughout his life Lester Maddox remained remarkably consistent in his views, his defense of his position and the terms in which he

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<sup>18</sup> Short, *Everything is Pickrick*, pp. 140 - 149; quotes on pp. 144, 149.

<sup>19</sup> Short, pp. 177 - 180 and 191-192.

described and defended segregation. Early and late, his defense of segregation was based primarily on three things. First, Maddox claimed repeatedly and frequently that it was his fundamental property right (and others' rights, though he most often put it in personal terms) to serve only those whom he wished to serve in his restaurant, and to bar others from entering. Secondly, Maddox associated integration with communism and socialism. And thirdly, Maddox argued—far less prominently and far less often than he made the first two arguments—that he believed, as a matter of principle, that the races should be kept separate, and that this state of affairs would be best for both races.

Maddox's most deeply-felt argument was that integration violated his property rights. Most often, this was a contention that he made briefly or in passing, with the simple assertion that integration would violate his property rights. When he picketed the White House in the wake of the Pickrick's closure, his sign read "Mr. President, I Want My Private Property Rights Now!"<sup>20</sup> He described the potential result of the Civil Rights Act of 1964 as one in which the government might "take everything" from him; and he described a potential Supreme Court ruling on the matter as the possibility of "the Supreme Court rul[ing] against the right of free enterprise."<sup>21</sup> Ever the showman, after the close of his restaurant Maddox built a giant monument with "In Memory of Private Property Rights" inscribed on its base.<sup>22</sup> At times, however, Maddox

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<sup>20</sup> Maddox, *Speaking Out*, photograph between pp. 40 - 41.

<sup>21</sup> Short, p. 60.

<sup>22</sup> Maddox, 1975, photograph between pp. 16 - 17.



made the argument at greater length. In one of his columns shortly after the signing of the Civil Rights Act, Maddox wrote:

I want to thank my relatives, friends, customers and employees[...] You inspire me to continue to fight for the survival of my business, the American Free Enterprise System, and the survival of our civilization and freedom and liberty. [...]

This business and property is valued at \$500,000. It does not belong to the government; the Communists; the Mayor of Atlanta; the President of the United States; the news media; Martin Luther King, etc. It belongs to me, my wife and children—"Free Americans," and we are sole owners.

We did not go to Washington, or Moscow, to get permission to buy our property; build our building; open our business; hire our employees; select our customers and become a part of the great American Free Enterprise System. We did not have to do so because of the United States Constitution and States Rights and individual freedom. [...] we stand on the United States Constitution... first, Amendment II [...] Second, Amendment V, "...nor shall private property be taken for public use, without just compensation." As of this time the government has not paid me a dime, or offered to buy my property, and until it does so, the U. S. Constitution says that my private property "...shall not be taken for public use." [...] Nothing [*sic*] but stupid fools, Communists, and would-be dictators would say that "Some Americans have a right to buy from those they please, and other Americans do not have the right to sell to those they please."<sup>23</sup>

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<sup>23</sup> Lester Maddox, "Pickrick Says" advertisement; *The Atlanta Constitution*, July 11, 1964, p. 9. Ellipses in brackets are mine; other ellipses are Maddox's.

For the most part, of course, this is less an extended argument than an extended repetition of his basic point that integration violates his private property rights. It is, however, a testament to the strength of his feelings on the matter that he goes on at such great length about it. Further, there are certainly the bare bones of an argument in the passage: he equates "select our customers" as part of business on a par with "build our building" and "hire our employees"; he suggests that a "right to sell to those they please" is a basic freedom of action.

Maddox's other frequent argument against integration was the association of the pro-integration position with communism (and, to a lesser degree, socialism—like many Americans, Maddox did not seem to differentiate greatly between the two, save insofar as reactions to the former were more negative.) This argument, like the previous one, frequently did not deserve the appellation; Maddox most often simply used 'communist' as an epithet. Indeed, he almost never wrote about civil rights advocates without employing the term, and he quite frequently employed it when speaking simply of supporters of integration, however passive. The phrase "race-mixers and socialists and communists" is a frequent one in Maddox's writing; he sticks it in without regard for awkwardness—eager, presumably, to add the emotional (and even intellectual) negativity which the term packed at the time. There was hardly a reference in Maddox's columns to the Civil Rights Act of 1964 that Maddox did not preface with the phrase "communist-inspired" (or, occasionally, "communist-supported"). A fair amount of the time, it seems that Maddox uses the term simply as an insult. As essayist Calvin Trillin wrote of another incident during the Civil Rights Movement, "[t]he

sheriff was not accusing the student of following the line put forth by Marx and Engels and Lenin; he could have as easily called the student a yellow dog"; the point was simply "to say something mean."<sup>24</sup> When, in the wake of a court order to allow integration, Maddox confronted Civil Rights workers outside his restaurant for the final time, his opening sentence was "You sorry, no-good Communists."<sup>25</sup> The term was simply one of abuse.

But "communist" was not an epithet chosen at random; though at times he simply hurled it as an insult, it was the insult he chose because of another deeply held belief, namely that Communism was the ultimate support and inspiration for the Civil Rights Movement. This is why Maddox tried, at every turn, to link the two. And within that association of communism and integration lay several arguments against integration, each of which Maddox would make explicitly from time to time. The first argument was, simply, that integration was a part of the communist party platform and, hence, a communist idea. Thus, in his column of June 27, 1964 --Maddox's final column prior to Johnson's signing the Civil Rights Act six days later—Maddox wrote:

Where do you stand? Read the Communist Party platform for racial amalgamation of America, as published by the United States Communists in 1928, and then answer as to whether you are supporting the

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<sup>24</sup> Calvin Trillin, *Remembering Denny*. New York: Farrar Straus Giroux, 1993, p. 183.

<sup>25</sup> Maddox, *Speaking Out*, p. 65.

Communist Party for racial integration and the ruin of America.<sup>26</sup>

Maddox then went on to quote six provisions of the 1928 platform, including those advocating "abolition of all laws which result in segregation of Negroes" and "full and equal admittance of Negroes to all railway station waiting rooms, restaurants, hotels and theaters." Maddox then continues:

The above platform has almost been completed by the Communists, fellow travelers and good American citizens who have unknowingly given their support and endorsement to the Communist program. Compare the above program with the U. S. Supreme Court ruling of 1954 on school desegregation, and the Civil Rights Bills of 1957, 1960 and 1964. Remember, too, that the Communists are not interested in Negro Americans, but are using this method to bring hate, strife, death, property destruction and the end of constitutional government in America... only for the purpose of capturing this great country and killing many of our people and enslaving the rest.<sup>27</sup>

The argument in this passage is severalfold. First and most prominently, Maddox simply takes the fact that communists had advocated integration to be an argument—in his mind, a dispositive argument—against it. Simply by lining up the communist party platform and the program of the Civil Rights Movement, he believes their similarity discredits the latter.<sup>28</sup>

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<sup>26</sup> Lester Maddox, "Pickrick Says" advertisement; *The Atlanta Constitution*, June 27, 1964, p. 16.

<sup>27</sup> Ibid. Maddox's ellipsis.

<sup>28</sup> Indeed, the similarity is quite striking. (W. E. B. DuBois reprinted the relevant section of the platform in *The Crisis*, September 1928, and the wording is the same as Maddox gives; reprinted at <http://itc.utk.edu/itc/grants/twt2000/modules/ebledso1/historical/communi>

To be sure, Maddox is also making the argument that integration is a "method to bring hate, strife, death... and the end of constitutional government in America", but this is quite clearly a secondary argument, as his phrasing demonstrates: "remember, *too*" Maddox writes (emphasis added); it is an additional point, not the only one. (In other columns Maddox made the argument that the Civil Rights Movement had, in fact, increased crime in the United States.)

In addition to the notion that integration was (or should be) discredited because it was part of the communist party platform, and the notion that it was simply a "method" to destroy "constitutional government", there was a third argument implicit in Maddox's association of Communism and integration, one which connected back to his first line of argument, namely, that integration of the sort required by the Civil Rights Act of 1964 violated property rights, which Maddox would then inflate to 'destroying' private property, as for example in the passage cited above—and, of course, communists were against private property. Thus the attack on private property that Maddox saw in the Civil Rights Act was a communist goal, not only because they said so or because it would ruin the country, but because the destruction of private property was a communist goal as such.

Maddox's final argument for segregation differs from the previous two in that it was spoken rather than roared. At times implicit rather than explicit, it was an argument which he advanced less forcefully and less often than he did his arguments from property rights and communist

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sts.htm). Of course, to modern ears, that reflects *well* on the communist party rather than *poorly* on integration!

connections: this is the argument that integration was, in and of itself, a bad thing. This was not the argument he would place on monuments, or inscribe on the placards that he carried as he picketed the White House or elsewhere. But if he was comparatively reticent on this point, it was only because of the extreme forcefulness with which he expressed his other defenses of segregation. Maddox believed that "racial segregation, racial pride, racial initiative and racial preservation" were positive values—indeed, were essentially synonymous.<sup>29</sup>

The central notion of Maddox's substantive defense of segregation was that it would inevitably lead to intermarriage and thence to the intermingling of what he saw as ideally separate groups; he often spoke of wanting to "preserve" the races. In his first column of 1964, Maddox wrote, "ALL HISTORY proves that the only way to have true integration is through racial amalgamation and mongrelization, which leads inevitably to national and racial ruin. No negro, or white, American should want that. Race mixers—where are your brains?"<sup>30</sup> As with the notion that anything supported by communists was *ipso facto* wrong, the notion of intermarriage and "racial amalgamation" were taken to be self-evidently horrific; as with the supposed communist plot to destroy the United States, the "national and racial ruin" Maddox warns of is clearly an *additional* disadvantage, rather than an argument against intermarriage. Nor, of course, is any argument made for this connection itself. Similarly,

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<sup>29</sup> Lester Maddox, "Pickrick Says" advertisement; *The Atlanta Constitution*, January 18, 1964, p. 12.

<sup>30</sup> Lester Maddox, "Pickrick Says" advertisement; *The Atlanta Constitution*, January 4, 1964, p. 16. The capitalization used above is Maddox's.

in one column Maddox says that Atlanta's "swimming pools... are almost segregated, again, as all of the sensible whites have long ago quit going to the pools." Although he follows this with a phrase about "property owners" being the victims of "the race mixers", Maddox's sentiments about "sensible whites" cannot be interpreted as being about the rights of property owners; he is simply stating that no sensible white would share a pool with an African American.<sup>31</sup>

Maddox justified—usually implicitly, occasionally explicitly—his substantive defense of segregation through his religious beliefs. A deeply believing Christian, Maddox thought that integration was ungodly and un-Christian, terms that he applied to it less often than he did "communist" and "communist-inspired", but still quite frequently. Occasionally Maddox would make this argument at greater length. By the late 1950's, most Christian denominations were supportive of integration;<sup>32</sup> Maddox was aghast at this, and many of his Christian defenses of segregation occur as responses to statements of more liberal clergymen. In one of his advertisements, Maddox wrote that

HIS Word, the Holy Bible, does not say that segregation is a sin. Rather, God demanded that even animals produce after their own kind. Will the moral leader please show us in the Holy Bible where God even suggests that racial integration and racial amalgamation is Godly?<sup>33</sup>

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<sup>31</sup> Lester Maddox, "Pickrick Says" advertisement, *The Atlanta Constitution*, July 4, 1964, p. 10.

<sup>32</sup> Neil R. McMillen, The Citizens' Council: Organized Resistance to the Second Reconstruction, 1954 - 64, pp. 172 - 173.

<sup>33</sup> Lester Maddox, "Pickrick Says" advertisement, *The Atlanta Constitution*, February 29, 1964, p. 12. The capitalization is Maddox's.

For the most part, however, Maddox's religious claims for segregation were limited to adding "ungodly" or "unchristian" to the long list of other negatives (un-American, communist, and so forth) that he applied to integration.

In most of his arguments, Maddox would be careful to keep his language neutral as to the issue of inferiority or superiority, in accord with his standard line that he was a segregationist but not a racist. Indeed, at times he went to great lengths to talk about his support from African Americans, about his gratitude for the work of his restaurant's (African American) staff, and so forth—the implication being that keeping the races separate was in everyone's best interest. At times, however, his visceral dislike of African Americans would break through. In a 'Pickrick Says' ad from 1961, Maddox responded to a critic by saying "I do hope you will get your integration wishes—a stomach full of race-mixing, and a lap full of little mulatto grandchildren, so you can run your fingers through their hair."<sup>34</sup> On another occasion, Maddox complained that "law and order is no longer important—lives and property of our citizens must be ignored as we build an 'image' that will please the beasts of Africa and the unGodly (*sic*) and the bloody Communists."<sup>35</sup> (This last sentence is typical of Maddox's writing in that all of his beliefs—integration as a violation of property rights and communist-inspired, segregation as Christian and visceral horror at African Americans—were all jumbled together in a single screed. While I have separated his various arguments

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<sup>34</sup> Cited in Short, p. 43.

<sup>35</sup> Lester Maddox, "Pickrick Says" advertisement; *The Atlanta Constitution*, January 18, 1964, p. 12.



out for analytical purposes, Maddox tended to rick them up as if he were serving food at the Pickrick.) Maddox's facade as a man who believed in "separate but equal" had more than a few cracks in it.

It is important to emphasize that Maddox's substantive belief in segregation was genuinely (and strongly) held since it has been at times suggested that Maddox's resistance to integration was *solely* a matter of insistence on his personal rights. Maddox himself, for all that he was frequently open and straightforward about his belief in segregation as a positive good, would at times shade his views in this direction, or emphasize his formal, rights-grounded arguments so strongly as to obfuscate the fact that he also believed in doing what he was asserting a right to do. It is not a matter he lied about—he was too candid for that—but one about which he dissembled. And, importantly, others were at times taken in. Thus one obituary for Maddox concludes by saying:

Maddox said until the end he never regretted any of the stands he took. But those who worked for and supported Maddox said his stand on segregation was more an expression of his eccentric individualism than any hatred of blacks.

Former Georgia House Speaker Tom Murphy, who was Maddox's floor leader in the House during his term as governor, told the Atlanta Journal-Constitution, "He had a reputation as a segregationist, but he told us he was not a segregationist, but that you should be able to associate with whoever you wanted. He went on to do more for African-Americans than any governor of Georgia up until that time."<sup>36</sup>

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<sup>36</sup> Unattributed CNN obituary, "Former Georgia Gov. Maddox dies", at [www.cnn.com/2003/ALLPOLITICS/06/25/maddox.dead/](http://www.cnn.com/2003/ALLPOLITICS/06/25/maddox.dead/)

It is hard to imagine Maddox—who wrote "I am a segregationist" in his autobiography, and repeated it in numerous interviews for more than thirty years after his Governorship—would have genuinely said that he "was not a segregationist." But he did at times emphasize his rights-based argument to the point where it is understandable how someone might have gotten this impression.

