

## PROGRESS THROUGH POLITICAL SACRIFICE: SOUTHERN POLITICIANS' RESPONSE TO *BROWN v. BOARD OF EDUCATION*

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It is really a great honor to be here with my old Duke University colleague, John Hope Franklin, one of the great men of my time.

John Seigenthaler is a distinguished editor, reporter, and colleague for whom I have the highest respect. He took time out, as you know, to be Robert Kennedy's administrative assistant. As such, he was in Montgomery trying to protect the Freedom Riders. He was beaten almost to death and hospitalized. So he is a man who has been there, and he is a great friend.

It is a pleasure to be here with Jack Bass. He wrote *Unlikely Heroes*,<sup>1</sup> which gives due regard to the old Fifth Circuit Court of Appeals. What would we have done without that judiciary in that period in the '50s and '60s, without the Warren Court that sent down *Brown v. Board of Education*<sup>2</sup> fifty years ago? Jack Bass was a personal friend of Judge Elbert Tuttle, who was the Chief Judge of the Fifth Circuit and a powerful figure. Jack, I do not know if I have told you this or not, but once I was walking back to *The Atlanta Constitution*, where I was editor, and I ran into Judge Tuttle out in front of the old post office on Forsyth Street in Atlanta. He stopped me and he said, "Mr. Patterson, may I see you in my office?" I thought, "Oh, Lord. I have done something. I

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1. Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit Who Translated the Supreme Court's Brown Decision into a Revolution for Equality* (Simon & Schuster 1981).

2. *Brown v. Bd. of Educ. of Topeka*, 347 U.S. 483 (1954), supplemented by 349 U.S. 294 (1955).

have got to be in the doghouse.” So I went up to his office, and there he was with the American flag in one corner of his office. That old brigadier general was sitting at this big desk. I sat down, in fear and trembling. Judge Tuttle drew an envelope out of his drawer and handed it to me across the desk and said, “Read that.” Well, Jack, it was a letter to Judge Tuttle, as the Chief Judge of the Fifth Circuit, from Judge Harold Cox, Federal District Judge in Jackson, Mississippi.

Judge Cox was a segregationist deep-dyed and was appointed federal judge by Jack Kennedy as a sop to Senator James Eastland, who was then running the Senate Judiciary Committee. That was the way things worked back then. Judge Cox was notorious for his warped judgments on race.

Like John Seigenthaler, I took a little time out to serve on the United States Civil Rights Commission. It was a great collection then—John Hannah, president of Michigan State, was chairman. Father Ted Hesburgh from Notre Dame, and Erwin Griswold, who was then the dean of Harvard Law School, also served on the Commission. It was a marvelous group.

We went down to Jackson to hold a hearing in 1965. We assumed we would use Judge Cox’s federal courtroom for the hearing. We were federal agents. He said, “No. You can’t have any race lectures in my courtroom,” and he threw us out. But he did permit us to hold an organizing meeting to announce where we were going to hold the hearing. We had to go way out to the corner of Jackson, Mississippi, to some little Veteran’s Administration auditorium. That is where we finally held the hearing.

Coming back to the letter. After our organizing sessions in the courtroom, after which Judge Cox threw us out, he wrote this letter to Judge Tuttle, and I read it. It was a loud complaint addressed to Judge Tuttle from Judge Cox saying that his courtroom had been misused and profaned by this race-mixing federal commission; that “I had the courtesy to allow them to hold an organizing meeting. They allowed photographers in my courtroom, and they took pictures. I never permit photography in my courtroom.” He told Judge Tuttle, “In your position as the Chief Judge of the Fifth Circuit, I request that you take appropriate remedial action against this runaway federal agency, the U.S. Civil Rights Commission.” After I read this letter I looked up at Judge Tuttle, and I said, “But . . . but,” and he said, “Give me the letter back.” He took

it, turned, and held it over his trash can, and it fluttered down. That was the end of that complaint.

Fifty years ago, I was the London Bureau Chief of the old United Press (later UPI, later defunct), when the Supreme Court ruled. Ralph McGill was the editor of *The Atlanta Constitution*, later to become my dearest friend and ultimate mentor when I succeeded him. In 1954, I had never met him. I had only read him since I was a child in Georgia. The New York UP bureau messaged me, saying we need a quote from Ralph McGill because the Supreme Court had ruled “separate but equal” was inherently unequal.<sup>3</sup>

I finally ran Mr. McGill down in some little hotel in London. I called him on the phone and told him what the Supreme Court had ruled. He did not know the ruling had come down. I asked for a quote from him. He had been pretty famous for writing a column saying, “One Day It Will Be Monday,”<sup>4</sup> because the Supreme Court sends its rulings down on Mondays. He had used that as his way of describing the *Brown* case and what it might mean for the South. So here it was, and I asked him for a quote.

