

The Deliberate Speed of the Tar Heel State: North Carolina's Efforts to Resist School  
Desegregation, 1954-1966

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## ABSTRACT

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*The Deliberate Speed of the Tar Heel State* offers readers an examination of the efforts undertaken by North Carolina in hope of resisting public school desegregation between the *Brown v. Board* decisions of 1954, 1955, and 1966. It will examine the state's use of a series of legal, legislative maneuvers, The Pupil Assignment Act of 1955 and the Pearsall Plan of 1956, which attempted to show definitive progress to the federal government while simultaneously ensuring the segregated public school system remained intact. By examining the efforts of individuals such as William Umstead, Luther Hodges, Terry Sanford, Thomas Pearsall, and others, this thesis will analyze how North Carolina attempted to use more "moderate" means of resisting federally mandated school desegregation and whether the state was successful in their efforts.

## DEDICATION

This work and my entire academic career is dedicated to my late grandfather, Gary L. Wilson, whose loving memory has gotten me through even the darkest moments of life and to the memory of my faithful dog Dobby, who taught me that my best friend did not have to have two legs.

## ACKNOWLEDGEMENTS

As I look back on the last seven years of my academic career, I find it nearly impossible to put into words the amount of gratitude I have for all of those who have helped in any way, shape, or form in guiding me to where I find myself today.

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myself. I also have to give each of you credit for this work, because without your push, I would have never become interested in the history of massive resistance or the Civil Rights Movement. Even three years after graduation, you continue to educate me and look out for me and I hope that never changes

To my friends, both new and old, thank you for helping me survive graduate school. We joked that I entered the program as a weird hybrid student in January but you thought nothing of it as you accepted me into our group. The time spent with you outside of class helped me stay sane and concentrated as you provided an ear when I needed to vent or sarcastic laugh whenever I said the latest stupid comment that came to my mind. From our debates over Cookout v. Taco Bell, our plans for surviving the zombie apocalypse, our intense games of racquetball, or our fun filled excursions to the comic book store, I truly could not have asked for a better group of classmates, colleagues, or most importantly, friends. Here is to hoping we remain in close contact in the years to come.

Finally, as the saying goes, “you can choose your friends but you cannot choose your family.” I am extremely thankful that I have been blessed with a loving, crazy, supportive family. To my parents, thank you for always supporting me and my efforts to further my education, even when it took me further away from the proverbial nest. I also have to thank you for installing a love of both history and my North Carolina home at an early age. This final project is a reflection of your support, love, and belief in me. To my younger brother, thank you for always being there in case I needed to be knock back down a peg or two. I also must thank you for forcing me to be a big brother and a role model. Knowing you were always there with me made me work harder and strive to be a better person, I truly feel I learned just as much from you as you did from me. Finally, I must thank my Grandmother. You have been my rock these past

several years and it was always confronting knowing you were never more than a phone call away.

To all who have had supported and believed in me over the past seven years, this work is for you. I hope you enjoy it!

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## CHAPTER 1

### INTRODUCTION

There can be but one course. North Carolina must join with the true South in resisting this terrible decision to the end. A ruling cannot change a person's heart and the firm convictions which we possess along this line. Segregation is our way of life, and segregation must stay.

- Mrs. B. W. Barnes, August 30, 1954.

Racism has hampered the American society since the founding of this nation. Prior to 1954, racial segregation was so entrenched in to our nation's laws, judicial codes, and cultural upbringings that by the mid-twentieth century, it was not only social custom, but the local law in many areas. While the story of extreme racism and racial segregation within the Deep South region between the end of Reconstruction and 1954 has become common knowledge the existence of the same culture of inequality within North Carolina has seemingly been largely overlooked by those in the historical field. North Carolina, like its fellow southern states, enacted a variety of racially motivated laws that required racial segregation in public facilities and buildings. This included the operation of a racially segregated public school system throughout the state. In fact, segregated education in North Carolina legally dates back to the Reconstruction period when public schools were first created within the state.<sup>1</sup>

North Carolina's public education system underwent its first major change in the years following the Confederacy's defeat in the Civil War. During this time, the new state constitution was the first that required the state's legislative body to provide funding for public education by way of tax revenue.<sup>2</sup> It was also during this time that the state's Democrats first introduced the

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<sup>1</sup> John E. Batchelor, "Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974" (doctoral dissertation, North Carolina State University, 1992), pg. 50.

<sup>2</sup> Batchelor "Rule of Law," 50.

idea of an official policy of segregation in the public school system. Although initially rejected, the state General Assembly would approve the idea the following year.<sup>3</sup> Racially segregated schools would continue to remain a political issue in North Carolina throughout the years following the Reconstruction period as groups such as the Freedman's Bureau and others worked to ensure that African American children were receiving a proper education.<sup>4</sup> In fact, it can be said that African American students had a better chance at receiving an education in North Carolina than in any other southern state. For example, Charles L. Coon, a famed North Carolina educator and supporter of African Americans, pointed out in his work *The Beginnings of Public Education in North Carolina* that in 1868, 275 of 600 white children were attending public schools in the city of Raleigh, compared to 700 of the close to 900 African American students that were enrolled. These figures were also similar to ones found in cities such as Charlotte, New Bern, and Greensboro. Although far from perfect, statistics from the end of the 1860s show that African American students had better educational opportunities than their white peers, an opportunity that fueled racial bitterness and resentment across the state.<sup>5</sup>

Segregated schools in North Carolina were also able to influence the state's politics. In 1887, fueled by resentment of the educational opportunities available for African American children, white voters helped shift the control of the state government from the Republican Party over to the Democrats. In return for the public's support, the Democrats successfully ratified the state constitution, requiring African American and white children to attend separate, segregated public schools.<sup>6</sup> Legal requirement for segregated schools existed through the end of the

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<sup>3</sup> Batchelor "Rule of Law," 50.

<sup>4</sup> Batchelor "Rule of Law," 51.

<sup>5</sup> Batchelor "Rule of Law," 51.

<sup>6</sup> Batchelor "Rule of Law," 51.

nineteenth century and well into the twentieth century as a gap in educational equality between “white schools” and the “colored schools” developed. Perhaps nothing better demonstrates the gap in quality of education, materials, and facilities that existed between these two “equal” institutions than the firsthand experiences and opinions of citizens who were both educated and taught in the facilities. As one retired white teacher was quoted stating about her time in the classroom, “At the end of the year in the thirties and forties we...collected our broken crayons and scissors, and our worn textbooks to send to the colored schools.”<sup>7</sup> As this personal account shows, during the century before the *Brown v. Board of Education* decision, public schools in North Carolina, as well as across the rest of the South, were not only legally segregated by state law, but no such sense of equality of facilities or supplies existed between the two in light of the decision of *Plessy v. Ferguson* (1896). This was in large part due to the obvious neglect and racism held by state and school officials. The history of this segregated school system helps shed light on the reasons that North Carolina approached the issue of integration in public schools in the way that it did in the years following the *Brown* decision.

The legal and cultural practices of segregated schools in North Carolina and its fellow southern states met its most definitive challenge in 1954 through one of the most influential and significant United State Supreme Court decisions of the twentieth century. Brought on by four class actions from, Kansas, South Carolina, Virginia, and Delaware, *Brown v. Board of Education of Topeka, Kansas* overturned the “separate but equal” precedent set forth by *Plessy v. Ferguson* (1896). In a stunning decision, Chief Justice Earl Warren stated that segregated schools not only provided an inherent disadvantage for African American children, but the

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<sup>7</sup> Clarinda Britt and James E. Britt, *So Proudly We Taught*, (Charlotte: North Carolina Retired School Personnel Division of the North Carolina Association of Educators, 1976), 104.

system also had long lasting, adverse physiological effects on the very same children.<sup>8</sup> The *Brown* decision set forth a movement of massive resistance as state officials in areas such as Georgia, Mississippi, South Carolina, and Virginia publically denounced the Court's decision and proclaimed that segregation would continue to be practiced in their states. Unlike officials from these other southern states, the governor of North Carolina, William B. Umstead, decided to remain silent in the immediate days following the announcement of the Court's decision. Instead, Governor Umstead just publically urged his fellow citizens to remain calm in this period of confusion and uncertainty. However, the massive resistance movements in Virginia and the openly defiant rhetoric of Senator Richard Russell of Georgia and Senator Strom Thurmond of South Carolina made North Carolina officials fear that their public schools system was under threat of civil unrest. The resulting efforts of Governors Umstead, Luther Hodges, Terry Sanford, and private citizens such as Thomas Pearsall and others helped provide North Carolina's response to the *Brown* decision. What culminated from the efforts of government research committees, the work of political officials, and the support of the state's population would be the Pupil Assignment Act of 1955 and the Pearsall Plan of 1956. Created to provide a legal response to the Supreme Court's decision, these laws aimed to remove the control of the public school system from the state government and give this authority to local school boards. State officials hoped this legislation would result in the federal government not intervening in North Carolina by protecting the state government from any claims of wrongdoing or law breaking.

While it is clear that North Carolina's response to the *Brown* decision was designed as a way to preserve the system of segregation, the Pupil Assignment Act of 1955 and the Pearsall Plan must also be examined for its ability to avoid the social unrest and racially motivated

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<sup>8</sup> *Brown v. Board of Education of Topeka, Shawnee County Kansas*. 347 U.S. 483, 74 District Court 686, US 1954.

violence and rhetoric that plagued other southern states during the 1950s and 1960s. The actions undertaken by state officials, such as Umstead, Hodges, Sanford, and Pearsall helped set North Carolina on what historians describe as a moderate course of challenging desegregation. In fact, the state's efforts became so successful at stalling desegregation while also ensuring civil obedience that other states soon began to adopt North Carolina's challenge to *Brown*.

Even though it was just as adamant at preserving the system of segregated schools as other southern states, North Carolina's efforts during the 1950s and 1960s have received minimal attention from scholars. The scholarly work that does exist on the issue of school desegregation in North Carolina tends to focus on the creation of busing African American students in the Charlotte-Mecklenburg School District during the 1970s, instead of the earlier efforts to resist or stall the implementation of integration in the 1950s and 1960s. Historians have largely ignored the efforts of North Carolina's leaders undertook in an effort to delay the process of integration taking, instead choosing to focus on the instances of racially charged violence or rhetoric that so often happened in other southern states.

William S. Powell, a retired professor of history at the University of North Carolina at Chapel Hill, is often regarded as one of the most prominent scholars when it comes to North Carolina history in recent memory. In three of Powell's most notable pieces of scholarly work, he has researched and written about almost every significant historical event or individual in the state's history. However, despite his large volume of work related to the history of North Carolina, Powell provides very little attention to the issue of public school desegregation or the Civil Rights Movement in North Carolina in general throughout his collection of publications. Published in 1977, Powell's first work, *North Carolina: A History*, presents the idea that the architects of the Pearsall Plan acted the way they did with the state's greater good in their mind.

Focusing primarily on the ability for the state to grant tuition grants under the plan, Powell states that the Pearsall Plan “prevented what might have been serious confrontations when schools opened later that year.”<sup>9</sup> Even though Powell’s work supports his belief that the Pearsall Plan and other legislation aimed at combating desegregation ultimately helped North Carolina avoid social unrest, the history of the Pearsall Plan itself is vaguely mentioned in *North Carolina: A History*, while the issue of school desegregation in North Carolina in the following *Brown v. Board* decision is just briefly touched on in his work.

Much like in his first work, Powell pays very minimal attention to the issue of school desegregation in North Carolina in his 1989 book, *North Carolina Through Four Centuries*. In this second book, Powell focuses on the increased pace in which desegregation began to happen in North Carolina in the 1960s. For Powell, the perceived ability of North Carolina to outpace its fellow southern states when it came to desegregating their public schools is due to the successful leadership of Governor Terry Sanford. Sanford’s ability to oversee the integration of African American students into previously segregated schools “peacefully” helped secure North Carolina’s stance as a moderate state when compared to those in the Deep South.<sup>10</sup> Alongside his work in the 1977 and 1989, Powell’s 2006 *Encyclopedia of North Carolina* also addressed the history of school desegregation in North Carolina as well as the Pupil Assignment Act of 1955 and the Pearsall Plan. For this particular work, Powell edited entries written by other North Carolina historians such as Sarah C. Thuesen, who authored the section about the Pearsall Plan, and famed state historian Karl E. Campbell, who penned the entry for the Pupil Assignment Plan of 1955 section. In each of Thuesen’s and Campbell’s respective sections, the authors reflect a

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<sup>9</sup> William S. Powell, *North Carolina: A History*, (Chapel Hill: The University of North Carolina Press, 1977), 186.

<sup>10</sup> William S. Powell, *North Carolina Through Four Centuries*, (Chapel Hill: The University of North Carolina Press, 1989), 522.

similar opinion to Powell's that it was the efforts of the moderate government officials which helped ensure peace in North Carolina during the post-*Brown* years. Powell's overall minimal attention given to the history of school desegregation in North Carolina can be accredited to his works attempting to provide a very broad history of the state to its readers. This goal leads to his work to mainly present this historical facts while providing little to no historical interpretation of the actual events themselves, instead, leaving this up to the reader themselves.

One of the more influential scholarly works dealing with the history of school desegregation and civil rights in North Carolina is William Chafe's *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom*. In his 1981 work, Chafe is one of the first prominent historians to argue that the Pearsall Plan and related legislative efforts was nothing more than political tools used by the state's moderate leaders to ensure that the system of segregated public schools remained intact in North Carolina. Choosing to focus his on the city of Greensboro, Chafe is one of the earliest historians to claim that cultural change did not come from the moderate white leaders such as Hodges or Sanford, but instead from local African American civic leaders. Chafes' biggest contribution to the history of the Pearsall Plan is his claim that North Carolina's voluntary decentralization of authority in local school matters is second to no other southern state at the time. He also claimed that the famed sit-in movements that begin in the 1960s across North Carolina were directly connected to the growing dissatisfaction amongst members of the African American community and grass root civil rights supporters for legislation such as the Pearsall Plan and other failed desegregation efforts.<sup>11</sup>

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<sup>11</sup> William H Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom*, (New York, NY: Oxford University Press, 1981.)

The impact that school desegregation and the resulting legislation had on traditional African American schools and their communities has also received attention from historians. David Cecelski's 1994 work, *Along Freedom Road: Hyde County, North Carolina and the Fate of Black Schools in the South*, focuses on the efforts of African American families in Hyde County, North Carolina to ensure the preservation of the segregated school system as a means to ensure the continuation of the local "all-black" school. Cecelski's work brings to the reader's attention to the often unfortunate, overlooked situation of closing historically African American schools across the state in the name of desegregation. The loss of these community schools also brought along the firing of African American teachers and school administrators who were passed over for positions in the newly integrated schools in favor of personnel from the previously all white schools. To combat this from happening in their county, Cecelski explains that parents of African American students as well as local community members choose to boycott the newly local integrated school in an effort to persuade their fellow community members not to support the Hyde County School Board's decision to close two African American schools in the county. Supporters of the two local African American schools emerged victorious as voters, both white and African American, sided with the boycotters, refusing to support the board's decision, thus ensuring the preservation of the local African American culture and traditions that went along with the school. Cecelski's work shows the dark side of school desegregation across the South and the way in which African American communities were forced to choose between their local culture as well as economic stability or integration in most cases.<sup>12</sup> As Cecelski pointed out, with the integration of local public schools also came the loss of many jobs in the field of academia for African Americans. Therefore, the protest of

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<sup>12</sup> David S Cecelski, *Along Freedom Road: Hyde County, North Carolina and the Fate of Black Schools in the South*, (Chapel Hill, NC: University of North Carolina Press, 1994.)

integration by African Americans was an attempt by the community to preserve the employment they had at the “all black” schools. Cecelski’s examination of the efforts undertaken by a small portion of the North Carolina African American community offers a new means in which the state’s response to school desegregation can be viewed as well as offer an explanation as to why not every African American was outspoken against the 1955 and 1956 legislation

Historical work focusing on the governors of North Carolina and other southern state are also a part of the historiography of the Pupil Assignment Act of 1955 and the Pearsall Plan. In 2009’s *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights*, Anders Walker presents the history of how Governors J.P. Coleman, Luther Hodges, and LeRoy Collins led resistance efforts in Mississippi, North Carolina, and Florida respectively. Focusing on Governor Hodges, Walker proclaims that Hodge’s leadership and guidance and the efforts of his administration that ensured a period of peace and civil obedience during a time of confusion surrounding school desegregation. Walker argues that Hodges support of the Pupil Assignment Act of 1955, as well as his formation of the second Pearsall Committee that created the Pearsall Plan, helped create North Carolina’s reputation when it came to school desegregation. A reputation that Walker labels as “moderate” when compared to other Southern states. He also believes that one of the biggest strengths of the Hodges administration was its ability to use the court system to provide legal support for North Carolina’s efforts to resist the cultural change, a trait he successfully passed on to individuals such as Thomas Pearsall, Beverly Lake, and Sanford.<sup>13</sup>

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<sup>13</sup> Anders Walkers, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights*, (New York, NY: Oxford University Press, 2009.)

Hodges himself added to the literature dealing with North Carolina's response to desegregation efforts with his 1962 autobiography, *Businessman in the Statehouse: Six Years as Governor of North Carolina*. Hodges devotes two full chapters, totaling forty six pages, to the history of school desegregation in North Carolina and the larger southern region under his administration which included the incident at Little Rock Central High School in Little Rock, Arkansas as well as the efforts of the Freedom Riders throughout the south. Hodge's account of North Carolina's response to desegregation under his administration provides a detailed history of events and conversations that took place among himself, Pearsall, Lake, and others. The former governor's work also provides insight into the interaction between North Carolina officials and officials from other southern states, such as Mississippi, Arkansas, and Virginia, fighting desegregation while at the same time providing a somewhat personal background for Hodge's views of race and segregation such as he did. As detailed as Hodge's autobiography is, it leaves notable gaps in the historiography due to its biased nature. Hodges only refers to the legislative efforts of his administration as a positive step for the people of North Carolina, overlooking the negative aspect that came along with preserving segregation in the public schools.<sup>14</sup>

In 1987, Wilma Peebles-Wilkins wrote one of the most outspoken attacks on the Pearsall Plan and North Carolina's efforts to resist desegregation. Published in the academic journal *Phylon*, "Reactions of Segments of the Black Community to the North Carolina Pearsall Plan, 1954-1966" examines the objections of African American leaders to the Pearsall Plan leading up to it being declared unconstitutional in 1966 by the United States Western district Court. In her

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<sup>14</sup> Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel hill, NC: The University of North Carolina Press, 1962.)

work, Peebles-Wilkins defines the 1956 legislation as “a manifest response to a perceived impending state crisis.”<sup>15</sup> Using data to show how North Carolina’s desegregation efforts lagged behind other southern states during the 1960s, Peebles-Wilkins attempts to link North Carolina with the Deep South when it came to racism and ensuring segregation. Although firmly opposed to the “moderate” label assigned to North Carolina, as well as the state’s efforts to preserve segregated schools, Peebles-Wilkins makes no mention in her article of how the Pearsall Plan helped prevent the racial violence and social unrest from engulfing North Carolina like it had in so many other states across the South.

One of the best and most complete scholarly histories of North Carolina history with school desegregation is John E. Batchelor’s 1992 doctoral dissertation for North Carolina State University, “Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974.” Batchelor’s dissertation examines North Carolina’s response to school desegregation from the *Brown v. Board* decision (1954) to *Swann v. Mecklenburg Schools* (1971) and the impact that the resulting legislation and court cases had on the history of the state’s public education system. Batchelor provides a detailed explanation of how moderate state officials were able to transfer control of school desegregation from the state government to the local school boards while also using legal tactics and challenges to delay the implementation of integration across the state.<sup>16</sup> Batchelor’s dissertation also examines how the legislative efforts of North Carolina in the 1950s helped ensure civil obedience across the state. As Batchelor explains, North Carolina’s government officials were so weary of causing conflict in their state that they were willing to

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<sup>15</sup> Wilmas Peebles-Wilkins, “Reactions of Segments of the Black Community to the North Carolina Pearsall Plan, 1954-1966,” *Phylon* vol. 48 No. 2 (1987): 115.

<sup>16</sup> John E. Batchelor, “Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974” (doctoral dissertation, North Carolina State University, 1992.)

follow federal law once their desegregation plans were declared unconstitutional in 1966 instead of protesting the ruling and creating chaos across their state. Interesting enough, Batchelor fails to mention of the earlier work of Peebles-Wilkins, and her critical examination of North Carolina's efforts to preserve segregation. There is a distinct difference between the Peebles-Wilkins' 1987 work in which she depicts North Carolina as simply another racist Southern state while Batchelor's 1992 dissertation paints North Carolina as a shining example of moderate progress when it comes to school desegregation in the south. These differing opinions among historians in relation to North Carolina's efforts to preserve segregation have plagued the historiography of the subject.

This thesis will examine the history of North Carolina's effort to preserve segregation in wake of *Brown v. Board* (1954) by explaining the different legal tactics used by the state in hopes transferring authority in school control and desegregation from the state government to the local authorities. It will also explain how even though North Carolina's efforts and actions of the 1950s are easily defined as racist like those of other Southern states, the success of these actions must also be viewed in how they were able to help the state avoid civil unrest and racial violence that was so often found across the South. In chapter two, the reader will be presented with North Carolina's initial response to the *Brown* decision in 1954 as well as the varying responses that were voiced by different government officials within the state. It will also focus on the initial formation of the first Governor's Special Advisory Committee on Education and the deliberation between committee members, state officials, and private citizens. Its aim is to provide an in depth explanation of the first legislative response by North Carolina, the Pupil Assignment Act of 1955, and how this initial piece of legislation was designed to resist school desegregation by transferring the ability to assign students to school districts to the local boards of education. The

reader will also be presented to several key figures who will play an immensely important role in North Carolina's efforts to resist school desegregation. These individuals include Governor William B. Umstead, Governor Luther Hodges, committee chair Thomas Pearsall, Assistant Attorney General Beverly Lake, and several other individuals who served on various committees that helped draft the state's initial response. The most important part of this initial legislation and response covered in chapter two is how the Pupil Assignment Act of 1955 and North Carolina's initial response provided state officials the needed time to further debate the state's future efforts and plans.