In the arguments he made, Maddox was fairly typical; segregationists in his day commonly made all of them, and his emphases, while to a certain degree his own, were by no means unusual. In his contemporary study of segregationist speeches from the Deep South, Ronald Harry Denison noted that "[t]he most commonly used argument was an implied one... that since the United States Supreme Court's usurpation of power and the N.A.A.C.P.'s program were Communist directed, segregation was justified."<sup>37</sup> While Maddox tended to downplay his charges that the Civil Rights Movement and the Congressional usurpation of power were communist directed—he was usually careful to note that many of those he deemed "fellow travelers" were people of good will—he nevertheless held that the overlap in the Civil Rights and communist programs justified segregation. Many other arguments that Maddox employed Denison also found to be common. Maddox's fear of "racial amalgamation" was, unsurprisingly, a frequent factor in segregationist's speeches. The charge that integration led to crime, and the argument which Denison describes as "[t]he non sequitur of 'lose the

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<sup>37</sup> Ronald Harry Denison, *A Rhetorical Analysis of Speeches by Segregationists in the Deep South*. Ph.D. dissertation, Purdue University, 1961, p. 122.

battle for segregation and you lose all rights," were also in essence Maddox's positions. (Maddox, however, did not as such make the common argument that "the Negro is inherently inferior... and therefore should not be mixed with them;" instead Maddox argued against "racial amalgamation" without broaching the question of inferiority.)<sup>38</sup> So Maddox's arguments were, at the time, not unusual. What was unusual was that Maddox continued to make these claims long after most others had abandoned them.

In later years, Maddox continued to make all of the arguments about segregation and integration that he had made at the height of his conflict with the government over the Pickrick. Maddox, for instance, made all of these arguments in his 1975 autobiography, *Speaking Out*. In that book he proudly declared that he is still a segregationist, writing:

I believed then, as I do now, that it was my right under the Constitution to serve whomever I chose to serve in my place of business. I am a segregationist and I chose to operate my restaurant on a segregated basis. Because of this I was called a racist, although the words are far from synonymous. A segregationist is an individual—black, white, or any other color—who has enough racial pride and racial integrity and love for his fellow human beings to want to see *all* races protected and preserved.<sup>39</sup>

In this, Maddox emphasized the third argument detailed above, namely, his belief in the correctness of segregation. He implied that "racial integrity" is a virtue, and that "protect[ing] and preserv[ing]" races—as,

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<sup>38</sup> Ibid., pp. 121 - 123.

<sup>39</sup> Maddox, 1975, p. 54. Emphasis in the original.

presumably, separate entities—is not only a positive virtue, but one that arises out of "love for his fellow human beings." Nor did Maddox moderate these views in later years. In an interview just a few years before his death with his biographer (and former aide) Bob Short, Maddox used almost precisely the same words to express his beliefs. Agreeing to Short's summary of his view (that he was a segregationist but not a racist), Maddox went on to say:

You know what I think a segregationist is? Someone who has racial pride and racial integrity that want their races preserved and the races of other people preserved. My segregation includes opposition to amalgamation, which would wipe out the races. My fight at the Pickrick was for the right [of] private property, the right of free enterprise for every human being in this country.<sup>40</sup>

In yet another interview, in 2001, Maddox said that "I want my race preserved... and I hope most everybody else wants theirs preserved. I think forced segregation is illegal and wrong. I think forced racial integration is illegal and wrong. I believe both of them to be unconstitutional."<sup>41</sup>

Maddox also continued to harp on the dangers of communism in his autobiography, although less incessantly than he had a decade before. He still made passing references to the communist inspiration he saw behind the Civil Rights Movement, if not quite so frequently as he had before. He also tended to view the problem of communism more broadly—

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<sup>40</sup> Short, p. 196.

<sup>41</sup> Quoted in Richard Severo, "Lester Maddox, Segregationist and Georgia Governor, Dies at 87", *The New York Times*, June 26, 2003 (obituary reprinted at [www.racematters.org/lestermaddox.htm](http://www.racematters.org/lestermaddox.htm)).

ascribing much of contemporary liberalism to communism and socialism—rather than focusing his ire on the dismantling of segregation. Yet his concern that politicians are making decisions "in too many instances... from political pressure rather than from what may be right, and for far too long the pressure has been coming from the socialist, the communist, the bum, the criminal, and the special interest groups" would certainly have fit directly into one of his old "Pickrick Says" advertisements.<sup>42</sup> Maddox also went so far as to blame communists, indirectly, for the murder of Martin Luther King, Jr.:

I felt then—and I feel now—that the man who fired the shot was merely an instrument. Dr. King's professed non-violent philosophy had bred violence. This was compounded rather than combated by the actions of the Kennedy and Johnson administrations. The proponents of violence, the Communists and other radical leftists, knew that Dr. King had outlived his usefulness to them, and he was now more valuable to them in death than in life. He was sacrificed not for the cause of freedom, but for the cause of anarchy.<sup>43</sup>

More than a decade later, Maddox was still of the opinion that

...the biased, prejudiced, dishonest, uninformed, and misinformed members of the NAACP, ACLU, Southern Regional Council, Southern Christian Leadership Conference, and various other liberal and socialistic groups, as well as the Communist Party U.S.A. and the Communist Party International, waged a full-time war

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<sup>42</sup> Maddox, 1975, p. 176.

<sup>43</sup> Maddox, 1975, p. 127.

against Lester Maddox, the truth, freedom of choice,  
private property rights, and constitutional government.<sup>44</sup>

If Maddox was slightly less inclined to drop the word "communist" into every sentence he could, there was no question that he stuck to his beliefs about the communist roots of integration and liberalism more generally.

And Maddox also repeated his assertions about the death of private property rights. He did not make this argument at length in his autobiography, as he did at times in his columns; but just as he frequently did in earlier years, he made a number of side comments to that effect. In describing the final closing of his restaurant, for instance, he described the act of hanging a "CLOSED" sign on the door as "a sad and tragic moment... the sign was symbolic of the door that had been closed to individual opportunity and private property rights all over this land."<sup>45</sup> When responding to a reporter who asked him, in the wake of his loss in the 1974 gubernatorial race, what he said to people who thought that he and what he believed in "represent a bygone era," Maddox identified his beliefs, and what he stood for, most fundamentally with the rights of property, saying that if his beliefs really did represent a bygone era, then

... America will soon be of a bygone era. Morality will be eclipsed by immorality, private enterprise will soon be replaced by socialism and communism, God by atheism. Rights of private property, as we have known them, will have ended. God forbid that these principles and faith I

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<sup>44</sup> Lester Maddox, "A Chance for the Truth", in *Georgia Governors in an Age of Change* (1988), p. 212. The third-person reference to "Lester Maddox" is Maddox's; he frequently refers to himself in the third person in his autobiography and elsewhere.

<sup>45</sup> Maddox, 1975, p. 67.

hold so dear will in reality become principles and faith of a bygone era.<sup>46</sup>

If the "faith" referred to in this answer was Christianity, then the "principles," quite clearly, referred primarily to private enterprise and property rights. And when, in his penultimate paragraph, Maddox pleaded for the "youth of America" to stand up for what is good in the world, the list that he gave of things under attack was "God, private enterprise, capitalism, private property rights, and our constitutional government."<sup>47</sup> It was noteworthy that while God and the constitution get one mention each, the economic rights Maddox held so dear were referred to in three separate ways.

Only once in Maddox's life did he seem to retreat from his defense of segregation at all, and that was in his foredoomed 1990 Gubernatorial bid. Maddox—never a serious candidate in the race—put together his own campaign material. He then showed the material to "a trusted, former aide" who found that it contained "the same old positions Maddox had espoused in the 1960s: the fight against Communism, school integration and the 'socialist, power-mad politicians in Washington."<sup>48</sup> The aide managed to convince Maddox to downplay his old views. Asked about segregation, Maddox dodged the issue, saying that "I don't think the racial issue ought to be part of this campaign."<sup>49</sup> At one point, Maddox, again pressed on the issue, even backed off his long-time views:

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<sup>46</sup> Maddox, 1975, pp. 159 - 160.

<sup>47</sup> Maddox, 1975, p. 177.

<sup>48</sup> Short, p. 160.

<sup>49</sup> Ibid., p. 161.

I was born... in a segregated society. The city of Atlanta licensed my restaurant to serve whites only, and I abided by it... The media keeps talking about race, race, race. It doesn't have anything to do with my candidacy, but the news media keeps bringing it up... It was wrong when whites practiced it; it is wrong now when you have affirmative action and job quotas in the other direction.<sup>50</sup>

From Maddox this was a rather astonishing statement. Here, as never before, he is defensive about his old views, attributing them to his birth not to conviction, and even going so far as to criticize segregation—even if only to score a rhetorical point against present-day programs designed to help African Americans. Yet this one statement seemed to be largely a fluke; he didn't stick by it. After losing the race, he went back to saying, whenever asked, that he was a segregationist, that he believed it was right and had always believed that. Maddox's aide and biographer, Bob Short, summed up Maddox's record on the issue (not withstanding the quote above) by saying that he "never renounced his own views on segregation. To this day, he espouses the benefits of segregation regardless of its political death as an issue."<sup>51</sup> Maddox's one moment of wavering did not count, with himself, his friends or his foes; though it was, perhaps, telling that, in the press of a political moment, even he did waver, if only briefly.

Yet it would be slightly inaccurate to say that Maddox's defense of his segregationist stand was wholly unaltered between his wielding of an axe-handle and penning of his autobiography. Certainly the content of his arguments remains the same; certainly the details of his beliefs are not hedged. In many cases, even some of the wording remains the same. But,

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<sup>50</sup> Ibid., pp. 162 - 163.

<sup>51</sup> Ibid, p. 180.



in its overall effect, there was a change in Maddox's tone. Even if certain passages were nearly identical, the context in which they were situated—their diminishing density as a factor in his prose, the lighter material surrounding them—changed the overall effect that the words had.

During the early 1960's, and in particular during Maddox's own confrontation with attempts to integrate his restaurant, Maddox defended his segregationist views in a heated and emotional fashion. This was true most famously, of course, in his actions, as the photograph of his wielding a pistol in order to "defend his property" testifies. Then there were his various stunts: putting a mannequin with a knife in its back in the Pickrick and declaring it "represent[ed] what happened to the American free enterprise system"<sup>52</sup>; building a three-story monument to dead property rights outside his closed restaurant; picketing the White House. But it was equally true of his verbal arguments—made, presumably, with more reflection, and without the impetus of a heated moment to fire his words. Maddox's words burned with as much fire as he could pour into them:

AND GET THIS and I don't care whether you like it or not. THOSE WHO ARE SUPPORTING THE UNGODLY "CIVIL RIGHTS" LEGISLATION PENDING BEFORE CONGRESS ARE UNINFORMED, STUPID OR ELSE PLACE THEIR OWN WELFARE AHEAD OF THE PUBLIC WELFARE AND AMERICA. ... All sensible and patriotic Americans who have the facts, know that passing the proposed legislation now pending before Congress will mean the finis of freedom and liberty and constitutional government in America. If by now I have

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<sup>52</sup> Cited in Galphin, p. 69.

a few of you race mixers boiling—then go ahead and blow up!<sup>53</sup>

Maddox's level of hysteria did not quite survive into the 1970s. In part, of course, this is because Maddox's fight was no longer quite so personal, nor so immediate. But in large measure, Maddox simply *couldn't* sustain that level of hysteria because all his predictions concerning the end of "freedom and liberty and constitutional government in America" had not yet come to pass. Maddox's language is not free, even later, of the apocalyptic tone that coursed through his columns, speeches and actions in the mid-1960s. But a decade later the apocalypse has been postponed: the end of freedom may be coming, but it is not yet upon us. Thus Maddox writes in his autobiography that "[u]nless there is a reversal of this trend toward complete control over our children, our schools, our businesses, our lives by the federal government, we are inevitably headed toward that day when our nation will cease to be a free republic."<sup>54</sup> Maddox now warned of oncoming but not imminent disaster; his picture was one of corrosive rot rather than an almost-existent police state.

Maddox was also at even greater pains in later years to insist that he was not a racist. While Maddox's line that he was a segregationist but not a racist was hardly new, he seemed to feel even more need to stress it once segregation itself had passed beyond the pale of mainstream American political ideology. Maddox, therefore, makes the point several times in his autobiography. As he had in the past, he used the fact of his

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<sup>53</sup> Lester Maddox, "Pickrick Says" advertisement, *The Atlanta Constitution*, April 4, 1964, p. 9.

<sup>54</sup> Maddox, 1975, p. 170.

employment of many African Americans at his restaurant as evidence that he could not be a racist. (And, as he had previously, he castigated what he saw as liberal hypocrisy on this issue, describing how the *Atlanta Constitution* had "only an occasional black pushing a broom. There were no black secretaries, office workers, or reporters." This was, Maddox writes, typical of many people "in business, government, education, and even in the church, where so many of these leaders preach one thing and practice the opposite."<sup>55</sup>) In describing his own record as Governor, Maddox was at pains to stress what he did for African Americans, boasting about an early meeting with African American leaders, the number of African Americans he appointed to various positions, even finally arguing that he had helped "to break new ground in promoting racial peace and harmony."<sup>56</sup>

So even the unyielding Maddox moderated his tone and grew more defensive about his views later in his life, at least when speaking in a public forum such as his autobiography. Yet as noticeable as these changes are, it is astonishing how mild they are. If the hysteria is lessened, it is not by any means gone. If the arguments are not quite as thick on the page as they were in the heat of the battle, the same arguments are still there, often in the same words. Maddox is more resigned later in his life, but his beliefs are unchanged, the grounds for them constant, and the defense of them still strong. If Maddox moderated his tone, he did so only slightly; if Maddox felt defensive about his views, he certainly never hid them nor felt embarrassment about them.

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<sup>55</sup> Ibid., pp. 34 - 35.

<sup>56</sup> Maddox, 1988, pp. 218 - 219.

Maddox was also disappointed in those who did moderate their beliefs as well as their tone. Late in his life, in an interview with his former aide Bob Short, Maddox discussed his relationship with George Wallace, and "made it perfectly obvious that the two old friends and political pals were not close when Wallace passed away." Maddox added that "I was disappointed with Wallace that he campaigned for something he didn't truly believe in. He gave up his ideals and joined his enemies." Whatever the truth of Wallace's changing convictions, Maddox clearly believed that Wallace, like himself, remained a committed segregationist. Maddox, unyielding, was not particularly understanding of those who (in his eyes) yielded to political pressure and hid their continuing belief in segregation.<sup>57</sup>

If it is fair to say that Maddox remained unyielding, holding to and reiterating his earlier beliefs where many others abandoned, or at least silenced, theirs, why did he? What about his character or position in life enabled or led him to hold fast to such broadly abandoned guns?

One key factor that enabled Maddox to hold to views which became, in and of themselves, marginalizing, was a willingness to be marginalized. National figures who wished to remain national figures—even those who (to all outer appearances) did not change their core beliefs—were forced to (at a minimum) remain silent about their segregationist values, and in many cases were forced to forthrightly abandon them. Maddox, however, had no such national (or even Georgian) ambitions—at least none he was not willing to sacrifice.

