

Racial Violence and the Politics of Innocence: From the Postwar South to Post-Racial  
America

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**Abstract**

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In 1962, James Baldwin identified racial innocence as the “crime” of being willfully untouched by the racial injustices of American life: “But it is not permissible that the authors of devastation should also be innocent. It is the innocence which constitutes the crime.” Beginning with that critical insight, this dissertation argues that racial innocence exists not only in the mind, where Baldwin and contemporary scholars who take up his critique tend to locate it, but also in the very fabric our political rhetoric, policy formations, and political institutions. Applying American political development methods of tracking changes in political authority over time to the ideological production of “racial innocence,” this project offers a study of a major tributary of racial innocence today: the lineage of liberal law-and-order politics in post-WWII southern political discourse and state policy. Beginning in the 1940s, northern liberals began to spotlight the problem of “lawless” southern white violence,

viewing it as deeply inconsistent constitutional guarantees and national principles. The following decade, in the context of *Brown v. Board of Education* and the black civil rights movement, the language of “law and order” traveled south, where it became an important rhetoric of various white resistance movements dedicated to hindering the impact of *Brown*. In a departure from scholarship that investigates law-and-order politics’ southern conservative origins, I highlight instead its centrality in the rhetoric and policies of southern moderates. Fighting to shore up economic and political power in the corporate-capitalist metropolises of the “New South” and maintain racial stratification in that transition, white moderates turned to the liberal and race-neutral language of “law and order.” Capturing the language of postwar racial liberalism enabled southern moderates to contain black protest on ostensibly “colorblind” grounds, preserve racial stratification in schools without the coarseness of Jim Crow violence, and entrench punitive law-and-order logic in a broadening range of state-level policy and practices. In the process, “law and order” became a defining political rhetoric, a heightened state interest, and emergent policy formation. In moving the region from the lawless Jim Crow *violence* to New South *law-and-order* New South, moderates durably impacted American racial formation around racial innocence.

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## **Chapter One**

### **Introduction: Racial Violence and the Politics of Innocence**

*“But it is not permissible that the authors of devastation should also be innocent. It is the innocence which constitutes the crime.”*

– James Baldwin, “My Dungeon Shook” (1963)<sup>1</sup>

“Things have changed in the South.” This familiar assertion, so often the exhale of an ostensibly post-racial America, turned into a warning shot in the summer of 2009. Six months after Barak Obama took office amid cheers that “the last racial barrier in American politics” had fallen, Chief Justice John Roberts’ majority opinion in *Northwest Austin v. Holder* made clear that racial barriers to voting were likewise a thing of the past.<sup>2</sup> Things had changed: while the “historic accomplishments” of the 1965 Voting Rights Act were “undeniable” in curtailing discriminatory voting practices in the mostly southern states it targeted, Roberts admonished, its central provisions now raised “serious constitutional concerns.”<sup>3</sup> Precisely because of its accomplishments, the nearly unanimous (8-1) Court placed the Voting Rights Act’s two keystone sections under review. Sections 4 and 5 together ensured that voting laws and procedures in state and local governments with a history of voting discrimination would be subject to federal preclearance before new legislation could take effect. But these provisions, Roberts reasoned, differentiate between northern and southern states in ways that “may no longer be justified.”<sup>4</sup> Although *Northwest Austin* sidestepped this constitutional

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<sup>1</sup> James Baldwin, “My Dungeon Shook: Letter to My Nephew on the One Hundredth Anniversary of the Emancipation,” *The Fire Next Time* [1963] in *Baldwin: Collected Essays* (New York: Library Classics of America, 1998), 292.

<sup>2</sup> Adam Nagourney, “Obama Elected President as Racial Barrier Falls,” *New York Times*, November 4, 2008.

<sup>3</sup> *Northwest Austin Municipal Utility District Number One v. Holder*, 557 U.S. 193, 129 S. Ct. 2504, 174 L. Ed. 2d 140 (2009).

<sup>4</sup> Roberts might actually be right, but not in the way he meant to be. Discriminatory voting legislation is not confined to the South, as evidenced by the recent spate of voter identification laws in Pennsylvania, Wisconsin, and Arizona.

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question, four years later, the Chief Justice’s intonation that “things have changed” served as the foundation for the Supreme Court’s evisceration, in *Shelby County v. Holder* (2013), of the heart of the Voting Rights Act. “Nearly 50 years later,” Justice Roberts wrote in his 5-4 majority opinion, echoing himself, “things have changed dramatically.”<sup>5</sup> Section 4, once “strong medicine” against entrenched racial discrimination and inequality, was now an undue “burden” on the “equal sovereignty” of southern states.

The Court’s ruling in *Shelby* ignored 21 House and Senate Judiciary Committee hearings, multiple reports, and over 15,000 pages amassed by Congress documenting “flagrant racial discrimination” in voting legislation prevented by the Voting Rights Act since its last reauthorization in 1982.<sup>6</sup> Based on a long list of evidence, the 2006 Congress had by wide margins reauthorized the Act for an additional 25 years. But mere hours after the *Shelby* ruling, officials in five southern states moved forward with strict voter identification laws that erected new barriers making it harder for poor and minority citizens to register to vote. Journeying from the chambers of the Supreme Court to the North Carolina state capitol three weeks after the ruling, one would witness Governor Pat McCrory sign into law newly restrictive voting procedures – including a strict photo identification requirement, the prohibition of ballots cast by eligible voters who went to the wrong precinct, and outlawing same-day registration – all restrictions that fall disproportionately on poor, African American, immigrant, and youth populations in the state.<sup>7</sup> In the wake of the *Shelby* decision, racially punitive voting legislation has surfaced in Virginia, Mississippi, Alabama, Kansas, Arizona, and Texas – all states that had, until 2013, operated either wholly or partially under the

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<sup>5</sup> *Shelby County v. Holder*, 133 S. Ct. 2612, 186 L. Ed. 2d 651 (2013).

<sup>6</sup> Ruth Bader Ginsburg, dissenting in *Shelby County v. Holder*.

<sup>7</sup> Charlie Savage, “Justice Department Poised to File Lawsuit Over Voter ID Law,” *New York Times*, September 30, 2013.

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requirements of federal preclearance. Additionally, in the jurisdictions with the worst history of voter disfranchisement, voting legislation that redraws districts in ways that dilute minority votes or make it harder for minority candidates to win no longer receive automatic oversight from the Justice Department.

Chief Justice Roberts' assertion that the South has made significant progress since the 1960s offers a window into a broader common sense about the significance and state of race in contemporary America. His claim that "the South has changed" rubs against the just as familiar contention that the region remains the nation's primary locus of racial animus, prejudice, and discrimination. In this tangled racial era, the refrain that America has entered a "post-racial" age is set to usurp in popularity its predecessor and close cousin, the refrain that America is (or should be) "color-blind." Both post-racialism and color-blindness are symptomatic of a deeper trend in American politics that orients the perceived innocence of our racial reality in terms of time and region. Racial injustice is largely taken as a thing of the southern past. Left comfortably to history, racism was all but "overcome" by *Brown*, the hard-fought and hard-won black civil rights movement, and federal legislation such as the 1964 Civil Rights Act and the 1965 Voting Rights Act. Centrally in this vision, racial violence is understood to have disappeared as the crudest of southern sins: the terrorism of Ku Klux Klan, routine lynchings, racially corrupt local sheriffs and county courts, and segregationist mob violence. As racism is placed squarely in a southern past that bears little resemblance to today, the contemporary political landscape is marked by such temporal- and region-oriented testaments to the waning of white supremacy. Indeed, the very language of post-raciality is as much regional as temporal; it proclaims not only the deadness of racism, but also the expiration of race's social reality *as already past*. That this past is understood as primarily

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southern in essence only adds to the myth that that racism's deadness means "things have changed for the South." Under this logic, continued racial disparity, exclusion, and violence are commonly deemed fading vestiges of bygone racism, aberrations to present "inclusive" or "diverse" conditions forged in the 1960s, attributed to the ignorant few who have failed to perform the work necessary to "educate" themselves out of their prejudice, or are explained away as the product of personal underachievement and the waywardness of crime-ridden inner city and immigrant communities.

And yet, a growing and un-refuted body of literature demonstrates that the extent of racial inequality in contemporary American life runs far past access to the ballot box. Indeed, the reality that structurally protected racial hierarchy continues to exist on a number of measures in contemporary American society is apparent from a host of current scholarship. For instance, in 2010, while the median income of white families was roughly 1.5 times that of black families, the median net worth of white families, amassed over generations of discriminatory property and land use practices, was significantly greater – over six times greater – than that of black families.<sup>8</sup> Due in large part to the history of such practices as redlining, racially restrictive housing covenants, and blockbusting, blacks currently possess seven to ten cents for every dollar of net worth that whites possess.<sup>9</sup> Racial disparities in education are equally stark. In May 2014, a full 60 years after *Brown v. Board of Education* (1954), the U.S. Department of Education announced that four out of 10 black and Latino students attend "intensely segregated schools," and only 14% of white students attend

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<sup>8</sup> <http://inequality.org/racial-inequality/>. For an in-depth study of the racialized accumulation of wealth, see Daria Roithmayr, *Reproducing Racism: How Everyday Choices Lock in White Advantage* (New York: New York University Press, 2014). See also: Thomas Shapiro, *Black Wealth, White Wealth: A New Perspective on Racial Inequality* (New York: Routledge, 2006).

<sup>9</sup> George Lipsitz, *How Racism Takes Place* (Philadelphia, PA: Temple University Press, 2011), 3.

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“schools you could call multicultural.”<sup>10</sup> Such segregation contributes to the racial disparities in resources, access to advanced classes, college preparation, and discipline. Indeed, while blacks make up less than 16% of the national student body, they make up 27% of referrals to law enforcement and 31% of those subjected to school-related arrest.<sup>11</sup>

The racial disparity in state violence – incarceration, prison isolation, the death penalty, shootings by police, racial profiling, and school punishment – is equally stark.<sup>12</sup> As punitive crime policy rose dramatically in the second half of the twentieth century, prisons also began holding disproportionately high percentages of African Americans: 3,042 black males per 100,000, as opposed to 487 white males per 100,000 in 2012.<sup>13</sup> Within America’s prisons, black inmates disproportionately experience the varied practices of inmate isolation: solitary confinement, supermax incarceration, and administrative and disciplinary use of Special Housing Units. In Arkansas’ Varner Unit Prison, for instance, African Americans make up less than half of the prison population but over 70% of those placed in isolated supermax cells; in New York, African Americans make up nearly half of the state prison population, but 59% of those placed in Special Housing Units.<sup>14</sup> African Americans are also charged disproportionately with the death penalty: while the nation’s population is 13% black and the nation’s prison population 39% black, blacks make up 42% of death row inmates.<sup>15</sup> Further, state violence in the form of police killings similarly falls heavily on black communities. Even

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<sup>10</sup> Arne Duncan, “Progress and Challenges 60 Years After *Brown*,” <http://www.ed.gov/blog/2014/05/progress-and-challenges-60-years-after-brown-v-board/>

<sup>11</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-discipline-snapshot.pdf>.

<sup>12</sup> Prison isolation includes solitary confinement, supermax incarceration and disciplinary or administrative segregation from the prison population. See Margo Schlanger, “Prison Segregation: Symposium Introduction and Preliminary Data on Racial Disparities,” *Michigan Journal of Law and Race* (2013).

<sup>13</sup> <http://www.bjs.gov/content/pub/press/cpus12pr.cfm>.

<sup>14</sup> Schlanger, “Prison Segregation,” 244. Varner Prison (Arkansas) data is from 2005; New York data is from 2011.

<sup>15</sup> Todd B. Minton and Daniela Golinelli, “Jail Inmates at Midyear 2013 – Statistical Tables,” Department of Justice Bureau of Statistics Report, August 12, 2012. <http://www.bjs.gov/content/pub/pdf/jim13st.pdf>

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by the Federal Bureau of Investigation's partial numbers, black men and women died at the hands of the police at a rate of approximately twice per week between 2005 and 2012, and 18% of blacks killed by police during this period were under 21, compared with 8.7% of whites.<sup>16</sup> The presence of such demonstrably brutish practices as prolonged solitary confinement, overcrowding, slow and sometimes inadequate medical care, poor and sometimes withheld food within prisons, and racial profiling at the boarder and on the streets means that state violence is disproportionately felt by African American men and, increasingly, black women and Latino/as.<sup>17</sup>

Even as racial disparity persists and state violence compacts along racial lines to produce, in Loïc Wacquant's phrase, "the first genuine prison society in history," the myth of post-racialism persists.<sup>18</sup> More specifically, with astonishing regularity, Americans find themselves pulled in opposite directions regarding the state of race in contemporary America. The steadfast presence of racially punitive and inegalitarian practices that mark today's carceral practices, health and wealth disparities, and segregated neighborhoods and schools stands next to a bullish insistence that we have reached (or will soon reach) a post-racial state in which

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<sup>16</sup> Federal Bureau of Investigation numbers are widely considered conservative because it relies on police units self-reporting and because not all police departments participate in this reporting. Kevin Johnson, Meghan Hoyer, and Brad Heath, "Local Police Involved in 400 Killings Per Year," *USA Today*, August 14, 2014. <http://www.usatoday.com/story/news/nation/2014/08/14/police-killings-data/14060357/>.

<sup>17</sup> On the violence of solitary confinement, see Bayard Martin, *Inside Justice: A Comparative Analysis of Practices and Procedures for the Determination of Offenses Against Discipline in Prisons of Britain and the United States* (Cranbury, NJ: Associated University Presses, 1986); Craig Haney and Mona Lynch, "Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement," *New York University Review of Law and Social Change* 23 (1997); Lorna Rhodes, *Total Confinement: Madness and Reason in the Maximum Security Prison* (Berkeley: University of California Press, 2004); Human Rights Watch and American Civil Liberties Union, "Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States" (New York: Human Rights Watch, 2012). On general violence in prisons, see "Cruel Confinement: Abuse, Discrimination, and Death in Alabama's Prisons," Southern Poverty Law Center Report, June 2014 (text available at: [http://www.splcenter.org/sites/default/files/downloads/publication/cruel\\_confinement.pdf](http://www.splcenter.org/sites/default/files/downloads/publication/cruel_confinement.pdf)); Adrian Switzer, "The Violence of the Supermax: Toward a Phenomenological Aesthetics of Prison Space" in Geoffrey Adelsberg, Lisa Guenther, and Scott Zeman, eds., *Death and Other Penalties: Philosophy in a Time of Mass Incarceration* (New York: Fordham University Press, 2015). On health and medical care in prisons, see Melvin Delgado, *Health and Health Care in the Nation's Prisons* (New York: Rowman and Littlefield, 2009).

<sup>18</sup> Loïc Wacquant, "From Slavery to Mass Incarceration," *New Left Review* 13 (January 2002), 60.

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the problem of race is already past. More precisely, racism is often understood to be a matter of (mostly) southern history that is now largely “over” – thanks in large part to the very fact of the progress achieved in the civil rights era. This is America’s racial reality, our post-civil rights condition, and it is marked at once by the sanguine, post-racial insistence that “things have changed” and by the presence of racially punitive and inegalitarian policies, procedures, and norms that seem more indicative of the past than of progress.

In this dissertation, I argue that the post-racial innocence with which America approaches its current racial reality is far from accidental. White Americans’ historied penchant for both knowing that racial inequality exists but construing that inequality as separable from their own racial advantages, their habit of interpreting their economic privileges as a matter of individual merit or virtue, their acknowledgement of the violence of slavery and Jim Crow without recognizing the violence operational in present carceral practices or health disparities, and their studied denouncement of the worst southern crimes while ignoring the presence of other forms of racial domination not reducible to overt prejudice or violence indicates that our national condition is marked by a severe disconnection from reality.

It is this disconnection that African American theorist and essayist James Baldwin termed the problem of “innocence” – the alchemy by which Americans turn visible and enduring racial inequality and exclusion into redemptive stories of individual rights, equal protection under the law, and racial progress. Innocence is Americans’ belief in their own blamelessness for the material realities of contemporary racism, but also their “massive and willful ignoring of the actual history” of race in the United States.<sup>19</sup> As Baldwin conceived it, racial innocence is deliberately blind. “I concluded long ago that they found the color of my skin inhibitory,” Baldwin explained in 1963. He elaborated: “This color seems to operate as a most

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<sup>19</sup> Charles W. Mills, “Racial Liberalism,” *PMLA* Vol. 123, No. 5 (2008), 1382.

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disagreeable mirror, and a great deal of one's energy is expended in reassuring white Americans that they do not see what they see. This is utterly futile, of course, since they *do* see what they see. And what they see is an appallingly oppressive and bloody history, known all the world over."<sup>20</sup> Precisely because it involves the productive effort of not-seeing, it takes a significant amount of will and energy to remain, in Lawrie Balfour's phrase, "willfully blind" to and guiltless of the reality of racial oppression in the United States.<sup>21</sup> And yet it is exactly this not-seeing, this innocence, that Baldwin cautions "constitutes the crime" of the nation and its citizenry.<sup>22</sup> In this sense, racial innocence is the alchemy by which Americans turn enduring and otherwise visible inequality into redemptive stories of rights, equal protection, individualism, and progress. It is Americans' belief in their own blamelessness for the material realities of racism. But it is also, Baldwin further suggests, temporal. The chorus that racism is endemic to the past but alien to the present is a central aspect (indeed, a product) of racial innocence.

From this critical vantage point, a set of initial questions guiding this dissertation takes shape: How did we arrive at this state? How is it that the fact of *present day* racial violence, disparity, injustice, and domination is not only commonplace in contemporary America, but is also unintelligible as such? How is it that racism is today legible principally as southern past? What are the political roots of racial innocence? In what forces is racial innocence moored, and what racial common sense does it produce or reproduce? Traditionally an insight of African American political thought, my dissertation works to unearth racial innocence as a political construction that is bound as much by racial ideology as by the making of political

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<sup>20</sup> James Baldwin, *The Fire Next Time* in *James Baldwin: Collected Essays*, ed. Toni Morrison (New York: Library of America, 1998 [1963]), 722.

<sup>21</sup> Lawrie Balfour, *Evidence of Things Not Said: James Baldwin and the Promise of American Democracy* (Ithaca, NY: Cornell University Press, 2001), 32.

<sup>22</sup> Baldwin, *Fire Next Time*, 292.

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discourse, interests, policy formations, and institutions. I argue that racial innocence is not just something entrenched in the ideology of white Americans, where Baldwin and contemporary scholars who take up his critique tend to locate it, but also in the very fabric of the political field and state practices. Combining African American political thought with American political development methodology, case studies, and original archival research, this dissertation investigates the political foundations of contemporary racial innocence.

### **The Project**

To be sure, the political foundations of contemporary racial innocence are myriad, and consist of several streams and sources. This project offers a study of what I argue is a major tributary of racial innocence today: the strange lineage of liberal law-and-order politics in post-Second World War southern political discourse and state policy. The rise of “law and order” politics in the 1960s and 1970s – and the subsequent ballooning of the U.S. carceral system – is often understood to be the result of southern racial conservatives working to maintain the prerogatives of Jim Crow, white working class discomfiture with the scope of racially liberal policy, or the result of Nixonian southern strategists disingenuously capitalizing on rising white anxieties of “street crime” after the urban race riots of the late 1960s.<sup>23</sup> The resultant

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<sup>23</sup> Scholarship that advances this complex of arguments is robust, and includes: Stuart A. Scheingold, *The Politics of Law and Order: Street Crime and Public Policy* (New York: Longman, 1984); Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995); Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1999); Michael Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005); Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007); Vesla Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21 (Fall 2007): 230-265; Loïc Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Durham, NC: Duke University Press, 2009); Joe Soss, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race* (Chicago: University of Chicago, 2011); Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012).

In a notable departure from this otherwise common framing, Naomi Murakawa’s research reveals the central role northern liberals played in the making of racialized law-and-order politics, public policy, and the carceral

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frenzy to adopt stronger law-and-order policy against perceptions of rising crime, riots, and drugs heralded, this literature contends, a “crisis” for postwar liberalism, the rise of neoliberal governance in the arrival of the New Right, and in Michelle Alexander’s phrase, the creation of mass incarceration as “the new Jim Crow.”

But law-and-order was in many ways at the beating heart of American liberalism that, after the Second World War, had newly awakened to the problems of racial violence and inequality in the Jim Crow South as the central “dilemma” of American democracy.<sup>24</sup> As Naomi Murakawa argues, the call to end lawlessness and violence against black Americans was foundational to the rapid expansion of federal “law and order” discourse beginning in the 1940s – making postwar liberals and their inheritors the primary architects of emerging law-and-order policy that would end up incarcerating unprecedented numbers of blacks and Latinos.<sup>25</sup> Indeed, as Lani Guinier and Michael Dawson have separately noted, in the postwar years white northern liberals began to advance convictions long insisted upon by many African American thinkers, organizers, and writers as an important element of black political freedom: equal treatment under the law without regard to race should be a domain of

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system in postwar and post-civil rights America. See Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014). In a departure of a different sort, Lisa Miller argues that the American federalist system (and not manipulation by conservative political elites) structurally constrains the representation of poor and heavily minority neighborhoods in the environment of crime policy, leading to narrow law-and-order policy “frames” that favor police and prosecutors. Lisa L. Miller, *The Perils of Federalism: Race, Poverty, and the Politics of Crime Control* (New York: Oxford University Press, 2008).

Other scholars emphasize the political economy of punishment: Wacquant, *Punishing the Poor*; Soss, Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Transaction Publishers, 1996 [1944]).

<sup>25</sup> Murakawa, *The First Civil Right*. See also Judah Schept, *Progressive Punishment: Job Loss, Jail Growth, and the Neoliberal Logic of Carceral Expansion* (New York: New York University Press, 2015). My study finds common ground with Murakawa’s, but where Murakawa focuses on the production of state carceral practices (and especially crime policy) by way of a liberal, northern trajectory, my dissertation is interested in unearthing the complex interplay between postwar liberalism as a construct of political thought and the emergence of law-and-order practices in the 1950s and 1960s New South – and how this interplay has helped to produce racial innocence for the modern day. In this sense, what I seek to explain is not on crime policy or carceral practices, but rather the production of racial innocence.

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government protection.<sup>26</sup> The proponents of racial liberalism generally shared the belief that racial discrimination and violence were fundamentally incompatible with American democratic principles and supported government efforts to guarantee the equal treatment of individuals.<sup>27</sup> Viewing the South as both the primary violator of that American Creed and the key to its redemption, many postwar liberals aimed their critique of racism directly at the South.

However, in the context of *Brown v. Board of Education*, the black civil rights movement, and the Cold War, racial liberalism did not remain a monolithic critique to which the South would either reluctantly bend or willfully resist. Rather, amidst southern resistance to school integration and the success of black civil rights struggle, the central tenets of postwar political thought *about* the South – its illiberal practices of segregation and lawless violence, its need for equal treatment and racially uniform law-and-order – became increasingly embedded into regional political discourse, state interests, and policy formations. How this happened and what this did to race in the American political and ideological landscape is the subject of this dissertation.

*Racial Violence and the Politics of Innocence* argues that racial liberalism, as a formation in postwar political thought, had an enormous impact on the emergence and popularization of “law and order” discourse in the South, contributed to the racialization of the budding law-

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<sup>26</sup> On the relationship between the 1940s-1950s black civil rights movement and white postwar liberals, see Lani Guinier, “From Racial Liberalism to Racial Literacy: *Brown v. Board of Education* and the Interest-Divergence Dilemma,” *Journal of American History* (June 2004), 92-118; Michael C. Dawson, *Blacks in and Out of the Left* (Cambridge, MA: Harvard University Press, 2013). Guinier argues that while white northern liberals gave the black civil rights movement “strategic heft,” it also “reconfigured” the movement, making it more conservative – more individualistic and less structurally focused – in nature. Guinier, “From Racial Liberalism to Racial Literacy,” 100. Similarly, Dawson views midcentury black liberalism (and its ties to white racial liberalism) as the “sundering” of radical black political thought in the twentieth century.

<sup>27</sup> On postwar racial liberalism, see Guinier, “From Racial Liberalism to Racial Literacy;” Carol Horton, *Race and the Making of American Liberalism* (New York: Oxford University Press, 2005); Anthony Chen, *The Fifth Freedom: Jobs, Politics, and Civil Rights in the United States, 1941-1972* (Princeton University Press, 2009); Daniel Martinez HoSang, *Racial Propositions: Ballot Initiatives and the Making of Postwar California* (Berkeley: University of California Press, 2010).

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and-order state, and produced a durable politics of “innocence” around law-and-order’s discursive deployment in post-civil rights America. To survey the argument in brief, postwar liberals understood the South as a uniquely “lawless” region whose rampant racial violence required the intervention of the state – and especially the introduction of uniform, racially neutral, and procedurally sound law. First a critique of the South, racial liberalism travelled into the contentious waters of southern white resistance movements in the wake of *Brown v. Board of Education* and the black civil rights movement. There, in altered yet recognizable form, it became the primary political rhetoric of southern moderates. Eager to contain black protest and preserve the benefits of racial stratification without the roughness of white violence or explicitness of state-mandated segregation, southern moderates insisted on race-neutral “law and order” as elemental to the achievement of New South progress, inclusion in the national corporate-capitalist economy, and symbolic reunion with the nation. Taking up residence in a broadening range of state interests and rhetoric, southern “law and order” discourse borrowed, rearticulated (that is, co-opted), and actively incorporated the commitments of postwar racial liberalism. Yet, I shall argue, in moving from the rampant race-based *violence* of Jim Crow to the proceduralist and racially neutral *law-and-order* New South, southern moderates succeeded in recasting the essential violence of the expanding law-and-order state as a wholesale escape from the incendiary crimes of Jim Crow – in other words, as an escape into innocence.

While this dissertation centers both its gaze and its analysis on the role southern law-and-order discourse, state interests, and state practices played in the construction of racial innocence today, it also analyzes this development’s intimate relation to others that marked the postwar period. As the nation moved from explicit white violence to racialized law-and-

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order procedures and practices, the South also integrated into the corporatized national economy like never before, achieved a degree of ideological and political convergence with the nation (around the value of racial liberalism) and with national ideals (in the death of the single-party Solid South), and witnessed the rise of colorblind norms and discourses that eschewed the strident racism of Jim Crow.<sup>28</sup> As such, this study offers purchase on the political-institutional roots of national racial innocence on three inter-related sites of transformation during the postwar decades: (1) *the transition from white violence to racialized law-and-order*; (2) *the solidification of the corporate-capitalist New South economy*; and (3) *the fall of Jim Crow and the reconstitution of practices of racial stratification through the introduction of colorblind norms*.

The rootstock of these transformations, I suggest, was a distinctly postwar brand of American liberalism that understood private prejudice, discrimination, and violence as particular violations of the constitutional guarantee of equal protection, and that understood the violent, bigoted, and backwards South as the primary transgressor of these liberal values. Indeed, at the core of this dissertation is a consideration of the complex relationship between formations in postwar liberalism and the emergence and racialization of law-and-order politics in the New South. This relationship was not, as it is sometimes treated, a monolithic critique in which the South's virulent anti-black racism crumbled in the face of white northern liberalism (helped, this view generally notes, with federal power, correctly decided Supreme Court cases, and black freedom movements). Rather, this relationship was one in which the

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<sup>28</sup> Regarding the South's transition from authoritarian single-party Democratic rule to democratic two-party competition, see Robert Mickey, *Paths Out of Dixie: The Democratization of Authoritarian Enclaves in America's Deep South, 1944-1972* (Princeton, NJ: Princeton University Press, 2015). For a rich analysis of the economic structure of the South during Jim Crow, see Jonathan Weiner, "Class Structure and Economic Development in the American South, 1865-1955," *The American Historical Review*, Vol. 84, No. 4 (October 1979: 970-992).

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very terms of postwar liberalism were in turns borrowed, rearticulated, and leveraged in the southern political landscape to forge new forms of racial hierarchy and violence that were sutured more strongly to the state itself.<sup>29</sup> Indeed, an important concern of this dissertation is to treat racial liberalism minutely rather than broadly. I seek to refine our understanding of how formations in political thought – in this case, postwar racial liberalism – are taken up, transformed, and leveraged anew by political actors, sometimes those with interests at odds with that formation’s central commitments and claims.

A parallel claim of this dissertation is that our contemporary racial innocence is rooted in a reformation in the form and mechanisms of racial violence. The mainstream national public, once supportive of if not straightforwardly committed to the cruder forms of white violence that marked the late nineteenth and early twentieth century – lynching, mob violence, law enforcement’s collusion with white terrorism, and racially corrupt courts – in the post-WII decades began to consider these practices illiberal aberrations to the constitutional promise of equal protection.<sup>30</sup> At the very least, the presence of such violence was not, for much of

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<sup>29</sup> In this sense, I follow in the footsteps of Lani Guinier and Daniel HoSang, whose scholarship on racial liberalism emphasizes its subjectivity to transformation and realignment with politics and policies of racial containment, stratification, and inequality – or what HoSang terms “political whiteness.” Guinier, “From Racial Liberalism to Racial Literacy;” HoSang, *Racial Propositions*.

<sup>30</sup> White racial violence in the form of lynching, mob violence, white terrorism and racially corrupt courts was indeed national in character from the fall of Reconstruction to the postwar era, and not limited to black Americans. Numerous texts detail the severity of white racial violence, especially lynching, in the Jim Crow South, but non-white immigrants from Asia, Mexico, and southern and eastern Europe (especially Jews) faced the reality of racial violence alongside blacks in the North, Midwest, and throughout the West. Several scholars have documented the extent to which racial violence was supported by the state outrightly or by non-intervention. Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004); Matthew Frye Jacobson, *Whiteness of a Different Color; European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1999). On lynching, see Michael J. Pfeifer, Ed., *Lynching Beyond Dixie: American Mob Violence Outside the South* (Chicago: University of Illinois, Press, 2013); W. Fitzhugh Brundage, *Under Sentence of Death: Lynching in the South* (Chapel Hill, NC: North Carolina University Press, 1997); W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (University of Illinois, 1993); Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill, NC: University of North Carolina Press, 2009); Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America* (New York: Random House, 2002). See especially Megan Ming Francis, *Civil Rights and the Making of the Modern American State* (New York:

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American history, considered a particular problem in which the state was required to intervene. As Daniel Kato argues, for instance, in the Progressive era federal courts protected expressions of racial violence such as lynching by carving out “zones” of active (even intentional) state inaction.<sup>31</sup> As such, the lynching of blacks during this era became a “legally bounded region of lawlessness” practiced by private citizens yet protected by federal inactivity and court permission – resulting in a veritable pardoning of white violence by national political institutions. Further than this, and as Megan Francis demonstrates, it was not until the NAACP’s first landmark case, *Moore v. Dempsey* (1923), that federal courts began to consider the racial corruption of white mob-dominated trials to violate the constitutional rights of black citizens.<sup>32</sup> The NAACP’s early struggle against lynching and mob violence reveals the extent to which the nation considered racial violence to be unproblematic for the regular functioning of the American state well into the Progressive Era. As a final example, America’s love affair with D.W. Griffith’s 1915 masterpiece, *The Birth of a Nation*, demonstrates the nation’s broad cultural commitment to racial violence. The film, which received glowing reviews, held the nation in cinematic awe, and was screened at the White House, projects a story in which national unity after the Civil War is re-forged, quite literally, through the killing of black bodies and the sanctioning black rights in the film’s rousing, melodramatic finale.<sup>33</sup>

But postwar thinking on lynching and white mob violence as central concerns of the liberal state authored a reformation in racial violence. This was a reformation in kind as well

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Cambridge University Press, 2014); Daniel Kato, “Constitutionalizing Anarchy: Liberalism, Lynching, and the Law,” *Journal of Hate Studies*, Vol. 10, No. 1 (2012).

<sup>31</sup> Kato, “Constitutionalizing Anarchy.”

<sup>32</sup> Francis, *Civil Rights and the Making of the Modern American State*.

<sup>33</sup> For more on *Birth*, especially as melodrama, see chapter three of Linda Williams, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O.J. Simpson* (Princeton, NJ: Princeton University Press, 2001). See also Melvyn Stokes, *D.W. Griffith’s The Birth of a Nation: A History of The Most Controversial Motion Picture of All Time* (New York: Oxford University Press, 2007).

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as in location. Racial violence today does not take the form of lynching and white mob vigilante justice, but rather police brutality, the death penalty, stop and frisk and “broken window” policing, racial profiling, the disproportionate incarceration of black and brown bodies, and the poor health services, inadequate food, and violence that are often routine in and on the way to American prisons.<sup>34</sup> In this sense, racial violence has experienced a reformation in kind. At the same time, racial violence has been displaced from the traditional structures and practices in which it has, for much of American history, been lodged. Namely, racial violence has been displaced from the prerogative of private citizens with (at least tacit) state support and is now lodged ever more securely and ever more complexly in the state itself through a wide range of criminal justice and carceral procedures that often do not involve anything as explicit as mobs or lynching. In parallel, it has expanded upwards from local jurisdiction to national crime policy and federal prisons.

Several scholars have theorized these practices as present day incarnations of race-based violence, punishment, and discipline that reproduce *herrenvolk democracy* and ascribe “criminality” to African American bodies.<sup>35</sup> Still more have treated the emergence of post-

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<sup>34</sup> The literature on the racial nature of criminal justice is vast. See note 22 and additionally: David Garland, *Peculiar Institution: America's Death Penalty in an Age of Abolition* (Cambridge, MA: Belknap Press, 2007); Glenn C. Loury, *Race, Incarceration, and American Values* (Boston, MA: Boston Review Books, 2008); Howard Allen and Jerome Clubb, *Race, Class, and the Death Penalty: Capital Punishment in American History* (Albany: State University of New York Press, 2008); Devah Pager, *Race, Crime, and Finding Work in an Era of Incarceration* (Chicago: University of Chicago Press, 2007); Marc Mauer, *Race to Incarcerate* (New York: The New Press, 2006).

<sup>35</sup> See especially Loic Wacquant, “From Slavery to Mass Incarceration,” *New Left Review* 13 (2002): 41-60; Andrew Dilts, *Punishment and Inclusion: Race, Membership, and the Limits of Liberalism* (New York: Fordham University Press, 2014); Lisa Guenther, *Solitary Confinement: Social Death and its Afterlives* (Minneapolis, MN: University of Minnesota Press, 2013); Amy E. Lerman and Vesla M. Weaver, *Arresting Citizenship: The Democratic Consequences of American Crime Control* (Chicago: University of Chicago Press, 2014); Nikhil Pal Singh, “The Whiteness of Police” *American Quarterly* Vol. 64, No. 4 (December 2014): 1091-1099. On *herrenvolk democracy* more generally, see Pierre L. van den Berghe, *Race and Racism: A Comparative Study* (New York: Wiley, 1967); David Roediger, *Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1991); Joel Olson, *Abolition of White Democracy* (Minneapolis, MN: University of Minnesota Press, 2004); Marek Steedman, “‘Walk with Me in White’: Autonomy in a Herrenvolk Democracy” *Du Bois Review* Vol. 8, No. 2 (2011).

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1960s law-and-order politics as the origin-point of these incarnations, and the South and conservatism figure centrally in this literature. Importantly, scholars Michael Flamm and Vesla Weaver, among others, have worked to expose the rise of law-and-order politics during this period as a product of white discomfiture with black civil rights gains and rising fears of black criminality and innate violence – narratives common to scientific notions of race in the Progressive Era and most strongly articulated in the post-*Brown* years by southerners sympathetic to the massive resistance movement.<sup>36</sup> Flamm, for instance, contends that “conservatives spoke with a cogent ‘moral voice’ on law and order,” forcing liberals to likewise adopt increasingly severe crime policies and signaling the “end to the brief era of liberal ascendancy.”<sup>37</sup> Similarly, Weaver argues that southern conservatives developed rhetoric of black criminality that led to dramatic expansions in national crime policy.

Indeed, biological or “scientific” explanations for black criminality (and particularly sexual crime) were popular nationwide through the Progressive Era. This was a link between blackness and violence helped along by the legacy of slave patrols, the invention and mismanagement of crime statistics, eugenics studies, and such cultural touchstones as Griffith’s *The Birth of a Nation*.<sup>38</sup> Such anxiety continued to dominate in the South as white politicians reached for any terminology that would thwart the impact of *Brown* in their states. Southern conservatives’ claim that school integration would unleash black violence onto white schoolchildren (thus necessitating a return to the natural “law and order” guaranteed by Jim Crow) was indeed popular amongst massive resistance forces, including such politicians as South Carolina’s Strom Thurmond and Mississippi’s James O. Eastland. In 1960, for

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<sup>36</sup> Flamm, *Law and Order*; Weaver, “Frontlash;” Carter, *The Politics of Rage*; Scheingold, *The Politics of Law and Order*.

<sup>37</sup> Flamm, *Law and Order*, 2, 179.

<sup>38</sup> Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Urban America* (Cambridge, MA: Harvard University Press, 2010); Singh, “The Whiteness of Police.”

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instance, Thurmond argued on the Senate floor that racial integration would lead to “an immediate rise in crime and violence ... of vice, prostitution, of gambling and dope.”<sup>39</sup> Yet this “integration generates crime” narrative, when paired with the fact that massive resistance movement failed constitutionally, ideologically, and as a matter of state policy by the end of the 1960s presents us with a question to work out empirically: if southern conservatives failed to embed their racially explicit “law and order” narrative into state interests and state policies, what else explains law-and-order’s coming of age in state-level politics at midcentury? Put differently, if the reformation in racial violence could not have occurred through the rhetorical and policy victory of southern conservatism or extremism, then what other forces were necessary for its emergence?

Strikingly, I find that the basic reformation in racial violence that occurred at mid-century (and that to some extent, continues) was not chiefly a construction of southern extremists seeking to regain ground lost after *Brown* and long civil rights struggle whatever the price. Rather, it was moored in the birth of postwar liberalism and authored in part by the political machinations of New South political moderates. Eschewing a language of innate black criminality and violent extremism embraced by southern demagogues and the massive resistance movement, southern moderates instead embraced postwar liberals’ language of lawfulness, compliance with federal courts in *Brown*, and racially neutral law and order – or as one Georgia resident succinctly put it in 1960, “enforcing the law equally and without fear or favor” – as better way to thwart the impact of *Brown*, create an image of New South progress, and smooth the influx of capital into southern cities.<sup>40</sup> Southern white moderates

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<sup>39</sup> Joseph Crespino, *Strom Thurmond’s America* (New York: Hill & Wang, 2012), 140.

<sup>40</sup> Letter, H. Alan Dale to John A. Sibley, December 13, 1960. Emory, MARBL, Sibley Papers, Box 125, Folder 3. John Sibley was the chairperson for Georgia’s General Assembly Committee on Schools, the governor-appointed commission responsible for crafting the state’s response to a 1959 federal court order mandating

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articulated the introduction of robust but neutral law-and-order as an antidote to a dual threat to the emergence of the New South: the “lawlessness” of white segregationist violence and black civil rights disorder. At the height of Little Rock’s desegregation crisis in 1957, for instance, southern newspapers sounded remarkably like northern ones admonishing the white violence that erupted with the arrival of the Little Rock Nine. In true moderate fashion, the *New Orleans States-Item* stated that “mob action – whatever the cause – must be deplored,” and added that Little Rock whites were “doing what they thought was right. But they were doing it as a mob – not within the framework of law and order.”<sup>41</sup> At the same time, it admonished black civil rights and integrationist “lawlessness” as causing the “disorder” in the first place.

As moderates borrowed and leveraged postwar racial liberalism’s critique of southern white violence, they also durably transformed it. In the hands of white moderates dedicated to the corporate economy and mythos of the New South, “law and order” became a mechanism by which to police relatively narrow categories of white violence and correspondingly expansive categories of black violence as symmetrical affronts to a formally equal, racially neutral, and colorblind state – a triangulation of law, violence, and race that continues to structure racial common sense today.

At the same time, however, the New South’s law-and-order logic rehearsed and buttressed a politics of innocence that has endured well past midcentury. Indeed, the language of New South moderates, which emphasized the need for law-and-order, lawfulness, racial neutrality, and compliance with federal courts, lays bare the intimate and complex

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Atlanta desegregate its schools. The Sibley Commission was instrumental in the state’s shift in education policy from massive resistance laws to moderate policy that formally complied with *Brown*, but also succeeded in maintaining segregation in large swaths of the state.

<sup>41</sup> *The Wall Street Journal*, “Reactions of the Nation’s Newspapers,” September 27, 1957, p6.

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relationship between the emergence of law-and-order politics in the South and formations in postwar liberal thought. I find that southern law-and-order politics was far more the outcome of national *convergence* around law-and-order's coming of age and the interplay between the ideals of postwar racial liberalism and the emergence of a corporate-capitalist, suburbanized New South than of southern extremist dominance over the American imagination post-civil rights. By strategically borrowing, rearticulating, and incorporating elements of postwar racial liberalism, moderates both refined and obscured the racial logic of law-and-order for the post-*Brown* age.

In tracing this journey, I show how the narratives of postwar racial liberalism – the intentional rejection of white supremacist violence and the celebrated embracing of rights, progress, and equality under the law – ultimately buoyed the racialization of state violence into the post-racial era. As such, in the tradition of critical race and political theory scholarship of Charles Mills, Robert Gooding-Williams, Joel Olson, and George Shulman (among others) and the law and American political development scholarship of Lani Guinier, Julie Novkov, Daniel HoSang, and Kimberly Johnson (among others), this dissertation excavates one site of the complex, often constitutive nature of American liberalism and the continued material conditions of racial hierarchy and exclusion.<sup>42</sup> At the same time, it is an

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<sup>42</sup> Political theory scholarship on the complex, constitutive relationship between American liberalism, American democracy, and racism is especially rich, and includes: Olson, *Abolition of White Democracy*; Charles W. Mills, "Racial Liberalism," *PMLA*, 1382; George Shulman, *American Prophecy: Race and Redemption in American Political Culture* (Minneapolis, MN: University of Minnesota Press, 2008); Lawrie Balfour, *Democracy's Reconstruction: Thinking Politically with W.E.B. DuBois* (New York: Oxford University Press, 2011); Jack Turner, *Awakening to Race: Individualism and Social Consciousness in America* (Chicago: University of Chicago Press, 2012); Mark Golub, *The Race-Conscious Logic of Color-Blind Constitutionalism* (unpublished manuscript, forthcoming); Mark Golub, "Remembering Massive Resistance to School Segregation," *Law and History Review* Vol. 31, No. 3 (August 2013); Guinier, "From Racial Liberalism to Racial Literacy;" Dilts, *Punishment and Inclusion*; Robert Gooding-Williams, *Look, A Negro! Philosophical Essays on Race, Culture, and Politics* (New York: Routledge, 2006); George Yancy, *Look, A White! Philosophical Essays on Whiteness* (Philadelphia: Temple University Press, 2012); Bonnie Honig, *Democracy and the Foreigner* (Princeton, NJ: Princeton University Press, 2001); Alvin B. Tillery, "Tocqueville as Critical Race Theorist: Whiteness as

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effort to understand the malleability of racial violence, its accommodation within structures of formal equality, its survival past eras of high white supremacy, and thus, in Daniel HoSang's phrasing, its character as "dynamic and evolving force, progressive rather than anachronistic, liberal as well as conservative or static."<sup>43</sup>

In the remainder of the Introduction, I set out to define this central aspect of the project by sketching liberal law-and-order's relationship to the two other southern moderate-led transformations of the postwar decades I listed above: corporate capitalism and colorblind norms in the New South. I end with some words on the project's scope (which is at some times expansive and theoretical in its claims and at others oriented around minute historical detail, timelines, and personalities), research methodology (which combines traditions in political thought and American political development, and is therefore multivariate and sometimes visual in nature), case studies (of which there are two), and chapter organization.

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Property, Interest Convergence, and the Limits of Jacksonian Democracy," *Political Research Quarterly* Vol. 62, No. 4 (December 2009): 639-652.

Law and American political development scholarship on the constitutiveness of liberalism and race, equally rich, includes: Lani Guinier, "From Racial Liberalism to Racial Literacy: *Brown v. Board* and the Interest-Divergence Dilemma," *Journal of American History* (June 2004): 92-118; Jacqueline Dowd Hall, "The Long Civil Rights Movement and the Political Uses on the Past," *Journal of American History* Vol. 91, No. 4 (March 2005); Stephen Skowronek, "The Reassociation of Ideas and Purposes: Racism, Liberalism, and the American Political Tradition," *American Political Science Review*, Vol. 100, No. 3 (August 2006): 385-401; Julie Novkov, *Racial Union: Law, Intimacy, and the White State in Alabama, 1865-1954* (Ann Arbor, MI: University of Michigan Press, 2008); Kimberly Johnson, *Reforming Jim Crow: Southern Politics and State in the Age Before Brown* (New York: Oxford University Press, 2010); HoSang, *Racial Propositions*; Murakawa, *The First Civil Right*; Marek Steedman, *Jim Crow Citizenship: Liberalism and the Southern Defense of Racial Hierarchy* (New York: Routledge, 2012); Lowndes, *From the New Deal to the New Right*; Aziz Rana, *The Two Faces of American Freedom* (Cambridge, MA: Harvard University Press, 2010).

<sup>43</sup> HoSang, *Racial Propositions*, 2.