Chapter three focuses on 1955 and 1956 when North Carolina was able to use the Pupil Assignment Act of 1955 to provide time to examine the issue of school desegregation further. This third chapter also introduces the reader to North Carolina's role in the 1955 *Brown II* Supreme Court case which established the idea of "all deliberate speed" when it came to southern states implementing integration programs. North Carolina sent Assistant Attorney General Lake to present the state's brief to the court as a part of the 1955 case, a brief that was well received by members of the national media as well as southern segregationists and politicians. The largest part of the chapter focuses on the formation of the second Governor's Special Advisory Committee on Education and its work towards creating the Pearsall Plan of 1956. The chapter also explains how during the period of deliberation amongst committee members, Governor Hodges attempted to take it upon himself to preserve the segregated school system by encouraging North Carolinians to accept a system of voluntary segregation within the public schools. Hodge's urge for voluntary segregation would become an important part of North Carolina's response to the order to desegregate the schools. Chapter three explains how the

resulting legislation from the second Pearsall Committee set up a new debate within the state that would be carried out in the court rooms in the decade that followed.

The fourth chapter examines the ten-year period between 1956 and 1966 after ratification of the Pearsall Plan. In this chapter, the reader is introduced to the process of token integration or the process of slowly integration individual schools or school districts across the state. This new process that became much more prominently used across the state as the 1960s began and officials began looking for new ways to maintain segregation and civil order while also avoiding federal intervention in the public school systems. Chapter four also introduces readers to Governor Terry Sanford who would play a crucial role in the North Carolina's efforts to resist school desegregation throughout the 1960s. It also pays close attention to the various court cases tried in state and federal courts in an effort by the NAACP, members of the state's African American community, as well as other in favor of desegregation to slowly pick away at North Carolina's 1955 and 1956 legislative responses to school desegregation. These cases culminated in the 1966 decision declaring the Pearsall Plan unconstitutional and helped lead to the decision in *Swann v. Mecklenburg Schools* (1971) which stated that the busing of students could be used to integrate schools.. The decade that followed the implantation of the Pearsall Plan showed the effectiveness of North Carolina's legislative efforts in slowing down the process of school desegregation while also ensuring civil peace.

The intention of this work is to explain the complex history of school desegregation in North Carolina and the immense efforts undertaken by the state in the 1950s and 1960s in hopes of preserving the segregated system. It will examine the overall importance of North Carolina's efforts, not only on the history of education and civil rights in the state, but also on the larger effort of southern states to resist desegregation. With the passage of the Pupil Assignment Act of

1955, North Carolina cemented its legacy as a moderate state when it comes to race and education. However, in reality, the Tar Heel state was undertaking the same fight that many of the Deep South states that have been labeled as racist were fighting. By ensuring that their state remained calm and peaceful during this period of cultural and social upheaval, individuals such as Hodges, Sanford, and Pearsall were able to almost effectively paint a picture of moderation and racial peace for North Carolina's desegregation history. Through this work, readers will hopefully be able to comprehend the means in which North Carolina attempted to ensure educational inequality for its African American citizens while at the same time ensure that the federal government would not intervene itself in the state's education system like it had elsewhere. Hopefully, this thesis will help shine a historical light on an area of North Carolina's history that has been largely forgotten or ignored in the larger context of the state's history, as well as the larger Civil Rights Movement.

## CHAPTER 2

### THE FIRST STEP OF RESISTANCE: NORTH CAROLINA'S INITIAL REACTION TO *BROWN V. BOARD* AND THE PUPIL ASSIGNMENT ACT OF 1955

Racial relations in the United States were forever changed on May 17, 1954, when the United States Supreme Court announced their decision on the issue of school segregation. In *Brown v. Board of Education* (1954) the Court effectively overturned the idea of “separate but equal.”<sup>17</sup> The issue of racial segregation that had previously been given legal support in the 1896 decision of *Plessy v. Ferguson*.<sup>18</sup> This monumental court decision captured the attention of the country, however, nowhere was the impact more felt than in the southern states. Politicians across the South quickly vowed to do all in their power to preserve the southern way of life that existed under segregation and Jim Crow laws.<sup>19</sup>

Straight forward and open defiance of the court's decision, however, was not the initial response in North Carolina. Instead, government officials pleaded with the state's citizens to remain calm and civil during this time of upheaval and confusion. North Carolina's leaders exemplified patience as well as caution when it came to addressing the Court's decision on segregation in hopes of preserving the policy as well as avoiding interference from the federal government. They attempted to use a series of legal roadblocks to slow down the process. At the same time, state officials attempted to avoid accusations of open defiance to the *Brown* decision by passing along the responsibility of maintaining the state's education system to the civic level. The first of these legal roadblocks to desegregation was the Pupil Assignment Act of 1955. The

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<sup>17</sup> *Brown v. Board of Education of Topeka, Shawnee County Kansas*. 347 U.S. 483, 74 District Court 686, US 1954.

<sup>18</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896)

<sup>19</sup> When discussing the southern way of life, most historians are referring to the segregated system of Jim Crow that existed following the *Plessy v. Ferguson* Supreme Court case that legalized the concept of “separate but equal.”

actions of state officials, Governor William Umstead, Governor Luther Hodges and others were part of an overall effort to legally protect and preserve the segregated culture of North Carolina. They believed that the Pupil Assignment Act would satisfy the new regulations set forth by the federal government. State leaders felt that the state's response was within the legal boundaries of the new stance on desegregation and officials held hopes that it would allow them to avoid any federal complaints and intervention within the state education system.

On May 17, 1954, Supreme Court Chief Justice Earl Warren read the monumental decision of the Court in *Brown v. Board of Education*. This would forever change the culture of the southern education system. In a surprisingly unanimous decision, the Supreme Court had decided to put an end to legally segregated schools under the sixty year old concept of "separate but equal" sanctioned under *Plessy v. Ferguson* (1896). The Court also declared that these segregated schools were "inherently unequal" and therefore illegal.<sup>20</sup> This surprising decision from sparked a period of panic and uncertainty across the South. Many southern leaders and citizens declared it the single, worst attack on the southern way of life since Civil War. Local and state officials across Georgia, Virginia, South Carolina, Mississippi, Alabama, Florida, and others quickly responded that they would do all in their power to preserve the cultural and legal practice of segregation within their schools. In North Carolina, however, cooler heads prevailed in the days directly following the Court's decision. North Carolina's Governor William Umstead and other state officials refused to publically address the situation until they had time to obtain more information on the decision. In fact, the only official acknowledgment came from Governor Umstead's office in Raleigh, which quoted him as stating, "that he was terribly

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<sup>20</sup> The National Center for Public Policy Research, "Brown v. Board of Education, 347 U.S. 483 (1954) (USCC+), Supreme Court of the United States, Accessed November 1, 2013, <http://www.nationalcenter.org/brown.html>

disappointed in the court's decision and there would be no further statements regarding the issue until he had time to study the situation."<sup>21</sup>

Although North Carolina's initial response could have been described as slow when compared to its fellow southern states, a sense of urgency and panic did exist among state officials during the period directly following the announcement. Almost immediately, state officials and citizens began to contemplate and debate paths for both acceptance and defiance of the decision. Luther Hodges, North Carolina's lieutenant governor at the time of the *Brown* decision, reflected on his feelings upon learning of the court's announcement in his memoirs. Hodges recalls that he was boarding a train in Lake Placid, New York, when he first got word of the Supreme Court's decision, immediately cancelled trip to Seattle, Washington and returned home. Once back in the state, Hodges called an emergency meeting of the State Board of Education, which he was an ex officio member and elected chair. Around this same time, Hodges met with Governor Umstead to discuss the *Brown* decision. Hodges described Umstead as "visibly concerned over the recent actions of the court as well as unresponsive," only offering up the answer that, "he was thinking about the subject."<sup>22</sup> Following the meeting between the two men, Hodges announced to the media on July 22, 1954, that the State Board of Education had decided to appoint a committee of five prominent individuals from across the state that "would make further study of the segregation question and serve as a liaison with other official and

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<sup>21</sup> John N. Popham, 'Breathing Spell' for Adjustment Tempers Region's Feelings, *New York Times*, May 18, 1954, accessed October 15, 2013, <http://www.nytimes.com/learning/general/specials/littlerock/051854ds-react.html>

<sup>22</sup> Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel hill, NC: The University of North Carolina Press, 1962), 79-80

unofficial agencies and groups.”<sup>23</sup> According to Hodges, this committee would focus on finding the facts and study “school laws and regulations with particular reference to the legal duties and responsibilities of the State Board of Education.”<sup>24</sup> The formation of this committee was the first official response by the North Carolina government to the *Brown* decision. The actions of Umstead and Hodges reflect North Carolina’s belief that a moderate response would benefit the state much better than massive resistance.<sup>25</sup> They hoped to keep the citizens of the state calm while at the same time, fully understand the issues at hand before making judgments that might harm public education. This “steady” response would remain constant throughout North Carolina’s battle to preserve the practice of segregation in the face of the federal government throughout the 1950s and 60s.

North Carolina’s initial response to the Supreme Court’s decision was just one of many routes that Southern states took in response. Several states attempted to remain calm and wait for further information on the decision much like North Carolina. Leaders in Mississippi and Arkansas were not supportive of abolishing the public school system to preserve segregated schools following the *Brown* decision. However, many of the southern states were adamant that they would resist the decision with all their strength. Governors in Georgia and South Carolina supported the closing of public schools to resist desegregation, even though publically, South Carolina Governor James F. Brynes urged his citizens to “exercise restraint and preserve order”

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<sup>23</sup> “Correspondence from Lt. Governor Luther Hodges Office, July 1954”.Series 1.2, Folder 72, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>24</sup> “Correspondence from Lt. Governor Luther Hodges Office, July 1954”.Series 1.2, Folder 72, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>25</sup> Anders Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York, NY: Oxford University Press, 2009), 21.

during the time following the decision.<sup>26</sup> Meanwhile, Senators in Alabama, Virginia, and Mississippi voiced their outrage for the decision on a national level.<sup>27</sup> A week after the Court's decision became public; Virginia Governor Thomas B. Stanley called for a conference of Southern Governors in Richmond to debate and address the issue of school desegregation.<sup>28</sup>

Following his meeting with Hodges, Governor Umstead finally addressed the issue of court ordered desegregation publically. On May 27, 1954, Umstead spoke of how North Carolina was undergoing efforts, "to equalize substantially the school buildings available to both races."<sup>29</sup> Interestingly enough, the Supreme Court had stated that this response would not suffice for proper steps taken towards desegregation.<sup>30</sup> Surprisingly however, Umstead claimed that he recognized the Supreme Court's decision as the new law of the land and did not mention any means of defiance from himself or the North Carolina government.<sup>31</sup> This address was significant for North Carolina because it foreshadowed the state's response to *Brown*. A response that has been described by historians, such as Anders Walker and William S. Powell as a moderate approach due to the lack racist rhetoric along with civil unrest that had become symbolic of the responses of North Carolina's fellow southern states in the aftermath of *Brown*.

Following his first public comments on the issue of school integration on May 27, 1954, Umstead began to seek out advice on actions that could be taken by North Carolina. For this he would turn to the well known Institute of Government at the University of North Carolina at Chapel Hill and seek their input. In the institute's final report, James C. N. Paul, Assistant

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<sup>26</sup> John H. Popham, "Reaction of the South," in *The New York Times*, May 18, 1954, Sec. A, 1, 20.

<sup>27</sup> Popham, "Reaction of the South."

<sup>28</sup> "5 Governors Accept Stanley's Invitation," in *The Washington Post and Times Herald*, May 22, 1954, Sec. A, 9.

<sup>29</sup> John E. Batchelor, "Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974"

(doctoral dissertation, North Carolina State University, 1992), 105.

<sup>30</sup> *Brown v. Board of Education of Topeka, Shawnee County Kansas*. 347 U.S. 483, 74 District Court 686, US 1954.

<sup>31</sup> Batchelor, "Rule of Law," 106.

Director of the Institute, pointed out that the Supreme Court had never set a deadline by which desegregation must take place.<sup>32</sup> Paul suggested to Umstead that North Carolina implement a process that called for the use of state funds to provide vouchers to families wanting to send their child to a private school in order to ensure a segregated school.<sup>33</sup> He called for the use of a survey of African American students asking, “Do you wish to attend your former school, or do you wish to attend school with white children?” Paul and other supporters of this survey hoped that if an overwhelming number of African American students and their families showed that they were not in favor of desegregated schools then this would strengthen the position of those who openly opposed the new law.<sup>34</sup> Paul’s report also reviewed three potential methods that the state could use to preserve the segregated system. These three methods consisted of: 1) drafting and implementing a pupil assignment plan, 2) creating new attendance districts for schools aimed at keeping the races segregated, and 3) allowing parents to personally choose the district and school they wanted their child to attend.<sup>35</sup> Even after all his findings were reported, Paul personally was in favor of plan that would allow for an orderly transition away from segregated schools system, believing that this would allow North Carolina to avoid federal intervention into their schools.<sup>36</sup> In the end, Paul ultimately urged Umstead not to openly defy the Supreme Court’s decision, fearing the repercussions that would result from this.

With data from the Institute of Government at his disposal, Umstead moved to the next step in North Carolina’s response to *Brown*. As Hodges recalled from his initial meeting with

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<sup>32</sup> James C. N. Paul, “The Decision and some Alternatives: A Legal Analysis,” in *The Scholl Segregation Decision: A Report to the Governor of North Carolina on the Decision of the supreme Court of the united States on the 17<sup>th</sup> of May 1954* (Chapel Hill: The University of North Carolina, 1954), 103.

<sup>33</sup> Paul, “The Decision and some Alternatives: A Legal Analysis,” 103.

<sup>34</sup> Paul, “The Decision and some Alternatives: A Legal Analysis,” 103.

<sup>35</sup> Paul, “The Decision and some Alternatives: A Legal Analysis,” 103-104

<sup>36</sup> Paul, “The Decision and some Alternatives: A Legal Analysis,” 104.

Umstead following the announcement of the Court's decision, the governor was adamant that the state would need to form a committee. On August 4, 1954, a little under three months following the official announcement from the Supreme Court, Umstead announced the creation of The Governors' Special Advisory Committee on Education.<sup>37</sup> According to the Governor's office, the purpose of this committee was to, "study the effects of the decision upon the schools and the problems arising there from."<sup>38</sup> This newly formed committee consisted of nineteen prominent citizens of North Carolina, including attorneys, businessmen, university presidents, former state politicians, and local school board members. Of the nineteen members chosen, the decision was made to include three female members as well as three African American members.<sup>39</sup>

The idea to include African American members was adopted from the work of Mississippi officials who believed that such inclusions could show that the races were able to cooperate with one another in hopes of solving the segregation issue at hand.<sup>40</sup> North Carolina also attempted to use the including of African American committee members to show that not all members of the state's African American were in favor of desegregated schools. Officials hoped that this would help persuade even the most vocal supporters of desegregation to drop their

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<sup>37</sup> The first Governors' Special Advisory Committee on Education consisted of Thomas Pearsall, Dr. F.D. Bluford, J.H. Clark, Ruth Current, Dr. Gordon Gray, Fred B. Helms, Dallas Herring, R.O. Huffman, William T. Joyner, Helen S. Kafer, James C. Manning, Holt McPherson, Hazel S. Parker, Clarence Poe, I.E. Ready, Dr. Paul A. Reid, Dr. J.W. Seabrook, L.R. Varsler, Arthur D. Williams; "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>38</sup> "Carolina Advisory Committee on Education, 1958: Memorandum for Talk on School Amendment Referendum to be held Saturday, September 8, 1958" in Folder 15: Carolina Advisory Committee on Education, 1958, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>39</sup> "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>40</sup> Walker, *The Ghost of Jim Crow*, 21.

challenge to the system of segregation.<sup>41</sup> The inclusion of these three African American members, however, was not met with the support that Umstead and his staff had originally hoped for. This lack of support was largely due to the fact that the three African American members were all employed by the state, two were college administrators while one was a Home Demonstration agent.<sup>42</sup> Many believed their opinions would not be properly voiced due to a fear of public backlash or loss of their state supported employment.<sup>43</sup> The creation of the Governor's Special Advisory Committee on Education would become not only the first official response by the state in relation to the *Brown* decision, but it would also remain a crucial part of the state's segregation process over the next decade.

Having now formed the Governor's Special Advisory Committee on Education, Umstead now needed someone to take on the leadership role as chair. To solve this problem, he turned to an old political ally and personal friend, Thomas J. Pearsall.<sup>44</sup> Pearsall was a prominent citizen from Rocky Mount, North Carolina, who had dedicated his life to serving his state and fellow citizens. Pearsall was a lawyer, local businessperson, and state politician. He had served in the General Assembly from 1941 to 1947, including one year as the Speaker of the State House.<sup>45</sup>

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<sup>41</sup> Walker, *The Ghost of Jim Crow*, 30-33.

<sup>42</sup> "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>43</sup> Rev. G. A. Fisher, of the Raleigh Citizens Association, wrote to Governor Umstead to complain about the selection of the black members, urging the governor to appoint someone more independent, who was not a state employee. See "Rev. G. A. Fisher to William B. Umstead, August 10, 1954", Box 47, in the William Bradley Umstead and Merle Davis Umstead Papers #4529, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>44</sup> "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>45</sup> "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on

Upon accepting the position of chair, Pearsall understood that it came with great responsibility. This understanding however is one that Pearsall would grapple with as he would continue to doubt his ability to undertake such an important task as seen through his personal correspondence.

Pearsall addressed these personal concerns about his ability to chair the committee in correspondence with personal friends in Rocky Mount. In a letter to Mrs. Henry Bourne on September 8, 1954, Pearsall claimed that, “the task of fixing the issue of segregation is too great for humans and we (the committee) will need the help from beyond ourselves (God).”<sup>46</sup> In a similar letter addressed to the Reverend Richard H. Baker of Rocky Mount, also dated September 8, Pearsall wrote, “I feel totally inadequate for the job, and frankly, despair at times of even a hope for success.”<sup>47</sup> Pearsall also voiced his personal opinion on what the committee’s main task should be as well as his opinion of desegregation. In the same letter to Reverend Baker, Pearsall wrote that, “the real issue at hand is not segregation but preservation of our public school system.”<sup>48</sup> In a letter addressed to Mr. Wilson M. Epperson dated October 12, 1954, Pearsall states that it is crucial that committee find the means for a peaceful transition away from segregation, because if not, “the negro will be the greatest loser if integration is

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Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>46</sup> “Letter addressed to Mrs. Henry Bourne from Pearsall on Sept. 8 1954,” in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>47</sup> “Letter Addressed to Rt. Rev. Richard H. Baker from Pearsall,” dated Sept. 8, 1954, in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>48</sup> “Letter Addressed to Rt. Rev. Richard H. Baker from Pearsall,” dated Sept. 8, 1954, in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

forced upon us (by federal government).”<sup>49</sup> Although it is clear that Pearsall expressed doubts on his ability to lead the Governor’s Special Advisory Committee on Education as well as his belief on what the responsibility of the committee truly was, he would remain chair as well as a close, trusted advisor to state leaders on the issue of desegregation for the next decade.

The Governors’ Special Advisory Committee on Education would hold its first official meeting with Umstead in Raleigh on August 11, 1954. During this meeting, Umstead presented Pearsall and the rest of the committee with copies of the Institute of Government Report which he had commissioned earlier that year.<sup>50</sup> Umstead made sure to point out his support for the “gradual approach” that had been presented to him by the Institute. He gave the committee its first orders to, “develop a policy/program which will preserve the State’s public school system by having the support of the people.”<sup>51</sup> Umstead also brought to the committee’s attention the Paul’s proposal to decentralize the state school system by handing control over redistricting and student assignment to the local education boards. Paul and Umstead believed that by doing so, North Carolina the risk of the federal government suing the entire states public school system under one, single legal case.<sup>52</sup>

Umstead would eventually leave the committee to their work, and Pearsall wasted little time addressing the challenge. He decided to create a subcommittee consisting of the members

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<sup>49</sup> “Letter addressed to Wilson Epperson from Pearsall,” dated Oct 12, 1954, in Folder 3, Governor’s Advisory Commission Education, E 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>50</sup> “Preservation of Public Schools Keynote of Segregation Session,” in The Raleigh News and Observer, August 12, 1954, Sec. A, 1.

<sup>50</sup> “Preservation of Public Schools Keynote of Segregation Session”

<sup>51</sup> Batchelor, “Rule of Law,” 113.

<sup>52</sup> “Preservation of Public Schools Keynote of Segregation Session”

who were practicing attorneys.<sup>53</sup> Pearsall appointed the subcommittee to work closely with Harry McMullen, the Attorney General of North Carolina, in order to help decide if North Carolina should involve itself in the upcoming Supreme Court case by filing a brief in *Brown II*, the 1955 Supreme Court case that reviewed southern states' request for relief in light of school desegregation.<sup>54</sup> This initial meeting laid the foundation for the committee's work over the next several months as they set out to provide Governor Umstead with the answers as to how North Carolina should respond to the *Brown* decision. Pearsall and his fellow committee began the process of creating an answer to *Brown* while also preserving the civil peace as well as the safety of the state's public school system.

