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The Changing Views of a Southern Newspaper Editor on School Desegregation

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Abstract

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By Lisa Spees

During the civil rights era, James Jackson Kilpatrick, the editor of the *Richmond News Leader*, wrote America's most widely syndicated column, "A Conservative View." Kilpatrick was known as "Southern journalism's most articulate spokesman for segregation." After the Supreme Court decision in *Brown* in 1954, in which the Court ordered schools to desegregate, Kilpatrick became an integral part of the South's movement of "massive resistance." Massive resistance was a policy under which Southern politicians attempted to prevent school desegregation. In promoting resistance through an editorial campaign, Kilpatrick argued that blacks were inherently inferior to whites and also focused on the constitutionality of court-ordered school desegregation. For example, he formulated a political argument against *Brown* by reviving the doctrine of interposition which "allowed a state to 'interpose' its sovereignty 'in those grave and extraordinary cases when the Federal government oversteps its constituted authority.'"

As Kilpatrick gained a national profile and as the growing national consensus turned against Jim Crow racism, Kilpatrick underwent an awkward and uneven change in his racial views. From the *Brown* decision in 1954, through massive resistance and segregation academies, and up until the years of racial busing and affirmative action, Kilpatrick's political and social arguments against school desegregation transformed. Once a leader of the massive resistance movement in Virginia, Kilpatrick later renounced his racist beliefs and affirmed his new "color-blind" conservative ideology.

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Table of Contents

Introduction	1
Kilpatrick Before Becoming the <i>Richmond News Leader</i> Editor	6
Massive Resistance	8
Kilpatrick's Views on Tuition Grants and Busing (1968-1975)	46
Conclusion	57

Introduction

In the “Introduction” of *The Southern Case for School Segregation* (1962), James Jackson Kilpatrick stated that the goal of his book was “to present the South’s case” and “to present it fairly.”¹ He argued that the South’s position against school desegregation rested “upon a foundation of law, history, and constitutional construction,” yet he did not stay away from flat assertions of white racial supremacy.² “The Negro race, as a race, plainly is not equal to the white race,” he wrote.³ Years later, in 1986, Kilpatrick responded to a reader who inquired about his racial stance in the 1950s, “I long ago renounced my defense of segregated schools,” Kilpatrick wrote.⁴ To a black law professor at Harvard University, Randall Kennedy, Kilpatrick explained that *The Southern Case for School Segregation* was a product of publishing pressure. “The editors did not want a balanced treatment of the subject,” Kilpatrick explained, “I was not urged to be ‘fair’ or impartial.”⁵

During the civil rights era, James Jackson Kilpatrick, the editor of the *Richmond News Leader*, wrote America’s most widely syndicated column, “A Conservative View.”⁶ He was one of the most articulate and influential hard-line segregationists in America. Kilpatrick was known as “Southern journalism’s most articulate spokesman for

¹ James J. Kilpatrick, *The Southern Case for School Segregation* (New York: The Crowell-Collier Press, 1962), 7.

² *Ibid.*, 106.

³ *Ibid.*, 26.

⁴ Kilpatrick to Rose Warfield, (July 2, 1986) in *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*.

⁵ Kilpatrick to Randall Kennedy, (July 9, 1986) in *James J. Kilpatrick, Papers, Collection no. 6626-n, Box 11, University of Virginia Library*.

⁶ Robert E. Baker, “The South: Its Part and Its Future,” reviews of *The Segregationists*, by James Cook, *The Southern Case for School Segregation*, by James J. Kilpatrick, and *The South and Christian Ethics*, by James Sellers, *The Washington Post*, (1963) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

segregation.”⁷ After the Supreme Court decision in *Brown* in 1954, in which the Court decided that “separate but equal” schools were unconstitutional and ordered primary and secondary schools to desegregate, Kilpatrick became an integral part of the South’s movement of “massive resistance.” Massive resistance was a policy under which Southern politicians attempted to prevent school desegregation. In promoting resistance through an editorial campaign, Kilpatrick argued that blacks were inherently inferior to whites, but he also focused on the constitutionality of federal court-ordered school desegregation. For example, he formulated a political argument against *Brown* by reviving the doctrine of interposition, which “allowed a state to ‘interpose’ its sovereignty ‘in those grave and extraordinary cases when the Federal government oversteps its constituted authority.’”⁸

Many hard-line segregationists were unsophisticated and anti-intellectual rural Southerners, yet Kilpatrick expressed his views on school desegregation in an articulate, concise, and persuasive manner. Kilpatrick’s focus on legal arguments rather than on pure racial arguments for school segregation made his case appear more equitable to Americans. As a prominent and respected newspaper editor and columnist, Kilpatrick articulately expressed the sentiments of common white Southerners and social conservatives. According to one scholar, Kilpatrick was “not only a leader of public opinion, but also in most respects a mirror of it.”⁹ By the mid-1960s, Kilpatrick would emerge as a national spokesman for the conservative position in American politics.

⁷ “The South: Its Past and Future” *The Washington Post*, 1963, Kilpatrick Papers.

⁸ Joseph Thorndike, “‘The Sometimes Sordid Level of Race and Segregation’: James J. Kilpatrick and the Virginia Campaign against *Brown*” in Matthew Lassiter and Andrew Lewis, *The Moderates’ Dilemma: Massive Resistance to School Desegregation in Virginia* (Charlottesville: University of Virginia Press, 1998), 65.

⁹ Robert Gaines Corley, “James Jackson Kilpatrick: The Evolution of a Southern Conservative” (M.A. thesis, University of Virginia, 1971), 61.

Kilpatrick's influence was not just limited to his column, however. In the 1970s, he began debating Nicholas von Hoffman on *60 Minutes* in the last part of the show called "Point-Counterpoint," which became so popular that it was even spoofed several times in "Saturday Night Live" skits.

With Kilpatrick's emerging national profile and the growing national consensus against Jim Crow racism, he underwent an awkward and uneven change in his racial views. From the age of massive resistance to the mid-1970s, Kilpatrick's opinion on school desegregation evolved in degrees. Kilpatrick transformed from being a staunch advocate of the massive resistance agenda to accepting token integration. In addition, as massive resistance failed, he argued that school desegregation needed to occur gradually in order to be successful. Yet, Kilpatrick also attempted to thwart school desegregation through arguments cloaked in colorblind rhetoric. In other words, while Kilpatrick eventually acknowledged that massive resistance failed, he still pioneered a set of passive resistance tactics to discourage school desegregation. Passive resistance refers to Kilpatrick's cloaking of racial arguments in legal theory and colorblind language, which is how Kilpatrick opposed federal aid to education and busing and promoted tuition grants. On the exterior, Kilpatrick's views on school desegregation gradually appeared to evolve and to be influenced by outside forces. To a certain degree, they did. Yet through passive resistance, he continued trying to discourage school desegregation as much as possible.

No scholarly works have been published solely on Kilpatrick. In fact, most works only fleetingly refer to his column, "A Conservative View." As one of the South's most influential segregationists, Kilpatrick was an important figure during the civil rights era.

As a newspaper editor, he held an influential position in society. While Kilpatrick was not a politician, he developed legal arguments against school desegregation, which were regularly espoused by Southern politicians.

The civil rights movement for newspapers nationwide became especially important during the 1950s and 60s. Scholars have noted that the press would not have been as influential without the civil rights movement, and the civil rights movement would not have been as powerful without the press.¹⁰ This relationship made newspaper editors, such as Kilpatrick, highly visible and valuable members in society. Before the civil rights movement, the mainstream American press largely ignored stories about racial discrimination, which was left to the black press. Kilpatrick and other segregationist newspapers contained these stories as much as possible and dehumanized blacks in their newspapers.¹¹ Consequently, not until the civil rights movement popularized race stories did Southern newspapers start to espouse their views regularly and decisively. In fact, in 1953, Kilpatrick had even been placed on the Richmond *Afro-American* newspaper's Honor Roll for defending a black man who had been accused of killing a police officer. For over two years, Kilpatrick wrote several articles claiming the black man's innocence.¹² Undoubtedly, in the 1950s and 60s, newspaper editors held important roles because of the civil rights movement.

Most civil rights biographies focus on influential civil rights activists such as Martin Luther King, Jr.¹³ Moreover, biographies written on opponents of the civil rights

¹⁰ Gene Roberts and Hank Klibanoff, *The Race Beat: The Press, The Civil Rights Struggle, and The Awakening of a Nation* (New York: Alfred A Knopf, 2006).

¹¹ *Ibid.*, 5.

¹² *Ibid.*, 63.

¹³ Martin Luther King, Jr., *The Autobiography of Martin Luther King, Jr.*, ed. Clayborne Carson (New York: Grand Central Publishing, 2001).

movement primarily analyze political figures such as Senator Harry Byrd, Sr., Virginia, and Senator Strom Thurmond, South Carolina.¹⁴ These political biographies usually focus on individuals' political careers rather than their views against desegregation.

In chronicling Kilpatrick's life, one observes how his views evolved as the civil rights movement gained momentum. While biographies on Governor George Wallace and Senator Strom Thurmond illustrate how it became politically expedient for politicians to begin adapting their arguments on segregation, Kilpatrick's views evolved without any overt political advantage.¹⁵ Kilpatrick, however, remained an important conservative spokesperson since his arguments, over time, transformed from a focus on race to a focus on constitutional concerns.

By studying Kilpatrick, we see how racist arguments against school desegregation evolved into more politically palatable legal arguments. For example, Kilpatrick advocated for states' rights, the doctrine of interposition, and a controversial interpretation of the Fourteenth Amendment. His clear communication of Southern views on school desegregation reveals how white Southerners attempted to broaden arguments for segregation to attract sympathy from whites outside of the region. Southerners argued that by protecting their schools, they were also protecting their rights as Americans and preserving the Southern way of life.

When studies mention Kilpatrick, they usually refer to his influence on the massive resistance movement in Virginia. There has been little research on how and why his

¹⁴ See Nadine Cohodas, *Strom Thurmond Strom Thurmond and the Politics of Southern Change* (New York: Simon and Schuster, 1993) and Ronald L. Heineman, *Harry Byrd of Virginia* (Charlottesville: University Press of Virginia, 1996).

¹⁵ See Dan Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics* (Baton Rouge: Louisiana State University Press, 2000) and Nadine Cohodas, *Strom Thurmond Strom Thurmond and the Politics of Southern Change* (New York: Simon and Schuster, 1993).

views on school desegregations changed throughout the late 1960s and 1970s. By studying how Kilpatrick's views evolved, one can also consider how modern American conservatism was shaped by school desegregation and the civil rights movement. For example, while Kilpatrick's racial views became vaguer, his devotion to his conservative ideology remained steadfast. Moreover, the roots of his conservative ideology can be traced back to his early experiences with school desegregation and the massive resistance era. Thus, this essay will add to the historiography of school desegregation, the rise of modern conservatism, and the civil rights movement.

Kilpatrick Before Becoming the *Richmond News Leader* Editor

Somewhat surprisingly, given how vigorously he would come to defend Southern traditions, James Jackson Kilpatrick, Jr. was neither born nor raised in Virginia or even in the South. Kilpatrick was born on November 1st, 1920 in Oklahoma City, Oklahoma, what he called "a state of Southern sentiment and heritage."¹⁶ His literary and oratorical aptitudes were present from a young age. As a child, he published a poem in *Child's Life*, a children's publication that awarded its writers a dime for each piece of writing they submitted.¹⁷ Kilpatrick started working in the newspaper business and began publishing works at an early age. At eleven, he began working as a copy boy for the *Oklahoma City Times*. During high school, Kilpatrick was a part of the debating team, and he served as editor of the school newspaper.¹⁸ After graduating from high school in 1937, Kilpatrick studied journalism at the University of Missouri.

¹⁶ Corley, "James Jackson Kilpatrick," 1.

¹⁷ *Ibid.*, 2.

¹⁸ John Heidrick, "Jackson Kilpatrick: A Study in Contemporary American Conservatism" (M.A. thesis, Emporia State University, 1978), 1.

It was not until Kilpatrick graduated from college in 1941, however, and started working at the *Richmond News Leader* that he began to identify more closely with the South.¹⁹ As a newcomer at the *News Leader*, Kilpatrick began his career by writing obituaries and doing re-writes for other reporters, which were the typical tasks of a new reporter in the newspaper business. Because of World War II, however, Kilpatrick quickly rose through the ranks of the *News Leader*. The upsurge in drafting civilians for the army left several vacancies in the *News Leader*'s editorial staff. Kilpatrick could not serve in World War II because of his asthma. While in college, he had been in the ROTC, and had his first asthma symptoms. Thus, no bureau of the armed services would consider him for active duty. As a result, Kilpatrick began conducting interviews for the *News Leader* by May of 1941.

During this time period, Kilpatrick's interest in Virginia's politics and politicians emerged as he began reporting on the courts and politics of Richmond. Kilpatrick acquired a love for the law. In 1943, Kilpatrick began covering the State Capitol and later headed the Capitol staff, which allowed him to report on the Governor's office and the Virginia General Assembly. During these years, Kilpatrick developed close relationships with some of Virginia's most influential politicians. The most important relationship Kilpatrick made during this period was with Senator Harry Byrd, Sr. According to Kilpatrick, Senator Byrd taught Kilpatrick the importance of "balanced budgets and fiscal responsibility in government." Kilpatrick would be of great help to Byrd throughout Virginia's massive resistance period. Also, Kilpatrick became

¹⁹ Corley, "James Jackson Kilpatrick," iii.

acquainted with and influenced by Colgate Darden, governor from 1942 to 1946 and president of the University of Virginia from 1947 to 1959.²⁰

During his early years at the *News Leader*, Kilpatrick was also deeply influenced by John Dana Wise, vice president and general manager of Richmond Newspapers Inc., and the owner of the *News Leader*. Wise was a staunch conservative who deplored the rise of the welfare state, which he viewed as a byproduct of the New Deal. Under Wise's guidance, Kilpatrick came to believe that the New Deal and postwar liberalism were distortions of the aims and principles of America's forefathers. Kilpatrick believed that free enterprise and individual liberty and responsibility were the foundations of American democracy.²¹

Massive Resistance (1954-59)

On June 30, 1949, Kilpatrick became the chief editorial writer of the *News Leader*. This title was amended in 1951, however, to simply, editor.²² As editor, Kilpatrick espoused his conservative views in his editorials for the *News Leader* and made the *News Leader* one of the most fervent advocates of Senator Harry Byrd. While Kilpatrick wrote about Southern political issues including the economy, defense, education, and Communism, questions of race took precedence over all other issues in Southern politics during this period. In 1954, three years after Kilpatrick had become editor of the *News Leader*, the first *Brown* decision was determined on May 17. Initially, white Virginians' responses to the *Brown* decision varied, depending on local conditions

²⁰ Ibid., 5-6.