## **Defining Southern Moderates: Corporate Capitalism and Colorblind Segregation in the Postwar New South**

This dissertation draws on and adds to recent work on the role political moderates played in the making of the New South.<sup>44</sup> The southern moderates, who I sometimes call the moderate coalition, were a loose political matrix made up of self-proclaimed “moderate” politicians, New South business leaders, moderate minded newspaper editors and journalists, and an emerging class of white middle-class professionals who, by the 1950s, had begun to populate southern cities’ suburbs. Their refurbishment of southern politics and policy in the postwar (and especially post-*Brown*) is a major and defining tributary in the making of racial innocence for contemporary American life. In this section, I define southern moderates and underscore their economic interests in creating a New South built on corporate capitalism, industry, suburban growth, and white middle-class interests.

Preferring to focus on the Civil Rights Movement and white “massive resistance” to *Brown*, relatively few scholars acknowledge these architects of southern postwar politics and policy. When acknowledged, scholars typically treat them as occupying a pragmatic “broad middle ground,” ideologically somewhere between liberal racial progressive-integrationists and hardline segregationists, who are to be credited with saving public schools from the massive resistance movement, divesting the Black Belt South of political demagoguery and corruption, smoothing the South’s incorporation into national mores and economy, and reawakening the region’s commitment to industry and law-and-order.<sup>45</sup> This was an image

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<sup>44</sup> See especially Lassiter, *The Silent Majority*; Jeff Roche, *Restructured Resistance: The Sibley Commission and the Politics of Desegregation in Georgia* (Atlanta, GA: University of Georgia Press, 1998); Anders Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York: Oxford University Press, 2009).

<sup>45</sup> Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950’s* (Baton Rouge, LA: Louisiana University Press, 1969); Matthew Lassiter and Andrew B. Lewis, *The Moderate’s Dilemma: Massive Resistance to School Desegregation in Virginia* (Charlottesville, NC: University of Virginia Press, 1998); Clive Webb, *Massive Resistance: Southern Opposition to the Second Reconstruction* (New York:

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that southern moderates themselves cultivated. For instance, *Atlanta Constitution* editor and prominent southern moderate Ralph McGill contended in a 1958 piece appearing in the *New York Times*:

There is one thing for sure. When the reaction begins, and when the bitterness of it wells up into politics, the moderate will be needed more than ever to help put the pieces together again. Not many new industries will come to a state where public education is in chaos... And, in the end, of course, the moderates, the reasonable, practical men, the moral men and those whose convictions are based on religion, will be there to pick up the wreckage left by those who defy the law and the courts and forget their oath to support the Constitution of the United States.<sup>46</sup>

Although many northern liberals applauded them for precisely these commitments to lawfulness, constitutionalism, and law-and-order, this image of southern moderates willfully misinterprets their actual policy preferences and errs in taking moderates at their word, seeing their opposition to the massive resistance movement, southern demagogues, routine white violence, and state-mandated segregation as evidence of their racial egalitarianism and progressivism.<sup>47</sup> Recalling the moderates in 1977, journalist Calvin Trillin more accurately remarked that while these violence-averse segregationists “had never been caught throwing a rock at a Negro,” they also “valued something more than segregation – business.”<sup>48</sup> These three preferences – corporate capitalism, law-and-order, and segregation – together formed the basis for the emerging New South order and racial innocence’s manifestation in it. Indeed,

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Oxford University Press, 2005). Additionally, Mark Golub has argued the inverse of the massive resistance movement. Noting that they are often remembered for spectacular violence and racism in their resistance of *Brown*, their legal efforts to shape “constitutional meaning” of *Brown* is missed, and as such their politics (especially in relation to southern moderation) is rendered all the more extreme and condemnable. See Golub, “Remembering Massive Resistance.”

<sup>46</sup> Ralph McGill, “The Southern Moderate Is Still There,” *New York Times Magazine*, September 21, 1958. Emory, MARBL, Sibley Papers, Box 129, Folder 4.

<sup>47</sup> Robert Kennedy, for instance, “congratulated the state of Georgia for there not being any violence” upon the implementation of moderate-led desegregation policy in Atlanta (Ernest Vandiver Press Release, August 31, 1961, University of Georgia, Ernest Vandiver Papers, Series IV, Box 7, Folder 7.) And when North Carolina adopted moderate school policies designed to restrict desegregation to a few select schools, they were hailed as “courageous,” “invaluable,” and a “Southern peacemaker.” “North Carolina Sets School Test,” *New York Times*, July 28, 1957, p35; Wallace Carroll, “The Price of Turmoil: An Appraisal of the Impact of School Clash on South’s Quest for Industry,” *New York Times*, October 2, 1959.

<sup>48</sup> Calvin Trillin, “Reflections: Remembrance of Moderates Past,” *The New Yorker*, March 21, 1977, 85.

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these three preferences were constitutive of the same political trajectory that ended in the South's rearticulation of racial liberalism and the creation of politically moored racial innocence.<sup>49</sup>

As historian Matthew Lassiter explains, beginning in the 1940s, the region's "postindustrial Sunbelt economy emerged as the dominant method of social organization" and the "clear fulcrum of political power."<sup>50</sup> As late as the early 1940s, vast portions of southern state economies were dependent on a crumbling plantation system and troubled cotton markets, and southern workers were dependent on either low agricultural work or sagging textile mill labor.<sup>51</sup> But during WWII, nationalized production structures, contracts with northern industry, and new practices by corporations of opening regional offices in the South not only introduced a newly corporate economic structure to southern states, but also prompted a shift in political power from the depleted rural-agrarian strongholds of the Democratic Party to rapidly growing suburban cities like Charlotte, Atlanta, Dallas, and

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<sup>49</sup> In this sense, I draw on excellent recent work done on the creation of the postwar South, but also offer an important shift in focus. Matthew Lassiter, Joseph Crespino, Kevin Kruse, and Lisa McGirr, among others reveal the extent to which the suburbanization, capitalism, and (for Lassiter and Roche) moderate resistance to *Brown* fundamentally restructured the South's political landscape, cemented its political and economic reunification with the nation, founded the New Right, and birthed a new form of racism in color-blind norms, housing patterns, and wealth patterns. Robert Mickey and Joseph Lowndes offer important (and differing) complications to this scholarship. See Mickey, *Paths Out of Dixie*; Joseph E. Lowndes, *From the New Deal to the New Right: Race and the Southern Origins of Modern Conservatism* (Yale University Press, 2009). By contrast to an emphasis on the "making" southern conservatism, and to Lassiter's and Kruse's focus on residential segregation and metropolitan visions of "progress," I focus squarely on southern moderate "law and order" discourses and its complex relationship to racial liberalism as an origin-point of white racial innocence today. Lassiter, *The Silent Majority*; Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, NJ: Princeton University Press); Matthew Lassiter and Joseph Crespino, eds., *The Myth of Southern Exceptionalism* (New York: Oxford University Press, 2009); Lisa McGirr, *Suburban Warriors: The Origins of the New American Right* (Princeton, NJ: Princeton University Press, 2002).

<sup>50</sup> Lassiter, *Silent Majority*, 11.

<sup>51</sup> Bruce J. Schulman, *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980* (New York: Oxford University Press, 1991); Jacquelyn Dowd Hall et al, *Like a Family: The Making of a Southern Cotton Mill World* (Chapel Hill, NC: North Carolina University Press, 1987); V.O. Key, Jr., *Southern Politics in State and Nation* (Knoxville, TN: University of Tennessee Press, [1949] 1984).

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Jacksonville.<sup>52</sup> In the words of one journalist, New South moderates, in their “efforts to realize the industrial potential of their region ... have been striving to complete the integration of the Southern economy with the economy of the Federal union.”<sup>53</sup> In this sense, southern moderates constituted a stratum of the southern middle- and upper-class.<sup>54</sup> The moderate was not, typically, the landed farmer, the plantation owner, the county judge, or the small town lawyer, but rather an assemblage of mostly white professionals, politicians, business elites, and consumers attached to the metropolitan South’s emerging corporate-capitalist economy.

The entrance of postwar southern economy into national corporate capitalism (together with the racialized class structure to which this economy was committed) occurred in tandem with broader sort of regional convergence with national politics identified by Matthew Lassiter, Robert Mickey, Joseph Lowndes, William Chafe, and others.<sup>55</sup> In large part, the New South economy’s interest in the influx of northern capital to the region meant the incorporation of the South into not only a nationalized economy, but also into notions of progress, modern governance, and political competition. During this period, the South integrated itself into the trappings and ideology of the modern administrative state that had defined the Progressive Era in the industrial states of the North, Midwest, and West: the rise of bureaucratic governance as an antidote to corruption and political machines; the emergence of a strata of professionals and administrators as experts in the technique and effects of

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<sup>52</sup> Mickey, *Paths Out of Dixie*. See also the complex theorizations of southern politics’ transformation at midcentury found in the work of Kevin Kruse, Lisa McGirr, and Joseph Crespino, who centralize the role industry played in the region’s transition to modern conservatism. Joseph Crespino, *Strom Thurmond’s America* (New York: Hill and Wang, 2012); Kruse, *White Flight*; McGirr, *Suburban Warriors*. See also Elizabeth Jacoway and David Colburn, eds., *Southern Businessmen and Desegregation* (Baton Rouge, LA: Louisiana State University Press, 1982).

<sup>53</sup> Carroll, “The Price of Turmoil.”

<sup>54</sup> Max Weber, *The Theory of Social and Economic Organization* (New York: The Free Press, 2012 [1947]).

<sup>55</sup> Lassiter, *Silent Majority*; Lowndes, *From the New Deal to the New Right*; Mickey, *Paths Out of Dixie*; William Chafe, *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (New York: Oxford University Press, 1981).

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government; and the belief that business-government cooperation would eradicate social conflict and render the citizenry an “effective force.”<sup>56</sup> As such, by the postwar decades, the New South was emerging on multiple registers that began with its endeavor to integrate into nationalized economic structure.

It would be difficult to overstate the extent to which the New South’s growing dependence on northern investors and national markets influenced its advocates’ approach to race, and particularly their response to *Brown*. By the mid-1950s, the majority of southern states launched a strident massive resistance movement against school desegregation, which sought to nullify the Supreme Court’s decision as a “clear abuse of judicial power” and hosted several highly visible episodes of anti-black terrorism in response to black civil rights and integration activism.<sup>57</sup> Southern moderates recognized these developments as threats to the emerging New South economy and political order. Defiance of federal courts and spectacular racial violence, they feared, would disrupt the flow of northern investments, endanger the class interests of white professionals and businessmen, interfere with the success of the emergent moderate political elite, and worse still, invite federal intervention in southern school systems. As Governor J.P. Coleman of Mississippi explained on a visit to New York to attract industry to his state in 1956, “We’ve adopted the motto, ‘Anything offensive to industry is offensive to us and must be removed from the picture.’”<sup>58</sup> The Mississippi

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<sup>56</sup> R. Jeffrey Lustig, *Corporate Liberalism: The Origins of Modern American Political Theory, 1890-1920* (Berkeley: University of California Press, 1982), 151; Stephen Skowronek, *Building a New American State: The Expansion of American Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982). More broadly on the rise of administrative governance in modern state-making and its relationship to capitalist impulses, see Michel Foucault, *Discipline & Punish: The Birth of the Prison* (New York: Vintage, 1977). On the fraught status of progressivism in the South 1877-1930, see Steedman, *Jim Crow Citizenship*; Dewey Grantham, *Southern Progressivism: The Reconciliation of Progress and Tradition* (Knoxville: University of Tennessee Press, 1983); Robert H. Weibe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1966).

<sup>57</sup> Members of the United States Congress, *The Southern Manifesto*, March 11, 1956.

<sup>58</sup> Quoted in *New York Times*, “Mississippi Offers ‘Anything’ to Industry,” April 19, 1957, 29. On Coleman’s role as a figure of moderate southern politics, see Walker, *Ghost of Jim Crow*.

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governor, alongside fellow midcentury moderates such as North Carolina's Luther Hodges and Terry Sanford, Tennessee's Frank Clement, Florida's LeRoy Collins, and even Georgia's Ernest Vandiver and Carl Sanders, consciously rejected entrenching massive resistance tactics and racial extremism, viewing them as barriers to securing contracts with northern investors and thus the influx of capital and jobs to their states. In the words of one northern journalist, the "growing middle class" in the South is "a factor of stability, a check on the back-country people, among whom the mob spirit has been endemic."<sup>59</sup>

But if the threat of "back-country" backwardness and mobism was palpable, continued segregation itself was not, on the logic of most moderates, a barrier economic development. By all accounts, white southerners, whether moderates or massive resisters, preferred continued racial separation in the wake of *Brown*. Even as J.P. Coleman and his moderate brethren identified the blunter tactics of massive resistance as politically and economically dangerous, they maintained that racial separation was vital to the stability of the New South and its primary constituency: middle-class whites who were quickly filling the burgeoning suburbs of cities like Atlanta, Charlotte, and Jackson. However, the means by which racial separation and stratification was accomplished was certainly a potential problem. If segregation was seen to cause public disorder, racial upheaval, and white violence rather than promote growth and stability, moderates worried, states would risk injuring southern state economies as they attempted to integrate into nationalized corporate-capitalist structures. In solidifying the pillars of economic and political power in the New South, southern moderates leveraged a language friendly to racial liberalism popular in the rest of the nation: law-and-order decency, race-neutral state laws, and regional progress. Thus, when Tennessee Senator Estes Kefauver announced, in the year after *Brown*, "the New South, I am confident, wants to

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<sup>59</sup> Carroll, "The Price of Turmoil."

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be part of the nation – a part of the mainstream of twentieth century life – a part of the new America,” he articulated the primary manifesto of the emergent southern moderate elite: the end of southern exceptionalism and the dawn of regional convergence through the creation of a mainstream, business-minded, lawful, and above all “new” South.

For moderates, just as disastrous as disrupting the flow of capital into the region was the potential for national and court scrutiny in the direction of state education policy after *Brown*. At the same time that moderates recognized that industrial recruitment required “secession from the traditional values of the distinctive South,” they also worked to preserve maximum amounts of racial segregation in schools, thwart black civil rights efforts, and preserve the consolidation of political and economic power in the hands of white citizens.<sup>60</sup> As Ralph McGill put the moderate stance in 1957: “Moderate governors will make the transition ... By gently gerrymandering a few school districts they presently can confine the immediate problem of integration to a mere handful of schools. Their states will escape violence. Their school systems will remain strong. Industry will not be frightened away.”<sup>61</sup> To accomplish all of this, McGill pointed out, moderates had to “hold in check the Old South segregationist sections” while concurrently maneuvering to confine desegregation to a small number of schools.<sup>62</sup> As southern historians Jeff Roche and Anders Walker have separately argued, political moderates sought a path of “restructured” rather than “massive” resistance to school desegregation that centered on pursuing policies like Pupil Placement and Local Option school plans. These formally equal and technically colorblind policies avoided strategies of massive resistance and open defiance to desegregation that, because they were ostensibly

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<sup>60</sup> Lassiter, *Silent Majority*, 11.

<sup>61</sup> Ralph McGill, “What is a Moderate?” *Atlanta Constitution*, October 2, 1957.

<sup>62</sup> John Popham, “Parley Will Test Moderate View,” *New York Times*, September 20, 1957.

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race-neutral, left segregation largely intact.<sup>63</sup> In fact, moderates were incredibly successful in thwarting large-scale integration. Fully five years after North Carolina adopted local option school policy to wide acclaim in the North, for instance, just 0.026% of black schoolchildren in the state attended desegregated schools – a figure that was lower than in some solidly massive resistance states, and would not rise above one percent until after the passage of the 1964 Civil Rights Act.<sup>64</sup>

Far from conflicting projects, New South corporate capitalism and colorblind segregation after *Brown* went hand-in-hand for southern moderates, and as the next section fills out, together formed the backdrop to the racialization of law-and-order politics in the region. There, I also underscore the complexity of law-and-order's discursive meaning in the South at midcentury, and outline how postwar liberalism's increasing preoccupation with southern violence was picked up, rearticulated, and repurposed in the landscape of the capitalist-suburban New South. However, it is important to note at the outset that liberal law-and-order's journey into southern moderate rhetoric and politics occurred in large part due to the New South's economic interest in gaining inclusion in national markets and in the growing corporatism of the national capitalist economy.<sup>65</sup>

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<sup>63</sup> Walker's term for these policy innovations is "strategic constitutionalism." Roche, *Restructured Resistance*; Walker, *Ghost of Jim Crow*.

<sup>64</sup> North Carolina repealed formal school segregation laws and adopted local option in 1956. Figures are from 1961. Michael Klarman, "Brown, Racial Change, and the Civil Rights Movement," *Virginia Law Review* Vol. 80, No. 4 (1994), 9. In 1964, Louisiana (0.6%) and Virginia (1.6%), both massive resistance states, had slightly higher percentages of black students attending previously white schools than North Carolina (0.5%). See also Davison Douglas, "The Rhetoric of Moderation: Desegregating the South the Decade After Brown," *Northwestern University Law Review* Vol. 89 (1993), 95.

<sup>65</sup> In this sense, the winds of corporate capitalism, nationalized production structures, and racialized class stratification in the New South was constitutive of the regional solidification of racial liberalism (and its varied racial outcomes) in the second half of the twentieth century. For a deeper excavation of the relationship between class-based social inequality and equal protection during this period, see Michael McCann, "Equal Protection for Social Inequality: Race and Class in American Constitutional Ideology," in McCann and Houseman, eds., *Judging the Constitution: Critical Essays on Judicial Lawmaking* (Boston: Little, Brown, 1989): 191-224.

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In centralizing southern moderates' increasing investment in racial liberalism and law-and-order politics, I contribute to recent scholarly focus on white suburban politics the postwar "Sunbelt" South to excavate it as a site of racial innocence's political production.

### **The Rearticulation, Racialization and Innocence of "Law and Order" in the Post-*Brown* South**

With the political and economic goals of southern moderates now addressed, I return here to the role racial liberalism played in the making of racial innocence in the postwar South. New South moderates, this dissertation argues, were the primary authors of racial liberalism's transplantation into the South after *Brown*. But moderates would also fundamentally and irrevocably change the logic and application of postwar racial liberalism, and in so doing smooth the lodging of racial violence into the state and create a central rootstock of racial innocence that has endured until this day. In this section I lay bare the transplantation of racial liberalism (and especially liberal law-and-order narratives) into the South, its political utility in southern moderates' efforts to maintain segregation in the emergence of the corporate-capitalist and "colorblind" New South, how this relationship served to shield the New South's continued practices of racial segregation and violence. In the process, I argue that southern law-and-order politics was far more the outcome of an interplay between postwar liberal ideals of political equality and a New South that imagined itself a part of the national project than of southern extremism wielding power over the direction of post-civil rights politics. Throughout this section, I use Michael Omi and Howard Winant's concept of rearticulation, Gary Peller's theorization of racial neutrality, and Claire Jean Kim's language of triangulation to unearth both the renewed commitment to and masking of racial violence that resides at the heart of law-and-order's postwar coming of age.

*The Rearticulation of Racial Liberalism and Liberal Law-and-Order*

Omi and Winant's concept of *rearticulation* is an important tool in understanding the development of racialized law-and-order politics in the postwar South. In their classic text, *Racial Formation in the United States*, Omi and Winant describe rearticulation in two ways. The first definition emphasizes rearticulation as a discursive process of creating new interests. As they define it: "rearticulation is a practice of discursive reorganization or reinterpretation of ideological themes and interests already present in subjects' consciousness, such that these elements obtain new meanings or coherence."<sup>66</sup> The second definition emphasizes rearticulation as a process of redefining political subjectivities in addition to interests: "rearticulation is a process of redefinition of political interests and identities, through a process of recombination of familiar ideas and values in hitherto unrecognized ways."<sup>67</sup> Both definitions are important, for rearticulation is both a process of creating new political interests and a process of redefining political subjectivities through or in relation to those interests. In this sense, rearticulation performs political and ideological work. Omi and Winant also specify that rearticulation is primarily the work of "intellectuals," those whose role is to "interpret the social world for given subjects – religious leaders, entertainers, school teachers, etc.," but we will also witness that there is much (and sometimes very contentious) negotiation over processes of rearticulation from multiple groups, vantage points, elites, business interests, and everyday citizens.

As an example, Omi and Winant use the concept of rearticulation to understand the racialization of colorblindness in the post-civil rights era. White neoconservatives, they

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<sup>66</sup> Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1990s* (New York: Routledge, 1994), 195n11.

<sup>67</sup> Omi & Winant, *Racial Formation*, 163n8.

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contend, rearticulated racial equality to serve conservative rather than progressive ends. One of the successes of the black civil rights movement was its impartation of new meaning to the foundational American values of equality and individual rights, using them to achieve a “radical democratic discourse,” after which “racial equality had to be acknowledged as a desirable goal.”<sup>68</sup> However, beginning in the 1970s, the “forces of racial reaction” on the Right, Omi and Winant argue, “seized on the notion of racial equality advanced by the racial minority movements and rearticulated its meaning” to serve white interests.<sup>69</sup> While claiming to advance equality, the New Right used the “code words” of individual “merit,” “colorblindness,” “reverse discrimination,” and opposition to “big government” to rearticulate racial equality into a conservative political agenda based on formal individual equality.<sup>70</sup> In the process, the New Right transformed a progressive agenda for black rights into the meritocratic confection of racial neo-liberalism: individuals, not groups; merit, not “preferential treatment”; character, not color. In this example of rearticulation, political actors transformed political interests and, perhaps more fundamentally, the ideological terrain of large swaths of the American polity by incorporating existing practices and discourses to achieve new coherence.

Southern moderates achieved a similar victory in their rearticulation of racial liberalism. By borrowing, reformulating, and utilizing critical elements of postwar liberal thought, southern moderates defined the emerging racial logic of law-and-order for the post-*Brown* age. Recall that northern liberals in the 1940s began to worry about the exceptional backwardness, violence, and lawlessness of the Jim Crow South as fundamentally inconsistent with the national creed in which political equality and equal protection under the law were

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<sup>68</sup> Omi & Winant, *Racial Formation*, 117.

<sup>69</sup> Omi & Winant, *Racial Formation*, 117.

<sup>70</sup> Omi & Winant, *Racial Formation*, 131.

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sacrosanct, and that it was the job of the government to guarantee such protection. To be sure, there are flaws in this formulation. For instance, their understanding that racial prejudice and white violence are fundamentally illiberal aberrations of the national creed willfully reformulates much of the historical connection between American constitutional liberalism and racism.<sup>71</sup> And their view that the South is the primary and indigenous location of white supremacy and violence belies what Ida B. Wells, W.E.B. DuBois, and others well knew was a national problem with race-based supremacy. Nonetheless, racial liberals expressed a critique against white violence and a schedule for overcoming it that was powerful and potentially transformative for a region whose economy, political regime, and culture was so intimately tied to violence's regular deployment. Indeed, this set of practices explains why white southerners did not take up the language of racial liberalism nor its corollary of race-neutral law and law-and-order as expounded by their neighbors to the north in the 1940s.

In fact, southerners did not take up this language until after *Brown*. The region's response to the Supreme Court's decision was, for all its abhorrence of the decision, quite varied. At one end of the spectrum, the massive resistance movement labored to tighten segregation law by way of state constitutional amendments (known as "massive resistance laws"); The White Citizens' Council and similar organizations papered the region's towns with appeals to close schools rather than allow them to integrate; and smaller, violent factions of whites joined the resurgent Ku Klux Klan. At the other end of the spectrum, the moderates (through what I term "moderate resistance" throughout the dissertation) sought to preserve racial hierarchy without the spectacular coarseness of white violence or explicitness of Jim Crow laws. Seeking to transition economic and political power to growing, capital-rich cities of the New South,

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<sup>71</sup> Mills, "Racial Liberalism"; Edmund Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W.W. Norton & Company, 1975).

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moderates advocated minimal compliance with federal law through a range of race-neutral school policies. Moderates both leveraged and rearticulated liberal “law and order” discourse in their bid to solidify their own political power and safeguard the influx of capital into New South cities like Atlanta, Charlotte, and Jacksonville. To accomplish this, moderates emphasized the *lawfulness* of their school plans, the *orderliness* their policies imposed on otherwise mob-dominated desegregation battles, and the *racially neutral* nature of their policies.

In this way, rearticulated law-and-order became a central currency of a broadening set of state-level policies and practices, a development that was openly applauded by northern liberals. Once a powerful if flawed critique against the southern sin of white violence, racial liberalism in the hands of southern moderates became a mechanism by which they shored up segregation after *Brown* and the racial logic of the emerging law-and-order state. In short, southern moderates, borrowing and also fundamentally altering the logic of northern liberals, succeeded in recasting the essential violence of the law-and-order state as a *departure* from the violence of Jim Crow and a southern past that had fallen into disfavor domestically and internationally. Further, as states with moderate policies sought to protect these moderate school laws from two political threats – the white massive resistance movement and the black civil rights movement advocating immediate and full compliance with *Brown* – politicians began to dedicate state resources to moderate policies. In the process, rearticulated law-and-order and rearticulated racial liberalism became a new set of state interests actively pursued and protected by southern political elites.

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### *Law-and-Order's Politics of Innocence*

At the center of rearticulated racial liberalism was the racialization of law-and-order in the South and the exoneration or “masking” of this racialization. Indeed, in the hands of the moderates, law-and-order underpinned a dual racial exoneration for the newly moderate southern state. First, the narrative architecture of moderate law-and-order discourse worked to exonerate political moderates and the newly moderate New South state from the very exclusion their school policies secured into law. That is, in this dissertation we will witness how in the vanquishing of Jim Crow’s *de jure* segregation and massive resistance to *Brown*, New South policies reconstituted racial segregation in moderate policies and worked to mask and disavow this basic development. We will also witness how rearticulated law-and-order was absolutely central to this achievement. By narrating themselves and the moderate state as the protectors of racial neutrality, economic progress, and lawfulness/law-and-order, moderates exonerated the state from what was understood as uniquely southern sins of white lawlessness violence. This exoneration, I suggest, was in large part due to the signal that rearticulated law-and-order sent to northern liberals, national politicians, and to some extent, the courts. Moderation, through rearticulated law-and-order, became legible as evidence of a New South, a South reborn as a part of the New America.

If one element of the South’s exoneration from the sins of the Jim Crow past rested on distancing itself from the lawlessness and violence of white massive resistance mobs, then the narrative architecture of moderate discourse worked also to exonerate the New South from the racialization of its expanding law-and-order politics. Indeed, southern moderates articulated not one but *two* racialized threats to the New South state: white lawlessness/violence and black lawlessness/disorder. As much a danger to the success of the moderate New South as

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violent white extremism, black integrationism and civil rights protest was increasingly seen in the 1950s and 1960s as “lawlessness,” a dangerous disturbance to the “public peace,” the cause of social “disorder,” and the provocation of white racial violence. It was of equal danger to the economic goals of the state and the classed interests of white suburban populations. Drawing on and revising Gary Peller’s claims in his classic “Race Consciousness” and utilizing Claire Kim’s language of triangulation, this dissertation also highlights the racialization at work in rearticulated law-and-order in the New South.

First, the importation of law-and-order liberalism into the post-*Brown* South created a racialized triangulation between the moderate law-and-order state (and the lawful and often suburban-based whites that populated it), white violence (the perpetrators of which were the lawless and violent “white trash,” “rednecks” and in the words of one southern journalist, “flotsam and jetsam” of the rural South), and black lawlessness and disorder (the perpetrators of which were blacks who claimed and protested for equal civil rights and immediate integration).<sup>72</sup> This triangulation between white law, white violence, and black lawlessness was the product of rearticulated law-and-order and its entrenchment into state laws and practices. Although Kim coins the phrase “racial triangulation” to work out the racialization of Asian Americans along two spectrums (superiority/inferiority and insider/outsider), her theorization that resources and interests play out on a “field” of racialization is useful here.<sup>73</sup> Where for Kim, Asian Americans are triangulated as a model but indelibly foreign minority against the superior/insider status of whites and inferior/insider status of blacks, I use her language to posit the New South as racialized field of law-and-order in which black

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<sup>72</sup> Eugene Patterson, “Two Routes and One Vehicle,” *The Atlanta Constitution*, October 3, 1960. UGA, Vandiver Papers, Series I.A, Box 21, Folder 8. On the language of “white trash” as connected to white violence and the emergence of racial innocence in the postwar South, see Kirstine Taylor, “Untimely Subjects: White Trash and the Making of Racial Innocence in the Postwar South,” *American Quarterly* Vol. 67, No. 1 (March 2015): 55-79.

<sup>73</sup> Claire Jean Kim, “The Triangulation of Asian Americans,” *Politics and Society* 27 (1999): 105-138.

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southerners were triangulated against the white/lawful moderates and the white/lawless massive resisters. This language, which I use from time to time in the dissertation, is also meant to underscore how the moderates' rearticulation of racial liberalism fundamentally reshaped the southern ideological landscape: race-neutral law and law-and-order became a metric that helped to define racial formation in this period.

Second, the triangulation between white law, white extremist violence, and black lawlessness recalls and offers a revision to Gary Peller's claim in "Race Consciousness." In his classic article, Peller identifies the "basic racial compromise" of the civil rights era as the equation of Black Nationalism and white supremacy, which came to be understood as symmetrically illiberal deviations from racial neutrality and colorblindness.<sup>74</sup> In this compromise, Peller argues, "the dominant conception of racial justice was framed to require that black nationalism be equated with white supremacists, and that race-consciousness on the part of either whites or blacks be marginalized as beyond the good sense of enlightened American culture."<sup>75</sup> In searching for the roots of this racial equation, Peller identifies racial integrationism and colorblind civil and voting rights as the bargaining chip that made black rights palatable for the majority of white Americans who sacrificed their ideology of white supremacy. In the process, argues Peller, black nationalism and white supremacy were imagined as committing the identical sin of race-consciousness against a racial equality guaranteed by colorblindness, and so became the common enemies of the properly liberal state committed to "truth, universalism, and progress."<sup>76</sup>

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<sup>74</sup> Gary Peller, "Race Consciousness," *Duke Law Journal* Vol. 1990, No. 4 (September 1990), 760. Desmond King and Rogers Smith make a related point when they argue that arguments over race, once framed in terms of "segregation versus integration," are now framed as "disputes between color-blind and race-conscious policy approaches." Desmond King and Rogers Smith, "'Without Regard to Race': Critical Ideational Development in Modern American Politics," *Journal of Politics*, Vol. 76, No.4 (October 2014): 958-971.

<sup>75</sup> Peller, "Race Consciousness," 760.

<sup>76</sup> Peller, "Race Consciousness," 772.

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The journey that law-and-order took in the New South both parallels Peller's argument and offers a substantial revision. Before black nationalism became the perfect inverse of white supremacy, black civil rights in the moderate New South came to be understood as the inverse of lawless white extremism and violence. In the New South, southern moderates insisted that law-and-order was the neutral ground from which white racial violence and black integrationism disturbance departs, and as such the moderate law-and-order state in the South performed a similar kind of work as colorblind norms does in Peller's theorization. However, this is also a revision. Where for Peller the racial bargain around colorblindness made it so "anyone can engage in racism because we can identify racism from a vantage point of race neutrality," I propose that the racial bargain around moderate law-and-order made it so a narrow strip of white behaviors (overt violence, retrogressive extremism) but a wide swath of black behaviors (including claiming civil rights, protest, use of public space, organizing, boycotts, etc.) required the intervention of the neutral law-and-order apparatus that grew and expanded around this logic. In this sense, black rights-claiming and protest came to be understood as the symmetrical inverse of white violence. It was therefore understood to be just as dangerous to the success of moderate school policy and the arrival of the corporate New South as were displays of massive resistance extremism and white segregationist violence. And it was routinely articulated as such. While attacks on black rights-claiming as "lawless" or "criminal" were by no means new in American political history, the rendering of these as an aberration from a moderate, "neutral," and formally equal, ostensibly colorblind southern state was indeed novel.

## Methodology, Case Studies, and Chapter Organization

In consciously combining American political thought and empirical research with critical race theory critique, this project can be read as part of a broader effort to locate important aspects of political thought in the historical development of political institutions. American political development (APD) has traditionally placed primary emphasis on institutions, historical transformations in institutionally lodged power, and the creation of, in Karen Orren and Steven Skowronek's useful phrase, "durable shift[s] in governing authority" over time.<sup>77</sup> Such an emphasis has opened productive avenues of analysis for scholars of American politics to take seriously the historically contingent nature of, for example, current research findings in public policy, party politics, voting patterns, and racial formations. Until relatively recently, however, this focus on institutions has operated at the expense of understanding the role political thought plays in American political development.<sup>78</sup>

Recent APD scholarship, within and against the broad tradition of Louis Hartz, has begun to investigate how American political thought (or "ideas," in the field's terminology) can inform institutional change and produce shifts in political coalitions and governance.<sup>79</sup> In parallel to this scholarship, I approach the making of racial innocence in the postwar South both as a product of institutional formation and as an important, durable political development in itself. My use of Omi and Winant's concept of *rearticulation*, for instance, has clear connections to recent work in American political development and law that understands

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<sup>77</sup> Karen Orren and Stephen Skowronek, *The Search for American Political Development* (New York: Cambridge University Press, 2004), 123.

<sup>78</sup> Rogers M. Smith, "Ideas and the Spiral of Politics: The Place of American Political Thought in Political Development," *American Political Thought* Vol. 3 (2014). For more on the institutional role of political thought plays in the development of institutions, see also: Robert C. Lieberman, "Ideas, Institutions, and Political Order: Explaining Political Change," *American Political Science Review* Vol. 96 (2002): 697–712; Rogers M. Smith, "Which Comes First, the Ideas or the Institutions?" In *Rethinking Political Institutions: The Art of the State*, ed. Ian Shapiro, Stephen Skowronek, and Daniel Galvin (New York, New York University Press, 2006), 91–113.

<sup>79</sup> Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt, Brace & World, 1955).

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“ideas” as central to interpreting political institutional formation and change: legal theorist Jack Balkin’s concept of “ideological drift,” Skowronek’s theorization of the “interpenetration” of “ideas and purposes,” Desmond King and Rogers Smith’s “critical ideational development,” and Robert Lieberman’s argument that political change “arises out of ‘friction’ among mismatched institutional and ideational patterns.”<sup>80</sup> In these formulations, formations in political thinking and ideology are more than a symbolic backdrop to political development or policy formation. Nor do ideas simply they lend meaning to shifts in state capacity or governing authority. Rather, this literature contends, formations in political thought often get appropriated and transposed (sometimes incoherently) into foreign environments in ways that sometimes produce new political coalitions, shifts in governance and authority, and altered policy content. In short, to use Skowronek’s phrase, shifting interactions between “institutions” and “ideas” can achieve the “reconstruction of meaning” for both political institutions and political thought.<sup>81</sup>

However, more than a “cross-pollination” approach to the role of thought in political development, my use of Omi & Winant’s concept of *rearticulation* suggests that formations in political thought (and their rearticulation) can have an institutional afterlife that fundamentally contributes to American racial formation and racial ideology. Thus, alongside George Thomas’ contention that political thought can *itself* “build, dismantle, and rearrange how the polity is ordered over time,” I argue that the southern rearticulation of racial liberalism produced a durable politics of innocence that contributed to the proliferation and

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<sup>80</sup> Jack M. Balkin, “Ideological Drift and the Struggle Over Meaning,” *Connecticut Law Review* 25 (Spring 1993): 869-892; Desmond King and Rogers Smith, “‘Without Regard to Race’: Critical Ideational Development in Modern American Politics,” *Journal of Politics*, Vol. 76, No. 4 (October 2014): 958-971; Stephen Skowronek, “The Reassociation of Ideas and Purposes: Race, Liberalism, and the American Political Tradition,” *American Political Science Review* Vol. 100, No. 3 (August 2006): 385-401. See also Robert C. Lieberman, “Ideas, Institutions, and Political Order: Explaining Political Change,” *American Political Science Review*, Vol. 96, No. 4 (2002): 697-712.

<sup>81</sup> Skowronek, “The Reassociation of Ideas and Purposes,” 388.

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racialization of law-and-order policies after midcentury. Indeed, rearticulated racial liberalism and law and order continues to structure contemporary discourse on race – and particularly notions of progress, colorblindness, and post-racialism since the formal death of Jim Crow (witnessed, for instance, in John Roberts’ announcement that “things have changed in the South”) in the face of continued racial violence that has since become more complexly embedded into the state (witnessed in the sharp racial disparity in police killings, incarceration rates, and violence in prison).<sup>82</sup> Indeed, moderates did not merely author new policy formations as a response to *Brown*, nor did they simply leverage liberal rhetoric to strategically reconstitute political power from the old agrarian strongholds of the Democratic Party to the capital-rich cities of the New South – although they did both of these things. Further than this, their re-forging of racial liberalism in the creation of the New South helped to rearrange the polity around racialized law-and-order politics and produced a language of exoneration and innocence that, even today, routinely shields Americans’ ability to see racial violence *as* racial violence. In other words, law-and order became, beginning in this critical postwar period, an important institutional and ideological expression of racial innocence.<sup>83</sup>

In making this argument, I begin with Pamela Brandwein’s approach to analyzing how political battles over “narrative” can have lasting political impact past their immediate environment. In her important article, “Slavery as an Interpretive Issue in the Reconstruction Congress,” Brandwein argues that after the Civil War, Republicans and northern Democrats

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<sup>82</sup> George Thomas, “Political Thought and Political Development,” *American Political Thought* Vol. 3, No. 1 (Spring 2014), 115.

<sup>83</sup> In this way, racial liberalism and racial innocence are not the *same* formation in political thought, and yet innocence – the productive effort of *not-seeing* our own racial reality – is strongly attached to racial liberalism’s political journey through the postwar South’s battles over desegregation, black civil rights, and the constitutional meaning of *Brown*.

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interpreted “the problem” of slavery in very different ways.<sup>84</sup> Debates over slavery’s impact on white labor, civil liberties, the cause of the war, and state sovereignty not only structured congressional debates during Reconstruction, but also played a central role in the Supreme Court’s narrow interpretation of the Fourteenth Amendment. In short, her use of narrative competition allows us to see that northern Democrats’ discursive victory over *how* slavery was to be interpreted had, despite their legislative failure, a lasting impact on constitutional law.

While my research is not concerned with constitutional interpretation or congressional debate, Brandwein’s attention to how narrative – or, in my more expansive language, formations in political thought – can have an institutional afterlife nonetheless provides an important analytical frame. Like the issue of slavery in the Reconstruction congress, law-and-order in the postwar South did not emerge already fully-fledged, already coherent, already “speaking itself.”<sup>85</sup> As noted previously, law-and-order was a deeply contested narrative routinely leveraged by various factions of white southerners. To use Brandwein’s phrasing, there was vigorous “narrative competition” over the meaning, application, and purpose of “law and order.” As Chapter 2 will elaborate on in some depth, who could speak for “law and order” – whose bodies it was meant to protect and from what (always racialized) threats, its precise relationship to integration and black civil rights, and its policy prescriptions – were all matters that the massive resistance movement and the moderate resistance movement interpreted differently and vigorously disagreed on. The moderates’ interpretive victory on law-and-order’s meaning region-wide by the end of the 1960s not only cemented their claim on the means of maintaining school segregation, but also lodged the moderates’ rearticulated

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<sup>84</sup> Pamela Brandwein, “Slavery as an Interpretive Issue in the Reconstruction Congress,” *Law and Society Review* Vol. 34, No. 2 (2000): 315-366.

<sup>85</sup> Brandwein, “Slavery as an Interpretive Issue,” 316.

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law-and-order logic into a broadening swath of state policies and racial ideologies. As such, formations in political thought, their rearticulation, and their re-deployment by political actors are absolutely central to political development and racial formation – and in fact, can be political developments in themselves.

In thoroughly integrating formations in political thought (and their contested redeployment) with institutional development, this dissertation offers an advancement in understanding the links between these often separate fields. The particular institutional development under examination – the early emergence and racialization of law-and-order practices and policies in the postwar South – cannot be understood absent its intimate and complex relationship to postwar racial liberalism. Nor can its outcomes be understood absent *more* theorization. If the empirical portion of the dissertation focuses on law-and-order's emergence in the post-*Brown* South, I am also interested in what this development *does* to the American political landscape, and particularly to racial meaning and racial ideology into the contemporary era.

### *Archival Evidence*

The empirical chapters draw substantially from original archival research performed in North Carolina and Georgia between 2011 and 2013. These sources include governor's papers and speeches, General Assembly documents, committee reports and correspondence, political elites' correspondence, court documents, state resolutions and amendments, internal memos (regarding a range of issues from state school policy and use of law enforcement at particular protests, school integrations, and towns), recorded interviews, regional and local newspapers, political cartoons, and photographs.

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In fact, the interpretation of images – specifically historical political cartoons and photographs – is just as analytically central to my methodology and argument as are political documents, committee resolutions, and court decisions. Alongside the varied traditions of Michael Rogin, Maurice Berger, Danielle Allen, and others who analyze the racialized (and racializing) political work that images perform for the polity, I pay special attention to political cartoons indigenous to the New South because they offer a powerful window into the contestation over “law and order” discourse in southern resistance movement, clarify the racial terms of that debate over meaning, and underscore what other (economic, ideological) forces that debate was attached to.<sup>86</sup> I additionally pay special attention to photographs because *Brown*, the black civil rights movement, and white resistance to both played out in photographic view of the American public – and did so to such an extent that southern moderates worried deeply that displays of white violence and shouting mobs would injure their states’ image, divert capital to less troubled locales, and invite greater court scrutiny of moderate school policies. As such, photographs appearing in newspapers, referenced in radio programs, and displayed on national television deeply impacted southern moderates’ turn to embrace a liberal “law and order” discourse.

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<sup>86</sup> Michael Rogin, *Blackface, White Noise: Jewish Immigrants in the Hollywood Melting Pot* (Berkeley: University of California Press, 1996); Maurice Berger, *For All the World to See: Visual Culture and the Struggle for Civil Rights* (New Haven: Yale University Press, 2010); Martin A. Berger and David Garrow, *Seeing Through Race: A Reinterpretation of Civil Rights Photography* (Berkeley: University of California Press, 2011); Martin A. Berger, *Sight Unseen: Whiteness and American Visual Culture* (Berkeley: University of California Press, 2005); Danielle Allen, *Talking to Strangers: Anxieties of Citizenship since Brown v. Board of Education* (Chicago: University of Chicago Press, 2006); Murray Edelman, *The Symbolic Uses of Politics* (Urbana-Champaign, IL: University of Illinois Press, 1985); Jacqueline Goldsby, *A Spectacular Secret: Lynching in American Life and Literature* (Chicago: University of Chicago Press, 2006); Robin Bernstein, *Racial Innocence: Performing American Childhood from Slavery to Civil Rights* (New York: New York University Press, 2011); Patricia Johnson, Ed., *Seeing High and Low: Represented Social Conflict in American Visual Culture* (Berkeley: University of California Press, 2006); Nicole R. Fleetwood, *Troubling Vision: Performance, Visuality, and Blackness* (Chicago, IL: University of Chicago Press).

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### *Case Study Selection: North Carolina and Georgia*

At the empirical center of the dissertation is the regional development of rearticulated law-and-order in the postwar South, for which I have two case studies, North Carolina and Georgia, that cover four chapters. The case studies employ a range of original archival sources. I chose North Carolina and Georgia as case studies because both states voluntarily implemented moderate school policy by the early 1960s, both were instrumental in rearticulating and popularizing postwar liberalism, and both states housed cities whose preference for New South capitalism laid important groundwork for the emergence of law-and-order as a dominant political rhetoric, state interest, and emergent policy logic in the region.

However, they are also very different southern states with varying racial histories and relationships to Jim Crow. North Carolina, an Upper South state with a rich history of southern progressivism, was a regional pioneer in moderate school policy to which many other states (Georgia included) looked when their massive resistance laws began to fail in the courts. Georgia, a Deep South state with a long history of lynching and white supremacy during Jim Crow – a corrupt “county unit” system of voting that tied the state’s Democratic Party machine to rural counties, incredibly deep segregationist roots, and a strong post-*Brown* commitment to massive resistance to match – came rather later and with far more debate to both moderate school policies and to rearticulated law-and-order. This makes Georgia a “tough case” for these developments, and offers a window into the extent to which racial liberalism penetrated into and was indelibly reshaped by the changing political and economic developments of the Deep South.

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### *Chapter Organization*

The dissertation is organized as follows. Chapter 2 highlights the unsettled, contested nature of law-and-order rhetoric in the immediate post-*Brown* South. As I suggested earlier, different factions of white southerners, with different political and economic interests, different approaches to *Brown*, and different orientations to northern capitalism, leveraged conflicting logics of “law and order.” It is important to get clear on precisely what these discourses were and how they related to school segregation laws because states, in dedicating resources to either massive resistance or moderate resistance policies, embedded these logics into state laws and practices. And because massive resistance lost out to moderate New South policy by the end of the 1960s, this chapter also sets up the puzzle that is worked out empirically in the case study chapters: if southern conservatives failed to embed their “law and order” narrative into state interests and state policies, what else explains law-and-order’s coming of age in state-level politics at midcentury? How (on what terms) did moderate law-and-order come to dominate in state-level politics by the close of the civil rights era?

Chapter 3 begins the empirical heart of the dissertation. There, I weave together state interests in crafting a New South economy based on corporate capitalism, manufacturing, research, and the growth of white middle-class interests, the emergence and rearticulation of law-and-order narratives, and how this new discourse became embedded into state interests and state identity as a pioneer of the progressive New South. Court opinions, the governor’s office, and the education committee all figure centrally in this chapter, as do newspapers, political cartoons, and editorials. The emphasis in this chapter is on North Carolina’s status as a pioneer in the regional convergence around rearticulated racial liberalism, with law-and-order at the center.