Following their first meeting in August, Umstead, Pearsall, and Paul met with members of the North Carolina media in regards to North Carolina's response to school desegregation and the work of what the press had now dubbed "the Pearsall committee."<sup>55</sup> At the meeting, Umstead reiterated to the media the tasks he had presented to Pearsall and the rest of the committee. Following Umstead's remarks, Pearsall acknowledged his goal of having an initial report from the committee ready to present to the General Assembly by January of the following year (1955).<sup>56</sup> At the conclusion of their initial meeting, the committee members all went their separate ways but not before agreeing to remain in contact with Pearsall as well as one another until their next meeting was scheduled.<sup>57</sup>

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<sup>53</sup> Batchelor, "Rule of Law," 113.

<sup>54</sup> Batchelor, "Rule of Law," 113.

<sup>55</sup> "Preservation of Public Schools Keynote of Segregation Session"

<sup>56</sup> "Preservation of Public Schools Keynote of Segregation Session," 8.

<sup>57</sup> Examples of correspondence letters between committee members can be found in the Pearsall Collection, series 1, Folders 1-18, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

During this lull Pearsall was busy completing personal research on the way that other Southern States had addressed desegregation.<sup>58</sup> Pearsall collected information from political contacts and colleagues in Georgia, Alabama, and Mississippi.<sup>59</sup> Pearsall would mull over how the responses of these state governments were applicable to the issue at hand in North Carolina and forward his findings to his fellow committee members.<sup>60</sup> Pearsall reported to his committee how Georgia had refused to accept the *Brown* decision and threatened to freeze state funds if any public school desegregated.<sup>61</sup> Pearsall also passed along the information regarding Alabama and Mississippi's threat to shut down public schools in the face of desegregation, as well as a plan Louisiana had designed to strictly enforce segregated schools.<sup>62</sup> Pearsall and the rest of the committee attempted to use this information from these states to build their North Carolina's response. Attempts by the committee to base their own response to what had worked and failed within other southern states reflected the state's determination to not act out in open defiance for fear of facing a rebuttal from the federal government.

Following the creation of the committee and its first meeting, both Umstead and Pearsall found themselves flooded with letters from supporters of both desegregation and segregation. Due in large part to Umstead's initial silence, Pearsall received communications from citizens concerned with the state's position. In a series of letters dated from August to November 1954,

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<sup>58</sup> Examples of correspondence letters between Pearsall and officials representing various Southern States can be found in the Pearsall Collection, series 1, Folders 1-18, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>59</sup> Examples of correspondence letters between Pearsall and officials representing various Southern States can be found in the Pearsall Collection, series 1, Folders 1-18, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

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<sup>61</sup> Batchelor, "Rule of Law," 132.

<sup>62</sup> Batchelor, "Rule of Law," 132.

Mrs. B. W. Barnes, a concerned citizen from Roanoke Rapids, attempted to share her personal beliefs on the issues with Pearsall.<sup>63</sup> Mrs. Barnes wrote in her letter that she believed that Pearsall must do all in his power to ensure that, “North Carolina join with the true South in resisting this terrible decision to the end. A ruling cannot change a person’s heart and the firm convictions which we possess along this line. Segregation is our way of life, and segregation must stay.”<sup>64</sup> Mrs. Barnes also urged Pearsall to “keep North Carolina a decent state in which to rear children. Mixing of the races is just no good no matter how you look at it.”<sup>65</sup>

Pearsall also received correspondence from various organizations and groups. The opinions and fears voiced by the authors of these letters reflected many of the same beliefs that members of the governor’s committee personally held as well. Fear over the response, or perceived lack of response, from the state government led to numerous pro-segregation petitions being sent to Umstead and Pearsall. On September 17, 1954, the Junior Statesmen of American proposed that North Carolina adopt a “Group Enrollment and Registration Law.” This proposal would allow parents who wanted their children to attend segregated schools to register as part of a larger group of students from similar social classes or backgrounds. Registering as a group of similar students would legally require the local school boards to keep these groups segregated from those who were labeled as different, African American students in this case.<sup>66</sup> The Junior

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<sup>63</sup> “Letter Addressed to Pearsall from Mrs. B. W. Barnes,” dated August 30, 1954, in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>64</sup> Governor’s Advisory Commission Education, “Letter Addressed to Pearsall from Mrs. B. W. Barnes,” dated August 30, 1954, in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>65</sup> “Letter Addressed to Pearsall from Mrs. B. W. Barnes,” dated August 30, 1954, in Folder 1, Governor’s Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>66</sup> “Letter addressed to Governor Umstead (forwarded to Pearsall) from the Junior Statesmen of America,” dated Sept. 17, 1954, in Folder 2, Governor’s Advisory Commission on Education, C-D 1954, in the Thomas Jenkins

Statesmen of America were not the only ones to propose potential solutions for desegregation. Roy Deal, an attorney from Winston Salem, offered argued that segregating public schools by gender instead of race could “prevent amalgamation of the white and colored races.”<sup>67</sup> The NAACP also urged their members and supporters to petition Umstead, Pearsall, and the committee in hope of convincing the state not to delay school desegregation. These petitions and letters were forwarded to the committee so they could obtain a better understanding of how North Carolina’s citizens viewed the issue.

Debate over the issue of desegregation in North Carolina continued amongst the members of the Pearsall committee. In an interview conducted by the Southern Oral History Program, Elizabeth Pearsall recollected her husband’s belief that school desegregation must take place within North Carolina but just not at the current time without risking the existence of the public school system.<sup>68</sup> According to Mrs. Pearsall, her husband was not the only member of the committee who held this belief. She believed that other members of the Pearsall committee probably accepted the eventual desegregation of the state’s public schools, however the timeframe for this change was subject to debate.<sup>69</sup> These differing opinions on the timetable for desegregation led to several proposals. Dr. J.W. Seabrook, president of Fayetteville State Teachers College, proposed a plan that called for gradual desegregation as students entered first

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Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>67</sup> “Letter addressed to Pearsall and Umstead from Roy L. Deal,” dated August 11, 1954, in Folder 2, Governor’s Advisory Commission on Education, C-D 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>68</sup> Oral History Interview with Elizabeth Pearsall, May 25, 1988. Interview C-0056. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>69</sup> “Oral History Interview with Elizabeth Pearsall.”

grade being segregated by sex in the high school setting.<sup>70</sup> Superintendent of Roanoke Rapids Schools and committee member I.E. Ready also proposed a style of gradual desegregation. He supported the idea that first grade classes across the state be desegregated and each year one more grade level would be added until all twelve were fully desegregated.<sup>71</sup> The Seabrook and Ready plans represented the kind of “gradual approach” to desegregation that was supported by Paul and Umstead.

Along with the “gradual approaches” proposed by Seabrook and Ready, other committee members offered options that they believed would best fit for the state’s needs. The most outspoken member was Dallas Herring, Chair of the Duplin County Board of Education.<sup>72</sup> Following his meeting with several African Americans from Duplin County, Herring began to believe that a majority of the state’s citizens supported voluntary segregation. Although he was a strong proponent of segregated schools, or segregationist, Herring, like other committee members realized that desegregation must take place.<sup>73</sup> In his letters to State Superintendent Charles Carrol, Herring often commented on how he feared that state leaders would eventually succumb to the pressure from the segregationist community and destroy the public education system to avoid federal intervention.<sup>74</sup> He attempted to appease those supportive of desegregation while at the same time being careful not to anger segregationists. He feared that doing so would result in the closing of public schools.<sup>75</sup> This was the strategy of so many

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<sup>70</sup> Batchelor, “Rule of Law,” 134.

<sup>71</sup> Batchelor, “Rule of Law,” 134.

<sup>72</sup> Batchelor, “Rule of Law,” 128.

<sup>73</sup> Dallas Herring to Charles F. Carrol, William Dallas Herring Papers, MC 00270, Special Collections Research Center, North Carolina State University Libraries, Raleigh, North Carolina.

<sup>74</sup> Batchelor, “Rule of Law,” 130.

<sup>75</sup> Batchelor, “Rule of Law,” 131.

committee members, including Pearsall himself, who often mentioned that the job of the committee was to ensure the preservation of public schools.<sup>76</sup>

As the Pearsall committee continued to work on preparing a plan, Governor Umstead passed away on November 7, 1954. His health had been declining due to a heart attack that he suffered following his inauguration in 1953.<sup>77</sup> After Umstead's death, state officials questioned the future of the Pearsall. Lieutenant Governor Luther Hodges was sworn in as governor and although he often said that he and Umstead were not personally close, they held similar views on school segregation and the *Brown* decision.<sup>78</sup> According to historian Anders Walker, Hodges' background in the textile factories of North Carolina influenced his beliefs on racial segregation. The textile factories were often heavily segregated, and Hodges grew to see segregation as a positive in part because it prevented racial tension and violence and helped promote "a friendly relationship of mutual helpfulness." Because of his experience in textiles, Hodge's felt that "segregation did not hinder the state's advancement," but "helped it move forward."<sup>79</sup> Walker also explains that Hodges' views were possibly also influenced by time spent in New York, in which he attempted to recruit new businesses to North Carolina. In New York, Hodges witnessed race riots in Harlem in 1943 as well as racial violence at a Harlem high school in 1945. These examples of civil unrest helped shape Hodges belief that segregation was crucial if states hoped to ensure order and peace amongst their citizens.<sup>80</sup> Hodges eased any fears about his stance on

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<sup>76</sup> "Letter Addressed to Rt. Rev. Richard H. Baker from Pearsall," dated Sept. 8, 1954, in Folder 1, Governor's Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>77</sup> "From Soldier to Statesman: William Bradley Umstead," Documenting the American South, Last modified November 13, 2013, accessed November 13, 2013, <http://docsouth.unc.edu/highlights/umstead.html>

<sup>78</sup> Hodges speaks often of his and Umsteads sour personal relationship throughout his memoirs, Hodges, *Businessmen in the statehouse*, Hodges, *Businessman in the Statehouse*.

<sup>79</sup> Walker, *The Ghost of Jim Crow*, 53.

<sup>80</sup> Walker, *The Ghost of Jim Crow*, 52.

segregation when he asked Pearsall and the committee to continue its work and pledged full support to answering the *Brown* decision upon taking office.<sup>81</sup>

Although he had announced to the media in August that the committee would have its report ready for the January session of the General Assembly, it was still far from complete. In hopes of meeting his deadline, Pearsall called the committee together for their second meeting on November 23.<sup>82</sup> Members began to deliberate the three proposals brought forth by Seabrook, Herring, and Ready. Although none of these three plans was ultimately adopted during this meeting, the idea of a pupil assignment plan being adopted for North Carolina was widely accepted by the members.<sup>83</sup> Taking these proposals into consideration, Pearsall appointed several members of the committee to a subcommittee and gave them the task of examining the options presented to the committee.<sup>84</sup> This subcommittee was also to meet with the State Board of Education on December 1 to discuss potential plans of action for the state.<sup>85</sup> These proposals and deliberations would be the first discussed plans of actions for North Carolina's response to school desegregation under Governor Luther Hodges.

When the committee reconvened on December 30, Pearsall surprised members with a completed report.<sup>86</sup> The report, which would be the first of its kind from the committee, made no mention of the previously discussed proposals and only had a minor connection to the debate that took place during the November 23<sup>rd</sup> meeting.<sup>87</sup> In an effort to secure unanimous support of the report, Pearsall led discussions that lasted over three hours and prevented the committee from

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<sup>81</sup> Hodges, *Businessman in the Statehouse*, 80

<sup>82</sup> Batchelor, "Rule of Law," 133.

<sup>83</sup> Batchelor, "Rule of Law," 134-135

<sup>84</sup> Batchelor, "Rule of Law," 135

<sup>85</sup> Batchelor, "Rule of Law," 135

<sup>86</sup> Batchelor, "Rule of Law," 135

<sup>87</sup> Batchelor, "Rule of Law," 135.

changing the report.<sup>88</sup> Although a majority pledged their support, not all were quick to sign on. Herring refused to add his signature to the report and left before the meeting ended.<sup>89</sup> In an interview with the Southern Oral History Program Collection, he said he refused to sign because the report “provided for the closing of schools,” which he adamantly opposed. Knowing that the report needed unanimous support, Pearsall and Hodges set out to change Herring’s mind. Herring recalls Hodges calling him back to Raleigh to air his grievances with the report to the governor. While meeting with Hodges, Herring recalls stating “Governor, what difference does it make whether I sign it or not? You can come on out. I am not going to make a minority report. I just don't agree that you should allow for closing any school anyway." After listening to Herring’s grievances, Hodges proclaimed "I don't agree with it either," but that he felt that the ability to close the public schools had to be included as a safety valve to gain the support of hard-line segregationists. After he received assurance from both Hodges and Pearsall that desegregation without school closure would eventually take place in North Carolina and that school closure would not take place, Herring signed the committee’s report. Hodges later rewarded Herring for his service and appointed him to the State Board of Education in June 1955.<sup>90</sup>

The first draft of the committee report presented the two objectives: “Preservation of Public Education in North Carolina,” and the “Preservation of peace throughout North

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<sup>88</sup> Batchelor, “Rule of Law,” 136.

<sup>89</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>90</sup> Oral History Interview with William Dallas Herring.

Carolina.”<sup>91</sup> The report also urged citizens of North Carolina to “act coolly, exercise restraint, exhibit tolerance, and display wisdom” in this time of uncertainty and change.<sup>92</sup> The report presented four conclusions and recommendations from the committee. First, it concluded that “the mixing of the races in public schools throughout the state cannot be accomplished and should not be attempted.”<sup>93</sup> Doing so, the committee claimed, “Would alienate the support of the public from schools so much that they would not be able to successfully operate.”<sup>94</sup> The report advised North Carolina to stay within the framework of the current public school system while attempting to abide by the Supreme Court’s decision, claiming that this is what “the people desire.”<sup>95</sup> Finally, the report recommended that the General Assembly pass legislation to transfer the control of public schools from the state to local boards of education.<sup>96</sup> This would allow the local boards to handle all issues relating to enrollment and integration while avoiding any interference from the federal government. The report ended by recommending that the state create a new committee aimed at studying problems that were bound to arise, while at the same time warning that “abandoning or materially altering” the public school system might be a

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<sup>91</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>92</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>93</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>94</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>95</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>96</sup> “Report of The Governors Special Advisory Committee on Education,” dated Dec. 30, 1954, in Folder 12, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

required step eventually.<sup>97</sup> The Report of the Governors' Special Advisory Committee on Education successfully laid the groundwork for North Carolina's actions over the next few years when dealing with desegregation within the public schools.

The following day, after successfully convincing all committee members to sign the final draft of the first committee report, Pearsall hand delivered it to Governor Hodges in Raleigh. At Hodges' request, Pearsall began to work with the state's Attorney General's Office in hopes of creating a pupil assignment bill that could be presented to the state legislature at its next meeting.<sup>98</sup> Pearsall, however, met opposition from both Attorney General Harry McMullan and Assistant Attorney General I. Beverly Lake. According to Pearsall, McMullan and Lake both refused to write any bill that did not support segregation because they believed that "desegregation was absolutely impossible."<sup>99</sup> Not wanting to give up on the bill, Pearsall found a draft that the Attorney General had penned prior to the formation of the Governors' Special Advisory Committee on Education. Pearsall used this draft, input from the Attorney General's office, and assistance from the General Assembly to formulate the bill that became the Pupil Assignment Act of 1955.

The Pupil Assignment Act altered North Carolina's public school system of North Carolina just enough so it appeared that the state abided by the *Brown* decision even though its end goal was to delay desegregation. The legislation eliminated the chance that a court order could desegregate all the state's public schools by shifting authority over education decisions to

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<sup>97</sup> "Report of The Governors Special Advisory Committee on Education," dated Dec. 30, 1954, in Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>98</sup> Batchelor, "Rule of Law," 138

<sup>99</sup> "Report of The Governors Special Advisory Committee on Education," dated Dec. 30, 1954, in Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

the local school boards.<sup>100</sup> The result of the bill was also very similar to Mississippi's Pupil Placement Plan, which Governor Coleman sent Hodges in November 1954.<sup>101</sup> Mississippi's plan, called for the assignment of students not by race but by "neutral criteria," which ended up being outrageous claims meant to keep the races segregated such as intellectual capacity or health issues.<sup>102</sup> North Carolina's plan also contained pieces of student assignment legislation recently passed in Alabama as well. The legislation was similar to ones used by Virginia, South Carolina, and Georgia, which all set up a process for the closing of public schools. However, unlike these other states, it was not state law in North Carolina to close integrated schools. Instead, the Pupil Assignment Act gave the power and ultimate decision to close schools in North Carolina to the local boards of education.<sup>103</sup> By adopting the Pupil Assignment Act of 1955, North Carolina found itself using many of the same tactics employed by other states in the Deep South. However, by removing race as a factor for student assignment and carefully avoiding racially charged rhetoric, North Carolina was able to succeed where other states did not. Not only did they avoid federal intervention into their public school system, but they were also able forestall desegregation much longer than other southern states, as evident by their low percentages of integration found in government reports from the 1960s.

Governor Hodges presented the 1954 Report of the Governors' Special Advisory Committee on Education and the Pupil Assignment Act to the General Assembly as part of his State of the State Address on January 6, 1955.<sup>104</sup> The proposed bill called for all mentions of race

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<sup>100</sup> Batchelor, "Rule of Law," 146.

<sup>101</sup> Walker, *The Ghost of Jim Crow*, 49.

<sup>102</sup> Walker, *The Ghost of Jim Crow*, 49.

<sup>103</sup> Batchelor, "Rule of Law," 260.

<sup>104</sup> Luther Hodges, "The State of the State: Biennial Message to the General Assembly," in Messages, addresses, and public papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), 3-19.

in laws related to public schools to be removed at once and the power of pupil assignment, enrollment, and transportation to be transferred from the State Board of Education into the hands of local school boards.<sup>105</sup> The legislation also offered parents who were displeased with their child's placement the power to appeal the decision to the state court systems.<sup>106</sup> Hodges called upon the General Assembly to publicly support the recommendations of the 1954 Governors' Special Advisory Committee on Education report. Hodges, however, mentions in his memoirs that almost as soon as the bill was introduced, critics immediately attacked it. Opponents felt that the state needed to go further than the recommendations of the committee to protect segregation.<sup>107</sup> These officials believed the bill was too weak and proposed legislation to cancel the allocation of state funds for any school that voluntarily integrated and to designate state funds in the form of tuition grants for students desiring to attend private, segregated schools.<sup>108</sup> The opposing bills eventually failed during deliberation, and after a few months of consideration, the Pupil Assignment Act was passed into law by the North Carolina General Assembly on March 23, 1955.<sup>109</sup> The General Assembly also agreed to approve the recommendations of the Governors' Special Advisory Committee and set up a new advisory committee that reported directly to Hodges and the governor's office.<sup>110</sup>

The Pupil Assignment Act was the first legislative step taken by North Carolina in response to the *Brown* decision. While the act did not technically defy the court's decision on

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<sup>105</sup> " Bill to Be entitled An Act to Amend the constitution of NC," in series 2.7, Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>106</sup> Hodges, *Businessman in the Statehouse*, 81.

<sup>107</sup> Hodges, *Businessman in the Statehouse*, 81.

<sup>108</sup> Hodges, *Businessman in the Statehouse*, 81.

<sup>109</sup> Hodges, *Businessman in the Statehouse*, 81-82.

<sup>110</sup> Hodges, *Businessman in the Statehouse*, 82.

desegregation because it did not prohibit desegregation within North Carolina's schools, it also did not promise that desegregation would take place within the state. The legislation pleased, if only temporarily, members of the General Assembly and citizens who strongly supported racial segregation. The initial success of the Pupil Assignment Act of 1955 laid in the fact that it provided Hodges, Pearsall, and the Attorney General additional time to prepare for the upcoming Supreme Court hearing on school desegregation that would become known as *Brown II*.

When discussing the act years later, Hodges wrote, "the Pupil Assignment Act was North Carolina's first major step relating to the May 17, 1954, decision of the Supreme Court. It did not conflict with the court's anti-segregation decision; it did not promise the people there would be no integration and it did not threaten to close all the schools if the color barrier was broken in one. It was just the first of several steps North Carolina was to take in seeking a solution to a very difficult problem."<sup>111</sup> Although the legislation aimed at diverting the responsibilities for desegregation away from the state government would ultimately fail, it reflects a clever plan to preserve the system of racial segregation in North Carolina. Even though one could easily have found similar racist opinions and remarks within North Carolina as they did in other parts of the south, the state's leaders were wise to distance themselves from this type of overt resistance towards school desegregation in an attempt to avoid federal intervention. The Pupil Assignment Act of 1955 provided North Carolina schools a means in which to preserve racial segregation within the public schools for the 1955-1956 school year as Hodges, Pearsall, and other state officials began working on formulating the state's response to *Brown II* and implementing the next piece of segregation legislation, the Pearsall Plan of 1956.

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<sup>111</sup> Hodges, *Businessman in the Statehouse*, 82.

## CHAPTER 3

### THE NEED FOR A SAFETY VALVE: *BROWN II*, VOLUNTARY SEGREGATION, AND THE PEARSALL PLAN OF 1956

Luther Hodges and Thomas Pearsall never envisioned the Pupil Assignment Act of 1955 as a permanent way to avoid desegregating North Carolina's public schools. Instead, the legislation satisfied the segregationists in the state's General Assembly and the state's citizens who did not wish to obey the mandate under the *Brown* decision. For Hodges and Pearsall, the ability to appease both government officials as well as state citizens seeking answers as to how North Carolina would respond to *Brown* while also avoiding any repercussions from the federal government provided them both with the most crucial thing needed: time. This time was crucial for both Hodges and Pearsall as they began working on the next step of North Carolina's response to desegregation, specifically the *Brown II* court case that the Supreme Court would hear in April of 1955. Along with the *Brown II* case, members of the North Carolina African American community were beginning to challenge legislation aimed at protecting segregation throughout the state. The events of 1955 set the stage for Hodges, Pearsall, and the second Pearsall committee to formulate the next step in their plan to resist desegregation, the Pearsall Plan of 1956.