²¹ Ibid., 7.

²² Ibid., 8.

and attitudes.²³ Under Kilpatrick's guidance and leadership, however, segregationist white Virginians found a voice and a way to respond to the *Brown* decision, which became known as massive resistance.

As a newspaper editor in this era, Kilpatrick already held an influential and powerful position. Television was still young, and newspapers and their editors were essential parts of a community's leadership in the 1950s and early 1960s. Bill Edmonds, a scholar of Southern journalism, asserts that a newspaper's "pages were well-read, their argument given great weight.... What they said made a difference."²⁴ During massive resistance, newspaper reporters played an especially significant role as government watchdogs. In an interview in 1973, Charlie McDowell, a former columnist for the *Richmond Times Dispatch*, asserted that "it was an absolutely crucial matter that the political reporting was so good in the period of massive resistance. The politicians just didn't get away with anything. It went in the paper the next day. There was no scheme hatched in the General Assembly to evade a Supreme Court ruling or to do anything that wasn't in the paper the next day, in detail. Interviews with authorities on what was wrong with it constitutionally."²⁵ Newspaper reporting was significant, especially during the massive resistance era.

Even though Virginians initially had varied responses to the Supreme Court's order for public school desegregation, Kilpatrick had the ability and means to influence Virginians to adopt his views. A survey conducted by the *News Leader* in November of

²³ J. Harvie Wilkinson, *Harry Byrd and the Changing Faces of Virginia Politics, 1945-1966* (Charlottesville: The University Press of Virginia, 1968), 114.

²⁴ Bill Edmonds, "Civil Rights and Southern Editors: Richmond, Little Rock, and Tallahassee" (M.A. thesis, Florida State University, 1996), 1.

²⁵ Charlie McDowell, interview by Jack Bass and Walter DeVries, 1973, interview A-0210, transcript, Southern Oral History Program Collection, UNC-Chapel Hill, Chapel Hill, NC.

1957 showed that ninety-two percent of Virginians opposed integration, seventy-nine percent felt no compulsion to accept the *Brown* decision, and sixty-five percent supported closing public schools if Virginians were forced to integrate.²⁶ Even though Kilpatrick was only one newspaper editor of several in Virginia, Kilpatrick's editorials significantly influenced Virginians. According to Barrye Wall of the Farmville *Herald*, "Most of the newspapers more or less followed Kilpatrick's lead."²⁷ Even Robert Whitehead, who opposed massive resistance, admitted to Kilpatrick, "Certainly you are a very able editor with a remarkable command of language and the touch to put it across."²⁸

Kilpatrick's legal argument against school desegregation made him indispensable to Virginia's segregationists and leadership. Virginius Dabney, who was the editor of the *Richmond Times Dispatch*, a rival newspaper, recounts, "the governor, Tom Stanley, and the legislature, most of them, fell for it completely and enacted interposition resolutions and went all out for interposition."²⁹ Through the interposition resolution, Virginia claimed that the federal government had encroached on Virginia's states' rights. Additionally, when Kilpatrick campaigned to pass an interposition resolution in the General Assembly, he corresponded privately with several members of the Assembly.³⁰ On February 1, Virginia's General Assembly overwhelmingly passed the resolution "to resist this illegal encroachment upon our sovereign powers, and to urge upon our sister States, whose authority over their own most cherished powers may next be imperiled,

²⁶ Corley, "James Jackson Kilpatrick," 35.

²⁷ James Ely, *The Crisis of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance* (Knoxville: The University of Tennessee Press, 1976), 14.

²⁸ Ely, *The Crisis of Conservative Virginia*, 14.

²⁹ Virginius Dabney, interview by William H. Turpin and Daniel Jordan, July 31, 1973, interview A-0311-2, transcript, Southern Oral History Program Collection, UNC-Chapel Hill, Chapel Hill, NC.

³⁰ Corley, "James Jackson Kilpatrick," 28.

their prompt and deliberate efforts to check this further encroachment by the Supreme Court, through judicial legislation, upon the reserved powers, of the States.”³¹

Kilpatrick’s relationship with Senator Harry Byrd, Sr., the kingpin of Virginia politics, was particularly important for both men. Without Byrd’s acceptance of the interposition theory, Kilpatrick’s influence during massive resistance would have been less significant. Senator Byrd was a political conservative whose views on the “rights of states and wrongs of courts” coincided with Kilpatrick’s beliefs.³² While Kilpatrick’s views were still evolving, as a young journalist with ambitions in Virginia, he could certainly see the advantages of cultivating a relationship with Harry Byrd. In November of 1958, Senator Byrd sung Kilpatrick’s praises to Governor J. Lindsay Almond, “I have a great respect for Jack [Kilpatrick], who had in a very brilliant fashion aroused the country to the evils of the Supreme Court’s decision.”³³ Kilpatrick’s strong views influenced Virginia’s legislators, and they influenced him.

In 1955, Kilpatrick began writing editorials in the *News Leader* to promote the interposition theory. According to Virginius Dabney, interposition was first uncovered by a lawyer in Chesterfield County name William W. Old who wrote a pamphlet promoting the idea. Kilpatrick read this pamphlet and, being impressed with the idea, started to advance it through his editorial campaign.³⁴ For over two months in late 1955, Kilpatrick dedicated the editorial page of the *News Leader* to promoting interposition and convinced many Southerners of its viability.

³¹ Robert A. Pratt, *The Color of Their Skin: Education and Race in Richmond, Virginia 1954-89* (Charlottesville, The University Press of Virginia, 1992), 6.

³² Wilkinson, *Harry Byrd*, 140.

³³ Corley, “James Jackson Kilpatrick,” 36-37.

³⁴ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

The interposition theory referenced historical American political traditions and offered a way of asserting state power over federal authority. Thomas Jefferson and James Madison first created and used the interposition theory in 1798 in response to the Alien and Sedition Acts. Jefferson and Madison argued that the Alien and Sedition Acts permitted President John Adams to wage an undeclared naval war against France. They believed the Acts intruded on states' rights and violated the Constitution. In response, Jefferson and Madison devised and passed the Kentucky and Virginia Resolutions, which stated that the federal government only had the authority that had been delegated to it by the Constitution. Also, the Resolutions maintained that if the federal government overstepped its constitutional authority, the states had the right to void the federal government's decisions. The goal of these Acts was to assert a states' right to judge the constitutionality of an act passed by the federal government.³⁵

In the 1830s, John C. Calhoun disinterred the interposition theory during the nullification crisis in South Carolina over tariffs.³⁶ Since 1828, South Carolinians had been subjected to what they deemed a discriminatory tariff, also referred to as the "Tariff of Abominations." South Carolinians attributed the economic depression to the tariff and accused Congress of taxing them not to raise funds, but to promote industrial enterprise and expansion. In response, Calhoun developed the theory of the concurrent majority, which aimed to protect minority interests from abuse of a numerical majority by establishing a minority veto. In other words, a successful law required a concurrent majority by a state legislature as well as the federal legislature. For a state to preserve its sovereignty, it could submit all federal laws to a constitutional test. Consequently, a state

³⁵ Corley, "James Jackson Kilpatrick," 14-15.

³⁶ Pratt, *The Color of Their Skin*, 6.

had the power to nullify a federal law. A corollary to Calhoun's theory of states' rights alleged that the Supreme Court could not be the ultimate power in defining a law's constitutionality because the Supreme Court Justices were part of the majority since they were representatives of Congress and the President.³⁷

When Calhoun developed his theory of interposition, he determined that there was a crisis in federal-state relations. Kilpatrick believed that the *Brown* decision was exactly the kind of crisis Calhoun's theory was designed to meet. "Every State has a right to interpose its sovereignty," Kilpatrick argued, "under certain circumstances, as a challenge and check against encroachment by the Federal government upon reserved power of the States."³⁸ Kilpatrick claimed that a state had the right to resist and even nullify any federal ruling it considered unconstitutional.³⁹

Robert Gaines Corley suggested that Kilpatrick had six fundamental principles in his interposition theory. The first principle assumed that the individual citizens of the States possessed political authority. Second, only citizens of States had authority to modify the agreement according to Article V of the Constitution. Third, Kilpatrick asserted that the Supreme Court changed the Constitution when it repealed a long established law of the Constitution or misconstrued "the clear meaning of constitutional provisions." Furthermore, by amending the Constitution, it infringed on a State's authority. Thus, a State must have a way to evaluate if the Supreme Court's interpretation

³⁷ Corley, "James Jackson Kilpatrick," 16-22.

³⁸ Corley, "James Jackson Kilpatrick," 23.

³⁹ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

of the Constitution is adequate. Finally, a State must have an effective way to exercise these powers.⁴⁰

Kilpatrick greatly influenced white Virginians. As Harvie Wilkinson puts it, “Kilpatrick had learned Virginian modes of thought, and he seldom failed to cast his editorial appeals in an irresistibly Virginian way. He was easily one of the most gifted phrasemakers of the national press.”⁴¹ The *News Leader* and Kilpatrick were influential because of the paper’s unyielding stance against the *Brown* decision and its concrete plan of action to resist the *Brown* decision through interposition. According to Virginius Dabney, “the *News Leader* had a great deal of influence. Much more than [the *Times Dispatch*] did, because we were sort of wishy-washy and didn’t say much one way or the other....the *News Leader* was way out in front all the time.”⁴² During the winter of 1955 and 1956, Kilpatrick worked over fourteen hours a day to promote his cause of interposition.⁴³

Kilpatrick was influential as well because he, more than anyone else, transformed the cause of school segregation from simply an issue about race to a legal debate about the nature of constitutional government. Ardent supporters of segregation realized that it was easier to disguise their white supremacist notions in arguments of States’ rights and debatable constitutionality.⁴⁴ Thus, from the very beginning of his interposition editorial campaign, Kilpatrick argued that racial issues were secondary concerns in Virginia’s fight to preserve its segregated public school system. In one editorial, Kilpatrick wrote,

⁴⁰ Corley, “James Jackson Kilpatrick,” 24-25.

⁴¹ Wilkinson, *Harry Byrd*, 127.

⁴² Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

⁴³ Corley, “James Jackson Kilpatrick,” 28.

⁴⁴ Wilkinson, *Harry Byrd*, 118.

“Virginia, by the adoption of such a resolution [for interposition] might succeed in elevating this controversy from the regional field of segregation to the transcendent, national field of State sovereignty. There is a tactical advantage in higher ground, and we would do well to seek it.”⁴⁵ Kilpatrick also affirmed this idea in private correspondence. In a letter to Dr. Joe Lee Frank, Jr., on January 2, 1956, he wrote, “the South would have some hope, through advancing the idea of interposition, of getting its problems above the sometimes sordid level of race and segregation and putting it on a high ground of fundamental principles instead.”⁴⁶ By transforming the issues, Bill Edmonds declares, “Kilpatrick gave Virginians license for a radical response to racial integration, all the while telling themselves that they were really fulfilling their constitutional duty.”⁴⁷ Kilpatrick became one of the most prominent segregationists because of his ability to couch racist sentiments into a legal and constitutional defense.

Kilpatrick attacked the Warren Court for allegedly violating “those precepts of judicial restraint and constitutional interpretation.” He declared, “Abandoning law, the court wedded sociology; discarding eighty years of unbroken precedent, members of the court substituted their own notions of psychology and moral fitness for the plain and palpable meaning of the Fourteenth Amendment.”⁴⁸ In the first part of his legal argument, Kilpatrick dissected and explained the Constitution and the relationship between the federal and state governments. He asserted that “the power to operate public schools plainly is a power reserved to the States” because the States were not violating any

⁴⁵ Edmonds, “Civil Rights and Southern Editors,” 10.

⁴⁶ Corley, “James Jackson Kilpatrick,” 31.

⁴⁷ Edmonds, “Civil Rights and Southern Editors,” 18-19.

⁴⁸ Kilpatrick, *Southern Case*, 105.

Constitutional amendment.⁴⁹ Secondly, Kilpatrick argued that the Warren Court was going against historical and legal precedent. Before the *Brown* decision, “more than thirty members of the court over a period of fifty-eight years had upheld the constitutionality of racially separated schools.”⁵⁰ Lastly, Kilpatrick attacked the Warren Court’s interpretation of the Fourteenth Amendment. According to Kilpatrick, from “1871 to 1938, the doctrine of ‘separate but equal’ had been judicially sanctioned as not in violation of the Fourteenth Amendment,” and that in the *Sweatt*, *McLaurin*, and *Siquel* cases, the Fourteenth Amendment was not applicable since those cases referred to “the peculiar circumstances of graduate-school instruction.”⁵¹ Again, as he had done during massive resistance, Kilpatrick raised his defense of segregated schools to another level by declaring that “the South is no longer fighting the question of separate schools or even a question of race relations at all; it is contending, rather, for the preservation of an American plan of value to all the States and all the people.”⁵²

Kilpatrick’s influence extended to other Southern states as well. A few weeks after Virginia’s General Assembly had passed its interposition resolution, Harry Byrd issued a statement on February 24, 1956 in which the term “massive resistance” was first coined: “If we can organize the Southern States for massive resistance to this order I think that in time the rest of the country will realize that racial integration is not going to be accepted in the South.”⁵³ Kilpatrick tried to muster support from other Southern states by reprinting his interposition editorials in a pamphlet, which he then distributed to

⁴⁹ Ibid., 118.