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Chapter 4 is the first of three Georgia-centered chapters. In it, I focus my attention on the development of “New South” corporatism in the Deep South, and use this to explain the political tension between massive resistance’s law-and-order rhetoric and moderate resistance’s rearticulated law-and-order rhetoric as this tension relates to white class interests in the creation of the New South. Chapters 5 and 6 focus on the process, court decisions, rhetoric, and events by which Georgia became the first Deep South state to abandon massive resistance, rehearse rearticulated law-and-order logics, and begin to embed them into state practices beyond education policy. This chapter concludes with a return to the racialization and exoneration of triangulated law-and-order detailed in a previous section of the Introduction. Shifting focus, Chapter 7 explores New South policing as a site where the logic of rearticulated law-and-order had impact beyond school policy. I argue in this chapter that law-and-order became a guiding state interest in both North Carolina and Georgia after the moderate coalition’s victory on the direction of school policy after *Brown*.

The conclusion explores the longer ideological impact of moderate law-and-order – and its convergence with the nation – on contemporary racial formation. I argue that the logic of racialized law-and-order around which the nation and the New South converged indelibly organized the ideological landscape of race around a “politics of innocence” for decades to come and contributed to the structure racial violence takes today. In this analysis, I suggest that contemporary practices of racial violence (here, witnessed in the deaths of black men at the hands of law enforcement) are linked not simply to racial conservatism that has come to colonize the national political order, but far more complexly, to centrist reforms, liberal principles, and formulations of formal equality forged in part in the moderate New South.

## **Chapter Two**

### **Postwar Racial Liberalism and the Contested Ground of Law-and-Order**

*“President Eisenhower did his duty in upholding the Federal law. However unwise the Supreme Court decision, however tragic the intervention of Faubus, however foolhardy the NAACP for sending Negro children to school Monday morning, mob violence must not prevail in America.”*

– Editorial comment in a Greensboro, North Carolina newspaper on President Eisenhower’s use of troops in Little Rock, Arkansas, 1957<sup>1</sup>

By the late 1950s, America seemed to have made a significant leap forward in racial matters: racial discrimination in federal contracts had been abolished, the Supreme Court had overturned the “separate but equal” doctrine in *Brown v. Board of Education*, previously segregated schools in Baltimore and Washington, D.C. opened its doors on an integrated basis, the black civil rights movement gained traction, and civil rights bills began to move through Congress in earnest.<sup>2</sup> At the same time, the South seemed alternately stagnant and retrogressive: in 1956, the majority of southern states launched a strident “massive resistance” movement against school desegregation, the region played host to several highly visible episodes of anti-black terrorism connected to civil rights and integration activism, and 19 U.S. Senators and 82 U.S. Representatives came together to denounce *Brown* by accusing the Supreme Court of “clear abuse of judicial power” in the *Southern Manifesto*.<sup>3</sup> At this juncture in the nation’s history, the racial violence and segregationism in the southern United States

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<sup>1</sup> *The New York Times*, “Editorial Comment of Southern Newspapers on Use of Troops

<sup>2</sup> On August 13, 1953, President Dwight Eisenhower created the President’s Committee on Government Contracts with Executive Order 10479, which prohibited discrimination in federal contracts and subcontracts. Jacqueline Dowd Hall argues that the classic phase of the “long civil rights” movement began in 1954, but that the movement itself was in fact much longer, stretching back into the early twentieth century. Jacquelyn Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History* (March 2005).

<sup>3</sup> Members of the United States Congress, *The Southern Manifesto*, March 11, 1956.

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appeared to be both rapidly fading (thanks to the victory of law) and resurgent (thanks to the victory of the southern demagogue and its mob).

Against this precarious backdrop, the logic of racial liberalism had never seemed more domestically virtuous or internationally urgent, and southern crimes had rarely looked more flagrantly inconsistent with the will of the nation.<sup>4</sup> There was, however, another critical movement afoot in the South that sought ideological, economic, and political reconciliation with the nation – and was neither a champion of black freedom nor a defender of Jim Crow. Southern moderates, perhaps more than the civil rights movement, federal civil rights policy, or the courts, became the primary political architects of the postwar South, defining “New South” political-economic rhetoric and a broad range of social policy. Indeed, moderates were legislatively critical to the fall of massive resistance laws (which sought to secure Jim Crow segregation in state constitutions), rhetorically necessary for the arrival of the postwar “New South,” and oversaw the growth of metropolitan areas and the booming postwar economy in the region. They also strategically rebuilt policies of racial stratification after Jim Crow’s formal collapse, helping to secure residential segregation, continued racial divide in public schools, and criminalizing black use of public space and funds.

Moderate law-and-order became a critical link between these two seemingly incongruous phenomena. While law-and-order politics in the midcentury South is typically understood as a southern-led conservative white backlash to the new “liberal consensus,” the policy outcome of demagogic white southerners’ insistence on innate black criminality, or indicative of the rise of the New Right, I suggest that southern moderates laid claim to an earlier, liberal-based

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<sup>4</sup> Derrick Bell, “*Brown v. Board* and the Interest-Convergence Dilemma,” *Harvard Law Review* 93 (1979): 518; Mary Dudziak, *Cold War Civil Rights: Race and the Image of Democracy* (Princeton, NJ: Princeton University Press, 2000); Philip Klinkner and Rogers Smith, *The Unsteady March: The Rise and Decline of Racial Equality in America* (Chicago: University of Chicago Press, 1999).

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vision of law-and-order in their making of the New South.<sup>5</sup> For liberal northerners and moderate southerners alike, law-and-order marked the rejection of white southern violence, the renouncement of hyper-punitive and arbitrary southern courts, inclusion in the booming postwar economy, and membership in a nation unified around the common theme of racial liberalism. There were differences, however. In the North, liberal law-and-order rhetoric became embedded in a range of social policy that pursued facially anti-racist – if still problematic and paternalistic – ends.<sup>6</sup> In the South, liberal law-and-order rhetoric became self-consciously embedded in moderate preferences for state resistance to *Brown* and civil rights activism. That is, at the same time that liberal “law and order” rhetoric rose to prominence in northern, even anti-southern discourses, its logic also became the strategic basis in the South for alternate aims: maintaining maximum amounts of segregation in schools, criminalizing black civil rights protest, and tethering racial violence more tightly to the state while protecting it from view or scorn. In the hands of moderates, liberal law-and-order was rearticulated for the policy goals of New South moderates seeking to push segregationist alternatives to massive resistance law. It became, in other words, the language and policy foundation for racial innocence in the region.

In this chapter, I consider law-and-order’s journey south by introducing its complex relationship to postwar liberal thought in the region. Critically, the presence of law-and-order in southern postwar politics was far from a settled outcome and had far from a settled political meaning in the 1950s and 1960s. Employing Pamela Brandwein’s concept of narrative competition, I set out here to trace the discursive terms over which the various proponents of

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<sup>5</sup> Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005); Vesla Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21(2): 230-265; Earl Black and Merle Black, *The Rise of Southern Republicans* (Cambridge, MA: Belknap Press, 2003).

<sup>6</sup> See Murakawa, *The First Civil Right* for a full excavation and critique of liberal law-and-order.

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“law and order” – northern liberals, proponents of the massive resistance movement, and southern moderates – sought to direct policy and solidify racial power and meaning.

In the process, the chapter proceeds offers three interventions. First, despite the popularization of racial liberalism in the rest of the nation and court decisions like *Brown*, it was unclear to white southerners whether the southern states would be able to protect its racially corrupt justice system, its practice of official white terrorism and intimidation, or the regularized lynchings of African Americans – the “lawlessness” of which it was regularly accused by black civil rights organizations such as the NAACP and increasingly, white northern liberals. Put differently, the emergence of modern law-and-order politics in southern states was not a foregone conclusion, a historical “given,” or even a uniformly homegrown political rhetoric, but arose out of a specific context. Second, the law-and-order appeal was not directed primarily to the South itself, but rather its gaze was outward towards the nation. Finally, the institutional focus of southern law-and-order was not exclusively, as one might expect, the criminal justice system, the courts, or even law enforcement. Rather, it was civil rights and schools – or more precisely, the direction of segregation policy after *Brown*. Law-and-order, both as a settled political narrative and set of state policies and practices, only soared to prominence in southern states *after* the *Brown* decision, and when there arose decided disagreement among white southerners over the best way to respond to the case, especially as states began confronting their own school crises. As such, even as it rose to prominence, law-and-order had a deeply contested political meaning in the midcentury South. Leveraged by differing factions of white southern politicians seeking to resist *Brown* on their own terms, the meaning of law-and-order’s appeals – who could speak for it, who was guilty of its disruption, whose bodies it was meant to protect and from what dangerous forces, and

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which policies would best enforce it – were bitterly contested. In this chapter, I canvas this contested nature of “law and order” discourse in the South and conclude by asking: How was it that one discourse became increasingly settled into state interests, practices, and policies by the late 1960s?

I begin below with a reformation prior to law-and-order’s discursive arrival on the southern scene: a reformation in the narrative terrain of American liberalism at midcentury, when the way in which northern liberals imagined the South and its relationship to the nation underwent a significant transformation.

### **Antecedents to New South Law-and-Order: Liberal Visions of the Exceptional South**

The myth of the Exceptional South – the trope that the American South is a “land apart” from the rest of the nation in not only region but also in time, culture, and creed – has long been central to national ideology, narratives, and formations in American liberalism. More often than not, the myth of southern exceptionalism understands the region not only as occupying a different time and place than the rest of the nation, but almost always an earlier time and a primitive place. As historian Numan V. Bartley put it, the South has traditionally “exemplified the sociological concept of ‘cultural lag’” which has conceptually placed it somewhere behind the rest of the nation.<sup>7</sup> To some extent, this is as true of non-southern commentators and researchers as it has been of southerners themselves. For instance, southern journalist and writer Wilbur J. Cash in 1929 wrote of the distinctive “mind of the south” in his seminal essay of that same title: “If it can be said that there are many Souths, the fact remains that there is also one South. That is to say, it is easy to trace throughout the region ... a fairly definite mental pattern, associated with a fairly definite social pattern – a complex of

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<sup>7</sup> Numan V. Bartley, *The Rise of Massive Resistance* (Baton Rouge: Louisiana State University Press, 1969), 17.

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established relationships and habits of thought, sentiments, prejudices, standards of values, and associations of ideas.”<sup>8</sup> Historian C. Vann Woodward, in his classic 1960 text *The Burden of Southern History*, argued that the “collective experience of the Southern people” was so at odds with the nation’s liberal ideology, material abundance, entrepreneurial spirit, and “pretensions of success and innocence” that the region remains indelibly distinctive.<sup>9</sup> Cultural touchstones from Erskine Caldwell’s *Jeeter Lester* (1932), Margaret Mitchell’s *Gone With the Wind* (1936), William Faulkner’s Snopes family, Harper Lee’s *To Kill a Mockingbird* (1960), Phil Ochs’ “Here’s to the State of Mississippi” (1965), and all the way to today’s *Django Unchained* (2012) and *Twelve Years a Slave* (2012) color the South in the alternating, gothic hues of decadence, depravity, poverty, and violence.<sup>10</sup>

More prominently for my story, the South has also traditionally been a depository for the sins of the nation. And yet the sins of the South – the metrics upon which the region is understood to be exceptional, illiberal, and untimely relative to the rest of the nation – have not remained static, but have shifted over time. In this section, I explore a critical juncture in liberal thought (specifically, liberal thought *about* the South) in the postwar years as an important antecedent to the emergence of law-and-order discourse after *Brown*.

*“The Nation’s No. 1 Economic Problem”’: Progressivism and the Problem of the Primitive South, 1900-1930s*

Liberal thinking about the South during the Progressive Era understood the region primarily in terms of economic primitiveness and cultural backwardness. Northern progressives (the

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<sup>8</sup> Wilbur J. Cash, “The Mind of the South,” *The American Mercury* 70, October 1929, 185. See also Wilbur J. Cash, *The Mind of the South* (New York: Knopf, 1941).

<sup>9</sup> C. Vann Woodward, *The Burden of Southern History* (Baton Rouge, LA: Louisiana State University Press, 1960), 16, 227.

<sup>10</sup> On cultural imagery of the South as a “land apart,” see Jack Temple Kirby, *Media-Made Dixie: The South in the American Imagination* (Athens, GA: University of Georgia Press, 1986); Roger A. Fischer, “Hollywood and the Mythic Land Apart, 1988-1991” in John David Smith and Thomas H. Appleton eds., *The Mythic Land Apart: Reassessing Southerners and Their History* (Westport, CT: Greenwood Publishing, 1997): 177-190.

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new bureaucratic politicians, administrators, researchers, journalists that helped to create the American administrative state) increasingly understood the South's dual economic-cultural retrogression as burden not only for the region's economy but also as something that might ensnare the nation's economic prospects as a whole. Efforts to bring progressivism to the South abounded in the first decades of the twentieth century, but largely failed.<sup>11</sup> By the New Deal, the South had for liberals become, in the words of President Franklin Delano Roosevelt, "the Nation's no. 1 economic problem," as designation that tied its economic backwardness to its dependence on a crumbling plantation economy and the corrupt political machines that protected it – and a designation that made clear to liberals the danger of failing to incorporate the South into national political and economic structures. As historian Richard Klimmer has argued, during this era the "incorporation of the South into the Liberal [national] order was premised upon its being successfully modernized along lines similar to the urban-industrial structure of the East, Midwest, and Far West."<sup>12</sup> A land of parochialism, retrogression, poverty, decaying aristocratic agrarianism, and only haphazard entry into industry and manufacturing that had long dominated the northeast and Midwest, the antidote to southern exceptionalism in the early 1900s was the South's entry into modern progressive corporate-economic and administrative-political structures.

For instance, Harvard historian Albert Bushnell Hart's 1910 study of the region, *The Southern South*, served as a sort of sociological guidebook for "Northerners" that understood the South as distinct in terms of culture and economic poverty. Of the four regions that made up the United States, Hart explained, there are "three which adhere most strongly to each

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<sup>11</sup> These efforts came from both within and from outside of the South. On southern progressivism, see William A. Link, *The Paradox of Southern Progressivism, 1880-1930*

<sup>12</sup> Richard Klimmer, *Liberal Attitudes Towards the South: 1930-1965* (PhD Diss., Northwestern University, 1976).

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other and have least consciousness of rivalry ... are often classed together as 'The North,' and they are set in rivalry against 'The South,' because of a tradition of opposing interests, commercial and political."<sup>13</sup> For Hart, economic underdevelopment and cultural backwardness together explained the exceptional nature of the South. "Many are shut out by poverty and some by moral disintegration," the historian explained. This was a combination that rendered the region a place where "crudeness of behavior" abounds, "tobacco juice flows freely," "profanity is rife," and poor whites' "passions, his animal instincts, [and] his violence stand in the way of the uplift of both races."<sup>14</sup> Against this backdrop of rampant poverty and cultural decay, Hart recommended the remedy of progressive institutions: betterment of education, the end to the "seclusion" of the region from national standards of administrative governance, and "systematized" use of the region's abundant natural resources.<sup>15</sup>

As southern progressivism scholar William Link argues, northern and southern progressives alike saw state administrators, the implementation of efficient bureaucratic governance, and the "expansion of coercive state intervention" as the solution to the South's economic underdevelopment and its path to achieving unity with the rest of the nation – or at least with emerging national standards of education, industrialization, corporatism, public health, and social reform.<sup>16</sup> Northern liberals endeavored to improve the South by way of importing progressive reforms that had achieved popularity in northern locales, including the Anti-Saloon League, Conference for Education in the South, and several philanthropic efforts

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<sup>13</sup> Albert Bushnell Hart, *The Southern South* (New York: Appleton & Company, 1910), 1.

<sup>14</sup> Hart, *The Southern South*, 64, 65, 345.

<sup>15</sup> Hart, *The Southern South*.

<sup>16</sup> Link, *The Paradox of Southern Progressivism*, xii. See also Arthur Link, "The Progressive Movement in the South, 1870-1914," *North Carolina Historical Review* 23 (April 1946): 172-195; C. Vann Woodward, "Progressivism: For Whites Only," *Origins of the New South* (Baton Rouge, LA: Louisiana State University Press, 1951); Dewey Grantham, *Southern Progressivism: The Reconciliation of Progress and Tradition* (Knoxville, TN: University of Tennessee Press, 1983); Stephen Skowronek, *Building a New American State: The Expansion of American Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982).

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of John D. Rockefeller, including the Southern Education Board and the Rockefeller Sanitation Commission, the last of which labored to eradicate hookworm in the South. Indeed, northern liberals sought nothing less than the wholesale importation of state administration and progressivism to the South to cure the region of its backwardness and economic underdevelopment. Armed with administrative acumen and scientific method, the northern progressive (“a doer, a respector of fact, a possessor of method”) applied himself to the problem of the South, seeking to slice through what they took to be the region’s parochial traditionalism, its snarl of political corruption (of which racism was a part), and its resultant poverty (which was indeed rampant).<sup>17</sup> Understood this way, the liberal sought to bring social order to the South through administrative regimen and modern reform.

Despite the myriad efforts of progressive reformers, southern Democrats proved adept at retaining a significant measure of distance between themselves and the progressive reforms of northern philanthropists, administrators, and organizations.<sup>18</sup> Northern conceptions of southern economic and cultural retrogression only increased during the New Deal years. At the beginning of the Depression, Klimmer notes, “American liberals perceived the South as one of the nation’s primary problems,” but now this was a problem intimately wrapped up with the plummeting economic fortunes of a nation in the grip of severe economic collapse. The South, liberals believed, “had failed to make any significant progress toward achieving even minimal schedule of rational and liberal reforms. In the Liberal view, the South was characterized by poverty, ill-health, inadequate educational systems, [and] reactionary politics” that included “an appalling record of racial discrimination.”<sup>19</sup> To the chagrin of many, the South continued to lack modernity. Indeed, if anything, the South appeared to many

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<sup>17</sup> Lustig, *Corporate Liberalism*, 151. See also, Michel Foucault, *Discipline & Punish*.

<sup>18</sup> Link, *The Paradox of Southern Progressivism*.

<sup>19</sup> Klimmer, *Liberal Attitudes Towards the South*, 32

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liberals to be moving backward rather than inching forward, and “was clearly not ready to become an integral part of the United States and was not entering an era of democratic reform.”<sup>20</sup> As a writer for liberal magazine *The New Republic* put it in 1931, there was a decided need for a New South, the beginnings of which could be witnessed in cities like Dallas and Atlanta. In what became a classic turn of phrase, Edmund Wilson wrote of the South: “Engineers with scientific imagination, statesmen with cold principle, will be able to do what jealous country squires, loyal only to their little localities and competing with each other, could ever do.”<sup>21</sup> Sociologies of the southern mind and region – and its incapacity for modernization – abounded in the 1930s. In 1932, Howard Odum published his iconic *Southern Regions*; Rupert Vance published *Human Geography of the South* in 1932; and 1941 saw the publishing of a book version of Wilbur J. Cash’s 1929 essay “The Mind of the South.”

To be sure, by the height of the New Deal, the South had emerged, in President Roosevelt’s instantly remarked upon (and in the South, instantly derided) statement, as America’s primary economic problem. The underdeveloped South was a problem to which the national government began to increasingly attend. In 1938, Roosevelt, as part of his later New Deal effort, directed the National Emergency Council (itself an early New Deal program) to study the economic conditions of the South. Over weeks in summer 1938, the NEC studied the southern economy on fifteen registers and submitted to the president its lengthy, *Report on the Economic Conditions of the South*.<sup>22</sup> After detailing the region’s

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<sup>20</sup> Klimmer, *Liberal Attitudes Towards the South*, 50.

<sup>21</sup> Edmund Wilson, “Tennessee Agrarians,” *The New Republic*, July 29, 1931, 147. Full text available at <http://www.newrepublic.com/article/120898/edmund-wilsons-tennessee-agrarians>.

<sup>22</sup> The NEC’s fifteen indicators were: economic resources, soil, water, population, income, education, health, housing, labor, women and children, land ownership and use, credit, natural resources, industry, and purchasing power.

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poverty, tapped and untapped resources, and productivity levels, the report concluded that there were several obstacles to southern economic development: the region remained predominantly agricultural and dependent on cotton; “there has never been enough capital and credit in the South to meet the needs of its farmers and its industry”; the South was “the Nation’s greatest untapped market”; and it was the source of the greatest amount of unused natural resources in the nation.<sup>23</sup> In other words, the report’s emphasis was on the South’s uniquely rich but also uniquely dormant, inefficiently used, or untapped resources. Upon reading the NEC report, Roosevelt, in what would become a widely reported and discussed statement, wrote: “It is my conviction that the South presents right now the Nation’s No. 1 economic problem – the Nation’s problem, not merely the South’s. For we have an economic unbalance in the Nation as a whole, due to this very condition in the South.”<sup>24</sup> For decades understood as an economic and cultural backwater in an otherwise progressive, orderly, and increasingly administrated nation, in the late 1930s national leaders understood its backwardness as a potential threat to United States economy writ large.

After the NEC issued its report, debate flourished over the nature of “economic condition” of the South and what came next – that is, what had caused its economy to languish so far behind, what sorts of state intervention or programs of reform might launch the region into sustained economic development, and who should be responsible for those efforts. The NEC report offered no particular regimen of programs, but Roosevelt, historian Richard Scher has noted, felt that “real economic recovery from the Depression could not be complete until the backward South began to catch up the rest of the nation [and] his

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<sup>23</sup> National Emergency Council, *Report on Economic Conditions of the South*, July 25, 1938. Full text available at [archive.org/stream/reportoneconomic00nati/reportoneconomic00nati\\_djvu.txt](http://archive.org/stream/reportoneconomic00nati/reportoneconomic00nati_djvu.txt).

<sup>24</sup> Franklin Delano Roosevelt, President’s Letter to the Members of the Conference on Economic Conditions in the South, July 5, 1938. Text available at [http://archive.org/stream/reportoneconomic00nati/reportoneconomic00nati\\_djvu.txt](http://archive.org/stream/reportoneconomic00nati/reportoneconomic00nati_djvu.txt).

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administration believed that the South had enormous economic potential that could benefit the entire nation, yet remained essentially untapped.”<sup>25</sup> Others argued that the southern economy had lagged behind the rest of the nation not because of its agrarianism or even its slave past, but because it had long been an economic “colony” of the nation. Indeed, the narrative of southern colonialism also pervaded explanations of southern economic exceptionalism and underdevelopment in the early twentieth century. Journalist Benjamin Stolberg, for instance, commented that “what really happened in the South during the last sixty-five years [after the Civil War] was that it was allowed the full autonomy of its indigenous bigotries but was colonized economically.”<sup>26</sup> And southern historian B.B. Kendrick, in a speech at the Southern Historical Association in 1941, argued that the “fundamental historical condition” of the South’s status as economic problem number one for the nation was that it, “in greater or less degree, has occupied the status of a colony” for three centuries.<sup>27</sup>

Whether an untapped resource, a cultural backwater, an exploited “colony,” or a region of static economic fortunes and agrarian barbarism, liberals in the first four decades of the twentieth century tended to understand the South in southern exceptionalist terms that routinely emphasized its economic and cultural primitiveness. This was all to change, however, as the nation entered a new decade and liberalism a new era.

*“The Source of Evil in America” : Racial Liberalism and the Problem of Southern Lawlessness, 1940s-1960s*

Under the threat of wartime dictatorship and Cold War anti-communism, the language of economics gave way to liberals’ grave concern with questions of social equality, political

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<sup>25</sup> Richard K. Scher, *Politics in the New South: Republicanism, Race, and Leadership in the Twentieth Century* (New York: Paragon House, 1992), 21. See also Dewey Grantham, *The South in Modern America: A Region at Odds* (New York, Dewey Grantham, 1994)

<sup>26</sup> Quoted in Klimmer, *Liberal Attitudes Towards the South*, 51.

<sup>27</sup> B.B. Kendrick, “The Colonial Status of the South,” *Journal of Southern History* 8 (February 1942), 3-22.

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freedom, and legal democracy. Michael Dawson has demonstrated that this was not particular to northern white liberals (my central concern here), but also to black political thought and activism. In what he terms “the sundering,” the black Marxism of the 1920s and 1930s gave way in the 1940s to black liberalism more preoccupied with social inclusion and political equality than with class struggle and economic justice.<sup>28</sup> For many white liberals, the unequal and violent treatment of black bodies and lives, especially in the South, came to be understood as a black spot on the image of an otherwise progressive, liberal America at war with fascism and Nazism abroad.<sup>29</sup> The unequal and oftentimes violent treatment of blacks, in the words of prominent Swedish sociologist Gunnar Myrdal, became the nation’s central and defining “dilemma.” Like the rhetoric of economic primitiveness that marked northern anxieties about the South in the Progressive and New Deal eras, national discourses on racial discrimination centered the problem squarely in the South. As Richard Klimmer notes in his study of liberal attitudes toward the South, “the Liberals’ Southern question underwent a major transformation during the Second World War. Anxious about any threat to unity in the anti-Fascist struggle and wary of any attempt to undermine capitalist reform under the guise of national defense, Liberals increasingly worried about a baneful influence from Southern society.”<sup>30</sup> As such, it was during this period that the illiberal nature of racism – with white violence at its core – came to be understood as a uniquely southern crime from which the rest of the nation was largely innocent and, believed some, which the government was duty-bound to cure.

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<sup>28</sup> Michael Dawson, *Blacks In and Out of the Left* (Cambridge, MA: Harvard University Press, 2013). See also Risa Goluboff, *The Lost Promise of Civil Rights* (Cambridge, MA: Harvard University Press, 2010); Paul Frymer, *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party* (Princeton, NJ: Princeton University Press, 2011).

<sup>29</sup> Derrick Bell, “*Brown v. Board* and the Interest-Convergence Dilemma,” *Harvard Law Review* 93 (1979): 518; Mary Dudziak, *Cold War Civil Rights: Race and the Image of Democracy* (Princeton, NJ: Princeton University Press, 2000).

<sup>30</sup> Klimmer, *Liberal Attitudes Towards the South*, 76-77.

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Perhaps the best-known articulation of racial liberalism at the time of its emergence in the 1940s was by Gunnar Myrdal, who famously described a “dilemma” between racism and the liberal tenets of the national political creed as “a problem in the heart of Americans.” Myrdal’s 1944 seminal work, the two-volume tome *An American Dilemma*, quickly became a classic. It was widely read among northern elites and public intellectuals and received warm reviews in leading national publications.<sup>31</sup> These garnered Myrdal a sizeable reach in the national conversation on race and made him a central figure of postwar liberal thought. In this sense, his articulation of the American dilemma not only marks an important moment in the making of postwar liberalism, but also provides a lens into the logic and rhetoric of postwar liberals’ political thought.

Postwar liberals shared Myrdal’s assertion that the central dilemma in American life was the “ever-raging conflict between, on the one hand, the valuations preserved on the general plane which we shall call the ‘American Creed’” and, on the other hand, the “group prejudice” myth of innate inferiority leveraged against black Americans.<sup>32</sup> For these liberals, the American Creed was both political credo and social ethos – the very foundation of the American project and the nation’s timeless moral compass. Describing this “liberal Creed,” Myrdal celebrated its ideals of “the essential dignity of the individual human being, of the fundamental equality of all men, and the certain inalienable rights to freedom, justice, and a fair opportunity” that he witnessed in the heart of every American.<sup>33</sup> As much as Myrdal praised the foundational values of the nation, the moral thrust of his treatise was principally concerned with the violation of this creed, or in what he called its “double-direction” with

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<sup>31</sup> Walter A. Jackson, *Gunnar Myrdal and America’s Conscience: Social Engineering and Racial Liberalism, 1938-1987* (Chapel Hill: University of North Carolina, 1990).

<sup>32</sup> Gunnar Myrdal, *An American Dilemma, Volume I: The Negro Problem and Modern Democracy* (New York: Harper Collins Publishing, 2009 [1944]), lxxix.

<sup>33</sup> Myrdal, *American Dilemma I*, 4.

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regard to black citizens. If the American Creed operated to “suppress the dogma of the Negro’s racial inferiority and makes people’s thoughts more and more independent of race, creed, or color” through its commitment to equal and inalienable rights, it also cut the opposite way, and “indirectly [called] forth the same dogma to justify a blatant exception to the Creed.” For Myrdal, as for most postwar liberals, this double-direction ultimately violated the sacred liberal foundations of the nation:

The race dogma is nearly the only way out for a people so moralistically equalitarian, if it is not prepared to live up to its faith ... *The need for race prejudice is, from this point of view, a need for defense on the part of the Americans against their own national Creed, against their own most cherished ideals.* And race prejudice is, in this sense, a function of equalitarianism. The former is a perversion of the latter.<sup>34</sup>

Like a fall from grace, the myth of black inferiority betrays the reality that America, dedicated to equality and individual rights, failed to live up to this very dedication, thereby violating the Creed itself. The result, concluded the sociologist, was “nothing more and nothing less than a century-long lag of public morals.”<sup>35</sup> For all its apparent simplicity, for Myrdal this violation or “lag” was not without complexity, for he also articulated it as a “need” and “defense,” suggesting the Creed generated racial prejudice in defense of itself – that is, in defense of the very liberalism it routinely violates. Because America was “not prepared to live up to its faith,” it created prejudice as an escape, “nearly the only way out,” of its own essentially good Creed in an effort to defend and maintain it. Myrdal’s treatise warned the nation, however, that this “way out” was doomed from the start and ultimately constituted a perversion of the Creed that generated an enduring “split in the American soul.”<sup>36</sup> This split could only be mended, he argued, by the abolishment of racial prejudice from the psyche of the nation, in

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<sup>34</sup> Myrdal, *American Dilemma I*, 89. Emphasis in original.

<sup>35</sup> Myrdal, *American Dilemma I*, 82.

<sup>36</sup> Myrdal, *American Dilemma I*, 90.

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the removal of discrimination from state laws and practices, and perhaps most pressingly, in the eradication of physical violence, intimidation, and brutality against its black citizens. But Myrdal, like many northern liberals, understood the “lag of public morals” to reside principally in Jim Crow – a formulation that positioned the Creed as alive in the North and in need resuscitation in the South.

Myrdal understood that race riots occurred with regularity in northern cities, but he was primarily concerned with southern anti-black violence and mob-based brutality.<sup>37</sup> He devoted several sections of *An American Dilemma* to the problem of violence and intimidation in the Jim Crow order. “It is the custom in the South,” he reported to northern audiences, “to permit whites to resort to violence and threats against the life, personal security, property and freedom of movement of Negroes. There is a wide variety of behavior, ranging from mild admonition to murder, which the white man may exercise to control Negroes.”<sup>38</sup> Myrdal understood these violences to be both the legacy of slavery, in which whippings and other bodily sanctions were routinely used as labor disciplining practices, and the result of the South’s uniquely “weak legal tradition” – a tradition now so regionally engrained that “lawlessness has received the badge of scientific normalcy.”<sup>39</sup> So important was this point for Myrdal that he italicized it in his text: “*The extreme democracy in the American system of justice turns out, thus, to be the greatest menace to legal democracy when it is based on the restricted political participation and ingrained tradition of caste suppression.* Such

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<sup>37</sup> Myrdal differentiated the racial violence occurring in northern cities from the sort of violence that occurred in the South. The North, he said, played host to race riots rather than mobs. This was an important distinction for Myrdal: in northern urban riots, blacks fought back against white aggressors with equal vigor, and in the South, the violence was instigated by whites and remained unidirectional. Gunnar Myrdal, *An American Dilemma, Volume II: The Negro Problem and Modern Democracy* (New York: Harper Collins Publishing, 2009 [1944]), 557-9.

<sup>38</sup> Myrdal, *An American Dilemma II*, 558.

<sup>39</sup> Myrdal, *American Dilemma I*, 299; 525.

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conditions occur in the South with respect to Negroes.”<sup>40</sup> Aided by the southern racial caste system, “lawlessness” had come to dominate the southern political landscape, rendering racial violence, in aberration to the American Creed, a regular feature of the South and southern state justice systems.

Indeed, in what would become an increasingly common theme in postwar liberal thought, Myrdal emphasized regional lawlessness as a central pillar of Jim Crow. Racial violence was the result of the South’s inadequate justice system, disrespect for the rule of law, unprofessional police units and sheriff departments, and racially partial county court systems. The problem, in other words, was a lack of *law*, understood narrowly. And the problem was regional. He said of the South: “The principles that the law and the law-enforcing agencies are supreme, impartial and above all groups in society has never taken strong root. White people are accustomed – individually and in groups – to take law into their own hands and expect the police and the courts to countenance this and sometimes lend their active cooperation.”<sup>41</sup> The result was a southern black population scarcely able to protect themselves from routine violence and intimidation, even, Myrdal noted, where they were the majority of the population. “They cannot,” he said, “secure the protection of police or court against white men.” Myrdal’s concern with southern white lawlessness was essential to his articulation of the American dilemma: if the American Creed was to be fully realized – and if the split soul of the nation was to be mended and redeemed – Americans must first start recognizing anti-black violence and intimidation as an illiberal, inegalitarian aberration to it. In this way, the problem of southern lawlessness, or the severe lack of *law* in the region’s criminal justice system (sheriffs, courts, juries, mob justice), was a central threat to the final realization of the

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<sup>40</sup> Myrdal, *American Dilemma II*, 524.

<sup>41</sup> Myrdal, *American Dilemma II*, 560.

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American Creed, which, he cautioned, required a “corollary” doctrine “that *Negroes are entitled to justice equally with all other people*.”<sup>42</sup> Law-and-order would become the Creed’s redemption.<sup>43</sup>

While Gunnar Myrdal’s text loans clarity to the logic of postwar liberal thought, he was hardly the first to spotlight southern race-based violence or the deficiencies of its justice system as a problem of rights. Even racial violence in the North and Midwest was often understood as a problem that originated in the South. For instance, the 1943 race riots in Detroit and Harlem were articulated as the result of transplanted southern violence. Thomas Sancton of the *New Republic* lamented the exodus of black and white labor from the South into Detroit: “The old subdued, muted, murderous southern race war was transplanted into a high-speed industrial society.”<sup>44</sup> And journalist Margaret Marshall reasoned similarly with respect to the riots that surged in Harlem that same summer: “What about the fundamental cause? It can be summed up in one word: segregation. All the immediate as well as the intermediate and remote causes of the trouble in Harlem ... can be traced back to the Jim Crow mentality, which was bred in the South and has infected the whole country.”<sup>45</sup> For northern liberals, even the presence of anti-black violence in the North was thought of a southern sin regrettably transplanted to northern cities that were previously, they implicitly suggested, unscathed by violence. This constituted a wholesale redefinition of the “problem” of the South for the rest of the nation, a change in metrics on which the region was understood as a “land apart,” an aberration, and an exception to American exceptionalism.

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<sup>42</sup> Myrdal, *An American Dilemma II*, 526. Emphasis in original.

<sup>43</sup> For a full treatment of Myrdal’s significance for law-and-order politics as birthed by northern liberals with influence in national politics, see chapter 2 of Murakawa, *The First Civil Right*.

<sup>44</sup> Thomas Sancton, “The Race Riots,” *New Republic*, July 5, 1943, 9.

<sup>45</sup> Quoted in Klimmer, 88. Margaret Marshall, “Some Notes on Harlem,” *The Nation*, August 21, 1943.

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Finally, as in the National Emergency Council's report of a decade earlier, the formulation of southern exceptionalism in the postwar years traveled all the way up to the executive branch. President Harry Truman's Committee on Civil Rights' 1947 report, *To Secure These Rights*, took on a wide range of civil rights issues, and in part focused on the typically southern variant of white racial violence.<sup>46</sup> "It is still possible," the Committee wrote of lynchings in the South, "for a mob to abduct and murder a person in some sections of the country with almost certain assurance of escaping punishment for the crime ... The communities in which lynchings occur tend to condone the crime. Punishment of lynchers is not accepted as the responsibility of the state or local governments." Frequently, the committee members concluded, "state officials participate in the crime, actively or passively."<sup>47</sup> The Committee was troubled to find that this pattern extended far beyond lynchings to crimes both large and small in scale, with the "dominant pattern" of even petty lawlessness "that of racial prejudice."<sup>48</sup> The Committee identified a similar pattern in the southern court system, where "the Negro, the Mexican, and the Indian" sometimes find that "the judicial process itself does not give him full and equal justice."<sup>49</sup> This pattern of racial violence and official disregard for the law with concern to black citizens was central to the Committee's understanding of what they called the "American heritage" of the "promise of freedom and equality." As with Myrdal and progressive northern presses, the problem of white violence for the Committee was understood to be a problem of either the absence of law

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<sup>46</sup> Naomi Murakawa's *The First Civil Right* treats the Truman administration and the President's Committee on Civil Rights as the *liberal* beginning point for national law-and-order politics and the creation and racialization of the modern carceral regime. See Chapter Two of Murakawa, *The First Civil Right*.

<sup>47</sup> President's Committee on Civil Rights, *To Secure These Rights* (1947), 23.

<sup>48</sup> PCCR, *To Secure These Rights*, 25-26.

<sup>49</sup> PCCR, *To Secure These Rights*, 27-28.

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or legal officials' disinclination to enforce it equally, to reside principally in the South, and to be an aberration from both constitutionally held guarantees and the cherished national creed.<sup>50</sup>

Inn sum, if in the first decades of the twentieth century, the South was seen as exceptional due to its economic languishment, crumbling plantation aristocracy, corrupt parochial politics, and underdeveloped infrastructure, this thinking largely fell away to a wartime and postwar liberalism that identified the essential illiberalism of the South on altered terms. On the view of northern liberals in the early part of the century, the region's exceptionalism – that is, its status as an illiberal aberration to the rest of the nation – had rested primarily on economic and cultural registers. Beginning in the 1940s, however, northern liberals began to identify the South's illiberalism in terms of its rampant lawlessness, violence, and racial prejudice that marred the liberal image of America and that required government intervention to correct. The perception of the region's retrogression, that is, took place on the new metrics of lawfulness, racial neutrality, proceduralism, and the attainment of law-and-order. As Richard Klimmer puts it: by the postwar years, the South had become “the dark place, the source of evil in America.”<sup>51</sup>

This new strain of American liberal thinking about the imperative to reign in the racially lawless, violent, and backward South would – perhaps surprisingly – travel into large sections of the South in the 1950s and 1960s. In fact, it would not be until after *Brown* that racial liberalism, via the rhetoric of law-and-order, progress, and New South capitalism, would travel into the language, interests, and policy of the region. As the South began to confront the black civil rights movement and resist (with growing resolve and creativity) the reach of *Brown*, it too would embrace and fundamentally transform the ideals of racial liberalism

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<sup>50</sup> For a full and original treatment of the relationship between Gunnar Myrdal and the Truman administration, see Murakawa, *The First Civil Right*.

<sup>51</sup> Klimmer, *Liberal Attitudes Towards the South*, 76-77.

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espoused by northern commentators, journalists, writers, and politicians. Why white southerners would do so is certainly a puzzle.<sup>52</sup> Critically, the importation and transformation of racial liberalism in the South to resist racial change occurred against and was aided by the burgeoning “New South” movement spearheaded by southern political moderates, who sought to preserve the benefits of racial stratification without the coarseness of white violence or explicitness of state-mandated segregation. Smoothing the influx of northern capital to ballooning southern economies in the postwar decades, New South moderates insisted on “law and order” decency, “colorblind” progress, and the end to rural demagoguery in an agreement to preserve the racial interests of the New South’s white business elite and the middle-class white professionals, consumers, and homeowners that populated the region’s cities and suburbs.

New South moderates were the primary authors of racial liberalism’s transplantation into the South after *Brown*. But moderates would also fundamentally and irrevocably change the logic and application of postwar racial liberalism, and in so doing smooth the lodging of racial violence into the state and create a central rootstock of racial innocence that has endured until this day. Law-and-order’s messy and deeply contested moment of arrival in the South after 1954 marks an important element of this process.

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<sup>52</sup> To be sure, many white southerners did not see the value of turning to the precepts of racial liberalism in their bid to resist the conferring of rights on black citizens, and occupied a stance of always defiant and sometimes quite violent “massive resistance” to school integration and the non-violent rights movement. Numan V. Bartley, *The Rise of Massive Resistance: Race and Politics in the South During the 1950’s* (Baton Rouge, LA: Louisiana State University Press, 1969); Francis M. Wilhoit, *The Politics of Massive Resistance* (New York: George Braziller, 1973); Matthew Lassiter and Andrew Lewis, Eds., *The Moderate’s Dilemma: Massive Resistance to School Desegregation in Virginia* (Charlottesville: University Press of Virginia, 1998); George Lewis, *Massive Resistance: The White Response to the Civil Rights Movement* (New York: Hodder Arnold, 2006).

**Moving South: Contested Law-and-Order After *Brown***

In the wake of *Brown v. Board of Education*, the rhetoric of “law and order” took on heightened but deeply contested meaning in the South. On the one hand, the white massive resistance movement mobilized law-and-order claims in their effort to protect segregated schools as a matter of constitutional guarantee. In a logic contrary to racial liberalism emergent in the postwar North, massive resisters argued that “forced integration” was not only unconstitutional but would also create a severe law-and-order problem: black criminality, a propensity once held in check by segregation, would unleash violence and unrest upon white schoolchildren and disrupt currently harmonious race relations once schools integrated. For these southern conservatives, racial integration was the forerunner of rising black crime rates, street riots, and sexual assaults. It is this massive resistance narrative that has led many crime policy scholars to conclude that the rise of law-and-order politics is both southern and conservative in origin.

On the other hand, and in a logic left largely overlooked by political science scholars, southern moderates mobilized a decidedly different set of law-and-order claims in their effort to direct state legislatures towards segregationist school policies that would not defy the courts or invite the scorn of northerners. In a political narrative that borrowed from and *rearticulated* racial liberalism’s law-and-order rhetoric, moderates argued that the massive resistance movement’s commitment to defying federal law and its propensity to incite spectacular displays of white violence would doom the region to economic and political oblivion. In this way, the New South took a stance against racial “extremism,” “lawlessness,” and “defiance” – a position that allowed them to become the ostensibly color-blind antidote to both southern white racism and black civil rights activism. Like the northern liberals from

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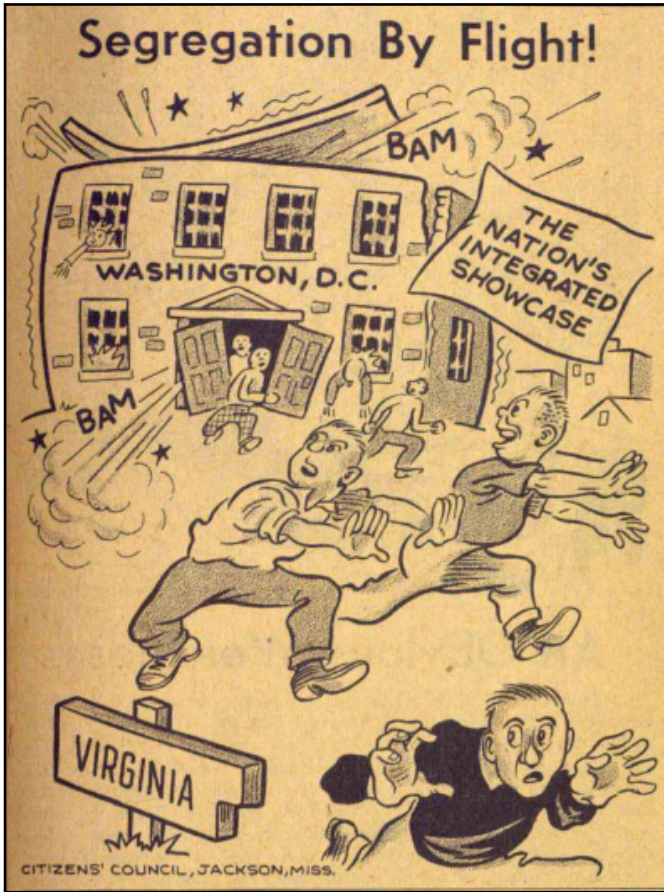
which their political logic derived, stricter and racially neutral law-and-order practices became the solution to Jim Crow's extremism. Standing in opposition to Old South lawlessness, racial terrorism, white violence, and the "disorderly" civil rights movement that inspired this trifecta, it was this second, moderate-led version of law-and-order that would become the language of school desegregation, racial pragmatism, and New South progressivism. In other words, it became a foundational logic of racial innocence for the postwar age – even, and perhaps especially, in the South.

Borrowing from Brandwein, in this section I trace the terms of *narrative competition* over the meaning of "law and order" in the post-*Brown* South. I am particularly interested in the racial terrain of each discourse— that is, what "law and order" meant in relation to *Brown*, which racialized subjects could claim and wield it, whose bodies it was meant to protect (and from which dangerous threats), the means of its enforcement by the state, and its relationship to northern racial liberalism. The massive resistance and moderate resistance movements identified differently on each of these discursive categories. Because massive resistance enjoyed rather more popularity but moderate resistance rather more (and far more durable) policy success in the long run, it is critical to understand the narrative structure of the debate over "law and order."

### *Integration Generates Black Violence: The Massive Resistance Movement's Law-and-Order Discourse*

In September 1956, nearly two years after Washington, D.C. opened its schools on an integrated basis, the monthly publication of the Mississippi White Citizens' Council ran a

political cartoon depicting violence in the city's schools (Fig. 2.1).<sup>53</sup> In it, a schoolhouse, labeled "the nation's integrated showcase," explodes from the inside out, its roof flying off and its doors bursting open, expelling white students who run with arms outstretched to nearby Virginia, the home of massive resistance.<sup>54</sup>



**Fig 2.1:** Whites in an integrated Washington, D.C. school escape the violence of desegregation – represented here by a public school exploding from the inside out – flee (tellingly) to Virginia, the very home of massive resistance, in "Segregation by Flight!" The Citizens' Council, September 1956.