As Hodges, Pearsall, and other state officials shifted their focus to the *Brown II* case in April 1955, the question became to what extent would North Carolina participate in the new case. Those studying the issue of school integration in North Carolina had grappled on whether or not to file a brief in what would become "the implementation phase of the desegregation

cases” since the announcement of the initial *Brown* decision.<sup>112</sup> After a period of internal debate over whether North Carolina should involve itself, Attorney General Harry McMullen filed formal petition *amicus curiae* brief on behalf of the state to the Supreme Court on September 9, 1954.<sup>113</sup> When it finally came time to prepare the state’s brief, Assistant Attorney General Lake, the very same person who had previously refused to help Pearsall draw up the 1955 Pupil Assignment Act bill, was the one given the task of doing so.<sup>114</sup> In all actuality, Hodges claimed that it was Assistant Attorney General Beverly Lake who had carried out a majority of the state’s desegregation cases in the period following *Brown* as Attorney General McMullen was too unhealthy to do so.<sup>115</sup> The very same man who had been so adamant in his support for segregated schools in North Carolina was now in charge of representing his state’s case to the Supreme Court.

As the case grew nearer, Lake worked closely with McMullen and Pearsall to create the state’s brief to present the Supreme Court in hopes of winning some support or favor for North Carolina’s position on the issue.<sup>116</sup> In April 1955, it was time for Southern states to present their arguments to the court as to why there should not be a federally mandated compliance date for school desegregation. Lake took the floor with North Carolina’s brief on the third day of the hearings and began to present what was later described to Hodges as “the best argument from

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<sup>112</sup> John E. Batchelor, “Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974” (doctoral dissertation, North Carolina State University, 1992), 163.

<sup>113</sup> Petition of Harry McMullian, Attorney General of North Carolina, to Appear Amicus Curiae, dated Sept. 9, 1954 Governor’s Advisory Commission on Education, M 1954\_ in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>114</sup> Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel hill, NC: The University of North Carolina Press, 1962), 84-85.

<sup>115</sup> Hodges, *Businessman in the Statehouse*, 84-85.

<sup>116</sup> Hodges, *Businessman in the Statehouse*, 85

any state in attendance.”<sup>117</sup> In his brief, Lake attempted to convince the court to “allow the greatest possible latitude to Federal District judges in conducting subsequent hearings and in drafting final decrees.”<sup>118</sup> He claimed that any decision that resulted in a federally mandated compliance date would “provoke racial tension and animosity unparalleled since those terrible days that gave rise to the Ku Klux Klan.”<sup>119</sup> Lake argued that integrating the races would lead to “such violent opposition as to endanger the continued existence of the schools.”<sup>120</sup> He supported his claim by bringing to the court’s attention that a majority of superintendents in North Carolina claimed that great problems and challenges would arrive if the court were to declare immediate integration. These challenges would include white parents refusing to let their children be educated by African American teachers, potential harm to afterschool extracurricular activities, and clear educational differences between White and African American teachers in the classroom. State law enforcement agents also supported Lake’s argument by stating they believed there would be an increase in violent opposition from Whites aimed at integrated schools.<sup>121</sup>

During his brief, Lake also attempted to convince the judges to support his position by using an argument similar to one used by other Southern states. Lake claimed that under the Constitution, the Supreme Court did not have the authority to interfere in the public education systems of the states.<sup>122</sup> Lake also claimed that the Pupil Assignment Act of 1955 technically

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<sup>117</sup> Luther Hodges, “Public Education-The Foundation of North Carolina’s Progress,” in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), 130.

<sup>118</sup> Batchelor, “Rule of Law,” 163.

<sup>119</sup> Luther A. Huston, “U.S. Urges Delay in Desegregation,” in *The New York Times*, April 14, 1955, Sec. A, 1.

<sup>120</sup> Batchelor, “Rule of Law,” 163.

<sup>121</sup> Batchelor, “Rule of Law,” 164.

<sup>122</sup> Huston, “U.S. Urges Delay in Desegregation,” Sec. A, 1.

allowed desegregation to take place in North Carolina.<sup>123</sup> Lake followed up this argument by stating that even if the Courts did believe they possessed such authority then they should still not force immediate integration in order to save North Carolina and its fellow states from social chaos and confusion.<sup>124</sup> Immediate integration, if tried, would result in white students having to change schools in order to house the African American students due to a lack of room in school buildings, Lake argued. This led Justice Felix Frankfurter to ask Lake if this was his way of saying that North Carolina needed more time, to which Lake responded “a great deal of time would be needed.”<sup>125</sup>

Lake wrapped up North Carolina’s case by proclaiming that the state was not legally required to fund public schools, and that a decision forcing integration on the state would ultimately result in the abandonment of the public school system. This would result in further damage to African American students and teachers.<sup>126</sup> According to Lake, “North Carolina educated more African American children and employed more African American teachers than any other state.” He followed up by claiming, “the jobs of 8,500 Negro teachers are hanging in the balance in North Carolina alone, awaiting the final decree of this Court.”<sup>127</sup>

Reaction to Lake’s argument before the Supreme Court was generally positive in North Carolina. In a letter to Hodges, Fred Helms, a member of the first Pearsall Committee who attended the hearings, raved about Lake’s “superb” argument before the Court.<sup>128</sup> Helms wrote that those in attendance seemed to listen more closely to Lake’s argument than those of other

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<sup>123</sup> Batchelor, “Rule of Law,” 166.

<sup>124</sup> Batchelor, “Rule of Law,” 164-165.

<sup>125</sup> Batchelor, “Rule of Law,” 165.

<sup>126</sup> Batchelor, “Rule of Law,” 166.

<sup>127</sup> Batchelor, “Rule of Law,” 166.

<sup>128</sup> “Fred B. Helms to Luther Hodges”, Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

states and that the Assistant Attorney General was “clear-cut, frank, unequivocal, and unapologetic” before the Court.<sup>129</sup> Hodges similarly praised Lake before a Joint Meeting of the Civics Club of Charlotte where he stated, “Lake did a magnificent job and showed in his presentation calmness, courtesy, and courage.”<sup>130</sup> In the end, many of the state officials were pleased with the argument presented by Lake. He had presented North Carolina’s position on forced integration and it was felt that the court would have no choice but to accept it. North Carolina had drawn its metaphoric “line in the sand,” the state would follow federal law if forced to desegregate but the result would be the abolishment of the public school system within the state. On May 31, 1955, supporters of segregation in North Carolina gained a victory when the Supreme Court announced that it would not set a date by which desegregation must take place. This decision was in part due to the Court deciding the initial *Brown* decision has successfully started the process of integration and “additional time was necessary to carry out the ruling in an effective manner.”<sup>131</sup> According to historians such as Anders Walker, the decision of “all deliberate speed” was a hand delivered gift for North Carolina and other Southern states because it allowed them the ability to forestall the process of integration for as long as possible.<sup>132</sup>

Unlike other Southern politicians, Governor Hodges was not as optimistic about the decision of the Supreme Court. At a June 3 news conference, Hodges declared, “there seems to

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<sup>129</sup> “Fred B. Helms to Luther Hodges”, Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>130</sup> Luther Hodges, “Public Education-The Foundation of North Carolina’s Progress,” in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), 130.

<sup>131</sup> “Opinion of Court on Segregation,” in *The Los Angeles Times*, June 1, 1955, Sec. A, 15.

<sup>132</sup> Walker discusses the impact of *Brown II* on Southern states briefly in, Anders Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York, NY: Oxford University Press, 2009), 60.

be more to the opinion than the newspaper headlines have indicated.”<sup>133</sup> Hodges explains that the state’s attorney general had explained how at first, the court’s decision was seen as a victory, but upon closer examination of the language used, there were even graver possibilities for those in favor of school segregation.<sup>134</sup> Hodges’ opinion that the *Brown II* decision was truly not in the best interest of the Southern states is what possibly influenced the governor to act to address the integration issue more firmly in the coming years.

Hodges, Pearsall, and other North Carolina officials would not have to wait long for the Pupil Assignment Act of 1955 to be challenged in court. In May 1955, after years of struggling with segregations, the families of five African American students tried unsuccessfully to enroll their children in the all white Old Fort Elementary school.<sup>135</sup> Accompanied by Albert Joyner, a nurse at the local Veterans Administration hospital and staunch supporter of integration, the five students and their families were turned away by School Superintendent Melvin Taylor. According to Taylor, the McDowell County Board of Education ordered him to instruct all school personnel that school integration would not begin in 1955 and that the school system would not admit any student from a previously assigned school.<sup>136</sup> After the students were denied admittance, their parents turned to the Federal District Court in Asheville.<sup>137</sup> The District Court dismissed the families’ case after deciding that not all potential avenues had been sought after from the State Court system under the recently passed legislation, a decision upheld by the

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<sup>133</sup> “Hodges Doubts South Won Victory On School Decision: Grave Possibilities Seen On Close Study of Order,” in *The Durham Herald*, June 24, 1955.

<sup>134</sup> “Hodges Doubts South Won Victory On School Decision: Grave Possibilities Seen On Close Study of Order,” in *The Durham Herald*, June 24, 1955.

<sup>135</sup> “Negroes Denied Admission to Old Fort School,” *Charlotte News*, August 25, 1955.

<sup>136</sup> “Negroes Denied Admission to Old Fort School.”

<sup>137</sup> “Old Fort Dispute In High Court,” *The Times-News*, April 18, 1956, 10.

Court of Appeals for the Fourth Circuit.<sup>138</sup> In its decision, the Court of Appeals stated that district judges must consider the recently enacted Pupil Assignment Act of 1955 and ensure that all of the legislation's procedures are fully exhausted before a Federal Court would be able to intervene.<sup>139</sup>

Not willing to give up, the five families appealed their case again, this time to the State Supreme Court in April 1956. The State Supreme Court ultimately sided with North Carolina by restating the opinions of the Court of Appeals, proclaiming that all procedures for any citizen wishing to enroll in a previously integrated school laid out by the Pupil Assignment Act of 1955 must be exhausted before court interference can take place on the behalf of either party.<sup>140</sup> Upon hearing the court's decision, Pearsall wrote Hodges proclaiming, "North Carolina found itself in an enviable position and that it had no further recommendations at that time."<sup>141</sup> Following the decision in the Old Fort case, the court system continued to uphold the Pupil Assignment Act of 1955, proclaiming that plaintiffs must have exhausted all efforts laid out under the legislation before bringing a case before the court.<sup>142</sup> Through a series of cases in 1955 and 1956, the courts proclaimed that a plaintiff must; "(1) have the ability to show that he did not ask for reassignment merely for the reason that he desires to attend desegregated schools; (2) to indicate specifically the school he desired to attend with reason for the request for reassignment; and (3) to present himself at the board's hearing in person or by his parent or guardian, to answer questions by the board."<sup>143</sup> With the support of the court system, the ability of the Pupil

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<sup>138</sup> "Old Fort Dispute In High Court," 10.

<sup>139</sup> The United States Commission on Civil Rights, *Civil Rights U.S.A.: Public Schools Southern States*, 1962, 66.

<sup>140</sup> The United States Commission on Civil Rights, 66.

<sup>141</sup> The United States Commission on Civil Rights, 66.

<sup>142</sup> The United States Commission on Civil Rights, 66.

<sup>143</sup> The United States Commission on Civil Rights, 67.

Assignment Act of 1955 to stall integration by allowing local authorities the ability to restrict school admittance based on issues other than race became clear. The issue of race however, continued to be the most influencing factor for a student's assignment. In fact, a report completed by the State Department of Public Instruction from the summer of 1955 showed that none of the 172 school districts within the state had begun to integrate after control of the process was handed over to them by the new legislation.<sup>144</sup> Although the Pupil Assignment Act of 1955 had received both state and federal court support and reports showed a lack of integration within North Carolina public schools, Hodges and Pearsall were aware that more work was to be done. Even while the 1955 legislation was being challenged in court rooms across the state, both individuals and other state officials had set their sights on what would become the next part of North Carolina's effort to resist school desegregation.

With the question of a compliance date resolved and the Pupil Assignment Act of 1955 upheld in courts, Hodges and Pearsall could turn their attentions back to segregation in the state's public schools. On June 21, 1955, during a speech at Duke University, Hodges publically addressed the state legislature's recommendation on forming a second Governor's Special Advisory Committee on Education. This second committee would consist of seven members instead of the nineteen members on the original committee and would again look to Thomas Pearsall for leadership and guidance.<sup>145</sup> This new committee was, "to provide counsel and advice

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<sup>144</sup> Nelson H. Harris, "The Implementation of the Desegregation Decision in North Carolina," *The Journal of Negro Education* vol. 24 no. 3 (1955): 314.

<sup>145</sup> The second Governor's Special Advisory Committee on Education would consist of; Robert O. Huffman, William T. Joyner, State Senator W. Lunsford Crew, State Senator William Medford, State Representative Edward F. Yarborough, and State Representative H. Cloyd Philpott. In, Luther Hodges, "Address Before General Sessions of School Law Conference: Duke University, June 21, 1955," speeches, in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), pg. 491-492.

to the governor and other state officials on the segregation issue.”<sup>146</sup> Aside from the difference in the number of committee members, several other factors distinguished second committee appointed from the first. These differences included an all-male membership, which according Hodges and Pearsall, successfully represented the best interests of state.<sup>147</sup> Of the seven members, three represented the western portion of the state while four represented the east.<sup>148</sup> The most glaring difference between the two committees was the lack of any African Americans. Citing the immense pressure that the three minority members of the 1954 committee had faced from the African American community, Hodges claimed that this would only worsen due to the smaller number of 1955 committee members. Therefore, both Hodges and Pearsall believed it best to refrain from selecting any African American committee members in order to spare them from “the almost impossible conditions coming from outside pressures.”<sup>149</sup> This however, was likely done to ensure that there would be no voice of opposition amongst the new committee. As Hodges explained to those in attendance at Duke University on June 21, “I considered the selection of the members of this committee one of the most important tasks I was to face during my administration.”<sup>150</sup>

On June 23, two days after Hodges’ address, The Governor, Attorney General McMullen, and members of the committee met for the first time in the Executive Mansion in Raleigh.<sup>151</sup> It was at this initial meeting that Hodges instructed the committee members to “study carefully and with objectivity the decision of the Supreme Court and its probable effect on North

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<sup>146</sup> Luther Hodges, “Address Before General Sessions of School Law Conference: Duke University, June 21, 1955,” in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), pg. 491-492.

<sup>147</sup> Hodges, *Businessman in the Statehouse*, 83.

<sup>148</sup> Hodges, *Businessman in the Statehouse*, 82-83.

<sup>149</sup> Hodges, *Businessman in the Statehouse*, 83.

<sup>150</sup> Hodges, *Businessman in the Statehouse*, 83.

<sup>151</sup> Hodges, *Businessman in the Statehouse*, 83.

Carolina and its schools.”<sup>152</sup> Hodges also gave the committee the task of creating a program for the state that would recognize the Supreme Court’s decision as law, an effort to show that North Carolina was abiding by the court’s mandate, even if the majority of state’s citizens disagreed with the decision.<sup>153</sup> The second Pearsall committee, as the media labeled it, would go to work immediately to address the issue of integration as they moved into the Agriculture Building in downtown Raleigh at the request of the governor. It was during this first day that the committee offered Hodges their first recommendation that North Carolina public school system should continue segregated for the 1955-1956 school year. The committee also encouraged Hodges to appoint a series of local committees to consider segregation in their personal districts. The seven-member committee would begin what would become a yearlong study of segregation and the North Carolina public school system.

As the second Pearsall committee began working on the challenges presented to them by the governor, Pearsall looked for a way to include the opinions of African Americans. To do so, Pearsall reached out to the three African American members of the first Pearsall committee and asked them to “invite three Negroes each, other than public officials” who would be able to meet with the new committee. At these arranged meetings, African Americans in attendance voiced their desire for an immediate push for desegregation to the committee. Similar to the first committee, members of the second Pearsall committee flatly refused to accept the African American community’s and NAACP’s position. This situation led the committee members to realize that future attempts at finding support from the African American community pointless. To the committee, only a small portion of the African American community were in favor of

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<sup>152</sup> Hodges, *Businessman in the Statehouse*, 83-84

<sup>153</sup> Hodges, *Businessman in the Statehouse*, 84.

desegregation as Hodges, Pearsall, and other committee members believed that the NAACP only spoke for a small minority of the population.<sup>154</sup>

As the 1955-1956 school year drew closer, Hodges and members of the General Assembly feared school districts in Durham, Greensboro, Asheville, and Chapel Hill would attempt to operate an integrated school system in the new year. Growing out of the fear that larger school districts operating an integrated school system would lead to statewide integration, officials knew something had to be done. As Hodges pointed out in his memoirs, when the 1955 school year began, the state's official policy was to follow the recommendations from the second Pearsall committee and still operate its public schools on a racially segregated system. However, the only means that the state had in which they could ensure segregated schools was the Pupil Assignment Act.<sup>155</sup> In an attempt to put a preemptive end to any potential issues that might arise when the school year began as well as provide the Pearsall committee with additional time, Hodges met with Pearsall and other state officials in hopes of finding a solution.

Foreseeing the potential dangers to the state's public school system as well as the state's overall race relations, Hodges took it upon himself to defuse the potential conflict. On August 8, 1955, while appearing on sixty radio stations and ten television channels across the state, Hodges presented what he called a "practical approach to the problem of segregation" to the citizens of the state. Claiming that "North Carolina now stands at the crossroads," Hodges presented his proposal for voluntary racial segregation to the citizens of North Carolina.<sup>156</sup> In the speech, Hodges explained that the decision of the 1954 *Brown v. Board* case "did not forbid a dual

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<sup>154</sup> Batchelor, "Rule of Law," 171-172

<sup>155</sup> Hodges, *Businessman in the Statehouse*, 87.

<sup>156</sup> Luther Hodges, "Address on State-Wide Radio-Television Network, August 8, 1955," in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), pg. 199-202.

system of schools in which the children of each race voluntarily attended separate schools and had never said that any state must set up a single school system, mixing the children of both races.” That the chief judge of the United States Court of Appeals for the Fourth Circuit, and native North Carolinian, John J. Parker had best explained it by stating, “that the Constitution does not require integration. It merely forbids discrimination.”<sup>157</sup>

Although Hodges knew that a system of voluntarily segregation would not exist as a permanent fix, he believed that it would offer North Carolina more time to address the situation at hand. Speaking directly to African American citizens of the state, Hodges explained that if they accepted a system of voluntarily segregation, then their children would continue to receive a good education and the traditionally African American schools could potentially become even better.<sup>158</sup> At the same time, Hodges was adamant that anyone who refused to cooperate with his plan of voluntary segregation should not be praised or viewed positively, but instead should be seen for what they were, a threat to the education of the state’s children. Believing that members of the African American community as well as the NAACP were real threats to North Carolina, Hodges proclaimed that “citizens of organizations that attempt to force us into deciding this issue will...have done North Carolina the greatest disservice...in the 180 years of its existence.”<sup>159</sup> Any individuals or groups who opposed Hodges’ stance would force his hand when it came to closing the public schools in North Carolina.<sup>160</sup> Following Hodges’ public plea for voluntary segregation, he met with Pearsall to suggest that the advisory committee promote a program that encouraged voluntary choice in every school district. Hodges’ speech was able to ease many of

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<sup>157</sup> Hodges, “Address on State-Wide Radio-Television Network, August 8, 1955, 199-202.

<sup>158</sup> Batchelor, “Rule of Law,” 183.

<sup>159</sup> Batchelor, “Rule of Law,” 183.

<sup>160</sup> Hodges, *Businessman in the Statehouse*, 88.

the fears that existed going into the 1955-1956 school year while at the same time allow the second Pearsall committee more time to address the issue of segregated schools in the fall of 1955.

Reaction to the Governor's plea for voluntary segregation in the public schools was at best, mixed amongst the citizens of North Carolina. Following Hodges' speech, newspapers across the state were quick to pick up the story as well report on the local response. The *Raleigh News and Observer* claimed the best part of Hodges' leadership was his humility and that he embodied "Southern Leadership at Its Best."<sup>161</sup> The paper continued to claim that Hodges' speech was "the first creative contribution to the problem of schools under the recent Supreme Court decisions which has been offered by any public official in the South." The *Raleigh* paper ended its praise of Hodges by stating, "the people of good will and good sense in North Carolina can take no better action than to fall in step behind his leadership."<sup>162</sup> On August 10, two days after the Governor's speech, the *Raleigh News and Observer* once again praised Hodges' "voluntary segregation" plan by stating, "he made the only proposal which could both stand the tests of the courts and preserve the school patterns of the past."<sup>163</sup>

Outside of the *Raleigh News and Observer*, other papers across the state offered similar praise to Hodges. *The Raleigh Times* stated that with his speech, Hodges "established himself as a leading spokesman of the moderate south."<sup>164</sup> The *Sandhill Citizen* described Hodges' speech as "that of a statesman doing everything in his power to lead his people in the right direction," while the *Winston-Salem Journal* stated that it "made a fervent, sincere, and moving appeal to

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<sup>161</sup> "Southern Leadership at Its Best," in *The Raleigh News and Observer*, August 8, 1955.

<sup>162</sup> "Southern Leadership at Its Best."

<sup>163</sup> "Action to Meet the Words," in the *Raleigh News and Observer*, August 10, 1955.

<sup>164</sup> "The Governor Establishes Himself As Speaker of Moderate South," in the *Raleigh Times*, August 8, 1955.

members of both white and Negro races.”<sup>165</sup> In the days following the address, more and more papers such as the *Benson Review*, *The Durham Herald*, and *The Asheville Citizen* all published articles praising Hodges and his work.