⁵⁰ Ibid., 168.

⁵¹ Ibid., 175.

⁵² Ibid., 106.

⁵³ Pratt, *The Color of Their Skin*, 6.

Southern governors and other important politicians.⁵⁴ Soon after Virginia passed its interposition resolution, Alabama, Georgia, Mississippi, South Carolina, and Louisiana also adopted massive resistance plans.⁵⁵ Byrd's statement coincided with the Southern Manifesto, a document signed by 101 Southern members of Congress on March 12, 1956. According to Matthew Lassiter, the signers of the Southern Manifesto vowed "to resist forced integration by any lawful means."⁵⁶

In his editorials and speeches on interposition and his book *The Sovereign States* (1957), Kilpatrick vehemently opposed the *Brown* decision on the grounds of its questionable legality.⁵⁷ As an ardent States' righter, Kilpatrick felt that that US Supreme Court had assumed more power than was prescribed in the Constitution. In a 1958 speech called, "Four Years After: A Backward Look at the School Cases," Kilpatrick referenced the *Brown* decision by stating,

Here the Supreme Court abandoned an understanding of the Fourteenth Amendment that had prevailed for 86 years; it struck down the school segregation laws of 17 States and the District of Columbia...and it accomplished all this not on the basis of law, but upon 'the extent of psychological knowledge.' Members of the court, agreeing to the *Brown* opinion, jettisoned some of the oldest rules of judicial construction; they usurped the power reserved to the States to amend the Constitution, and they substituted their notions of desirable public policy for the plain meaning of the Constitution they were sworn to uphold.⁵⁸

With regards to the Fourteenth Amendment, Kilpatrick disagreed with the Supreme Court's interpretation of the equal protection clause. Kilpatrick argued that the authors of

⁵⁴ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

⁵⁵ Corley, "James Jackson Kilpatrick," 28.

⁵⁶ Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2006), 29.

⁵⁷ James J. Kilpatrick, "Amherst, Massachusetts, Speech Notes on Race Issues," (1955) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*.

⁵⁸ James J. Kilpatrick, "Four Years After: A Backward Look at the School Cases," (1958) in *James J. Kilpatrick Papers, Collection no. 6626-e, Box 12, University of Virginia Library*.

the Fourteenth Amendment had not designed it to ban the South from maintaining a racially segregated school system. “Neither the Congress that proposed the Fourteenth Amendment, nor a single one of the thirty-seven States that considered it, understood that the amendment, of and by itself, outlawed segregation by race in the public schools,” he argued. Also, Kilpatrick pointed to the existence of public school segregation in Washington D.C., at the time Congress passed the amendment, as evidence of this fact.⁵⁹ The right of the South to maintain segregated schools fell under the powers of the Tenth Amendment he maintained, which said that any powers not clearly expressed in the Constitution were reserved to the authority of the States. “The Tenth Amendment has been virtually repealed,” Kilpatrick wrote, “not by the people in their States, but by the Supreme Court of the United States.”⁶⁰ Unless the *Brown* decision was overturned, Kilpatrick warned, “we will have abandoned the constitutional structure of this Union in favor of government by judicial oligarchy,” which he believed would lead to the erosion of the American government’s foundation and the destruction of the basic freedom of US citizens.⁶¹

Kilpatrick’s legal argument facilitated another goal, which was to stall integration of the schools as long as possible. Despite his hard-line stance, Kilpatrick was one of the more realistic white Southerners who knew the *Brown* decision was the beginning of the end of segregation. In one of his interposition editorials in 1955, Kilpatrick alluded to his feeling of inevitability, “already the Supreme Court, bent upon destroying the constitutional understandings of more than 80 years, has ordered an end to separate

⁵⁹ James J. Kilpatrick, *The Sovereign States: Notes of a Citizen of Virginia* (Chicago: H. Regnery Co., 1957), 264.

⁶⁰ “Amherst, Massachusetts, Speech Notes on Race Issues,” 1955.

⁶¹ “Amherst, Massachusetts, Speech Notes on Race Issues,” 1955.

schools and parks. The next wind that blows from the court will take with it the states power to prohibit interracial marriage.”⁶² Virginius Dabney believed that by promoting his interposition theory, Kilpatrick was trying “to buy time.”⁶³ In addition, by defying the Supreme Court ruling and obtaining mass support from other Southern regions, Kilpatrick thought he had the best chance of stalling school desegregation. Indeed, in 1958, at the beginning of the end of massive resistance, Kilpatrick confessed that the massive resistance laws “we now have on the books have outlived their usefulness, and I believe that new laws must be devised.”⁶⁴ As the interposition theory lost its utility, Kilpatrick attempted to find other ways to stall integration or keep it to a minimal amount.

As was the case with most white Southerners, Kilpatrick’s effort to block school desegregation sprung from a belief that blacks were naturally inferior to whites. Kilpatrick supported his claims of black inferiority by pointing to statistical evidence of blacks’ “crimes of violence and sexual promiscuity.” He believed that “grave differences exist in the prevailing white and Negro mores of the South.”⁶⁵

However, Kilpatrick knew that racist arguments of black inferiority were difficult to make publicly. For instance, when Kilpatrick gave a speech on integration at the University of Richmond in 1955, he defended school segregation by pointing to black inferiority as well as explaining his constitutional argument. Kilpatrick stated that it would only be through “legal means” that there “may yet be found” a way to maintain

⁶² Corley, “James Jackson Kilpatrick,” 30.

⁶³ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

⁶⁴ James J. Kilpatrick, “Tactics in the School ‘War,’” Richmond Rotary Club, (November 11, 1958) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*.

⁶⁵ James J. Kilpatrick, University of Richmond Speech on Integration, (1955) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*.

Virginia's segregated schools. But he articulated his reasons for keeping schools segregated when he said "long-established tests of reading and intelligence indicate racial disparities too significant to be ignored, and these findings recur, year after year, without substantial change." Thus, he concluded, "children of these disparate backgrounds should not wisely be mixing in the formative years of their adolescence."⁶⁶ Interestingly, that same year, when Kilpatrick gave a speech on race issues in Amherst, Massachusetts, he avoided talking about his beliefs regarding blacks' inferiority and only discussed school desegregation within the "considerations of law and history."

In Amherst, Kilpatrick asserted that he believed in "racial separation in the public schools of the South," but he did not specifically point to black inferiority as a justification for his belief in segregated schools. Instead, Kilpatrick gave his familiar assessment of the Court's allegedly unconstitutional actions in the *Brown* decision by claiming that states' rights had been encroached upon by "judicial oligarchy." He concluded that *Brown* violated the Constitution, and thus, "the very basis of our American government" had been destroyed and the freedom of American citizens had been jeopardized.⁶⁷ Kilpatrick was careful to avoid controversial discussions of racial inferiority in front of his Northern audience.

In 1955, the Gray Commission, a group of white citizens appointed by Virginia's Governor Stanley to identify ways to avoid *Brown*, submitted a plan that allowed for "the possibility of token integration and urged only that no child be required to attend an integrated school." The General Assembly rejected the Gray Plan and opted instead for

⁶⁶ Kilpatrick, University of Richmond Speech on Integration, 1955.

⁶⁷ Kilpatrick, "Amherst, Massachusetts, Speech Notes on Race Issues," 1955.

the interposition resolution in 1956.⁶⁸ Kilpatrick supported the General Assembly's decision. "The little integration of one year in a county promptly would become a larger integration of the next year in other counties," he wrote. "Acting as a state, a strong position can be held; acting as 98 counties and 35 cities, nothing but weakness can be foreseen."⁶⁹ At the height of massive resistance, Kilpatrick stood steadfast with the staunchest segregationists in Virginia.

Despite their efforts, Kilpatrick and Virginia's hard-line segregationists gradually lost influence. By the fall of 1958, the public schools closed in Norfolk, Charlottesville, and Warren County to avoid a court order to desegregate. The actual closing of public schools came as a shock to many white Virginians who had not previously taken a public position on the school issue.⁷⁰ About 13,000 students in these counties received no formal education for several months because of these closings.⁷¹ Virginius Dabney remembered that when the schools closed "a lot of people were shocked by it. I think that they hardly realized that it was going to come to that and when it did, it was a traumatic thing for a lot of people. They began wondering how they were going to continue in this direction. Shutting down schools seemed like a good way to destroy the state."⁷²

With the school closings, the open schools movement jump started in Virginia. In Norfolk, white parents involved in the save-the-schools movement filed an equal protection lawsuit to compel the state to reopen the schools. In Charlottesville, white mothers opened provisional facilities to stop segregationists from constructing a

⁶⁸ Wilkinson, *Harry Byrd*, 124.

⁶⁹ Corley, "James Jackson Kilpatrick," 38.

⁷⁰ Charlie McDowell, interview A-0210, Southern Oral History Program Collection, UNC-Chapel Hill.

⁷¹ James Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (New York: Oxford University Press, 2001), 99.

⁷² Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

permanent private school system. Additionally, PTA groups, religious groups, and League of Women Voters' chapters all campaigned for the reopening of their schools.⁷³

Kilpatrick was also affected by the school closings. "I am among those who would regard these closings as certainly unfortunate," he stated, "but not, in themselves, catastrophic."⁷⁴ Kilpatrick still disagreed with school desegregation, yet he also realized the necessity of keeping public schools open. In response to the closings, Kilpatrick, Virginius Dabney, and other Virginia newspaper reporters visited Senator Byrd. They wanted "to tell him that we were not going to back massive resistance anymore" because they "knew this thing [massive resistance] wasn't going to hold up much longer and we [the newspaper editors] couldn't go along indefinitely."⁷⁵

Kilpatrick's reaction to the school closings were first seen when Kilpatrick gave a speech called "Tactics in the School 'War'" on November 11th, 1958 to the Richmond Rotary Club in which he stated his modified views on school desegregation. "I believe the time has come for new weapons and new tactics," he said, "I believe the laws we now have on the book have outlived their usefulness, and I believe that new laws must be devised – speedily devised – if educational opportunities are to be preserved and social calamity is to be avoided." Kilpatrick advocated local referendums on the issue of school closings and urged the adoption of a tuition grant system, which would use state money to help send white students to private schools.⁷⁶ Before this speech, Kilpatrick had not even considered accepting token integration. But Kilpatrick ultimately recognized that

⁷³ Lassiter, *Silent Majority*, 33.

⁷⁴ Kilpatrick, "Tactics in the School 'War,'" Richmond Rotary Club, November 11, 1958.

⁷⁵ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

⁷⁶ Kilpatrick, "Tactics in the School of 'War,'" Richmond Rotary Club, November 11, 1958.

limited school integration was inevitable. In 1958, Kilpatrick decided that the best way to stall integration was through passive resistance.

On January 19, 1959, the Virginia Supreme Court of Appeals ruled in *Harrison v. Day* that the school closings violated the Virginia constitution. Chief Justice John W. Eggleston wrote that the state had to support public schools, “including those in which the pupils of both races are compelled to be enrolled and taught together, however unfortunate that situation may be.” In Norfolk, on the same day, a three-judge federal district court ruled in *James v. Almond* that Virginia’s school-closing laws violated the Fourteenth Amendment’s equal protection clause.⁷⁷

Eight days later, Governor Almond told Virginia’s General Assembly that massive resistance was over. He requested that the Assembly make immediate changes to the laws to comply with the federal court decisions. Also, he appointed the Perrow Commission “to investigate the possibilities of Virginia’s future course.” In the end, the Perrow Commission’s report was not significantly different from the Gray Commission’s report in 1956. Thus, according to the moderate Dabney, Virginia “got back on track again with local option.”⁷⁸

While most counties complied with token integration, Prince Edward County did not. In May of 1959, Prince Edward’s Board of Supervisors closed its schools.⁷⁹ While the Prince Edward schools did not reopen until 1964, this did not mean that all of the county’s children lacked formal education opportunities. In September of 1959, Prince Edward’s 1400 white children began attending private schools, which received support

⁷⁷ Wilkinson, *Harry Byrd*, 146.

⁷⁸ Virginius Dabney, interview A-0311-2, Southern Oral History Program Collection, UNC-Chapel Hill.

⁷⁹ Edmonds, “Civil Rights and Southern Editors,” 8.

from white organizations such as PTAs, the Jaycees, and churches.⁸⁰ Also, the state offered tuition grants of \$125 to \$150 to help white children through this ordeal. In contrast, about 300 of 1700 black children in Prince Edward County attended “free schools” in other communities or states. The rest of the black children received no formal education until the public schools reopened in 1964. Black parents were advised to set up their own private schools for their children, but the NAACP opposed this idea since they believed that it would hurt their case for integrated public schools.⁸¹ Because of this episode, Prince Edward became a place of tension and embarrassment for many Virginians.

While Kilpatrick agreed that token integration had to occur as massive resistance failed, he still strongly opposed full integration. Even before the schools closed in Prince Edward, Kilpatrick believed that state-supported private schools would be a viable way to avoid broader integration. Thus, as early as October 1958, when massive resistance was declining, Kilpatrick began advocating for tuition grants for private schools.⁸² Kilpatrick had real hope that a tuition grant program could pass constitutional muster. “If anything at all remains of old rules of constitutional law,” he wrote, “a tuition grant plan can be devised that will meet all constitutional tests.”⁸³

When the Prince Edward schools closed, Kilpatrick leaped at the opportunity to show how tuition grants could be used to operate legal and segregated schools. He believed the establishment of private schools in Prince Edward County was “of the most

⁸⁰ Patterson, *Brown v. Board of Education*, 99-100.

⁸¹ Pratt, *The Color of Their Skin*, 11-12.

⁸² Corley, “James Jackson Kilpatrick,” 38-9.