The clear message of this cartoon, that racial integration results in violence, unrest, and an unacceptably disorderly environment for white students who can only be saved from this fate by massive resistance laws, expressed a commonly used narrative in the massive resistance

<sup>53</sup> In *Bolling v. Sharpe* (22 Ill.347 U.S. 497, 1954), the Supreme Court found school segregation in violation of the due process clause in the Fifth Amendment. *Bolling* did not address school segregation in the context of the equal protection clause in the Fourteenth Amendment, as *Brown* did. The cases were decided the same day.

<sup>54</sup> "The Nation's Integrated Showcase," *The Citizens Council*, September 1956. Harry Byrd (a Virginian) coined the term "massive resistance."

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movement, as well as in national-level efforts to impede civil rights legislation. While many scholars understand this theme as the early basis for the rise of law-and-order politics in the South and the basis for resultant nationalization of crime policy in the postwar years, in my analysis this logic operates differently: more as a casualty in the emergence of law-and-order racial innocence in the New South than the harbinger of the nation's southernization after civil rights. The massive resistance assertion that integration was the harbinger of violence and unrest was an often-used trope among southern politicians at every level of government. It penetrated presidential campaigns, such as Barry Goldwater's unsuccessful 1964 bid, in which he raised the specter of black violence as a problem of liberal softness. In one campaign speech, Goldwater declared, "crime grows faster than population, while those who break the law are accorded more consideration than those who try to enforce the law... Law-breakers are defended. Our wives, all women, feel unsafe on our streets."<sup>55</sup> But Goldwater was building on a well-worn southern narrative. This basic assertion was also the common contention of southerners seeking to thwart civil rights legislation and resist the implementation of *Brown*. In the months before the 1960 Civil Rights Act moved through Congress, for example, South Carolina Senator Strom Thurmond submitted a published report into the *Congressional Record* that argued there was an "incontrovertible link" between integration and crime, and accused New York senator Jacob Javits and other civil rights supporters of attempting to "'export' New York City's combination of integration, crime, and racial strife to the South."<sup>56</sup> Years later, Thurmond would continue to argue on the Senate floor that racial integration led to "an immediate rise in crime and violence ... of vice,

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<sup>55</sup> Barry Goldwater, "Peace Through Strength," *Vital Speeches of the Day* Vol. 30, No. 24 (1964), 744.

<sup>56</sup> Quoted in Joseph Crespino, *Strom Thurmond's America* (New York: Hill & Wang, 2012), 109.

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prostitution, of gambling and dope” and “a general lowering of the moral standards.”<sup>57</sup>

Similarly, southern conservatives signing the *Southern Manifesto* reasoned that not only was *Brown* unconstitutional in legislating social policy, but it also introduced hostility into presently “amicable” race relations. The undersigned argued:

This unwarranted exercise of power by the court, contrary to the Constitution, is creating chaos and confusion in the states principally affected. It is destroying the amicable relations between the white and Negro races that have been created through 90 years of patient effort by the good people of both races. It has planted hatred and suspicion where there has been heretofore friendship and understanding.<sup>58</sup>

For these southern congressmen, it was racial integration – and not, as racial liberals claimed, the entrenched injustice of segregation, all white juries, lynchings, and white vigilante and mob violence – that introduced discord and violence into the southern landscape.

Under this logic, the need for law-and-order strength against the violence generated by racial integration took on an even more pointed language relative to black crime. For example, in an address before Congress in 1956, Mississippi representative John Bell Williams framed his disapproval of *Brown* in law-and-order terms that directly addressed black criminality. *Brown*, he said, created “an irreconcilable social problem” that “threatens to destroy completely the peaceful relationship that have existed between the races for the last hundred years.” In place of these alleged harmonious relationships, the “Supreme Court and the NAACP have created strife and turmoil where no strife and turmoil have existed before. Their joint decision has increased tension between the races, and has caused hatred and hostility where before there was good will and harmony.”<sup>59</sup> Present here is the argument that segregation preserves the “peaceful relationship” between southern whites and blacks, and

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<sup>57</sup> Quoted in Crespino, *Strom Thurmond's America*, 140.

<sup>58</sup> *The Southern Manifesto*, 2.

<sup>59</sup> John Bell Williams, “Extension of Remarks of John Bell Williams of Mississippi in the House of Representatives,” April 23, 1956, 1 (Emory University, MARBL, John A. Sibley Papers, Box 126, Folder 5).

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that integration introduces “strife” and “turmoil.” But Williams was clear on the reason this dynamic exists: black tendencies towards violence. “Among the many other reasons why the white people object to their children having this close association with Negro children,” he reasoned, are “the Negro’s high crime rate and disrespect for the law.”<sup>60</sup> In short, integration introduced not only racial unrest, but also black crime and violence into white schools.

This crime-centered sentiment was even more pronounced regarding integration in northern cities, a topic with which the massive resistance movement was thoroughly preoccupied. In a pair of articles appearing in the April 1956 edition of *The Citizens’ Council*, Mississippi massive resistance forces offered an image of Washington, D.C. schools as places of petty theft and the city as overrun by black rapists and purse-snatchers. “Officials of an ‘integrated’ junior high school in Washington, D. C. are greatly disturbed,” wrote the Citizen’s Council, “over the disappearance of more than four hundred pieces of school cafeteria silverware since last September when the ‘noble experiment’ in education was put into effect.” Teachers worried about the slippery fingers of the integrated school body were “faced with the proposition of either making students walk out on their hands as they left in the afternoon or removing temptation by locking up the silver and letting the pupils eat with their fingers.”<sup>61</sup> But the petty crime of missing silverware paled in comparison to the report in the next article over, which reported that not only was purse-snatching on the rise after the integration of schools, but that there were many cases in which it turned into rape: “Women were knocked down and brutally beaten, often within a block or so of their own homes. A night never passes in Washington without at least one case of rape being reported.” This was happening in the nation’s capitol, *The Citizens’ Council* pointedly emphasized, “where the

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<sup>60</sup> Williams, “Remarks,” 4.

<sup>61</sup> *The Citizens’ Council*, “Wave of Stealing in Schools Poses Capital Headache; Four Hundred Pieces of Silverware Gone After Negroes Come,” April 1956.

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Negro population now exceeds the white population, and where white men are now afraid to venture out alone after nightfall, no matter how brightly the streets are lighted.”<sup>62</sup>

Other publications likewise bolstered the supposed link between integration and violence. Massive resistance literature out of Alabama darkly reported that “Negro juvenile delinquency” in Philadelphia escalated due to black and white pupils attending integrated schools. The author, segregationist crusader W. George, linked this to the “hereditary” propensity of black youth towards crime.<sup>63</sup> And the *Nashville Banner* ran a political cartoon depicting northern cities as engulfed in bomb blasts. As the explosions went off in Levittown, Chicago, Detroit, and Philadelphia, one “race agitator,” carrying a dynamite pack labeled “force integration now,” lamented to another: “If only we could do half as well down South.”<sup>64</sup> Together, these publications demonstrate the massive resistance argument that northern cities, having unwisely abandoned segregation, became newly subject to racial unrest, black violence, and rising crime rates – a fate from which massive resistance vigilantly protected the South. Moreover, they reveal how the massive resistance movement understood the relationship between race, violence and law: black criminality and violent tendencies mandated the presence of massive resistance laws and required the construction of a white law-and-order regime.

As these examples demonstrate, southern conservatives routinely used this homegrown law-and-order logic to build its case against the legality, logic, and implementation of *Brown* and to frustrate civil rights legislation introduced in Congress. However, it was especially

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<sup>62</sup> *The Citizens' Council*, “Disgrace to the Nation,” April 1956.

<sup>63</sup> W. George, “Race Heredity and Civilization: Human Progress and the Race Problem,” *Rights for Whites* pamphlet (North Carolina State Archives, Terry Sanford Papers, General Correspondence 1961, Box 111, Folder “Segregation, General”).

<sup>64</sup> Reprinted in *The Citizens' Council*, December 1957. This cartoon’s timing was particularly ironic; the cartoon appeared just after the Little Rock school crisis captured the nation’s attention and horror.

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prominent in county politics in the agricultural Black Belt South. And in states like Georgia, Mississippi, and South Carolina that were dominated by rural political machines, it permeated state-level debates about the direction of school policy as the various southern states began to confront court orders to desegregate school districts.

However, it was also in these state-level debates that the massive resistance movement's "law and order" logic lost out to the logic of their moderate counterparts. Indeed, the rhetoric of black criminality and violence was popular amongst southern demagogues, the massive resistance movement, national politicians seeking to thwart civil rights legislation, and was a central language for the rural base of Democratic Party in southern states. However, it ultimately became casualty in the death of Jim Crow. Despite their fiery rhetoric and powerful imagery, the massive resistance movements' insistence that school integration led to black crime was ultimately supplanted by a different "law and order" narrative.

### *Against Black Disorder and White Violence: Southern Moderates' Triangulated Law-and-Order Rhetoric*

In a competing narrative, one that North Carolina would embrace immediately after *Brown* and one that Georgia would officially endorse when it repealed its massive resistance laws in January 1961, southern political moderates likewise formed their political strategy to maintain school segregation after *Brown v. Board of Education* around law-and-order. Although their use of the narrative was similarly aimed at maintaining racial segregation in schools and elsewhere, the moderates' formulation of "law and order" – particularly where it placed the burden of racial violence – differed significantly from the formulation by advocates of massive resistance. Correctly identifying that massive resistance as a legal theory and popular movement invited in the critical scrutiny of the national media, swifter court action, and

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sometimes federal troops, all of which hastened rather than prevented integration and impeded the business interests of the New South, southern moderates sought to protect racial hierarchy through other means. Specifically, moderates narrated themselves as the “law and order” curative for two kinds of racial extremism that plagued southern states: black civil rights activism (which bred public disorder) and the white massive resistance movement (which bred white mob violence). This section considers both in turn.

Like their massive resistance counterparts, southern moderates linked black civil rights with breaches of law and order. However, the nature of their narrative differed significantly in content. Rather than linking integration with black violence and crime, moderates argued that black civil rights protest bred disorder: it disrupted public “law and order,” instigated white violence, and purposefully thwarted the cause of peaceful “race relations” with whites. In this way, the specter of black violence that was so central to the massive resistance movement was dropped in favor of a narrative that positioned black southerners of two sorts: those blacks who challenged Jim Crow were deemed guilty of causing disorder and breeding violence in the streets; those who did not remained innocent. Moreover, this narrative re-imagined black challenges to white supremacy as one type of extremism – as the very *cause* of racial violence rather than its object and victim. In so doing, “good race relations” was articulated as the sole prerogative of white moderates committed to enforcing so-called “law and order” and “racial peace.”<sup>65</sup>

Lunch counter sit-ins and the Freedom Rides provide perfect examples of the moderates’ articulation of black disruption of public order. As sit-ins flared across the South after the successful Greensboro sit-ins of 1960, the moderate press lambasted the students for

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<sup>65</sup> The terms “race relations,” “law and order,” and “racial peace” were common articulations by moderates of the postwar period, although they were terms also deployed by other southern whites, including those in the massive resistance movement who argued that only strict segregation enforced “racial peace.”

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attempting to inspire violence and for the disruption of “law and order” and “racial harmony.” The *Savannah Morning News* called the sit-ins “harmful” for everyone: “[the] sitdowns have precipitated incidents of violence and may result in more. They have intensified feelings at a time when reason and moderation are needed. They have injured the cause of better relations between the races.”<sup>66</sup> These sentiments applied equally to other types of black civil rights activism. An *Atlanta Constitution* editorialist, describing the scenes of mob violence upon the Freedom Riders’ arrival in Montgomery, Alabama, put this succinctly: “A test of law, and a test of order. For the white American, there is a duty to comply with the law. For the Negro American, there is a duty to maintain order.”<sup>67</sup> In a press statement on the attacks on the Freedom Riders in Alabama, Georgia Governor Ernest Vandiver described his disapproval in “law and order” terms:

I have deep resentment toward these unwelcome subversive groups who are making integrated bus tours into the South with the sole avowed purpose of disturbing the people of a section who are otherwise peaceful. Peace could be restored, as well as harmony between the races, if the administration in Washington would withdraw the Federal marshals and appeal to these riders to stay at home.<sup>68</sup>

As these complaints make clear, moderates articulated black protest as disruptive to law and order both because it disrupted “better relations between the races” and because it inspired white violence.

As much as the South’s moderate voices sought to prevent black civil rights movement victories by capitalizing on the specter of “black disorder,” in the 1950s and early 1960s it was white racial violence that proved more problematic for moderates. Indeed, southern moderates, fearing the loss of public education and northern capital investment in the region’s

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<sup>66</sup> *Savannah Morning News*, “Sitdowns Help No One,” March 6, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 7).

<sup>67</sup> “May Our Children Look Back Proudly On Our Response to Lawful Duty,” *Atlanta Constitution*, July 3, 1964.

<sup>68</sup> Ernest Vandiver, Press Release, May 22, 1961 (UGA, Vandiver Papers, Series IV, Box 7, Folder 9).

growing Sunbelt centers, turned their gaze north for their formulation of “law and order” rhetoric. *Rearticulating* the northern-based liberal concern for southern white violence, moderates cast massive resisters as those whites uniquely committed to the violent sins of the South, cleanly separating moderate “law and order” from massive resistance violence to achieve political victory on school desegregation. In doing so on these terms, moderates successfully cast themselves as the sole protectors of “law and order” – even as they safeguarded policies of racial containment and expanded critical aspects of white supremacy. In the process, and as moderates achieved increasing influence on school policy across the South in the 1950s and 1960s, “law and order” moved from being a *prominent* but *contested* political narrative to being a *winning* and *settled* one. The remainder of this section demonstrates this development by way of an example: the Little Rock school crisis of 1957.

### **A Case Study in Contested Law-and-Order: Little Rock, Arkansas, 1957**

In early September of 1957, three full years after *Brown v. Board of Education*, Arkansas governor Orval Faubus stationed 270 national guardsmen in front of Little Rock Central High School, preventing its “forcible integration” by nine African American students. The “Little Rock Nine,” as they were called, were carefully chosen by the school district to desegregate the all-white school in response to a federal court order. Despite careful planning and negotiations, the nation watched as, on Faubus’ command, the guardsmen barred the Nine’s entry on the first day of school. One of the Nine, Elizabeth Eckford, “walked a hundred-yard gauntlet of jeers and threatening gestures from the surging crowd” that had gathered to protest desegregation, only to be turned away at the school doors by guardsmen.<sup>69</sup> After a much-publicized three-week legal standoff with President Dwight Eisenhower, Faubus called off his

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<sup>69</sup> *New York Times*, “Week of Drama: Governor Blamed,” September 8, 1957, p.E1.

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troops and left the state for the Southern Governor's Conference, in effect leaving eager local whites to patrol the school's perimeter. Finally, at the end of September, Eckford and the rest of the Nine entered the school under the protection of U.S. Army's 101<sup>st</sup> Airborne on the orders of President Dwight Eisenhower, who reluctantly intervened. Television broadcasts and photographs in national newspapers documented the Nine's escort through a heckling mob of white students, parents, and onlookers. Protesters continued to show up at Central High well into the fall, where violence erupted between newspaper reporters and local whites. Off school grounds, whites organized rallies at the state capitol building, carrying signs that read, "Stop the race mixing" and "Race mixing is communism."

From our present day vantage point, Little Rock looks like a particular kind of racial crisis: federal (and racially just or benevolent) power wrested control from intransigent, racist, and mob-prone southern whites, thereby restoring law-and-order alongside black rights. At the time, however, it was far from clear what exactly "law and order" might mean in the school crisis, who could legitimately claim and wield it, whose bodies it was meant to protect, and from what dangerous forces. Nor was it a foregone conclusion in 1957 that law-and-order would become a rallying point and critically important narrative in this or dozens of similar situations across the South.

In its familiar narrative, the massive resistance movement utilized their law-and-order claims to justify this defiance of the city's integration plans for Central High. Specifically, they blamed integration (the moderate-led Arkansas state legislature that had backed the local option measure allowing the planned desegregation, the NAACP, the federal courts, and President Eisenhower) for the violence that erupted. Mississippi's massive resistance forces, for example, ridiculed the idea that "forced integration" could ever result in public order; only

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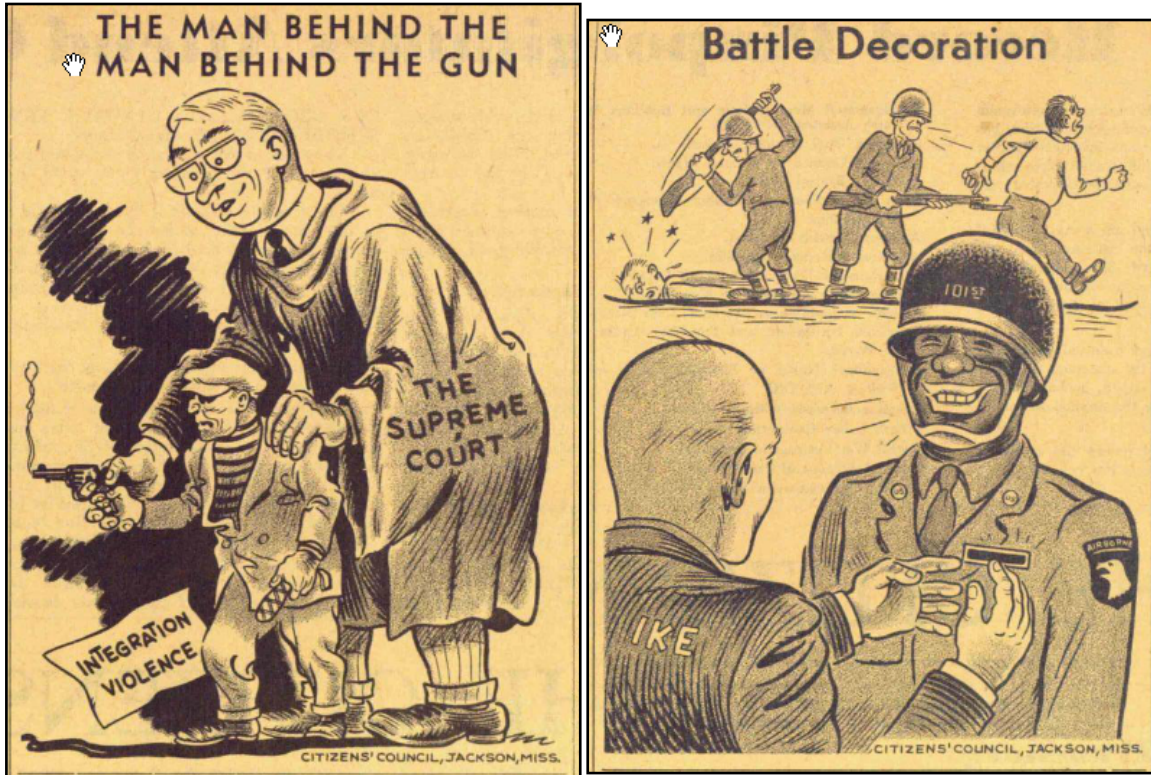
segregation ensured racial “peace.” Railing against the moderate-led forces of “calm,” “cool-headedness,” and “do-goodery,” the Council mocked Little Rock’s integration as “Calm indeed!”<sup>70</sup> More pointedly, the pages of *The Citizens’ Council* filled with cartoons depicting the NAACP, the Supreme Court, and President Eisenhower as the instigators of racial violence (Fig. 2.2). In one, a small NAACP figure, depicted as a crook, fires the gun igniting “integration violence” while a towering Supreme Court justice (“the man behind the man behind the gun”) guides the shot and helps pull the trigger.<sup>71</sup> In another, federal troops crush respectable-looking massive resistance whites under their boots and the butts of their rifles while President Eisenhower congratulates a black-faced 101<sup>st</sup> Airborne soldier with a Cheshire grin.<sup>72</sup> In these cartoons, it is integration forces – the NAACP, the Supreme Court, and the President – who appear as the instigators of racial violence, and massive resistance whites who appear both as the victims of force and brutality. In this narrative, the violence at Little Rock is revealed as black rather than white, the result of the NAACP’s militancy, the Supreme Court’s condescension to black interests, and executive pandering to integration. Under this law-and-order logic, and as Orval Faubus claimed when he called on the Arkansas National Guard to prevent the Nine from entering Central High, it is the white students, parents, and onlookers who require protection from the inevitable violence and disorder generated by the school’s attempted integration.

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<sup>70</sup> “Crisis At Little Rock Resulted from ‘Inside Job,’” *The Citizens’ Council*, October 1957.

<sup>71</sup> “The Man Behind the Man Behind the Gun,” *The Citizens’ Council*, October 1957. Although not labeled as such in this cartoon, *The Citizens’ Council* always portrayed the NAACP like this, always white, and always in a crook’s costume.

<sup>72</sup> “Battle Decoration,” *The Citizens’ Council*, November 1957.



**Fig. 2.2:** *Integration generates violence in Little Rock in “The Man Behind the Man Behind the Gun,” The Citizens’ Council, October 1957 and “Battle Decoration,” The Citizens’ Council, November 1957.*

The northern press, speaking in the voice of racial liberalism, nearly uniformly rejected this view. The Little Rock crisis, and particularly images of heckling white mobs, held the nation’s attention – and outrage – for weeks. In a typical verdict, the *New York Times* called this behavior a “sickening performance ... by the forces of hysteria, mob violence and race hatred,” and “creatures of unreason.”<sup>73</sup> The *Boston Herald* similarly chastised: “Violence rarely settles anything, whether it is the violence of a mob or violence of a government,” adding, “in the long run, integration will only work if the South bows voluntarily to the national consensus.” The *Denver Post* faulted Governor Faubus specifically, announcing that by “enflaming bigotry,” he “demonstrated his unwillingness and incapacity to control the evil

<sup>73</sup> *New York Times*, “Mob in Little Rock,” September 24, 1957.

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forces he helped generate.” In California, the *Oakland Tribune* questioned the ability of federal troops to solve the “complex problem of racial equality,” but applauded their use by Eisenhower to stabilize the explosive situation, arguing: “Order is a prerequisite to any constructive effort, especially suppression of the lawless elements that have brought disgrace to the State of Arkansas.”<sup>74</sup> This story is a familiar one. These glimpses into northern and western reactions to the Little Rock desegregation crisis were common ones. Echoing Gunnar Myrdal’s *American Dilemma* and telling a well-known story of southern racial violence disgracing an otherwise orderly and progressive nation, Little Rock disrupted the redemption of the American Creed. And this is the version of Little Rock that has endured. Even today, we recall the now-iconic images of whites heckling Elizabeth Eckford outside of Central High with a combination of horror and relief. They capture, in perfect metaphor, our national memory of the elements that defined the civil rights era: southern crimes; northern innocence; and the restoration of law-and-order, alongside black rights, by federal intervention.

What is less well known is the extent to which the actions of Arkansas whites inspired the disapproval of other white southerners. While many southern newspapers, as well as countless massive resistance pamphlets, local weeklies, and newsletters defended Little Rock whites for their unswerving commitment to segregation in the face of northern aggression, a number echoed their northern counterparts in denouncing their violent mob behavior. For example, the *New Orleans States-Item* echoed many northerners in stating that “mob action – whatever the cause – must be deplored,” and added that Little Rock whites were “doing what they thought was right. But they were doing it as a mob – not within the framework of law and

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<sup>74</sup> *The Wall Street Journal*, “Reactions of the Nation’s Newspapers,” September 27, 1957, p6.

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order.”<sup>75</sup> In Alabama, the *Montgomery Advertiser*, though it railed against the use of federal troops to usurp state law, likewise upbraided white hecklers: “Make no mistake. The mob violence in Little Rock had to be quelled. That is intolerable.” The *Atlanta Constitution*, the region’s largest newspaper, was fearful that Arkansas whites might harm the image of the South in general, announcing: “One thing is clear. The South is paying a heavy price for its mobs and demagogues who have fanned the fire ... The great mass of Southern people, while angrily opposed to the court decision, have not participated in violence.” And the *Arkansas Gazette*, run by the nationally-recognized moderate editor Harry Ashmore, denounced the actions of its state’s massive resistance forces on law-and-order terms: “The great majority of the people of Little Rock, we know, recognize that the only issue before us now is the preservation of law and order. There can be no yielding on that point. The people of Little Rock will not, we are confident, allow a tiny, militant minority to take over Central High School and run it under mob rule.”

These, the voices of southern moderates, sound remarkably like those liberal voices in the northern presses that admonished Little Rock whites: both reprimand them for their “violence,” “mob action,” and refusal to accept “law and order” alternatives. This is no accident. Southern moderates took pains to distance themselves from association with the voices we tend to identify with massive resistance forces: demagogic politicians, fiery defenses of segregation, and racist justifications of anti-black violence.

Not only did moderate politicians and newspapers sound remarkably like the northern press; they also sounded like the Eisenhower administration, which also used “law and order” language in its approach to school crises like Little Rock’s. By all accounts, Eisenhower

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<sup>75</sup> *New York Times*, “Editorial Comment of Southern Newspapers on Use of Troops,” September 26, 1957, p. 13. Harry Ashmore won a Pulitzer Prize in 1957 for the *Arkansas Gazette*’s journalism on the Little Rock crisis.

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entered office in 1953 with an unremarkable civil rights record. When asked, for example, about the costs of dual educational systems in segregated states during his 1952 campaign, Eisenhower responded: “You brought up a feature of this thing that I have not even thought about. I did not know there was an additional cost involved.”<sup>76</sup> Despite this, during his first year in office he succeeded in both saying rather little publically about civil rights and in desegregating the armed forces and the schools of military dependents.<sup>77</sup> As he wrote to South Carolina governor James Byrnes the year before *Brown*, Eisenhower supported the abolition of racial discrimination in federal contracts and policy as a matter of federal law. “As I observed to you,” Eisenhower wrote Governor Byrnes, “I feel that my oath of office as well as my convictions requires me to eliminate discrimination in the definite area of Federal responsibility ... This [is] a matter of compliance of law and regulations in governmental contracts.” At the same time, he wrote, he was reluctant to push for the end to segregation by “Federal fiat” in southern states.<sup>78</sup> To avoid a “fiat,” which would inevitably have resulted in losing southern legislative support, Eisenhower used the language of legal equality and anti-extremism to steer a course of what he called “moderation in the race question.”<sup>79</sup> Writing to *Atlanta Constitution* editor (and southern moderate) Ralph McGill in 1959, Eisenhower articulated this course as one that avoided “extremists on both sides” – that is, violent white segregationists and black civil rights activists. It was also a course dedicated, in a narrow sense, to law: “The reason I so earnestly support moderation in the race question is that I believe ... that until America has achieved reality in the concept of individual dignity and

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<sup>76</sup> Quoted in Burk, *The Eisenhower Administration and Black Civil Rights*, 133.

<sup>77</sup> David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon & Schuster, 2007) 66.

<sup>78</sup> Dwight D. Eisenhower to Governor James F. Byrnes, August 14, 1953, Eisenhower Online Archives, DDE’s Papers as President, DDE Diary Series, Box 3, DDE Diary Aug-Sept 1953 (2).

<sup>79</sup> Dwight D. Eisenhower to Ralph McGill, February 26, 1959, Eisenhower Online Archives, DDE’s Papers as President, DDE Diary Series, Box 39, DDE Dictation February 1959.

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equality before the law, we will not have become completely worthy of our limitless opportunities.”<sup>80</sup> Even past the tenure of his presidency, law (and later, “law and order”) played a central role in the achievement of American values – for Eisenhower, the individual dignity of limitless opportunity. Moreover, Eisenhower’s language of moderation, anti-extremism, and law were themes that southern moderates would borrow and *rearticulate* for their own political goals in the post-*Brown* years.

Although Eisenhower had never before sent in troops to quell local defiance of federal court orders, the president used a language of law and “law and order” to denounce the violence of massive resistance in previous school crises. In 1956, when white mobs erupted in connection with school desegregation in Kentucky, Tennessee, and Texas, Eisenhower lamented that the voices the nation hears from the South “are adamant and are so filled with prejudice that they can’t keep still – they even resort to violence.”<sup>81</sup> Just over a year later, upon announcing the use of the 101<sup>st</sup> Airborne in Little Rock, Eisenhower again spoke of desegregation on law-and-order terms:

In that city, under the leadership of demagogic extremists, disorderly mobs have deliberately prevented the carrying out of the proper orders from a federal court. Local authorities have not eliminated that violent opposition and, under the law, I yesterday issued a proclamation calling upon the mob to disperse ... The overwhelming majority of our people in every section of the country are united in their respect for observance of the law – even in those cases where they may disagree with that law. They deplore the call of extremists to violence ... I know that the overwhelming majority of the people in the South – including those of Arkansas and of Little Rock – are of good will, united in their efforts to preserve and respect the law even when they disagree with it. They do not sympathize with mob rule.

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<sup>80</sup> Dwight Eisenhower to Ralph McGill, February 26, 1959, Eisenhower Online Archives, DDE’s Papers as President, DDE Diary Series, Box 39, DDE Dictation February 1959].

<sup>81</sup> Full text of President Eisenhower’s news conference quoted in *New York Times*, “Text of President Eisenhower’s News Conference,” September 6, 1956, p10.

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Demonstrating a language inherited from racial liberalism, Eisenhower understood southern intransigence to *Brown*'s implementation a problem of *lawlessness* (that is, the failure to abide by federal law), mob violence, and extremism uncommon to most Americans.

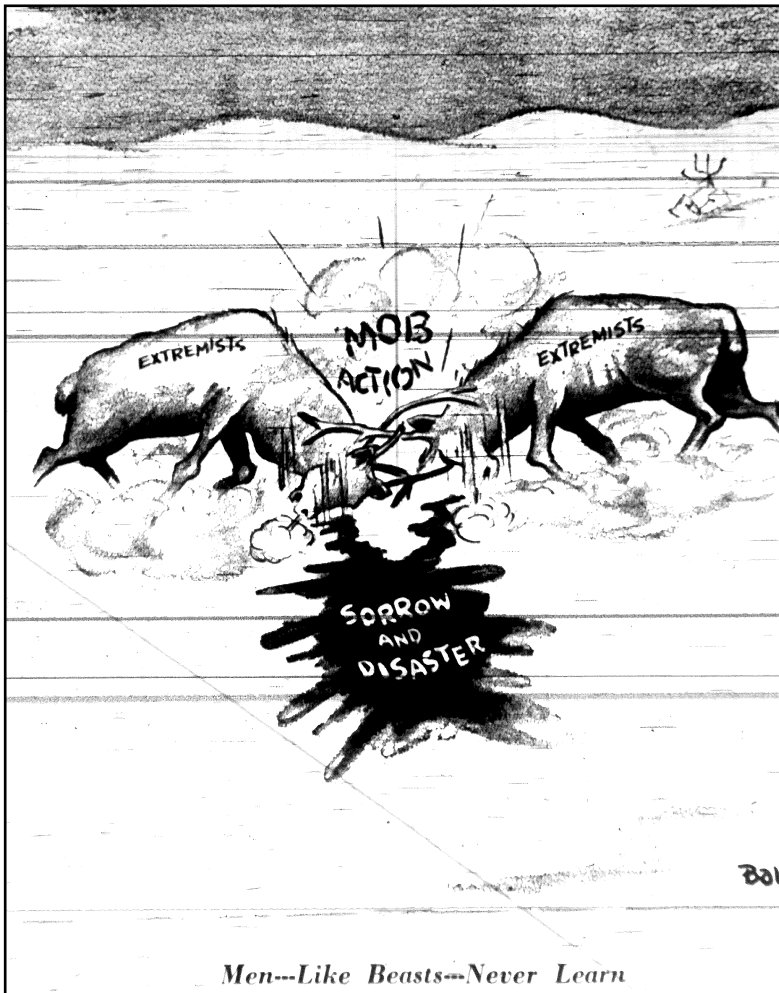
Southern moderates used the same narrative. In the days after Governor Faubus withdrew the National Guard but before President Eisenhower called in federal troops, the *Atlanta Constitution* warned that the massive resistance mob “destroys what it would protect ... The law-abiding people of the nation, and the world, are shocked ... the mob brings only sorrow and disaster. Those who seek to sustain the cause of segregation cannot fail to see that the mobs are dooming any hope they may have ... The law-abiding people have a right to expect rule of law.”<sup>82</sup> The accompanying political cartoon depicted two extremist “beasts” – one representing massive resistance whites, the other black civil rights militants – charge for each other, creating a pool of “sorrow and disaster” on the otherwise pristine landscape (Fig. 2.3). For both Eisenhower and southern moderates, racial violence pivots on the lawlessness and intransigence of two kinds of extremists: white violence and black militancy.

For northern liberals and southern moderates alike, law-and-order became the language of racial innocence in the postwar decades, and their common enemy was the hyper-visible violence of (some) southern whites. Indeed, racial violence was defined by such violence – a definition that was both warranted by the prominence of racial corruption in Jim Crow justice systems, racially motivated lynchings, and anti-black civil rights terrorism, but which also excluded other forms of racial violence from view or intervention. As further chapters will demonstrate, this use of law-and-order enabled southern moderates to by definition shield their own segregationist school policies and increasingly punitive policy preferences from view. Within the context of racial liberalism, and largely because of the language of law-and-

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<sup>82</sup> *Atlanta Constitution*, “The Mob Will Destroy All It Seeks to Protect,” September 11, 1957.

order, they were not legible as racially hierarchical or even segregationist. Instead, moderates were able to implement these policies as the law-and-order alternative to massive resistance violence and extremism, and they were seen as the long-awaited extension of racial liberalism into the South. In law-and-order's move south, both the South and the American Creed achieved redemption, and law-and-order itself became the bedrock of racial innocence for the postwar age.



**Fig. 2.3:** *The Atlanta Constitution, a moderate southern newspaper denounces the “mob action” of Little Rock whites and black integrationists – both labeled “extremists” – in Clifford “Baldy” Baldowski, “Men—Like Beasts—Never Learn,” Atlanta Constitution, September 11, 1957, p. 4.*

### The Settling of “Law and Order” Rhetoric

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As a preliminary conclusion from which subsequent chapters build, southern conservatives' version of law-and-order ultimately became a casualty in the postwar New South. Despite the fiery rhetoric and powerful imagery of their arguments, massive resistance's law-and-order lost out to the law-and-order liberalism of northerners and southern moderates. The reason for this is twofold. First, its logic capitalized on biological understandings of race that midcentury liberals mostly rejected as incorrect. Moreover, this logic was accompanied by highly visible episodes of resistance to school integration and black civil rights. To northern audiences, the massive resistance movement's biologically derived theory of black criminality simply smacked of the very Jim Crow order they sought to overturn. In other words, this narrative's heritage can be found in the very elements of southern "lawlessness" identified by racial liberals as incompatible with the promises of the American Creed. For at least half a century, southern beliefs in biologically based black "criminality" had helped police the color line by justifying white vigilante violence, lynchings, police brutality, and racially punitive justice systems as legitimate features of white democracy. Given this heritage, it was easily rejected by northern liberals and southern moderates alike as indicative of Old South racism, lawlessness, and violence.<sup>83</sup>

Second and more simply, massive resistance as a political and legal movement, while significant, ultimately failed to achieve its stated goals. Its proponents never created, as they aspired to do, lasting legal or "constitutional meaning" around their theory of interposition and failed to keep massive resistance laws on the books, even in Deep South states.<sup>84</sup> In a

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<sup>83</sup> This does not mean, of course, that the rhetorical pull of the supposed innateness black criminality evaporated. Indeed, these fears remain today, visible as recently as the infamous Willie Horton ad, the national conversation on Trayvon Martin's death, and issues such as police profiling.

<sup>84</sup> The phrase "constitutional meaning" in connection with massive resistance is Mark Golub's. See Mark Golub, "Remembering Massive Resistance to School Desegregation," *Law and History Review* Vol. 31, No. 3 (August 2013).

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major blow to the Jim Crow order, by the end of the postwar decades every southern state had repealed these school closure laws and passed moderate-led school legislation in their place. What segregation remained after these repeals turned out to be significant and enduring, but was the outcome of local option, pupil placement, patterns of residential segregation, and other moderate-led policies.<sup>85</sup> Under these conditions, it was simply harder for massive resistance claims to gain political traction once state interests shifted to protect the logic of these new moderate measures. In the end, the massive resistance movement's law-and-order narrative went the way of the movement itself. Rejected as itself lawless, it was replaced by a set of moderate-led claims that found its heritage in Gunnar Myrdal's *An American Dilemma*, in postwar liberal orientation towards racially neutral law, and in growing federal objectives to ensure "security against illegal violence": the South could be redeemed in the eyes of the nation (and rejoin it economically and politically) as soon as southern mob violence gave way to public order, abandoned the unconstitutional defiance of the courts, and reformed official lawlessness of the police, courts, and justice systems.

It was precisely this rejection of southern violence that would become central to the mythic "liberal consensus" of the postwar age. "The fact that the South stood outside the 'consensus' did not damage the notion of consensus," historian Gary Gerstle notes, "for the South was regarded as a backward region that did not truly represent the United States." Once the region was "forced to become a part of the nation" by way of desegregation and civil rights, so the reasoning went, "the liberal consensus would prevail there too."<sup>86</sup> Despite its

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<sup>85</sup> North Carolina, for example, adopted moderate-led school plans in 1955 and desegregated its first school districts in 1956, but five years later in 1961, just 0.026% of black schoolchildren attended desegregated schools – a figure that would not rise above 1% until after the passage of the 1964 Civil Rights Act. See Michael Klarman, "Brown, Racial Change, and the Civil Rights Movement," *Virginia Law Review* 80(1): 9.

<sup>86</sup> Gary Gerstle, "Race and the Myth of the Liberal Consensus," *Journal of American History* Vol. 82, No. 2 (September 1995): 579-586.

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endemic language in postwar politics, scholarship has since sought to burst the myth that any real “consensus” around racial liberalism existed. Some scholars, noticing the marked rise in racist violence in cities like Chicago and Detroit upon the desegregation of neighborhoods, argue that the North hosted “an era of hidden violence” just as illiberal as that authored by their more visibly intolerant southern neighbors.<sup>87</sup> Others, noticing that firebrand segregationists like Strom Thurmond, Trent Lott, and Harry Byrd remained relevant after Jim Crow, argue that the New Right triumphed in the post-civil rights era because the nation “had learned to understand race in southern terms.”<sup>88</sup> These analyses are two sides of the same coin, following Malcolm X’s witticism that “as long as you are south of the Canadian border, you are in *the South*.”<sup>89</sup> This argument is an important intervention to the all too familiar refrain that we have somehow achieved racial equality by leaving white violence in Jim Crow’s collapse, abolishing racial hierarchy in *Brown*, and redeeming the promises of the American Creed in the 1964 Civil Rights Act.

And yet the dominance of racial liberalism’s law-and-order rhetoric in postwar politics, both North and South, suggests a pair of contrary but perhaps more troubling conclusions: first, that the nation converged (if messily), rather than regionally warred, on liberal law-and-order politics, and second, that the liberal consensus helped legitimate new forms of racial violence. Rearticulated racial liberalism, in providing a law-and-order antidote to the white lawlessness and brutality of Jim Crow, also provided the means for making racial violence anew, with the veneer of racial innocence. As the following chapters demonstrate in detail, in

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<sup>87</sup> Arnold Hirsch, *Making the Second Ghetto*. See also Thomas Sugrue; Gary Gerstle; Lassiter & Crespino, “Introduction,” *The Myth of Southern Exceptionalism*.

<sup>88</sup> Thomas Payne, “‘The Whole United States Is Southern!’: *Brown v. Board* and the Mystification of Race,” *Journal of American History* Vol. 91, No. 1 (June 2004), 91. See also Joseph Lowndes, *From the New Deal to the New Right*; Lassiter, *The Silent Majority*. Crespino, *Strom Thurmond’s America*.

<sup>89</sup> Quoted in Payne, “The Whole United States Is Southern!,” 91. Payne invites the juxtaposition of Malcolm X’s quip with Alabama governor George Wallace’s exclamation after receiving hundreds of supportive letters from northerners that “the whole United States is southern.”

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borrowing and rearticulating racial liberalism's law-and-order premise, southern moderates did more than implement a legally viable set of segregationist school policies. Through New South corporatism and class politics and moderate law-and-order rhetoric, they made these school policies synonymous with racial liberalism and authored racially exploitive police and state justice practices likewise synonymous with postwar liberal goals. Together, this suggests that the "achievement" of racial innocence to which Baldwin alerted us was not bred of a wayward turn to the right after the victories of the civil rights era, but in the very terms of racial liberalism's emergence. For this argument, we turn to two case studies of law-and-order in the making of school policy in the post-*Brown* South.

### **Chapter Three**

#### **“The Way of the New South”: The Case of North Carolina**

*“It has been the vogue to be progressive ... The comfortable picture of the Tar Heel state as an area of progress, tolerance, and enlightenment is scotched most forcefully by North Carolinians themselves.”*

— V.O. Key, Jr. on North Carolina’s progressivism, 1949<sup>1</sup>

*“Hundreds of schools would be closed across the South; heavily armed paratroopers would escort frightened black students through jeering white mobs; people would march in protest and die for their efforts; and men who would later become national leaders would proclaim ‘Integration Never.’ But none of that happened in North Carolina. There was a lot of talk, but no federal troops. There were marches, but no killing. There were lawsuits, but the state would later be hailed as a place of moderation where rational men made rational decisions and led the South in the acceptance of school integration. Most important, not a single school closed.”<sup>2</sup>*

— *The News and Observer*, a Raleigh-based newspaper, remembers North Carolina’s response to *Brown v. Board of Education*, 1976

Remembering North Carolina’s response to *Brown v. Board of Education* twenty years after the decision, the Raleigh-based *News and Observer* tells a story of which the New South could be proud: “talk, but no federal troops,” “marches, but no killing,” lawsuits, but none of the “jeering white crowds” that plagued “frightened black students” in other southern states. Instead, North Carolina boasted a politics of moderation led by “rational men” who made “rational decisions” and ultimately led the otherwise recalcitrant South in, the newspaper’s headline proclaimed, “buying time for integration.” Committed to moderation, rationality, and law, *The News and Observer* articulated a long-entrenched image of North Carolinian progressivism that dates back to the Jim Crow era – what historian William Chafe once termed the state’s “progressive mystique” of civility, racial paternalism, consensus, and

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<sup>1</sup> V.O. Key, *Southern Politics in State and Nation*.

<sup>2</sup> Pearsall Recounts ‘Buying Time’ for Integration,” *The News and Observer*, November 7, 1976.

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newness that led many 20<sup>th</sup> century commentators to praise this southern state for its relative enlightenment, racial tolerance, and economic prosperity.<sup>3</sup>

In some respects, the *News and Observer's* vainglorious remembrance of the 1950s accurately portrays North Carolina's "progressive" political response and school policy in the wake of *Brown* – especially as it existed in the eyes of the nation. From an early date, the state was praised in the national press as a "Southern peacemaker" for its studied and moderate approach to school desegregation.<sup>4</sup> Later, it was hailed for its "courageous" and "calm" implementation of token desegregation – that is, when it was noticed at all.<sup>5</sup> The governor during this period, former businessman turned moderate politician Luther Hartwell Hodges, emphasized "lawful" acceptance of the Supreme Court's decision, not the open and sometimes violent defiance of "Integration Never" declared by southern demagogues, and would complain that, as much as northerners consistently praised the state's approach to race, they sometimes failed to take due notice of North Carolina's achievements. In the fall of 1957, the peaceful desegregation of schools in Winston-Salem, Greensboro, and Charlotte – the first to desegregate in the state – garnered so little attention in the national press that Governor Hodges later complained that "one of the most important developments in the South

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<sup>3</sup> William Chafe, *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (New York: Oxford University Press, 1980), 7-8; Take, for example, V.O. Key's description of North Carolina's image in *Southern Politics*, Chapter 10.

<sup>4</sup> As early as November 1954, a mere six months after the Supreme Court's decision, the *New York Times* lauded North Carolina a "Southern peacemaker" for its approach to the decision, which included commissioning a thorough-going study of possible state responses to *Brown* spearheaded by the University of North Carolina's Institute of Government. "A Southern Reconnaissance," *New York Times*, enclosed in letter, Holt McPherson to Thomas Pearsall, November 4, 1954 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 7).

<sup>5</sup> When three school districts in North Carolina desegregated its schools in 1957, the *New York Times* reported that "practically no excitement has developed," and approvingly noted that "integration is not a subject of general discussion when people meet." ("North Carolina Calm," *New York Times*, August 31, 1957, p. 7.) The *Times* also noted that "editorials generally have endorsed the action [of North Carolina]. The tenor of these in the larger papers was that the school boards [of Winston-Salem, Greensboro, and Charlotte] had acted courageously. The modest start of integration will be invaluable, many editorials contended." ("North Carolina Sets School Test," *New York Times*, July 28, 1957, p35.)