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<sup>57</sup> Short, pp. 192 - 193.

Maddox's history as a once-marginal figure who had stepped briefly into the limelight is almost certainly important here. Maddox was not a man whose ambition in life had long been politics; his ambition had always been business. Maddox said he "grew up as an American with a lifelong dream and goal of becoming a successful businessman,"<sup>58</sup> and that he only later considered going into politics. At least according to his own testimony, Maddox had "never given serious consideration to being a candidate for elective office"<sup>59</sup> prior to his first campaign, and he got involved in politics when he felt his principles and issues he cared strongly about were at stake. For someone for whom issues had always been primary—or who at least conceived of himself in that fashion—it was perhaps easier to abandon politics than to abandon the positions he believed in.

Even more important, however, is that in ways apart from his racial views Maddox had always had a self-conception of himself as a marginal figure. He expressed great pride in his lack of connections to the Georgia establishment, both before and after his governorship. He said that his decision to seek public office the first time was motivated by a desire "to see what one man outside the political establishment could do to promote a government of, for and by the people."<sup>60</sup> He continued to run because he was "absolutely convinced that a man unfettered by political debts of any sort could make a positive contribution to good government."<sup>61</sup> Nor did he think that later on he had joined the establishment. Referring to his

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<sup>58</sup> Maddox, 1988, p. 214.

<sup>59</sup> Maddox, 1975, p. 37.

<sup>60</sup> Maddox, 1988, p. 214.

<sup>61</sup> Maddox, 1975, p. 45.

fourth run for public office, in which he was elected Governor, Maddox wrote that:

I was ignored as a candidate and condemned as an outsider by the entire political establishment. I had no political organization. I was not adequately financed. ... On a personal basis, I didn't know the incumbent governor, nor more than ten members of the General Assembly, or other state officials. Neither did I have an acquaintance with elected officials who ran Georgia's city halls and its 159 county courthouses. I knew not one leader in the news media on a personal basis, not one spokesman for the banks, industry, business, labor, religion, education, agriculture, nor did I know the spokesmen for the professionals in medicine, science and elsewhere. ...the political establishment in Georgia and other states declared war on Lester Maddox, his family, his friends, and his supporters. My supporters and I were held in contempt and scorned by media leaders throughout Georgia, the United States, and much of the world.<sup>62</sup>

And in describing his defeat in the 1974 Governor's race, Maddox wrote that "[t]he power structure had triumphed."<sup>63</sup>

Someone who prided himself as being unwilling to compromise with establishment figures in other areas is perhaps more likely to decide to stick to his guns on issues so dear to him as segregation clearly was to Maddox. Furthermore, his unwillingness to cater to the Georgia establishment had, in his view, already cost him his political career; there was no motive for him to dissemble his racial views for the sake of

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<sup>62</sup> Maddox, 1988, pp. 211-212.

<sup>63</sup> Maddox, 1975, p. 159.

preserving something he already viewed as lost for other (albeit related) reasons.

Maddox did not see his outsider status on political corruption and connections and his (increasing) marginalization on the issue of segregation as separate; indeed, he viewed them as intimately connected. Maddox believed that one of the primary motivations of integrationists was a deliberate sell-out to keep their political careers and to line their pockets; in one of his "Pickrick Says" advertisements, he described supporters of integration as having "sold... out in exchange for votes and dollars;"<sup>64</sup> he later speculated that Johnson's "sins" were "rooted in the lust for power, in greed for fond memories in the minds of historians, and in too great a willingness to compromise the freedoms of the majority to appease the anger of a militant and ungrateful few."<sup>65</sup> Maddox thought that the elites who bought and sold favors in the corridors of power were the same ones who were most committed to integration. Maddox was a self-described conservative, but he was a conservative *populist*: like George Wallace—and, indeed, in a model that was to becoming increasingly central to conservative politics over the coming decades<sup>66</sup>—Maddox viewed political liberals and economic elites as connected, and as out to get 'the little guy', including him. While liberals might conceive of

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<sup>64</sup> Lester Maddox, "Pickrick Says" advertisement, *The Atlanta Constitution*, September 12, 1964, p. 9.

<sup>65</sup> Lester Maddox, Addresses of Lester Garfield Maddox: Governor of Georgia, pp. 150 - 151.

<sup>66</sup> For the connection between Wallace's conservative populism and the ongoing conservative revolution, see Dan Carter, From George Wallace to Newt Gingrich : Race in the Conservative Counterrevolution, 1963-1994 (Louisiana University Press, 1996).

the Civil Rights Movement as standing up for the disenfranchised (namely African Americans), Maddox viewed it as an elite imposition *upon* the disenfranchised (namely, poor whites).<sup>67</sup>

Maddox's self-image as a populist and an outsider was central to his non-racial views; his segregationist views were central to his worldview and to his political motivations. Maddox saw the triumph of political liberalism under Johnson, and its continuation under Nixon, as of a piece with the triumph of the Civil Rights Movement. In Maddox's view, he became marginalized because he refused to sell out his principles and join the liberal elite—what he saw as the gradual descent of America into socialism. Perhaps George Wallace could separate his segregationist beliefs from the rest of his conservative populism sufficiently to apologize for the former in order to continue his political career and promote the latter. But Maddox would not. Having always viewed himself as marginalized, he retreated to the margins, unhappy with the direction of the country but not willing to compromise on any part of what he saw as a unified world view. Rather than integrate his restaurant, Maddox had shut it down; rather than support integration, Maddox shut down his political career.

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<sup>67</sup> Maddox's belief that liberal elites were hypocritical on matters of integration—as in the example cited earlier in which he excoriated the *Atlanta Constitution* for its hypocrisy in supporting Civil Rights but not themselves hiring African Americans—fit naturally into this worldview. Liberal elites wished to impose a negative (integration) on the disenfranchised (poor whites and small businessmen) but would never themselves submit to it.



## CHAPTER 7:

### THE PLACE OF SEGREGATIONISTS IN CONTEMPORARY CONSERVATIVE MEMORY

Recent histories of the conservative movement, when written by a member of the movement or by one sympathetic to their views, tend, understandably, to be triumphalist. After a half-century in which conservative ideas moved from the margins of American political discourse to a dominant position in both political power and the framing of public debate, the conservative movement can feel a lot of justifiable satisfaction about its accomplishments.<sup>1</sup>

Successful political movements rarely attribute their success to fortune, happenstance, or the errors of others; they tend to believe they were successful because of the quality of their ideas (and to some extent the quality of those ideas' advocates). Psychologically, a group advocating a certain set of ideas is simply most likely to believe that they have converted others because of the inherent quality of those ideas.<sup>2</sup>

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<sup>1</sup> This doesn't mean, interestingly, that they always do; it has been often noted that Conservative ire seems only to grow, not lessen, with their dominance. See, e.g., Thomas Frank, "What's the Matter with Liberals?", *The New York Review of Books*, May 12, 2005. (<http://www.nybooks.com/articles/17982>)

<sup>2</sup> One of the most powerful aspects of the theory of "memes", which has gained quite a bit of currency since the term was invented by Richard Dawkins in his 1976 book *The Selfish Gene* (Oxford: Oxford University Press, new ed. 1989) is that it divorces questions about the success of an idea (in the sense of its convincing people and becoming widespread in a culture) from the questions of its truth, pointing out that ideas often succeed for reasons entirely divorced from their quality—catchiness, simplicity, resonance with preexisting biases, and so forth. Truth, in this

Thus in the course of writing the histories of the rise of conservative thought in contemporary America, conservatives tend to attribute their success to the fact that conservatism is right about the major issues of the day.

Yet there is a counter-tendency in contemporary political ideology which exists in tension with this natural inclination. As I have argued, across the political spectrum (save for a few on the far-fringes of political discourse) people are in agreement that the Civil Rights Movement, at least in its early (pre-1965) stage, was fundamentally correct in its arguments and goals and that, conversely, segregation's defenders were fundamentally wrong if not flatly immoral in theirs. Yet the Civil Rights Movement was, unquestionably, a left-wing movement, with its adherents spanning the political spectrum from mainstream liberals to the far left. And segregation's defenders were equally clearly conservatives: they called themselves such; they were accepted as such at the time; they advanced arguments which stand clearly in the historical development of the ideas of contemporary conservatives. Since the rightness of the Civil Rights Movement is presently broadly acknowledged—even by contemporary conservatives—a dilemma remains: if the natural tendency of contemporary conservatives is to assert that their rise over the past fifty years has been due to the truth of their ideas, how do they reconcile this inclination with the fact that they were, *by their own contemporary admission*, wrong about one of the major social and political issues of the post-war period?

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model, becomes simply one more advantage that an idea can have, which may or may not prevail over others.

This problem is, in essence, a movement-wide extension of the individual problems faced by particular politicians and political thinkers in the transition from the time when the issue of *de jure* segregation was still a 'live' issue in the American political spectrum to the time when it was, by consensus, a settled issue. In the same way that individuals needed to come to terms, both for themselves and for others, with their previous backing for a cause they no longer could support (at the price of exile to the fringes of political discourse), the conservative movement as a whole can be said to need to come to terms with its past—or, at least, those within its ranks who reflect upon that past do.

As I have documented above, individuals who found themselves caught in the switch from a time when support for segregation was publicly acceptable to a time when it was not, used a variety of strategies to address this dilemma: they have denied their views, downplayed them, distorted them and dodged them; they have repented them with varying degrees of thoroughness and diverse levels of conviction; they have attempted to shift focus onto other, still-controversial issues (such as busing or affirmative action); they have simply changed quietly, failed to address the issue and (presumably) hoped that no one would notice. Similar strategies can be seen at work among historians, both academic and popular, who express the self-understanding of the past of the conservative movement (as will be discussed in detail below).

A movement is not a person, of course, and there are differences in what sort of strategies might be adopted and how they would be implemented. But one difference might be noted immediately: compared to the choices confronting individuals, the path of denial is easier. This is

true because a person's career is inevitably a more unified entity than is a movement's ideological history. Previous statements an individual made can be twisted, ignored or even flat-out denied, but their relevance to the individual's thought is hard to escape. In the history of movements, on the other hand, one can emphasize certain earlier figures while de-emphasizing others. This can be done, of course, in distorting or even dishonest ways, but the connection is, in any event, less absolute. Even for figures whom one wishes, without question, to include in one's historical pantheon, there seems more justifiability in claiming that some actions and statements of theirs are more relevant than others. In addition, movement histories tend to focus on certain ideas and issues, and thereby entire topics—in this case, segregation—can be avoided without obvious awkwardness in a manner not possible when individuals deal with their own histories.

If the path of denial is generally easier for movements than for individuals, it is particularly so in the case of the conservative movement and its connection to the pro-segregation forces. This is true owing to a particular historical happenstance: the broad shift in party loyalty among precisely that segment of the American population—white southern conservatives—who were the most avid supporters of segregation. This shift in party loyalty was a long process, arguably beginning as early as the 1948 election in which a significant group of southerners, not yet ready to embrace the Republican party, split off from the main Democratic party to run their own 'Dixiecrat' ticket; it continued slowly through the 1950's, taking a step forward with Republican Barry Goldwater's winning of several southern states despite the magnitude of

his overall loss. And the shift in party loyalty was arguably not completed until the 1990's and the Gingrich revolution. Nevertheless, the profound partisan re-alignment among white southern conservatives centered on the events of 1954 - 1965 and the Democratic party's slow but increasing embrace of the Civil Rights Movement. Yet this realignment gives what politicians refer to as "deniability" to the conservative movement's roots in segregationist activism. Again, this is true for the movement as a whole in a way that it is not true for individuals. Even if individuals switched parties—as of course many did, from Strom Thurmond on down—this hardly adds any distance between them and their earlier pro-segregation stands; on the contrary, it arguably highlights their commitment to the segregationist cause insofar as their party-switching was motivated by the Democratic party's increasing commitment to civil rights. For the movement as a whole, however, it provides a distance between contemporary conservatives, almost unanimously Republicans, and earlier, pro-segregationist conservatives, largely if not uniformly Democrats.

If the path of denial is easier for a movement than for an individual, another path, that of repentance, is correspondingly more difficult. If repentance is to be made, then acknowledgment of the sins in question is a necessary prerequisite; and while each individual can choose to acknowledge or deny their own segregationist past without any influence on another's, one conservative's recognition of their movement's complicity in opposing the Civil Rights Movement naturally conflicts with the denials of others. Even if outright denial is not contemplated, repentance serves to draw more clearly a connection which, as I have

argued, is in any event less clear for ideological and political forebears than it is for an individual's own past: any repentance, then, is as likely to stir up resentment which might not otherwise exist (or which might otherwise be a marginal issue) as it is to cleanse the political and moral slate. Even aside from these issues, there is the problem of what repentance might mean for a movement.

Individuals are generally felt to have the moral power to apologize and atone for their own misdeeds; the apology of a movement leader for the errors of others is less obviously valid. The very tenuousness of connection that makes denial easier makes any expression of remorse less convincing.

Thus while the problem of an individual political figure confronting their own past is roughly analogous to that of an ideological and political movement's confronting of its roots, the details do vary: different strategies will be emphasized and those strategies will unfold in differing ways. In this chapter I will survey some of the responses of contemporary conservatives to the history, not of their own individual segregationist pasts, but to the past of the movement that they (otherwise) believe in strongly. These confrontations will generally be less detailed than those of individuals, since the felt need is less, and since the strategies leaned towards (denial, evasion, silence) are in any event among the less intensive approaches than the ones avoided (repentance, justification). Yet an examination of a spectrum of strategies nevertheless remains an important component in understanding the overall conservative reaction to the history of defending segregation.

One fairly straightforward version of the denial strategy occurs in a column by conservative pundit Ann Coulter. Her column was written in the wake of the controversy that surrounded then-Majority Leader Trent Lott's praise of Strom Thurmond. In confronting this controversy, Coulter portrays the history as follows:

Back when they supported segregation, Lott and Thurmond were Democrats. This is something the media is intentionally hiding to make it look like the Republican Party is the party of segregation and race discrimination, which it never has been. In 1948... [Thurmond's] party was an offshoot of the Democratic Party. And when he lost, he went right back to being a Democrat. This whole brouhaha is about a former Democrat praising another former Democrat for what was once a Democrat [*sic*] policy. Republicans made Southern Democrats drop the race nonsense when they entered the Republican Party. Democrats supported race discrimination, then for about three years they didn't, now they do again. They've just changed which race they think should be discriminated against. In the 1920s, the Democratic platforms didn't even call for antilynching legislation as the Republican platforms did. [...] Thurmond went on to reject segregation, become a Republican, and serve his country well as a U.S. senator.<sup>3</sup>

Coulter's narrative is, at best, wildly tendentious. It is of course true that the Democratic party was the home of the most ardent segregationists; it was also, however, home to the most ardent integrationists in the post-war period. Republicans hardly "made Southern Democrats drop the race nonsense when they entered the Republican Party;" the "race nonsense", to the extent that it was dropped at all, was dropped because the

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<sup>3</sup> Ann Coulter, *How to Talk to a Liberal (If You Must): the World According to Ann Coulter*. New York: Crown Form, 2004, p. 145-146.

overwhelming tide of both law and public opinion were against it. Further, southern Democrats—in particular Strom Thurmond—switched to the Republican party out of frustration with the Democrat's embrace of civil rights (there were other issues, but civil rights was paramount).