⁸³ Kilpatrick to Leon Dure, (February 13, 1959) in *James J. Kilpatrick Papers, Collection no. 6626-j, Box 1, University of Virginia Library*.

vital necessity.”⁸⁴ The success of the private school movement and tuition grant program would not only “be a major deterrent...against further NAACP suits in rural counties,” he argued, it could also provide Virginians with “an opportunity to show what can be done.”⁸⁵ If Prince Edward County could successfully avoid integrating its public schools by creating private schools supported by tuition grants, then Virginia would have an example of how to successfully avoid integration and circumvent the *Brown* decision. Thus, while Kilpatrick admitted the bankruptcy of hard-line resistance, he kept searching for new ways to resist substantive integration.

By 1960, it was clearer than ever to Kilpatrick that there were real limits to how much segregationists could preserve the old way of life in Virginia. His response to the fight over the 1960 Civil Rights bill is an example. In 1959, President Dwight Eisenhower presented a civil rights bill to Congress. This bill gave the US attorney general the power to inspect state and local voting records in elections for discrimination. It granted more authority to the Civil Rights Commission and called for more severe punishments for rights violations. The bill eventually became the 1960 Civil Rights Act. But, after it had gone through Congress, it was so watered down that it only retained the provision for voting referees. Opponents had succeeded in removing the part of the bill that dealt with “employment, school integration, and public accommodations.”⁸⁶ In April 1960, Kilpatrick wrote Senator Harry Byrd congratulating him on his success in mitigating the 1960 Civil Rights Act. “You all have been doing a grand job up there on this civil rights bill, and you have my deepest sympathy and support,” he wrote Byrd. “I

⁸⁴ Kilpatrick to Carl Aldrich, (August 13, 1959) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 26, University of Virginia Library*.

⁸⁵ Kilpatrick to Carl Aldrich, August 13, 1959.

⁸⁶ Ronald Heinemann, *Harry Byrd of Virginia* (Charlottesville, University Press of Virginia, 1996), 377-8.

judge from newspaper accounts that the bill now before the Senate is about as much as the South can hope for.”⁸⁷ Yet, the shift in tone from the mid-50s was noticeable. Hope was on the wane for segregationists like Kilpatrick.

At the same time, Kilpatrick sharpened his criticism of bitter-end resistance. In 1960, Kilpatrick criticized the Virginia law that required segregation of audiences in public areas. He claimed, “I am willing to see that law abandoned....I think that’s a law we can’t defend.”⁸⁸ Kilpatrick’s views on school desegregation had not changed, but more than ever, he was focused on effective resistance.

While Kilpatrick’s acted inconsistently at times, he clearly articulated his arguments and opinions in his book, *The Southern Case for School Segregation*. Published in 1962 after massive resistance had virtually ended, Kilpatrick’s book reiterated his stance against *Brown*, his views on black inferiority, and his disdain for the Warren Court. In *Southern Case*, Kilpatrick stated that the goal of his book was “to present the South’s case” and “to present it fairly.”⁸⁹ He argued, first, that “the Negro race, as a race, plainly is not equal to the white race.”⁹⁰ He also protested that the South’s position against school desegregation “rests upon a foundation of law, history, and constitutional construction.”⁹¹ Kilpatrick made it clear through his book and his other writings, however, that he had come to accept that the *Brown* decision would not be overturned. Kilpatrick stated, “As a creature of the law, racial segregation in the United States is dead. The voices once confidently raised in the South, crying that the court

⁸⁷ Kilpatrick to Harry Byrd, Sr., (April 6, 1960) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 11, University of Virginia Library*.

⁸⁸ Corley, “James Jackson Kilpatrick,” 44.

⁸⁹ Kilpatrick, *Southern Case*, 7.

⁹⁰ *Ibid.*, 26.

⁹¹ *Ibid.*, 106.

would reverse itself in time, have all but died out now. The court will not reverse itself.”⁹²

In *Southern Case*, Kilpatrick also brought up his belief that the South had become the scapegoat of the United States, a complaint that he often mentioned during the sixties. He complained in *Southern Case* that “the South itself has been wronged—cruelly and maliciously wronged, by men in high places whose hypocrisy is exceeded only by their ignorance.”⁹³ Accordingly, Kilpatrick blamed blacks, the North, liberals, almost everyone but white Southerners for the problems the South was facing. As a corollary to his argument, he also affirmed that Americans outside the South did not understand the “Negro problem” or “the Southern way of life.” Kilpatrick believed that other Americans had viciously attacked the South, and in response, he aggressively defended the South. Kilpatrick expanded on these themes throughout the 1960s.

The most controversial parts of Kilpatrick’s book dealt with his views on black inferiority, which he knew were “doubtless the touchiest” of all his reasons for opposing school desegregation.⁹⁴ “The Negro is fundamentally and perhaps unalterably inferior,” Kilpatrick wrote to *Time* magazine in 1962.⁹⁵ As mentioned earlier, Kilpatrick referenced black illegitimacy rates, which he claimed were roughly *ten times* the illegitimacy rate among whites” as evidence of black inferiority.⁹⁶ He concluded, “*The simple fact is that many Negro boys and girls do not want strongly enough to avoid producing illegitimate children* (emphasis in original).”⁹⁷ Also, Kilpatrick also pointed to crime rates; “For well

⁹² Ibid., 183-184.

⁹³ Ibid., 21.

⁹⁴ James J. Kilpatrick, Random Notes for the Bryn Mawr-Haverford Conference, (February 7, 1964) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 3, University of Virginia Library*.

⁹⁵ Corley, “James Jackson Kilpatrick,” 49.

⁹⁶ Kilpatrick, *Southern Case*, 59.

⁹⁷ Ibid., 63.

over a century the Negro has been responsible for an alarmingly disproportionate share of American crime.” Therefore, Kilpatrick again affirmed that “as in the case of illegitimacy, Negro crime rates have not tended to decline significantly with the Negro’s rising level of income and opportunity.”⁹⁸ Kilpatrick believed that these statistics proved that children of both races would benefit from being taught in racially separated schools.

Kilpatrick’s greatest fear was miscegenation. In 1961, *Newsweek* stated that Kilpatrick was “one of the few Southern segregationists to declare openly...that much of the racial conflict stems from sex.”⁹⁹ In *Southern Case*, Kilpatrick illustrated his belief that school desegregation directly related to miscegenation. In the conclusion, Kilpatrick asserted, “the fear of ultimate racial interbreeding, encouraged by prospective generations of desegregated and integrated school systems, is a very real fear in the South, and not an imagined one. If the Negro characteristics are innate, the white Southerner sees nothing but disaster to his race in risking an accelerated intermingling of blood lines.”¹⁰⁰

Additionally, Kilpatrick confessed to David Susskind that this “coffee colored compromise” was his foremost concern in terms of integration. According to Kilpatrick, there was nothing achieved by the “bringing together of one race of people that have been productive, with another race of people, that on the record...has not been productive, not since the dawn of time.”¹⁰¹

For blacks to be treated as equals, Kilpatrick argued repeatedly throughout the 1960s, blacks had to prove their worthiness. On this point, he was at his most confrontational. In 1963, when Kilpatrick gave a speech at Hampden-Sydney College, he

⁹⁸ *Ibid.*, 64.

⁹⁹ Corley, “James Jackson Kilpatrick,” 53.

¹⁰⁰ Kilpatrick, *Southern Case*, 72.

¹⁰¹ Corley, “James Jackson Kilpatrick,” 54.

asked the audience, “What have our black brothers done for themselves? It is not a bad question, and I urge you to think upon it.”¹⁰² In *Southern Case*, Kilpatrick stated “that over a period of a thousand years, the Negro race, as a race, had failed to contribute significantly to the higher and nobler achievements of civilization as the West defines that term.”¹⁰³ Kilpatrick challenged blacks directly: “The Negro says he’s the white man’s equal; *show me*.” In the conclusion of *Southern Case*, Kilpatrick demanded that if a black person wanted “to become a part of this association, on equal terms, he must do what every other race of men has done since time began, and that is to demonstrate his worth to the community he seeks to enter.”¹⁰⁴

The *Southern Case* did not sell well. Kilpatrick partly blamed the book’s low sales on its publishing company, which he accused of doing “just about everything it could think of to discourage sales and to kill the book off.”¹⁰⁵ Only a couple months after *Southern Case* had been released, the publishing company changed their managerial team, which according to Kilpatrick proved “far more liberal in its outlook than the old.” Kilpatrick complained that his book, “was promptly packed off to the darkest shelves of the most remote warehouse.”¹⁰⁶

Southern Case garnered little praise from either published book reviews or personal letters. Kilpatrick wrote about the public’s reception to his book saying that it consisted of “a good many abusive tirades from the north” with only “a few fan letters”

¹⁰² James J. Kilpatrick, Notes for a talk at Hampden-Sydney College on Civil Rights, (November 14, 1963) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 3, University of Virginia Library*.

¹⁰³ Kilpatrick, *Southern Case*, 43.

¹⁰⁴ *Ibid.*, 191-192.

¹⁰⁵ Kilpatrick to Greg Brinks, (January 15, 1964) in *James J. Kilpatrick Papers, Collection no. 6266-b, Box 71, University of Virginia Library*.

¹⁰⁶ Kilpatrick to Paul Nash, (November 30, 1964) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

written to him¹⁰⁷ Published reviews repeatedly accused Kilpatrick of reiterating “a number of older arguments about fundamental racial inequalities.”¹⁰⁸ While *The Washington Post* review Robert Baker conceded that Kilpatrick, as usual, wrote “the well-turned phrase,” Baker also accused Kilpatrick of writing “with a fascinating arrogance.”¹⁰⁹ Another critique came from Claude Sitton in the *New York Times Book Review*. He condemned Kilpatrick for “taking up the practice of law without a license.”¹¹⁰ One New York newspaper illustrated the basic negative response to Kilpatrick’s book by criticizing it as the “same old corn pone and fat back.”¹¹¹

While most published reviews blasted *Southern Case*, this was not the case with the *National Review*, an ideologically conservative biweekly magazine started by William F. Buckley in 1955 and the most important conservative journal of the day. Standing alone, this review appeared guardedly positive in its assessment of *Southern Case*. However, compared to the book’s mostly scathing reviews, the *National Review* found the book to provide a refreshing, new perspective. Brent Bozell, brother-in-law to William F. Buckley and a frequent contributor, praised Kilpatrick as an “enormously talented Richmond editor.” He acknowledged *Southern Case* as a fight for the South’s right to school desegregation in which Kilpatrick is drawing the “battle lines,” yet Bozell

¹⁰⁷ Kilpatrick to Henry A. Solomon, (April 18, 1963) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

¹⁰⁸ L.D. Terrell, “3 Views on Race,” reviews of *The Southern Case for School Segregation*, by James J. Kilpatrick, *The Segregationists*, by James Cook, and *We Dissent*, by Hoke Norris, Chattanooga, *Times*, (February 17, 1963) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

¹⁰⁹ “The South: Its Past and Future” *The Washington Post*, 1963, Kilpatrick Papers.

¹¹⁰ Claude Sitton, “Where They Stand,” reviews of *We Dissent*, by Hoke Norris, and *The Southern Case for School Segregation*, by James J. Kilpatrick, *New York Times Book Review*, (November 11, 1962) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

¹¹¹ Review of *The Southern Case for School Segregation*, by James J. Kilpatrick, New York, NY, *Jubilee*, (January 1963) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

argued that the book's importance lies in the fact that it is an excellent "peacemaker's manual."

According to Bozell, Kilpatrick did not write this book as a "peacemaker." Yet, Bozell argued, peacemakers can learn a great deal from it; "*The Southern Case for School Segregation* may be read as a peacemaker's manual—indeed the most instructive that has been brought forth by either side since the *Brown* case." With Kilpatrick's book, "a meeting of hearts" to form compromises between the two opposing sides was possible. With this goal of compromise and understanding in mind, Bozell asserted that Kilpatrick's book accomplished three important goals. First, *Southern Case* promoted "a viable discussion process" between the two sides of the school desegregation issue in which both sides acknowledged the merit of the other's views. Secondly, the book recognized the influences of tradition, custom, and law. In other words, Kilpatrick's legal argument for school segregation needed to be dealt with if true integration, such as community integration, was going to occur. Lastly, Bozelle argued that Kilpatrick acknowledged the South's and his own arguments limitations and recognized "the patent absurdities of 'Jim Crow'" while the North refused to see their own faults. Bozell illustrated that although Kilpatrick did not write *Southern Case* with the attitude of a peacemaker in mind, he offered valuable advice and information for peacemakers.

Kilpatrick did receive a few fan letters. According to one admirer, Kilpatrick had "demonstrated, legibly and compassionately, that the problems of race, like the color of the South's tunic, are neither reducible to black nor white, but at best, are a sort of grey."¹¹² Furthermore, Southerners praised Kilpatrick for representing the "Southern

¹¹² Henry A. Solomon to Kilpatrick, (April 15, 1963) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library.*

view.” “Your book expresses my feelings exactly,” one adherent wrote.¹¹³ For some, Kilpatrick’s book gave them a voice.

Interestingly, several years later, Kilpatrick renounced the opinions that he staunchly defended in *Southern Case*. In a 1964 letter, Kilpatrick wrote that he was commissioned by Crowell-Collier to write a book “in order to provide a little balance to their line of overwhelmingly “integrationist” titles.” Kilpatrick acknowledged that by the time he had started his book, his views of school segregation have already started evolving. Yet, he “accepted the commission and...undertook to do the same lawerly job that would be done by any advocate composing a brief.”¹¹⁴ In contrast, in 1986, when Kilpatrick recounted how he had received the commission to write *Southern Case*, he declared, “The editors did not want a balanced treatment of the subject; they wanted a lawyer’s brief. I was not urged to be “fair” or impartial. My instructions were to do what any lawyer would do...to emphasize the evidence on one side and to rebut or ignore evidence on the other.”¹¹⁵ Undoubtedly, Kilpatrick’s feelings about his book changed throughout the years.

Regardless of Kilpatrick’s harsh rhetoric about black inferiority, by the early 1960s, his assessment of *Brown* became almost capricious. He still contested the *Brown* decision, yet he admitted that its impact had not been as detrimental for the South as he had anticipated. Kilpatrick wrote in 1963, “The Southerner had done a lot of thinking these past few years, especially since the hurricane winds of *Brown v. Board of Education* swept over the South and threatened to blow the house of his fathers clean

¹¹³ Greg Brinks to Kilpatrick, (January 15, 1964) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*.