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over the past century, of voluntary integration on a peaceful basis” was relegated to a “three-inch space” buried deep in the back of the *New York Times*.<sup>6</sup>

And yet, far from achieving integration, voluntary or otherwise, North Carolina succeeded in maintaining maximum amounts of segregation in its schools well into the 1960s. Two policy formations were central in this success. First, in March 1955, the state legislature repealed all state laws that mandatorily sorted black and white students into separate schools. In place of these laws, which had expanded in ad hoc fashion since the implementation of segregated public education in at the dawning of the century, the General Assembly passed a Pupil Assignment law governing the transfer of students from previously assigned schools by way of a complicated application process.<sup>7</sup> Formally, the Pupil Assignment oversaw the voluntary token desegregation of Winston-Salem, Greensboro, and Charlotte in 1957.<sup>8</sup> However, even as the measure released the state from any distinctly racial administration of public schools, it also enabled local school districts – and therefore white parents – to directly control the racial makeup of their schools and forced the NAACP to file lawsuits in every district in the state, driving up its costs and driving down its success rate.<sup>9</sup> Second, in September 1956, North Carolinians voted overwhelmingly in favor of a combined Local Option and Tuition Grant amendment (together known as the “Pearsall Plan”) that allowed

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<sup>6</sup> “History of the Integration Situation in North Carolina” Interview with Luther Hodges, Thomas Pearsall, Paul A. Johnston, Robert E. Giles, and E.L. Rankin, Jr., September 3, 1960 (UNC Wilson Library, Thomas Pearsall Papers, Series 1, Box 1, Folder 18), 63. See also *New York Times*, “City Press Hit on Bias: Carolina Governor Charges Exaggeration of Events,” October 18, 1957.

<sup>7</sup> Unlike massive resistance-style pupil assignment policies in Virginia and South Carolina, North Carolina’s policy did not formally sort students by race. Rather, the policy kept the enrollment of the previous 1954-1955 school year intact but allowed for “transfers” between schools. This allowed the North Carolina policy to pass constitutional muster.

<sup>8</sup> The desegregation of Winston-Salem, Greensboro, and Charlotte in 1957 was voluntary insofar as it was not mandated by a court order. Many other southern states, including Georgia and Virginia, only adopted moderate school policy (and thus token desegregation) after forced to do so by federal court order.

<sup>9</sup> Indeed, even though the NAACP filed more cases in North Carolina than in any other state in the 1950s, they were not able to secure the transfer of any black pupil to a white school during that period. See Douglas, “The Rhetoric of Moderation,” 95, n.3.

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individual districts to close its schools with a simple majority vote should a district find itself in an “intolerable situation” – North Carolina’s euphemism for integration.<sup>10</sup> This measure also enacted tuition grants designed to be “paid toward the education of any child assigned against the wishes of his parents to a school in which the races are mixed.”<sup>11</sup>

As lawful mechanisms to reconstitute segregation policy anew and avoid national and court scrutiny, the 1955 and 1956 policy changes worked incredibly well. North Carolina’s school laws were upheld in federal court, the NAACP struggled to fight segregation in numerous districts, and by 1961, just 0.026% of black schoolchildren attended desegregated schools – a figure that was in fact lower than in some massive resistance states, and would not rise above 1% until after the passage of the 1964 Civil Rights Act.<sup>12</sup> This outcome was a particular achievement of North Carolina’s strategy of moderate resistance to school integration. The state’s moderate political leadership proved incredibly adept at staving off any real desegregation – in schools and elsewhere – without running afoul of watchful federal courts, attracting unwanted national or international attention, or prompting displays of white intransigence to the new (and only technically) unitary school system.<sup>13</sup>

In this chapter, I seek to bring out into sharp relief North Carolina moderates’ role in a broader development that, I contend, is intimately related to their victory in the direction of school policy after *Brown*: the emergence of law-and-order as a central state concern and

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<sup>10</sup> Thomas Pearsall, *Report of the North Carolina Advisory Committee on Education*, April 5, 1956 (UNC Wilson Library, Thomas Pearsall Papers, Series 1, Box 1, Folder 13), 9.

<sup>11</sup> Pearsall, *Report of the North Carolina Advisory Committee on Education*, 10.

<sup>12</sup> Michael Klarman, “*Brown*, Racial Change, and the Civil Rights Movement,” *Virginia Law Review* 80(1), 9. In 1964, Louisiana (0.6%) and Virginia (1.6%), both massive resistance states, had slightly higher percentages of black students attending previously white schools than North Carolina (0.5%). See Davison M. Douglas, “The Rhetoric of Moderation: Desegregating the South the Decade After *Brown*,” *Northwestern University Law Review* Vol. 89 (1993), 95.

<sup>13</sup> See, for example, Anders Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York: Oxford University Press, 2009); Matthew Lassiter, *The Silent Majority*; William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1980); Douglas, “The Rhetoric of Moderation.”

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growing policy formation in the postwar South. In this chapter, I detail how a coalition of moderate politicians, industry elites, moderate-minded newspapers, business-minded lawyers and researchers, and white middle-class suburbanites *rearticulated* – borrowed, incorporated, and refashioned – a northern-based ideology of “lawfulness” and “law and order” to achieve a distinct political goal, the maintenance of racial segregation and containment in the emergence of the New South.<sup>14</sup> Like their moderate counterparts in other states, North Carolinians feared that displays of white demagoguery, violence, or lawlessness would increase federal court scrutiny of new school policies, injure the state’s attempt to attract northern investment in North Carolina, and arrest the growth of a new white middle class based on corporatism, manufacturing, and research. Liberal law-and-order – and particularly its emphasis on colorblind application of law and providing the protection of the state regardless of race – provided a critical protection in the state’s transition to a vibrant New South economy and attendant white middle class. But this also provided the basis for making North Carolina an increasingly law-and-order state. In incorporating liberal law-and-order to achieve victory on the direction of school policy following the *Brown* decision, I further argue, North Carolina moderates *rearticulated* and *racialized* law-and-order as a winning and settled political rhetoric and an emergent state interest. By the end of the postwar era, law-and-order would emerge as North Carolina’s new “progressive mystique.”

The chapter proceeds in three sections. To begin, I offer critical background on the moderate coalition that advocated and implemented liberal law-and-order in North Carolina. I focus on the creation of new class interests in the state – which was in the midst of a transition from a tobacco and textile-based economy dominated by a small class of big planters and

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<sup>14</sup> I refer to this coalition (moderate state politicians, industry elites, moderate-minded newspapers, business-minded lawyers and researchers, and white middle-class suburbanites) collectively as either *moderates* or *the moderate coalition*.

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bankers to a postwar economy based on diversified industry, research, and service that depended on the influx of northern capital investment in the state. In this section, I argue that the coalition of moderate politicians, industry and research elites, and white citizens combined the rhetoric of racial liberalism with segregationist goals to both protect northern investment in the new metropolitan centers of Charlotte and Raleigh, and safeguard attendant white middle-class affluence. In the second section, I trace how the reconsolidation of white class power in the state's New South centers prompted moderates to *rearticulate* liberal law and order in the wake of *Brown v. Board of Education*. The brief concluding section lays the groundwork for developments in the racialization of law-and-order state interests and these interests' incorporation into other areas of state policy during the civil rights years. After consolidation of moderate school policy, I argue, North Carolina's law-and-order increasingly served as an "antidote" to white supremacist violence, a mechanism of containment of black citizenship, and a safeguard against black civil rights and integrationist activism.

### **A New White Class Politics for the New South**

When Luther Hodges took office in November 1954 after the unexpected death of Governor William Umstead, tobacco and cotton textile manufacturing – the twin bedrocks of North Carolina's economy and the basis for the state's Progressive Era status as a "progressive plutocracy" – were in marked decline.<sup>15</sup> WWII had infused North Carolina's economy with wartime production and military contracts, and prompted the expansion and suburbanization of Charlotte, Raleigh, and Greensboro, but by the mid-1950s the boom was drawing to a close. In 1953, more than 60% of the state's land was still dedicated to farming, yet farmers'

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<sup>15</sup> Key, *Southern Politics*.

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yearly income was well below the national average.<sup>16</sup> The majority of what industry the state could boast was concentrated in just ten out of 100 counties, leaving many (and sharecropper black families in particular) reliant on depressed farming incomes. Meanwhile, textile mill jobs were disappearing and their wages sagging, prompting migration from the small company mill towns that dotted the piedmont to ballooning cities whose own economies were ill-equipped to handle the influx of labor.<sup>17</sup> When Hodges took office, North Carolina ranked forty-fourth in per capita income in the nation – the very same ranking in which it languished in 1929.<sup>18</sup> But North Carolina's economy was also at the precipice of a major transition that would produce a new white class politics based on business, scientific research, marketing, manufacturing and industry – a class politics that would mark the state's entry into the industrial New South, shape its response to *Brown v. Board of Education*, and prompt moderates to rearticulate law-and-order as a central state concern.

Luther Hodges was a deft pioneer of North Carolina's postwar New South economy, and it was largely under his governance that the state began to solidify its commitment to an influx of corporatized industry from northern investors who sought to expand southward and European countries eager to use growing North Carolina port cities as an entry point to southern markets. As far as Hodges was concerned, the state's primary problem was its dependence on a crumbling agriculture economy – and the old class of white planter Democratic Party elites which upheld it – that held back economic progress and stood in the

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<sup>16</sup> Hodges, *Businessman in the Statehouse*, 30.

<sup>17</sup> There are several reasons for the suppression of mill wages and mill jobs in postwar North Carolina, including the collapse of the worldwide cotton market, the introduction of laborsaving technology and mechanization that suppressed wages and eliminated positions, and the fall of labor organizing in the 1930s through the 1950s. See Bruce J. Schulman, *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980* (New York: Oxford University Press, 1991); Jacquelyn Dowd Hall et al, *Like a Family: The Making of a Southern Cotton Mill World* (Chapel Hill, NC: North Carolina University Press, 1987); V.O. Key, Jr., *Southern Politics in State and Nation* (Knoxville, TN: University of Tennessee Press, [1949] 1984).

<sup>18</sup> Hodges, *Businessman in the Statehouse*, 30.

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way of the attainment of the New South vision.<sup>19</sup> This was a diagnosis that many North Carolina newspapers shared. For instance, in a political cartoon appearing in the *Greensboro Daily News* in 1955, Hodges appears as a physician diagnosing a wheezing, gangly but pot-bellied Old South figure out of whose mouth protrudes an enormous pipe, labeled “Tobacco,” and a sagging handkerchief, labeled “Textiles” (Fig. 3.1). Hodges, as governor-physician, holds a stethoscope to the Old South’s belly and announces, “You’ve got to do something besides smoking and chewing the rag.”<sup>20</sup> This diagnosis would prompt Hodges to spearhead a massive effort to revolutionize the North Carolina’s economy and make the state a pioneer of New South industry and progress.<sup>21</sup> Indeed, as he proudly recalls in his autobiography (tellingly titled *Businessman in the Statehouse*) Hodges proudly wore the moniker “Industry Hunter” for his endless drive after northern and Western European capital investment in North Carolina cities during his six years as governor.

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<sup>19</sup> From 1901 to the end of the Jim Crow era, the Democratic Party dominated in North Carolina, much like it did in the rest of the South. This dominance was a result of a political coup d’état, in which insurgent white “Red Shirt” Democrats in Wilmington, North Carolina wrested control from newly re-elected “Fusionists” (a coalition of the white working-class Populist Party and black Republican Party that controlled state politics from 1894-1898) by storming black sections of the city, killing several black citizens and forcing hundreds of others to take refuge in the swamps of Cape Fear, and burning the headquarters of the black-owned *Daily Record* newspaper. This white Democrat-led rebellion became a full-fledged coup d’état that drove Wilmington’s Fusion government from office, prompted black out-migration from the state’s then-largest city, and marked the beginning of the Democratic Party’s thuggish and often brutal takeover of North Carolina politics. For more on the Wilmington Coup D’état and the fallout, see Thomas F. Eamon, “The Seeds of Modern North Carolina” in Cooper and Knotts, eds., *The New Politics of North Carolina* (Chapel Hill, NC: University of North Carolina, 2008); David S. Cecelski, Timothy B. Tyson, eds., *Democracy Betrayed: The Wilmington Race Riot of 1898 and Its Legacy* (Chapel Hill, NC: University of North Carolina Press, 1999); Glenda Elizabeth Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896-1920* (Chapel Hill, NC: University of North Carolina Press).

<sup>20</sup> Hugh Haynie, *Greensboro Daily News*, undated 1955. Cartoon was reproduced in Hodges, *Businessman in the Statehouse*.

<sup>21</sup> Hodges, *Businessman in the Statehouse*, Chapter 2, “The Bread and Butter Problem,” 29-56.



**Fig. 3.1:** *Luther Hodges as Physician-Governor of North Carolina's economy. Hodges recommended doing "something besides smoking and chewing the rag," a reference to tobacco and cotton textiles, the two industries on which North Carolina depended. Hugh Haynie, Greensboro Daily News, undated 1955. Cartoon was reproduced in Hodges, *Businessman in the Statehouse*.*

“Industry Hunter” was a role that Hodges, who arrived at the governorship with limited political experience and a long corporate career, took to naturally. Born in 1889 into a large tenant farming family in Pittsylvania County, Virginia, Hodges was raised just across the state line in northern North Carolina. Like so many other families struggling with tenancy and lured by the promise of higher wages in the cotton textile mills, the Hodges relocated to a company textile town of Spray in 1901, just as the Democratic Party solidified control over state politics. Hodges spent his youth alternately working as a mill hand and office boy in the mills and attending the company school. After graduating from the University of North

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Carolina, Hodges returned to Spray, where he began a thirty-year career at textile company Marshall Field & Company, rising from secretary to production manager in 1935, general manager in 1940, and vice president in 1943. His promotion to general manager took the future governor to the company's headquarters in New York City, where he worked until he retired and returned to his home state in 1947. During his time in industry, Hodges served intermittently in politics but never to an elected position, including posts in the Office of Price Administration, on the North Carolina State Board of Education, and in the Economic Coordination Administration, an entity that supervised the spending Marshall Plan money in (West) Germany. When Hodges assumed the governorship, he put diversified industrial investment from northern and European companies and middle-class growth at the center of his administration. In early 1955, Hodges reinvigorated the Department of Conservation and Development, expanding its reach and leadership to buttress industrial development and outside investment in the state. Among its projects, the Department founded the Business Development Corporation, which consolidated state efforts to secure the influx of industrial plants and other resources from northern corporations; the Small Industries Plan, which provided support and contacts for local entrepreneurs; and the Research Triangle Project, which lent state backing to the development of a large business-minded research park between the cities of Raleigh, Durham, and Chapel Hill, each of which boasted a large university.<sup>22</sup> As James Cobb has noted, Hodges called upon his legislature and state officials to give their "full support and cooperation" to the Department, and urged them to, in Hodges' words, employ a "smile and warm welcome" to any industrial prospector to keep "selling" North Carolina.<sup>23</sup>

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<sup>22</sup> On the development of the Triangle Research Park, see Hodges, *Businessman in the Statehouse*, xx; *New York Times*, "Big Research Center in North Carolina Will be Developed by New York Man," September 11, 1957.

<sup>23</sup> Quoted in James C. Cobb, *The Selling of the South: The Southern Crusade for Industrial Development 1936-1980* (Baton Rouge: Louisiana State University, 1982), 78.

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To ensure that North Carolina would attract capital influx at a structural level, Hodges lowered corporate tax rates, shored up the state's right-to-work laws, and used state resources to stamp out labor organizing to make the state friendlier to outside investors.<sup>24</sup> In addition, he advocated improved state highways, city roads, port maintenance, and inter-city transport to further attract outside investors.

Primary on Hodges' agenda was attracting northern and European capital – especially the location of manufacturing plants, regional headquarters and firms, and use of the coastal ports – to the state. Indeed, northern capital influx became the basis of the state's New South economy. As Hodges remarked a decade out of office, his “continuous efforts” to gain access to northern capital influx, mostly through industrialization, earned him his nickname. “My administration was considered by many to be ‘industry hungry,’” the Industry Hunter remarked, “It was!” Throughout his administration, Hodges went on industry hunting expeditions to New York, Philadelphia, Chicago, and on a grand tour of several western European cities. Members of the Business Development Corporation and the Department of Conservation and Development accompanied Hodges, as did state legislators and businessman representing the state's increasing industrial diversification. For instance, industrialists from Southern Bell Telephone Company, the Associated Contractors of North Carolina, North Carolina Association of Railroads, Security National Bank, Wachovia Bank and Trust Company, and the furniture industry accompanied members of Hodges' administration and a selection of state representatives on two-week industry-hunting

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<sup>24</sup> Cobb, *The Selling of the South*, 123-130; *New York Times*, “North Carolina Draw Industry,” July 4, 1956. North Carolina was one of the first states to enact, in 1947, a right-to-work law. Other states that enacted in 1947 include Georgia, Arizona, Nebraska, Tennessee, and Virginia. See United States Department of Labor, <http://www.dol.gov/whd/state/righttowork.htm>. With regard to suppression of labor strikes, consider, for instance, Hodges' (citing the need to preserve “law and order”) use of state troops to help break the Textile Workers Union strike at two textile mills in Harriet and Henderson in November 1958. See Chapter 10 of Hodges, *Businessman in the Statehouse*, 224-250.

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excursion to Western Europe. Describing North Carolina as “a progressive-conservative state,” touting its friendly corporate tax code, stable and willing labor force, and relatively well-funded public education system, Hodges oversaw an unprecedented influx of industry into the state – and in the diversified areas of food processing, furniture, cigarette manufacturing, chemicals, and titanium.<sup>25</sup> More than this, he went far in building state infrastructure in a progressive effort to support liberalized influx of outside industry and the development of homegrown business, including increasing funds to higher education, protecting secondary education, and building highways to burgeoning New South cities of Wilmington, Charlotte, Raleigh, and Greensboro. As Hodges accurately stated about his time as governor, “We did not miss an opportunity to speak for North Carolina and the opportunities it offered.”<sup>26</sup>

For these efforts, Hodges was depicted in glowing, sometimes gladiatorial, terms by the state newspapers. Depicting an industry hunting expedition to New York in 1957, for instance, the *Greensboro Daily News* ran a political cartoon that imagined Hodges as Confederate cavalry commander John Singleton Mosby, whose stealth raids on Union armies would cement his place in history as “The Grey Ghost” of the Confederacy (Fig. 3.2). In Mosby-like garb, the Hodges leads a battalion of industry cowboys (fittingly labeled “Hodges Raiders” after “Mosby’s Raiders”) intent on finding new sources of capital for the state in “Northern and Midwestern Industries.” Cape billowing behind him, Hodges as Industry

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<sup>25</sup> Hodges, *Businessman in the Statehouse*, 62. North Carolina’s education system was relatively well funded throughout the Progressive Era and into the postwar period. Governor Charles B. Aycock, the capstone (and primary beneficiary) of the 1898 Democratic Party coup, earned the long-lasting and much-celebrated moniker “the Education Governor” in part because of his relatively progressive stance on securing large amounts of state funding for segregated schools. As one historian put it, Aycock’s brand of education-minded progressivism “served to consolidate a social order carved out in murder and violence but preserved by civility and moderation” – including far higher levels of state support of black education than most other southern states. Timothy Tyson, *Radio Free Dixie*.

<sup>26</sup> Hodges, *Businessman in the Statehouse*, 60.

Hunter gathers his forces with an entrepreneurial spirit laced with the imagery and rhetoric of Mosby: “North and South they knew our fame, grey ghost is what they called me, Luther is my name—.”<sup>27</sup> In another such cartoon, the *Durham Morning Herald* celebrated the governor’s two-week industry-hunting expedition to Western Europe with a train station scene in which Hodges, accompanied by North Carolina businessmen representing “trade,” “industry,” and “good will,” departs on the “Tarheel Express,” German townsfolk waving merrily at the departing delegation.



**Fig. 3.2:** *Styled after Confederate cavalry commander John Mosby, Governor Hodges rides north to capture “northern and midwestern industries.” Hugh Haynie, “Industry Hunter,” Greensboro Daily News. Reproduced in Hodges, *Businessman in the Statehouse*.*

<sup>27</sup> Hodges’ call in the cartoon alters the opening narration of short-lived 1950s television series based on Mosby’s life, *The Gray Ghost* (1957-1958): “We took our men from Texas, Kentucky, and Virginia / From the mountains and the backwoods and the plains / We put them under orders, guerrilla fighting orders / And what we lacked in numbers we made up in speed and brains / Both Rebs and Yankee strangers, they called us ‘Mosby’s Rangers.’ / Gray Ghost is what they called me / John Mosby is my name.”

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Northern commentators also openly applauded North Carolina's New South efforts. In a 1960 editorial, for instance, the *New York Times* approvingly commented upon the state's economic development, and in what would be a growing theme in northern treatments of North Carolina racial politics, connected the state's development of the Research Triangle to racial "enlightenment" and "humanism." After lamenting the languishment of economic progress elsewhere in the South, the newspaper gushed: "Significantly, research and industrial development have been closely allied in North Carolina. There, [Governor] Hodges has in practical terms made a translation of scholarly research into industrial development." The *Times* went on: "Within this triangle research, in which the groves of academe have formed partnership with industry, is itself a major industry. Many hands helped to trace the lines of North Carolina's Research Triangle, but the Governor's leadership lighted the way ... Potentially, industrialization enlightened by humanistic research may be a strong solvent of Southern racial tensions."<sup>28</sup> This image of industrial progressivism would later launch Hodges' career as Secretary of Commerce under the Kennedy and Johnson Administrations. Indeed, Hodges earned John F. Kennedy's admiration early in his 1960 campaign for the presidency, saying that Hodges "is held in high esteem all over the country" and "should add distinction to any Democratic ticket."<sup>29</sup> As historian Timothy Tyson has commented, Hodges was "a talented New Southerner, moderate on questions of race, acceptable to Northern liberals, and attractive to business elements." It was this combination that no doubt prompted northern liberals and businesses to heap praise on this southern state. Such praise recalls, in updated fashion, V.O. Key's laudatory characterization of North Carolina's "progressive outlook ... especially in industrial development, education, and race relations" a decade

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<sup>28</sup> Editorial, "The South in the Sixties," *New York Times*, April 24, 1960.

<sup>29</sup> Quoted in Timothy Tyson, *Radio Free Dixie: Robert F. Williams and the Roots of Black Power*, 106.

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earlier.<sup>30</sup> As further sections detail, North Carolina's "progressive mystique" would continue to blend industry, business development, and relative racial moderation in the postwar decades.

As rural transplants and northern capital flowed into the state's growing New South cities, a new and futuristic class politics of business elites and white middle-class suburbs. Indeed, white homeownership, state-planned metropolitan growth, and middle-class corporatism was integral to Hodges' vision of North Carolina's future. In a 1957 biennial address, he outlined such a vision:

I see a land of thriving industry of many kinds – manufacturing, agriculture, research; with plants distributed throughout the state – east, west, north and south, set well apart on our countryside and in well-planned small towns and medium-sized cities, drawing their workers from all the surrounding areas, without slum conditions, the polluted air, the unmanageable congestion, and the unwanted characteristics of the present typical American industrial center. This is a land where all workers are land owners and home owners ... a land with prosperous farms producing many different crops and no longer dependent for their existence on one-or-two-crop market [of tobacco and cotton] ... This is a land where all citizens have sufficient economic opportunity, spare time, and education to enjoy the best there is in life through private pursuits supplemented by public cultural and recreational facilities. And in this land, looking out over all else, there are towers of colleges and universities – for it is an enlightened land.<sup>31</sup>

"This is the vision," Hodges announced in conclusion, "the North Carolina dream." The elements of the vision – a large middle class of homeowners, state-planned and managed cities, thriving business centers with diversified industry, and education and research centers – were elemental the emergence of a New South white middle class and metropolitan-based business elite.

Charlotte embodied the North Carolina dream. By the end of Hodges' term in office in 1960, the former textile hub of the state was a preeminent New South city that boasted new corporate firms, a thriving downtown retail district, wide paved roads and the construction of

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<sup>30</sup> V.O. Key, Jr., *Southern Politics in State and Nation* (University of Tennessee Press, [1949] 1984).

<sup>31</sup> Luther Hodges, Biennial Address to the General Assembly, February 1957.

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two federally-funded highways, and burgeoning rings of suburbs such as Myers Park, Cotswold, and Eastover. By 1970, these affluent suburbs had become home to an influx of white-collar professionals and business elites, marked as by their conglomeration of golf courses, municipal parks, retail centers, and residential districts as by their overwhelmingly white populations.<sup>32</sup> Charlotte's suburban and industrial developments were indeed carefully planned. As the Southern Regional Council reported in 1963, the Charlotte Chamber of Commerce, populated by white business leaders in banking and commerce, was "omnipotent" in city planning. "When the downtown elite really wants action, the city obeys," the SRC explained.<sup>33</sup> Charlotte's residential segregation – marked by a large ring of affluent white suburbs to the south and northeast and a smaller stack of black enclaves to the west – increased considerably in the postwar decades, such that by the close of the 1960s the city's ten most segregated suburbs contained just 0.002 percent nonblack racial minorities and no black residents whatsoever.<sup>34</sup>

Yet despite levels of segregation that rivaled the rigidity of the Jim Crow era, Charlotte's Chamber of Commerce proved adept at projecting a futuristic image of commercial and business promise, economic progress, and racial civility and moderation. The so-called "Charlotte Way" embodied a new white middle class spirit of race-neutral affluent futurism that operated through, as historian Matthew Lassiter argues, a racialized "discourse of power that drew black leaders into the procedural politics of racial negotiation, banished segregationist extremism from the moderate public sphere, and focused attention on civil

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<sup>32</sup> Thomas Hanchett, *Sorting Out the New South City: Race, Class, and Urban Development in Charlotte, 1875-1975* (Chapel Hill: University of North Carolina Press, 1998), 145-170; Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006), 123-131.

<sup>33</sup> Quoted in Lassiter, *The Silent Majority*, 129.

<sup>34</sup> The combined white population of Charlotte-Mecklenburg's top ten segregated suburbs was 44,730 in 1970; the nonblack minority population was 98, and the black population zero. Lassiter, *The Silent Majority*, 126.

rights issues that involved individual access to consumer spaces rather than collective remedies for structural inequality.”<sup>35</sup> This can be seen in the city’s futuristic monikers and slogans, which include “Watch Charlotte Grow,” “A Good Place to Make Money,” “The Industrial Center of the Carolinas,” and “Queen City of the South.” By the 1980s, it had become, in the somewhat more mocking words of the *Charlotte Observer*, a “city without a past.”<sup>36</sup> In sum, Charlotte’s rapidly growing and rapidly suburbanizing white middle class united as much around industrial-consumerist futurism as it did around whiteness and a post-*Brown* politics of racial containment. It was in 1960s Charlotte, for instance, that white suburban parents organized an anti-bussing campaign that resulted in *Swann v. Charlotte-Mecklenburg Board of Education*. It was in 1968 Charlotte that presidential candidate Richard Nixon launched his southern campaigning with his intonation that the “new voice” of America were the “forgotten Americans” – the broad and broadly white center of middle-class homeowners and respectable white-collar workers who were “not rioters.”<sup>37</sup> And it was in 1970 Charlotte that anti-integration white suburban populism took the relatively soft-toned form of a campaign for “neighborhood schools” that used a moderate language of freedom and choice. “The Battle is for Freedom,” an anti-bussing flyer announced; “Is Freedom of Choice Dead?” demanded another.<sup>38</sup> This New South middle-class politics, so far from the tobacco planter elite that dominated North Carolina in the Jim Crow era, formed the backbone of white economic and political power in the state. These class interests not only prompted and reinforced “industry hunting” expeditions for northern capital investment in state industry

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<sup>35</sup> Lassiter, *The Silent Majority*, 130. See also Steven Samuel Smith, “Development and the Politics of School Desegregation and Resegregation” in William Graves, Ed., *Charlotte, NC: The Global Evolution of a New South City* (Athens, GA: University of Georgia Press, 2010), 189-219.

<sup>36</sup> Quoted in Matthew Lassiter, “Searching for Respect: From ‘New South’ to ‘World Class’ at the Crossroads of the Carolinas” in Graves, Ed., *Charlotte, NC*, 25.

<sup>37</sup> Quoted in David Cunningham, *Klansville, U.S.A.: The Rise and Fall of the Civil Rights-Era Ku Klux Klan* (New York: Oxford University Press, 2013), 222.

<sup>38</sup> Lassiter, *Silent Majority*, 149, 155.

and commerce, but would have an enormous impact on the turn to law-and-order politics in state politics, rhetoric, and policy.

As the postwar metropolitan embodiment of North Carolina's "progressive mystique," Charlotte demonstrated the state's larger commitment to a new white class politics based on both continued racial segregation and containment and full-fledged entry into the New South. As the following section investigates in detail, North Carolina's emergent white middle-class politics – so far from the tobacco planter elite of the Jim Crow era – provided the impetus for state politicians, white suburbanites, chambers of commerce, and business interests to craft law-and-order in an effort to maintain racial segregation yet ensure the success of the New South movement. The beginning of this movement might have been rooted in the state's long-entrenched commitment to an image of respectable progressivism, but became full-fledged in the wake of *Brown v. Board of Education*.

#### **Toward Law-and-Order: North Carolina Responds to *Brown***

The reconsolidation of white class power and affluence in the middle-class suburbs of North Carolina's New South cities in the postwar years would dramatically alter the state's physical landscape, decisively shape its racial politics, and prompt novel policy formations for decades to come. In this section of the chapter, I focus on the emergence of law-and-order in North Carolina politics in the 1950s. I argue that the interest in securing northern investment in local industry and the attendant reformation of white class power prompted moderates to adopt law-and-order rhetoric and policy in the wake of *Brown v. Board of Education*. As North Carolina began to grapple with the basic incompatibility of state laws and practices with the Supreme Court's decision, a coalition of state politicians, industry elites, white middle-class citizens and moderate-minded newspapers forged a strategy of moderate resistance to *Brown*. This

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strategy, the center of which was a 1955 Pupil Assignment and 1956 Local Option/Tuition Grant school policy, sought to simultaneously maintain racial segregation in schools and preserve industry alliances and contracts with northern business. At a time when southern states were hemorrhaging (or about to hemorrhage) previously secure investments from the North due to their intransigence to federal law, atavistic displays of anti-black violence, and surges in racist populist appeals, Carolina's moderate coalition recognized that the attainment of the futuristic, white, and affluent New South depended on how they responded to *Brown* and the black civil rights movement.<sup>39</sup> More precisely, it depended on how they were seen by northerners to respond to *Brown* and black activism.

Law-and-order proved to be central in this effort. In an updated version of the old "progressive mystique," moderates turned to and *rearticulated* liberal law-and-order rhetoric that emphasized racially neutral state laws, strengthened public order, streamlined legal procedure, the protection of all citizens from "lawlessness," and the eradication of extra-legal violence. Borrowing and *rearticulating* northern liberals' concerns in an effort to articulate the state's new school policy as racially progressive, orderly, and lawful, "law and order" became a central rhetoric of southern moderates. Largely by way of this newfound rhetoric, North Carolina secured for itself the mantle of the business-minded and progressive "New South" – a decided alternative to the violence, lawlessness, and defiance that afflicted other southern states. In short, the state's call for increased "law and order" became synonymous with the state's New South image of pragmatic desegregation, non-violence, and progressivism.

However, this new language did not leap fully formed into post-*Brown* politics. In this section, I trace the early development of the state's law-and-order apparatus in North

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<sup>39</sup> Cobb, *The Selling of the South*.

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Carolina's education committees, policy debates, and legislation in the mid-1950s. The first portion of this section investigates the early emphasis on "lawful compliance" with the Supreme Court (in contrast with most other southern states, which instead proffered the doctrine of interposition in defiance of the applicability of *Brown*) as an important forerunner of law-and-order's emergence as a site of state policy. The second portion argues that the moderates' turn to law-and-order politics emerged from the context of school policy debates of 1955 and 1956. Specifically, moderates portrayed themselves as the "law and order" curative for two kinds of racial extremism that threatened the state's carefully crafted "New South" image, as well as the successful implementation of new state education policy: black civil rights activism (which bred public "disorder") and the white massive resistance movement (which bred white mob violence). In borrowing northern liberals' law-and-order apparatus, this chapter argues, North Carolina's moderate coalition retained liberals' dedication to "lawfulness" (against the basic "lawlessness" of southern states), to the restraint of race-based violence (against the rampant violence of southern whites), and to race-neutral or colorblind application of legal procedure (against the racially corrupt practices of southern courts and police). Rooted in a northern-born ideology of racial liberalism, North Carolina's moderate coalition borrowed these elements of law-and-order in their response to *Brown* and black civil rights. But even as "lawfulness" and "law and order" became the basis for containing white extremism and violence, it also served to contain blacks in segregated schools and neighborhoods and targeted black activism as elemental of rioting, public "disorder," and "street crime" – elements that would ultimately contribute to the racialization of the growing law-and-order state. In *rearticulating* liberal law-and-order for post-*Brown*

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politics, southern moderates created new state interests that would have a lasting impact on the use of law for the containment of black freedoms.

### *Brown and Crafting “Lawfulness”*

The moderate coalition’s *rearticulation* of law-and-order began with *Brown* and a language of what state politicians called “lawfulness” or “lawful compliance” with the Supreme Court decision. From an early date, Governors William Umstead (in office from 1953 to 1954) and Luther Hodges (in office from 1954 to 1960) advocated compliance with the decision. Shortly after the decision, Governor Umstead released a statement expressing his “terrible disappointment” over the decision, but also making clear that North Carolina was a “lawful state.”<sup>40</sup> “The Supreme Court of the United States has spoken,” Umstead stated, continuing, “[t]his is no time for rash statements or the proposal of impossible schemes.”<sup>41</sup> Governor Umstead’s restrained response was echoed in many parts of the state. The *Greensboro Daily News*, for example, greeted the news of the Supreme Court’s decision with a call for moderation: “The Negro race has moved rapidly to take its rightful place in the mainstream of the nation. But these extremists on both sides –the Talmadges and the NAACP – should remember the moderate views held by most Southerners. They cannot be pushed too fast ... These times call for courage combined with the golden mean.”<sup>42</sup> Referencing the extremes of Georgia’s segregationist governor, Herman Talmadge, who declared that the Supreme Court had reduced the Constitution to “a mere scrap of paper,” vehemently asserting that “there will

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<sup>40</sup> Rankin, “Integration Situation” interview, 2.

<sup>41</sup> Quoted in Douglas, “The Rhetoric of Moderation,” 104.

<sup>42</sup> *Greensboro Daily News*, “Time for the Golden Mean,” May 31, 1954.

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never be mixed schools while I am governor,” and the NAACP’s integrationist goals, the North Carolina newspaper called for the moderation proposed by Governor Umstead.<sup>43</sup>

However, what counted as “lawfulness” and “compliance” with *Brown* was deeply contested between the moderate coalition and massive resistance factions in the state months immediately following the decision – even in so moderate a state as North Carolina. In sharp contrast to state leadership, Attorney General Harry McMullan and Assistant Attorney General I. Beverly Lake articulated a recognizably massive resistance argument: “forced integration,” they reasoned, was not only unconstitutional, but would create a severe “law and order” problem in the state.<sup>44</sup> This reasoning would become foundational to later massive resistance forces, which would argue that should the South accept integration, racial violence would skyrocket and black tendencies towards crime would endanger white schoolchildren and newly integrated communities. The logic that school integration generates violence and crime found early articulation in North Carolina’s Attorney General’s office. Shortly after *Brown*, the Supreme Court invited southern states to submit *amicus curie* briefs in its second decision, *Brown II*, which centered on the issue of implementation that had been left out of the original decision. After much debate as to whether to submit a brief at all (for fear that should the Court’s decision disfavor southern states North Carolina would be at increased risk of court mandates and intervention) McMullan decided to submit a brief. He and Assistant Attorney General Lake, who drafted much of the brief himself and presented it before the Supreme Court, presented racial integration as a forerunner of violence and unrest:

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<sup>43</sup> *Durham Morning Herald*, “Constitution Ruined, Says Georgia Governor,” May 18, 1954, 1.

<sup>44</sup> I. Beverly Lake to Thomas Pearsall, November 23, 1954 (Pearsall Papers, Series 1, Box 1, Folder 6). For more on the contested nature of law-and-order, see Chapter 2.

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[I]n a Southern State where the feeling against de-segregation is so intense only a small percentage of negroes would attempt to attend a school in which they would realize they were not wanted. We must know, however, that even any small percentage of infiltration in white schools by negroes is liable to be very explosive and disrupting to the operation of the public schools and the peace and order of society in the community in which this occurs.<sup>45</sup>

Integration, McMullan explained in classic massive resistance language, was simply not feasible in North Carolina, which would erupt into violence should the slightest desegregation occur. McMullan's language here, especially where he places the burden of violence and its forestallment, is telling. It is African Americans pushing for integration who "infiltrate" white schools, an act that proves "explosive" and disruptive of the "peace and order of society." On this register, which would come before the Supreme Court in North Carolina's *amicus* brief, integration's infeasibility was due to black infiltration and explosive violence.

To substantiate this claim for the brief, the Attorney General's office prepared a survey for law enforcement officers and school superintendents on the question of violence and disruption in integrated schools. "In the event of immediate integration," the survey to school superintendents asked, "would you have any reason to believe that the mixing of the races in the public schools of your unit would create problems of discipline?"<sup>46</sup> Likewise, the survey sent to county sheriffs and city chiefs of police asked, "Do you think there would be likelihood of violence among racial groups which would seriously interfere with the operation

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<sup>45</sup> Harry McMullan to Thomas Pearsall, September 23, 1954 (UNC, Pearsall Papers, Series 1, Box 1, Folder 7).

<sup>46</sup> Harry McMullan, "Questionnaire for School Superintendents," October 5, 1954 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 7).

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of schools?”<sup>47</sup> Other questions attended to violence among parents whose children attended mixed schools, on school busses, and in the larger community. These surveys became the basis for the Attorney General’s brief, which predicted the impossibility of desegregation in the state without violence erupting: 193 out of 199 state law enforcement officers, McMullan and Lake reported, predicted violence in response to immediate integration.<sup>48</sup>

This logic was found, in limited sectors, elsewhere in North Carolina. For example, the local Parent Teacher Association in Bertie County, a majority-black rural county, reasoned in 1954 that while North Carolinians “are peaceful and law-abiding citizens, any attempt by a Negro to enter what is now a white school will be met with violence and bloodshed.”<sup>49</sup> Similarly to the reasoning of the Attorney General’s office, the Bertie County PTA advocated the repeal of compulsory school attendance laws and the strict maintenance of segregation based on a specter of integrationist violence. One North Carolinian, to take another example, echoed massive resistance forces in arguing that “most criminals in our large northern cities are from southern Europe and they have come to America to engage in narcotics trade and rackets of every type and 90% of all the criminals and racketeers are unpronounceable names from south Europe, people who have an ancestry of Negro blood.”<sup>50</sup> The writer went on to worry that this propensity would introduce crime into North Carolina schools should they integrate. Massive resistance flourished only in small factions of the state’s white population.

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<sup>47</sup> Harry McMullan, “Questionnaire for Sheriffs and Chiefs of Police,” October 6, 1954 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 7).

<sup>48</sup> Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004), 314.

<sup>49</sup> Mrs. J. C. Scarborough and Carol Gillman, “Report of Committee: Appointed by Windsor Parent-Teacher Association to Study Segregation Issue,” undated 1954 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 9).

<sup>50</sup> Arthur Hynes Fleming to Thomas Pearsall, August 6, 1956 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 4).

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Despite requiring that states make a “prompt and reasonable start toward full compliance” with the original 1954 *Brown* decision, *Brown II* largely sanctioned the rationality of North Carolina’s *amicus* brief. Noting the “varied local school problems” in southern states with respect to desegregation, the Court left implementation of *Brown* up to state school authorities, and the assessment of this implementation up to federal district courts, which the justices reasoned would best be able to appraise the progress of desegregation given their “proximity to local conditions.”<sup>51</sup> This reliance on “local conditions” tacitly endorsed McMullan and Lake’s reasoning that integration breeds violence, and would blossom into the worry that black citizen’s propensity toward criminality would lead to an eruption of crime in newly integrated settings.<sup>52</sup> In fact, *Brown II* proved a “victory for the white South,” spurring the passage of massive resistance legislation and radicalizing anti-integration forces across the region.<sup>53</sup> By the middle of 1956, the legislatures of Alabama, Georgia, South Carolina, Mississippi, and Virginia had collectively enacted a total of forty-two massive resistance statutes – a sharp up-tick in the volume of this kind of legislation. Additionally, all of these states plus Louisiana passed interposition resolutions declaring the initial 1954 Supreme Court decision unconstitutional and therefore inapplicable in their states

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<sup>51</sup> *Brown II* (1955).

<sup>52</sup> The belief that African Americans have an inherent propensity towards crime and violence is an old one, and not exclusive to the South. See Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Urban America* (Cambridge, MA: Harvard University Press, 2010). On the history of the association of blackness with criminality, see also, Linda Williams, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O.J. Simpson* (New Haven, NJ: Princeton University Press, 2002); Robert Entman and Robert Rojecki, *The Black Image in the White Mind* (Chicago, IL: Chicago University Press, 2000); Michael Rogin, *Blackface, White Noise: Jewish Immigrants in the Hollywood Melting Pot* (Berkeley, CA: University of California Press, 1998). In the post-*Brown* era, this logic was applied directly to integration (see chapter two).

<sup>53</sup> Earl Black and Merle Black, *Politics and Society in the South* (Cambridge, MA: Harvard University Press, 1989), 94. North Carolina segregationists would also describe *Brown II* as a “victory.” Governor Hodges’ Director of Administration, Paul Johnson, would recall in 1960: “There had been some public statements made by [Representative] Sam Worthington, of all people, that this [*Brown II* decision] was fine and represented a sort of victory for the South and that we could live with this and there were two or three other Legislators, I think, who made the same comment.” Paul Johnson in “Integration Situation in North Carolina” interview, 35.

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whose laws were sovereign. Additionally, most southern states passed legislation to monitor and restrict the actions of the NAACP, most doing so after *Brown II*.<sup>54</sup> In this sense, and as Michael Klarman has argued, *Brown II* more than *Brown* itself defined white southern resistance to school desegregation.<sup>55</sup> This is because the Supreme Court's decision in *Brown II* "delegated enforcement to the South's local school boards and federal district courts, institutions ordinarily controlled by native white southerners who vehemently disagreed with the *Brown* decision."<sup>56</sup> Likewise, the decision's enforcement standard of "all deliberate speed" proved a usefully nebulous criterion which only served to slow the implementation of any actual school desegregation.

But while McMullan and Lake's brief articulating the potentially violent outcome of school integration was in this sense vindicated by the Court, the fallout from both *Brown* decisions was already trending in the opposite direction in North Carolina's political leadership, who continued to eschew the Attorney General's logic even after 1955. As other southern states passed massive resistance school closure laws, legislation to defund any school districts that integrated, and interposition resolutions, North Carolina had already begun to implement its moderate path towards constitutional "lawfulness" and law-and-order racial neutrality. Three months before *Brown II* was decided, the North Carolina General Assembly passed repealed laws requiring the separation of races in public schools and enacted a Pupil Assignment law which put the placement of students in the hands of local school districts and provided a complex school transfer application process for those students wishing to change their assignments. Against the politics of interposition and massive resistance of its Deep South neighbors, North Carolina advocated "lawful compliance." In so

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<sup>54</sup> Douglas, "The Rhetoric of Moderation."

<sup>55</sup> Michael Klarman, *The Rise of Massive Resistance*.

<sup>56</sup> Black and Black, *Politics and Society in the South*, 95.

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doing, the state not only became the harbinger of moderate resistance to *Brown* that would eventually be adopted region-wide, but also provided the political language and policy standards importing racial liberalism's law-and-order apparatus into the region and incorporate it into white moderate resistance strategies.

Indeed, the moderate path to law-and-order was set early. Governor Umstead followed up his May 1954 statement eschewing the "impossible schemes" of defiance with two committees to study the *Brown* decision's impact in North Carolina. The first was a classically academic study of the Court's decision. Headed by the University of North Carolina's Institute on Government, this study researched all possible legal reactions to the *Brown* and presented them in a book length report, *The School Segregation Decision*, in summer of 1954.<sup>57</sup> The second was a committee dedicated to recommending specific changes to school policy in response to *Brown I*. The North Carolina Advisory Committee on Education, popularly known as the Pearsall Committee after its chair, lawyer and former state Speaker of the House Thomas Pearsall, formed for the first time in fall of 1954. It would reform more than once over the next decade as the state continued to develop its school policy, but its twin objectives remained the same: first, the "preservation of public education in North Carolina," and second, the "preservation of the peace throughout North Carolina."<sup>58</sup> Both commissions forged the state's path towards "lawfulness" and law-and-order rhetoric and policy.

Under the leadership of Institute of Government director Albert Coates, and the primary author of the study, James Paul, *The School Segregation Decision* report analyzed several

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<sup>57</sup> James Paul and Albert Coates, *The School Segregation Decision* (Chapel Hill, NC: University of North Carolina Press, 1954).

<sup>58</sup> Luther Hodges, Budget and Biennial message, January 6, 1955 (UNC Wilson Library, Hodges Papers, Series 4.2, Box 172, Folder 2058).