The print media was not the only place to offer Hodges’ August 8 address praise. During an August 12 session on the campus of Mars Hill College, the Division of Superintendents of the North Carolina Education Association adopted a resolution supporting Hodges and his plan for voluntary segregation. The resolution stated, “it is the sense of the Division of Superintendents of the NCEA that the recommendations of the Governor offer a sound and practical program for this state and a blue-print for the preservation of a state-wide school system which is the pride of this State and which has in 55 years led North Carolina from the dark days of the post-Reconstruction era to a position of leadership among all states.”<sup>166</sup> Along with the state superintendents, Hodges also received praise from the North Carolina Young Democrats, as well as North Carolina Senator Sam Ervin, who would go on to play a prominent role in the resistance of the 1960s Civil Rights Movement.<sup>167</sup>

At the same time that Hodge’s speech was praised by various outlets across the state, there were also those who opposed what he said on August 8. Author Paul Green was one of the first citizens to speak out against Hodges’ voluntary plan. Green wanted the Governor and his office to take into account the needs of the African American community by appointing African Americans to State board positions.<sup>168</sup> Along with Green, Hodges’ biggest opposition was from

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<sup>165</sup> “Governor Hodges and Segregation,” in the *Sandhill Citizen*, August 11, 1955. And “The Governor’s Appeal,” in the *Winston-Salem Journal*, August 10, 1955.

<sup>166</sup> *Resolution Passed by the Division of Superintendents of the North Carolina Education Association*, Division of Superintendents of the North Carolina Education Association, in the *Raleigh Times*, August 12, 1955.

<sup>167</sup> Batchelor, “Rule of Law”, 184.

<sup>168</sup> Batchelor, “Rule of Law”, 184

the National Association for the Advancement of Colored People (NAACP). In an article in the *Greensboro Record* from August 16, 1955, the NAACP states that it had no intention to cooperate with Hodges or his voluntary segregation program.<sup>169</sup> At the organization's 1955 convention, one speaker went so far as to claim when it came to Hodges's proposal, the NAACP would support "voluntary desegregation" but nothing else.<sup>170</sup> In response to the opposition from the NAACP, Hodges decided to take his plan straight to the African American community. On August 26, during a speech before the North Carolina Teachers Association, the professional organization for African American teachers, at Shaw University, Hodges once again pushed for the support of his voluntary segregation plan. Hodges however, found no such support during the conference at Shaw University as the North Carolina Teacher Association would later go on record to voice its opposition to the voluntary segregation plan.<sup>171</sup> After failing to obtain the support he had hoped for, Hodges issued a statement in September that stated if the state's citizens did not accept the voluntary segregation plan, then he would be forced to resort to options such as local school closings.<sup>172</sup>

As Hodges and other officials continued to campaign for support for his voluntary segregation plan, the members of the Pearsall committee were hard at work drafting a new committee report. Throughout the fall of 1955, Pearsall and his committee continued to review potential plans of action the state could take while paying close attention to the efforts of their fellow southern states as well as the court cases going on elsewhere. One particular state that was

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<sup>169</sup> "No Middle Course," in the *Greensboro Record*, August 16, 1955.

<sup>170</sup> Batchelor, "Rule of Law," 186

<sup>171</sup> "Hodges Pleas is Rejected by Negroes: Teachers Rebuff Voluntary Plan," in the *Raleigh News and Observer*, August 27, 1955.

<sup>172</sup> "The Segregation Problem in the Public Schools of North Carolina: Summary of Statements and Actions by Governor Luther H. Hodges," Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

given close attention by the committee was Mississippi. Believing that Mississippi had perfected a plan that would use tax funds to support segregated private schools, several committee members were in favor of adopting it for North Carolina.<sup>173</sup> After months of internal debate, research and drafting, the basic outline of the committee's second report was finalized by December 1955, with Pearsall providing Hodges and other state officials a draft copy for review.<sup>174</sup>

This new report reflected the opinion of the committee, which believed that the Supreme Court's decision had all but destroyed the foundation of North Carolina's public schools but that the decision would have to be accepted and that eventually North Carolina would have to desegregate its schools.<sup>175</sup> The interim report concluded by stating, "So, we think it just as plain as can be that our problem is to live and go forward under the Supreme Court decision; and to build new school system, regretfully acknowledging the invalidity of law compelled segregation."<sup>176</sup> Upon receiving the draft of the interim report, Hodges invited small groups of state legislators to Raleigh in order to the committee's report and recommendations in private.<sup>177</sup> In March of 1956, following the release of the second Pearsall committee's interim report, North Carolina's defiance of school desegregation would reach the national stage as eleven North Carolina politicians signed their names in support of the "Southern Manifesto." The "Southern Manifesto," which was co-authored by North Carolina Senator Sam Ervin, condemned the

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<sup>173</sup> Batchelor, "Rule of Law," 193.

<sup>174</sup> Batchelor, "Rule of Law," 199.

<sup>175</sup> "Interim Report of the North Carolina Advisory Committee on Education," dated January 16, 1956 in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>176</sup> "Interim Report of the North Carolina Advisory Committee on Education," dated January 16, 1956 in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>177</sup> Hodges, *Businessman in the Statehouse*, 91.

Supreme Court for the “unwarranted decision” of *Brown v. Board*. Believing the case was a “clear abuse of judicial power” in which the judges, “with no legal basis for such action, undertook to exercise their naked judicial power and substituted their personal political and social ideas for the established law of the land,” those who signed it pledged “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>178</sup>

On April 5, 1956, following the meetings between Hodges and state legislatures, the second Pearsall committee released its new report to the citizens of the state.<sup>179</sup> This new report recommended that local school boards be given the authority to close public schools that were faced with integration. It also supported the idea that state tuition grants be provided to the families of students who were being forced to attend integrated schools. The committee finished the report by urging Hodges to summon a special session of the General Assembly to discuss the report and potential changes to the state constitution.<sup>180</sup> Hodges, after publically supporting the new report, heeded its recommendations and called for a special session of the General Assembly to meet in July of that year.<sup>181</sup> Both Hodges and Pearsall now knew that the next step would be to secure support, both from politicians and citizens, for the recommendations put forth by the committee.

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<sup>178</sup> All information on the Southern Manifesto and quotes come from, Anthony Badger, “The South Confronts the Court: The Southern Manifesto of 1956,” *The Journal of Policy History* 20 (2008): 126.

<sup>179</sup> “Report of The North Carolina Advisory Committee on Education,” dated April 5, 1956, in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>180</sup> “Report of The North Carolina Advisory Committee on Education,” dated April 5, 1956, in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>181</sup> Hodges, *Businessman in the Statehouse*, 92.

In order to gain the much-needed support for their plan, Pearsall and Hodges began a two-part process aimed at presenting it to the public and to state officials. In the weeks leading up to the special session of the General Assembly, Pearsall and his fellow committee members attempted to gain the public's support through a variety of means. Pearsall also prepared statements for television and radio interviews that aimed to explain the report in depth.<sup>182</sup> Pearsall also accepted a number of speaking arrangements, such as the one with the joint literary club of Rocky Mount, in hopes of persuading those in attendance to support the committee's work.<sup>183</sup>

During this same time, Hodges began working on political support for the committee's recommendations and focused his attention upon the members of the state General Assembly. To obtain the needed political backing, Hodges thought it best to stay out of the public eye when discussing the issue with legislators. To accomplish this, he decided to hold four "secret" meetings between himself, Pearsall, and members of the legislative body.<sup>184</sup> At these meetings, Hodges and Pearsall were able to sit down with the legislature and review the committee's report as well as present the potential course of actions that were under consideration at the time. They were also able to openly discuss and debate the issues due to a lack of fear that the public or press would find out what was being discussed.<sup>185</sup> Hodges also attempted to reach out to the people of North Carolina to build public support for the committee's work as well. On July 14, he went before the state media with an address to explain the proposed legislation that had

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<sup>182</sup>"Radio and Television Report of North Carolina Advisory Committee on Education," dated April 5, 1956, in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>183</sup> Memorandum for talk to joint literary clubs of Rocky Mount, dated May 1, 1956, in Folder 13, North Carolina Advisory Committee in Education, 1956, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>184</sup> Hodges, *Businessman in the Statehouse*, 92-93.

<sup>185</sup> Hodges, *Businessman in the Statehouse*, 93.

resulted from the work of the Pearsall committee. In this address, Hodges pointed out that the plan was created as a way to stop outside groups from attempting to force integration, as well as to discourage the demands for a complete shutdown of the public school system.<sup>186</sup>

The crucial task of formulating the second Pearsall committee's report into legislation was given to the state Attorney General's office; much like had been done with the 1955 legislation.<sup>187</sup> While the Attorney General's office was busy creating the new legislation, Hodges and Pearsall set out to obtain early support for the proposed bills from the State Board of Education and Dr. Charles Carroll, the State Superintendent. Private meetings were also set up for Hodges and Pearsall to discuss the legislation with the North Carolina Parent Teacher Association (P.T.A.) as well as the North Carolina Education Association (NCEA).<sup>188</sup> Hodges called the North Carolina General Assembly into special session on July 23 where he presented his proposed legislative plan to a joint session of both houses. When the work of the committee was presented to the members of the General Assembly, it appeared as eight individual bills lumped together under the name of the Pearsall Plan. These eight resulting bills included:

- The first bill was an amendment to the state constitution that would authorize tuition grants to be used for private schools and to allow public schools to be closed if the population voted for it.
- The second bill called for a general election in September in order to authorize expense grants and local option allowances.

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<sup>186</sup> Hodges, *Businessman in the Statehouse*, 93.

<sup>187</sup> Hodges, *Businessman in the Statehouse*, 92.

<sup>188</sup> Hodges, *Businessman in the Statehouse*, 92.-93

- The third bill proposed that the state provide tuition funds for families of students wanting to avoid attending a desegregated school and instead enroll in private secular school.
- The fourth bill granted local school board officials the power to close public schools that were facing desegregation.
- Bill number five proposed the state legislature revoke the compulsory attendance law.
- Bill number six allowed for the release of the private education funds before the seating of the 1957 General Assembly.
- The seventh bill was an alternate form of number four with minor changes to the authority of local administrators mentioned.
- The eighth and final bill condemned the decision of the United States Supreme Court and proclaimed that the court was undermining the rights and power of the states.<sup>189</sup>

The proposed Pearsall Plan ultimately would make the closing of schools a possibility to avoid desegregation, although, this task would remain extremely difficult to complete. At the same time, the plan provided means in which private schools could be formed and used as a means for students to avoid desegregated classrooms. Just as the steps required to close public schools were designed to be strenuous, the process required to form a new private school in the state would be extremely difficult as well, in hope that it would persuade citizens not to attempt it. Overall, the Pearsall Plan shifted more of the everyday control of the public school system from the state to local authorities in hopes of preventing any federal interference within the state. Hodges, Pearsall, and others who were supportive of the new plan praised it as both a "safety valve" against potential racial tension as well as a means to preserve segregation in education.

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<sup>189</sup> Hodges, *Businessman in the Statehouse*, 94

According to Hodges, the contents of the Pearsall Plan existed to provide protection for schools when it came to desegregation, not to forcefully close schools across the state.<sup>190</sup>

Even though the recommendations in the Pearsall Plan had the support of Hodges and other state leaders, there remained those who openly opposed the legislation. Opposition came from not only members of the General Assembly and other state officials, but from the public as well. Organizations such as the State Congress of Parents and Teachers opposed the legislation and even went as far as to introduce their own recommendations, which Hodges described as similar to the Pearsall Plan but without the tuition grants or the local option.<sup>191</sup> Following the announcement of the proposed Pearsall Plan, the NAACP also spoke out against the legislation, promising “all kinds of attacks.”<sup>192</sup> As the Pearsall Plan went before public hearings, several other voices of opposition came forward to challenge the legislation. The most common complaint of those who opposed the proposed legislation was that it was not strict enough on the issue of desegregation and therefore would be unable to stall its implementation. Even though there existed a vocal group of citizens a groups who opposed the legislation, the General Assembly voted overwhelmingly to pass the Pearsall Plan into law on July 27, 1956, with a final vote of 168-to-2.<sup>193</sup>

Following its victory in the state legislature, the Pearsall Plan moved into a public referendum for a vote of approval, scheduled for September 7, 1956. Just as it had during the General Assembly’s review of the legislation, opposition to the plan not only existed during the

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<sup>190</sup> Hodges, *Businessman in the Statehouse*, 94-5

<sup>191</sup> Hodges, *Businessman in the Statehouse*, 95.

<sup>192</sup> Hodges, *Businessman in the Statehouse*, 95.

<sup>193</sup> Hodges, *Businessman in the Statehouse*, 101

campaign for public approval, but according to Hodges, it intensified.<sup>194</sup> Mrs. John Crawford, president of the North Carolina PTA, feared that the plan “could destroy the public schools as well as force the integration of the races” and thus it must be defeated.<sup>195</sup> Leaders within the African American community, along with pro-desegregation Whites, also voiced their opinions, claiming that the plan was a direct violation of the *Brown decision*. *At the same time, those who were described as* staunch segregationists opposed the proposed plan because according to them, it did not provide the state’s education system with adequate protection from integration and they openly lobbied for “tougher” actions to be included.<sup>196</sup>

The plan was not without its supporters during the campaign leading up to the public referendum either though. Newspapers such as *The Asheville Citizen-Times*, the *Greensboro Record*, the *Durham Sun*, and many others wrote favorable articles in support of Hodges and the plan.<sup>197</sup> The members of the State Board of Education as well as the directors of the NCEA openly supported the plan. Perhaps the most important voice of support came from State Superintendent Dr. Carroll. Initially wanting to avoid choosing sides in the debate, Dr. Carroll eventually came out in support of the plan by stating, “it was the best immediate action that could be taken to deal with the school segregation issue.”<sup>198</sup> Not looking to miss an opportunity to support the plan, Hodges went on television and radio channels across the state on the night before the vote. During his speech urging citizens to vote, Hodges stated, “In my humble opinion, the safety and well-being of public education in North Carolina demands the passage of

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<sup>194</sup> Hodges, *Businessman in the Statehouse*, 101

<sup>195</sup> Hodges, *Businessman in the Statehouse*, 101

<sup>196</sup> Hodges, *Businessman in the Statehouse*, 101.

<sup>197</sup> Batchelor, “Rule of Law,” 206-207.

<sup>198</sup> Hodges, *Businessman in the Statehouse*, 102.

the Special Session School Amendment. I urge as strongly as possible that you vote FOR the amendment.”<sup>199</sup>

When the polls closed on September 8, 1956, it was Hodges, Pearsall, and other supporters of the plan that emerged victorious. North Carolina citizens had taken the advice of Hodges and approved the proposals by a margin of more than four-to-one with an astounding 80 percent of citizens in favor of the Pearsall Plan in one of the largest special election turnouts in the history of the state.<sup>200</sup> In fact, Winston-Salem was the only city that voted against the Pearsall Plan, but even there the final margin of victory was five votes out of nine thousand.<sup>201</sup> The ratification of the Pearsall Plan provided North Carolina another way in which it could resist school desegregation. Much like the Pupil Assignment Act of 1955, the Pearsall Plan provided a way for state officials to ensure schools could remain segregated without opposing the ruling of the *Brown* case by using other factors instead of a student’s race.

Following its ratification, the Pearsall Plan remained apart of North Carolina law for over the better part of a decade. State officials, however, never used the policies and procedures aimed at stalling desegregation within public schools. There were no public schools closed to avoid desegregation and only one local school boards granted tuition funds to families wanting to escape integration. In fact, historical evidence shows that The Pupil Assignment Act of 1955, the Pearsall Plan, and the later instituted “Freedom of Choice” plan were able ultimately able to stall the progress of school desegregation throughout the North Carolina well into the 1960s. With help from the state’s citizens, Hodges, Pearsall, and other officials were able to vault North

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<sup>199</sup> Hodges, *Businessman in the Statehouse*, 104.

<sup>200</sup> Hodges, *Businessman in the Statehouse*, 104.

<sup>201</sup> Hodges, *Businessman in the Statehouse*, 105.

Carolina to the front of the desegregation resistance movement. In fact, following the passing of the implementation of the Pupil Assignment Act and the Pearsall Plan, other southern states began to adopt a policy similar to that of North Carolina. The state of Virginia and cities such as Atlanta, Georgia were just two of the places that decided to adopt the “moderate” model of assigning students to schools to ensure segregation.<sup>202</sup> The Pearsall committees and resulting legislation speak for the strong leadership and sharp legal minds that existed within North Carolina during this time. These actions, however, would not go unopposed by the African American community of North Carolina or the federal court systems in the years following 1956.

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<sup>202</sup> “Atlanta Borrows N.C. Plan,” *Kannapolis Independent*, December 8, 1959, in Series 2.5 School Segregation, Folder 780, in the Terry Sanford Papers #3531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

## CHAPTER 4

### TOKEN SCHOOL INTEGRATION, LITIGATION, and ELECTIONS: SCHOOL DESEGREGATION IN NORTH CAROLINA, 1955-1956

The passing of the Pearsall Plan on September 8, 1956, did not end the debate over school desegregation in North Carolina. Just as the period leading up the referendum vote saw both sides of the school desegregation issue voice their opinions, the period following the legislation's approval was no different. In the ten years following the approval of the Pearsall Plan, North Carolina found itself intertwined in court case after court case challenging segregated schools across the state. Government officials also found the state being affected by larger Civil Rights events that were taking place outside the borders of the Tar Heel state. In the decade following the work of the first and second Pearsall Committees, Hodges, Pearsall, and other state officials realized that the struggle to preserve the public school systems was far from over and the culture surrounding racial equality in the South was quickly changing, whether North Carolina accepted it or not.

Throughout the struggle for school desegregation, members of both North Carolina's African American community as well as those pro-integration supporters remained vocal and outspoken against the efforts of the state's government. African American citizens had begun protesting the government's actions in the years leading up to 1956 as well as after the passing of new legislation aimed at delaying integration. In January 1955, fifty leaders from the African American community met in Durham in order to voice their opposition to the proposed

legislation of Governor Hodges and the first Pearsall Committee.<sup>203</sup> These community leaders were pleading with the state General Assembly to let members of the African American population testify before the legislative body held any votes on the Pupil Assignment Act of 1955, a plea that went unanswered.<sup>204</sup>

Similar to the opposition of the 1955 legislation, the Pearsall Plan was openly attacked by members from both the African American and pro-integration communities. In fact, prior to the legislation passing in the General Assembly, several North Carolina organizations spoke out against the legislation's wording and began planning to undertake desegregation efforts across the state themselves.<sup>205</sup> These groups included: The Chapel Hill-Carrboro Ministerial Association, Colored Citizens of One Hundred Counties, The General Baptist State Convention, The Interracial Fellowship Schools of Carrboro and Chapel Hill, The State Legislative Council, and many others. The most prominent and noteworthy organization that proposed the legislation of 1956 was the North Carolina Teacher's Association (NCTA). With a constituency of well over nine thousand African American citizens, the NCTA undertook a strong opposition to the Pearsall Plan in the time leading up to its ratification as well as after. In May 1956, the group published a scathing editorial in the organization's monthly magazine, *North Carolina Teachers Report*, which discredited the language of the Pearsall Plan as well as the recommendations of the second Pearsall committee while also calling for "integration without compromise."<sup>206</sup> The final ratification of the Pearsall Plan did not stop the NCTA from voicing their opinions against the legislation. The 77<sup>th</sup> Annual Convention of the NCTA came forward with their own call for

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<sup>203</sup> Wilmas Peebles-Wilkins, "Reactions of Segments of the Black Community to the North Carolina Pearsall Plan, 1954-1966," *Phylon* vol. 48 No. 2 (1987): 115.

<sup>204</sup> Peebles-Wilkins, "Reactions of Segments of the Black Community," 115.

<sup>205</sup> Peebles-Wilkins, "Reactions of Segments of the Black Community," 115-116.

<sup>206</sup> Peebles-Wilkins, "Reactions of Segments of the Black Community," 115-116

compliance with the 1954 *Brown* decision in May of 1958. They also proclaimed that the Pupil Assignment Act of 1955 and the Pearsall Plan were “deliberately formulated to circumvent the *Brown* decision.”<sup>207</sup> The NCTA is just one example of opposing voices who called for the repeal of the Pearsall Plan and Pupil Assignment Act of 1955. In the years following the passing of the two pieces of legislation, individuals and groups ranging from The North Carolina Knights of Pythians to renowned North Carolina religious figure Reverend Billy Graham all voiced their disgust with North Carolina’s efforts at retaining segregated schools.<sup>208</sup> Graham criticized the state’s decision as “unchristian” and stated that it went against the teachings of the Bible because “God has made all nation’s of one blood.”<sup>209</sup> North Carolina’s legislative attempts at stalling school desegregation would not exist without controversy following their implementation. Hodges, Pearsall, and other states officials would soon find themselves defending the Pupil Assignment Act of 1955 and the Pearsall Plan within the federal courtroom as well as the court of public opinion.

The days following the ratification of the Pearsall Plan were not just filled with the opinions of those who opposed the legislation. Several supporters of Hodges, Pearsall, and their work came forward offering praise to the state government. State senator, and future governor, Terry Sanford called the Pearsall Plan “a step toward moderation, unity, understanding, and goodwill.”<sup>210</sup> Along with the praise of Sanford, the Pearsall Plan and its creators also received the public support from North Carolina senator Sam Ervin, a staunch opponent of the *Brown*

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<sup>207</sup> Peebles-Wilkins, “Reactions of Segments of the Black Community,” 116.

<sup>208</sup> “School Plan is Denounced by N.C. Pythians,” in the *Carolina Times*, July 18, 1956. And “Billy Graham on Segregation,” in the *Carolina Times*, March 19, 1955.

<sup>209</sup> “Billy Graham on Segregation.”