¹¹⁴ Kilpatrick to Paul Nash, November 30, 1964.

¹¹⁵ Kilpatrick to Randall Kennedy, July 14, 1986.

away. Most storms seem to be worse, in the midst of them, than they are seen to be when the flood waters ebb. This is true, I think, of the *Brown* decision.” Southerners realized that the *Brown* decision had not been as harmful or as devastating as they had initially thought it would be. Therefore, “the storm was not so great a calamity after all.”¹¹⁶

The primary reason Kilpatrick lightened his rhetoric about *Brown* was because Virginia had found new ways to avoid its effects. Virginia adopted the Pupil Placement Program and “freedom-of-choice” desegregation plan. These two programs allowed only for token integration. The Pupil Placement Program actually developed early in the school desegregation fight on December 29, 1956. At the time, Richmond newspapers praised it as the “first line of defense against integration.” Robert Pratt, a scholar who studied school desegregation in Richmond, explains how the Pupil Placement Program maintained a façade of promoting integration “by assigning pupils to specific schools for any of a variety of reasons except race or color” although in reality, “race was the sole criterion considered; the Pupil Placement Board assigned very few black students to white schools.”¹¹⁷

In 1958, the Virginia General Assembly established the freedom-of-choice plan. Through this program, Virginian school children could choose to attend a public school or a nonsectarian private school. Children could attend private schools with the help of “modest tuition grants provided in the law.” At first, Kilpatrick dismissed the freedom-of-choice program. He wrote in 1959, “I strongly support the general aims of your proposed “Freedom of Choice Amendment,” though I am bound to say that I believe its chances of adoption are somewhat less than my own chances of winning the presidency of the

¹¹⁶ Corley, “James Jackson Kilpatrick,” 45.

¹¹⁷ Pratt, *The Color of Their Skin*, 21-22.

NAACP.”¹¹⁸ By the early 1960s, however, Kilpatrick and other racial conservatives held the freedom-of-choice program in high regard. According to Kilpatrick, the freedom-of-choice law had “nothing to do with segregation or desegregation”¹¹⁹ even though data suggested otherwise. In 1962, only 536 black students were enrolled in schools that catered to 657,000 white students in Virginia. In other words, about .246 percent of blacks attended schools with whites in Virginia.¹²⁰ In contrast, the Southern Regional Council felt that the freedom-of-choice supporters “intend and expect to perpetuate both racial segregation and a mode of education focused on ‘fundamentals’ and conservative in content.”¹²¹ For Kilpatrick and others, freedom of choice became the way to deter full integration even after the end of massive resistance.

The years 1964 and 1965 were significant for the civil rights movement, school desegregation, and Kilpatrick. In 1964, Congress passed the Civil Rights Act, the most far reaching civil rights legislation since Reconstruction. The next year it passed the Voting Rights Act and the Elementary and Secondary Education Act, which made funds available to encourage schools to desegregate. Also, Kilpatrick began writing a syndicated column for *Newsday* in 1964, which placed his column, “A Conservative View,” in approximately 250 newspapers nationwide. In 1965, Kilpatrick switched to the *Washington Star Syndicate*, which placed his column in about 370 newspapers nationwide and provided him with a Washington outlet.¹²²

¹¹⁸ Kilpatrick to Aldrich Blake, (May 13, 1959) in *James J. Kilpatrick Papers, Collection no. 6626-b, Box 26, University of Virginia Library*.

¹¹⁹ Kilpatrick, *Southern Case*, 185.

¹²⁰ *Ibid.*, 189.

¹²¹ Mary Ellen Goodman. (February 8, 1961). “Sanctuaries for Tradition: Virginia’s New Private Schools.” *Southern Regional Council Special Report in NAACP Papers, Part 20 (1956-65)* [Microfilm]. (Reel 13, Microfilm 0001).

¹²² Heidrick, “James Jackson Kilpatrick,” 2.

Even as Kilpatrick garnered a nationwide following, his opinions on black inferiority barely altered. For example, in 1964, he maintained that “the Negro race, as a race, is inherently unequal to the white race.”¹²³ Yet, in his column, Kilpatrick became less vocal about black inferiority and more vocal about his conservative political ideology. Additionally, he pressed his view that the South was America’s scapegoat.

Unlike its predecessor of 1960, the 1964 Civil Rights Act marked a major victory for blacks in the civil rights movement. This bill advanced equal opportunity by ending Jim Crow practices in the South.¹²⁴ While it primarily fought racial segregation in public accommodations and employment, Title VI of the bill empowered school desegregation because it permitted the national government to cut off federal aid to school districts that preserved de jure segregation. Now, the Department of Health, Education, and Welfare (HEW), which directed federal spending for public schools, had the means to pressure Southern schools to desegregate, which it had not had before. In March 1966, HEW required a doubling or tripling of the percentage of blacks in “formerly white schools” for the upcoming school year.¹²⁵ Undoubtedly, this was a significant moment in the civil rights movement.

Kilpatrick opposed the Civil Rights Act not only because he viewed it as federal government interference, but also because he believed, as Robert Gaines Corley explains, that “integration was distinct from desegregation, in that it implied total acceptance and assimilation of the Negro into the culture.”¹²⁶ In 1964, while giving a speech about segregation at Vanderbilt University, Kilpatrick claimed, “if you have in mind a case for

¹²³ Random Notes for the Bryn Mawr-Haverford Conference, February 7, 1964.

¹²⁴ Patterson, *Brown v. Board of Education*, 137.

¹²⁵ *Ibid.*, 138.

¹²⁶ Corley, “James Jackson Kilpatrick,” 48.

what might be termed ‘legal segregation,’ or segregation as a consequence of state or local laws (as in schools, transportation, libraries, parks, etc.), I am not prepared to defend such a case; for I think the case to be wrong. I do not believe in State-enforced segregation.”¹²⁷ Yet, when Kilpatrick stated that state-enforced segregation was wrong, this did not mean that he thought that integration, or forcing children to attend integrated schools was legal. Laws which attempted to compel integration, Kilpatrick felt, “were coercive, and therefore as wrong as laws attempting to compel segregation....this attitude in part explains his opposition to the civil rights legislation of early 1964 and 1965.”¹²⁸ Kilpatrick opposed federal government interference, whether it be forced segregation or forced integration. Thus, Kilpatrick opposed the Civil Rights Act of 1964 because it forced integration.

The passage of the Voting Rights Act of 1965 (VRA) was also a key event in the civil rights movement because it empowered blacks in the South. The VRA prohibited discriminatory regulations that stopped blacks from voting and also placed federal examiners in seven Southern states to monitor elections. This Act increased black political participation dramatically. By 1967, over fifty percent of eligible black voters were registered in the six most discriminatory states in the South.¹²⁹ Slowly, staunch segregationists saw their political power wane as more moderate Southern Democrats emerged who could win white and black votes alike.¹³⁰

¹²⁷ Ibid., 48.

¹²⁸ Ibid., 49.

¹²⁹ James Patterson, *Grand Expectations: The United States, 1945-1974* (New York: Oxford University Press, 1996), 587.

¹³⁰ Bruce Schulman, *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980* (New York: Oxford Press, 1991), 213.

While Kilpatrick opposed the Voting Rights Act of 1965, he asserted that he had always supported blacks' rights to vote based on the Fifteenth Amendment. He opposed the VRA on the grounds that it took away powers that rightly belonged to the states.¹³¹ To Kilpatrick, the Voting Rights Act laid "a foundation by which the State's plainly reserved powers over the right of franchise would be usurped by uniform Federal controls."¹³² Moreover, Kilpatrick condemned registrars who were involved in "chicanery, or subterfuge, or circumvention" in order to discourage blacks from voting. These registrars were "dead wrong" and did not "have a constitutional leg to stand on." Kilpatrick argued, however, that Southern states should be allowed to maintain their voting qualifications, which would decrease the large numbers of blacks registering through a "combination of factors—property qualifications in wholly local elections, literacy tests, gerrymandering, and to some extent by Negro out-migration and by the Negro's own apathy."¹³³ Therefore, in actuality, Kilpatrick held a limited view of the Fifteenth Amendment when it came to black voting rights.

Another important bill that passed in 1965 was the Elementary and Secondary Education Act, which granted federal aid to education. The amount of aid schools received was based on the number of poor students in each school. ESEA gave approximately \$590 million to the seventeen deep South states and border states in 1966.¹³⁴ The federal government hoped that Title I of ESEA would equalize educational resources in each state. Additionally, it directly affected Title IV of the 1964 Civil Rights

¹³¹ James J. Kilpatrick, "Federalism and Civil Rights," lecture at North Carolina State University (February 17, 1967) in *James J. Kilpatrick Papers, Collection no. 6626-r, Box 5, University of Virginia Library*.

¹³² Corley, "James Jackson Kilpatrick," 56.

¹³³ *Ibid.*, 45-46.

¹³⁴ Joseph Crespino, *In Search of Another Country: Mississippi and the Conservative Counterrevolution* (Princeton: Princeton University Press, 2007), 176.

Act. Through the combination of ESEA and the 1964 Civil Rights Act, federal aid could be withheld from segregated school systems. Because of ESEA, the Office of Education created guidelines that made segregated schools submit a desegregation plan or give up their ESEA funds. ESEA frightened conservative white Southerners because it meant that schools in the South had to allot more resources to programs for poor children, and it also demolished the dual school system.¹³⁵

Kilpatrick frequently wrote and spoke against federal aid to education throughout the 1960s and 1970s. Kilpatrick opposed ESEA for the same reasons that he opposed the Voting Rights Act. As an advocate for states' rights, he protested ESEA because it lessened the states' authority and increased federal control. In his column, "A Conservative View," on March 17, 1966, Kilpatrick criticized new, stricter desegregation guidelines issued that month by the Office of Education, asserting that "under the new regulations, the authority of parents is to be diminished." Kilpatrick denounced "the autocratic spirit of these regulations."¹³⁶ "The groundwork is quietly being laid for effective Federal control of the textbooks and library materials used in the nation's public schools," he warned.¹³⁷ Kilpatrick blamed blacks for the growing federal control over public education. Because African American history was severely neglected in textbooks, "House Liberals are thinking of using the vast power of the Federal purse to compel a rewriting of textbooks."¹³⁸

¹³⁵ Schulman, *From Cotton Belt to Sunbelt*, 196.

¹³⁶ James J. Kilpatrick, "A Conservative View," (March 17, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹³⁷ James J. Kilpatrick, "A Conservative View," (September 3/4, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹³⁸ "A Conservative View," September 3/4, 1966.

At the end of 1965, Kilpatrick wrote a column in which he reviewed the dismal events of that year, in particular the passage of the Voting Rights Act and ESEA. He believed that in 1965, more than any other year, “man’s relation to the state, has been radically shifted.” Medicare, the War on Poverty, the Voting Rights Act, and aid to elementary and secondary education,” had all demonstrated to Kilpatrick that “the role of the central government has been immensely enhanced.”¹³⁹ As a states’ righter and conservative, Kilpatrick lamented the federal government’s increasing control.

Even in Kilpatrick’s case against federal aid to education, he still let his biased views against blacks influence his argument. In a column on August 2, 1966, Kilpatrick wrote a scathing piece on Harold Howe, the U.S. Commissioner of Education, whom he declared the “U.S. Commissioner of Integration.” Kilpatrick determined that to Howe the best way to improve schools was “to achieve a racial and economic balance in the schools,” which Howe could enforce through the power he had over the public school system through federal aid.¹⁴⁰ Kilpatrick still believed that schools should be segregated. Also, in Kilpatrick’s column on September 7, 1967, he broached the topic of federal funds being used to finance the writing of textbooks for public schools. He warned that Harold Howe was being pressured “to subsidize the writing of the ‘right’ kind of history and the ‘right’ kind of basic readers.” Kilpatrick believed that federal aid, as Adam Clayton Powell had suggested, would be cut from public school systems that refused “to adopt properly integrated textbooks.”¹⁴¹

¹³⁹ James J. Kilpatrick, “A Conservative View,” (January 1/2, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁴⁰ James J. Kilpatrick, “A Conservative View,” (August 2, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁴¹ James J. Kilpatrick, “A Conservative View,” (September 7, 1967) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

By May of 1967, Kilpatrick's opposition toward federal aid to education had slightly softened primarily because he was searching for a loophole that would restore states' authority. He admitted that "manifestly, the 1965 act has done much good. Not even the most bitter critic of Federal aid can deny it."¹⁴² Nevertheless, Kilpatrick also noted that the federal funds had created "wild inequities." He pointed out that when Congress renewed ESEA, it did not attach the Quie Amendment, which would have given block grants to States and, according to Kilpatrick, would have decreased the inequities and reinstated "the principle of State and local administration."¹⁴³ The NAACP argued that block grants could easily become a means for states to avoid racial integration guidelines since, under the Quie Amendment, state education agencies would distribute the grants rather than the federal government.¹⁴⁴

The momentous civil rights legislation of 1964 and 1965 ultimately had little effect in placating Kilpatrick's attitude about black inferiority and school desegregation. In some ways, Kilpatrick seemed to have become more adamant in his opinions. Kilpatrick revived several themes from *Southern Case* in speeches and columns in the mid-1960s. Specifically, Kilpatrick repeatedly spoke of the South as a scapegoat, of black inferiority, of miscegenation, and of the need for less federal interference in state affairs.

Through the mid- and late-1960s, Kilpatrick mentioned the United States' unjust treatment of the South, which he sometimes referred to as the "oppressed minority."¹⁴⁵

Kilpatrick had actually started using this argument as early as 1963, when he spoke to an

¹⁴² James J. Kilpatrick, "A Conservative View," (May 27/28, 1967) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁴³ "A Conservative View," May 27/28, 1967.