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proposed responses to *Brown* that were gaining traction in other southern states. These included transitioning to state-supported private school systems, utilizing state-funded tuition grants for private segregated schools, interposition resolutions, and pupil placement plans. Critically, the report concluded that many of these propositions – especially schemes predicated on private schools and open defiance – were constitutionally unsound and would result, in the language of the report, in “litigious harassment, damage suits, and possibly considerable court supervision.”<sup>59</sup> While the report stopped short of making specific policy recommendations, its analysis of possible pathways towards compliance with *Brown* offered Governor Umstead broad guidelines that provided some of the legal framework for the state’s later implementation of its Pupil Assignment law. As Thomas Pearsall recalled, the Institute on Government’s report “gave us some guidelines as to what we couldn’t do ... We had all sorts of cock and bull schemes suggested to us, [such as] the private school plan, etc. – and every time you could go back to this document and you could quote authorities on why it wouldn’t work. It gave us guidelines and kept us from going off on dangerous tangents.”<sup>60</sup> The Institute report, and especially its insistence on legal compliance with *Brown*, became a guiding document for the state’s moderate resistance strategy – the primary source that the Pearsall Committee drew upon to combat the Attorney General’s office preference for transitioning North Carolina’s school system to private (segregated) rather than public (integrated) schools. Beverly Lake’s voice in advocating the abandonment of public schools was especially prominent. As he wrote to Pearsall shortly after the Pearsall Committee’s formation in the fall of 1954:

So far as I am concerned I am prepared to spend the rest of my life fighting the mongrelization of North Carolina ... I shall never agree to mixed schools in North

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<sup>59</sup> James C. N. Paul, *The School Segregation Decision* (Chapel Hill, NC: University of North Carolina, 1954).

<sup>60</sup> Pearsall in “Integration Situation in North Carolina” interview, 9.

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Carolina whether they be called ‘integrated’ or merely ‘desegregated.’ So far as I am concerned, I shall, if given the opportunity, vote to abolish public schools rather than operate mixed schools ... [I]f it comes to a point that I have to choose between defying an unjust decision and subjecting my grandchildren to a society without race consciousness I intend to look after my grandchildren.<sup>61</sup>

Lake would submit several policy recommendations advocating the abolishment of public schools in North Carolina to the Pearsall Committee in 1954 and 1955, and draft pieces of legislation along these lines to be presented to the General Assembly. But by leveraging the Institute of Government report, which stressed the unconstitutionality of private school schemes as a means to protect segregation, the Pearsall Committee was able to publically mark Lake’s proposals as both extremist and unlawful.

By contrast, the Pearsall Committee offered Pupil Assignment as the moderate and lawful alternative to “lawless” and “defiant” massive resistance schemes of the Attorney General’s office. In December 1954, The Pearsall Committee submitted its report to the state’s new governor, Luther Hodges. It made three basic recommendations. First, just as McMullan and Lake had argued in its brief to the Supreme Court, the Pearsall Committee recommended continued segregation on a statewide basis, citing inoperable schools, “local conditions,” and “factors other than race” as the basis for continuing the state’s dual education system: “the mixing of the races in the public schools throughout the state cannot be accomplished and should not be attempted ... the compulsory mixing of the races in our schools on a state-wide basis without regard to local conditions and assignment factors other than race would alienate public support to such an extent that they could not be operated successfully.”<sup>62</sup> Notably,

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<sup>61</sup> Letter, I. Beverly Lake to Thomas Pearsall, November 23, 1954 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 6).

<sup>62</sup> Thomas Pearsall, “Report of the Governor’s Advisory Committee on Education,” December 30, 1954, 2 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 12).

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however, the violence and unrest that the Attorney General's office foresaw in integrated schools was not part of the Pearsall Committee's logic.

Instead of leveraging the specter of black violence as a means of transitioning into state-funded private education (which Lake, along with many other massive resistance politicians in the region, reasoned could be legitimately kept segregated), the Committee instead recommended lawful conformity to *Brown*. As the Committee saw it, because schools are “the foundation upon which our democratic institutions stand,” it recommended “that North Carolina try to find means of meeting the requirements of the Supreme Court's decision.” Critically, part of this recommendation rested on meeting the requirements of *Brown* within the “present” (or dual) school system “before consideration is given to abandoning or considerably altering it.”<sup>63</sup> To achieve these two seemingly conflicting goals – maintaining statewide segregation and complying with *Brown* – the Committee made a third recommendation, this one focusing on policy. It recommended, first, that the state legislature repeal all school laws requiring segregation, and additionally recommended that the state transition the assignment of students in public schools to local districts. Arguing that “the enrollment and assignment of children in the schools is by its very nature a local matter,” the Committee recommended “complete authority over these matters should be vested in the county and city boards of education. With such authority local school boards could adopt such plans, rules and procedures as their local conditions might require.”<sup>64</sup> By way of local pupil placement based on local conditions and procedures rather than race itself, the state could claim adherence to *Brown* while maintaining separate schools. Reasoning that more

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<sup>63</sup> Pearsall, “Governor's Advisory Committee” Report, 2.

<sup>64</sup> Pearsall, “Governor's Advisory Committee” Report, 3.

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legislation could be required after *Brown II*, which would be decided six months later, the Committee additionally recommended the continuation of the Committee itself.

By March of 1955, the North Carolina General Assembly had implemented each of the Committee's objectives. The legislature repealed all statutes requiring the operation of a dual school system, and placed the operation of schools in the hands of county boards of education.<sup>65</sup> At the same time, it implemented two sets of rules to govern the new local assignment policy. In the first set of rules, the legislature outlawed actions "based entirely upon race or color," but required that all previous school assignments stand for the upcoming 1955-1956 school year. In the second set of rules, the legislature set out guidelines for the transfer of students between schools. North Carolina's new Pupil Assignment law allowed for school transfers between historically white and historically black schools, and therefore for school desegregation, but governed these transfers by way of a complicated application process and placed the ultimate decision with the same local county school boards that made original school assignments. After the original assignments were announced, students wishing to transfer had thirty days to appeal. In a veiled consideration of race, transfers would be granted based on "local conditions" that took into account the "individual needs" of the student in question as well as the "best interests of all other pupils."<sup>66</sup> Such local conditions included the availability of facilities, neighborhood residence, and availability of transportation, but also "sanitary conditions" and the "aptitude" of the student—factors that would stand in for racial considerations.<sup>67</sup> Only after the application process was complete could parents of students denied transfer legally appeal their child's school assignment. In practice, this meant that all North Carolina public schools retained their original, segregated

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<sup>65</sup> 1955 Pupil Assignment Bill, Section 3 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 12).

<sup>66</sup> 1955 Pupil Assignment Bill, Section 2.

<sup>67</sup> 1955 Pupil Assignment Bill, Section 2.

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student bodies, and that African Americans seeking integration were forestalled in efforts to combat segregation in court.

North Carolina's Pupil Assignment Plan passed in the General Assembly with little fanfare and even less public resistance, but nonetheless became the groundwork for dichotomizing moderate lawfulness and progressiveness against massive resistance's "lawlessness" – a dichotomy that would blossom into full-blown law-and-order rhetoric a few short months later. The dichotomy between moderate lawfulness and massive resistance lawlessness was built into North Carolina's adoption of its Pupil Assignment policy. Thomas Pearsall, as well as various Committee members, began to describe Beverly Lake and Attorney General McMullan as "extremist" and their preference for private schools as illegal defiance of the Supreme Court shortly after the formation of the Committee. Shortly after the Pearsall Committee report came out in December 1954, Lake drafted a bill to remove public education from the state and implement a private school system which, he reasoned, could retain school segregation. Representatives Byrd Satterfield and Sam Worthington presented the bill to the 1955 General Assembly as a segregationist alternative to the Pupil Assignment bill. Calling this bill "extremist" and its authors "insurgents," the General Assembly quickly voted down the Lake bill.<sup>68</sup> Recalling the work of the Committee in 1960, Pearsall described moving away from counseling with the Attorney General's office as a move towards legality. While Pearsall corresponded regularly with both McMullan and Lake frequently at first, he soon recognized their input as extreme. Lake "had nothing to do whatsoever with the drafting of the [1954 Advisory Committee] report," Pearsall recalled. Against the unconstitutionality of the massive resistance tactics of Beverly Lake and Representatives Satterfield and

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<sup>68</sup> Johnson in "Integration Situation in North Carolina," interview 29-30.

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Worthington, the state's moderate leadership instead passed a Pupil Assignment bill that used, Pearsall's terminology, "strictly legal approaches."<sup>69</sup>

In sum, for North Carolina's moderate coalition, "lawfulness" became central to the postwar version of the progressive mystique. It stood for New South conformity to *Brown* that would satisfy federal courts and reassure northern business leaders that the state would not succumb to disorderly defiance. But white North Carolinians understood that "lawfulness" also meant that racial segregation and containment would continue – in lawful fashion – even as Jim Crow laws began to topple.

### *From "Lawfulness" to "Law and Order"*

In a policy rhetoric that competed directly with Beverly Lake's massive resistance agitating, the broad moderate coalition in North Carolina likewise formed their political strategy to maintain racial segregation in schools in part around "law and order." Hodges and the General Assembly, with the support of business interests, moderate-minded newspapers, and a broad swath of white citizens, correctly identified that the rhetoric and policy of massive resistance conservatives would harm the state. Massive resistance, they argued, invited in the critical gaze of the national media, swifter court action, and the prospect of federal troops, all of which would injure white class interests based in northern industry and would hasten rather

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<sup>69</sup> Pearsall in "Integration Situation in North Carolina" interview, 26. Correctly presuming that the Court in *Brown II* would remand specific desegregation cases to district courts for enforcement, the Pearsall Committee from the beginning advocated pupil placement as the definition of legal conformity with *Brown*. Pearsall described this feeling in the 1960 interview: "Well, we didn't see and I didn't see how anybody who studied the thing at all could see but one answer, and that was that the cases would be remanded to the district courts because of the actual mechanics of enforcing the decree. It had to be through your local courts. So we took our cue from that. We felt that would be the answer to the issue. We got the feeling that implementation had to be localized and that the courts were going to handle it from a local standpoint where the Judges would be able to take into consideration to some degree local conditions, feelings, etc. Therefore, the thing for us to do was to take from the State and put back into the local school boards the authority of assignment and just like we thought the Supreme Court would localize the enforcement of the decision." Pearsall in "Integration Situation in North Carolina" interview, 19.

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than prevent school integration. These fears, I argue in this section, motivated North Carolina moderates' *rearticulation* of liberal law-and-order as a heightened state interest. In a language the borrowed from northern racial liberals' critique of southern white lawlessness, state moderates criticized massive resistance's lawless and sometimes violent defiance of *Brown* as fundamentally contrary to the progressive and business-minded New South order; and in a parallel language, they articulated themselves as the racially neutral, progressive, and law-and-order champions of the region's future. To do this, moderates narrativized themselves as the law-and-order curative for two kinds of racial extremism that plagued southern states: black civil rights activism (which bred public "disorder") and the white massive resistance movement (which bred white violence).

Like their massive resistance counterparts, North Carolina moderates linked black civil rights with the need for law-and-order. However, the nature of their narrative differed significantly in content. Rather than linking integration with black violence and crime, moderates argued that black civil rights protest bred disorder: it disrupted public "law and order," instigated white violence, and purposefully thwarted the cause of peaceful "race relations" with whites. In this way, the specter of innate black criminality that was so central to the massive resistance movement was dropped in favor of a narrative that positioned black southerners of two sorts: those blacks who challenged Jim Crow were deemed guilty of causing disorder and breeding violence in the streets; those who did not were part of the "citizenry" of the moderate New South.<sup>70</sup> Moreover, this narrative re-imagined black

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<sup>70</sup> North Carolina governor Luther Hodges used the phrase "one citizenry" to suggest that moderate-led school policy was beneficial to African Americans, as in this 1955 speech: "We in North Carolina have remained comparatively calm and restrained during this difficult period, but that hasn't meant we don't feel strongly on the subject. We have approached our problems not as two races, antagonistic to each other, but as one citizenry determined to do what is best for both races and for our children." (Luther Hodges, speech on statewide television, August 8, 1955, Hodges Papers, Series 4.2, Box 172, Folder 2058.)

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challenges to segregation as one type of extremism – as the very *cause* of racial violence rather than its object and victim. In so doing, “good race relations” was articulated as the sole prerogative of white moderates committed to enforcing what they termed “law and order” or “racial peace.”

Shortly after North Carolina implemented the 1955 Pupil Assignment law in its first round of new school policies responding to *Brown*, Governor Hodges began linking black activism with public disorder. North Carolina, Hodges declared in a 1955 speech, was a unique home to the “friendly relationship of mutual helpfulness [between whites and blacks] which has been a great pride to all of us and the object of praise from throughout the nation.”<sup>71</sup> However, this mutually “helpful” relationship was under attack by black civil rights forces. Hodges cautioned on what he called the “militancy” of the NAACP:

In spite of this outstanding record of good race relationships here in North Carolina, we are being made the object of a campaign by an organization which seems determined to destroy our interracial friendship and divide us into camps of racial antagonism. This organization is known as the NAACP ... The policies formulated by leaders of this organization tend to create the only kind of situation in which an organization such as it is can survive – that is, one of distrust, antagonism, resentment and confusion.<sup>72</sup>

By arguing that the NAACP introduces distrust, antagonism, and resentment into North Carolina, Hodges suggested that a program of “voluntary segregation” would be beneficial for African American citizens. “Do not allow any militant and selfish organization to stampede you into refusal to go along with this program I am proposing in the interest of our public schools; take pride in your race by attending your own schools,” Hodges urged.<sup>73</sup> Moreover, his complaints of the organization (and more broadly of black civil rights activism) articulated the realization of black rights as disruptive to public peace. On this logic, black activism both

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<sup>71</sup> Hodges, speech on statewide television, August 8, 1955.

<sup>72</sup> Hodges, speech on statewide television, August 8, 1955.

<sup>73</sup> Hodges, speech on statewide television, August 8, 1955.

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disrupts currently harmonious relationship and, he would later suggest, inspires white violence. For example, in 1957, as Little Rock's Central High School erupted in massive resistance violence and North Carolina faced its first token desegregation in Greensboro, Charlotte, and Winston-Salem, Hodges portrayed the NAACP as equivalent to the Klan, saying: "We do not like lawlessness. We want no agitation in our State from the Ku Klux Klan, or from the NAACP. We want no outsiders, Negro or white, meddling in our affairs. We will make our choices; and I am confident that we will make them in a reasonable, lawful and orderly manner, as befits true North Carolinians."<sup>74</sup> Uniting the white vigilante Klan with the NAACP around the twin concepts of lawlessness and violence, Hodges situated white moderates as the sole protectors of race neutral law-and-order.

Even more common than the theme of black "disorder," however, was the insistence that massive resistance strategies fomented lawless defiance of *Brown* and damaging displays of white violence. For example, as North Carolina embarked on its second round of moderate school policies in mid-1955, the state's political leadership effectively threatened its citizenry with massive resistance intransigence and violence should they not accept further moderate school measures. This second round of school policy included two measures drafted by the North Carolina Advisory Committee on Education (popularly known as the "Pearsall Committee" after its chair, lawyer and former Speaker of the House Thomas Pearsall), which was appointed by the governor to help guide the state's policy response to *Brown*. First, the Pearsall Committee recommended a Local Option law that would allow local school districts to close schools by popular referendum in the event that school integration (allowed by way of transfers under the 1955 Pupil Assignment Law) created an "intolerable situation" in the

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<sup>74</sup> Luther Hodges, Address at Joint Meeting of Hamilton Lakes Civitan Club, September 13, 1957 (UNC Wilson Library, Hodges Papers, Series 4.2, Box 172, Folder 2067).

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schools. Second, it recommended a “tuition grant” law that made state funds available for private schools should local public schools close under local option.

The Pearsall Plan went before the voters in the form of a single amendment in September 1956, at a time when many southern states began to embrace massive resistance laws with increasing enthusiasm. Indeed, just as Alabama, Georgia, South Carolina, Mississippi, Louisiana, and Virginia enacted a host of massive resistance and interposition laws, North Carolina’s political leadership, wary of the extremism of these measures and their potential impact on the state’s New South economy, offered the Pearsall Plan as a lawful and moderate antidote to white extremism. Indeed, for the Pearsall Committee and Hodges alike, it was *the* law-and-order alternative to impending white intransigence once schools inevitably began to desegregate set to take place the following fall. To start, the Pearsall Committee prophesied the rise of racial tensions should the state *not* adopt its moderate plan: “We are in a very dangerous situation. It could become a dreadful situation quickly. The steady and healthy progress which we have been making for more than half a century in the betterment of our racial relations has been suddenly stopped. Now the tide is running the other way. Racial tensions are mounting in North Carolina every day.”<sup>75</sup> A few months later, Hodges emphasized the need to keep “strong emotions” in check:

Feelings run understandably strong in a matter of this kind. Emotions are frequently stronger and more powerful than thought and reason ... We must keep the peace if we are going to keep the schools. This is a time for calmness and courage. We need council rather than inflammatory headlines, and I want to make it clear that every man, woman and child in our state can share in this effort to save our public schools and maintain what we have been able to achieve through self-sacrifice and devoted labor.<sup>76</sup>

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<sup>75</sup> Thomas Pearsall, “Report of the North Carolina Advisory Committee on Education,” April 5, 1956, 3 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 13).

<sup>76</sup> Luther Hodges, Speech before Annual Farm and Home Week, June 22, 1955 (Luther Hodges Papers, UNC Wilson Library, Series 4.2, Box 172, Folder 2058).

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In August, Hodges put an even finer point on the dangers of not fully implementing moderate school policy with the statement that should the state fail to adopt the moderate policy presented by the Pearsall Committee, it would descend into massive resistance chaos, with “white citizens of this state” resisting integration evermore “*strenuously, resourcefully, and probably with growing bitterness.*”<sup>77</sup>

In reality, massive resistance forces in North Carolina at this juncture were rather weak, especially in comparison to other southern states. In 1955, the Patriots of North Carolina, a white supremacist group headed by a University of North Carolina emeritus professor, boasted a small leadership comprised of “some of the most respected men in the state” and specialized in scientific defenses of segregation. But after three years of failing to gain a mass following or achieve a voice in public policy, the group disbanded. Two other groups, the States Rights League of North Carolina, chartered in 1955 dedicated itself to “maintain the purity and culture of the White race,” and the North Carolina Defenders of States’ Rights, chartered in 1958, remained small and ineffectual proponents of massive resistance. Their limited numbers, and Beverly Lake’s insistence that moderate policies would lead to violence in the end offered only light resistance to moderate’s growing language of “lawfulness” and, increasingly, “law and order.” Lake continued to hold deeply segregationist views after the passage of moderate school policy, and advocated routinely and loudly for the closure of schools before their integration. In 1960, he would run for governor on a segregationist platform against moderate Terry Sanford, who beat him handily. And although Lake drafted multiple massive resistance bills for the state legislature in 1955 and 1956, they found support

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<sup>77</sup> Luther Hodges, speech on statewide television, August 8, 1955 (Luther Hodges Papers, UNC Wilson Library, Series 4.2, Box 172, Folder 2058).

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from only a tiny handful of representatives and were each voted down in short order.<sup>78</sup> Similarly, while the state was home to a few massive resistance organizations, these had a limited following and virtually no policy voice.<sup>79</sup> Indeed, the state's weak massive resistance forces has led historian William Chafe to suggest that the state's political leadership created the image of rising racial extremism for political reasons – in part to emphasize the necessity of moderate school policy that was soon to go before voters, and in part to thwart possible political threats posed by Lake, who was considering a run for governor in 1956.<sup>80</sup> Regardless, the Pearsall Committee, Governor Hodges, and many in the state legislature worked very hard to present the Pearsall Plan as the moderate and law-and-order antidote to the growing restlessness of massive resistance forces prone to unlawful defiance of the federal courts, embarrassing displays of white violence, and dangerous racial extremism.

As North Carolina neared its special election vote for the Pearsall Plan, scheduled for September 8, 1956, state moderates turned ever more fully to the language of law-and-order to persuade voters. Early in the campaign, Governor Hodges emphasized North Carolinians' lawfulness and moderation. For example, in an address before the Durham United Political Education Committee in March, Governor Hodges stated: "We are not and do not intend to be a region of law breakers... we *do* intend to go out of our way in every lawful manner, and I

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<sup>78</sup> Charles Dunn, *An Exercise of Choice: North Carolina's Approach to the Segregation-Integration Crisis in Public Education*, Master's Thesis, University of North Carolina, 1959, 120-121 (Pearsall Papers, Series 3, Folder 45).

<sup>79</sup> William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (New York: Oxford University Press, 1980).

<sup>80</sup> Chafe, *Civilities and Civil Rights*. This theory is at least anecdotally supported. Recalling the political climate in 1960, Luther Hodges' Director of Administration, Paul Johnson, reasoned: "We knew that if you came charging out of your present position with a banner saying, 'we're going to obey the Supreme Court and we are going to do this and we are going to put some Negroes in the schools in order to keep from losing our schools,' we knew that the result of that would be to lose control to the very vocal Beverly Lake and the group that he was representing and building for the '56 primary. Therefore, the technique had to be one of keeping a road open to the eventual conclusion down which public opinion and the force of the decree could force you, but *resisting at every point as far as you could legally*." (Paul Johnson in Transcript Session on History of the Integration Situation in North Carolina, September 3, 1960, UNC Wilson Library, Thomas Pearsall Papers, Series 1, Box 1, Folder 18).

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emphasize the word *lawful*, to avoid doing that which our people do not want to do and do not believe is best.”<sup>81</sup> Referencing the 1955 Pupil Assignment law just as much as the Pearsall Plan currently under consideration, Hodges here emphasizes the “lawfulness” with which North Carolina had approached *Brown* since the decision –in decided contrast with the “lawlessness” and defiance offered by Lake. In one speech, Hodges described the Pearsall Plan as a rational middle road between two dangerous types of extremism:

Some have attempted explosive and quick answers – this taking the form of defiance of the Supreme Court – with the extreme right abandoning our schools at any mention of integration, while the extreme left clamors for mass integration. Others have mentioned private schools – others will close all public schools.<sup>82</sup>

Continuing this thread a few months later, Hodges again congratulated North Carolinians on their lawfulness, moderation, and “self-restraint,” which he called the state’s “greatest virtue.” He continued: “The people of North Carolina have been wonderful. I am proud of their restraint, their moderation, their love for our schools. Working together without pride of our own opinion, we may make a contribution of which we and our children can be proud. I urge the State and each citizen to be calm and have the spirit of moderation.”<sup>83</sup> While moderates utilized several arguments to implement moderate school segregation policy, the narrative that the massive resistance forces popular in other states would import unabashed violence and mob rule into North Carolina (and thus invite national embarrassment and, worse yet, unwanted federal intervention in state education) became a central and winning narrative.

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<sup>81</sup> Luther Hodges, Address before Durham United Political Education Committee, March 27, 1956 (Hodges Papers, Series 4.2, Box 172, Folder 2060).

<sup>82</sup> Luther Hodges, Speech before Annual Meeting of the Southern Society, January 20, 1956 (Luther Hodges Papers, UNC Wilson Library, Series 4.2, Box 172, Folder 2059).

<sup>83</sup> Luther Hodges, Address Before Joint Session of General Assembly, Meeting in Special Session, July 23, 1956 (Hodges Papers, Series 4.2, Box 172, Folder 2062).

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To make this claim, the state's political leadership and news media looked no further than recent school crises in Clinton, Tennessee and Mansfield, Texas, both of which involved massive resistance violence that drew significant national attention.

In August 1956, white anti-integration violence broke out in Clinton and Mansfield after local schools desegregated, both in response to court orders in suits filed by the NAACP on behalf of local black families. In scenes that would fill national newspapers with images of heckling white crowds, anti-integration protests, and rioting, white crowds in both cities attempted to bar small numbers of African American schoolchildren from entering previously all-white schools, tussled and hurled insults with black passersby, and carried signs declaring their preference for continued segregation. In Mansfield, white students boycotted the school, and intimidated black students through a mix of violence and threats (Fig. 3.3).



**Fig. 3.3:** *White students surround a car emblazoned with anti-black and anti-integration threats in Mansfield, Texas. Inscriptions include: “We don’t like Negroes” and “Any Negro seen at Mansfield School today will be our Negro effigy.”*<sup>84</sup>

<sup>84</sup> *NewsOne For Black America*, “White Mob Stops School Desegregation In Texas On This Day In 1956,” August 30, 2013. <http://newsone.com/2705161/mansfield-high-school-desegregation>.

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In Clinton, students carried signs to the first day of classes reading, declaring “School Strike, Keep Negroes Out of Our School” and “We Won’t Go to School with Negroes.”<sup>85</sup> Both cities endured several days of racial unrest and rioting, and hosted segregationists from other states who came for support.<sup>86</sup> One, John Kasper, would arrive in North Carolina in 1957 in an attempt to stir white resistance to school desegregation in Charlotte and Winston-Salem. In Tennessee, the worst forms of violence dissipated when Governor Frank Clement called in state troopers and the National Guard to quell white mobs, although incidents of cross-burning continued to occur in front of homes of local leaders who supported the integration. In Texas, ...Violence only dissipated when Governor Allen Shivers intervened to support the segregationists’ cause, transferring the African American students out of the desegregated school.<sup>87</sup>

Defiance of federal courts had long been derided by North Carolina moderates as a “disgrace” to the South, but as the state began to debate the implementation of the Pearsall Plan, the politics of defiance took on new life as a lesson in the kind of violence massive resistance could bring. Clinton and Mansfield became touchstones of massive resistance violence by which moderates articulated its law-and-order curative. In one of his more explicit appeals, Governor Hodges called the Pearsall Plan an alternative to racial unrest and violence:

Events of the last few days included riots and near violence in Texas and Tennessee are very disturbing and we hope such things are not repeated here. I have been asked in the last few days if I thought these other States which are having difficulty would have been in a better position if they had the protection or guarantees such as are offered in the

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<sup>85</sup> *New York Times*, “Negro Pupils Enter Tennessee School,” August 27, 1956.

<sup>86</sup> John Popham, “Tennessee is Hit by New Violence on Segregation” *New York Times*, September 4, 1956.

<sup>87</sup> Luther A. Huston, “Rangers Called in Race Disorder,” *New York Times*, September 1, 1956; *New York Times*, “Integration Troubles,” September 2, 1956.

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Pearsall Plan. My answer is ‘yes.’ The trouble in these States (and it could happen in North Carolina) is that they don’t have legislation or safety valves which protect them against forced mixing of the races. Under such conditions people are inclined to take things into their own hands disregarding law and order. We don’t want that to happen here! Our plan offers the people a legal and orderly method of handling it to mix races ... But to be sure we don’t have trouble, we *must* take further action by having *available* the ‘safety valves’ of school attendance grants and local option such as are provided by our constitutional amendment.<sup>88</sup>

Against the riots and violence in other states which to massive resistance intransigence and defiance, Hodges offered up the Pearsall Plan as a “lawful and orderly” method of handling desegregation, a “safety valve” to ensure law-and-order, and “protection” against racial disturbances by those whites who are “inclined to take things into their own hands.” Pointedly suggesting that white violence and racial trouble “could happen in North Carolina,” the governor provides a law-and-order solution to racial extremism and violence, leveraging it as a heightened state interest in the face of potential racial violence and defiance.

In the immediate run-up to the special election, Hodges would again offer the Pearsall Plan as a law-and-order alternative to Clinton and Mansfield. A few days after North Carolinians unfurled their morning newspapers to reveal images of a mob of white Tennesseans, in a fit of segregationist zeal, smashing cars, rioting, and burning crosses, Governor Hodges advocated the Pearsall Plan as an antidote to white violence (see Fig. 3.4).<sup>89</sup> “The potential danger of an enraged public opinion which has no outlet other than mob action is simply demonstrated by events being reported in your daily newspapers,” Hodges warned North Carolina. He continued: “We simply provide the means of escape for the destructive pressure behind the high feelings in order to prevent the occurrence of almost certain

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<sup>88</sup> Luther Hodges, Speech before North Carolina Advisory Committee on Education, April 5, 1956 (Hodges Papers, Series 4.2, Box 172, Folder 2060). Emphasis in original.

<sup>89</sup> For instance, the Durham *Daily Sun* ran a photo of the “unruly mob” in Clinton attempting to tip over a car containing African Americans on the front page. See *Daily Sun*, “Mob Takes Over in Center of Town, Clinton in Terror,” September 1, 1956. On September 3<sup>rd</sup>, the newspaper featured a large photo of Tennessee State Patrol officer constraining white rioters in what the caption called “riot-torn Clinton.” See “Force Halts Force: National Guards, Police Break of Prosegregation Crowds,” *Daily Sun*, September 3, 1956, 1.

‘explosion’ if no escape is provided.’<sup>90</sup> Without the Pearsall Plan to help secure segregation without running afoul of the federal courts, Hodges lamented, people resort to “lawlessness” and tend to “take the law into their own hands.”<sup>91</sup>



**Fig. 3.4:** *At the height of the Clinton, Tennessee crisis on September 2, 1956, a white mob rocks a car with African American passengers.*<sup>92</sup>

Like Hodges, North Carolina newspapers began to declare their support for the Pearsall Plan in law-and-order terms. While many newspapers emphasized their support for keeping schools open and applauded legal compliance with *Brown*, these themes were largely conflated with law-and-order rhetoric. The *Durham Daily Sun*, for example, pledged its support in an editorial: “Whatever the fate of the plan in the courts – and there are able attorneys who believe that both the federal constitution and the wishes of the majority of

<sup>90</sup> Luther Hodges, Excerpts from Address on behalf of the Public School Amendment, September 4, 1956 (Hodges Papers, Series 4.2, Box 172, Folder 2062).

<sup>91</sup> Luther Hodges, Excerpts from Address on behalf of the Public School Amendment, September 4, 1956 (Hodges Papers, Series 4.2, Box 172, Folder 2062).

<sup>92</sup> “The Desegregation of Clinton, Tennessee,” October 7, 2011, <http://usslave.blogspot.com/2011/10/desegregation-of-clinton-tennessee.html>.

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North Carolina's people will be met through the plan – the state will be feeling its way through legal channels rather than with gun and tank.”<sup>93</sup> Similarly, the *Greenville Daily Reflector* advocated moderation as lawful alternative to violence, stating, “*The Reflector* supports the plan as giving citizens legal solutions to local integration problems rather than risking the alternative of possible confused violence.”<sup>94</sup> And the *Concord Tribune* pledged support to the Pearsall Plan because it would spare North Carolina “an ugly situation such as occurred at Clinton, Tennessee ... And it will, if the people remain calm, patient, understanding, and follow the leadership of Governor Hodges.”<sup>95</sup>

North Carolinians' diagnosis of the violence in Tennessee and Texas was mirrored the “law and order” rhetoric of northern newspaper editorials and national figures. The 1956 rioting was roundly denounced, at least outside the South, as “extremist” and “lawless.” President Eisenhower declined to send federal troops to either Clinton or Mansfield (as he would a year later in Little Rock, Arkansas), but issued statements that would sound familiar to North Carolinians. With language that charted a cautious middle road decrying extremists on both “sides,” Eisenhower stated that he “deplored prejudice in the South and resort to violence, but he also criticized ‘extremists’ on the other side ‘who want to have the whole matter settled today.’”<sup>96</sup> Sounding remarkably like Hodges, Eisenhower continued: “The South is full of people of good-will ... but they are not the ones we now hear. We hear the people that are adamant and are so filled with prejudice that they . . . even resort to violence; and the same way on the other side of the thing, the people who want to have the whole

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<sup>93</sup> Quoted in Charles Dunn, *An Exercise of Choice*, 146.

<sup>94</sup> Quoted in Dunn, *An Exercise in Choice*, 147-148.

<sup>95</sup> Quoted in Dunn, *An Exercise in Choice*, 149.

<sup>96</sup> Anthony Lewis, “President Bars U.S. Move in South at Present Time,” *New York Times*, September 8, 1956.

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matter settled today.”<sup>97</sup> Eisenhower’s language of anti-violence and anti-extremism demonstrates the extent to which North Carolina’s moderate coalition embraced the law-and-order language of racial liberalism.

In the special election held on September 8<sup>th</sup>, North Carolinians voted overwhelmingly in support of the Pearsall Plan, and it was implemented into law soon after. North Carolina moderates’ winning narrative relied heavily on the clean distinction between violence and law-and-order: white violence, mob behavior, and extremism was the disdained territory of massive resistance whites; on the other side, the black civil rights movement and integrationist activism was dangerously “extremist” and “disorderly;” and “law and order” decency, lawfulness, and even “honor” was the exclusive prerogative of “New South” moderates. This distinction was a decidedly false one, as moderates structured into state policy racial violence of a different but no less unsparing variety: segregation remained almost uniformly intact until the 1964 Civil Rights Act (and surged again in the 1970s); residential segregation, based as much on race as socioeconomic class, flourished in New South cities; the NAACP, despite filing more cases challenging school segregation in North Carolina in the 1950s than in any other state, would not be successful until the following decade; beginning in 1956, the General Assembly began enacting increasingly rigid law-and-order legislation mainly designed to curtail and criminalize black civil rights forces and black protest.<sup>98</sup> Just as critically, North Carolina’s new law-and-order language refrained from massive resistance’s logic, which capitalized on claims that blacks possessed an innate propensity towards crime. Instead, it *rearticulated* a critique long leveraged against the

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<sup>97</sup> Quoted in Lewis, “President Bars U.S. Move.”

<sup>98</sup> Davison M. Douglas, “The Rhetoric of Moderation: Desegregating the South During the Decade After *Brown*,” *Northwest Law Review* 89 (1994): 92-139. See also, “Stirring Race Hatred Disservice, Ike Says,” *Durham Morning Herald*, August 2, 1956, 2. On patterns of re-segregation in North Carolina, see Lassiter, *The Silent Majority*.

“lawless South.” Like these pioneers of racial liberalism, North Carolina moderates offered race-neutral law-and-order policy as a curative for white lawlessness, anti-black violence, and racial corruption of courts and law enforcement.

#### **Conclusion**

Perhaps ironically, neither part of the dual amendment – Local Option to close schools and state tuition grants for private, segregated education – were utilized in North Carolina, and were eventually struck down in federal courts.<sup>99</sup> Such a fate falsely suggests that the Pearsall Plan had but a limited impact on state education policy. However, as we will see in Chapter 7, its impact on state interests is in fact felt elsewhere, in the development of the law-and-order southern state. Moderate propaganda around Pupil Assignment, Local Option, and Tuition Grants created the necessary groundwork for the *rearticulation* of law-and-order as a central political rhetoric and racialized state interest. As we will see, the triangulation of white extremism, black civil rights, and the New South linked a widening range of black actions and modes of movement – including civil rights protest, use of public space, right-claiming, and boycotts – to dangerous behaviors to be contained by the law-and-order state.

In this regard, the law-and-order principles of postwar racial liberalism emergent in the 1940s resurfaced, in altered yet recognizable form, in the post-*Brown* South to cohere in a politics of innocence. Indeed, Myrdal’s assessment that the South’s “weak legal tradition” rent a “split” in the American soul and the growing sense that white southern lawlessness and “official misconduct” were aberrations from equal protection became an important ideological foundation of New South racial policy. This suggests that the eruption of “law and order” as a winning political rhetoric and emergent state interest, far from being the product of

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<sup>99</sup> Dennis Rogers, “Pearsall Recounts ‘Buying Time’ for Integration,” *The News and Observer*, November 7, 1976 (UNC Wilson Library, Southern Historical Collection, Series 3, Folder 47).

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uniformly conservative, extremist, or typically massive resistance southerners, is instead traceable to the development of midcentury liberal principles and their adoption and adaptation by southern moderate forces who were nonetheless dedicated to segregationist policy goals. In this way, and consistent with scholars of “constitutive racism” and “racial innocence,” my analysis here couples rather than separates the postwar rise of racial liberalism with the relocation of racial violence into the state.<sup>100</sup>

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<sup>100</sup> For instance, Joel Olson, *The Abolition of White Democracy* (Minneapolis, MN: University of Minnesota Press, 2004); HoSang, *Racial Propositions*; Naomi Murakawa and Katherine Beckett, “*The Penology of Racial Innocence: The Erasure of Racism in the Study and Practice of Punishment*,” *Law & Society Review* 44, no.3 (2010): 695-730. See also, Robert Cover, “Violence and the Word.”

## **Chapter Four**

### **“The Striving of Atlanta”: The Racial Imagery of Class and Capitalism in Georgia**

*“South of the North, yet north of the South, lies the City of a Hundred Hills, peering out from the shadows of the past into the promise of the future ... they of Atlanta turned resolutely outward toward the future; and that future held aloft vistas of purple and gold:—Atlanta, Queen of the cotton kingdom; Atlanta, Gateway to the Land of the Sun; Atlanta, the new Lachesis, spinner of web and woof for the world. So the city crowned her hundred hills with factories, and stored her shops with cunning handiwork, and stretched long iron ways to greet the busy Mercury in his coming. And the Nation talked of her striving.”*

– W.E.B. DuBois, *The Souls of Black Folk* (1903)<sup>1</sup>

By the time Georgia faced its own school segregation crisis in the winter of 1959, Atlanta was the South’s unquestioned leader of the New South. A city built on industry and manufacturing in the Progressive era, post-Second World War Atlanta exuded a revamped brand of American futurism based on northern-style corporatism, metropolitan city planning, and suburban growth. Centrist and business-oriented, 1960s Atlanta was the “temperate corner of the turbulent South,” a bastion of both modernism and moderation in a state well known for its white supremacy, racial violence, corrupt county courthouse governance, and political machines run by the crumbling aristocracy of the white plantation elite.<sup>2</sup>

As W.E.B. DuBois wrote in *Souls of Black Folk*, the nation did indeed talk of Atlanta’s “striving” as evidence of her commitment to American ideals of progress, futurism, and economic power. After federal district court judge Frank Hooper ordered Atlanta schools to desegregate in *Latimer v. Calhoun* (1959), Atlanta’s school dilemma played out on the level of the state, with “New South” moderates in Atlanta (and in other populous areas like Savannah and Athens) squaring off against the old – and still politically dominant –

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<sup>1</sup> W.E.B. DuBois, *The Souls of Black Folk* (New York: Penguin Books, 1996 [1903]), 64.

<sup>2</sup> Lassiter, *Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006), 50.

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strongholds of power moored in the Black Belt counties. Rather than a purely racial battle between black integrationist forces and retrogressive white segregationists, the state's school drama was even more fundamentally a geographic and economic battle between opposing strata of white class interests vying for control over state politics: the reigning rural Democratic political machines and the growing but structurally disadvantaged moderate, metropolitan economic elite. But while Georgia politics remained firmly in the hands of the rural planter class from the 1870s to the 1950s, by the end of that decade the state was also at the precipice of a major transition that would convert the state to Atlanta's emergent strata of white class politics.<sup>3</sup> Based on corporatism, nationalized markets, and middle-class consumerism, this class politics would mark statewide entry into the "Sunbelt" New South, shape its ultimate response to *Brown*, and prompt moderates to launch *rearticulated* "law and order" into prominence as a winning and settled political rhetoric, central state concern, and emergent policy formation.<sup>4</sup>

In this chapter, I trace the class-based antecedents of Georgia's desegregation drama, in which race proved pivotal. In particular, I spotlight the formation of two sets of white political

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<sup>3</sup> Even relative to other Deep South states, Reconstruction ended early in Georgia. In December 1870, Georgia Bourbon Democrats won control of the state's General Assembly, and the following year, Republican governor Rufus Bullock fled from office under threat of the Ku Klux Klan. Bullock's successor, Democrat James M. Smith became the state's first "Redeemer" governor. With the aid of election fraud, black disfranchisement, and racial violence, the state government returned in 1872 fully to the control of white Democrats. With little interruption, the Democratic Party of white supremacy would dominate state political machines until the 1960s. On the end of Reconstruction in Georgia, see Peter Wallenstein, *From Slave South to New South: Public Policy in Nineteenth Century Georgia* (Chapel Hill, NC: University of North Carolina Press, 1992); Christopher C. Meyers, *The Empire State of the South: Georgia History in Documents and Essays* (Macon, GA: Mercer University Press, 2008); Joseph Reidy, *From Slavery to Agrarian Capitalism in the Cotton Plantation South: Central Georgia, 1800-1880* (Chapel Hill, NC: University of North Carolina Press, 1992); Elizabeth Studley Nathas, *Losing the Peace: Georgia Republicans and Reconstruction, 1865-1871* (Baton Rouge, LA: Louisiana State University Press, 1969).

<sup>4</sup> For more on Atlanta as a "Sunbelt" city, see Lassiter, *Silent Majority*; Sean Cunningham, *American Politics in the Postwar Sunbelt: Conservative Growth in a Battleground Region* (New York: Cambridge University Press, 2014); Bruce Shulman, *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980* (Durham, NC: Duke University Press, 1994); Bradley Rice, "If Dixie Were Atlanta" in Richard m. Bernard and Bradley Rice, ed., *Sunbelt Cities: Politics and Growth Since World War II* (Austin, TX: University of Texas Press, 1984).

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and economic interests that fundamentally shaped the battle line between massive resistance and moderate resistance: the rural political elite, based in rural counties, squared off against the growing economic power of business interests in Atlanta – Atlanta’s “striving.” As the twentieth century progressed, I shall argue, the pressure contained in these opposing white interests only became more fraught, and came to structure (a) the debate about how to resist *Brown* most effectively and (b) the emergence of “law and order” narratives that, in the 1960s, would entrench into state interests and state policies. More broadly, this chapter seeks to unearth the white class interests that emerged in Atlanta and the imagery these interests cast as elemental to the formation of the New South.

### **New South Industry and Rural Political Machines, 1890-1940**

The 1960s marked the absolute height of tensions between Georgia’s rural political aristocracy and metropolitan-based moderate forces, but New South interests did not always run contrary to usual running of state politics. Instead, the state’s industry and agricultural giants forged a postbellum alliance that structurally lodged electoral power in rural counties but protected the interests of industry and white planters alike. This “courthouse-boardroom alliance” was established in the 1890s in response to the threat of agrarian populism, but became increasingly strained as industrial economies surged and the plantation economy crumbled.<sup>5</sup> As such, this alliance set the state on a course of increasing Atlanta-county, urban-rural, and “boardroom” economic elite-“courthouse” political elite tensions as the twentieth century matured.

In the 1890s, as C. Vann Woodward has demonstrated, Georgia’s rural “white masses” were beginning to regard the former slave population as “a political ally bound to them by

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<sup>5</sup> Jeff Roche, *Restructured Resistance: The Sibley Commission and the Politics of Desegregation in Georgia* (Athens, GA: University of Georgia Press, 1998), 42.

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economic ties and common destiny.”<sup>6</sup> Populist leaders, with state representative Thomas Watson at the forefront, called on their poor white rural supporters to reverse “race hatred, political proscription, lynch law, and terrorism” and foster “tolerance, cooperation, justice and political rights for the Negro” in order to escape what Watson called “the financial despotism which enslaves you both.”<sup>7</sup> In response to the increasing popularity of the Populist Party – which threatened to unite the agrarian poor across racial lines, re-enfranchise rural blacks, and cleave the white vote in two (thereby disrupting Democratic Party rule that had been in place since Reconstruction’s fall in Georgia in 1871) the state’s white plantation elite allied with first-wave “New South” industrialists to re-solidify Democratic control.<sup>8</sup> As historian Jeff Roche has argued, both planters and industrialists recognized the threat of cross-racial political alliance, and so united on a shared program of “limited taxation, frugal government, and a captive labor force.”<sup>9</sup> Aiding in the alliance, Booker T. Washington in his 1895 “Atlanta Compromise” address, urged African American Georgians to abandon their struggle for political participation and social equality and focus instead on accommodation and marginal gain: “To those of my race who depend on bettering their condition in a foreign land, or who underestimate the importance of cultivating friendly relations with the Southern white man who is their next door neighbor, I would say, cast down your bucket where you are; cast it

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<sup>6</sup> C. Vann Woodward, *Tom Watson: Agrarian Rebel* (New York: MacMillan Company, 1963), 222

<sup>7</sup> Quoted in Woodward, *Tom Watson*, 220.

<sup>8</sup> By “first-wave ‘New South’ industrialists,” I mean the early advocates of New South boosterism that became popularized in the 1880s by such figures as Georgian (and *Atlanta Constitutional* editor) Henry Grady and Marylandian Richard Hathaway Edmonds, editor of Baltimore’s *The Manufacturer’s Record*, which had as its motto, “The development of the South means the enrichment of the nation”). Clayton Coleman Hall, ed., *Baltimore: Its History and Its People* (New York: Lewis Historical Publishing Company, 1912), 588.

<sup>9</sup> Jeff Roche, *Restructured Resistance: The Sibley Commission and the Politics of Desegregation in Georgia* (Athens, GA: University of Georgia Press, 1998), 42.

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down in making friends in every manly way of the people of all races by whom we are surrounded.”<sup>10</sup>

In this environment, Atlanta industry and white planters leveraged a stratagem nearly as old as American slavery itself: they subjected blacks to violence and economic peonage, formalized segregation in Jim Crow laws, and incorporated poor rural whites into the Democratic Party via a virulent but popular politics of white supremacy. Economically, this alliance meant that white planters and industrialists alike could rely on a rigidly segregated workforce that supplied cotton plantations with black free, fixed labor and reserved a class of poor whites to fill textile mill jobs.<sup>11</sup> Politically, this alliance secured electoral power in Black Belt cotton districts – or in what Robert Mickey has aptly termed the rural “authoritarian enclaves” of solidly Democratic Party control.<sup>12</sup>

In this environment, segregation was the common white weal. As Numan V. Bartley argues, as WWII approached Georgia’s commitment to Jim Crow segregation remained strong in rural and urban areas. In the Black Belt counties, “Georgia’s segregated social system had hardened into a rigid caste structure accepted by virtually all whites and substantial numbers of blacks as the ordained and proper way of doing things.”<sup>13</sup> And while an Auburn Avenue black elite did thrive alongside, and often in tandem with, white power structures in Atlanta, urban governments enacted a “flood of Jim Crow ordinances” nearly as

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<sup>10</sup> Booker T. Washington, “Atlanta Compromise” Speech, September 18, 1895. Reprinted in Samuel R. Spencer, Jr., *Booker T. Washington and the Negro’s Place in American Life* (Boston, MA: Little, Brown, 1955), 48-52.