Coulter is simply exploiting a strange historical fact, namely, that over the course of the Twentieth Century the Democratic and Republican parties, in essence, traded coalitions and political philosophies. While the specifics of this exchange are extraordinarily complex, the broad outlines are quite clear. African Americans began to vote Democratic soon after the establishment of the New Deal coalition, although their move to the Democratic party was not cemented until the mid-1960s (until which time many were excluded from voting in any event); southern whites, who had been reliable Democrats since the end of Reconstruction, slowly split with the Democratic party in the middle of the Twentieth Century. And, of course, the event that was most responsible for the movement of southern Democrats *into* the Republican party was the Democrats' belated embrace of the Civil Rights Movement. The political heirs of the Civil Rights Movement are Democrats; the political heirs of the segregationists are Republicans—in many cases, "heirs" is even a misleading word since the very same individuals continued to be active in politics for many years. If Coulter tried to rewrite her narrative using the words "liberal" and "conservative" (or "liberal" and "right", the words she uses in her title) instead of "Democrat" and "Republican", it would fall apart completely.

What makes this a strategy of denial (and not, say, simply an egregious misreading of history) is that Coulter knows this perfectly well. This is shown by the few references to civil rights in her earlier book,



*Slander*.<sup>4</sup> In her conclusion to *Slander*, in the midst of a paragraph detailing why "liberals have been wrong about everything in the last half-century", she includes the sentence that liberals "were wrong about the Civil Rights Act (which was *never* going to be used as an instrument of discrimination against whites)."<sup>5</sup> This, of course, represents a different strategy than that of denial, the shifting of focus onto later, still-controversial issues (to be discussed in more detail below). But it also makes no sense as a charge without the recognition that the Civil Rights Act was a *liberal* cause, and opposition to it a conservative one. Later in her conclusion, Coulter makes a similar point:

...liberals prefer to keep reminiscing about the last time they were giddily self-righteous. Like a senile old man who keeps telling you the same story over and over again, liberals babble on and on about the "heady" days of civil rights marches. Between 1995 and 2001, the *New York Times* alone ran more than one hundred articles on "Selma" alone. I believe that we have revisited this triumph of theirs sufficiently by now. For anyone under fifty, the "heady" days of civil rights marches are something out of a history book. The march on Selma was thirty-five years ago. ...the country is as different a place today compared to 1965, as it was in 1965 compared to 1930. What civil rights do people lack now? What bus is anyone not allowed to ride on?<sup>6</sup>

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<sup>4</sup> Ann Coulter, *Slander: Liberal Lies About the American Right*. New York: Crown Publishers, 2002.

<sup>5</sup> Coulter, 2002, p. 197.

<sup>6</sup> Coulter, 2002, p. 199. Coulter's claim, incidentally, is false. The liberal web log associated with the journal *The American Prospect*, TAPPED, investigated Coulter's statistic about *The New York Times*, and found only 70 articles that even mentioned Selma, Alabama in the context of the civil rights march, and notes further that "in our judgment only 16 were

While there is certainly plenty of scorn here for liberals' being "giddily self-righteous," there is at the same time an acknowledgment that the Civil Rights Movement was a "triumph of theirs". Indeed, her final two rhetorical questions even implicitly acknowledge the moral rightness of the Civil Rights Movement. (Needless to say, this particular line of attack also blatantly contradicts her earlier claim that liberals were wrong about "everything" for the past half-century.) Given this earlier evidence of Coulter's understanding of the historical record about liberalism and conservatism's stances on civil rights, it seems fair to deem her later article an outright example of a strategy of denial.

Coulter's level of mendacity is rare; in conservative histories the strategy of denial is usually practiced along with other strategies, and is confined to off-hand and misleading but not forthrightly deceptive comments about Democrats and Republicans' record on civil rights. (An example, from the recent book *A Patriot's History of the United States*, will be discussed below.) Yet Coulter is not unique in her use of the strategy of denial. Another example is provided by David Frum in his book *Dead Right*. While Frum does lament the *National Review's* 1957 defense of segregation, he adds that:

...since the early 1960s American conservatives have distinguished themselves by an adamant color-blindness.

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centrally concerned with historic happenings at Selma from the civil rights era. The other 54 contained brief mentions of Selma and civil rights but appeared in articles on different topics." They also point out that "that the famous 1965 'Bloody Sunday' march was *from* Selma to Montgomery, not a march 'on' Selma." (Note at <http://www.prospect.org/webfeatures/2002/07/tapped-s-07-26.html>; emphasis is in the original.)

Barry Goldwater voted against the 1964 Civil Rights Act not because he was a bigot but because, in the words of the late M. E. Bradford, he refused to accept that 'the tradition of restricted Federal authority... must give way because [of] the grievances and misfortunes of one segment of the population.'<sup>7</sup>

Even if one concedes that Goldwater's principled vote was without stain—ignoring, for instance, his unprecedented (for a Republican) victories in the South in a year in which his presidential campaign was otherwise soundly defeated: victories which resulted in large part from admiration from those who appreciated Goldwater's 'principled' vote on the 1964 Civil Rights Act for reasons perhaps less admirable than those for which he cast it—Frum's claim that "since the early 1960's American conservatives have distinguished themselves by an adamant color-blindness" is only plausible if by "conservatives" Frum means "Republicans"—and Republicans *as of the early 1960s* at that. Certainly the southern Democrats who opposed the 1964 Civil Rights Act—many of whom later switched to the Republican party in no small measure because of the Democrats' stance on Civil Rights—were anything but color-blind, and they were certainly—philosophically, by their own description and that of others at the time—conservatives. (Interestingly, Frum says this despite quoting, earlier in the same book, part of an interview with Jack Kemp—discussed further below—which is one of the few examples of genuine repentance for the role conservatives played, or failed to play, in the civil rights movement.<sup>8</sup>)

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<sup>7</sup> Frum, p. 129. His critique of the *National Review* is on pp. 128-129.

<sup>8</sup> The Kemp quote is on Frum, p. 96.

Indeed, the strategy of denial has recently been echoed in official Republican efforts at outreach to the African-American community. These outreach efforts have included a newspaper ad proclaiming that "throughout the history of America, the Republican Party has been at the forefront of the fight for civil rights" and a "2005 Republican Freedom Calendar" with the slogan "celebrating a century and a half of civil rights achievement by the Party of Lincoln" on its cover.<sup>9</sup> The strategy of denial, clearly, is a recurring one.

An alternate strategy is one which might be termed the strategy of evasion. This is a tactic where neither the leftist origins nor the fundamental justice of the movement to end *de jure* segregation is directly questioned; rather, the topic is swiftly glossed over with later, more controversial issues—usually political issues involving challenges to *de facto* segregation, such as busing to integrate schools, affirmative action and the like—receiving the bulk of an author's focus. One element of this strategy is to focus attention on the historical process by which the later, still-contested issues arose out of the struggles over the earlier ones. This adds a patina of moral uncertainty to the earlier struggles without directly questioning their justice. Sometimes this is done to rather directly undermine the retrospective moral clarity that currently attaches to the issue of *de jure* segregation; at other times it is done by authors who have no intention at all of questioning the fundamental justice of the struggle against *de jure* segregation, but who nevertheless wish to slightly lower

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<sup>9</sup> Peter Wallsten, "Recasting Republicans as the Party of Civil Rights," *The Los Angeles Times*, January 29, 2005, p. A17.

the moral image of those who participated in it. This strategy involves, essentially, moving a discussion to more comfortable ground—a familiar strategy of argument in every sphere, and not one necessarily done with any attempt to deceive, or even consciously; yet this does not change the fact that it involves (to varying degrees) an evasion of uncomfortable issues.

One particularly stark example of the strategy of evasion may be found in one of the recent spate of avowedly conservative histories of the United States, Thomas E. Woods's *A Politically Incorrect Guide to American History*.<sup>10</sup> Woods's book has been—generally but not unanimously—warmly received by the mainstream of the contemporary conservative movement. It comes praised on its cover by Congressman Ron Paul of Maryland, and its author received a warm welcome on conservative talk shows such as "Scarborough Country" and "Hannity and Colmes".<sup>11</sup> There were, however, some voices equally within the mainstream of the contemporary conservative movement who rather strongly rejected Woods's work; in particular, it was disavowed by reviewer Max Boot in the influential journal *The Weekly Standard*.<sup>12</sup> But it was hardly considered, even by Boot, as a fringe work. Woods's book

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<sup>10</sup> Thomas E. Woods, Jr., *A Politically Incorrect Guide to American History*. Washington D.C.: Regnery Publishing, 2004.

<sup>11</sup> "Scarborough Country", December 22, 2004; transcript at <http://www.msnbc.msn.com/id/6759081/>. "Hannity and Colmes", December 8, 2004; transcript at <http://blog.lewrockwell.com/lewrw/archives/006795.html>.

<sup>12</sup> Max Boot, "Incorrect History", *The Weekly Standard*, at <http://www.weeklystandard.com/Content/Public/Articles/000/000/005/246eaokp.asp>.

also had popular appeal, appearing on the *New York Times*' weekly list of best-selling books.

Despite the positive reception Woods's book received from at least some in the conservative movement, Thomas Woods's views are distinctly out of the political mainstream—a fact which can be seen in his work, particularly by those somewhat versed in the topics he discusses, although his arguments in his *Politically Incorrect Guide to American History* are deliberately phrased to blend in more with mainstream ideas. According to the research of Eric Muller, however, Woods was a founding member of a southern nationalist organization known as "The League of the South," with views bordering on the secessionist.<sup>13</sup> This movement of Woods's fringe views into the mainstream of contemporary conservative discourse is, alas, not an isolated phenomenon. Journalist David Neiwert, who has done extensive reporting on American neo-Nazi and white supremacist movements, has written about how "the line between right-wing extremists and 'the conservative movement' has been increasingly blurred in the past 10 years," in part due to what he terms "transmitters," that is, "ostensibly mainstream conservatives who seem to cull ideas that often have their origins on the far right, strip them of any obviously

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<sup>13</sup> Eric Muller, "What You Should Know About the Author of the NYT Bestseller, *Politically Incorrect Guide to American History*", *History News Network*, February 2, 2005, at <http://hnn.us/articles/10007.html>. Muller cites comments by Woods that shows that his book was, indeed, a deliberate attempt to reach a more mainstream audience with more radical ideas—is, in Woods's words, "being pitched to precisely those who need it most."

pernicious content, and present them as 'conservative' argument."<sup>14</sup> In this sense Woods is part of a larger trend—a trend which, if taken to its ultimate conclusion, may even some day render the fact of *de jure* segregation's being unacceptable within the mainstream of American political discourse purely a historical phenomenon. For this reason, among others, Woods's book seems important to include in this survey, since it represents an example of how those who might wish to cast doubt on the immorality of *de jure* segregation would present their views to those who still agree with integration as a principle.

The strategy of evasion does not, of course, mean utterly ignoring the Civil Rights Movement, since it is simply too important, on everyone's account, to ignore in any work which purports to tackle the basic history of the U.S. in the twentieth century. And, indeed, Woods includes a full chapter entitled "Civil Rights", in which he discusses the history of the Civil Rights Movement. Yet despite Woods's devoting a chapter to the topic, he nevertheless practices to a startling degree a rather pure version of the strategy of evasion. Indeed, he acknowledges up front that his account will pass over what he terms "important episodes" in the Civil Rights Movement, including "Rosa Parks and the Montgomery bus boycott; the forced integration of Little Rock's Central High School [and] the desegregation drive in Birmingham in 1963."<sup>15</sup> He does not say why he is not going to discuss these "important episodes," although he implies

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<sup>14</sup> David Neiwert, "Rush, Newspeak and Fascism: An Exegesis", August 30, 2003, available at <http://www.cursor.org/stories/fascisminintroduction.php>; quotations from section vi.

<sup>15</sup> Woods, p. 195.

that he is correcting an imbalance in the topic by focusing on an ignored aspect of the Movement—its legal ramifications—rather than those well-covered topics. This is an implication that is hard to credit, however, since the topics he chooses to discuss are *Brown v. Board of Education*, busing, the Civil Rights Act of 1964, and affirmative action—hardly neglected issues! (Further, his book is filled with oft-covered topics—as is only natural for a book whose stated purpose is to be "an introduction to some of the more controversial aspects of American history.")<sup>16</sup> It is hard to escape the conclusion that Woods is avoiding topics which are extremely difficult to fit into his arguments and preconceptions—topics which are hard to relate in such a way as to valorize conservatives, condemn liberals or correct what Woods sees as an overly critical view of the United States from other histories.

But simply ignoring issues is only part of Woods's strategy of evasion; he also pursues it in the topics he *does* cover in his "Civil Rights" chapter. The topics on which he chooses to focus he describes as "the legal ramifications of the civil rights movement". In practice, Woods's chapter divides into two basic parts. The first is a treatment of school integration in which he begins by discussing *Brown v Board of Education*, and then segues into later Supreme Court cases involving more controversial desegregation plans, in particular those upholding busing as an integration strategy. The second part of Woods's chapter begins with a discussion of the 1964 Civil Rights Act and then moves quickly into a discussion of the issue of affirmative action.

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<sup>16</sup> Woods, p. xiv.



In his choice of emphasis Woods practices another form of evasion, focusing his discussion on issues relating to *de facto* integration around which an ideological consensus never formed—issues in which the conservative viewpoint remains well within the political mainstream—while giving short shrift to issues involving *de jure* integration which are harder to fit into a conservative narrative. In this case, he does so not by ignoring topics, as he does with issues relating to his undiscussed "important episodes", but by following the historical movement whereby issues of *de jure* integration led to controversies over *de facto* integration, allowing his discussion even of the former to be centered on the politics of the latter. By discussing how (in his view) *Brown* led inexorably to busing, and the 1964 Civil Rights Act similarly led to affirmative action, he can invoke the political controversies surrounding the later policies in order to dodge the consensus around the earlier ones without actually confronting them head-on.