¹⁴⁴ New York States Archives, "State-Federal Education Policy, Historical Essay, Johnson Years," http://www.archives.nysed.gov/edpolicy/research/res_essay_johnson_quie.shtml, (accessed March 1, 2009).

¹⁴⁵ Random Notes for the Bryn Mawr-Haverford Conference, February 7, 1964.

audience at Hampden-Sydney College about the Prince Edward schools closing. He blamed the *Brown* decision for the Prince Edward schools closing by reasoning that there was never the slightest possibility that the Prince Edward schools would consider desegregating.¹⁴⁶ But, Kilpatrick did not start emphasizing the unjust treatment of the South regularly until the mid- and late-1960s. The South, according to Kilpatrick, felt a “sense of oneness here, an identity, a sharing,” which made it unique from the rest of the United States, and thus, made it hard for others to understand the South’s “state of mind.”¹⁴⁷ Of course, Kilpatrick was referring to the white South.¹⁴⁸ By arguing that the North did not understand the South, Kilpatrick hoped to defend the South and the Southern way of life from what he believed was unjust criticism.

In 1966, Kilpatrick defended the South from Northern hypocrisy. In his August 16 column, he wrote that ever since the *Brown* decision, “the South had provided the nation with a wonderfully convenient whipping boy” since racial violence directly equated with the South. Yet, Kilpatrick sarcastically asked, “Where is the violence this summer?” He answered his own question saying, “Why, sir, it is in that great Southern city of Lansing—of Lansing, Mich., that is. It is in Omaha, Chicago, Cleveland, Philadelphia, Providence, Minneapolis, Los Angeles, Brooklyn.” Kilpatrick attacked Northern hypocrisy asking, “It is conceivable that those Northern spokesmen who have spent ten years in denouncing the Southern sickness were infected with the same virus all along?”¹⁴⁹

¹⁴⁶ Kilpatrick, Notes for a talk at Hampden-Sydney College on Civil Rights, November 14, 1963.

¹⁴⁷ Kilpatrick, *Southern Case*, 20.

¹⁴⁸ *Ibid.*, 22.

¹⁴⁹ James J. Kilpatrick, “A Conservative View,” August 16, 1966, Kilpatrick Papers.

During the mid-1960s, Kilpatrick also reaffirmed his views on black inferiority and his fear of miscegenation. At a Bryn Mawr-Haverford Conference on February 7, 1964, Kilpatrick debated with James Farmer, one of the founders of the Congress of Racial Equality (CORE). Kilpatrick reminded the audience that “the Negro race, as a race, is inherently unequal to the white race, as a race” and also, “that integration is wrong and should be actively opposed in those areas, where it would contribute significantly to situations resulting in inter-racial marriage.” In defending his views, he again espoused his argument that historically, blacks had not contributed anything significant to Western civilization; only “Caucasoid people” had. Kilpatrick admitted to his audience that his views may be seen to some as “racism, bigotry,” or “prejudice.” He accused those people, however, who did not even attempt to see his views as “prejudiced and intolerant in your own right” and challenged them to “demonstrate the maturity to seek your own answers, to keep an open mind, and deliberately to search out the opposing evidence” in terms of scientific data. He even gave his audience a reference, *The Biology of the Race Problem*, and gave them a way to obtain a copy of the book.¹⁵⁰ Kilpatrick maintained his beliefs of white supremacy and believed that miscegenation would taint the white race.

As mentioned earlier, while Kilpatrick feared school integration, he reaffirmed that he did not believe in state-sanctioned segregation. He believed, instead, that there should be no federal government interference in school issues and race relations. “I submit to you that laws that would compel segregation are wrong;” he conceded, but then added, “I submit that laws that would compel integration are equally wrong.”¹⁵¹ What he

¹⁵⁰ Random Notes for the Bryn Mawr-Haverford Conference, February 7, 1964.

¹⁵¹ Random Notes for the Bryn Mawr-Haverford Conference, February 7, 1964.

really meant was that he wanted no federal government interference in schools since the federal government promoted school desegregation. Therefore, schools that wished to integrate could do so on their own accord, while segregated schools, particularly in the South, could stay racially separated.

Kilpatrick's opposition to state-enforced segregation was not new, yet he was able to create a new "color-blind" defense of segregated schools through his opposition to government interference. In doing so, he used the rhetoric of the civil rights movement against school desegregation advocates. Kilpatrick veiled his views of race by focusing exclusively on his opposition to the federal government's interference. Kilpatrick attacked the federal government by protesting that "the concept of a law that is 'color-blind' has been altogether discarded. In its place, we are asked by the Negro leadership to accept a new system of law that is oriented to a kind of racism in reverse." He already saw this reverse racism in action, he claimed, citing the order from the U.S. District Court in Richmond for the "city school board to give 'preferential' treatment to certain Negro teachers and faculty members" as evidence.¹⁵² In fact, the district court had accepted a modified freedom-of-choice plan that was proposed by the school board. Ironically, the plan stated that the school board understood "its responsibility to promote and discharge teachers and other personnel without regard to race or color."¹⁵³ The plan concluded that if the guidelines of the plan "do not produce significant results during the 1966-67 school year, it is recognized that the freedom of choice plan will have to be modified."¹⁵⁴

¹⁵² James J. Kilpatrick, Excerpts from talk at Virginia Polytechnic Institute, (March 31, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-c, Box 4, University of Virginia Library*.

¹⁵³ Pratt, 38.

¹⁵⁴ Ibid.

Because the plan was only acceptable if it desegregated the schools, Kilpatrick felt that it reflected reverse racism. He argued that black teachers were automatically given preference over white teachers. Kilpatrick accused supporters of school desegregation of, at first, “denouncing the inequities of a society in which white persons had advantages because they were white” and now, “demanding a new order in which the roles are reversed, and the advantage goes to Negroes because they are Negro.”¹⁵⁵ With the Richmond case, Kilpatrick had found a way to criticize provisions for blacks while invoking the rhetoric of equality. Once again, he refashioned the school desegregation argument to meet new political demands.

One reason for Kilpatrick’s evolving opinion about government interference in school desegregation was that he began to acknowledge that blacks held some valid grievances. Southerners in general he said had begun to see blacks’ views as “a point of view that never had quite occurred to them before” and which they now faced “abruptly and uncomfortably.”¹⁵⁶ He wrote in 1965, that “the grim record of humiliation, insult, deprivation, and injustice never have been sufficiently understood by the white South, is now only being acknowledged in this same quarter.” Southerners recognized that for blacks to improve themselves, black children “must be educated to find employment.”¹⁵⁷ Kilpatrick even criticized his ally and friend, Senator Byrd. In 1966, the year that Byrd died, Kilpatrick wrote a column which praised Byrd’s accomplishments but also noted that Byrd had been denied “the resources of higher learning that his quick mind could have put to greater profit still. It denied him also some of the humanist vision that might

¹⁵⁵ Excerpts from talk at Virginia Polytechnic Institute, March 31, 1966.

¹⁵⁶ James J. Kilpatrick, “A Conservative Prophecy: Peace Below, Tumult Above,” *Harper’s* (Vol. 230, 1965), 161-164.

¹⁵⁷ “A Conservative Prophecy: Peace Below, Tumult Above,” 161-164.

have permitted him, in a time of social revolution, to see the justice of the Negro cause and to adopt the customs of his Southern lifetime to wise and well-considered change.”¹⁵⁸

It was a remarkably presumptuous comment coming from someone who had worked so closely with Byrd in charting the course of massive resistance.

Undoubtedly, Kilpatrick, as well as other Southerners, understood that blacks needed an education; however, this did not necessarily mean that black children needed to be educated in integrated schools. Kilpatrick argued that blacks should not try to find alleviation for their injustices “through special privilege, coercive laws, or trespass upon the rights of others, but primarily through the avenues of education, conciliation, job opportunities, and Negro self-improvement.”¹⁵⁹ The fact, however, that Kilpatrick admitted that blacks had some valid grievances corresponded with his acceptance of integration in other areas such as public transportation. He also condemned segregated libraries as a “grotesque” practice.¹⁶⁰ Indeed, Kilpatrick views evolved in terms of segregation in general. Yet, he still held that school desegregation should only occur locally and voluntarily, if at all.

In 1967, Kilpatrick left Richmond and quit his position as editor of the *News Leader*. He moved to Washington D.C. to write his column for the *Washington Evening Star*.¹⁶¹ Kilpatrick had several reasons for leaving Virginia. Senator Harry Byrd had died in 1966, and with him, the Byrd Machine had gone as well, taking one of Kilpatrick’s most important allies. Furthermore, the birth of the two party system offset the long established alignment of Virginian politics. In the 1965 gubernatorial election, Linwood

¹⁵⁸ Kilpatrick, “A Conservative View”, (July 12, 1966) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁵⁹ Random Notes for the Bryn Mawr-Haverford Conference, February 7, 1964.

¹⁶⁰ “A Conservative Prophecy: Peace Below, Tumult Above,” 162-163.

¹⁶¹ Corley, “James Jackson Kilpatrick,” 60.

Holton, a progressive Republican ran against Mills Godwin, Jr., a former supporter of massive resistance who discarded his segregationist politics when he realized the increasing power of the black vote. Holton lost the election, but he vowed to widen the GOP through an interracial alliance among the middle-class suburbs, the mountain districts, and the black constituency. Also, in the 1966 primary, two Democrats, William Spong and Armistead Boothe, ran in opposition to the Byrd Machine candidates and ultra conservative senators, A. Willis Robertson, and Harry F. Byrd, Jr. Spong won against Robertson in what Matthew Lassiter calls “a spirited battle over the modernization of the Democratic Party. Additionally, Byrd, Jr., barely beat Boothe.¹⁶² With all these losses occurring for conservatives in Virginia, Kilpatrick probably saw that his influence and power in Virginian politics was waning.

By moving to Washington D.C., Kilpatrick hoped to emerge as one of the nation’s leading conservative spokesman. He would be in closer proximity to political activism on school desegregation and educational policies. Furthermore, in the 1968 presidential election, Richard Nixon, with the help of his Southern Strategy, became President of the United States. Southerners, including Kilpatrick, hoped that with Nixon in office, there would be less pressure on Southern schools to desegregate.

Kilpatrick’s Views on Tuition Grants and Busing (1968- 1975)

Several important events took place during the late 1960s and early 1970s, which influenced school desegregation. In particular, busing and tuition grants became two highly contested initiatives in the school desegregation movement. Busing fostered school desegregation, and several Southern cities were forced to bus children to satisfy

¹⁶² Lassiter, *Silent Majority*, 261-2.

black and white quotas in schools. On the other hand, tuition grants impeded school segregation by issuing grants directly to students so that they could attend segregated private schools.

During the late 1960s and early 1970s, the Supreme Court handed down several decisions, and the government finally began to make progress toward the goal of school desegregation in the South. This trend started in 1968 with the *Green v. School Board of New Kent County* decision. New Kent County, located just outside of Richmond, had instituted a freedom of choice plan in 1965. Yet, like most counties with freedom of choice plans, New Kent County had achieved only minimal desegregation. Only 115 black students of 736 attended the predominantly “white” high school, and no white students attended the “black” high school. Consequently, the Supreme Court declared the freedom of choice plan unconstitutional and claimed that public schools had an “affirmative duty” to desegregate.¹⁶³

Kilpatrick condemned the *Green* decision. In fact, he was so angered by the *Green* decision that he apologized to his editors since his “musings ran a little long.” In his column, Kilpatrick continued his argument against state-enforced segregation or integration. Kilpatrick accused the court of coercing “human beings into patterns of social behavior that are unacceptable to them,” and thus, violating a “law of human nature.” For Kilpatrick, it was common sense that whites wanted to be around whites and blacks wanted to be around blacks. Therefore, the government should not enforce either school segregation or integration. Citizens should be free to choose.

Kilpatrick’s 1968 columns reflected his evolving views on school desegregation. First, Kilpatrick claimed that schools would not be integrated through “the processes of

¹⁶³ Patterson, *Brown v. Board of Education*, 145-46.

law” but through a “natural process.” Kilpatrick promoted a theory of gradualism; he stated in his column, “the elimination of segregation will come, when it comes, by natural process.”¹⁶⁴ Kilpatrick’s assertion of this natural process of desegregation, however, contradicted his column on the *Green* decision, which asserted that individuals’ naturally affiliated with people from their own race. Kilpatrick advanced two contradicting theories on human nature. Thus, by preaching a theory of gradualism and opposing state-enforced desegregation, Kilpatrick believed that schools would stay segregated naturally, which reflected his passive resistance ideology.

In 1969, in *Alexander v. Holmes*, the Supreme Court abolished dual school systems and ordered southern school districts “to operate now and hereafter only unitary schools.”¹⁶⁵ Because of this decision as well as the *Green* decision in 1968, the number of black students in predominantly white high schools sharply increased from about 23% in the 1968-69 school year to around 31% in the 1970-71 school year.¹⁶⁶

Yet, abolishing freedom of choice programs was not enough change for school desegregation advocates. To achieve adequate school desegregation, civil rights advocates promoted busing white students to majority black schools. In 1970, in Richmond, Virginia, the NAACP filed a motion to replace the freedom of choice program with a widespread desegregation program, which would inevitably lead to busing.¹⁶⁷ Later that year, a busing plan began which assigned white students to majority black schools. This plan led to about one-fifth of Richmond’s white pupils boycotting the busing plan and to several anti-busing groups, such as Citizens against Busing (CAB) and

¹⁶⁴ Kilpatrick, “A Conservative View,” (November 14, 1968) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁶⁵ Patterson, *Brown v. Board of Education*, 154.

¹⁶⁶ *Ibid.*, 155.

¹⁶⁷ Lassiter, *Silent Majority*, 285.

West End Concerned Parents and Friends (WECPF), becoming more politically active.¹⁶⁸ Additionally that year, the anti-busing groups of seven states in the South gathered in Atlanta and formed the Unified Concerned Citizens of America. Busing became a tense and controversial subject in the U.S.