<sup>11</sup> On American slavery as a stratagem to contain the threat posed by an alliance of slaves, black freemen, and poor whites, see Morgan, *American Slavery, American Freedom* (New York: W.W. Norton, 1975). On the transition from fixed, unfree labor of chattel slavery to the fixed, free labor of Jim Crow, see Loïc Wacquant, “From Slavery to Mass Incarceration: Rethinking the ‘Race Question’ in the US,” *New Left Review* 13 (2002), 41-60.

<sup>12</sup> Robert Mickey, *Paths Out of Dixie: The Democratization of Authoritarian Enclaves in America’s Deep South, 1944-1972* (Princeton, NJ: Princeton University Press, 2015).

<sup>13</sup> Numan V. Bartley, quoted in Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism*, 22.

rigid as rural white supremacy strongholds, including in jails, chain gangs, parks, schools, zoos, theaters, bars, and eateries.<sup>14</sup>

Despite the common interests of Atlanta industrialists and rural planters during the 1890s, their alliance became strained: even as industry in Atlanta – textiles, railroads, banks, and insurance – flourished in the first half of the twentieth century, the plantation model of cotton production sagged.<sup>15</sup> Indeed, by the time of the *Brown* decision, Georgia was marked by two sets of increasingly divergent white class interests. While both committed to racial segregation, one set, that of the “New South” industrialists, looked to national markets and set itself on a course of commerce, manufacturing, and a decidedly future-oriented and nation-oriented consumerism. The other set, that of the county political machines, looked to parochial matters and set itself on a course of cheap black agricultural labor, anti-unionism, and reactionary white supremacy.<sup>16</sup> As the state’s industrial economy grew in strength, outmigration from rural counties increased, Atlanta’s population ballooned, and Georgia found itself pulled in two fundamentally opposite (and often contentious) directions. Because these bifurcating interests would, in the post-*Brown* decade, fundamentally structure the school policy battle between the rural adherents to massive resistance and Atlanta’s preference for moderate resistance, a word on the intensification of this bifurcation is in order.

First, early twentieth century Atlanta was home to the forerunners of postwar political moderates: the so-called “New South” boosters and industrial elites. As the W.E.B. DuBois

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<sup>14</sup> Bartley, *The Creation of Modern Georgia*, 148. On black power structure in Atlanta in the Jim Crow era, see Karen Ferguson, *Black Politics in New Deal Atlanta* (Chapel Hill, NC: University of North Carolina University Press, 2002); Tomiko Brown-Nagin, *Courage to Dissent: Atlanta and the Long History of the Civil Rights Movement* (New York: Oxford University Press, 2011); Allison Dorsey, *To Build Our Lives Together: Community Formation in Black Atlanta, 1875-1906* (Athens, GA: University of Georgia Press, 2004); Kruse, *White Flight*.

<sup>15</sup> George B. Tindall, *The Emergence of The New South, 1913-1944* (Baton Rouge, LA: Louisiana State University Press, 1967), 99-101.

<sup>16</sup> Mickey, *Paths Out of Dixie*; Numan V. Bartley, *The Creation of Modern Georgia* (Athens, GA: University of Georgia Press, 1983).

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epigraph to this chapter signals, Atlanta's prosperity was linked to industry, to the nation, and to futurity – an ethos that would continue into the postwar decades. In DuBois' view, Atlanta's "futurity" was endemic to her: she "peer[ed] out from the shadows of the past into the promise of the future ... and the future held aloft vistas paved in purple and gold."<sup>17</sup> And as historian George B. Tindall put it, "Atlanta was scarcely challenged as the metropolitan capital of the Southeast," a prosperous city where "sky scrapers climbed heavenward in severe lines, and 'where heaven should be the sky twinkled.'"<sup>18</sup> By the early 1900s, Atlanta was a major commercial hub. Home to the Coca-Cola Company, cotton machine giant E. Vann Winkle Gin and Machine Works, and the Southern Railway Company, early twentieth century Atlanta was the commercial hub of the southeast, had more than tripled its antebellum production of cotton textiles, boasted diverse manufacturing plants, and had one of the largest concentrations of colleges and universities in the nation.<sup>19</sup> Under the aegis of the "New South" motto, Atlanta translated its industrial success into an ethos of prosperity and modernity. Orator and *Atlanta Constitution* editor Henry Grady exemplified this spirit when we said the New South "put business above politics."<sup>20</sup> In his famous 1881 "New South" speech in New York, Grady praised the New South, the queen of which was Atlanta, in terms of the twin virtues of futurity and economic prosperity: "Her soul is stirred with the breath of a new life. The light of a grander day is falling fair on her face. She is thrilling with the consciousness of growing power and prosperity."<sup>21</sup> From an early date, Atlanta wrapped itself

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<sup>17</sup> DuBois, *The Souls of Black Folk*, 64.

<sup>18</sup> Tindall, *The Emergence of the New South*, 99.

<sup>19</sup> C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge, LA: Louisiana State University Press, 1951); George B. Tindall, *The Emergence of The New South, 1913-1944* (Baton Rouge, LA: Louisiana State University Press, 1967).

<sup>20</sup> Henry W. Grady, "The New South," speech delivered at banquet of New England Society, New York City, December 21, 1886. The full text of Grady's speech is available at: [http://archive.org/stream/completeorations00graduoft/completeorations00graduoft\\_djvu.txt](http://archive.org/stream/completeorations00graduoft/completeorations00graduoft_djvu.txt)

<sup>21</sup> Grady, "The New South."

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in a spirit of industrial vigor that its advocates elevated to, in Matthew Lassiter's phrase, a "civic religion," or in C. Vann Woodward's phrase, "social salvation."<sup>22</sup>

Often to the chagrin of the state's rural political aristocracy, such industrial growth prompted Atlanta's industrialists to routinely turn their gaze towards the nation – a trend that would only escalate as the twentieth century matured and markets became increasingly nationalized. Indeed, DuBois begins his "On the Wings of Atlanta" chapter in *The Souls of Black Folk* (1903) with the designation that Atlanta was "South of the North, yet north of the South." As the city "crowned her hundred hills with factories," Atlanta became "Atlanta, Queen of the cotton kingdom; Atlanta, Gateway to the Land of the Sun; Atlanta, the new Lachesis, spinner of web and woof for the world ... And the Nation talked of her striving." While DuBois saw danger in Atlanta's commercialism, warning that "wealth as the end and aim of politics, and as the legal tender for law and order" was replacing "the finer type of Southerner with vulgar money-getters" and in the same stroke threatening the "Black World beyond the Veil," Atlanta's New South elite celebrated the significance of the city's industrialism for the rest of the nation.<sup>23</sup> For instance, Atlanta's Chamber of Commerce turned nation-ward in its effort to convey the city's relevance for the national economy, gain more industrial contracts with northern corporations, and lure more business to the city. In a multi-page 1916 advertisement appearing in *The Rotarian*, the nationally circulating publication of Rotary International, the Atlanta Chamber of Commerce and Atlanta Convention Bureau appealed to northern business audiences with a straightforward tagline: "ATLANTA WANTS YOU IN 1917." Featuring snapshots of modern grand hotels, high-ceilinged meeting rooms, and large conventions spaces, the ad also sought to entice Rotary by boasting of Atlanta's

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<sup>22</sup> Lassiter, *Silent Majority*, xx; Woodward, *Origins of the New South*, 133.

<sup>23</sup> Du Bois, *The Souls of Black Folk*, 66.

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progressivism and futurism. “Her progressive citizens, her hotels, her railroad facilities, an average temperature of 61 degrees,” the Chamber expounded, made Atlanta “The Convention City of Dixie Land” and a friendly place to do business.<sup>24</sup>

Precisely because of its nationally focused prosperity, Atlanta’s New South progressivism placed it in increasing tension with Georgia’s political machinery. This tension was very much a matter of a basic structural incompatibility rooted in the state’s unique system of electoral contestation: the county unit system. Infamously anti-democratic, Georgia’s county unit system converted the popular vote to a county-based unit vote by way of a tiered mathematical apportionment that favored rural counties. In all statewide elections until 1964 (when judicial review invalidated the system) – and in an arithmetic set to 1917 county population counts – the state’s eight most populous counties received six unit votes; the thirty next most populous counties received four unit votes; and the remaining 121 least populous counties received two unit votes. This arithmetic skewed power so geographically, Bruce Shulman has pointed out, that in 1940 it awarded Chattahoochee County (a rural Black Belt county bordering Alabama) one unit vote for 132 popular votes, but awarded Fulton County (which housed Atlanta) one unit vote for every 14,092 popular votes.<sup>25</sup> The structural dominance of the state’s rural political machines prompted V.O. Key, Jr. to call the county unit system the “Rule of the Rustics.”<sup>26</sup> Indeed, the impact of county unit apportionment was the structural dominance of rural counties in statewide contests, the creation of rural-based political machines in counties with high proportions of disfranchised black citizens, and the routinization of politicians campaigning predominantly in rural counties.

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<sup>24</sup> Rotary International, *The Rotarian*, Vol. VIII, no. 6 (June 1916).

<sup>25</sup> Bruce Shulman, *From Cotton Belt to Sunbelt: Federal Policy, Economic Development, and the Transformation of the South, 1938-1980* (New York: Oxford University Press, 1991), 121.

<sup>26</sup> V.O. Key, Jr., *Southern Politics in State and Nation* (Knoxville, TN: University of Tennessee Press, 1949), chapter 6.

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As the 1946 gubernatorial election revealed, the county unit system showed no signs of weakness as the state entered the postwar period. In that election, James V. Carmichael, a moderate candidate endorsed by reform governor Ellis Arnall, won the popular vote but lost the election to staunch white supremacist Eugene Talmadge, the candidate of the rural machine base and patriarch of the powerful Talmadge clan that dominated Georgia politics from the 1930s to the 1950s. In the 1946 election, “the map of Georgia counties with substantial manufacturing employment corresponded almost exactly to the list of counties casting their ballots for Carmichael. Indeed, in several signal elections during the 1950s, urban areas posted strongest opposition to the ruling Talmadge faction, with booming Atlanta furnishing the staunchest dissent.”<sup>27</sup> As the 1946 election demonstrates, the county unit system structurally limited the electoral power of nationally oriented metropolitan interests and kept political power in the hands of the white planter elite and its base of poor rural whites. In fact, at the same time that county politicians responded to the interests of the planter class, they also appealed to poor rural whites through a combination of fiery stump speeches, white supremacist language, and a rhetorical devotion to agrarianism. As Talmadge commented in the 1946 election, “The poor dirt farmer ain’t got but three friends on this earth: God Almighty, Sears Roebuck, and Gene Talmadge.”<sup>28</sup> This faction of rural white interests would become the backbone of the popular support behind massive resistance laws in the post-*Brown* decade, and the major adversary of Atlanta’s growing moderate coalition.

A “travesty of democracy” from its formalization in 1917, the geographically discriminatory nature of the county unit system only increased as the twentieth century

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<sup>27</sup> Shulman, *From Cotton Belt to Sunbelt*, 123-124.

<sup>28</sup> Quoted in Kevin Kruse, *White Flight: Atlanta and the Making of Modern Conservatism*, 21.

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matured – and rural-urban political tensions mounted in step.<sup>29</sup> The collapse of the worldwide cotton market and the mechanization of textile production beginning in the late 1930s prompted massive outmigration from the state’s rural counties.<sup>30</sup> This movement increased the relative political power of county political machines. Between 1940 and 1960, Matthew Lassiter states, the “rural/agricultural sectors of Georgia lost about one million people, declining from 44 percent to barely 10 percent of the total state population.”<sup>31</sup> Over the same period, the Atlanta metropolitan area ballooned, hitting one million people in 1959, or one-third of the total state population. However, it controlled just “26 out of 410 county unit votes, or roughly 6 percent of the seats” in the General Assembly.<sup>32</sup> Even as Atlanta celebrated its population benchmark, itself the subject of a 1960 “1,000,000 strong” campaign to entice tourism and further influx of northern capital into the state (Fig. 4.1), the city’s national focus escaped – indeed, rivaled – the interests and focus of the state’s political machine, which continued to elect reactionary politicians into the 1960s.<sup>33</sup> In 1960, an *Atlanta Constitution* editorial cartoon commented on the anti-democratic nature of the county unit system. In the cartoon, a long line of white citizens with suitcases designating “migration to metropolitan areas” lose their ballots to a severe-looking county unit figure presiding over a box labeled “POLITICAL VOICE.”<sup>34</sup> The county unit figure tears each proffered ballot, saying: “Well, you can’t take it with you! ... Next!” As the commentary of the cartoon suggests, as Atlanta

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<sup>29</sup> Shulman, *From Cotton Belt to Sunbelt*, 123.

<sup>30</sup> Shulman, *From Cotton Belt to Sunbelt*; Jacquelyn Dowd Hall et al, *Like a Family: The Making of a Southern Cotton Mill World* (Chapel Hill, NC: North Carolina University Press, 1987); V.O. Key, Jr., *Southern Politics in State and Nation* (Knoxville, TN: University of Tennessee Press, [1949] 1984).

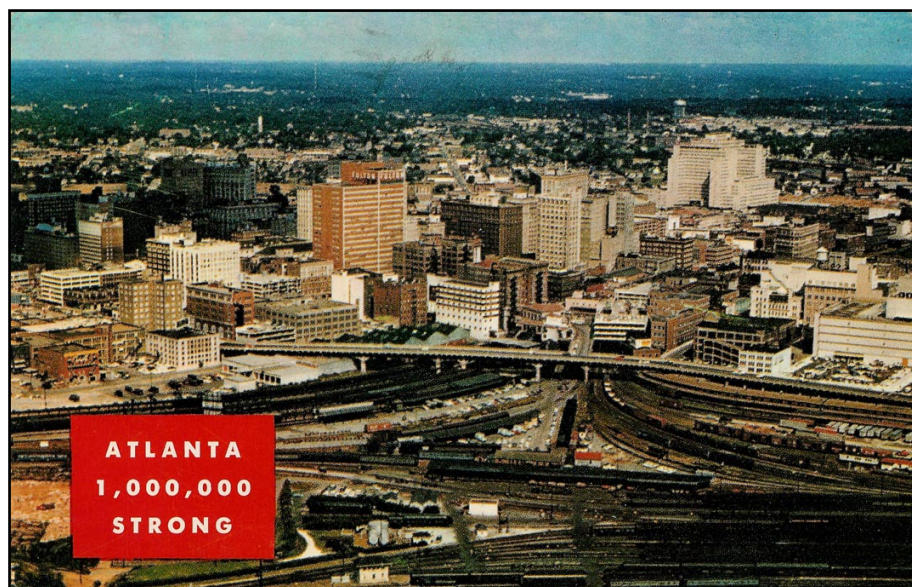
<sup>31</sup> Lassiter, *Silent Majority*, 54.

<sup>32</sup> Lassiter, *Silent Majority*, 54.

<sup>33</sup> Staunch segregationist and restaurateur Lester Maddox became Georgia’s 75<sup>th</sup> governor in 1967, succeeding moderate governor Carl Sanders (1963-1966) and reactionary-turned-moderate governor Ernest Vandiver (1959-1962).

<sup>34</sup> Clifford (“Baldy”) Baldowski, “Well you can’t take it with you! Next!” *The Atlanta Constitution*, 1960, Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

soaked up rural outmigration, the newly urbanized inhabitants quite literally left their political voice behind. This was one of several editorials and political cartoons the *Atlanta Constitution* in the postwar years lampooning the county unit system for its anti-metropolitan structure.<sup>35</sup>



**Fig. 4.1:** The Atlanta Chamber of Commerce's 1960 postcard, "Atlanta: 1,000,000 strong" presents Atlanta in classic "New South" imagery: in the foreground, railroads (which would soon become the site of a highway interchange), speak of Atlanta's industrial history; in the center, the urban commercial core dominates the scene; and on the horizon sits Atlanta's affluent, leafy, segregated suburbs to the north and east.

In sum, the statewide desegregation battle following Judge Hooper's order in *Latimer v. Calhoun* (1959) was intimately rooted in the economic and political history of the state during the Jim Crow era. Indeed, the rhetorical dominance of "law and order" in state politics in the 1950s and 1960s was intimately linked with the economic concerns and class interests of Atlanta's growing but structurally disadvantaged business class. In the next section, I outline the most rapidly growing interests in postwar Georgia: white middle-class, suburban interests

<sup>35</sup> Clifford "Baldy" Baldowski was the moderate-minded editorial cartoonist for the *Atlanta Constitution*, *Miami Herald*, and the *Augusta Times* from 1946 to 1982. Baldy often targeted the county unit system in his cartoons. Most of them appeared between 1959 and 1964, at which time the system fell to judicial review that ruled them unconstitutional. Richard Russell Library at the University of Georgia holds a fantastic and representative collection of "Baldy" cartoons online: <http://dlg.galileo.usg.edu/baldy/>.

in Atlanta. Wrapped up with postwar New South commercialism, these interests formed the political backbone and popular support of moderate resistance in the wake of *Brown v. Board of Education*.

### **New South Class Interests in Postwar Atlanta, 1945-1960**

When in September of 1956 Tennessee Senator Estes Kefauver announced, “the New South, I am confident, wants to be a part of the nation – a part of the mainstream of the twentieth century life – a part of the New America,” he articulated the primary manifesto of the postwar New South project: the South, as a region and a mindset, would mainstream itself with the rest of the nation.<sup>36</sup> This was a manifesto shared by the titans of power in mid-century Atlanta – Mayor William B. Hartsfield, Coca-Cola CEO Robert Woodruff, influential *Atlanta Constitution* editor Ralph McGill, and the Atlanta Chamber of Commerce – but also by a growing number of professional and middle-class white Atlantans that populated the sprawling suburbs. Together, this moderate coalition spearheaded a moderate racial politics in the wake of *Brown v. Board of Education*: just as much as Atlanta’s moderate coalition sought to preserve segregation through the adoption of school plans designed to limit the reach and impact of federal courts, it also emphasized anti-extremism, anti-violence and a “lawful” approach to *Brown*. In this regard, the segregationism of Georgia’s moderate coalition was very different in approach than rural Georgia’s allegiance to massive resistance laws, its strident racism, and its commitment to overt racial violence and corruption. Recognizing that these qualities of rural Georgia had the potential to seriously impair Atlantans’ business interests and, should capital go elsewhere, undermine the city’s economic structure, the moderate coalition turned to a politics of moderate resistance. More than

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<sup>36</sup> “Kefauver Backs High Court Edict” *New York Times*, September 16, 1956.

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anything else, it was this concern – economic in nature, class-based in structure, and nationally focused in gaze – that prompted Atlantans to embrace moderate resistance and ultimately, I argue, rearticulate northern liberal “law and order” discourse for New South political goals. In this section, I explore this relationship in the immediate postwar decades.

Atlanta was at the forefront of the postwar New South movement, and in many ways became its embodiment. As the nation entered the post-WWII decades, Atlanta’s meteoric rise as the metropolitan and business-oriented capital of the New South continued unabated, but in the post-*Brown* decade took on a new form as looming school crises called into question Atlanta businesses’ ability to secure contracts with northern companies. Despite the backwards county unit system and rural Georgia’s well-known history of lynching and racial violence, the state proved fairly adept at attracting capital immediately after the Supreme Court’s decision: between 1954 and 1959 “an average of 150 new plants a year valued at \$44 million opened” in Georgia, mainly in Atlanta and the surrounding smaller cities of Athens, Marietta, and LaGrange.<sup>37</sup> Over the same period, more than 350 existing plants in the state expanded their operations. By 1960, nearly every Fortune 500 company had opened an office in Atlanta.<sup>38</sup> This growth – in industries ranging from textile manufacturing to technology and military industry – tied Atlanta business and class interests increasingly to nationalized markets and the promise of capital influx from northern investors.

The synchronization of Atlanta politics with national markets and ideals found voice in Atlanta’s fulcrum of power at midcentury: the alliance between the city’s colorful and business-minded mayor, William B. Hartsfield, and its business elite. The office of the mayor, held by Hartsfield from 1942 to 1962, had not always been powerful, but under his tenure

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<sup>37</sup> Roche, *Restructured Resistance*, 64.

<sup>38</sup> Roche, *Restructured Resistance*, 64.

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achieved new heights of control over the running of the city. During his time in office, Hartsfield transferred the locus of political power within the city from the ward system, which had given trade unions unusual electoral power early in the twentieth century, to the middle class of Atlanta's leafy suburbs.<sup>39</sup> In this endeavor, he was aided by the Atlanta Chamber of Commerce, the *Atlanta Constitution*, and influential business leaders from both white and black Atlanta.<sup>40</sup> As one contemporary commentator put it, "In Atlanta it was always the Chamber of Commerce, the silk stocking crowd, who were effectively in charge."<sup>41</sup> This silk stocking crowd included the heads of major banks Citizens & Southern and First National, the executives of Rich's Department Store, the head of Georgia Power Company, and Ivan Allen, future mayor, president of Atlanta's Chamber of Commerce, and founder of office supply company the Ivan Allen Company. No one, however, wielded more influence in city politics than Robert Woodruff, who, on top of running The Coca-Cola Company, served on the boards of General Electric, Southern Railway, and the Trust Company of Georgia, and enjoyed a close relationship with Hartsfield. "I never made a decision," Hartsfield would admit in retrospect, "that I didn't consult Bob Woodruff."<sup>42</sup> Indeed, as Matthew Lassiter shows, "Atlantans understood that their mayor effectively spoke for the Chamber of Commerce and

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<sup>39</sup> Until the 1940s, Atlantans elected its city council based on a ward system rather than in city-wide elections, which gave significant electoral power to the trade unions that effectively ran many wards. However, when ward management and the unions themselves weakened in the 1930s, Atlanta elected – and continually re-elected – William Hartsfield, who maneuvered to strengthen the mayoral office by aligning with the business class. For a fuller explanation, see Kruse, *White Flight*, 25-26.

<sup>40</sup> Midcentury Atlanta was home to black professionals, including ministers, professors and administrators at Atlanta's black colleges, contractors, bankers, and real estate agents who sustained a relatively healthy black middle class. According to Kevin Kruse, black-owned businesses in Atlanta had a net worth of \$30 million in 1945. While not members of Atlanta's white moderate coalition, Atlanta's black "Auburn Avenue" elite provided a significant enough economic base to exert influence on white elites, and at times wielded enough power to impact city elections (as in the election of Helen Douglass Makin to congress in 1946 and the 1949 mayoral election, in which the black vote proved pivotal in re-electing Hartsfield to office). See Kruse, *White Flight*, chapter one.

<sup>41</sup> Political reporter Celestine Sibley, Quoted in Roche, 52.

<sup>42</sup> Quoted in Kruse, *White Flight*, 28.

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powerful elites such as Robert Woodruff.”<sup>43</sup> It was this close-knit alliance that embraced a strategy of moderate resistance to *Brown* that they reasoned would project an image of Atlanta friendly to northern corporations and businesses.

Increasingly after WWII, Atlanta’s moderate coalition wrapped itself in a business-minded and nation-oriented white class politics. As northern capital flowed into Atlanta and the population ballooned with rural transplants, a new, future-oriented class politics permeated white middle-class suburbs. The *Atlanta Constitution*, voice of moderate Atlanta, applauded this new class ethos. For instance, one 1959 editorial cartoon depicted Atlanta’s “first million population” as a “launching platform” – a gigantic hand rising out of the heart of the tower-filled downtown commercial core. Standing on this platform is a star-gazing figure labeled “OPPORTUNITIES IN ATLANTA,” binoculars raised to his eyes in entrepreneurial stance; he is raised to such great heights he reaches outer space (Fig. 4.2).<sup>44</sup>

Tellingly, this cartoon celebrates the link between Atlanta’s growing metropolitan population, its economic stature, and its emergent white middle class politics in the postwar decade. To celebrate its first million, the *Atlanta Constitution* and *Atlanta Journal* newspapers ran special sections, and the city chose a symbolic “Mr. Million” from recent arrivals to the city to introduce ceremonies held in the municipal Auditorium against a backdrop of sirens, factory whistles, church bells, and a noon salute on Peachtree Street.<sup>45</sup> Like nowhere else in the state, middle-class opportunities abounded in Atlanta. An as in other American cities, these opportunities, matching its population boom, centered in the suburbs ringing the city’s northern edge, which attracted middle-class populations with the promise of homeownership

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<sup>43</sup> Lassiter, *Silent Majority*, 48.

<sup>44</sup> Clifford “Baldy” Baldowski, “The Launching Platform,” *Atlanta Constitution*, October 11, 1959.

<sup>45</sup> “Atlanta Awaits Millionth Citizen, Celebration Saturday Week to Mark Area’s Growth from Civil War Ashes,” *New York Times*, September 27, 1959.

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and membership in Atlanta's futuristic ethos. As Matthew Lassiter and Kevin Kruse have separately argued, these populations were predominantly white, but Atlanta was also home to a relatively healthy class of black professionals.<sup>46</sup> And one contemporary journalist observed that the city's "political stability and leadership lay in a coalition of Negroes and 'nice' people, the respectable elements, including the conservative rich."<sup>47</sup> Despite this "dual" power structure, Atlanta's class politics was still heavily racialized and segregation steadfastly enforced. By the mid 1960s, affluent white suburbs like Druid Hills, Decatur, and Buckhead had become home to white-collar professionals and business elites, and were marked as much by their conglomeration of municipal parks, retail centers, golf courses, and residential districts as by their exclusively white populations. These were carefully segregated from black neighborhoods, even the more affluent ones where the city's black professors, business owners, preachers, and ministers resided. As Stephen Beyer has demonstrated in his study of residential segregation in Atlanta, "the urban renewal, relocation, and public housing selections of the 1950s and 1960s used the basic framework of a 1922 zoning law" to ensure a segregated racial topography.<sup>48</sup> Such zoning and "renewal" efforts were, in essence, racial compacts that benefitted white suburban populations – a fact of which white Atlantans were well aware. Furthermore, such measures continued to work, and work well, after the fall of massive resistance laws in 1961. For instance, in 1962 an African American professional, Dr. Clinton Warner, attempting to escape the increasingly squeezed, overcrowded black

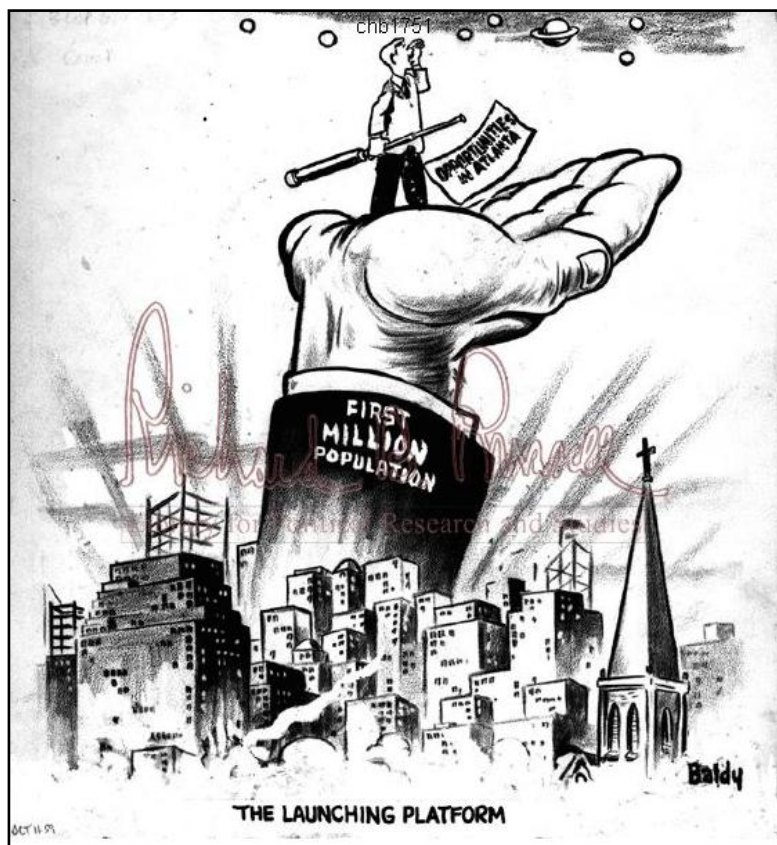
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<sup>46</sup> Lassiter, *Silent Majority*; Kruse, *White Flight*.

<sup>47</sup> Quoted in Lassiter, *Silent Majority*, 49.

<sup>48</sup> Ronald H. Bayor, *Race and the Shaping of Twentieth Century Atlanta* (Chapel Hill, NC: University of North Carolina Press, 1996), 54.

neighborhoods of central Atlanta, bought a house in Peyton Forest, a subdivision of a white middle-class suburb in southwest Atlanta.<sup>49</sup>



**Fig. 4.2:** *The Atlanta Constitution celebrates Atlanta's "FIRST MILLION POPULATION" in 1959. Here, Baldy celebrates the commercialism, prosperity, and progress promised by Atlanta's population. These promises underpinned white Atlantans' strategy of moderate resistance and their rearticulation of liberal law-and-order.*

Shortly thereafter, white homeowners fearing for their property values requested that a barrier between Peyton Forest and the adjoining black neighborhood be erected to prevent further "intrusion" by black homebuyers.<sup>50</sup> Obliging, the newly instated mayor Ivan Allen ordered the installment of two barriers, which appeared on Peyton and Harlan Roads bearing the sign, "Road Closed." It was a simple sign that betrayed a simple meaning: no neighborhood

<sup>49</sup> On the "Atlanta Wall," see Ronald H. Bayor, *Race and the Shaping of Twentieth Century Atlanta* (Chapel Hill, NC: University of North Carolina Press, 1996), chapter three; Stephen Grant Meyer, *As Long as They Don't Move Next Door: Segregation and Racial Conflict in America's Neighborhoods* (New York: Rowman and Littlefield, 2001), David L. Sjoquis, ed., *The Atlanta Paradox* (New York: Russell Sage, 1992); Kruse, *White Flight*; Lassiter, *Silent Majority*.

<sup>50</sup> "Atlanta's 'Berlin Wall,'" *Atlanta Magazine*, December 18, 1962.

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integration. Despite the mayor's stated goal of keeping the racially subdivided suburb "apart and at peace," the roadblocks became an incendiary touchstone for both black civil rights protest and white middle class reaction. Civil rights activists and black residents protested the roadblocks with signs reading, "We Want No Warsaw Ghetto" and the national press denounced the situation. At least some of the moderate coalition worried about image. *Atlanta Magazine*, for instance, called the barricades "Atlanta's 'Berlin Wall.'" <sup>51</sup> However, many white middle class Atlantans viewed the so-called "Atlanta Wall" as their protection and salvation. Pleas to keep the barriers ranged from the plaintive ("We just want to keep our homes") to the aggressively racial ("If the whites could just win once, they would have some hope for holding out. I think the whole city of Atlanta is at stake"). <sup>52</sup> Both registers, however, lay bare the classed nature of Atlanta's moderate white population as well as their abiding interest in segregation: they were invested in property values and whiteness alike. <sup>53</sup> As Allen's involvement in this incidence of white neighborhood and class protection reveals, Atlanta's moderate political establishment was equally committed to "protecting" white middle-class interests.

Despite the spectacle of the Peyton Hills barricades and levels of neighborhood segregation that rivaled the rigidity of Georgia's rural counties, Atlanta's moderate coalition proved incredibly adept at projecting a progressive image of economic prosperity, commercial success, and racial stability to which both the national press and northern businesses paid attention. For instance, *Town & Country* magazine approvingly stated that in the midst of an

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<sup>51</sup> "Atlanta's 'Berlin Wall,'" *Atlanta Magazine*, December 18, 1962.

<sup>52</sup> Quoted in Kruse, *White Flight*, 4.

<sup>53</sup> On the connection between whiteness and property, see George Lipsitz, *The Possessive Investment in Whiteness*; Cheryl Harris, *Whiteness as Property*.

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“embattled region” that was the 1960s South, “Atlantans still look to the future.”<sup>54</sup> And at the close of the 1950s, the *New York Times* called it Atlanta “a city with confidence in the future bolstered by its success in overcoming a disaster of the past.”<sup>55</sup> Northern industrialists and manufacturers seemed to agree, as plants and regional headquarters continued to flock to Atlanta and the surrounding cities of Athens and Marietta throughout the 1950s and 1960s.<sup>56</sup>

### **Black Belt Violence, Atlanta Law-and-Order**

A significant factor in Atlanta’s progressive image was its condemnation of racial violence that was prevalent statewide. Between 1880 and 1930, 458 people were lynched in Georgia. 439, or 96% of them, were black. While racial violence pervaded Georgia in the Jim Crow era, and while nearly every county hosted a lynching during this period, the distribution of lynching in the state was by no means even. As historian W. Fitzhugh Brundage has detailed in his study of lynching in Georgia and Virginia, “the hardcore of southern counties where lynch mobs carried out their bloody work year after year was comprised of large black populations and had economies dependent upon cotton cultivation.”<sup>57</sup> In Georgia, the vast majority of lynchings were concentrated in the southern part of the state and the broad cotton belt that through the middle of the state. South Georgia lynched 176 blacks between 1880 and 1930, and the cotton belt lynched 196, whereas in the upper piedmont region (which included the populous counties that housed Atlanta and Athens) lynched 38 blacks and the coastal region (which housed Savannah) lynched a comparatively small 13 blacks.

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<sup>54</sup> James L. Townsend, “The Miracle in Atlanta,” *Town & Country*, February 1963. Emory, MARBL, Sibley Papers, Box 129, Folder 6.

<sup>55</sup> “Atlanta Awaits Millionth Citizen,” *New York Times*, September 27, 1959.

<sup>56</sup> Bayor, *Race and the Shaping of Twentieth Century Atlanta*

<sup>57</sup> W. Fitzhugh Brundage, *Lynching in the New South: Georgia and Virginia, 1880-1930* (Chicago: University of Illinois Press, 1993), 106.

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The prevalence of lynching in Georgia – and especially in the rural areas that made up the political backbone of the state until the 1960s – indicates that the relationship between anti-black violence and law enforcement was indeed a close one, in which mob violence, vigilante justice, and lynchings went largely uninvestigated and unprosecuted.<sup>58</sup> After the Second World War, incidents of lynching had decreased significantly in the region, Georgia included, but the symbiotic relationship between county courts, the state’s criminal justice system, and lynch law remained into the postwar period. Even into the late 1940s, historian Michael Belknap has argued, “extralegal violence against blacks was a bulwark of the southern system of white supremacy, and even those white southerners who refrained from such conduct themselves were disinclined to punish those who did engage in it.”<sup>59</sup>

In this environment, the language of *lawfulness*, *anti-extremism*, and *law-and-order* became important touchstones of Atlanta’s racial “progressivism” relative to the rest of the state. With the influx of northern capital, regional headquarter placements, and corporate contracts at stake, Mayor Hartsfield termed Atlanta the “City Too Busy to Hate” in 1955. “The City Too Busy to Hate” caught on to become the racial common sense about the state of Atlanta’s race relations at midcentury, and articulated the link between Atlanta’s economic progress and the ostensible lack of racial hatred, violence, or strife. This positions Atlanta’s business-minded progressivism and racial orderliness against the economically stunted and violent rural South. As Lassiter has persuasively argued, “while Hartsfield’s invocation of the ‘City Too Busy to Hate’ was fundamentally about the power of money, the slogan provided a

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<sup>58</sup> Brundage, *Lynching in the New South*; Michal Belknap, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (Athens, GA: University of Georgia Press, 1987); Amy Louise Wood, *Lynching and Spectacle: Witnessing Racial Violence in America, 1890-1940* (Chapel Hill, NC: University of North Carolina Press, 2009).

<sup>59</sup> Michal Belknap, *Federal Law and Southern Order: Racial Violence and Constitutional Conflict in the Post-Brown South* (Athens, GA: University of Georgia Press, 1987), 1.

constant reminder that Atlanta Exceptionalism meant synchronization with national ideals and secession from Deep South mores.”<sup>60</sup> More than this, the two were indelibly linked; Atlanta moderates’ pursuit of capital and their effort to synchronize the city with national ideals formed the basis of moderates’ adoption and rearticulation of liberal law-and-order rhetoric. As Hartsfield explained the purpose of the motto: “We strive to undo the damage the Southern demagogue does to the South. We strive to make an opposite impression from that created by the loud-mouthed clowns. Our aim in life ... is to make no business, no industry, no educational or social organization ashamed of the dateline ‘Atlanta.’”<sup>61</sup>



**Fig. 4.3:** Georgia’s rural political elite, represented by an Old South figure, proves unable to welcome “new industry” to the state. Stalled on the welcome mat, new industry is blocked by a series of maladies based in rural county dominance: “county unit gov’t,” “racial disorder” and the “public school threat” make up the central obstructions.

<sup>60</sup> Lassiter, *Silent Majority*, 48.

<sup>61</sup> Quoted in Kruse, *White Flight*, 40.

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Critically, business leaders in Atlanta agreed with Hartsfield. While Georgia's General Assembly, with county unit-elected politicians at the helm, passed a barrage of massive resistance laws in the aftermath of *Brown* as the major bulwark against school integration, Atlanta's moderate coalition worried about the impact of massive resistance laws and political forces on business. With both the health of the New South economy and the progressive image of Atlanta at stake, the coalition prophesied that massive resistance would fail to pass constitutional muster, and that this defiance would lend the entire state – Atlanta included – an image of intransigence, illegality, and disorder ill fitting for new business and capital influx. As historian Jeff Roche explains, the “largest concern for business leaders ... came from the negative publicity generated by massive resistance. The precarious position of public education forced any business or industry considering opening an office or plant in the South to weigh its options carefully before choosing a location.”<sup>62</sup> The *Atlanta Constitution*, important arm of the moderate coalition, articulated a similar set of concerns. In a 1960 editorial cartoon, the *Constitution* argued that “new industry” in Georgia suffered from a series of roadblocks: “county unit government,” “racial disorder,” the “public school threat,” and an “outmoded tax structure” (Fig. 4.3).<sup>63</sup> As the cartoon demonstrates, when new industry arrives at Georgia's door, it finds itself blocked by these rural-based obstructions. For Clifford Baldowski of the *Constitution*, as for many Atlanta moderates, the barriers to new industry are linked.

At other times, Atlanta moderates' anxiety about the nationally visible presence of southern racial violence structured their response to civil rights concerns. For instance, in April 1959, the state of Mississippi was thrust – as it routinely was during this era – into the

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<sup>62</sup> Roche, *Restructured Resistance*, 65.

<sup>63</sup> Clifford “Baldy” Baldowski, “Suh, mah door is always open,” *Atlanta Constitution*, February 2, 1960, Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

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national spotlight when a group of white Klansmen sprung Mack Charles Parker, an African American man awaiting trial for the kidnapping and rape of a pregnant white woman, from the Poplarville jail, beat him severely, and lynched him.<sup>64</sup> Although some perpetrators of the lynching came forward, the jury failed to convict anyone, and an extensive FBI investigation followed by two grand juries failed to make indictments.<sup>65</sup> As the residents of Poplarville closed ranks around the perpetrators and the marshal and law enforcement officers who allowed Parker to be beaten and taken from jail, New South moderates in Georgia were quick to distance themselves from this form of racial violence.

One of Baldy's cartoons is again illustrative (Fig.4.4).<sup>66</sup> In the cartoon, the South, figured as an old southern gentleman giving a national radio broadcast, grieves the lynching of Mack Charles Parker. With eyes downcast in sorrow, the South-as-broadcaster leans into the microphone labeled "USA" to announce the lynching: "Regretfully, we interrupt this program to –." The regularly scheduled program of the broadcaster is strewn on the desk in front of him. "Morality," "goals," "ideals," "plans," and "social progress" – the usual programming of the South – are here interrupted by racial violence. The narrative architecture of this cartoon is significant, and typifies Atlanta moderates' concern with the impact of racial violence on the image, economy, and progress of the New South as understood by the nation. Here, racial violence is an interruption, a temporary and regretful suspension, of the South's political and economic trajectory as it is interpreted by the rest of the nation. Figured in the cartoon as an aberration, racial violence operates for New South moderates as an exception to the normal

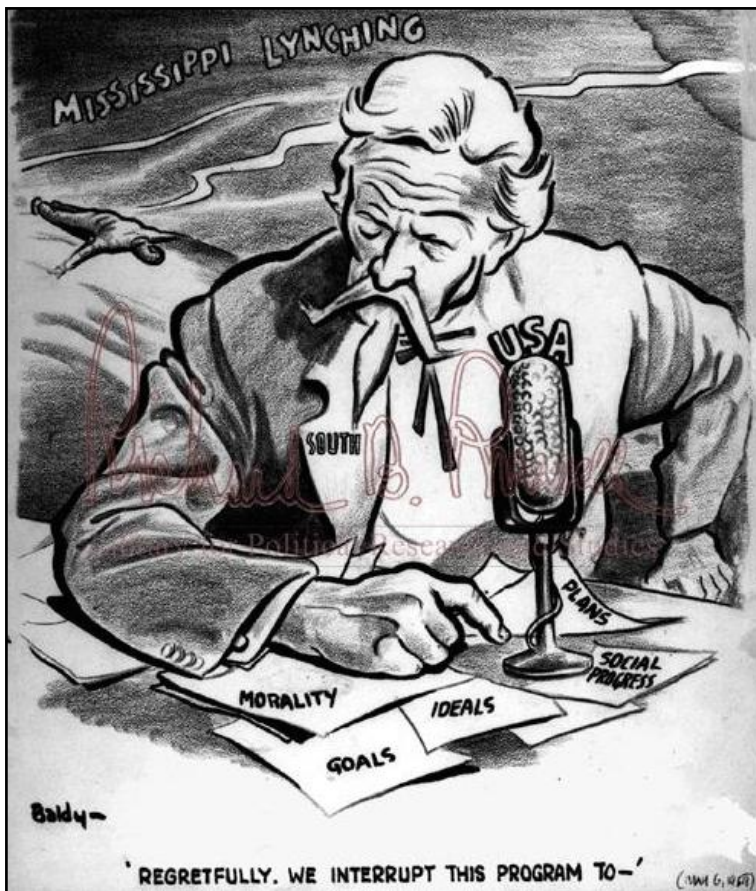
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<sup>64</sup> For a full excavation of Mack Charles Parker's lynching and the failed investigations that followed, see Howard Smead, *Blood Justice: The Lynching of Mack Charles Parker* (New York: Oxford University Press, 1986).

<sup>65</sup> The perpetrators of Mack Charles Parker's death have never been successfully brought to trial. The FBI re-opened the case in 2009. *Picayune Item*, "FBI Re-Opens Mack Charles Parker lynching," May 10, 2009. *Picayune Item* is the local newspaper of Pearl County, Mississippi, where Poplarville is located.

<sup>66</sup> Clifford "Baldy" Baldowski, "Regretfully, we interrupt this program to –," *Atlanta Constitution*, May 6, 1959, 4.

operation of southern society. Furthermore, the harm Baldy grieves is to southern image and economy – rather than, we might point out, the black life lost, the black lives impacted, and the black lives still precarious.



**Fig. 4.4:** *In this political cartoon, the South, figured as an old southern gentleman, grieves a Mississippi lynching as an interruption to the program (morality, goals, ideals, plans, and social progress) of the New South. Tellingly, he broadcasts this sentiment to the USA, to the nation. Clifford “Baldy” Baldowski, “Regretfully, we interrupt this program to –,” Atlanta Constitution, May 6, 1959, 4.*

This worry – that new industry would prove impossible in Georgia’s political climate of massive resistance and racial disorder – only increased after Judge Frank Hooper sided with the NAACP in *Calhoun v. Latimer* and ordered Atlanta to adopt a plan to desegregate its public schools.<sup>67</sup> Because the Supreme Court had ruled that closing selected schools to prevent integration was unconstitutional, Judge Hooper’s court order triggered a statewide

<sup>67</sup> Frank A. Hooper, “Text of Federal Court Decision Atlanta School Segregation Case,” July 9, 1959. [This document is a one-page excerpt of his opinion, in Vandiver Papers, UGA, Series I, Subseries A, Box 39, Folder 1).

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crisis, the heart of which was Atlanta. As the state's politically powerful rural counties dug in their heels on massive resistance, Atlanta's business elite opined that adherence to massive resistance would portend economic disaster. For instance, in the wake of Hooper's decision, the president of Citizen's and Southern Bank "predicted that the state would lose one new or existing plant every day the schools were closed."<sup>68</sup> Similarly, Woodruff, Ivan Allen, the executives of Trust Company Bank, and the law firm of King & Spalding collectively "put subtle pressure" on Governor Ernest Vandiver to "end massive resistance and accept token desegregation."<sup>69</sup> United in their commitment to protect business interests, the expansion of a professionalized white middle class, and its status as the capital of the New South, Atlanta's moderate coalition turned increasingly to a liberal language of "lawfulness" and "law and order" – and by 1961, the state would follow, becoming the first Deep South state to voluntarily abandon massive resistance. As the embodiment of "New South" progressivism and futurity, Atlanta demonstrated a larger commitment to a new white class politics based both on continued racial segregation and containment and full-fledged entry into national politics and corporatized markets.