<sup>210</sup> William S. Powell, *North Carolina Through Four Centuries*, (Chapel Hill: The University of North Carolina Press: 1989), 521-522.

decision, who believed that North Carolina response to school desegregation was so strong that racial segregation “will be challenged very slowly by the Supreme Court’s latest decision”.<sup>211</sup> Along with the support of state politicians, Hodges, Pearsall, and the Pearsall Plan received support from a variety of newspapers from across the state following the September referendum. The *Fayetteville Observer* described the plan as “a fire extinguisher” while the *Greensboro Daily News* wrote that “the Pearsall Plan allowed North Carolina to tread the tortuous and narrow path ahead safely.”<sup>212</sup> These papers recognized the Pearsall Plan for what it truly was, an attempt by Hodges and Pearsall to provide a means in which eventual desegregation could happen peacefully without federal intervention.<sup>213</sup> In fact, in Hodge’s memoirs written several years after the legislation was passed, the former governor claims that the true lasting legacy of Pearsall’s and his work is that it provided North Carolina a moderate approach to racial desegregation that allowed the state to keep the peace.<sup>214</sup>

The 1956-57 school year in North Carolina began under the system of voluntary segregation that Hodges had pushed so hard for during the summer of 1955. The reason behind this was that state officials believed that local school officials should be allowed a period of adjustment in which they could reevaluate their personal opinions surrounding the issue and if they so choose, seek different employment.<sup>215</sup> This reliance on voluntary segregation did not ensure a peaceful period of transition for public schools across the state. Twenty-six petitions calling for desegregation were brought before local schools boards at the beginning of the 1956-

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<sup>211</sup> Karl E. Campbell, *Senator Same Ervin: Last of the Founding Fathers*, (Chapel Hill: The University of North Carolina Press: 2007), 163.

<sup>212</sup> Powell, *North Carolina*, 522.

<sup>213</sup> Powell, *North Carolina*, 522.

<sup>214</sup> Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel hill, NC: The University of North Carolina Press, 1962), 107.

<sup>215</sup> John E. Batchelor, “Rule of Law: North Carolina School Desegregation from Brown to Swann, 1954-1974” (doctoral dissertation, North Carolina State University, 1992), 232.

57 school year, while sixty-seven districts appointed committees to examine whether desegregation was an actual possibility.<sup>216</sup> However, it is unclear whether or not the appointed committees actually attempted to make plans to admit African American students into previously segregated public schools. Surprisingly enough during this time, Hodges, Pearsall, and other state officials remained quite on the issue of school desegregation. This was mainly due to the fact that officials believed the strength of the Pearsall Plan relied on the acceptance from local school boards of their new powers and authority. At the same time, with the committee's work coming to an end, Pearsall found himself with a new position in Hodge's government. Now acting as a private citizen on the behalf of the governor, the former chair began meeting with school leaders across the state in order to raise support for voluntary desegregation to begin taking place in 1957.<sup>217</sup> It was during this same time that historian Anders Walker claims in his work, *The Ghost of Jim Crow*, with the victory of the Pearsall Plan behind him, Hodges' perceptions of the African American community quickly changed for the worse. Believing that the Pearsall Plan had solved the state's desegregation, Walker argues that Hodges began attacking the very same African American citizens he had previously looked towards for political support. Hodges began publically attacking the illegitimacy rates within the African American community as well as welfare abuse in political speeches across the state.<sup>218</sup> The debate over desegregation would change drastically in 1956 with the passage of the Pearsall Plan and the

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<sup>216</sup> Batchelor, "Rule of Law," 232-233.

<sup>217</sup> Batchelor, "Rule of Law," 233-234.

<sup>218</sup> Anders Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York, NY: Oxford University Press, 2009), 66.

unanimous approval of all one hundred counties to implement it for the 1957-1958 school year in the fall of that same year.<sup>219</sup>

The discussion over the need for desegregation in North Carolina schools entered the public realm on a larger scale during the fall of 1956 as well. This was largely due to former Pearsall committee members William T. Joyner and Holt McPherson, who publically went on the record stating their belief that some form of school desegregation must occur but on a voluntary basis.<sup>220</sup> Due to the position that these two individuals held during the debate over school desegregation, several newspapers across the state reported their opinion as representations of the Pearsall Committee and the state government. Hodges refused to comment on the situation and instead continued to claim that any pupil assignment in the public schools continued to remain the problem for the local school boards.<sup>221</sup> Hodges and Pearsall believed that the state government must continue to operate under a “hands off” policy when it came to school desegregation because if the Pearsall Plan was to hold up in court, then the local school boards would have to prove their ability to make accurate decisions.<sup>222</sup> With the Pearsall Plan now in place, it would be up to the local authorities to carry out school desegregation in North Carolina.

In March 1957, the segregated school system in North Carolina met its first serious challenge in the post-Pearsall Plan era when Dr. Regina Hawkins and the families of African American students challenged the segregated schools of the Charlotte City Schools district.<sup>223</sup> After gaining the surprising support of Charlotte Superintendent Elmer Garinger, who when addressing Dr. Hawkins and the issue before the Board of Charlotte City Schools stated

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<sup>219</sup> Hodges, *Businessman in the Statehouse*, 107-108.

<sup>220</sup> Batchelor, “Rule of Law,” 233.

<sup>221</sup> Batchelor, “Rule of Law,” 234.

<sup>222</sup> Batchelor, “Rule of Law,” 234.

<sup>223</sup> Frye Gaillard, *The Dream Deferred*, Chapel Hill: The University of North Carolina Press, 1988), 20.

“desegregation is not only the law, it is also right,” several school administrators from various cities met during the summer of 1957 to discuss the issue of desegregating their school districts.<sup>224</sup> At these meetings, school board officials representing Charlotte, Greensboro, and Winston-Salem received the support of Pearsall who attended several of these meetings personally. Hodges or any other state official, however, remained absent from the meetings on the advice of the Attorney General’s office who believed that state officials should avoid interference as a way to show their belief in the local school boards.<sup>225</sup> At the conclusion of these summer meetings, the cities of Charlotte, Greensboro, and Winston-Salem were chosen as to admit African American students at the beginning of the new school year. According to Guy B. Phillips; the Dean of the School of Education at UNC, the founder of the State School Boards Association, and a member of the State Board of Education, the selection of these three cities “was not an experiment, but the beginning of a freedom of choice approach to school desegregation.”<sup>226</sup>

At the beginning of the 1957-58 school year, African American students were enrolled for the first time in previously all white schools in Charlotte, Greensboro, and Winston-Salem.<sup>227</sup> A total of four African American students were enrolled in various Charlotte schools, six in schools in Greensboro, while only one was admitted to Reynolds High School in Winston-Salem while the school board denied thirty nine other African American students.<sup>228</sup> School districts in Raleigh and Mecklenburg County denied all transfer requests choosing not to involve themselves

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<sup>224</sup> Gaillard, *The Dream Deferred*, 20-21.

<sup>225</sup> Batchelor, “Rule of Law,” 235.

<sup>226</sup> Batchelor, “Rule of Law,” 235.

<sup>227</sup> “Integration’s Spread in N.C. Schools Is Seen.” And “Three Cities Settling Down After Integrating Schools,” in the *Raleigh News and Observer*, September 7, 1957.

<sup>228</sup> “Integration’s Spread in N.C. Schools Is Seen,” “Three Cities Settling Down After Integrating Schools,” in the *Raleigh News and Observer*, September 7, 1957. and “Admissions May Help State’s Legal Position,” in the *Raleigh News and Observer*, July 24, 1957.

in the situation.<sup>229</sup> Following the announcement of the admissions of the African American students in the three school districts, Hodges went on record ensuring his position when it came to supporting segregation. Hodges released a public statement through his office stating, “My personal view against mixing of the races is well known. Without judging whether recent actions by some local school boards are right or wrong in accepting or rejecting negro applicants, I want to emphasize that the State and the people of North Carolina will not tolerate any lawlessness or violence in connection with this problem.”<sup>230</sup> Hodges publically praised the school boards for undertaking the desegregation initiative and was boastful that North Carolina was able to undertake this progress without violence lawlessness.<sup>231</sup>

Although Hodges publically stated his belief that North Carolina would be able to undertake token desegregation peacefully, privately he believed that the citizens of his state would not truly accept even the slightest form of desegregation. Throughout his memoirs, Hodges mentions how the ever present fear of violence surrounding school desegregation plagued his mind. This fear is perhaps best seen in his recounting of his public address against the Ku Klux Klan, a group that he claimed had “shown itself to be an organization of violence and intimidation that would not be tolerated in North Carolina.”<sup>232</sup> Fearful that any form of racially motivated violence would tarnish the moderate representation of his state and his administration, Hodges ordered his staff to work with the North Carolina State Highway Patrol Office to position extra officers around newly integrated schools for security measures.<sup>233</sup> Police

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<sup>229</sup> Batchelor, “Rule of Law,” 235.

<sup>230</sup> Statement by Governor Luther Hodges, August 29, 1957, in Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>231</sup> Hodges, *Businessman in the Statehouse*, 106.

<sup>232</sup> Hodges, *Businessman in the Statehouse*, 122.

<sup>233</sup> Highway Patrol reports, September 1957, in Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

records also show that along with the increase in State Highway Patrol Officers in areas where integration took place, undercover local law enforcement agents were also within the schools with the tasks of observing and reporting back to Hodges himself.<sup>234</sup> Hodges was constantly fearful that violent reactions to school desegregation would tarnish the reputation of his administration and his state as the moderate model of the south, a label given to him during the summer of 1955.

The efforts to integrate schools within North Carolina did not receive the same attention from the national media that it did within the state. As Hodges pointed out in his memoirs, the initial token integration of public schools in Greensboro appeared on the thirty-fourth page of the *New York Times* the following day. According to Hodges, this was because Greensboro lacked any form of disorder or racially charged violence.<sup>235</sup> However, the coverage surrounding the initial integration of Charlotte schools varied greatly. Dorothy Counts, the first African American student enrolled at the previously all-white Harding High, was met with open resistance from members of the white community as she attempted to enter the school. Followers of John Kasper, the staunch segregationist who had caused trouble during the desegregation of Clinton, Tennessee, openly harassed Counts on her first day of school.<sup>236</sup> The harassment spread from the white adults to the students of Harding High to the point to where one female student spit on Counts while others threw ice at her.<sup>237</sup> This disorderly conduct attracted the attention of national media the day after Charlotte schools opened; the *New York Times* carried the story on the front

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<sup>234</sup> Highway Patrol reports, September 1957, in Folder 1815, in the Luther Hartwell Hodges papers #3698, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>235</sup> Hodges, *Businessman in the Statehouse*, 108.

<sup>236</sup> Hodges, *Businessman in the Statehouse*, 108-109.

<sup>237</sup> Batchelor, "Rule of Law," 238.

page of the paper and even went as far as to include a re-enacted photo of the incident.<sup>238</sup> The incident received even more public attention when Counts withdrew from Harding High after only four days.<sup>239</sup> Hodges paid close attention to the media reports on his state and spoke often about what he considered unfair articles from papers such as the *New York Times* during speeches in Florida and at Harvard University.<sup>240</sup> Hodges never missed a chance to praise the accomplishments of his state.

As the process of token integration began in North Carolina schools, an increase in litigation directed towards the state's segregation policies and laws. Throughout the state, African American families continued to petition local school boards for enrollments in all white public schools. The first major case challenging state policies came to fruition in 1956. In *Covington v. Montgomery County School Board*, the attorneys for Helen Covington requested that a special panel of three judges oversee any case in which an officer of the state would be involved. This would effectively terminate the authority that local officials had on pupil assignment, the central part of the Pupil Assignment Act of 1955.<sup>241</sup> In the official ruling, Judge Johnson J. Hayes proclaimed that while assigning students by race was unconstitutional, individuals did not have the right to appear before a panel of three judges.<sup>242</sup> In *Carson v. Warlick*, African American families and their lawyers requested the court to proclaim that local school boards must enroll African American students without following the procedures laid out

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<sup>238</sup> Hodges, *Businessman in the Statehouse*, 108-109.

<sup>239</sup> Batchelor, "Rule of Law," 238.

<sup>240</sup> Hodges, *Businessman in the Statehouse*, 109-110.

<sup>241</sup> Report to the Advisory Committee on Education, 1958, in Folder 16: Folder 16, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>242</sup> Report to the Advisory Committee on Education, 1958, in Folder 16: Folder 16, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

in the Pupil Assignment Act of 1955.<sup>243</sup> Federal judges refused, however, the request by proclaiming that the Pupil Assignment Act of 1955 could not be considered unconstitutional because students were not being placed due to their race.<sup>244</sup> The Court sided with North Carolina by proclaiming, “Somebody must enroll the pupils in the schools. They cannot enroll themselves; and we can think of no one better qualified to undertake the task than the officials of the schools and the school boards having the schools in charge. It is to be presumed that these will obey the law, observe the standards prescribed by the legislature, and avoid the discrimination on account of race which the Constitution forbids. Not until they have been applied to and have failed to give relief should the courts be asked to interfere in school administration.”<sup>245</sup> A series of several other court cases throughout 1957 resulted in favorable opinions for Hodges and the state government. By the end of the year, the Federal Courts had once again reinforced the Pupil Assignment Act of 1955 and the Pearsall Plan by giving the choices of the local school boards the full support of the Court. Minus the few mishaps in Charlotte, the process of desegregation overall went smoothly just as Hodges had hoped for. The situation in North Carolina differed greatly compared to the events going on in other southern states, such as Arkansas.

As President Dwight Eisenhower deployed the 101<sup>st</sup> Airborne to Little Rock, Arkansas to restore peace in light of Governor Orville Faubus efforts to prevent African American students from entering Little Rock Central High School, the Southern Governors’ Conference appointed

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<sup>243</sup> Report to the Advisory Committee on Education, 1958, in Folder 16: Folder 16, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>244</sup> Report to the Advisory Committee on Education, 1958, in Folder 16: Folder 16, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>245</sup> “United States Court of Appeals, Fourth Circuit: *Carson V. Warlick*,” last modified 2013, <https://casetext.com/case/carson-v-warlick#summary>.

Hodges along with three other southern governors to travel to Washington D.C. to meet with the president.<sup>246</sup> Hodges, who feared that social unrest or racial violence would hurt the South's cause when it came to resisting school desegregation, was desperate to find a solution to the problems happening in Arkansas before it caused irreparable damage in the nation's eyes.<sup>247</sup> After working with the President Eisenhower directly, as well as his fellow governors, Hodges attempted to ease the situation between the two parties by attempting to persuade Faubus to agree to a proposal drafted by the President's office.<sup>248</sup> Although Faubus refused to agree to the proposals, proving Hodges efforts futile, the North Carolina governor would reflect on the Little Rock situation and explain often how he was grateful that North Carolina citizens were able to remain civil, unlike those in other states.<sup>249</sup>

Even as Hodges' term as governor drew to close, efforts to forestall school desegregation across North Carolina continued. Although African American students were integrated into previously all white public schools in Havelock-Craven County, Wayne County, the city of Durham, and High Point by 1959 and plans were in place to integrate schools in Chapel Hill, Raleigh, and Yancey County in the spring 1960, the total number of integrated schools across the

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<sup>246</sup> Transcription Session on History of the Integration Situation in North Carolina, Saturday, September 3, 1960, Governor's Office, State Capital, Raleigh, in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>247</sup> Transcription Session on History of the Integration Situation in North Carolina, Saturday, September 3, 1960, Governor's Office, State Capital, Raleigh, in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>248</sup> Transcription Session on History of the Integration Situation in North Carolina, Saturday, September 3, 1960, Governor's Office, State Capital, Raleigh, in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>249</sup> Transcription Session on History of the Integration Situation in North Carolina, Saturday, September 3, 1960, Governor's Office, State Capital, Raleigh, in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

states was minute at best.<sup>250</sup> In fact, at the start of the 1958-59 school year, only ten of North Carolina's estimated three hundred thousand plus African American students had been fully integrated.<sup>251</sup> The procedures laid out by the Pupil Assignment Act of 1955 and the "safety valves" provided by the Pearsall Plan allowed the state's public schools to continue to operate without out racial violence or social unrest even in times of token integration.

Race relations and the issue of school desegregation became a central part of the 1960's governor race as Democratic State Senator Terry Sanford and former Assistant Attorney General Beverly Lake emerged as the front runners for the state's highest office. Even though Sanford emerged victorious in the Democratic primary, he failed to receive a majority of the votes. This led to Lake, who had finished a close second in the race, to challenge Sanford to a runoff.<sup>252</sup> During this rare second primary, race became a central arguing point for the two candidates. The election effectively split the members of the former Pearsall Committee. Pearsall and Joyner both publically supported Sanford and his campaign efforts while W.W. Taylor went on the record claiming that it was actually Lake, not Pearsall, who had authored the Pupil Assignment Act of 1955.<sup>253</sup> The second Democratic primary also divided the state's population along the line of staunch segregationists and supporters of Umstead, Hodges, and Pearsall's plan for moderation. Pearsall and other supporters of Sanford continued to point out Lake's segregationist past including his efforts to ensure segregation in the state during 1955, as well as his run ins with the state's NAACP chapter, which led to his resignation.<sup>254</sup> At the same time, Sanford attempted to

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<sup>250</sup> William S. Powell, *North Carolina: Through Four Centuries*, (Chapel Hill: The University of North Carolina Press, 1989), 522.

<sup>251</sup> Powell, *North Carolina*, 522-523.

<sup>252</sup> Batchelor, "Rule of Law," 290-291.

<sup>253</sup> Batchelor, "Rule of Law," 291-292.

<sup>254</sup> Batchelor, "Rule of Law," 292-293..

ensure citizens of the state that he was in favor of the plans laid out by his predecessors. In an article from the *Raleigh News and Observer*, Sanford proclaimed “I stand with 90 per cent of the people of our State who approve the present North Carolina approach which is being copied by other Southern states.” For Sanford, there was no other option for North Carolina other than the plans laid out by the first and second Pearsall Committees as he made clear by stating, “I haven’t seen any other workable plan.”<sup>255</sup> With the support of the state’s population that favored a moderate approach, Sanford would go on to defeat Lake in the second primary and defeat Republican candidate Robert Gavin to become the new governor of North Carolina.<sup>256</sup> Historian Anders Walker and former governor Hodges himself argue that the election of Sanford proved that the citizens of North Carolina supported the moderate approach over a hard line stance of segregation.

As Sanford was busy securing his victory in the 1960 governor’s election, the North Carolina Advisory Committee on Civil Rights was busy preparing its first report that would be presented to the federal and state governments that fall. Created under the Civil Rights Act of 1957, the advisory committee was to study the state’s public schools and report on the process of desegregation within them.<sup>257</sup> In its report presented in October 1960, the committee reported that of the estimated 235,000 African Americans students throughout the state, only seventy-

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<sup>255</sup> “Terry Sanford Backs Moderate Approach,” in the *Raleigh News and Observer*, March 17, 1960, in the Terry Sanford papers #03531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>256</sup> “Sanford is Winner in Second Vote,” in *The Washington Post and Times Herald*, June 26, 1960 A11. And “North Carolina Democratic,” in *The New York Times*, November 9, 1960, 15.

<sup>257</sup> North Carolina Advisory Committee on Civil Rights, *Report of October 1, 1960* (Raleigh: North Carolina Advisory Committee, 1960). in Folder 18: Folder 18, Governor’s Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

seven were integrated into previously all-white public schools.<sup>258</sup> Even more alarming from the committee's report was the realization that the state's largest school districts were not being truly integrated. The report showed that only one African American student was attending a previously all-white public school while schools in the Charlotte districts had only two cases of integration.<sup>259</sup> At the same time, the committee reported that of all schools districts in North Carolina, Durham had the largest number of integrated African Americans with a total of twelve. This is due in part to the Durham School Board being one of the first in the state to initiate token integration plans.<sup>260</sup> As the 1960 report from the North Carolina Advisory Committee on Civil Rights showed, while the state was undertaking the steps towards desegregation in its public schools, there still existed the need for much more work on the issue. It would be up to Sanford and his new administrations to ensure North Carolina continued along the road towards full desegregation.<sup>261</sup>

Coming into office in January 1961, Sanford's advisors warned him of the precarious situation that was surrounding race relations in his state. The new administration knew that it needed to show solid support for the African American community while maintaining the support of the white community at the same time. In a symbolic show of support, Sanford

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<sup>258</sup> North Carolina Advisory Committee on Civil Rights, *Report of October 1, 1960* (Raleigh: North Carolina Advisory Committee, 1960). in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>259</sup> North Carolina Advisory Committee on Civil Rights, *Report of October 1, 1960* (Raleigh: North Carolina Advisory Committee, 1960). in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>260</sup> North Carolina Advisory Committee on Civil Rights, *Report of October 1, 1960* (Raleigh: North Carolina Advisory Committee, 1960). in Folder 18: Folder 18, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>261</sup> Batchelor, "Rule of Law," 298.

decided to enroll his own children in a newly desegregated public school in Raleigh<sup>262</sup> As Sanford and his administration were attempting to the issue of racial equality in North Carolina, the summer of 1961 saw significant developments across the nation in the larger Civil Rights Movement. In February 1960, four African American students from the North Carolina Agricultural and Technical College chose to fight the segregated culture of Greensboro by taking a seat at the lunch counter of the local Woolworths.<sup>263</sup> Even though the students were refused service, the foursome stayed until the store closed and continued returning until they had amassed the support of both African Americans and whites from the community.<sup>264</sup> After the success of the Greensboro sit-in, this new form of resistance against segregation would spread to fifty four cities across nine states.<sup>265</sup>

During the summer of 1961, grassroots resistance to inequality once again grabbed the nation's attention as the Freedom Riders began traveling along bus routes throughout the South.<sup>266</sup> After the Freedom Riders were met with violent protests in various southern states, Sanford feared that a similar situation might happen in North Carolina, effectively shattering the moderate image that Hodges, Pearsall, and others had worked to secure. In hopes of preventing any violent reactions to the Freedom Riders, Sanford met with Assistant Attorney General Ralph Moody as well as Pearsall for advice on the situation.<sup>267</sup> Pearsall suggested that the Governor reach out to officials from the busing companies across the state in order to tell them that the state government requested their assistance in the matter at hand. The author of the state's

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<sup>262</sup> Batchelor, "Rule of Law," 299.