Well, he was caught in a rough place. He was just beginning to say what he really thought in a Southern white newspaper and it was way out in front of where most Southerners were. But he also had his job hanging by a thread because his publisher did not want this kind of stuff in the paper. He was in a tenuous spot. I will never forget the comment that he gave me. I put it on the wire. He said, “My only surprise is that the ruling was unanimous.” That was the total quote I got from him.

Later, he and I were running mates. After 1960, he was publisher and I was editor of *The Atlanta Constitution*. He wrote a daily column, seven days a week on the front page. I wrote seven days a week on the editorial page. We started talking straight, on race, after a while. That *Brown* decision loosened a torrent of political hatred in the South.

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3. *Brown*, 347 U.S. at 495.

4. “One Day It Will Be Monday” was a notable column in 1953. New Ga. Ency., *Ralph McGill (1898–1969)*, <http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2769> (Mar. 15, 2004). The segregationists “vilified” Ralph McGill for this column and “branded McGill as ‘Rastus,’ a Communist, a traitor.” *Id.*

The politicians in the South based their appeal to the lowest common denominator of whites who voted on race. They got power that way. They got elected that way.

Then *Brown* came down, saying “with all deliberate speed”<sup>5</sup> we would have to desegregate ourselves. For the next ten years, the politics of the South became brutal. You would have thought the Civil War had never been fought. We could interpose state sovereignty ahead of the federal government. We could nullify the federal court ruling by saying states’ rights come first. It introduced an era of truly raw passion in Southern politics—defy the U.S. Supreme Court, impeach Earl Warren. It was a tough time and a time to choose up sides.

A few newspapers and a few editors, like John Seigenthaler and Ralph McGill, began talking straight to the people. We could do that by attacking the corrupt politicians who held power in the Southern states and who were implementing Southern state laws that forced the segregation that you young people cannot even believe.

When I went to school—elementary school, high school, college—no blacks were allowed in those schools by state law. No blacks could come into restaurants where I would go in to eat. Hotels and motels—a black family driving down the road did not know where they could stop and get a room for the night. Movie houses were separate. Restrooms. In the poorest section of the nation, you had to have two of everything. Water fountains were segregated. Seating on buses and trains was separate. Public libraries were closed to blacks. Public golf courses, public swimming pools, public beaches—black people could not go there. Even church congregations mirrored the laws and segregated themselves so black people could not attend worship services in predominantly all-white churches.

That was the place, the way I grew up. That was the political fight in the South in that period, but let me tell you who the truly noble people were.

It took courage to take the position that John Seigenthaler and others took, but we were secure in the editor’s chair. All we were doing was writing words on paper.

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5. *Brown*, 349 U.S. at 301.

The great heroes were out in the streets. As John mentioned, after Rosa Parks refused to get up, Martin Luther King, Jr. came out of the church in Montgomery and led the bus boycott, and started the great nonviolent demonstrations that swept across the South, fueled and driven by the young people out of the colleges.<sup>6</sup> Greensboro. Atlanta. Sitting in at lunch counters across the street from me.

I remember once a great picture on page one. Black kids from Atlanta University Center parading around the old downtown Rich's department store in Atlanta, where they could shop but they could not sit down in the tea room for lunch. Across the street, parading in the opposite direction, fully sheeted, under white hoods, were the Ku Klux Klan. That was the South of the 1950s and 1960s.

It was a brutal place, but I wouldn't take anything in the world for having been a part of it because we had to choose sides. We had to say what we thought.

In politics, the old rules still held. George Wallace knew how to get elected governor of Alabama. Ross Barnett knew what it took to be governor of Mississippi. Orval Faubus knew that he could make political gains in Arkansas by refusing the court order to desegregate Little Rock's Central High School. The governor of Louisiana did nothing when white women were spitting on little black kids trying to go into desegregated schools.

Georgia had a governor named Ernest Vandiver who had been elected on a segregationist platform. He said, "Elect me governor, and we'll never have any black child ever in the University of Georgia. No, not one." Well, of course, they admitted Charlayne Hunter and Hamilton Holmes.<sup>7</sup> So the political joke in Georgia became he admitted two. It was not easy for Ernie.

This is the point of my brief remarks to you—the price that a Southern politician had to pay, routinely across the South, if he differed from the popular prejudiced majority of whites.

Ernie Vandiver called me from the Governor's mansion one day. He had sent Hamilton Holmes and Charlayne Hunter over to

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6. John Seigenthaler, *Brown v. Board of Education: Making a More Perfect Union*, 34 *Stetson L. Rev.* 457, 463 (2005) (discussing Martin Luther King's emergence as a leader in the civil rights movement).