Colorblind rhetoric was invoked by opponents of busing. People recognized, however, that busing in actuality had become a code word for race. In an interview in 1973, Charlie McDowell agreed that busing was “an obvious code word” when asked if “race now hides under the busing cover.”¹⁶⁹ William Robertson, the first black aide to a Virginian Governor, explained that anti-busing, as a code word, meant “you are either anti-black or you are anti-minority.” Robertson suggested that when a politician says he is anti-busing, he is actually “going back to the days of massive resistance. Blacks perceive him as being one of the old liners.”¹⁷⁰

Kilpatrick, politicians, and anti-busing groups avoided and gave up racially-based arguments. Instead, Kilpatrick and opponents of busing urged “a color-blind view of the law.”¹⁷¹ Kilpatrick’s old newspaper, the *News Leader*, claimed that the busing crisis would “tear the social fabric of this nation apart.”¹⁷² Anti-busing groups, such as the WECPF, stated that they opposed “busing without parental consent” and endorsed “the preservation of a strong neighborhood public school system.” A member of the WECPF said that she supported “reasonable integration” but did not agree with putting students of

¹⁶⁸ Ibid., 288.

¹⁶⁹ Charlie McDowell, Interview A-0210, Southern Oral History Program Collection, UNC-Chapel Hill.

¹⁷⁰ William Robertson, interview by Jack Bass, March 1973, Interview A-213, transcript, Southern Oral History Program Collection, UNC-Chapel Hill, Chapel Hill, NC.

¹⁷¹ Kilpatrick to Professor Randall Kennedy, July 9, 1986.

¹⁷² Lassiter, *Silent Majority*, 287.

different socioeconomic backgrounds in the same school.¹⁷³ Politicians, such as Colgate Darden, who had been a Congressman and governor during the 1930s and 40s, commented on busing in a 1974 interview. He proposed that he would “take the schools out of the hands of the federal courts,” because “I don’t think they are wise enough to run a school system.” He went on to suggest that busing was a “dualism in race relations” and he urged the courts to “just back away from that and let people work out a system that suits them.”¹⁷⁴ Colorblind rhetoric became the norm.

In the early 1970s, the courts, both nationally and in Richmond, became important proponents in the busing war. In 1971, the Supreme Court decided in *Swann v. Charlotte-Mecklenburg* that busing was a legal device to enforce school desegregation.¹⁷⁵ Also, in Richmond in 1972, Judge Robert Merhige used the *Swann* precedent to authorize, in *Bradley v. Richmond*, a two-way busing plan of metropolitan and suburban students which ensured that all students attended desegregated yet still white majority schools.¹⁷⁶ However, the Richmond busing plan was overturned by an appellate court in June of 1972. Thus, by the mid-1970s, only twenty percent of whites were enrolled in Richmond’s public schools, and the wealthiest white parents had enrolled their children in private schools.¹⁷⁷

By invoking colorblind rhetoric, racial conservatives accused busing advocates of promoting “racism in reverse.” A frustrated Kilpatrick once commented on the court’s busing decisions, “I can no longer comprehend the reasoning of the Supreme Court in

¹⁷³ Ibid., 285-6.

¹⁷⁴ Colgate Darden, interview by Jack Bass, March 14, 1974, Interview A-205, transcript, Southern Oral History Program Collection, UNC-Chapel Hill, Chapel Hill, NC.

¹⁷⁵ Patterson, *Brown v. Board of Education*, 157.

¹⁷⁶ Lassiter, *Silent Majority*, 291.

¹⁷⁷ Ibid., 293.

approving these busing cases. It seems to me the Court has spun precisely 180 degrees, from the time when race could not be a factor in pupil assignment to a new day in which race must be a factor in pupil assignment.”¹⁷⁸ Furthermore, at the Sixth Southwide Conference on Elementary Education in 1971, Kilpatrick lamented that “Southern schools are condemned to the lunacies of compulsory busing.” He went on to attack the *Brown* decision declaring in a sarcastic tone, “The great teaching of the case 17 years ago was that race could not be a factor in the assignment of children to public schools; now the opposite rule obtains: Race must be a factor.”¹⁷⁹ Kilpatrick maintained this opinion of busing throughout the 1970s and 80s. For example, in 1988, Kilpatrick once again reiterated his stance against busing declaring, “It never made sense to me to bus children many miles from their homes simply to obtain a forced and artificial integration of public schools.” Additionally, he condemned racial busing by claiming that “the practice served mainly to enforce a racial consciousness on the pupils.”¹⁸⁰ Kilpatrick detested these “contradictory busing orders.”¹⁸¹

Kilpatrick also suggested that busing was one of the major causes for the drop in student achievement in public schools. In 1971, at the Sixth Southwide Conference on Elementary Education, Kilpatrick professed, “it is an opinion held throughout the United States” that “public schools are doing a generally poor job.” He suggested that a primary reason for students’ academic decline “obviously, is the disastrous course on which the

¹⁷⁸ Kilpatrick to James N. McCutcheon, (January 9, 1973) in *James J. Kilpatrick Papers, Collection no. 6626-e, Box 7, University of Virginia Library.*

¹⁷⁹ James J. Kilpatrick, Notes for a talk to Sixth Southwide Conference on Elementary Education, (July 16, 1971) in *James J. Kilpatrick Papers, Collection no. 6626-f, Box 12, University of Virginia Library.*

¹⁸⁰ Kilpatrick to Elizabeth Williams, (April 25, 1988) in *James J. Kilpatrick Papers, Collection no. 6626-n, Box 6, University of Virginia Library.*

¹⁸¹ Kilpatrick to Harry Parker, (September 25, 1973) in *James J. Kilpatrick Papers, Collection no. 6626-e, Box 7, University of Virginia Library.*

Federal courts are embarked,” and pointedly mentioned the *Swann* decision.¹⁸² In 1975, Kilpatrick reiterated his perspective on the decline in educational standards by writing, “I am sure that coerced integration of schools has been a major factor in the decline of education in many cities.”¹⁸³

Kilpatrick, however, attributed schools’ decline to other factors as well. For example, he believed that television had seriously hurt children’s literacy.¹⁸⁴ Moreover, in 1975, when a reader of his column suggested that the decline in academic achievement was due solely to desegregation, Kilpatrick wrote in response “Of course the tensions of compelled desegregation have had an adverse effect on education, but this factor plays a small part in most of the country.”¹⁸⁵ Yet, later that year, Kilpatrick wrote to another reader that he believed school desegregation was a “major factor,” although he did not “see how that would be the whole explanation for the nationwide decline in the College Board scores. Other adverse factors plainly are at work.”¹⁸⁶ Kilpatrick did not solely blame busing and forced school desegregation, yet he clearly believed that it was a primary factor causing the public schools’ decline.

Predictably, Kilpatrick wrote several articles opposing busing. Yet, absent from his arguments for each was the overt racist reasoning of earlier years. Kilpatrick denounced the courts for using race as a factor in assigning children to public schools, a tactic that had been berated by the courts when the South operated segregated schools. Kilpatrick’s arguments had become increasingly focused on his conservative political

¹⁸² Sixth Southwide Conference on Elementary Education, July 16, 1971.

¹⁸³ Kilpatrick to Edgar Anderson, (September 24, 1975) in *James J. Kilpatrick Papers, Collection no. 6626-g, Box 7, University of Virginia Library*.

¹⁸⁴ Sixth Southwide Conference on Elementary Education, July 16, 1971.

¹⁸⁵ Kilpatrick to Sam Roney, (September 15, 1975) in *James J. Kilpatrick Papers, Collection no. 6626-g, Box 7, University of Virginia Library*.

¹⁸⁶ Kilpatrick to Edgar Anderson, September 24, 1975.

beliefs. In other words, his arguments had become increasingly “color-blind” and less based on beliefs of black inferiority. It appears that while Kilpatrick’s views on school desegregation had not changed, at least his reasons for opposing school desegregation had.

Tuition grant laws existed in Louisiana, Virginia, Alabama, Arkansas, Mississippi, Georgia, and the Carolinas,¹⁸⁷ yet courts had started to declare tuition grants unconstitutional in the late 1960s because they encouraged racially segregated schools. Kilpatrick wrote repeatedly in support of tuition grant programs throughout his career. Yet, similar to his busing opposition, Kilpatrick’s arguments for tuition grants did not invoke overt racist reasons as in earlier years. Kilpatrick defended tuition grants as, arguably, a way to increase student achievement of all children, regardless of race. In his column, Kilpatrick endorsed tuition grants because of their educational value. He declared that “a State’s valid interest in a child lies in the child’s education—not necessarily in his ‘public education,’ but simply in his education, period.”¹⁸⁸ In 1973, Kilpatrick vehemently reiterated this argument declaring, “I do not give a damn whether a child’s equal share of the educational pie is used for his education in a public school, a private school, or a parochial school. The state’s only proper interest...is that the child receive an acceptable education.” Moreover, he affirmed, “I don’t care whether a child is Catholic or Protestant or Jewish, black, or white, or red.”¹⁸⁹ In arguing against busing and for tuition grants, Kilpatrick separated his racist notions as much as possible from his political views and relied more heavily on his color-blind arguments. In other words,

¹⁸⁷ Crespino, *In Search of Another Country*, 240.

¹⁸⁸ “A Conservative View,” (January 30, 1968) in *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*.

¹⁸⁹ Kilpatrick to Carl Lundstrom, (June 16, 1973) in *James J. Kilpatrick Papers, Collection no. 6626-e, Box 3, University of Virginia Library*.

Kilpatrick's concern for keeping schools segregated became a secondary concern to the goal of improving a student's overall achievement.

When one reader of "A Conservative View" accused Kilpatrick of supporting tuition grants to private schools so that "the races will not mix," Kilpatrick firmly denied this accusation.¹⁹⁰ He countered that private schools which received tuition grants "would have to be non-discriminatory." Moreover, when questioned about what he would teach children about the importance of skin color, he responded, "I would have them taught that children ought not to be classified by the color of their skins and herded around like animals because they are white or because they are black." At first glance, this may seem like a change in Kilpatrick's racial views. When Kilpatrick adds, "That is what the Supreme Court and most liberals are teaching them now," one is reminded of the colorblind rhetoric which Kilpatrick and other racial conservatives employed at this time to oppose racial busing.¹⁹¹

Kilpatrick denied that tuition grants, at least by the late 1960s, were being used to promote school segregation. In January 1968, Kilpatrick wrote a column in response to the Supreme Court's decision to declare Louisiana's tuition grant law unconstitutional in *Poindexter v. Louisiana Financial Assistance Commission*. The Supreme Court reaffirmed that Louisiana's tuition grant law violated the equal protection clause and provided public funds to promote segregation.¹⁹² Angered by the Supreme Court's

¹⁹⁰ Ida Poe to Kilpatrick, (February 15, 1974) in *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*.

¹⁹¹ Kilpatrick to Ida Poe, (February 26, 1974) in *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*.

¹⁹² David F. Salisbury, *Educational Freedom in Urban America: Fifty Years After Brown v. Board of Education* (Washington D.C.: Cato Institute, 2004), 21.

decision, Kilpatrick claimed that the Supreme Court had made this decision “without hearing one word of argument in the law’s defense.”¹⁹³

In this January 1968 column, Kilpatrick admitted that “the tuition grant plan first devised in Virginia ten years ago was an instrument of the State’s “massive resistance” to court-ordered integration of the public schools.” “The overlooked point is that the Virginia law was completely rewritten in 1960,” he argued when “every vestige of racial motivation was rooted from the law.” Thus, the current tuition grant law was “without discrimination, or any sort,” and “has much to commend it.” Kilpatrick emphasized this fact by noting that in Virginia, the tuition grant program “is known to include hundreds of Negro pupils.”¹⁹⁴ Louisiana quickly followed Virginia’s lead in this action. Indeed, in 1960, the Virginia General Assembly adopted a new tuition grant program in which a child of any race was eligible for a tuition grant of \$125 or \$150.¹⁹⁵ This change divorced the tuition grant law from its racist beginnings. Kilpatrick did not mention that by 1960, however, Virginians had found another way to avoid integrating their school systems through the freedom of choice program, which was later declared unconstitutional by the Supreme Court in the *Green* decision. Kilpatrick’s tuition grants were another form of passive resistance to combat school desegregation.

From the late 1960s to the mid 1970s, Kilpatrick’s support of tuition grants, through the guise of advancing better education for children, never wavered, and Kilpatrick also wrote in support of private schools run by the Citizen’s Council in Jackson, Mississippi. Kilpatrick wrote, “I have nothing but applause—for such private schools” since they “provide a certain freedom of choice, which always seem to me

¹⁹³ “A Conservative View,” January 30, 1968.

¹⁹⁴ “A Conservative View,” January 30, 1968.

¹⁹⁵ Ely, *The Crisis of Conservative Virginia*, 130-131.

desirable in a free society.”¹⁹⁶ Private schools run by Citizen’s Councils are sometimes referred to as segregation academies since Citizen’s Councils were set up to preserve segregation in the South. In 1969, Citizen’s Councils claimed to run at least 150 private schools. The Councils provided information on establishing private school and created a network of contacts among Southerners who wanted to advance the private schools movement and support the tuition grant programs. Thus, private schools began all over the South and supported the Citizen’s Councils’ views on racial segregation.¹⁹⁷ Tuition grants continued being used to keep children in segregated schools. Undeniably, Kilpatrick supported tuition grants not only because of their educational merit, but because they encouraged passive resistance to school desegregation.

As time passed, Kilpatrick amended his arguments against school desegregation. Throughout the late 1960s to the mid 1970s, Kilpatrick and other racial conservatives understood the futility of racially based arguments and the effectiveness of colorblind rhetoric. Colorblind rhetoric subsumed racial arguments into politically based arguments. Yet, Kilpatrick’s political arguments do not imply that his views on school desegregation had not evolved at all. Kilpatrick still believed that school segregation was important, but increasing student achievement was more important. Thus, school segregation became a secondary concern, while increasing student achievement and offering strong educational opportunities became Kilpatrick’s primary goal.