<sup>263</sup> Lindley S. Butler and Alan D. Watson, eds., *The North Carolina Experience: An Interpretive & Documentary History*, (Chapel Hill, NC: The University of North Carolina Press), 410.

<sup>264</sup> Butler and Watson, eds., *The North Carolina Experience*, 410.

<sup>265</sup> Butler and Watson, eds., *The North Carolina Experience*, 410.

<sup>266</sup> Batchelor, "Rule of Law," 301.

<sup>267</sup> Batchelor, "Rule of Law," 301.

response to desegregation also urged Sanford to go public with his desire to maintain order in light of the Freedom Riders arrival in the Tar Heel state, something Pearsall believed other state officials refused to do, which resulted in the violent protests that North Carolina officials often feared.<sup>268</sup> Heeding the advice of Pearsall, Sanford sent Moody to Wilmington to ensure safe passage for the Freedom Riders. Delivering a message from Sanford himself, Moody explained to Wilmington officials that the Freedom Riders had the right to use any restroom or eat at any restaurant that they choose to.<sup>269</sup> Overall, the Freedom Riders traversed through North Carolina without any instances of violence similar to that they met in other southern states. Sanford would use the Freedom Rider's peaceful visit to defend the state's moderate reputation when it came to racial relations in the national media.<sup>270</sup>

As Sanford and his administration was busy ensuring safe passage for the Freedom Riders, the issue of education in the state was never far from his mind. During his first meeting with the General Assembly in regards to the state budget, the Governor asked the legislative body to end all tax exemptions currently on the state's law books as part of an effort to increase financial support for the purpose of raising the quality of public education.<sup>271</sup> Improving the quality of the state's education system was a central part of Sanford's political platform. In a speech at the University of North Carolina at Chapel Hill in the month following his election, Sanford stated to the state's citizens and the press that, "Education is the foundation of democracy. I am concerned with defending the principles of freedom, of individual liberties, or free enterprise, of equality and dignity of man, and therefore I seek the fulfillment of these

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<sup>268</sup> Batchelor, "Rule of Law," 301.

<sup>269</sup> Batchelor, "Rule of Law," 301-302.

<sup>270</sup> Godfrey Sperling, "North Carolina Governor Points to Race Progress," in *The Christian Science Monitor*, June 20, 1963, A5.

<sup>271</sup> Batchelor, "Rule of Law," 303.

principles through quality education we offer our boys and girls.”<sup>272</sup> Sanford repeated his desire for better quality education during his public appearances supporting his financial proposals across the state. Selecting both African American and white public schools for rallies and speeches, Sanford often spoke of improving “every child’s” education by improving the schools “of all children.”<sup>273</sup> The General Assembly would eventually pass Sanford’s financial revisions which allowed for raises in education salaries, the creation of nearly three thousand new teaching jobs, new education training programs, and the formation of a state agency that would require all state educators to be to date on pedagogical improvements.<sup>274</sup> While Sanford’s proposal was not aimed at providing assistance to African American students or promoting school desegregation, the impact of the increase in educational equality across the state impacted all of North Carolina’s students for the better. By referring to “every child” in his speech or improvements for “all children,” Sanford effectively linked the quality of education for all races together in his addresses, thus creating the path for a single, racially integrated public school system.<sup>275</sup> As Sanford was attempting to ensure the quality of North Carolina’s public schools, the issue of education reform was also being addressed by the state’s private citizens as well. Former Pearsall Committee members Dallas Herring and Holt McPherson found themselves apart of the leadership for the North Carolina Citizens Committee for Better Schools, a non-governmental organization who aimed at ensuring the high quality of education in North Carolina. In this

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<sup>272</sup> Terry Sanford, “Address Before A Statement of Faith and Purpose in Education,” speeches, in *Messages, Addresses, and Public Papers of Terry Sanford, Governor of North Carolina, 1961-1965.*, edited by Memory F. Mitchell (Raleigh, NC: Council of State, 1966), 91.

<sup>273</sup> Terry Sanford, *Messages, Addresses, and Public Papers of Terry Sanford, Governor of North Carolina, 1961-1965.*, edited by Memory F. Mitchell (Raleigh, NC: Council of State, 1966), 46.

<sup>274</sup> Batchelor, “Rule of Law,” 304.

<sup>275</sup> Batchelor, “Rule of Law,” 304.

position of leadership, Herring and McPherson found themselves working closely alongside Sanford and his administration to ensure the quality of the public school system.<sup>276</sup>

As Sanford and his administration were focusing on improving the quality of the state's school system, efforts to desegregate the very same schools continued within the courtroom. During 1961, the NAACP brought several suits against various school districts in North Carolina who were failing to desegregate at a pace deemed acceptable by the organization. Interestingly enough, a shift in court opinion seemed to happen during the 1960s. Unlike the decisions handed down in cases from the 1950s, where the court often sided with the school districts decisions by defending them under the Pupil Assignment Act of 1955, this new decade saw the courts begin to pay attention to the number of desegregated school systems.<sup>277</sup> In 1961, the United States Middle District Court heard *Wheeler v. Durham City Board of Education* in which the legal team representing the Wheeler party sought relief for the racially discriminated African American students of Durham City Schools.<sup>278</sup> The court declared that African American students must continue to follow the guidelines set out by state legislation when it came to school transfer requests while also stating the popular segregationist argument, "the Supreme Court never suggested that mass mixing of the races is required in public schools."<sup>279</sup> In an interesting twist, the court also ruled that the Durham City School Board had practiced blatant racial discrimination during the 1959-1961 school years as they had approved only seven of two

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<sup>276</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>277</sup> Batchelor, "Rule of Law," 306.

<sup>278</sup> Batchelor, "Rule of Law," 307.

<sup>279</sup> Batchelor, "Rule of Law," 307.

hundred and five requests.<sup>280</sup> In response to the courts actions, the Durham City School Board declared that for the beginning of the 1961 school year, an entire Durham elementary school would be integrated along with an increase of African American students admitted to Durham High.<sup>281</sup> Two days later, however, the very same board would reject over one hundred transfer requests from African Americans students on the grounds of academic preparedness.<sup>282</sup> The legal team that had represented the Wheeler family returned to the U.S. Middle District Court claiming that the school board had refused to do as they were ordered by the court. The District Court refused to help them, claiming that they were seeking court backed integration across the board instead of dealing with an individual reassignment case.<sup>283</sup>

Refusing to give up, the Wheeler's legal team appealed the District Court's decision to the Fourth Circuit Court of Appeals where the previous decision was eventually overturned.<sup>284</sup> In explaining their decision to overturn the previous ruling, the court of appeals claimed that the Durham City School Board was assigning students to schools using pre-1954 zoning districts, practice they had be instructed to end.<sup>285</sup> The court also stated that the school board had been unfairly using the Pupil Assignment Act of 1955 to assign students because it was clear that the local officials were still using race as a leading factor behind its decisions.<sup>286</sup> The court ordered Durham City to provide the lower court a proposed plan that would end racial discrimination and segregation for good in the public schools. They also called for the immediate transfer of one

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<sup>280</sup> "7 More Negroes in White Schools," in the *Durham Morning Herald*, August 25, 1960. and Batchelor, "Rule of Law," 307.

<sup>281</sup> "Durham to Integrate Elementary School," in the *Raleigh News and Observer*, August 22, 1961.

<sup>282</sup> Jon Phelps, "City Board of Education Rejects All 133 Appeals," in the *Durham Morning Herald*, August 24, 1961.

<sup>283</sup> Batchelor, "Rule of Law," 308.

<sup>284</sup> Batchelor, "Rule of Law," 308.

<sup>285</sup> Batchelor, "Rule of Law," 308.

<sup>286</sup> Batchelor, "Rule of Law," 308-309.

hundred and eighty three African American students.<sup>287</sup> In response to the Court of Appeals order, the Durham City School Board presented a plan that would begin the process of desegregating their schools by integrating the graduating class of the African American elementary schools into the previously all white junior high schools while all first grade students would be assigned based on the areas in which they lived.<sup>288</sup> The school board also presented a “freedom of choice” plan for all district high schools but this plan was deemed insufficient by the court. The board represented the plan as complete freedom of choice with the only factor that would be considered would be physical classroom space.<sup>289</sup> *Wheeler v. Durham City Board of Education* marked a distinct shift in the attitudes toward desegregation. In the case, the efforts on behalf of African American families to bypass the appeals process laid out in the Pupil Assignment Act of 1955 once again failed. However, the more significant part of the court’s decision was for the first time, they ruled that once all appeals had been heard, a school district must implement desegregation within its facilities. For the first time in North Carolina’s history, the court had ordered district wide integration in response to the failure to reassign students wishing to transfer. The *Wheeler* decision was also the first case in which the court had not sided with North Carolina’s plan to let local authorities desegregate schools at their own pace. The decision in the Durham School District case would have long term effects for the next several years throughout the state.<sup>290</sup>

At the same time the *Wheeler* case was challenging the Pupil Assignment Act of 1955, a central part of the Pearsall Plan of 1956 would be used for the first time in the legislations brief

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<sup>287</sup> Jon Phelps, “183 Negroes May Transfer to White Schools Jan. 22,” in the *Durham Morning Herald*, January 4, 1963.

<sup>288</sup> “City School Integration Plan Given,” in the *Durham Morning Herald*, April 20, 1963.

<sup>289</sup> “City Education Board Files Further Desegregation Plan,” in the *Durham Morning Herald*, April 30, 1964.

<sup>290</sup> “City Education Board Files Further Desegregation Plan,” in the *Durham Morning Herald*, April 30, 1964.

history. In 1961, the Birmingham family petitioned the Chapel Hill-Carrboro Board of Education to transfer their daughter to a segregated elementary school instead of enrolling her in the desegregated local school. The Board of Education refused the families' initial request, finding no "reasonable or practical" reasoning for altering the child assignment.<sup>291</sup> After being denied the transfer, the Birmingham family continued to apply for a tuition grant under the Pearsall Plan to continue enrolling their daughter in the all-white Twaddle School in Durham.<sup>292</sup> Seeing no problems with their request for a tuition grant, the local school board accepted the Birmingham family's petition. After further review, however, the North Carolina Department of Public Instruction declared that the Twaddle School did not meet the state's requirements to be considered a private institution covered under the Pearsall Plan and requested that local officials reverse their decision and repeal the grant in 1962.<sup>293</sup> Tuition grants provided by the Pearsall Plan would not be requested again in North Carolina for another three years.

By the beginning of the 1963-1964 school year, the support for desegregation was perhaps the lowest it had ever been across North Carolina. Even members of both the first and second Pearsall Committee began to publically voice their opposition to inequality in the public schools.<sup>294</sup> That same school year also saw districts in Raleigh, Winston-Salem, Durham, Charlotte, and Wilmington desegregated through various plans of action.<sup>295</sup> As the ten year anniversary of the initial *Brown* decision approached in 1964, the Southern Education Reporting Service released its newly revised report on school segregation and desegregation. The service

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<sup>291</sup> "First Test," in *The Raleigh News and Observer*, September 27, 1961.

<sup>292</sup> "Carrboro Couple Informed of Pearsall Grant Steps," in *The Raleigh News and Observer*, September 29, 1961.

<sup>293</sup> "Grant Bid is Seen Doomed," in *The Greensboro Daily News*, January 9, 1962.

<sup>294</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>295</sup> William S. Powell, *North Carolina: A History*, (Chapel Hill: The University of North Carolina Press, 1977), 187.

found that in 1963, of the South's 2,901,671 African American children, only 30,798 were currently enrolled in a public school alongside white students.<sup>296</sup> Of the 2,994 separate school districts throughout the region, only 423 had been integrated by the time the report was published.<sup>297</sup> Compared to the larger southern region, the service reported that of North Carolina's estimated 346,746 African American students, only 1,865 had been fully integrated into previously all white schools, a percentage of .538%.<sup>298</sup> The Southern Education Reporting Service also stated that at the time the report was published, North Carolina had 40 desegregated schools districts, the fourth most among all surveyed states. The more intriguing facts presented that of the 171 schools districts in the state, 40 were integrated with only two being done so by court order, leaving the remaining 38 districts being voluntarily integrated, the second highest total in the region, only trailing Texas schools, with the Cabarrus County Board of Education voting to voluntarily integrate its facilities at the beginning of the 1964 school year.<sup>299</sup> Not only had North Carolina been successful in avoiding much of the racially motivated violence that plagued the rest of the southern states, but as the Southern Education Reporting Service's report

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<sup>296</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1963-64), 2-3.

<sup>297</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1963-64), 2-3..

<sup>298</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1963-64), 35.

<sup>299</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1963-64), 38 and 63.

showed, it was also surprisingly able to forestall school desegregation as the state average was well below the regional average of 1.06%.<sup>300</sup>

Following the initial *Brown* decision in 1954 and the *Brown II* decision that followed in 1955, the federal government actually took very little part in the desegregation process of public schools. Outside of the situation in Little Rock, Arkansas, where massive resistance to desegregation forced President Eisenhower to involve himself, the federal government had shied away from pupil reassignments because the feeling was that public education remained a state issue.<sup>301</sup> This forever changed however on July 2, 1964, when the United States Government enacted the Civil Rights Act of 1964. Supported by Presidents John F. Kennedy and Lyndon B. Johnson, the Civil Rights Act of 1964 gave the federal government authority to intervene or enforce desegregation upon the state's public school systems. More specifically, Title IV of the 1964 legislation "encouraged the desegregation of public schools and authorized the U.S. Attorney General to file suits to force desegregation" while Title VI gave then federal government the authority to withdrawal federal funds from any program that practiced discrimination.<sup>302</sup> The Civil Rights Act of 1964 marked the turning point for school desegregation across the nation. The Federal Government began requiring school systems to prepare desegregation plans in order to receive federal funds that supported the schools. Desegregation was now not only being required but rewarded as well by the Johnson administration.

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<sup>300</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1963-64), 63.

<sup>301</sup> Batchelor, "Rule of Law," 319.

<sup>302</sup> Batchelor, "Rule of Law," 319-321.

Governor Sanford personally opposed the Civil Rights Act of 1964. As the legislation was signed into law by President Johnson, Sanford went public with a statement to the people of North Carolina that eerily reflected the words of Governors Umstead and Hodges during their times in office. Sanford explained that even though he personally believed there was no need for federal intervention into the desegregation issue; he recognized the new legislation as the law of the land and vowed to enforce it to his fullest ability within the state.<sup>303</sup> Sanford went on to praise North Carolina's ability to desegregate their school districts voluntarily without federal intervention in the years prior to the 1964 legislation.<sup>304</sup> Sanford ended his address in a similar fashion that Umstead had in his first public address following *Brown v Board* ten years earlier by pleading to the citizens of North Carolina to "Honor the law, deal justly, love mercy and walk humbly with God."<sup>305</sup> Sanford was hopeful that the citizens of his state could avoid the unruly behavior found elsewhere in the immediate aftermath of the Civil Rights Act of 1964.

Along with the Civil Rights Act, 1964 was also an election year for North Carolina. After deciding not to run for reelection, Sanford publically backed L. Richardson Preyer for the position, mainly due to Preyer's similar ideological position.<sup>306</sup> Democrat Dan K. Moore along with Lake who had challenged Sanford in the 1960 election challenged Preyer.<sup>307</sup> The issue of race and school desegregation played a much smaller role in the 1964 election when compared to

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<sup>303</sup> "Public Affairs Features; Governor Sanford's Statement, Charlotte: Jefferson-Standard Broadcasting Company, July 14, 1964," in Folder 450, in the Terry Sanford papers #03531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>304</sup> "Public Affairs Features; Governor Sanford's Statement, Charlotte: Jefferson-Standard Broadcasting Company, July 14, 1964," in Folder 450, in the Terry Sanford papers #03531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>305</sup> "Public Affairs Features; Governor Sanford's Statement, Charlotte: Jefferson-Standard Broadcasting Company, July 14, 1964," in Folder 450, in the Terry Sanford papers #03531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

<sup>306</sup> Batchelor, "Rule of Law," 323.

<sup>307</sup> Batchelor, "Rule of Law," 323.

its 1960 predecessor. Even Lake, a former staunch segregationist attempted to downplay his past record when it came to race.<sup>308</sup> All three candidates however did agree when it came to opposing the Civil Rights Act of 1964. The only difference being that both Moore and Preyer publically acknowledged that would uphold the law while Lake vowed to oppose it during his time in office.<sup>309</sup> Sanford's handpicked candidate Preyer and Lake would go on to lose the primary to Moore who would defeat Republican Robert Gavin for the position of North Carolina Governor.<sup>310</sup> Governor Moore did not immediately become a promoter of civil rights reform in the state or a proponent for school desegregation. In one the earliest meetings between the newly elected governor and Dallas Herring, the chair of the State Board of Education, and Charles Carroll, the State Superintendent, Moore did not come across as an ally to the two state officials.<sup>311</sup> Upon being asked how North Carolina would attempt to address the legislation laid out by the Civil Rights Act of 1964, Moore proclaimed to both Herring and Carroll, "That's your problem."<sup>312</sup> This is not to say that Moore was an enemy of the state's public school system or the African American community. During Moore's time in office, state teacher pay was raised by thirty percent while African American schools also saw an increase in funding as well.<sup>313</sup> Moore also reappointed Dr. Harold L. Trigg, an African American teacher, to the State Board of

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<sup>308</sup> Charles Barbour, "Support for Beverly Lake is Still Strong in Durham," in the *Durham Morning Herald*, April 10, 1964.

<sup>309</sup> Allen Macduff, "Lake Charges Preyer Statements Conflicting," in the *Durham Morning Herald*, April 22, 1964.

<sup>310</sup> Powell, *North Carolina Through Four Centuries*, 530.

<sup>311</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>312</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>313</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

Education.<sup>314</sup> The supporters of education equality and desegregation did not find the same helpful administration under Moore that they had under Sanford. Moore, however, was not completely unwilling to work with Herring, Carroll, and other officials to improve the state's education system.

Following the passing of the Civil Rights Act of 1964, the Southern Education Reporting Service published another report on school desegregation for the beginning of the 1964-1965 school year. In its 1964 report, the Service found that of the 5,973 schools districts across the south, 1,282 of them had been desegregated.<sup>315</sup> Of the regions 2,988,264 African American students, only 63,881 were enrolled in public schools alongside white students.<sup>316</sup> In North Carolina, the report found of the 171 school districts across the state, a total of 84 were desegregated either voluntarily or by court order, an increase since the 1963-1964 report.<sup>317</sup> The report also stated that of the 349,282 African American students in the state, only 4,949 were integrated into schools with white students. This made up an integrated student population percentage of 1.42% in North Carolina, an increase since the last published report.<sup>318</sup> As seen by the 1964-1965 Southern Education Reporting Service's statistical summary, North Carolina was slowly undertaking the process of desegregating their schools. When compared to the larger

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<sup>314</sup> Batchelor, "Rule of Law," 325.

<sup>315</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1964), 2-3.

<sup>316</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1964), 2-3.

<sup>317</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1964), 39.

<sup>318</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1964), 2.

region, however, North Carolina's overall percentage still lagged behind that of some of its fellow Southern states.

With the Civil Rights Act of 1964 now providing support for school desegregation from the federal government, North Carolina and other southern states braced for a new round for lawsuits and courtroom battles. One of the first cases in North Carolina following the passing of the 1964 legislation saw the families of African American families sue the Pamlico County Board of Education. In the decision of *Jones v. Pamlico County Board of Education*, African American parents and school officials agreed on a desegregation plan that would actually not require any new reassigning. The agreement stated that students would return to the schools they were currently enrolled in with the opportunity existing for any student wishing to transfer being allowed to.<sup>319</sup> New students entering the system would also be guaranteed the right to their choice of schools. The school system also put in place a safety valve in case any particular school became overcrowded. If this was to happen, then students would be transferred to another integrated school in the district.<sup>320</sup> The plan pleased the school district, African American families, and the federal court that approved of it after stating that the plan did not mean that parents could not request full desegregation at a later date.<sup>321</sup>

Following the *Jones* decision, the court system heard *Bryant v. Carteret Board of Education*, where both parties agreed to carry out a desegregation plan already drafted by the Department of Health, Education, and Welfare.<sup>322</sup> The plan had the Carteret County School

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<sup>319</sup> Batchelor, "Rule of Law," 345-346.

<sup>320</sup> Batchelor, "Rule of Law," 346.

<sup>321</sup> Batchelor, "Rule of Law," 346.

<sup>322</sup> Batchelor, "Rule of Law," 346.

Board install a freedom of choice plan for all their students at the start of the 1965 school year.<sup>323</sup> *Bowditch v. Buncombe County Board of Education* was the first North Carolina desegregation case to be decided in the Court of Appeals following the passing of the 1964 legislation. In the *Bowditch* decision, the Court of Appeals ordered the Buncombe County School Board to speed up its desegregation plan in order to end the racial discrimination its African American students were facing.<sup>324</sup> Through the end of 1964 and throughout 1965, the federal court system would hear the cases of: *Nesbit v. Statesville City Board of Education*, *Felder v. Harnett County Board of Education*, *Clayton v. Pearson County Board of Education*, *Gill v. Concord City Board of Education*, and *Barrow v. Washington City Board of Education*.<sup>325</sup> Following the Civil Rights Act of 1964, the federal courts became more involved in North Carolina's public schools, forcing several school districts to accept or accelerate their plans for implementing integration.

As the ten-year anniversary of the passing of the Pearsall Plan drew closer, support for the plan began to diminish across the state. Even though the Pearsall Plan had been effective at forestalling desegregation in North Carolina during the years following its passing, times were beginning to change in North Carolina. By the end of 1965, most of the school districts in the state had been successfully integrated with little to no resistance from the local populations.<sup>326</sup> Even those who had a hand in creating the legislation began to publically oppose it by the beginning of 1966. Up until this point in the fight for school desegregation in North Carolina, African American families and other integration supporters had focused their legal challenges on the laws set forth by the Pupil Assignment Act of 1955. No North Carolina family had attempted

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<sup>323</sup> Batchelor, "Rule of Law," 346.