But let us examine Woods's discussion of the two signal legal events of the Civil Rights Movement which he does discuss, *Brown v Board of Education* and the 1964 Civil Rights Act. In his discussion of *Brown*, Woods makes two basic arguments. First he questions *Brown's* legal reasoning. He starts off with a quick sleight of hand:

The justices were obviously anxious to declare segregated schooling, which existed by law throughout the South, to be unconstitutional. But the Court could not simply argue that the Fourteenth Amendment's equal protection clause prohibited segregated schools, since 1) the Court had ruled in *Plessy* that it did not, and 2) the same Congress that drafted and passed the Fourteenth Amendment had also approved segregated schooling in

the District of Columbia. If anyone should know the intent of the amendment, it would be those who had voted on it. Another line of reasoning would have to be pursued.<sup>17</sup>

The chief sleight of hand here is Woods's slip from any possible interpretation to that of a particular school of constitutional interpretation. Woods jumps from the idea that "the Court could not simply argue that the Fourteenth Amendment's equal protection clause prohibited segregated schools"—that is, from the idea that that the Fourteenth Amendment under *any* prevailing legal theory could not support such a claim—to the notion that, since the Congress that ratified the Fourteenth Amendment approved segregated schools in Washington, D.C., such an interpretation was ruled out because "if anyone should know the intent of the amendment, it would be those who had voted on it." The latter, of course only rules out an interpretation of the Fourteenth Amendment under the "original intent" school of constitutional interpretation—a school which did not, in fact, gain widespread currency in the federal judiciary until a few decades after *Brown*. Indeed, the latter fact doesn't even *necessarily* rule out an "original intent" argument that the Fourteenth Amendment prohibits segregation; as we have seen, Robert Bork, one of the intellectual founders of the movement for interpreting the Constitution according to the "original intent" heuristic, makes precisely such an argument. But in any event the notion that the Constitution must be interpreted according to the intent of its framers is only one school of constitutional interpretation; Woods, however, by basing "could not simply argue" on "the intent of the amendment" implies it is the *only* such

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<sup>17</sup> Woods, pp. 196 - 197.

school—or, at the very least, implies that it is the only such valid school without even acknowledging the existence of any disagreement on this point.

There are lesser, but equally telling, sleights of hand in this passage as well. Woods cites the existence of *Plessy* as an insurmountable obstacle—eliding over the fact that precedents can certainly be reversed by the Supreme Court, albeit with some reluctance (as *Plessy*, of course, was overruled by *Brown*). He later goes on to say that "the Court avoided the charge that it had brazenly defied precedent by claiming that the justices who had decided the *Plessy* case could not have known of the sociological information that 'modern authority' had now made available about the effects of segregation".<sup>18</sup> What Woods obfuscates is the fact that this was a *political* compromise forged *within* the Court. Some members of the Court wished to simply declare that *Plessy* was wrongly decided originally, while others were uneasy with that; the final opinion—which indeed many legal scholars, liberal as well as conservative, have criticized as an example of poor legal reasoning—was the result of Chief Justice Earl Warren's efforts to find a line of reasoning that could be presented unanimously, owing to his recognition of the controversial nature of the holding.

Woods goes on to critique the psychological studies cited in *Brown*, as well as to make indirect critiques of the entire line of reasoning. His criticisms include attacking the sociology that *Brown* cited, mentioning the success of Chinese and Japanese students in segregated schools in California in the 1920's and the fact that, in the present day, Korean

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<sup>18</sup> Woods, p. 197.

students are less likely to identify themselves as "good at math" than Americans despite scoring higher on standardized tests. Both of these points disprove, in Woods's view, that self-esteem is relevant (or at any rate crucial) to education. Woods's title for this subsection—"Instead of law, sociology"<sup>19</sup>—itself is designed to cast doubt upon *Brown* as a legal matter: while he never explicitly says that *Brown* is baseless given his critiques of the sociology, the implication is strong.

The second argument Woods makes about *Brown* is that it was, in any event, unnecessary. He cites several sources about the burgeoning Civil Rights Movement that predated *Brown*, and then cites Michael Klarman to the effect that "*Brown* was not necessary as an impetus to challenge the racial status quo". (He does not cite Klarman's further conclusion that "in temporarily retarding the cause of racial change in the South, *Brown* set in motion a sequence of events that soon culminated in the emergence of a national commitment to eradicating southern Jim Crow.")<sup>20</sup> There are a number of counter-arguments one might make to the thesis that the preexisting Civil Rights Movement made *Brown* unnecessary. But what Woods does not deal with is that the very forces that he claims *made* it unnecessary were part of a quintessentially liberal movement, one fiercely opposed by conservatives at the time.

After discussing later court cases involving integration—*Green v. County School Board* and *Swann v. Charlotte-Mecklenburg Board of*

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<sup>19</sup> Woods, p. 196.

<sup>20</sup> Michael J. Klarman, "How Brown Changed Race Relations: The Backlash Thesis." *The Journal of American History*, Vol. 81, No. 1. (Jun., 1994), pp. 81-118; first quotation at p. 89 (cited in Woods at p. 198), second quotation at p. 118.

*Education*—Woods discusses what he sees as some of the negative consequences of integration: loss of community schools for African Americans, failure to improve African-American performance, and white flight to suburban and public schools. This discussion is considerably longer than his analysis of *Brown*. In the course of discussing these issues, Woods makes fairly standard conservative arguments on these topics. What is relevant to the strategy of evasion is that Woods uses these arguments to retroactively cast doubt on *Brown* without directly confronting the issue of the morality of legally-mandated segregation. Thus Woods writes:

Some have argued that *Green* represented a radical departure from the reasoning employed in *Brown*.... Yet the reasoning employed in *Green* was already implicitly contained in *Brown*. According to *Brown*, what made segregated schools inherently inferior was precisely that blacks did not have white classmates. *Green*, nearly a decade and a half later, merely took up where *Brown* left off.<sup>21</sup>

Similar rhetorical moves occur in Woods's discussion of busing. He declares that "such forced mixture would increase racial animosity, not alleviate it"; his writing is full of language such as "let's force those kids together", "tearing children away from their familiar surroundings" and "the busing fiasco", even suggesting that one judge should apologize for his desegregation order.<sup>22</sup> He finally concludes that

By any measure, forced busing worsened the very condition its proponents had claimed to want to

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<sup>21</sup> Woods, pp. 199 - 200.

<sup>22</sup> Woods, pp. 200 - 205.

improve.... Although busing was more coercive in some cities than in others, and other factors contributed to the disappearance of whites from urban schools, a non-Hispanic white majority is not to be found in the public school system of a single big city in America today. That is what government programs intended to mix the races have to show for themselves.<sup>23</sup>

The argument that *Brown* ultimately worsened public school conditions, even for African Americans, has of course been made by people from across the political spectrum. What is noteworthy here is that it is by no means clear what is intended to be included in the phrase "government programs intended to mix the races," Given Woods's insistence that *Brown* directly entailed later desegregation measures, and his overall structuring of his analysis, it seems he might be including *Brown* among his "government programs intended to mix the races." Woods, of course, does not say clearly that segregation was a good thing, or that we ought to reinstitute *de jure* segregation. But by running the issues together, Woods tries to create doubt about the morality of *de jure* integration by playing on his audience's concerns about more controversial programs.

Woods then discusses the 1964 Civil Rights Act. He first claims that it was unnecessary, citing Thomas Sowell to the effect that African Americans' representation in "high-level positions" advanced more in certain years prior to the act than subsequent to it.<sup>24</sup> He cites statistics regarding only a few years, and none later than 1967, after the act had been in effect only three years; nor does he address the possibility that

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<sup>23</sup> Woods, p. 204.

<sup>24</sup> Woods, p. 206.

progress might otherwise have stalled. And Woods does not address the merits of any of the numerous provisions in the act not related to employment in "high-level positions". He does claim that the act "extended federal authority over private behavior to an extraordinary degree."<sup>25</sup> Beyond these claims, Woods does not directly address the question posed in his section title, "The Civil Rights Act of 1964: how necessary or desirable was antidiscrimination legislation?"; but he leaves little doubt that in his view it was clearly unnecessary.<sup>26</sup>

To reach the claim that the act was "undesirable" Woods segues quickly from a discussion of the Civil Rights Act to a discussion of affirmative action. Indeed he claims that "the logic of antidiscrimination legislation leads directly to affirmative action" — a sentence he places entirely in italics. Woods goes on to discuss a number of other court cases, including *Griggs v. Duke Power Company*, *Regents of the University of California v. Bakke* and *U. S. Steelworkers v. Weber*. In his discussion of these cases, Woods argues that the Civil Rights Act leads inexorably to affirmative action—that is, in his view, it leads to discrimination. Indeed, he argues that even voluntary affirmative action, of the sort permitted in *Weber*, ultimately derives from the Civil Rights Act:

The fiction that affirmative action programs in the private sector are 'voluntary' dies hard, but fiction it is. Private firms and organizations typically adopt affirmative action programs in order to protect themselves from federal lawsuits alleging 'discrimination' on the basis of innocent

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<sup>25</sup> Woods, p. 205.

<sup>26</sup> Ibid.

and unintentional disparities between the proportion of minority employees they have on the payroll and the proportion of minorities in the surrounding population. There is nothing 'voluntary' about doing something in order to prevent the federal government from bringing you up on charges and destroying your business.<sup>27</sup>

Woods is, of course, prejudging these cases through his assertion that the disparities are "innocent and unintentional," and from his sarcastic quotation marks around 'discrimination'. But the key point here is that, in Woods's view, antidiscrimination legislation *inevitably* leads to discrimination. One might argue that, if discrimination is therefore inevitable (since a *lack* of antidiscrimination legislation obviously led to discrimination as well), it might as well be done fairly. But Woods's intent, rather, is to use the contemporary instinct that discrimination is unjust to cast backwards doubt upon the Civil Rights Act and the movement which led to its passage—to use, in other words, the contemporary instinct that discrimination is unjust to subtly undermine (without directly saying so) the notion of ending racial discrimination. Just as he did in shifting the discussion from *Brown* to later busing decisions, Woods not only moves his history rapidly along until he reaches more comfortable ground, he structures it so as to cast doubt where he is unable (or unwilling) to raise it openly.

Overall, Woods's strategy for dealing with the place of segregation and segregationist arguments in the history of the conservative movement is comparable to Herman Talmadge's strategy of coming to terms with his own personal past. There is one major difference between them, however, for while Talmadge is careful to at least state quite clearly that he has

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<sup>27</sup> Woods, pp. 211 - 212.



come to favor integration, Woods never says openly that segregation was wrong or that he opposes it in principle. He never openly argues *for* segregation either, however, and does make a number of arguments against various specific racial policies on the grounds that their outcomes are unfavorable to African Americans. Given the overwhelming presumption in today's political climate that segregation was, in fact, wrong, and that all people of good will today oppose it, these two facts—his failure to say the opposite, and his professed concern for African American welfare—are almost certainly enough to make the casual reader presume that Woods opposes segregation. He might well, given his association with southern nationalist organizations,<sup>28</sup> have taken such an approach in order to appear moderate—in favor of *de jure* equality—while hiding actual segregationist leanings; this is, however, impossible to verify either way.

Woods's failure to openly support *de jure* equality (however tepidly) is, to be sure, a significant difference between his stance in his history and Talmadge's in his memoir. There remain substantial similarities, however, particularly if one grants that Woods is attempting to *appear* pro-integration, or at least is attempting to let readers who care

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<sup>28</sup> The group that Woods helped to found, the League of the South, is, according to a report by the Southern Poverty Law Center, now an openly pro-segregationist group, though they do not cite Woods himself to this effect. (See the Southern Poverty Law Center report, "A League of their Own", at <http://www.splcenter.org/intel/intelreport/article.jsp?aid=250>.) Woods himself once referred to integration as an "allegedly desirable social outcome[s]." (Cited in Eric Muller, *op. cit.*) So while he has not said so on the record, there is certainly plenty of circumstantial evidence that Woods would support a reinstitution of segregation.

about such things make that assumption. As with Talmadge, Woods's professed concern for African Americans does not lead him to support any of the major victories that helped establish *de jure* integration in the middle of the previous century; they both share a continued opposition to both *Brown v Board of Education* and the 1964 Civil Rights Act. Like Herman Talmadge, Woods slips readily from discussing issues of *de jure* integration to ferocious attacks on later legal strategies of the Civil Rights Movement such as busing and affirmative action. Ultimately, both Talmadge and Woods dance around issues of supporting or opposing the measures which established *de jure* integration, while harping at length on the injustice of measures which, whatever one thinks of them, were undertaken to try to achieve a measure of *de facto* integration.

A similar strategy to Thomas Woods's, although pursued in a far more balanced fashion, is employed in Paul Johnson's work *A History of the American People*.<sup>29</sup> Johnson's work is far more scholarly and judicious than Woods's; it was, in fact, recommended by Max Boot in his critical *Weekly Standard* review of *The Politically Incorrect Guide to American History* as a respectable conservative history for "conservatives looking to inoculate themselves or their children from liberal indoctrination" to read in place of Woods's book.<sup>30</sup> And, indeed, in contrast to Woods, Johnson covers the protests of the Civil Rights

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<sup>29</sup> Paul Johnson, *A History of the American People*. New York: Harper Collins, 1997.

<sup>30</sup> Max Boot, *op. cit.*

Movement as well as the legal strategies thereof, and does so with some admiration.

But Johnson, like Woods, sets up his discussions of the Civil Rights Movement in such a way that he moves swiftly from a discussion of the earlier movement to a more critical discussion of subsequent stages. His initial discussion of the Movement (the portion which involved, in Johnson's words, "physical activity" and not "the legal position") occurs in a sub-section entitled "Civil Rights and Campus Violence."<sup>31</sup> As this title indicates, Johnson closely links his discussion of the earliest protests of the Movement—he begins with the Montgomery bus boycott—to later protests against the Vietnam War and other things, and in particular to the violent protests of the later 1960's as well as to a broader "degradation of authority" that that decade saw—a degradation Johnson ascribes in part to "men in authority breaking and running at the first whiff of student grapeshot."<sup>32</sup> Johnson expresses some genuine admiration for the Movement, in particular for Martin Luther King, Jr. But by structuring his discussion so as to move swiftly from the Civil Rights Movement to later violence and "degradation of authority", he implicitly qualifies his admiration. Nor does he discuss in much detail the resistance to the Civil Rights Movement, which might be a trickier subject; while he acknowledges the white violence that greeted many of the Civil Rights protestors, the violence he highlights as most destructive is that which came from those whose goals or grievances aligned with the Civil Rights Movement, not those who reacted against it. He also says that the "Civil

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<sup>31</sup> Johnson, p. 891.

<sup>32</sup> Johnson, p. 893.

Rights Act gave blacks much more than they had ever had before, but not everything" — with a seeming implication that it really ought to have been enough.<sup>33</sup>

Johnson's other section on the Civil Rights Movement, devoted to its legal aspects, is titled — tellingly — "the Sinister Legacy of Myrdal." This "sinister legacy", in Johnson's view, is government by the courts and not by the legislature. Johnson's discussion of the Civil Rights Movement's legal victories is largely framed by this conception of the Court's usurping power. Johnson writes:

The result [of Myrdal's influence] was perhaps the most important single Supreme Court decision in American history, *Brown v. Board of Education of Topeka* (1954), in which the Court unanimously ruled that segregated schools violated the Fourteenth Amendment guaranteeing equal protection under the law, and thus were unconstitutional. It is notable that, during the arguments, one of the justices, Robert Jackson, laid down: 'I suppose that realistically the reason this case is here is that action couldn't be obtained by Congress.' Thus the judges were consciously stepping in to redeem what they saw as a failure of the legislature. The next year, in a pendant to the case, the Court issued guidelines for desegregating schools and vested federal courts with authority to supervise the process, urging that it take place 'with all deliberate speed.' By setting itself up as an enforcement agency, the Court was thus substituting itself for what it regarded as a failed executive too. In short, in *Brown* the Court not only made law, but enforced it, and the enforcement was no small matter...<sup>34</sup>

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<sup>33</sup> Johnson, p. 892.