7. *Holmes v. Danner*, 191 F. Supp. 394, 410–411 (M.D. Ga. 1961).

the university under court order. There was a race riot on the campus. Klansmen were on the campus leading the kids. They threw rocks, broke the windows at Charlayne Hunter's dormitory, broke the windows in her room, and shattered glass all over her clothes and her suitcase before she could even unpack. The university suspended these two kids for their own safety and took them in a patrol car back to Atlanta, to their homes, and that was the end of it. Except at about 3:00 a.m., Judge William Bootle, Federal District Judge of Macon, Georgia, wrote a court order: "Put them back in. Protect them." Vandiver was confronted suddenly with that court order.

He called me in the evening. He had a deep, deep voice. "Gene, this is Ernie Vandiver."

"Yeah, Governor?"

He said, "I'm calling you just to let you know that I've had fifty of my principal legislative advisors out here at the mansion. I've gone around the room to each one of them and asked, 'Should I obey this court order and desegregate the University of Georgia or should I close the university?'"

He said, "Every one of them said 'close it,' except two"—Carl Sanders, the president of the Senate, later to be governor; and Frank Twitty, a South Georgia legislator who was leader of the House. "They said, 'You've got to obey the Court.'"

I said, "Well, you didn't have much support, then, Governor?"

He said, "Nope. Sure didn't."

And I said, "Well, why are you calling me?"

And he said, "Well, I'm just sitting out here all by myself at the mansion and needed somebody to talk to."

I said, "Well, Governor, you've got no problem. I know what you're going to do."

He said, "You do?"

I said, "Yeah. You're a decent man, and you're going to obey the law. You're a lawyer. You're not going to defy it. You're not going to follow Wallace and Barnett and that crowd. Second, you know the state constitution makes you the conservator of the peace. You're going to quit holding back the state patrol. You're going to put them on that campus to protect those kids."

"Well," he said, "the Athens police are trying to put me in a political bind. They won't enforce the law."

I said, "Yeah. But you've got the state troopers, you're the boss, and you're going to do it. I know it. I know that's what you're going to do."

The next day he desegregated the University of Georgia. He said, "I will not defy the law, and I will not permit disorder to disrupt this university." So, no problem. Charlayne Hunter later became an internationally known television personality. Hamilton Holmes later became the medical director of Grady Memorial Hospital in Atlanta and an orthopedic surgeon. They have now named the old academic building there the Holmes-Hunter Academic Building. There is a big plaque. Now Georgians are proud of what Holmes and Hunter did. But they were not proud of Ernest Vandiver then.

He was going to run for the Senate after four years. He looked around the state, and he suddenly discovered, as he put it, "I have no support." He went back to Lavonia, Georgia, to practice law.

Carl Sanders succeeded him as governor. He supported Lyndon Johnson in 1964, when Johnson lost Georgia to Barry Goldwater, who was speaking code words that he did not even understand, but the South did. The South has voted Republican ever since. Johnson knew when he passed the 1964 Civil Rights Act. Bill Moyers called to congratulate him. The President sadly said, "I just lost the South for the Democratic Party." Look at the result. He did. He knew.

Sanders supported him, and he paid the price. He ran for governor again, four years later. As governor, he had been locked into an argument with the legislature, which had a segregationist component that wanted to invite Governor Wallace over from Alabama to address the Georgia legislature to tell us how to run our schools. Sanders balked. He would not do that. Four years later his opponent in that race of 1970 said, "Elect me, and I will invite Governor Wallace over to address the Georgia legislature." That was the turning point. He murdered Sanders, and, after being governor went on to be President of the United States. He is probably deeply ashamed now of what he did. His name is Jimmy Carter. That was the way the politics of the time worked.

Vandiver and Sanders both went home and practiced law. They were out of politics. Finished.

In Florida, the greatest governor of the South in the 1950s was LeRoy Collins. He had been a segregationist, but he changed. He tried to change the state. But he had a porkchop legislature that kept passing segregationist laws. LeRoy Collins vetoed each and every one, saying, "You can't have this kind of stuff in Florida." I remember him on black-and-white television back in the 1950s, speaking to the people of Florida, saying, "Hey. This is what we've got to do. This is what the Supreme Court has ruled. We've got to obey it."

Well, he ran for the Senate in 1968. He was plowed under, defeated by a long-forgotten opponent. Now, Collins, who died just a few years ago, is revered in Florida as probably the greatest statesman that this state ever produced. But he paid the price with political suicide on the race issue. This is what happened.

Lyndon Johnson paid the price for ramming through the Public Accommodations Act of 1964<sup>8</sup> and the Voting Rights Act of 1965.<sup>9</sup> The South never forgave him. He never had a political future after that, and he knew it. Vietnam did not destroy his presidency. Race did.

My point in telling you about Johnson, Collins, Vandiver, and Sanders was they lost political traction by being forward on an issue that their states are now very proud of. Their children are very proud of them for taking this leadership position. The point that I came to, and that I believe, is that there are more important things in political leadership than winning.

Thank you.

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8. Pub. L. No. 88-352, § 201, 78 Stat. 243 (1964).

9. Pub. L. No. 89-110, § 2, 79 Stat. 437 (1965).