<sup>324</sup> Batchelor, "Rule of Law," 347.

<sup>325</sup> Batchelor, "Rule of Law," 346-350.

<sup>326</sup> Powell, *North Carolina: A History*, 187.

to apply for a tuition grant under the Pearsall Plan since the Birmingham family failed in 1961-1962. In 1965, The Charlotte-Mecklenburg Board of Education would receive only the second request for a tuition grant after the family of Terrence McClain refused to enroll their son in the newly integrated West Mecklenburg High, instead wanting to send him to the Carolina Military Academy in Maxton. Against the advice of the legal team, the school board approved the family's request because their application met all the requirements set forth by the Pearsall Plan.<sup>327</sup>

As the Charlotte-Mecklenburg Board of Education was approving their first tuition grant application, Pitt County schools were deliberating a similar request from the Tyson family who wished to send their child to Hargrave Military Academy in Chatham, Virginia. The Tyson's request was ultimately denied by local officials due to the location of the requested school being outside of North Carolina. The request would be the first ever denied by North Carolina.<sup>328</sup> The approval of tuition grants by the local school boards as well as the State Board of Education began to worry some state officials. Herring, along with State Treasurer Edwin Gill openly voiced their discomfort with the tuition grants claiming that it was simply a way for parents to avoid desegregation while making the state pay for their child at the same time.<sup>329</sup> Some state officials also began to worry about how the Federal Government would respond to the tuition grants in lights of the Civil Rights Act of 1964.<sup>330</sup> It would not take long for the fears of Herring and others to come to realization when three African American families challenged the Pearsall

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<sup>327</sup> Robert Hummerstone, "Local Board Okays Tuition Grants Request," in *The Charlotte Observer*. October 13, 1965.

<sup>328</sup> Kate Erwin, "State Rejects First Request for Tuition," in *The Raleigh News and Observer*, November 5, 1965.

<sup>329</sup> Oral History Interview with William Dallas Herring, February 14, 1987. Interview C-0034. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

<sup>330</sup> Erwin, "State Rejects First Request for Tuition."

Plan from Charlotte in 1966.<sup>331</sup> Represented by Julius Chambers, a prominent African American Charlotte attorney, the families of Reverend Darius Swann, Reverend E.J. Moore, and Dr. Reginald Hawkins wanted an end brought to the process of paying for tuition grants.<sup>332</sup> The case also asked the U.S. Western District Court to strike down the legislation presented in the Pearsall Plan and to make closing schools in effort to avoid desegregation against the law.<sup>333</sup> The U.S. Attorney overseeing the Western District Court was William Medford. Medford, former Pearsall Committee member and architect of the Pearsall Plan passing the state Senate, went on the record in February 1966 stating that the Pearsall Plan had served no useful purpose to the state or its citizens since its initial success in avoiding massive resistance and school closing in the immediate years following *Brown*. He continued on to claim that the tuition grants set up by the plan were solely intended on providing school boards the means to circumvent the *Brown* decision and should therefore be considered unconstitutional.<sup>334</sup> Even though the feelings held by individuals such as Herring were wide spread across the state government at this time, the Attorney General's office was still required to respond to the litigation. In doing so, North Carolina argued that the Pearsall Plan did not racially discriminate against students of the state's public schools, nor did it require statewide segregation. The Attorney General's office also added that the plan had not closed any school facing integration or permitted the prolonged absence of any North Carolina student.<sup>335</sup> After deliberating both sides of the case, a panel of three federal judges struck down the Pearsall Plan declaring the legislation unconstitutional. After receiving news of the opinion of the court, Governor Moore decided North Carolina would accept the

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<sup>331</sup> William S. Powell, ed., *The Encyclopedia of North Carolina* (Chapel Hill: The University of North Carolina Press, 2006), 873.

<sup>332</sup> "Suit Challenges N.C. Tuition Law," in *The Raleigh News and Observer*, December 10, 1965.

<sup>333</sup> "Suit Challenges N.C. Tuition Law."

<sup>334</sup> "Pearsall Plan Framers Charges It's Invalid," in *The Raleigh News and Observer*, February 24, 1966.

<sup>335</sup> Batchelor, "Rule of Law," 355.

court's decision and decline the right to appeal the case, thus effectively ending the state's decade long challenge to school desegregation.<sup>336</sup> It would be still years until total integration of North Carolina public schools took place. It would ultimately take the federal government's intervention through *Swann v. Charlotte-Mecklenburg Board of Education* in 1971 to force state officials to abandon the concept of racially segregated public schools.

In the decade between the ratification of the Pearsall Plan by the citizens of North Carolina and the Federal Courts declaration that the legislation was unconstitutional, those who hoped to preserve a system of segregated public schools saw the battle move out of the General Assembly and into the court rooms across the state. Even though the Pupil Assignment Act of 1955 and the Pearsall Plan were still effectively stalling total integration, the legislation was losing support publically at the same time that legal challenges were rising from members of the African American community. At the time the plan was struck down by the court system in 1966, only two applications for tuition grants had been submitted and no formal plan for closing a close to oppose integration had been proposed. The only effect the Pearsall Plan had in the decade since its creation was its ability momentarily please the hard-line segregationists in the state legislature who desired the power to close the school before they would be desegregated. This sense of appeasement for these individuals was precisely what Hodges and Pearsall had claimed the plan had been designed for years after it was struck down.

In all actuality, the success of North Carolina's efforts to resist school desegregation in the decade following the passing of the Pearsall Plan lay with the Pupil Assignment Act of 1955. As long as student assignments and transfers could avoid school desegregation, very little

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<sup>336</sup> Kate Erwin, "state Not Appealing Pearsall Plan Ruling," in *The Raleigh News and Observer*, April 23, 1966.

progress actually happened in the state's public schools. This would remain the case until the federal government increased their involvement in desegregation cases and programs following the passage of the Civil Rights Act of 1964. This forced those districts in North Carolina that were still resisting integration efforts to adopt "freedom of choice" plans for their students when it came to transfers and reassignments. These "freedom" plans however never fully integrated African American students into previously segregated schools at a large percentage.

By the end of the 1960's, North Carolina was left to deal with what are perhaps the two most important Federal Court cases dealing with school desegregation since the *Brown* decision in 1954. In *Green v. County School Board of New Kent County*, the courts ruled against the popular "freedom of choice" plans that were being adopted across the south and for the first time that school districts across the south had to integrate their facilities immediately, a drastic shift from the 1955 ruling of "with all deliberate speed."<sup>337</sup> Following the *Green* decision, North Carolina found itself in front of the Supreme Court defending segregation in *Swann v. Charlotte-Mecklenburg Board of Education*. In the *Swann* decision, the Supreme Court ruled that the court system could order desegregation by any means necessary, which included school redistricting as well as busing, a shocking decision for Southern officials and citizens.<sup>338</sup> With the largest school district in North Carolina being directly pointed out by the Supreme Court, the state and its citizens were faced with no other choice than to accept that the fight to preserve segregation was over. The decade following the 1950's legislation saw the state attempt to ensure their segregated culture at every corner, even going as far to implement token integration in hopes of appeasing the

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<sup>337</sup> "U.S. Supreme Court: *Green V. County School Board*," last modified 2014, <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=391&invol=430>.

<sup>338</sup> Michael J. Klarman, *Brown v. Board of Education and the Civil Rights Movement*, (Oxford: Oxford University Press, 2007), 101-102.

citizens of the state. However, by the 1970's, in spite of the obvious challenges with adapting to the new system of integration and a perceived notion of educational equality, North Carolina was able to maintain its moderate perception. The state's desegregation plans were approved by the federal government and by the early 1970's, North Carolina had achieved a higher percentage of integrated students in their public schools than any of their fellow southern states.<sup>339</sup> The public school system had weathered the storm, thanks in part to the efforts of those who had designed the Pupil Assignment Act and the Pearsall Plan some fifteen years prior.

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<sup>339</sup> Batchelor, "Rule of Law," 387.

## CHAPTER 5

### CONCLUSION

In the twelve years between Governor Umstead's initial response to the *Brown v. Board of Education* decision and the declaration that the 1956 Pearsall Plan was unconstitutional by the U.S. Western District Court, North Carolina underwent over a decade of legislation, litigation and integration that would forever change the state's public school system. Even though it would take five more years and extensive court battles following the 1966 decision before historians could make the claim that North Carolina schools were totally integrated, the efforts of Umstead, Hodges, Pearsall, and others had failed. Not only was the Pearsall Plan defeated in the decade after its introduction, but by the 1960s, the federal courts had begun to side with African American families and proponents of integration when challenging the Pupil Assignment Act of 1955.

The fact that the legislative efforts of North Carolina failed at stopping desegregation within the state does not mean the efforts of the first and second Pearsall Committees did not succeed in other ways. As noted by Medford during the 1966 court cases, the Pupil Assignment Act of 1955 and the Pearsall Plan succeeded in helping North Carolina avoid the racial violence and social unrest that so often coincided with the massive resistance efforts in other reactionary Southern states. The Pupil Assignment Act of 1955 and the Pearsall Plan both helped ensure that no public schools were closed during the years following *Brown* as the state grappled with school desegregation. Even though the 1956 legislation set up the process for closing school systems as well as providing tuition grants, these actions were ever hardly used and truly were

just a safety valve as Hodges and Pearsall had labeled them.<sup>340</sup> It was five years after the Pearsall Plan was passed before any families applied for a tuition waiver and it would be five more years before a second was requested. In the years the plan was in existence, not one tuition grant was actually provided by the North Carolina government. Much like the tuition grants procedures, the threat of school closures under the Pearsall Plan was at best just that, a threat. Even though individuals such as Hodges did openly threaten the African American community that schools would be closed if desegregation was forced upon the state, this part of the plan was most effective at pleasing the hard-line segregationists who populated the state legislature as well as those citizens so fearful of integration that they would rather see the public schools closed.

The Pupil Assignment Act of 1955 and the Pearsall Plan were also effective in helping North Carolina forestall the process of desegregation in its public schools. Even though the state has received the moniker of “moderate” when discussed in relation with its fellow Southern states during this time, reports from the federal agencies such as the Southern Education Reporting Agencies show that even in the mid-1960s, integration was slowly happening in the Tar Heel state when compared to its neighbors. As seen in the Southern Education Reporting Service’s 1964-1965 report, North Carolina’s percentages of integrated classrooms continued to remain much lower than those of its fellow southern states following the *Brown* decision. In fact, in the decade between 1954 and 1964, the percent of integrated African Americans students in North Carolina never rose above one percent. In comparison, by the 1964-1965 school year, Texas had a 5.52 integration percentage while Tennessee was at 2.72, Virginia was at 1.63, and

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<sup>340</sup> Throughout his memoirs, Hodges constantly proclaims the true strength of the state’s legislation was its ability to be used as safety valves to relieve racial pressure across the state, in Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel hill, NC: The University of North Carolina Press, 1962), 125.

Florida had a 1.53 integration percentage rate.<sup>341</sup> While it is true that North Carolina did not have the lowest percentage rate of integration among southern states, it is also clear when one looks at the statistical data that their percentages were nowhere near the highest in the region either.

When the process of desegregation relied on the individual cases of student reassignment, North Carolina was well prepared and protected for courtroom battles under the Pupil Assignment Act of 1955. In fact, the 1955 legislation was so effective at stalling desegregation procedures and so frequently supported by the decisions of the courts that the “North Carolina method” became the go to plan across the region. In 1959, Virginia citizen David Mays, whose advisory position in his state’s response to *Brown* could be compared to that of Pearsall in North Carolina, was sent south to meet with the architects of the Pupil Assignment Act of 1955. Writing in his diary, the contents of which were later published for the public, Mays spoke of the effectiveness of North Carolina’s approach to pupil assignment as well as his meetings with Pearsall and Hodges in hopes of obtaining advice on how Virginia could use a similar plan to resist desegregation.<sup>342</sup> Along with Virginia, the state of Georgia also adopted a plan similar to that used by North Carolina in terms of pupil assignment. Georgia’s plan modeled one used in Alabama almost identically, however, both plans were modeled off of the Pupil Assignment Act of 1955. Under the Atlanta, Georgia plan, students would be assigned to public schools based on what was called “intellectual and psychological fitness.”<sup>343</sup> The school boards would also take into account assignments need to preserve peace and order across the district. Like North

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<sup>341</sup> Southern Education Reporting Service, *A Statistical Summary, State By State, of School Segregation-Desegregation in the Southern and Borders Area from 1954 to the Present*, (Nashville: Southern Education Reporting Service, 1964).

<sup>342</sup> David J. Mays and James R. Sweeney, *Race, Reason, and Massive Resistance: The Diary of David J. Mays, 1954-1959*, (Athens: The University of Georgia Press, 2008), 105-107.

<sup>343</sup> “Atlanta Borrows N.C. Plan,” *Kannapolis Independent*, December 8, 1959, in Series 2.5 School Segregation, Folder 780, in the Terry Sanford Papers #3531, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

Carolina's plan, this would effectively enable the local officials to preserve segregated schools while also removing the mention of race from student assignment procedures.<sup>344</sup> Along with Alabama, Georgia, and Virginia, assignment plans modeled off the North Carolina plan were adopted in Arkansas, Florida, Louisiana, and Tennessee as well.<sup>345</sup> The willingness of other southern states to adopt the legislation similar to the Pupil Assignment Act of 1955 speaks to the effectiveness of the North Carolina plan when it came to forestalling desegregation. The ability of the Pupil Assignment Plan of 1955 to both stall integration while also ensuring civil order made other southern states realize that the North Carolina way of fighting desegregation by way of student assignments often tended to be more effective than other means of resistance.

Perhaps the most important part of the Pupil Assignment Act of 1955 and the Pearsall Plan that helped North Carolina in its struggle against school desegregation was the time the legislation provided. Time was a crucial element for Hodges, Pearsall, and other officials. North Carolina's understanding that immediate desegregation would upset the social order was clear from the initial argument presented before the Supreme Court in the 1955 *Brown II* case by Beverly Lake. By enacting the legislative recommendations of the Pearsall Committees, North Carolina provided even the most fierce segregationists a period of gradual adjustment using token integration throughout the 1950s and 1960s instead of forcing integration upon its citizens all at once like other states attempted.

North Carolina's ability to not only forestall total desegregation for as long as they did, but also ensure the protection of the public school system and the absence of racially motivated violence speaks highly of the quality of leadership and political resources that the state possessed

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<sup>344</sup> "Atlanta Borrows N.C. Plan."

<sup>345</sup> "Atlanta Borrows N.C. Plan."

during this troubling time. Luther Hodges was able to ride his success in stopping social unrest in North Carolina during the post-*Brown* years to an appointment as President John F. Kennedy's United States Secretary of Commerce.<sup>346</sup> Even during his time at Commerce, Hodges understood the importance of maintaining an effective education system as well as civil obedience in order to recruit businesses into an area.<sup>347</sup> Along with his ability to maintain social order in the face of desegregation, Terry Sanford would retire from the executive branch of North Carolina's government and accept the presidency at Duke University. He was also responsible for bringing the Research Triangle Park to North Carolina during his time in office. His ability to do so was a direct result of his work in ensuring that North Carolina maintained its "moderate" reputation in both education and racial equality.<sup>348</sup> As for the architect of North Carolina's response to school desegregation, Thomas Pearsall retired from his unofficial position as advisor on school desegregation back to his home in Rocky Mount following the court's 1966 decision. His efforts at ensuring the protection of North Carolina's public schools continued to be so well respected in the years that followed that the Democratic Party attempted to persuade him to run as the Democratic candidate for governor in the 1970s against his former colleague Lake, a request that he continuously declined.<sup>349</sup>

The challenge of racial equality in education continues to plague North Carolina. The White flight that resulted from the *Swann v. Mecklenburg* decision resulted in an increased percentage of minority public schools within the larger cities of North Carolina while the rural

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<sup>346</sup> Luther H. Hodges, *Businessman in the Statehouse: Six Years as Governor of North Carolina* (Chapel Hill, NC: The University of North Carolina Press, 1962), 249.

<sup>347</sup> Hodges, *Businessman in the Statehouse*, 250-252.

<sup>348</sup> Hodges, *Businessman in the Statehouse*, 205-211.

<sup>349</sup> Oral History Interview with Elizabeth Pearsall, May 25, 1988. Interview C-0056. Southern Oral History Program Collection (#4007) in the Southern Oral History Program Collection, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.

schools became predominately white. As recent as in 2013, a group of African American parents asked a federal court to overturn a plan approved by the Pitt County School Board in 2011 that they claim “re-segregated” their school district.<sup>350</sup> Even forty eight years after the federal court declared the Pearsall Plan unconstitutional, North Carolina is still facing the lingering effects of its struggle against school desegregation. This is largely due to the fact that even though the Pearsall Plan was defeated, the Pupil Assignment Act of 1955 is still on the law books of North Carolina.

While it may be easy for historians to condemn the Pupil Assignment Act of 1955, the Pearsall Plan of 1956, and the actions of individuals such as Hodges and Pearsall as racist or “a typical Southern reaction,” those who do it lack a true misunderstanding of North Carolina history. While it is true that the actions of North Carolina resulted in the continued inequality of its African American citizens, the resulting legislation and actions cannot be viewed simply as one-dimensional. For Hodges, Pearsall, and other individuals who worked on the initial plan, what ended up being created truly was a “safety valve.” They knew the plans could not hold up forever and that eventually desegregation must take place within North Carolina. Therefore, instead of trying to stop the inevitable, Pearsall and other committee members created a way in which the public schools system of North Carolina could remain safely operated while also providing time for their fellow citizens to adjust. There are those individuals who have simply written off the Pupil Assignment Act of 1955 and the Pearsall Plan as simply another form of southern racism aimed at prolonging the system of segregated schools. These people however, have tended to not realize that the purpose of the 1950’s legislation aimed to more than simply

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<sup>350</sup> Christina Sterbenz, “North Carolina School District Has Struggled With Desegregation For Nearly 50 Years,” in the *Business Insider*, July 22, 2013, Accessed May 20, 2013, <http://www.businessinsider.com/parents-sue-pitt-county-schools-over-unitary-status-2013-7>.

ensure segregation. Members of the first and second Pearsall committees who devised the legislative responses to *Brown* seemed to understand that the desegregation of public schools must eventually happen across the south. Thus, for individuals such as Pearsall, the protection of the state's public school system during this time of confusion remained a high priority. Therefore, while it is true that the Pupil Assignment Act of 1955 and the Pearsall Plan were enacted to help stall the process of integration, it is also important to realize the ten plus years in which North Carolina schools operated uninterrupted and without the violence often found in other Southern states. This is the true legacy of Hodges, Pearsall, the first and second Pearsall Committees and the Pupil Assignment Act of 1955 and the Pearsall Plan. As written by Pearsall in a 1954 letter, "the real issue in North Carolina is not segregation, but the preservation of our public school system."<sup>351</sup>

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<sup>351</sup> "Letter Addressed to Rt. Rev. Richard H. Baker from Thomas Pearsall, dated September 8, 1954," in Folder 1, Governor's Advisory Commission Education, A-B 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

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## APPENDICES

### Appendix A: Membership of the First Governor's Special Advisory Committee on Education (The First Pearsall Committee)<sup>352</sup>

- Thomas J. Pearsall from Rocky Mount, North Carolina, Chair.
- William T. Joyner from Raleigh, North Carolina.
- R.O. Huffman from Morganton, North Carolina.
- Arthur D. Williams from Wilson, North Carolina.
- I.E. Ready from Roanoke Rapids, North Carolina.
- James C. Manning from Williamston, North Carolina.
- Dr. F.D. Bluford from Greensboro, North Carolina.\*
- Dr. J.W. Seabrook from Fayetteville, North Carolina.\*
- Hazel S. Parker from Tarboro, North Carolina.\*\*\*
- Ruth Current from Raleigh, North Carolina.\*\*
- Helen S. Kafer from New Bern, North Carolina.\*\*
- Dr. Paul A. Reid from Cullowhee, North Carolina.
- Dallas Herring from Rose Hill, North Carolina.
- Fred B. Helms from Charlotte, North Carolina.
- Dr. Gordon Gray from Chapel Hill, North Carolina.
- L.R. Varser from Lumberton, North Carolina.
- Clarence Poe from Raleigh, North Carolina.
- J.H. Clark from Elizabethtown, North Carolina
- Holt Mcpherson from North Carolina.

\*Identifies members who were African American

\*\*Identifies members who were female

\*\*\*Mrs. Hazel Parker was the only African American female on the committee

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<sup>352</sup> "Press release from the office of Governor Umstead concerning the Governor's Advisory Commission on Education Reports, 1954", dated August 4, 1954, in Folder 12: Folder 12, Governor's Advisory Commission on Education Reports, 1954, in the Thomas Jenkins Pearsall papers #4300, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

Appendix B: Membership of the Second Governor's Special Advisory Committee on Education  
(The Second Pearsall Committee)<sup>353</sup>

- Thomas J. Pearsall from Rocky Mount, North Carolina, Chair.
- William T. Joyner from Raleigh, North Carolina.
- R.O. Huffman from Morganton, North Carolina.
- Lunsford Crew from Halifax County, North Carolina.
- H. Cloyd Philpott from Davidson County, North Carolina.
- Edward Yarborough from Franklin County, North Carolina
- William Medford from Haywood County, North Carolina.

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<sup>353</sup> In, Luther Hodges, "Address Before General Sessions of School Law Conference: Duke University, June 21, 1955," speeches, in *Messages, Addresses, and Public Papers of Luther Hartwell Hodges, Governor of North Carolina, 1954-1961*. Volume 1, edited by James W. Patton (Raleigh, NC: Council of State, 1960), pg. 491-492.

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