<sup>34</sup> Johnson, p. 953.

Johnson does not explicitly address the question of whether or not segregated schools were in fact constitutional under the Fourteenth Amendment, but by saying that the Court "made law" he seems to imply that, in fact, they were: that the Court was taking an unjustified step in the *Brown* decision. While he never says anything to imply that he disliked the result in *Brown*, he is so incensed by what he sees as the Court's overstepping its bounds that he doesn't say anything positive about the result, either. A page later, Johnson quotes a number of legal experts on the negative aspects of *Brown*—that it "sacrificed neutral legal principles for a desired outcome," that it led to "race, quickly followed by ethnicity... displacing citizenship as a badge of identity" and that, in any event, it didn't work, as the deterioration of American urban schools showed.<sup>35</sup> Johnson does not offer any dissenting views to these negative opinions about *Brown*, leading to the strong impression that he agrees with them entirely.

After his initial discussion of *Brown*, Johnson leaps into a consideration of the 1964 Civil Rights Act, which he approves of to a much greater degree—again, largely on procedural grounds: Congress, he writes, "exercise[d] its proper constitutional function, and the Act itself was the result of democratic compromise in the legislature." He also says that "the Act was, on the whole, a notable success."<sup>36</sup> Yet he immediately begins to emphasize what he sees as the Act's distortion into the policy of affirmative action. After the briefest possible mention of the successes of the Civil Rights Act, Johnson goes on (within the very same paragraph) to

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<sup>35</sup> Johnson, pp. 954 - 955.

<sup>36</sup> Johnson, p. 953.

decry the "impos[ition] of quotas in defiance of the Act" — something which he says "was the real beginning of Affirmative Action."<sup>37</sup> Even if the Civil Rights Act was itself a good thing — arrived at through an appropriate procedure, paramount in Johnson's view, and presumably aimed at good ends — Johnson seems far more concerned with what he sees as its baleful outcome than with any positive effects.

The real combined effect of *Brown* and the 1964 Civil Rights Act in Johnson's account was the replacement of citizenship as "a badge of identity" by race and ethnicity — a process Johnson describes as "introducing inequality before the law", which in turn "helped to undermine the legal process itself."<sup>38</sup> Indeed, Johnson writes, "America became in danger of embracing a caste system, like India or, worse still, of obliging itself to set up the juridical infrastructure of a racist state, like Hitler's Germany"<sup>39</sup> — a process furthered by the increased number of non-white citizens that resulted from the 1965 loosening of immigration quotas. Just as Woods dealt at much greater length with the problems (in his view) of busing and affirmative action than he did with the specific results (or antecedents, for that matter) of *Brown* and the 1964 Civil Rights Act, Johnson devotes far more space, as well as far greater passion, to the rise of "inequality before the law" that resulted, in his view, from affirmative action and related programs and ideologies. Nowhere does he seem to recognize the slightest irony in saying that as a *result* of the 1964 Civil Rights Act America was in danger of "embracing a caste system" or

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<sup>37</sup> Johnson, p. 954.

<sup>38</sup> Johnson, p. 956.

<sup>39</sup> Ibid.

"set[ting] up the juridical infrastructure of a racist state". It seems that, in Johnson's view, the segregated South was not itself "a caste system", and the racially bound justice therein was not itself "the juridical infrastructure of a racist state".

Johnson does not cast doubt upon the basic justice of the Civil Rights Movement to the same degree as does Woods—at least, not on the 1964 Civil Rights Act; Johnson makes a particularly strong distinction between court-ordered desegregation, which he seems to feel is fundamentally wrong, and congressionally mandated desegregation, which he approves. But while he does claim to support the latter, he spends his energy and passion decrying not the segregation which the Civil Rights Act ended, but the legal racial segregation which, he believes, it began. Like a magician waving one hand to distract an audience from the other, he decries loudly the legal recognition of racial distinctions that constitute affirmative action, but does little to recognize the legal racial distinctions that constituted segregation—distinctions which even affirmative action's opponents must admit were far more consequential in terms of their effect on Americans and American society.

The recent book by Larry Schweikart and Michael Allen, *A Patriot's History of the United States*,<sup>40</sup> pursues a number of different strategies for addressing the reality of conservative support for segregation in a narrative explicitly designed to present a conservative

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<sup>40</sup> Larry Schweikart and Michael Allen, *A Patriot's History of the United States: From Columbus's Great Discovery to the War on Terror*. New York: Sentinel, 2004.

view of the American past—one written as a deliberate counterpoint to Howard Zinn's bestselling *People's History of the United States*. It includes some examples of the strategy of evasion followed by both Woods and Johnson; it also contains hints (if only hints) of the sort of denial presented by Ann Coulter and David Frum. In other places, Schweikart and Allen use still other strategies in their consideration of the Civil Rights Movement as well. But unlike Woods and Johnson, they never seem to forget the genuine necessity of racial equality nor to downplay the genuine achievements of the Civil Rights Movement. While they do not quite confront head-on the conservative nature of opposition to integration, or the left-wing roots of the struggle to achieve it, they do document that struggle's importance even while questioning some of its results and methods.

Schweikart and Allen do present—as is, after all, their stated purpose in their history, beginning with its title—a distinctly conservative view of the civil rights movement. Several of their criticisms are familiar from both Woods and Johnson. Schweikart and Allen do make the familiar conservative point that, by stating that "segregation 'generates a feeling of inferiority' by blacks within the community", the Supreme Court staked out a position where only "sit[ting] next to whites" could improve African American self-esteem. They also claim that this position led to a situation where there needed to be a "preordained proportion of races" lest these feelings of inadequacy be seen to re-emerge.<sup>41</sup> And just as Woods and Johnson do, Schweikart and Allen see school desegregation as "ultimately... requir[ing] a perversion of the apparatus of the state in

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<sup>41</sup> Schweikart and Allen, p. 663.



order to get people to act reasonably and justly."<sup>42</sup> Schweikart and Allen also argue that the continuing chain of cases formed a slippery slope:

...the steady encroachment of government into race relations later raised difficult issues about freedom of choice in America. Black economist Walter Williams has referred to 'forced association laws,' noting that the logical outcome of defining every business as 'public' increasingly restricts a person's freedom to choose those with whom he or she wishes to associate. In cases of genuinely public facilities, the issue is clear: all citizens pay taxes, and thus all citizens must have access without regard for race or color. But where was the line drawn? Private clubs? ... Likewise, the firewall of states' rights also deteriorated in the civil rights clashes. A phrase used all too often by racist whites, the fact is that 'states' rights' still represented a structural safeguard for all citizens of a state against direct federal action.<sup>43</sup>

So no less than Woods and Johnson do Schweikart and Allen criticize both the methods and some of the ultimate results of the legal methods that brought about the end of *de jure* segregation.

Yet Schweikart and Allen do so in a distinctly different context. If they still see court-ordered desegregation as "a perversion of the apparatus of the state", they also see it as "required... in order to get people to act reasonably and justly." They make it clear that they see "the moral issues in the initial civil rights cases in the 1950s and 1960s" as "crystal clear".<sup>44</sup> They present with a fair amount of detail (given space limitations and their attention to comparable topics) the "continued injustice of a segregated society". While they still present standard conservative

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<sup>42</sup> Ibid.

<sup>43</sup> Schweikart and Allen, p. 665

<sup>44</sup> Schweikart and Allen, p. 665.

critiques of various Civil Rights Movement legal victories and of the ultimate result of some of the processes instituted by the Movement, they do not do so to the exclusion of what almost everyone would today admit was the ultimate, overriding moral urgency of ending *de jure* segregation.

Schweikart and Allen also hint—if only hint—at the sort of denial that Ann Coulter exemplified. In their discussion of the passage of the 1964 Civil Rights Act, they go out of their way to note that it was passed

with a higher percentage of Republicans than Democrats voting for the bill. Among those voting against it were prominent Democratic senators Albert Gore Sr. of Tennessee and a former member of the Klan, Robert Byrd of West Virginia.<sup>45</sup>

This, unquestionably, is vastly less tendentious than Coulter's bald claim that segregation was a "Democrat" policy which "Republicans made Southern Democrats drop... when they entered the Republican Party."<sup>46</sup>

Yet these sentences are offered in something of the same spirit. The point of noting that "a higher percentage of Republicans than Democrats" voted for the 1964 Civil Rights Act is clearly to cast the contemporary Republican in a good light on the issue of civil rights and to cast the contemporary Democratic party in a correspondingly poor one. Yet while their statement is perfectly correct, it is slightly disingenuous, since it was in large measure due to this very bill that many of the segregationist Democrats left the Democratic party to become Republicans, even while they gave up the fight to maintain *de jure* segregation as a lost cause.

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<sup>45</sup> Schweikart and Allen, p. 686.

<sup>46</sup> Coulter, 2004, op. cit.

This contemporary focus is driven home by Schweikart and Allen's second sentence, singling out Senators Gore and Byrd as voting against the Civil Rights Act. As a comment about 1964, it is a rather random selection of opponents to mention; Gore and Byrd were hardly the most prominent pro-segregation Democrats. As a distinctly partisan jab from forty years later, however, it is readily understandable: Gore's son and namesake, of course, was the Democratic candidate for President in 2000, while Robert Byrd, still in the Senate, was one of the Bush administration's most vocal, stentorian critics, particularly on the issue of the Iraq war. Singling them out for their (unquestionably immoral) segregationist past, despite the sentence's historical context, is intended as a partisan blow—one narrowly tailored to the very specific time of the book's publication.<sup>47</sup>

A similar hint of a strategy of denial comes, ironically, when Schweikart and Allen make a standard leftist critique of liberalism. After a brief mention of "Confederate flag-wavers, white-robed Ku Klux Klansmen... and potbellied southern sheriffs", they go on to note that

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<sup>47</sup> While they are rarely so blatant about it, a number of other sentiments expressed in Schweikart and Allen's volume seem to be written with a distinctly partisan eye on a remarkably narrow temporal landscape (which is to say, not only on issues of contemporary liberalism and conservatism but on the very specific political situation they held at the time of their writing). Their description of one of Lincoln's distinctive qualities as "embrac[ing] the moral and logical designation of slavery as an inherent evil" seems to deliberately echo the frequent praise of the second President Bush's 'moral clarity' and willingness to use words such as 'evil' (the latter, of course, a common point of conservative approbation of Reagan as well.)

Equally dangerous to blacks, though, were well-meaning whites, especially northeastern liberals, who practiced a quiet, and perhaps equally systematic, racism. These northern white elites would enthusiastically and aggressively support the fight for civil rights in the South while carefully segregating their own children at all-white private schools. They overwhelmingly supported public school systems with their votes and their editorials, but insulated their own children from exposure to other races by sending them to Andover or Sidwell Friends. Few had personal acquaintances who were black, and fewer still, when it was in their power, appointed or promoted blacks to corporate, church or community positions. Not surprisingly, this subterranean prejudice was at its worst in liberal meccas such as Hollywood and New York City, where television production headquarters selected the programming for virtually all TV broadcasting in the 1950s and early 1960s. With the notable exception of the radio show *Amos and Andy*—whose actors were actually white!—black television characters were nonexistent except as occasional servants or for comic relief or as dancers.<sup>48</sup>

This is, for the most part, entirely fair: the racism of white, northern liberals was, of course, often noted at the time by participants in the Civil Rights Movement, and many among them would probably have agreed that it was "equally dangerous to blacks"—Martin Luther King, for instance, famously wrote in his "Letter from Birmingham Jail" that he had "almost reached the regrettable conclusion that the Negro's great stumbling block in his stride toward freedom is not the White Citizen's Counciler or the Ku Klux Klanner, but the white moderate."<sup>49</sup> Yet it

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<sup>48</sup> Schweikart and Allen, pp 661-662.

<sup>49</sup> Martin Luther King, Jr., "Letter from a Birmingham Jail", April 16, 1963; text online at <http://www.nobelprizes.com/nobel/peace/MLK-jail.html>.

seems slightly imbalanced to devote nearly two paragraphs to the racism of the white liberal, when the ""Confederate flag-wavers, white-robed Ku Klux Klansmen" rate only a brief mention (not counting later, vague references to anti-African American violence.) Nor would King, or any other civil rights leader, have advocated greater *conservatism* as the antidote to this problem! In the context, it is hard not to conclude that Schweikart and Allen are trying—delicately, and by making a perfectly valid (indeed, important) point—to focus the charge of racism onto liberals as a way of deflecting it away from conservatives.

(It is also worth noting, parenthetically, that this passage too seems to be written with a distinct eye toward scoring present-day political points. To write of the racism of northern liberals might be simply an accurate description—but why specify "northeastern liberals"?<sup>50</sup> To be sure, even in the 1960s Richard Nixon fumed against northeastern liberals; but it is an attack far more familiar from, and consonant with, the politics of the early twenty-first century than that of the period under discussion. The point is even clearer when Schweikart and Allen write of "northern white *elites*."<sup>51</sup> Racism was an issue among northern whites (as among southern whites) of all classes—indeed, working-class racism would become a pressing issue in the late 1960s and, especially, in the 1970s as clashes between working-class whites and African Americans arose over issues such as busing. Why, then, specify *elite* racism? Again, a look at present-day conservative politics, which centrally vilifies

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<sup>50</sup> Emphasis added.

<sup>51</sup> Emphasis added.

liberalism as the politics of the elite,<sup>52</sup> answers the question in a way that historical circumstances do not. Similarly, describing the racism of the mid-Twentieth Century media is an important historical point; to describe this as the racism of "liberal meccas such as Hollywood and New York City"—particularly to say that this was the location of the "worst" of liberal racism—seems intended, primarily, to invoke the anti-elitist, populist political rage of the present day.)<sup>53</sup>

Despite these various rhetorical strategies which, in varying ways, deflect attention from the conservative support for segregation and the liberal impulses behind the movement against it, it must be reiterated that Schweikart and Allen do present a fair if not balanced narrative of the Civil Rights Movement. Whereas some of the claims made by Coulter and Frum, for example, involve outright distortions, Schweikart and Allen present an opinionated but clearly defensible interpretation. If their emphasis on liberal racism seems overstated compared to their passing remarks on conservative racism, this is perhaps understandable in a book explicitly designed as a conservative retelling of American history. It does, perhaps, fail to fully confront the connections between segregationist thought and the contemporary conservative viewpoint; but at least it gives due attention to the importance of the former.