Conclusion

¹⁹⁶ Kilpatrick to Mrs. Nash, (October 18, 1974) in *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library.*

¹⁹⁷ Crespino, *In Search of Another Country*, 243-44.

During the sixties and seventies, modern conservatism became associated with the South and experiences with race and education strongly shaped Southerners' views. Over time, modern conservatism shaped and basically became the Republican Party in the United States. Thus, the South accrued power and became a major force in American politics.

By studying Kilpatrick, one understands the purely racial arguments against school desegregation and also the persuasive political and legal arguments. For example, Kilpatrick advocated for states' rights, the doctrine of interposition, and later, a colorblind interpretation of the law. His clear communication of Southern views on school desegregation helps one understand how Southerners' conservative racial views transformed into constitutional and legal arguments. Southerners believed that by protecting their schools, they were also protecting their rights as Americans and preserving the Southern way of life. Kilpatrick is important in the history of school desegregation because he provided logical and legal arguments, which were adopted by conservative politicians, Southerners, and opponents of school desegregation.

Why does it matter if Kilpatrick reflects the South's argument against school desegregation? First, understanding Kilpatrick helps one understand the legal arguments invoked by the South. As racially-based arguments became less influential, Kilpatrick's arguments against school desegregation became more constitutional and legal. Consequently, Kilpatrick also demonstrates the public evolution of arguments opposing school desegregation.

In the end, Kilpatrick saw the inevitability of school desegregation and accepted it. By the 1980s, some even called him an “integrationist.”¹⁹⁸ Lastly, as a newspaper editor, columnist, and television commentator, Kilpatrick’s opinions influenced others. Thus, by looking at what Kilpatrick wrote in his column and how his readers responded, one can gauge public opinion over time.

Kilpatrick is important for other reasons as well. By analyzing the transformation of Kilpatrick’s views on school desegregation and the South, one can tease out the influence of racism versus other influences. Specifically, education, not race or school type, became Kilpatrick’s main priority.¹⁹⁹ “I am not especially wedded to public education, or to private education, or to education in parochial schools,” he stated, “my concern is with education, period.” In addition, one can trace the continuing presence of, if not racism, at least issues concerning race, in Kilpatrick’s later writings. For example, in 1977, Kilpatrick criticizes affirmative action arguing that “the first effect of such programs is to penalize the black who truly has merit, or skill, or talent, or professional qualifications.”²⁰⁰ Thus, again, Kilpatrick shows that while race was not his primary concern in education, it was still hovering in the back of his mind. Although Kilpatrick eventually renounced his opposition to school desegregation, he showed some fleeting racist sentiments. For example, in 1986, he wrote a letter to a reader and claimed that he had renounced his views on state-sanctioned segregation but still found “interracial

¹⁹⁸ Maurice Fleming to Kilpatrick, (August 23, 1985), in *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*.

¹⁹⁹ Kilpatrick to Mr. Tibbe, (December 17, 1974) in *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*.

²⁰⁰ Kilpatrick to Mrs. Stimpson, (December 12, 1977) in *James J. Kilpatrick Papers, Collection no. 6626-h, Box 10, University of Virginia Library*.

marriage regrettable.”²⁰¹ Yet, these racist sentiments should not be overstated. In terms of education, Kilpatrick’s primary concern became student achievement; regardless of whether academic excellence was accomplished through segregated or desegregated schools.

Kilpatrick’s early arguments against school desegregation are important because the language he and other white Southerners used to oppose school desegregation became tied to the modern conservative movement. Within the history of school desegregation, one sees how the arguments against school desegregation became less overtly racist and more legally and constitutionally-based, especially compared to the legal arguments for slavery in America.

In the nineteenth century, proponents of slavery used several arguments to justify slavery, from defending slavery as a necessary evil because of the severe social and economic consequences of emancipation to arguing that it was a southerner’s right to own slaves since slaves were personal property. During slavery, Senator John Calhoun first coined the term “popular sovereignty” to defend slaveholding, which Kilpatrick adopted and evolved in his doctrine of interposition. Yet, like the older arguments of Senator Calhoun’s, Kilpatrick’s arguments were gradually rejected since they were based on racist assumptions. Thus, Kilpatrick’s arguments had to become less overtly racist to win popular support so Kilpatrick began calling for a colorblind ideology. In like manner, modern conservatives have focused on legal arguments supporting their positions and avoided the appearance of racial bias. Thus, understanding Kilpatrick’s

²⁰¹ Kilpatrick to Maurice Fleming, (July 22, 1985) in *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*.

influence on the South and on the school desegregation conflict provides insight into the underlying forces that shaped modern conservatism.

Works Cited

Primary Resources

- Baker, Robert E. "The South: Its Past and Future" *The Washington Post*. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, 1963.
- Brinks, Greg. Letter to Kilpatrick. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, January 15, 1964.
- Fleming, Maurice. Letter to Kilpatrick. In *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*, August 23, 1985.
- Goodman, Mary Ellen. "Sanctuaries for Tradition: Virginia's New Private Schools." February 8, 1961. *Southern Regional Council Special Report*. In *NAACP Papers, Part 20 (1956-65): Reel 13, Microfilm 0001*.
- Interview with Charlie McDowell by Jack Bass and Walter DeVries, 1973 (A-0210) in the Southern Oral History Program Collection (#40007), Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.
- Interview with Colgate Darden by Jack Bass, March 14, 1974 (A-205) in the Southern Oral History Program Collection (#40007), Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.
- Interview with Virginius Dabney by William H. Turpin and Daniel Jordan, July 31, 1973 (A-0311-2) in the Southern Oral History Program Collection (#40007), Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.
- Interview with William Robertson by Jack Bass, March 1973 (A-213) in the Southern Oral History Program Collection (#40007), Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill.
- Kilpatrick, James J. "A Conservative Prophecy: Peace Below, Tumult Above." *Harper's*. Vol. 230, 1965: 161-164.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, August 2, 1966.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, January 1/2, 1966.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, January 30, 1968.

- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, July 12, 1966.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, November 14, 1968.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, March 17, 1966.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, May 27/28, 1967.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*, September 3/4, 1966.
- _____. "A Conservative View." In *James J. Kilpatrick Papers, Collection no. 6626-p, Box 1, University of Virginia Library*. September 7, 1967.
- _____. "Amherst, Massachusetts, Speech Notes on Race Issues." In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*, 1955.
- _____. Excerpts from talk at Virginia Polytechnic Institute. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 4, University of Virginia Library*, March 31, 1966.
- _____. "Federalism and Civil Rights," lecture at North Carolina State University. In *James J. Kilpatrick Papers, Collection no. 6626-r, Box 5, University of Virginia Library*, February 17, 1967.
- _____. "Four Years After: A Backward Look at the School Cases." In *James J. Kilpatrick Papers, Collection no. 6626-e, Box 12, University of Virginia Library*, 1958.
- _____. Letter to Aldrich Blake. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 26, University of Virginia Library*, May 13, 1959.
- _____. Letter to Carl Aldrich. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 26, University of Virginia Library*, August 13, 1959.
- _____. Letter to Ida Poe. In *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*, February, 26, 1974.
- _____. Letter to Carl Lundstrom. In *James J. Kilpatrick Papers, Collection no. 6626-e, Box 3, University of Virginia Library*, June 16, 1973.

- _____. Letter to Edgar Anderson. In *James J. Kilpatrick Papers, Collection no. 6626-g, Box 7, University of Virginia Library*, September 24, 1975.
- _____. Letter to Elizabeth Williams. In *James J. Kilpatrick Papers, Collection no. 6626-n, Box 6, University of Virginia Library*, April 25, 1988.
- _____. Letter to Greg Brinks. In *James J. Kilpatrick Papers, Collection no. 6266-b, Box 71, University of Virginia Library*, January 15, 1964.
- _____. Letter to Harry Byrd, Sr. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 11, University of Virginia, Library*, April 6, 1960.
- _____. Letter to Harry Parker. In *James J. Kilpatrick Papers, Collection no. 6626-e, Box 7, University of Virginia Library*, September 25, 1973.
- _____. Letter to Henry A. Solomon. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, April 18, 1963.
- _____. Letter to James N. McCutcheon. In *James J. Kilpatrick Papers, Collection no. 6626-e, Box 7, University of Virginia Library*, January 9, 1973.
- _____. Letter to Leon Dure. In *James J. Kilpatrick Papers, Collection no. 6626-j, Box 1, University of Virginia Library*, February 13, 1959.
- _____. Letter to Maurice Fleming. In *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*, July 22, 1985.
- _____. Letter to Mr. Tibbe. In *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*, December 17, 1974.
- _____. Letter to Mrs. Nash. In *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*, October 18, 1974.
- _____. Letter to Mrs. Stimpson. In *James J. Kilpatrick Papers, Collection no. 6626-h, Box 10, University of Virginia Library*, December 12, 1977.
- _____. Letter to Paul Nash. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, November 30, 1964.
- _____. Letter to Randall Kennedy. In *James J. Kilpatrick, Papers, Collection no. 6626-n, Box 11, University of Virginia Library*, July 9, 1986.
- _____. Letter to Rose Warfield. In *James J. Kilpatrick Papers, Collection no. 6626-n, Box 11, University of Virginia Library*, July 2, 1986.

- _____. Letter to Sam Roney. In *James J. Kilpatrick Papers, Collection no. 6626-g, Box 7, University of Virginia Library*, September 15, 1975.
- _____. Notes for a talk at Hampden-Sydney College on Civil Rights. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 3, University of Virginia Library*, November 14, 1963.
- _____. Notes for a talk to Sixth Southwide Conference on Elementary Education. In *James J. Kilpatrick Papers, Collection no. 6626-f, Box 12, University of Virginia Library*, July 16, 1971.
- _____. Random Notes for the Bryn Mawr-Haverford Conference. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 3, University of Virginia Library*, February 7, 1964.
- _____. "Tactics in the School 'War.'" Richmond Rotary Club. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*, November 11, 1958.
- _____. *The Southern Case for School Segregation*. New York: The Crowell-Collier Press, 1962.
- _____. *The Sovereign States: Notes of a Citizen of Virginia*. Chicago: H. Regnery Co., 1957.
- _____. University of Richmond Speech on Integration. In *James J. Kilpatrick Papers, Collection no. 6626-c, Box 1, University of Virginia Library*, 1955.
- Poe, Ida. Letter to James J. Kilpatrick. In *James J. Kilpatrick Papers, Collection no. 6626-f, Box 3, University of Virginia Library*, February 15, 1974.
- Review of *The Southern Case for School Segregation. Jubilee*. New York. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, January 1963.
- Sitton, Claude. "Where They Stand." *New York Times Book Review*. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, November 11, 1962.
- Solomon, Henry A. Letter to Kilpatrick. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, April 15, 1963.
- Terrell, D. "3 Views on Race." *Chattanooga Times*. In *James J. Kilpatrick Papers, Collection no. 6626-b, Box 71, University of Virginia Library*, February 17, 1963.

Secondary Sources

- Carter, Dan. *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*. Baton Rouge: Louisiana State University Press, 2000.
- Cohodas, Nadine. *Strom Thurmond and the Politics of Southern Change*. New York: Simon and Schuster, 1993.
- Corley, Robert Gaines. "James Jackson Kilpatrick: The Evolution of a Southern Conservative, 1955-1965." M.A. diss., University of Virginia, 1971.
- Crespino, Joseph. *In Search of Another Country: Mississippi and the Conservative Counterrevolution*. Princeton: Princeton University Press, 2007.
- Edmonds, Bill. "Civil Rights and Southern Editors: Richmond, Little Rock, and Tallahassee." M.A. diss., Florida State University, 1996.
- Ely, James. *The Crisis of Conservative Virginia: The Byrd Organization and the Politics of Massive Resistance*. Knoxville: The University of Tennessee Press, 1976.
- Heidrick, John. "James Jackson Kilpatrick: A Study in Contemporary American Conservatism." M.A. diss., Emporia State University, 1978.
- Heinemann, Ronald. *Harry Byrd of Virginia*. Charlottesville: University Press of Virginia, 1996.
- King, Jr., Martin Luther, and Carson, Clayborne (ed.). *The Autobiography of Martin Luther King, Jr.* Grand Rapids: Grand Central, 2001.
- Kruse, Kevin. *White Flight: Atlanta and the Making of Modern Conservatism*. Princeton: Princeton University Press, 2005.
- Lassiter, Matthew. *The Silent Majority: Suburban Politics in the Sunbelt South*. Princeton: Princeton University Press, 2006.
- Patterson, James. *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy*. New York: Oxford University Press, 2001.
- _____. *Grand Expectations: The United States, 1945-1974*. New York: Oxford University Press, 1996.
- Pratt, Robert. *The Color of Their Skin: Education and Race in Richmond, Virginia 1954-89*. Charlottesville, University Press of Virginia, 1992.
- Roberts, Gene, and Klibanoff, Hank. *The Race Beat: The Press, The Civil Rights Struggle, and The Awakening of a Nation*. New York: Knopf, 2006.

- Salisbury, David. *Educational Freedom in Urban America: Fifty Years After Brown v. Board of Education*. Washington D.C.: Cato Institute, 2004.
- Schulman, Bruce. *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980*. New York: Oxford Press, 1991.
- Sokol, Jason, *There Goes My Everything: White Southerners in the Age of Civil Rights, 1945-1975*. New York: Vintage Books, 2006.
- "State-Federal Education Policy, Historical Essay, Johnson Years." *New York State Archives* April 4, 2009
<http://www.archives.nysed.gov/edpolicy/research/res_essay_johnson_quie.shtml>. (accessed March 1, 2009).
- Thorndike, Joseph. "The Sometimes Sordid Level of Race and Segregation: James J. Kilpatrick and the Virginia Campaign against *Brown*." *The Moderates' Dilemma Massive Resistance to School Desegregation in Virginia*. New York: University of Virginia Press, 1998. 51-71.
- Wilkinson, J. Harvie. *Harry Byrd and the Changing Faces of Virginia Politics, 1945-1966*. Charlottesville: The University Press of Virginia, 1968.