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<sup>52</sup> See Thomas Frank, *What's the Matter With Kansas?* New York : Metropolitan Books, 2004, for a powerful description of this dynamic.

<sup>53</sup> The suspicion also arises that the specifying of "Sidwell Friends" is an example chosen due to that school's recent fame as the high chosen by Hilary and Bill Clinton as their daughter's high school, although this is probably impossible to prove.

Some conservatives do forthrightly admit that the Civil Rights Movement was both a positive and a liberal achievement. This strategy involves not attempting to deny or evade the issue of liberalism and conservatism's records' on the issue of civil rights, but to confront it honestly—conceding, as it were, this particular moral high ground to liberalism, attempting perhaps to put it in perspective but nevertheless admitting the fundamental justice of the liberal case. At times this involves an attempt to justify some of the conservative principles involved in the support of segregation, while still condemning the support itself as morally unacceptable.

A good example of this strategy can be found in a book by conservative columnist George Will. Will says, forthrightly, that

The most admirable achievements of modern liberalism—desegregation, and the civil rights acts—were explicit and successful attempts to change (among other things) individuals' moral beliefs by compelling them to change their behavior. [...] To a gratifying extent the civil rights laws worked.<sup>54</sup>

For the most part this is an example of gracious admiration for another political philosophy's genuine insights and achievements. Rather than hedge the question, shift focus or obfuscate the issue, Will defuses it by simply admitting that desegregation was "admirable", a liberal achievement which should not be gainsaid.

Yet even Will hedges matters slightly. He does so by presenting government-imposed desegregation as not a simple triumph of right over

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<sup>54</sup> George Will, *Statecraft as Soulcraft: What Government Does*. New York: Simon and Schuster, 1983, p. 87.

wrong, but as a clash of rights. A page before, Will sets up the philosophical conflict thus:

Before Lester Maddox was Governor of Georgia, he was proprietor of the Pickrick Restaurant in Atlanta. One of the most defensible, indeed most unmixedly good, deeds of modern government was in taking away one of the rights Maddox valued most. When black persons tried to claim a right to be served in the Pickrick, the proprietor respond by wielding an ax handle, and by handing out ax handles to kindred spirits. The right he was exercising was a real right—an enforceable entitlement, and an old one: the right of a proprietor to restrict his custom. In many times and places the right was, and is, acceptable. But in the United States it had too often been exercised in a way that affronted an entire class of citizens. And in the United States in 1964 that right had become intolerably divisive. So Congress undertook a small but significant rearrangement of American rights. It diminished the rights of proprietors of public accommodations, and expanded those of potential users of those accommodations. [...] Congress was coming to the conclusion that a right exercised meanly, with ugly consequences, should yield to another, better right.<sup>55</sup>

Will for the most part accepts what was the liberal argument of the time: that the dismantling of segregation was not only right but was "indeed... unmixedly good"; he accepts that the civil rights act not only changed people's behavior patterns but their "moral beliefs"—the precise thing that conservative arguments at the time said could not happen.

But in one key respect Will retains a strongly conservative view in his presentation of the conflict. He accepts the segregationist argument, as articulated by Lester Maddox, that the right to deny service to an

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<sup>55</sup> Ibid., pp. 86-87.



African-American customer was both ancient and "a real right". He does not say, as a liberal might, that this was as such an illegitimate thing to do. He does say that it was "a right exercised meanly, with ugly consequences"; but he insists that it is still a right. By setting up the circumstance as a contest of rights, in which a more pressing right yielded to a less pressing one, Will maintains a conservative philosophical outlook that both legitimates the underlying conservative argument and worldview as well as raises a high barrier against any attempt to extend the liberal argument (to, for example, women or gays and lesbians.) Will thus makes what is the smallest possible concession to a liberal philosophy of governance consistent with both an honest reading of history and a commitment to integration—one which, while giving some credit to "modern liberalism" for its support of the Civil Rights Movement, does so without ceding any significant philosophical ground.

I do not mean to imply that Will writes this disingenuously, nor that he is taking this stance out of purely strategic considerations or that his commitment to integration is anything less than genuine. But a strategy conceived in good faith and honestly followed is, nevertheless, a strategy; and concessions made in good conscience are, nevertheless, concessions. Will provides a model of a well-thought out, fully conservative understanding of the history of the Civil Rights Movement in relation to the liberal and conservative political tendencies—a model that others, out of conviction or calculation or some inseparable combination, might well follow.

Will, for all his admiration of the Civil Rights Movement, does not go so far as to express regret that conservatives did not embrace it more

fully, or suggest that conservatives have something to learn from their failure to do so. Indeed, for the reasons laid out above, the strategy of repentance—admitting conservatism's roots in segregationist thought, declaring it wrong, and vowing (in one fashion or another) to do better—is rare. But it is not unheard of. A few conservatives have gone so far as to say that, on this issue, not only were liberals right, but conservatives were wrong.

One of the few examples of such an argument was made by Jack Kemp, later the 1996 Republican Vice-Presidential candidate. In a 1993 interview, Kemp discussed at some length the Republican party's, and the conservative movement's, history with regards to civil rights:

I don't think Barry Goldwater is, or was, a racist. I think he cast the wrong vote... But there weren't many conservatives on the side of the civil rights movement. And I'm convinced that the civil rights movement was necessary. You don't have to agree with every tactic, or everything that happened, to recognize that the civil rights movement in America was a necessary reform of our laws to bring us closer to the original meaning of our Declaration of Independence. ...

I'm sure there were many fine men and women in the Republican party all for civil rights, but the party as a whole was not associated with it. I give credit to the Democratic party for its role. I don't necessarily agree with everything it did, but I recognize that some of the errors came out of championing civil, human, legal, and voting rights for all people. The Democrats had a terrible history, and they overcame it.

We had a great history, and we turned aside. We should have been there with Dr. King on the streets of Atlanta and Montgomery. We should have been there with John Lewis. We should have been there on the freedom

marches and bus rides. We should have been there with Rosa Parks in Montgomery, Alabama, in December of 1955.

... I think the whole idea of Kevin Phillips's Southern majority is a disgrace.<sup>56</sup>

Kemp does insert a few qualifiers in his statement—he implies that he disagreed with some tactics of the Civil Rights Movement; he says that "there were many fine men and women in the Republican party all for civil rights," and that the Democrats made some "errors" in the course of supporting civil rights. But this statement is, unquestionably, a forthright recognition of a troubled past. Kemp does not equivocate about the fact that "there weren't many conservatives on the side of the civil rights movement," and even recognizes that "the [Republican] party as a whole was not associated with" the movement—an explicit contradiction of the strategy of denial which, as was seen earlier, is followed by many.

Kemp does not even restrict himself, as do many conservatives—including George Will in the passage quoted above—to the legal aspects of the Civil Rights Movement. Rather, he explicitly embraces the protest tactics, delineating several: the Montgomery bus boycott, the freedom rides, the work of SNCC under John Lewis. Finally, Kemp disavows the 'southern strategy'—implicitly recognizing that it was precisely conservative opposition to integration upon which recent Republican majorities have been built. (He does, naturally, think that Republicans can appeal to African Americans and other supporters of civil rights while continuing to appeal, for *other* reasons, to white southern voters.) Kemp

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<sup>56</sup> Fredric Smoler, "We Had a Great History and We Turned Aside: An Interview with Jack Kemp by Fredric Smoler." *American Heritage*, October 1993, pp. 53 - 59; quotation on pp. 55-56.

confronts, up to a point, the contradiction between his party's professed belief in the Civil Rights Movement and its electoral benefiting from the backlash to that movement.

No less than for individuals, the conservative movement as a whole has a wide range of possible strategies from which it can choose how it wishes to approach its connections to its segregationist past. As we have seen, more than one of these strategies involve a measure of evasion or denial. But there is also more than one strategy with which conservatives, without abandoning their own core political values, can approach the history of this era with both historical accuracy and moral consistency. Kemp, like Will, provides a powerful model for those who wish to employ such strategies.

## CONCLUSION: ACCEPTING EQUALITY

In the spring of 2008, there was a brief media furor over the proposed design of the planned statue of Martin Luther King, Jr., for the National Mall in Washington, D.C. The secretary of the United States Commission of Fine Arts, in critiquing the design, said (among other criticisms) that the statue was too "confrontational". He elaborated, "I don't know that most people would say, 'Dr. King, he was really a confrontational guy.'" The secretary was soon forced to express his regrets for the word as the blatant historical absurdity of his claim was widely pointed out, among others by the late civil rights leader's nephew.<sup>1</sup> But the claim that King was not confrontational, inaccurate as it was about the historical realities of King's career, was accurate about the way King is remembered—or, more accurately, the way some segments of the American polity *wish* to remember him. Writing about the statue controversy, columnist Eugene Robinson summed up the desired memories of King as follows:

It's clear that some people would prefer to remember  
King as some sort of paragon of forbearance who,  
through suffering and martyrdom, shamed the nation into

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<sup>1</sup> Michael E. Ruane, "Unhappy With 'Confrontational' Image, U.S. Panel Wants King Statue Reworked", *The Washington Post*, May 9, 2009, p. A1; Shaila Dewan, "Larger Than Life, More to Fight Over", *The New York Times*, May 18, 2008, Week in Review, p. 4. The Commission also expressed concern over the style of the statue, which they compared to socialist realism; still others have been concerned because the sculptor was both Chinese and noted for his creation of sculptures of Mao Zedong.

doing the right thing. In truth, King... was a man of action who used pressure, not shame, to change the nation.<sup>2</sup>

The genuine historical realities of King's career—over a decade of intense confrontation, through a career of "pressure, not shame"—requires a very different story than the hagiographic version so often offered in contemporary American discourse. A narrative of King as a purely religious figure, one who transformed the country through soul force rather than political action (albeit couched in religious terms), can be a story without antagonists, a tale of a preacher who successfully called a ready nation to repent. A portrait of King's career as a political struggle inevitably requires some account of those he was struggling *against*. Which, in turn, damages the national narrative of complete and uncomplicated repentance for America's racial sins: that Jim Crow is an era that is *over*, not so much politicked away as almost religiously transcended.

The presence of antagonists in historical memory is particularly dangerous for events which are still so recent. The events of the 1960's are still frequently referenced in contemporary political debate. Were King still alive, he would be in his seventies—quite possibly an ongoing participant in the civil realm (just as, in fact, many of his key allies and lieutenants still are). It is easy to tell a story of believers in politically untenable positions when the adoption of those positions can be ascribed the tenor of long-past times, and when the proponents of the now-unthinkable are, in any event, long gone from the political scene. It is a

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<sup>2</sup> Eugene Robinson, "King as He Was," *The Washington Post*, May 20, 2008, p. A13.

more difficult story to tell when the erstwhile opponents are still on the political stage.

Describing King as "confrontational" raises the question of whom he was confronting; which, in turn, raises the question of where those who challenged the now-unchallengeable King have gone.

As this work has examined, King's opponents remained ensconced within the American political system, both as lawmakers and as opinion-makers, for years to come—in some notable cases, for many decades. Due to the Civil Rights Movement's moral victory—the shift in widely-held moral beliefs that led to its moral calculus (at least on the issue of *de jure* segregation) becoming the default, and the nearly universal, American political position—those opponents rarely held on to their oppositional views. As this work has explored, they sought various ways to explain away, to apologize for or to ignore their now-discredited political positions. Given the moral opprobrium that—quickly, in historical terms—attached to the support of Jim Crow, it was a difficult feat to accomplish. Those who wished to see King as non-confrontational—since who would confront such obviously ethical goals?—had to deal with their own confrontation of him.

It is worth noting how little political price was paid by those who had supported a position that even they had come to view as immoral.

Setting aside Lester Maddox—who remained steadfast in his support for his earlier views—few of the subjects in this study paid any significant political price for their support of Jim Crow. Prominent political spokesmen for *de jure* segregation such as Strom Thurmond, Herman E. Talmadge and George Wallace, continued their careers to their

natural termination with hardly any disruption from their previous segregationist stances.<sup>3</sup> William F. Buckley's career as an influential political pundit did not suffer from his invocation of white southerners as the "superior civilization" (aside from a few negative remarks from observers unlikely to sympathize with his views in any event). Nor has the conservative movement which he championed paid even a rhetorical price for its roots in the politics of segregation's defenders.

Of the figures examined in this study, only two—Robert Bork and Trent Lott—paid a political price for their former support of segregation. And in both cases the significance of that price was debatable. In the case of Robert Bork, his opposition to the 1964 Civil Rights Act—and the bloodless way in which he claimed to have changed his view—was one of the factors which cost him a seat on the Supreme Court, but it was *only* one of the factors, and it is hard to disentangle it from the broader campaign against his nomination. While in the case of Trent Lott, the political price he paid was limited to his leadership role—which, had he not chosen to retire, he might even have recaptured a few years later. In neither case was the support for a political position which the supporter

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<sup>3</sup> It is arguable that Wallace's national political ambitions were, eventually, diminished by his earlier segregationist positions. But, of course, there were other factors in his lack of national political success as well—his serious wounding by Arthur Bremer in particular. And, of course, Wallace's very opposition to integration—and the broader politics of conservative populism he built on top of it—were in fact the reason he had any national political hopes in the first place. Wallace's political career was ultimately far more furthered than hindered by his notorious defiance of integration.



himself had come to agree was wrong a career-ender, or anything close to it.

One of the key factors allowing proponents of *de jure* segregation to survive in political life after the discrediting of their ideas was the change in political rhetoric that preceded the Civil Rights Movement. While in popular memory Jim Crow was dismantled by the Civil Rights Movement in the 1950's and 60's, scholars have long appreciated the many challenges to the system that existed prior to the more famous events of the mid-50's and beyond. Even more than the practical victories that occurred in the decades prior to the remembered start of the Civil Rights Movement in 1954, however, there were ideological and rhetorical shifts that occurred in those decades as well. For all its enduring power, overt racism had been comparatively discredited in much of the country by the time of the *Brown v. Board of Education* decision. (As has been frequently noted, the decision itself, rather than a counter-majoritarian action by an activist court, was an attempt to impose the will of a national majority over a regional majority.) This was particularly true not in popular feelings—where racism has survived (if not exactly thrived) long beyond the Civil Rights Movement—but in the more elite sectors of American political and journalistic discourses. Thus there was a distinct shift in the publicly articulated defenses of Jim Crow in the decades prior to the Civil Rights Movement. By the mid-1950's, prominent defenders of *de jure* segregation no longer defended their political positions by appealing to explicitly racist ideas. Rather, their defense was most often couched in various ways which served as ideological euphemisms for now-unspeakable motives. Opponents of integration spoke more often of

state's rights and communism than of any belief in the inherent value of separating the races. This change was, naturally, a slow and partial one, filled with exceptions, outliers and throwbacks, even at times from carefully polite defenders of Jim Crow. Nevertheless it was a distinct shift.

Which made it far easier for those who defended an explicitly racial, and inarguably racist, system to pivot once that position was no longer tenable. Having defended an indefensible social system by appeals elsewhere (such as to federalist principles), they could change their minds without too strongly contradicting their earlier rhetoric, if not beliefs. The majority of the support for *de jure* segregation had already distanced itself (rhetorically) from the cause it was supporting; this made it all the easier to (rhetorically) disown the cause once it was politically necessary.<sup>4</sup>

Even given the prior rhetorical distance that the nature of pro-segregationist rhetoric in post-war America provided its erstwhile

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<sup>4</sup> This is a key difference between the situation of former supporters of Jim Crow and former supporters of another discredited political position, Nazi supporters in post-war Germany, to which I have referred a few times. The fall of segregation as a tenable public position was slow, and the ideological space which was fully discredited was comparatively narrow (however fully that narrow slice was in fact discredited). In contrast, the fall of National Socialism as a tenable public position was both rapid and absolute. Thus Nazi supporters had no cushion of ideological hedging to fall back upon (although, in contrast to supporters of Jim Crow, they had both far more dramatic events—defeat in war—and presumptively unknown revelations—about the Holocaust—that they could use to justify their ideological pivot.) For more on the latter, see Konrad H. Jarausch's fascinating new study *After Hitler: Recivilizing Germans, 1945 - 1995*, trans. Brandon Hunziker (Oxford: Oxford University Press, 2006).

adherents, little was in practice actually required of segregation's supporters in order to be, for most purposes, given a clean slate. Supporters of segregation had to drop the issue: ongoing open advocacy of *de jure* segregation would result in political marginalization. But in most cases not even an expression of regret was required; former supporters of segregation could simply hold their peace, and the issue would be considered closed.

This was not because the support for *de jure* segregation was considered a reasonable position to have taken; despite the little that was required to shed oneself of a seemingly disreputable past, the national consensus on this point was quite strong. Rather, little was required because of the strong desire among *others* in the political discourse to put the issue behind them—a desire which led to the eager seizing upon the slightest evidence to create far stronger narratives of renunciation than the facts on the ground warranted.

Consider the following statements, all previously quoted in this study:

Robert Bork had "acknowledged the insensitivity of his 1963 statement" in opposition to the 1964 Civil Rights Act. Strom Thurmond said "Look, I'm a changed man, I was wrong in the past, this is how I'm going to right it now." George Wallace "acknowledged his bigotry." William F. Buckley "strenuously" recanted his position on the southern segregationists.<sup>5</sup>

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<sup>5</sup> Gary G. Born, "Robert H. Bork's Civil Rights Record," op cit; Trent Lott's BET Interview, op cit; Lewis, "Forgiving George Wallace", op cit; Sam Tanenhaus, "Q & A on William F. Buckley", op. cit.

The first two of those sentences are untrue; the third is possible but dubious; the fourth is at best a highly tendentious reading of scattered remarks which (at least in public) were typically qualified. In each case they ascribed far more acknowledgment of wrongdoing than their subject actually made. But all were said, and accepted, because they accurately reflect the way Americans wish to believe the country has changed since 1965. American political discourse—and, most likely, the majority of Americans—now take for granted the notion that *de jure* segregation was wrong. So the wish to believe that Americans still active in our political life have acknowledged that wrongness is strong—strong enough to overread, and exaggerate (even if unconsciously) admissions of wrongdoing.

Apologizing for an error which has come to be regarded as a moral mistake—and not simply a practical misjudgment, a technical miscalculation or an erroneous forecast—is difficult. It puts into question one's basic outlook on the world, one's basic judgment and integrity, in a way which is very difficult to confront. Even more, for a political figure to make such an admission opens them up to dismissal in a way that can be distinctly hard to evade: having gotten *such an issue* wrong, how can their judgment be trusted again? So, in the actual confrontation with one's now-abandoned, now-discredited stance, the temptation to quibble, to evade, to qualify, to understate is strong. It makes it easier to live with oneself; it makes it harder for political opponents to use one's words for their own purposes. Then, having addressed the issue, it is easy to set it aside as a previously concluded topic.

But the desire to believe that raw racial discrimination—the sort that is no longer supported in the twenty-first century, at least not by public figures—is not only past, but is the dead past; is history not only in the technical sense, but in the popular sense of discardable—is strong as well. So, whether consciously or not, evasions are remembered as forthright admissions of wrongdoing, hedged apologies are quoted as fully-throated repentance, qualifiers are themselves qualified, complex feelings are edited to the popular will.

All that is necessary for this embrace of reconciliation, this eagerness for absolution, is a small hook to hang it on. Even silence will suffice. Only if one obstinately sticks to one's guns—as did the stubbornly implacable Lester Maddox—is the contradiction too stark to swallow. Otherwise, public perceptions of former supporters of *de jure* segregation are quite flexible. However nuanced the apology, however qualified the regret, however minimal the concessions to the moral reality of the injustice of segregation, people have been willing to fully classify former supporters as "former"—to judge the issue as buried in the past—as long as there was some hook to hang the past tense on. Any expression of regret, or of a change in position, was instantly adopted—indeed, often, understood—as a full recantation. In American political understanding, and historical memory, political figures are divided into two camps: open supporters of *de jure* segregation, and everyone else. Distinctions are not made within the latter category. Any accusations of racism are forgiven as long as there is something that can be construed as an apology.

Former supporters of segregation could not continue to insist upon its morality and remain in political life—as we have seen from the

example of Lester Maddox. But silence, equivocation and half-hearted or inconsistently expressed repentance were all received as full recantations.

There are numerous reasons for this. Among the most important is partisan unity. From the cynical perspective of practical politics, it obviously does Republicans no good to denounce Strom Thurmond, nor for conservatives to censure William F. Buckley. It is perhaps notable that the most prominent utilizer of the strategy of repentance, Wallace, was one of the southern conservatives who stayed in the Democratic party—where the calculus of partisan advantage was far more complex, and required a larger confrontation given the changing demographics of party identification in the south. And Robert Bork—one of those who arguably paid a genuine price for both his support of the legal structure of *de jure* segregation, and his bloodless recantation of that position—got into trouble only when confronted with an aggressive partisan from the other side of the political spectrum. But for many of those who supported segregation, colleagues were unlikely to call them on it out of sheer partisan loyalty.

But in fact this loyalty went farther than simple inter-party loyalty or the bands of ideological unity. There was also a fair amount of unity among the American political class as a whole—class loyalty that transcended ideological and partisan lines. All things being equal, journalists and politicians are unlikely to rebuke members of their own guild on past mistakes, since they sympathize with each other. This loyalty is, obviously, far less strong than partisan loyalty, and certainly breaks down in the face of partisan struggles for power (such as happened when Democrats made political hay over Robert Bork's history of support

for *de jure* segregation), or when journalists pursue their craft and push a political figure for answers on an uncomfortable topic. But it is telling that the Democratic politicians and liberal journalists and Strom Thurmond's 100th birthday party were no more inclined to castigate Trent Lott over his then-shocking nostalgia for the cause of Jim Crow than the Republican politicians and conservative journalists were. Only when outsiders to the political culture—particularly internet writers who neither identified nor socialized with Lott or his friends and allies in both Congress and the media—pushed the issue into the public spotlight, and kept it there through dogged perseverance, was Lott deserted by both his class allies and his more narrowly partisan ones. And Thurmond himself had served for decades beyond his open support of *de jure* segregation, well into the days when it was politically beyond the pale, and while the odd journalist had asked him about it, he was not really pressed hard over it, nor challenged by his fellow politicians. If he was willing to let it drop, so were they.

A further unity which would be threatened if segregation's supporters were challenged too fiercely was the unity between political spokesmen and their constituents. In some cases—again, Wallace is a telling example—the shifting nature of a political figure's constituency meant that more explanations were called for (although, as I have argued, even those have been exaggerated by a mixture of memory and desire to seem more munificent than they really were). But in many cases, political figures who supported Jim Crow were continuing to appeal to those who had made a similar ideological journey. Thurmond was elected by many who had supported segregation when the battle over it was being fought

long after that cause had been lost; too strong a recanting would risk their support. And the conservative movement rose to its electoral triumph in no small measure on the support of those who were embittered by the success of the Civil Rights Movement, so perhaps it is no surprise that William Buckley did not trumpet his change of heart on the notion that "the White community... for the time being... is the advanced race", since doing so might alienate those who continued to hold that belief—silently, perhaps.

And, of course, in this the quibbles, half-hearted recantations, ideological and factual contradictions were also useful, if perhaps not consciously so. After all, it was presumably not only highly visible supporters of segregation who felt themselves to be "reconstructed but unregenerate". A great many people, undoubtedly, did not bother to reconcile even a genuine change of heart on the morality of *de jure* segregation with the persistent reality of old feelings of bitterness or racial spite, or simply the ongoing sense that the cause was somehow well fought and nobly lost. Thus the quibbles and evasions of political figures were in a sense reflective of those they sought to represent, whose opinions they sought to shape and whose votes they needed to attract. Similarly, the conservative movement, while abandoning its support for *de jure* segregation, nevertheless retained a lot of passionate feelings on issues such as state's rights or opposition to busing and affirmative action whose historical roots were in the ideological struggle over Jim Crow. The conflicting emotions behind these positions were hard to reconcile—and the logical contradictions were, perhaps, easy to ignore, particularly when part of them were in the eagerly-forgotten past.



But strong as all of these ties were—the ties of partisan advantage, of class-based feeling and of constituent representation—there were other ties which also led to the misremembering (deliberate or unconscious) of silences and evasions as apologies and requests for repentance: and those are the broad ties of the overall American story.

Excessive expressions of guilt for their former support of segregation would do more than implicate political leaders themselves—would do more, even, than implicate their followers. Such expressions would implicate the country as a whole. They would remind us that the Civil Rights Movement was not an uplifting moment of transcending, but a bitter battle repairing a long and deep fault. The public memory of the Civil Rights Movement, at the moment, is something to feel good about: our country includes good people like Martin Luther King, and has nobly transcended a now bygone racism. If expressions of regret were to go too far, they would remind people that Martin Luther King had to be confrontational, for there were a great many people who opposed his goals (even in the time of his life when those goals were things now considered mainstream, rather than later in his life when King's focus turned to goals, such as ending the Vietnam War and addressing poverty in a comprehensive fashion, that are still considered radical). It would taint a simple, feel-good story about America as a place that moves forward and expands freedom: it would bring into an overly harsh light the America that resists such changes, an America, indeed, which is not so long ago that its legacies aren't still living among us.

In hearing silence as regret and hedged expressions as fulsome apologies, we do more than forgive those who fought longest and hardest

against integration. We forgive ourselves— allowing the ideal America we prefer to imagine to shine undimmed. No one wants to examine the grittiness of the past, particularly if that past is all-too-close to the present.

In the end, we believe it because it feels good—and, thus, because it sounds true—not because it is. We hear anything but ongoing open avowal of support for *de jure* segregation as its recantation because that is the story about ourselves that pleases us most. The fuzziness of memory and the ambiguity of changed hearts lets us believe that we are a more fully transformed country than, perhaps, we really are.

But it may be that this very ambiguity—shading, at times, into willful amnesia—is the price of the unanimity of the public perception of the immorality of Jim Crow. A society can't unite behind a moral change unless a very broad moral amnesty is given to those formerly on the other side. If former opposition is held out as a permanent moral stain, then sheer political survival and truculence will inevitably create a push-back.

The implicit political bargain seems to have been that former opponents of *de jure* segregation will not only drop their opposition but indeed actively endorse integration, and in return they will receive not opprobrium for their former segregationist words so long as they meet these minimal requirements of allegiance to the new political and moral order.

This bargain is written into many of the forces detailed above. If *de jure* segregation is to be considered immoral, beyond the realm of acceptable political discourse, across party lines and throughout the ideological spectrum, then the price of this is that it can't be used too often as a political gotcha in partisan wars. (If it were, there would likely be a

revival of support *for* segregation simply as a means of partisan push-back.) Similarly, if the political class (journalists and politicians alike) is to agree that this particular politics is off-limits, they can't be constantly reminding some figures of their number of past sins—lest old divides once again fracture the elite consensus into warring factions.

And, above all, if we, as a nation, are to agree that *de jure* segregation was flatly immoral, if we are to embrace the cause of the (early) Civil Rights Movement as our national consensus, then the demands of patriotism are likely to require that that goodness be broadly shared. The American way of conceiving that Jim Crow was ethically wrong was to call it un-American—against the deepest and best and truest aspects of America's meaning. To be sure, this formulation raises all sorts of powerfully obvious questions; after all, if Jim Crow wasn't American, what on earth was it? But just as during the Civil Rights Struggle, the invocations of an idealized America—the claim that their goal was the fulfillment of America's meaning—was a powerful force in the hands of those fighting for an integrated society, the very successes of that movement required the adoption of the notion that, with the (idealized) success of the movement, we can agree that it *was* all-American. Its failures, therefore, are better ignored.

In short, the very process by which Jim Crow moved beyond the political pale seems to have required passing over in *relative* silence the forces which so recently sought to uphold it.

If we are to be a country which has moved on from support for *de jure* segregation—a country in which the immorality of Jim Crow is an unquestioned public postulate—perhaps we *need* to forget that this

immorality was only recently, and is only partly, acknowledged. The way American political discourse has dealt with the persistence of supporters of segregation has been a lot closer to "forgive and forget" than to "truth and reconciliation". It requires seeing figures who devoted their lives to a now-widely despised cause as respected elder statesmen. It requires seeing the leading ideological movement of the late twentieth and early twenty-first centuries as having its roots in things other than reaction against the Civil Rights Movement. And it requires that we think of ourselves as a country where racism—at least of the sort upheld by *de jure* segregation—is not just dead, but dead and gone.

Of course this very amnesia hides many other things—the political links between the former supporters of segregation and the current voters for conservative candidates; the political uses of coded racial appeals that have replaced the now-abandoned overt appeals to segregationist feelings; the ongoing place of racism in American life and politics; the persistence of *de facto* segregation long beyond the ideological discrediting of its government sanctioning—that would, perhaps, be better recalled, or which could, at any rate, be more forthrightly dealt with if their historical roots were seen. But to tie any of those features of American life too deeply into the recent but now discredited past would be to risk a renewal of the political, cultural and social battles we have decided, as a nation, to put behind us.

A political bargain has been struck: unanimity of condemnation for silence and amnesia. It is a bargain which puts one aspect of America's sordid racial history fully to rest at the cost of allowing its connection to ongoing racial problems to remain obscure. It is a balance sheet whose

bottom line is complex, and whose moral calculus is beyond the scope of the present project. But like all bargains, it is one with costs as well as benefits. Put otherwise, it is an armistice, one which, like all armistices, ends strife at the cost of leaving issues unresolved. Even in a cultural war, victory requires a certain amnesia on the part of the victors if battle is not to flare up again. This amnesia may simply be the price of a powerful, and morally important, consensus on the place, or lack thereof, of racial segregation in American society.

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