As the following chapter investigates in detail, Atlanta's emergent white class politics – antithetical in structure to the preferences of the state's rural political machines – provided the impetus for state politicians to eventually rearticulate northern liberal "law and order" narratives in an effort to maintain racial segregation in schools yet ensure the success of New South class interests. The beginning of this movement might have been rooted in the "silk stocking crowd" of Atlanta's business towers, but it would become a fully fledged state

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<sup>68</sup> Roche, *Restructured Resistance*, 66.

<sup>69</sup> Roche, *Restructured Resistance*, 68.

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commitment when, in response to Judge Hooper's court order, county unit-elected governor, Ernest Vandiver, created the Sibley Commission.

## **Chapter Five**

### **“Without Fear or Fervor”: Law-and-Order and School Desegregation in the Deep South, 1954-1965**

*“Atlanta cannot afford to be another New Orleans or Little Rock, and I do not believe that it will be necessary if all the forces of law and order – City, State and Federal – will unite in enforcing the law equally and without fear or favor and will publically state in advance that no violations of law, by white or colored, will be tolerated. The Negroes do not need to meet at Five Points or on the Post Office steps to hold prayer meetings or arrange parades or ‘sit-ins’ which serve no purpose other than to incite passions and more ill will. The whites such as KKK and ‘Will not Surrender’ groups do not need to picket or promote boycotts of reputable businesses; this only serves to further antagonize the radical Negro element and hurt innocent people – white and Negro – and hurt the entire City and State.”*

– Georgia resident H. Alan Dale letter to General Assembly Committee on Schools chairperson John Sibley, December 1960<sup>1</sup>

Amidst Georgia’s long-entrenched practices of racial brutality, county unit politics, and commitment to massive resistance, the opening lines of Atlanta resident H. Alan Dale’s letter to General Assembly Committee on Schools achieves an air of reason, progressiveness, and neutrality. Recalling the iconic images of white violence that greeted six-year-old Ruby Bridges, who endured all manner of threats as she entered Louisiana’s first integrated classroom in 1960, and the Little Rock Nine, whose arrival at previously all-white Central High School prompted equal acrimony at the hands of an assembled white mob, Dale advocates something potentially deeply disruptive of Georgia’s established Jim Crow order: “enforcing the law equally and without fear or favor.” Equal protection under the law for black and white citizens, Dale writes, should be the principle and practice around which “all the forces of law and order” unite, such that “no violations of law, by white or colored, will be tolerated.” The careful racial neutrality of this appeal, coming as it did at the height of

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<sup>1</sup> Letter, H. Alan Dale to John A. Sibley, December 13, 1960. Emory, MARBL, Sibley Papers, Box 125, Folder 3.

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Georgia's own school segregation crisis in 1959-1961 in which the state was forced to abandon either its massive resistance laws or its public education system recalls the principles of postwar racial liberalism that advocated the eradication of southern racial violence and called for race-neutral application of law, including policing practices.

Dale's *rearticulation* of these liberal principles in his letter to Sibley, however, betrays the racial project at work in this plea – a racial project that would come to characterize post-1961 state-level policy in Georgia.<sup>2</sup> To be policed, the Atlantan suggests, were the icons of southern sins, the Ku Klux Klan and “‘Will not Surrender’ groups,” but also black citizens who “meet at Five Points or on the Post Office steps to hold prayer meetings or arrange parades or ‘sit-ins.’”<sup>3</sup> Both, he suggested, “incite passions and more ill will” and “hurt innocent people.” On the heels of the prescription to “enforc[e] the law equally” regardless of race, we witness a strange unity around its disruption: the white Klansman and black rights protestor share in common the lawlessness that requires the fearless and impartial use of law and its vigilant enforcement.

In this chapter and the next, I shall argue that Georgia moderates' rearticulation of law-and-order performed a double exoneration for the New South: first, an exoneration from the very racial exclusion their new school policies enforced and second, an exoneration from the racialization of the expanding law-and-order state. Moderates achieved this double exoneration in part by way of the rearticulation of “law and order” itself. Seeking to preserve the classed benefits of racial stratification without the coarseness of white violence or the

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<sup>2</sup> On “racial project,” see Omi & Winant, *Racial Formation in the United States: From the 1960s to the 1990s* (New York: Routledge, 1996). See also Chapter One.

<sup>3</sup> The Five Points neighborhood, so named for the intersection of Marietta Street, Decatur Avenue, Edgewood Avenue, and two prongs of Peachtree Street, was until the 1960s the commercial hub of the Atlanta, when suburbanization and white flight prompted white middle-class consumers to flock to new shopping developments. On white flight in Atlanta, see Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton, NJ: Princeton University Press, 2007).

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explicitness of state-mandated segregation, moderates used the logic of liberal law-and-order to contain a dual political threat: white massive resistance violence and black civil rights militancy. Deeply committed to capital influx and economic corporatism to which “racial unrest” was a danger, Georgia moderates viewed white violence as a menace to the realization of the New South. It invited the national gaze into Georgia, heightened court scrutiny, and threatened to provoke federal intervention, all of which might endanger the state economy – and the maintenance of racial segregation and stratification past the fall of Jim Crow. Also a danger to the realization of the New South, black civil rights protest risked the public “peace,” caused “disorder” and provoked racial violence that was of equal danger to the economic prospects of the state and, implicitly, the class and racial interests of white middle-class populations.

The equation of black rights-claiming and protest with white violence through the rearticulation of law-and-order served, I suggest, to both suppress white supremacy and move it onto new ground.<sup>4</sup> In the same stroke that moderates aided in the collapse of Jim Crow segregation and white supremacist violence that were the broadly celebrated aims of the long civil rights movement, they also erected liberal-inflected rhetoric and policy that resulted in recasting the essential violence of New South policy as an escape from the sins of Jim Crow. In the New South, black civil rights reformers became the symmetrical (and symmetrically dangerous) inverse of violent white supremacists. Together, they made up the disparate elements of a common poison for which moderate law-and-order, New South corporatism, color-blind progressivism, and racial neutrality provided a cure. In the New South order, what

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<sup>4</sup> See Chapter One. This argument draws on but also refines Gary Peller’s argument that in the wake of the civil rights movement, black nationalism and white supremacy became equated such that “race consciousness on the part of either whites or blacks be marginalized as beyond the good sense of enlightened American culture.” Gary Peller, “Race Consciousness,” *Duke Law Journal* Vol. 1990, No. 4 (1990), 760.

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was legible as “white violence” narrowed to discrete, spectacular acts of lawlessness, and what was legibly “black disorder” expanded to a panoply of behaviors, patterns of conduct, language, and actions deemed threatening, disorderly, lawless, and criminal. In the innocent middle, New South moderates and the policies they authored were narrated as the last bastion of lawfulness and law-and-order in an otherwise economically precarious, lawless, and extremist South.

The purpose of this chapter is to demonstrate the political terrain of this racialization through the lens of Georgia, and just as importantly, to pinpoint when and how this took root. After briefly explaining the legal and political terrain of Georgia’s school crisis that makes up the backdrop for law-and-order’s popular emergence in the state, I present two initial phases of its entrenchment into state interests and policy (Chapter Six will take up a third and final phase). First, I argue that “law and order” rhetoric emerged in Georgia as an oft-used but deeply contested political narrative in the immediate aftermath of *Brown v. Board*, when it was taken up by racial conservatives and moderates in the state seeking to resist school integration on their own terms. In this period, massive resistance rhetoric was as dominant as its policies, and moderates were a vocal minority in the state, structurally disadvantaged by the county unit system, yet nonetheless dedicated to resisting *Brown* without damaging the expanding corporate economy and the white class interests wrapped up in it. Second, I argue that it was only when Georgia faced its own school policy crisis in *Calhoun v. Latimer* (1959), a case brought by the NAACP on behalf of black Atlanta parents that resulted in a court order requiring Atlanta to desegregate schools in direct conflict with state massive resistance law, that the state eventually turned to moderate school policy and to the moderate “law and order” logic that made this transition palatable and possible for whites. This chapter

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excavates the first part of the process of racial liberalism's arrival and transformation in the Deep South – state-level debates over the direction of school policy after *Calhoun* – and Chapter 6 will examine its finalization in *Calhoun*'s aftermath.

In this periodization, I highlight a number of figures, committees, institutions, and organizations. First, the courts were an important institution that structured the emergence of rearticulated law-and-order in Georgia as a discourse of white resistance to school integration. Second, the General Assembly Committee on Schools, Georgia's version of North Carolina's Pearsall Committee, and especially its chairperson, John Sibley, were instrumental in Georgia's transition from Deep South bastion of massive resistance to regional leader of "law and order" moderation. Third, I highlight the role Governor Ernest Vandiver, massive resistance leader turned moderate politician, played in the state's abandonment of massive resistance and the settling of state interests around moderate rather than conservative "law and order" logic. The figure of Vandiver is particularly illustrative in this regard, not only because as governor he called for the General Assembly to dismantle massive resistance law, but because the racial logic of his law-and-order rhetoric performed an incredibly swift flip at precisely the moment when he helped steer the state policy onto moderate ground. Critical to the emergence of moderate "law and order" rhetoric were the members of the moderate coalition in the state – newspapers such as the *Atlanta Constitution*, titans of Atlanta business such as Robert Woodruff and Ivan Allen, moderate politicians such as Atlanta mayor William B. Hartsfield and Senate Floor Leader Frank Twitty, and white grassroots organizations such as Help Our Public Education (HOPE) dedicated to keeping the state's public schools open even if it involved repealing massive resistance law. Together, these entities – some elite actors, some grassroots organizations, some members of the press – created the discourses of

law and law-and-order that would become the foundation for racial politics as the state exited the post-civil rights years.

### **The Nature of Georgia's School Crisis**

Like his counterpart Luther Hodges in North Carolina, “moderate governor” was a moniker that Governor Ernest Vandiver wore with relative ease, but it was also one he arrived to late and under great pressure. Born in 1918 in the small cotton gin town of Lavonia in Franklin County, Georgia, Vandiver was raised in an agricultural county with a low black population located in the northeast corner of the state.<sup>5</sup> Vandiver’s family had roots in both farming and local business; his father was a farmer and also ran a cottonseed company that sold seeds through advertisements in local papers.<sup>6</sup> Ernest Vandiver began his political career at a young age. After graduating from University of Georgia, where he earned bachelor’s and law degrees, he was elected mayor of Lavonia, Georgia at the young age of 27. Then, when governor-elect Eugene Talmadge died before assuming office for what would have been the fourth time in 1946, the death created a gubernatorial vacuum that three politicians sought to fill simultaneously.<sup>7</sup> Loyal to the so-called “Wild Man from Sugar Creek,” Vandiver supported the ultimately successful effort of Herman Talmadge to fill his father’s position as

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<sup>5</sup> In 1930, Franklin County, Georgia was 83% white, and thus had one of the lower percentages of black citizens in the state, especially for rural counties. 79% of residents of Franklin County did agricultural work. Henderson, *Ernest Vandiver, Governor of Georgia* (Athens, GA: University of Georgia Press, 2000), 5.

<sup>6</sup> Harold Paulk Henderson, *Ernest Vandiver, Governor of Georgia* (Athens, GA: University of Georgia Press, 2000), 2-3.

<sup>7</sup> Henderson, *Ernest Vandiver*, 29. The Georgia Constitution failed to specify what happened in the event of the death of a governor-elect, and in the absence of specification, three people claimed the right to fill Eugene Talmadge’s place: outgoing governor Ellis Arnall; lieutenant governor-elect Melvin .E. Thompson; and Talmadge’s son Herman Talmadge, who pledged to fill his father’s shoes. Talmadge loyalists in the General Assembly “elected” Herman Talmadge governor in January 1947, a move disputed by the other two claimants. Two months later, the Georgia Supreme Court settled the matter otherwise, by temporarily naming Thompson governor. Talmadge vacated office and immediately began to campaign for the special election in 1948, which he won handily. On the “three governors controversy,” see Arnold Fleishmann and Carol Pierannunzi, *Politics in Georgia* (Athens, GA: University of Georgia Press, 2007); James F. Cook, *The Governors of Georgia: 1754-2004*, Third Edition (Macon, GA: Mercer University Press, 2005).

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governor. For his allegiance – Vandiver had actively supported the rurally popular Talmadges in factional county unit political battles and campaigned for both Talmadges extensively – the younger Talmadge appointed Vandiver commander of the state’s national guard and military forces, the youngest such appointment in the nation.<sup>8</sup> It was this appointment that launched Vandiver into the race for lieutenant governor in 1954, which he won handily, becoming lieutenant governor under Marvin Griffin, “the last of the rural, folksy governors” (of the vintage honed by Eugene Talmadge) and the last of the iron-fisted county unit politicians.<sup>9</sup>

Vandiver’s campaign for governor in 1958 was even more successful than his bid for lieutenant governor. He won an astonishing 400 county unit votes, 81% of the popular vote, and carried 156 of Georgia’s 192 counties – including Fulton and Cobb counties, which house Atlanta. Vandiver’s electoral success was no doubt partly due to the fact that for the first time in years, the state’s anti-Talmadge faction had no popular candidate, and partly because his opposition in the primary, Bill Bodenhamer, campaigned on an extremist platform that led Vandiver to campaign as a leader on massive resistance school policy. Responding to Bodenhamer’s portrayal of him as weak on segregation, secretly endorsed by the NAACP, and the candidate of liberal “Atlanta newspapers,” Vandiver embraced a forthrightly massive resistance, anti-corruption campaign.<sup>10</sup> Vandiver’s disdain for *Brown* was well known, but his campaign advisors were split on the question of whether he should campaign on massive resistance (advocated by advisors Peter Zach Greer, Robert Russell, and rural politico Roy Harris) or on moderation (advocated by advisor Griffin Bell, who would in 1959 recommend

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<sup>8</sup> Henderson, *Ernest Vandiver*, 29. Vandiver campaigned for Eugene Talmadge in 1946 and was Herman Talmadge’s campaign manager in 1948.

<sup>9</sup> Cook, *The Governors of Georgia*, 273.

<sup>10</sup> Bodenhamer used several tactics to call Vandiver’s commitment to segregation into question, including running a photo of Vandiver sandwiched between photos of two African American Atlanta politicians, accusing Vandiver of allowing his rallies to involve “race-mixing,” and alleging that Vandiver brought the racially integrated community of Koinonia Farms to Georgia. For more anecdotes, see Henderson, *Ernest Vandiver*, 78-81.

the creation of Sibley Commission).<sup>11</sup> Vandiver settled with the former, who helped him craft his new stump speech: “We will not bow our heads in submission to naked force. We have no thought of surrender. We will not knuckle under. We will not capitulate.” Speaking directly to white Georgians, he continued: “I make this solemn pledge. When I am your governor, neither my three children, nor any child of yours, will ever attend a racially mixed school in the state of Georgia. No, not one.”<sup>12</sup>

*No, not one* became Vandiver’s massive resistance motto for the rest of the campaign, and his oft-repeated pledge to white Georgians for the first two years of his governorship. But Vandiver also won the endorsement of moderates in Atlanta, including the editorial staff of the *Atlanta Constitution*, for his pro-business, anti-corruption, and anti-Griffin stance.<sup>13</sup> As governor, Vandiver proved popular both with Atlanta and with rural Georgia, and he used his statewide popularity to “pursue economy with a vengeance.”<sup>14</sup> In 1959 alone, 177 new plants opened and 115 plants expanded their facilities for a combined value of \$199.9 million.<sup>15</sup> In addition, Vandiver streamlined the state’s fiscal affairs and ended corruption in state offices, including in the departments of purchasing and revenue.<sup>16</sup> But his popularity in the rural counties was due to his resolute commitment – until January 16, 1961, when he advocated moderate policy in his “State of the State” address – to massive resistance.

The trouble for Georgia’s massive resistance laws, however, began earlier than this date. Not two weeks after Vandiver won the Democratic primary in September 1958, the Supreme

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<sup>11</sup> Henderson documents several instances of Vandiver’s commitment to resistance to *Brown* prior to his 1958 campaign – hardly a surprising stance for a Talmadge loyalist in a state so popularly committed to massive resistance. For specific examples, see Henderson, *Ernest Vandiver*, 82-83.

<sup>12</sup> Vandiver campaign speech, press release, August 9, 1958, UGA, Vandiver Papers, Box 13, Folder 1.

<sup>13</sup> Numan V. Bartley described Griffin’s administration as “fully deserving of its reputation,” which was one of “the most amoral, corrupt, mismanaged, and inefficient administrations in Georgia history.” Bartley, *The Creation of Modern Georgia*, 223.

<sup>14</sup> Cook, *The Governors of Georgia*, 280. Henderson, *Ernest Vandiver*, 76, 87.

<sup>15</sup> Roche, *Restructured Resistance*, 80.

<sup>16</sup> Cook, *The Governors of Georgia*, 280.

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Court unanimously held in *Cooper v. Aaron* that *Brown* could not be “nullified open and directly” or “indirectly through evasive schemes,” thus bringing Georgia’s nullification law into direct conflict with the federal court, and Georgia closer to internal conflict on the question of the legality of its public school system.<sup>17</sup> Vandiver’s first year in office would be marked by further court decisions that heightened Georgia’s conflict with constitutional law. In Vandiver’s first month in office, in January 1959, the Supreme Court ruled that the state of Virginia “cannot act through one of its officers to close one of more public schools in the state solely by reason of the assignment to, or enrollment or presence in that public school of children of different races or colors and, at the same time, keep other public schools throughout the state on a segregated basis.”<sup>18</sup> The Supreme Court’s decision in *James v. Almond*, the Vandiver administration well understood, meant that Georgia’s massive resistance centerpiece was likely to be found as unconstitutional in Georgia as it had been in Norfolk County, Virginia. Georgia’s hallmark massive resistance legislation, nearly identical to Virginia’s, required the governor to cut off state funds to any school that desegregated, effectively closing any such school.<sup>19</sup> A major bulwark against school integration, Georgia’s school closure law was supplemented by eight other massive resistance laws, including the nullification resolution, a resolution declaring the 14<sup>th</sup> and 15<sup>th</sup> Amendments “null, void, and of no effect,” a law denying compensation to teachers instructing mixed classrooms, a law leveling felony charges to any officer of the state (governor included) expending state funds for integrated schools, and a law providing for the closure of schools to prevent integration-

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<sup>17</sup> *Cooper v. Aaron* 358 U.S.1 (1958)

<sup>18</sup> *James v. Almond* 170 F. Supp. 331 (1959).

<sup>19</sup> Joint Resolution of the General Assembly No. 6 (House Res. 31-84a), State School Systems – Proposed Amendment to Federal Constitution, January 29, 1955. Ga. Laws 1955, pp. 9-10.

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related “violence.”<sup>20</sup> This last, of course, was built on the massive resistance contention that integration led to black violence and crime.

Then, in June 1959 – and far closer to home – Judge Frank Hooper ordered the desegregation of Atlanta schools in *Calhoun v. Latimer*, the integration case brought by the NAACP on behalf of a group of black parents in Atlanta. Specifically, Hooper ordered the Atlanta school district present a complete and adoptable plan to “provide for a prompt and reasonable start toward desegregation of the public schools of the City of Atlanta and a systematic and effective method for achieving such desegregation with all deliberate speed.”<sup>21</sup> More than any other case, it was *Calhoun* that finally brought the decision of a federal court order into direct and immanent conflict with standing Georgia law. It was also a conflict that Vandiver, unlike Griffin or either Talmadge, could not escape. In a drama that had already played out in North Carolina and other southern states, Georgia in 1959 began to face its conflict with federal law. In the ensuing debate, which spanned nearly two years and prompted Vandiver to arrange for the creation of the Sibley Committee to gather public opinion and guide the state through the legal conflict, “law and order” – already in usage in Georgia in the years between *Brown* and *Calhoun* – became a central and highly contested narrative, deployed both by massive resisters determined to maintain current state law and moderates who favored repealing massive resistance laws in favor of local option and pupil placement plans. The following sections trace the emergence of law-and-order rhetoric in the

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<sup>20</sup> Interposition Resolution, Georgia General Assembly No. 130 (House Res. 185), March 9, 1956; Memorial to Congress: Fourteenth and Fifteenth Amendments to U.S. Constitution Be Declared Void, Joint Resolution of the General Assembly No. 45 (Senate Resolution No. 39), March 8, 1957. Ga. Laws 1957, pp. 348-351. Memorial to Congress Proposing an Amendment to the U.S. Constitution – State Rights, Joint Resolution No. 220 (House Res. 279-600), March 24, 1960. Ga. Laws 1960, p. 1177-1179. For a full list General Assembly memorandum, “Georgia Laws Required to Be Repealed to Validate Pupil Placement Legislation,” 1961. Emory, MARBL, Sibley Papers, Box 126, Folder 7

<sup>21</sup> Frank A. Hooper, “Text of Federal Court Decision Atlanta School Segregation Case,” July 9, 1959. UGA, Vandiver Paper I.A., Box 39, Folder 1.

milieu of the school debate, its settling around the legal outcome of *Calhoun*, and its subsequent entrenchment into the logic of state policy.

### **Before the Crisis: Contested “Law” and “Law and Order” in Georgia, 1955-1959**

In Georgia, the period between *Brown v. Board of Education* and the end of massive resistance to its implementation was a period in which the rhetoric of “law and order” became increasingly popular in vast sections of Georgia. From the dirt roads of the Black Belt counties populated by the rural poor, to the halls of county seat courthouses governed by pseudo-populist demagogues, to the pages of the *Atlanta Constitution* and the boardrooms of Atlanta’s “silk stocking crowd,” the language of “law and order” proved potent.<sup>22</sup> Moreover, the usages overwhelmingly cohered around the issue of school segregation which became of singular importance for the broader relationship between state law and black rights. But 1955-1959 was also a period in which the logic – that is, the racialized narrative architecture – of “law and order” was deeply contested. Indeed, the massive resistance movement and New South moderates alike deployed “law and order” in their respective efforts to maintain school segregation and forestall black civil rights. However, who could speak for it, who was guilty of its disruption, what sorts of acts required its deployment, and whose bodies it was meant to protect and from what dangerous forces were all hotly debated.

#### *Integration Generates Crime: Massive Resistance’s Law-and-Order Logic*

From an early juncture, Georgia’s massive resistance movement forefronted “law and order” rhetoric in their bid to maintain segregation in state law and in the state constitution, and many were fully prepared to lose public education in the state for this end. At root, Georgia

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<sup>22</sup> See Chapter 4. “Silk stocking crowd” was political reporter Celestine Sibley’s (no relation to School Commission chairman John Sibley) phrase for Atlanta’s power elite.

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massive resisters argued that integrating schools, even in the token amounts suggested by moderates as a way to maintain segregation more broadly and legally, would portend an eruption in black crime, the loss of law and order, and an end to currently harmonious “race relations” in Georgia (see Chapter 3). Rural politician Roy Harris provides a number of apt examples of how this narrative operated in the state. Once a state legislator (1921-1946) and Speaker of the House in the Georgia General Assembly, Roy Harris built his later political career on being the “kingmaker” of Georgia county unit politics.<sup>23</sup> In this capacity, he played a prominent role in the gubernatorial victories of Ellis Arnall, both Talmadges, and Ernest Vandiver, became president of the Georgia States’ Rights Council, and founding editor of his segregationist mouthpiece, a weekly newspaper called the *Augusta Courier* that was similar in politics but inferior in form to Mississippi-based weekly *The Citizens’ Council*. So complete was Harris’ pull over county unit politics at midcentury that *Atlanta Constitution* cartoonist Clifford “Baldy” Baldowski could depict him as singularly conducting the tune to which the politics of the entire state played.

Conservative “law and order” was one such tune. In a typical missive in the *Augusta Courier*, Harris argued that “any type of integration will destroy the public school system” in the state. He elaborated:

The experience of large cities in the North, East, and the West, where they have large Negro populations, has shown us that race mixing destroys the public schools. Wherever it has been tried, racial tension and racial hatred develop. Racial conflicts have followed. Roving bands have beaten, mugged, raped and killed school children on the schoolgrounds and in the schoolhouses... It would be a crime to sacrifice young white children in a race-mixed school, whether put there by local option, pupil placement or

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<sup>23</sup> Roy Harris served multiple terms as a state legislator in Georgia. From 1921 to 1928, he represented Jefferson County. In 1931, shortly after he moved Augusta (Richmond County), he was elected to the state Senate, where he served until an electoral defeat in 1946.

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any other means or device, and this evil should be resisted by the State of Georgia to the limits of its ability and capacity.<sup>24</sup>

The *Augusta Courier* maintained this vocabulary of black violence and innocent white schoolchildren in several issues as the school debate heated up. Harris, as the unofficial captain of Georgia's massive resistance movement, was preoccupied with levels of black crime in northern cities, and blamed integration for its existence. Following a story about rape in New York, the *Augusta Courier* blamed sexual crime entirely on "race mixing agitation going on in New York," and argued that "unless the hypocrites in the big cities bring this crusade of theirs to a conclusion there are going to be more such rapes, murders, and killings at the hands of many more black brutes... It is only in a segregated society that little blonde girls can be protected against black brutes such as this."<sup>25</sup> Harris echoed this sentiment in another column when he concluded that crime "didn't exist in New York City until they started this drive for racial interbreeding ten years ago... The Negro has been disappointed in that he has not been accepted as a white man as he was led to believe he would be, and, consequently, many of the them have gone beserk."<sup>26</sup> The discursive structure of "law and order" in these examples is clear, and rehearses a long-entrenched fear of black male criminality and sexuality prominent since at least *Birth of a Nation*: black men are predisposed to (sexual) criminality, and racial integration breeds crime, especially sexual crime, felt mostly by whites. Hence, enforcing lawful order required opposing desegregation.

Harris was not the only outspoken proponent for massive resistance law as a means to ensure "law and order" – and therefore white safety – in Georgia. In a recurring column in

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<sup>24</sup> Roy Harris, "Strictly Personal," *Augusta Courier*, May 9, 1960 (MARBL, John A. Sibley Papers, Box 125, Folder 2).

<sup>25</sup> *Augusta Courier*, "Rapist Insisted That All of His Victims Must Be Young and Blonde," June 28, 1965 (MARBL, Newsweek Records, Box 28, Folder 6).

<sup>26</sup> Roy Harris, "Strictly Personal," *Augusta Courier* June 28, 1965 (MARBL, Newsweek Records, Box 28, Folder 6).

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Atlanta-based pamphlet newspaper *Separate Schools*, the paper simply posted fragments of articles from northern newspapers describing black crime in their cities. Running under the headline, “This is Integration,” the article snippets run: “Teacher Raped, Stabbed to Death, Stuffed in Chicago School Closet;” “Boy Admits to Killing Chicago Teacher;” and “Girl Carries Loaded Gun to School for Defense.”<sup>27</sup> The juxtaposition of criminal incidents and racial integration lent a racial common sense to school debate that integration – any integration – would jeopardize white lives. In another article, *Separate Schools* warned: “If [Atlanta School Superintendent John] Letson and the black-bloc-vote-controlled city administration think Atlanta parents are going to be ‘dignified’ and exude good will while they attempt to put a black heel on every white throat, they will learn that they are taking too much for granted.”<sup>28</sup> Here, too, the specter of black violence (“a black heel”) on innocent whites (“every white throat”) offered a powerful rhetorical tool for proponents of massive resistance. Preoccupied with northern violence, black sexual crime, and the role racial integration ostensibly played in each these, Georgia’s massive resistance movement, following Black Belt politicians such as Roy Harris, mobilized long-worn imagery of black violence in their attempt to keep school closure laws intact.

Georgia’s massive resistance politicians likewise used the twin libel of black violence and northern crime in an effort to maintain current segregation laws. Governor Ernest Vandiver, who would turn moderate a year after he uttered these words, contended in a January 1960 address before the General Assembly (also broadcast on state-wide television) that integration led to racial conflict and violence:

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<sup>27</sup> *Separate Schools* Vol. II, no. 5 (May 1961) (MARBL, Hartsfield Papers, Box 29, Folder 8).

<sup>28</sup> Boyd Taylor, “Letson’s Brainwash,” *Separate Schools* Vol. II, no. 4 (April 1961) (MARBL, Hartsfield Papers, Box 29, Folder 8).

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“ I call upon the responsible people of this State through unified public opinion—both white and black—to make it certain that Georgia will not be the victim of conditions like those which exist in Washington, D.C.; Detroit, Michigan; New York; Chicago; that even now are plagued by racial tension, conflict, hatred, bitterness and violence.”<sup>29</sup> With this Vandiver claimed to stand “foursquare for separate schools” and urged the Assembly to maintain its current school closure laws. A month later, in a speech before the States Rights Council of Georgia over which Roy Harris and Herman Talmadge presided, Vandiver called the situation in northern integrated schools “an environment of switchblade knives, marijuana, stabbings, rapes, violence and blackboard jungles,” and warned that Georgia would follow this path should the state integrate its schools.<sup>30</sup> For any Georgian who was familiar with the imagery in the 1955 Richard Brooks film *Blackboard Jungle*, based on Evan Hunter’s 1954 novel of the same name, in which a white English teacher attempts to teach despite the unruly, violent, sexually criminal, and *integrated* high school classroom over which he presides, this language of “blackboard jungle” was particularly powerful (Fig. 5.1).

Vandiver went on about the dangers of token integration in terms that recalled the Civil War:

Let us not be deceived, my friends. The aims of the NAACP are clear. The aims of the Republican administration in Washington are clear. If they have their way, we are in for a second Reconstruction ... Token integrationists have not checked with the NAACP lately. In New York City where educational officials are subject completely to NAACP political domination, hundreds of children are being hauled across the city from a Brooklyn slum area to all-white, middle class schools.<sup>31</sup>

Vandiver was equally clear that moderate policies of token desegregation such that North Carolina had implemented in 1956 would be akin to surrender: “We must not let them [the

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<sup>29</sup> Ernest Vandiver, Address before the Georgia General Assembly, January 11, 1960 (UGA, Ernest Vandiver Papers, Series I.A, Box 22, Folder 3).

<sup>30</sup> Ernest Vandiver, “Let Us Not Be Deceived, the Aims of the NAACP Are Clear,” speech before States’ Rights Council of Georgia, February 8, 1960 (UGA, Vandiver Papers, Series I.A, Box 9, Folder 4).

<sup>31</sup> Vandiver, “Let Us Not Be Deceived.”

moderate coalition] run up the flag of surrender over our Capital city.” Against this powerful backdrop of the violence of the integrated classroom, the specter of a second Reconstruction, and the surrender of moderates to the NAACP, Vandiver went on: “segregation – voluntary segregation – with equal facilities and equal opportunity is the only way the two races can live together in the South in peace and harmony.”<sup>32</sup> On massive resistance’s logic, segregation must remain inviolably intact to maintain law-and-order, to ensure “harmony” between blacks and whites, and to prevent racial conflict from ballooning into mass violence, disorder, and crime.



**Fig. 5.1:** *The movie poster for Glenn Ford’s Blackboard Jungle (1955) features scenes of juvenile delinquency, stabbings, rape, and violence erupting in an integrated school in New York City – tellingly superimposed over (therefore disrupting) white protective love. Georgia governor Ernest Vandiver used the phrase “blackboard jungle” to describe the dangers of any amount of racial integration in Georgia schools in 1960. In this “law and order” logic, racial integration generates crime, lawlessness, and violence.*

<sup>32</sup> Vandiver, “Let Us Not Be Deceived.”

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The narrative structure to massive resistance's "law and order" logic is clear. In the massive resistance-moderate resistance debate over who could speak for "law and order," who was guilty of its disruption, what sorts of acts required its deployment, and whose bodies it was meant to protect and from what dangerous forces, Roy Harris, Ernest Vandiver, and massive resistance leaders had answers: whites, but particularly those who stood for massive resistance law, spoke for "law and order"; racial integration would, as a matter of inevitability, require its deployment; and white bodies who had suffered the violation of black criminality thanks to integration required the protection afforded by the natural "law and order" of Jim Crow.

### *"Law or Violence": Georgia Moderates' Law-and-Order Logic*

Like their massive resistance counterparts, Georgia's moderate coalition used the rhetoric of "law and order" to advocate resistance to the implementation of *Brown v. Board of Education* in the state. The narrative architecture of their logic, however, differed considerably. While moderates utilized several arguments to implement moderate school segregation policy, the discourse that massive resistance would produce unabashed violence and mob rule in the state, thus threatening the emerging New South economic order partially reliant on the influx of capital from northern corporations, became a central political rhetoric. Instead of drawing on the image of the black sexual menace familiar from *Birth of a Nation* or the specter of violence in integrated northern classrooms, moderates instead drew on northern-liberal formulations of *race-neutral lawfulness*, *anti-extremism*, and *law-and-order* which they then *rearticulated* for their own political goals. The massive resistance movement's figure of the black-criminal deviant was replaced, in moderate discourse, by two figures: first, the retrogressive and lawless white extremist, and second, the disorderly black civil rights

agitator. Mirroring this, for Georgia moderates law-and-order's savior was not the massive resistance demagogue and his followers, but the racially neutral and lawful New South moderate. That massive resistance and the black civil rights movement would alike produce violence and mob rule in the state – and thus invite national embarrassment, unwanted federal intervention, and worse still, disaster for the New South economy – became a central and winning narrative to which they increasingly turned. However, in this early period (1955-1959), it was the possibility of white violence rather than the presumption of black civil rights “lawlessness” that structured the arrival of *rearticulated* racial liberalism (in the form of neutral “law and order”) in the political rhetoric of Georgia moderates.

The moderates' law-and-order language arguably had roots in the efforts of Jim Crow reformers who worried that lynching and mob justice constituted a threat to the state, but in the post-*Brown* years it began to take on a new and heightened calculus that merged with liberal language of equal protection and racial neutrality.<sup>33</sup> Mayor William B. Hartsfield's coining of Atlanta as “The City too Busy to Hate” in 1955 is one early example of the moderate's perception that white violence, extremism, and hatred portended economic disaster for the city. Equally important in the years before *Calhoun* were school crises that featured well-publicized images of white mob violence and extremist rhetoric. Indeed, Georgia politics – and especially the growth of “law and order” moderation – were decisively shaped by the desegregation crises of Little Rock Central High School in September 1957. When the desegregation met with violent massive resistance on the part of Arkansas Governor Orval Faubus and the larger white community, prompting President Eisenhower to call in the national guard to protect the Nine and restore order outside the school, Georgia moderates

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<sup>33</sup> Kimberly Johnson, *Reforming Jim Crow: Southern Politics and State in the Age Before Brown* (New York: Oxford University Press, 2010).

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criticized these massive resistance tactics as a wrong-headed means by which to retain racial separation in schools. After all, as nearly every moderate southern governor pointed out during the crisis (most of whom served as liaisons between President Eisenhower and Governor Faubus) it was Faubus' defiant stand in the schoolhouse door, combined with white mob violence, that invited not only invited the critical gaze of the nation, but also legitimized the need for federal intervention in the desegregation of Little Rock.<sup>34</sup> This, many moderates feared, was disastrous for the New South's image on the domestic and international scenes, and might ultimately cause southern states to cede control over their public school systems to the federal government.

However, rather than accepting the delineation between segregation and integration, southern moderates sought to reframe the South's dilemma as a choice between law and violence. On the side of "law," moderates insisted on legal but limited desegregation and the maintenance of public order, and on the side of "violence," they saw massive resisters as those white southerners who insisted upon segregation at any cost and by any means, no matter how violent, and no matter what image this capitulated to the rest of the nation. As such, beginning in the mid-1950s, moderates sought to recast the South's response to *Brown* as a choice between law-and-order acceptance of limited desegregation and devolution into mob violence at every opportunity. A typical example is a political cartoon the *Atlanta Constitution* ran at the height of the Little Rock desegregation crisis. In it, the South, represented as an Old Dixie southerner, tears his hair out at the choice between two offerings: "law," figured as a book, and "violence," figured as a wooden club (Fig. 5.2).<sup>35</sup>

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<sup>34</sup> John Popham, "Parley Will Test Moderate View" *New York Times*, September 20, 1957, A24.

<sup>35</sup> Clifford "Baldy Baldowski, "Hair-Raising Times," *Atlanta Constitution*, September 25, 1957, p. 4.



**Fig. 5.2:** Baldy ridicules massive resistance in Little Rock. At the height of that crisis, Baldy portrays the South as an indecisive Old South figure who tears out his hair over the decision between “law” and “violence.” Clifford “Baldy” Baldowski, “Hair-Raising Times,” *Atlanta Constitution*, September 25, 1957.

The cartoon ran in late September 1957, after three weeks of standoff between Governor Faubus and President Eisenhower, and the day after Eisenhower sent in federal troops to protect the nine black students as they entered the school. Appearing alongside images of armed federal troops protecting the school from what the *Atlanta Constitution* described as “jeering” white bystanders and reports of the Little Rock Nine being driven out of school due to the “bloody” beatings of nearby African Americans and northern journalists by the

“rioting” white mob that had gathered outside, the cartoon draws a sharp delineation.<sup>36</sup> It reads the Little Rock crisis not as a choice between integration and segregation (as the massive resistance movement framed it), but as a choice between law and violence. Critically, this foreshadows the Georgia’s own framing of the state’s choice in 1960—between lawful and limited desegregation in public schools and their closure, or else risk the violence and lawlessness of massive resistance.

Today, we might consider the choice between law and violence at Little Rock an easy decision that only the most regretful and old-fashioned segregationists could get wrong, but it is crucial to remember that the moderates’ insistence that the question of school desegregation turn on the choice between law and violence was in fact an important new formulation, and the crux of the moderates’ critique of massive resistance as a strategy to maintain continued racial stratification after *Brown*. By all accounts, white Georgians, whether moderates or conservative massive resisters, nearly universally preferred continued racial separation in the wake of *Brown*. As Ralph McGill, moderate and influential editor of the *Atlanta Constitution* nearly summed up the moderate stance in 1957:

Moderate governors will make the transition ... By gently gerrymandering a few school districts they presently can confine the immediate problem of integration to a mere handful of schools. Their states will escape violence. Their schools systems will remain strong. Industry will not be frightened away.<sup>37</sup>

To accomplish all of this, moderates had to “hold in check the Old South segregationist sections” while concurrently maneuvering to confine desegregation to, as McGill points out, a mere handful of schools. But while preference for segregation dominated the southern white population, Atlanta moderates criticized hard-line massive resisters as particularly poor

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<sup>36</sup> Keith Fuller, ‘Eight Student Driven Out By Fighting: Parents of Negroes Ask Protection,’ *Atlanta Constitution*, September 24, 1957, A1.

<sup>37</sup> Ralph McGill, “What is a Moderate?” *Atlanta Constitution*, October 2, 1957, A1.

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enforcers of segregation. While preference for segregation was largely uniform, but moderates feared that as long as the question the South faced remained one of integration or segregation, not only would the South inevitably lose the battle for continued segregation, but in the process the image of the region would suffer “an irredeemable blow.”<sup>38</sup> As one editorial put it, white mob violence was the real threat to keeping racial separation in schools, saying, “the mob destroys what it would protect.”<sup>39</sup>

The warning against white mobs became a particular feature of moderates’ rhetoric in desegregation crises. But as much as moderates decried the white mob for threatening southern stability, they also proved a useful and often employed touchstone on which improper and atavistic racism could be displaced. By recasting desegregation crises like Little Rock (among others) as a choice between law and violence, white moderates across the state were able to project an image of progressiveness and rationality against the retrogression and ignorance of violent whites. For example, in a column written at the height of the Little Rock desegregation crisis, McGill stressed that the white “mob” behavior should not come to take over the “face of the South,” and notes that a great many moderate southern whites disapproved of the scenes of mob violence in Little Rock and Nashville, Tennessee also that year: “In both Little Rock and Nashville, the citizens, white and colored, went about their business as usual. The stores had white and Negro customers. Traffic moved in streets.”<sup>40</sup> Even as McGill stresses the peaceable, law-abiding nature of white southerners, he is clear that these whites support racial segregation without question. He continues: “One could not assume these peaceable white citizens approved of the Supreme Court decision. But they are

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<sup>38</sup> Ralph McGill, “The Face of the South,” *Atlanta Constitution*, September 12, 1957, A1.

<sup>39</sup> *Moultrie Observer*, “The South Won’t Tolerate Violent Acts of Mobsters,” reprinted in *Atlanta Constitution*, October 5, 1957, A4.

<sup>40</sup> Ralph McGill, “The Face of the South,” *Atlanta Constitution*, September 12, 1957, A1.

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American citizens and are law-abiding.” Rather than viewing these non-rioting whites as proponents of white supremacy or violence, McGill recasts them – and the moderate segregation policies they advocated –as peaceable and law-abiding.

This sentiment was echoed elsewhere in Georgia. As one editorialist in the *Moultrie Observer* bluntly put it, also concerning the Little Rock crisis, “the South is just as strongly opposed to destruction and mobism as it is to the ill-advised efforts to force integration upon the territory... The roads are but two: Fair and foul. Real Southerners will take the former route and they will help hunt down those who take the detour.”<sup>41</sup> The *Observer*’s articulation of “real” southerners opposing “mobism” is crucial. The moderate condemnation of white mobism turned on its relation to violence rather than its members’ preference for segregation. Although desegregation was not desirable, these moderates chose neither the massive resisters’ insistence that *Brown* was unconstitutional nor the violence of white mobs. To be sure, the argument here is not that white mobs and massive resisters were less violent than they appeared to be or that charges of violence were undeserved; this much is assuredly false. Without denying the fact of white mob violence, it is still the case that racial violence in other forms, particularly those perpetrated by political moderates and encoded into law, was displaced onto massive resisters and white mobs through the *rearticulated* liberal language of race-neutral “law and order,” a development that calls into question just how bright the line between law and violence is.

By December 1959, when Judge Hooper announced his court order in *Calhoun v. Latimer* requiring Atlanta to come up with and implement a plan to desegregate its schools, “law and order” was a significant moderate trope. Proponents of massive resistance far

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<sup>41</sup> *Moultrie Observer*, “The South Won’t Tolerate Violent Acts of Mobsters,” reprinted in *Atlanta Constitution*, October 5, 1957, A4.

outnumbered Atlanta-based moderate faction statewide, but as their numbers grew, they leveraged *rearticulated* law-and-order with increasing vigor. A significant bump in moderation in Georgia came with the formation of the General Assembly Committee on Schools, also known as the Sibley Commission, in January 1960. In the following sections, we witness law-and-order's transition from being a popular but deeply contested political logic leveraged by different factions of white Georgians to a discourse with a settled meaning that, after the state abandoned massive resistance for moderate resistance, began to embed in state interests and even in state policy.

### **The Sibley Commission and the Political Utility of Moderate Law-and-Order**

In this section, I argue that it was only when Georgia faced its own school policy crisis in *Calhoun v. Latimer* (1959), that the state, in turning to moderate school policy, embraced also the moderate logic of *rearticulated* law-and-order. The submergence of moderate law-and-order logic into state interests occurred, I argue, in two steps: first, in the 1960 Sibley Commission hearings and reports, and second, in the 1961 desegregation of the University of Georgia (the subject of Chapter 6). The Sibley Commission, created to find a way out of the legal predicament of *Calhoun v. Latimer*, not only made possible Georgia's eventual repeal, the following year, of massive resistance law and the passage of moderate policies like Local Option and Pupil Placement, but also paved the way for moderate discourses on law and law-and-order to align with the interests of the state in ways not previously possible. As such, the Sibley Commission was structurally important for the eventual entrenchment of moderate law-and-order logic into state interests.

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In direct response to NAACP case *Calhoun v. Latimer* (1959), Governor Ernest Vandiver arranged, quietly, for the creation of the Sibley Commission.<sup>42</sup> With the conflict between state massive resistance law and *Brown* finally clear and pressing, and with Atlanta school superintendents beginning to draw up plans for Atlanta schools to desegregate in token amounts, Vandiver well understood that something would have to give. While the governor would continue to publically press a massive resistance agenda through 1960, his arrangement for the creation of the Sibley Commission as well as his choice for Atlanta business moderate and corporate lawyer John A. Sibley to chair the committee, suggests that Vandiver anticipated an eventual conversion from massive resistance politics. The creation and machinations of the Sibley Commission are on their own worthy of investigation. Unlike school commissions in other states – and virtually every southern state created a school commission in the wake of *Brown* that sought to minimize the impact of the Court’s decision – Georgia’s commission held hearings in every congressional district of the state. At the hearings, social groups, chambers of commerce, rotary clubs, states’ rights organizations, civil rights organizations, and private citizens (black and white alike) appeared before Sibley and committee members to declare their position on the school crisis faced by the state. Citizens attended hearings each congressional district, preferences were aired and tallied, and reports made based on the preferences dominant in each district. As a statewide event that sought to gather white and black public opinion on a situation that many whites viewed as a statewide

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<sup>42</sup> Vandiver played an invisible yet central role in the creation of the Sibley Commission. Whereas Governor Luther Hodges of North Carolina simply called for the creation of what would become the Pearsall Plan, Vandiver declined (no doubt for political reasons) to be visible in the creation of the Sibley Committee in Georgia. Vandiver and his chief of staff, Griffin Bell, arranged for junior representative George Busbee to propose the creation of the Committee to the Georgia General Assembly, which he did on January 23, 1960, six months after Judge Hooper rendered his decision in *Calhoun v. Latimer*. The Commission was approved on January 28, 1960. Vandiver also selected John Sibley to head the commission. See Hornsby, “Black Public Education in Atlanta;” Roche, *Restructured Resistance*; “House Approves Study of School Segregation Law,” *Atlanta Constitution*, January 29, 1960, 1.

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racial crisis and many blacks viewed as a platform to advocate for civil rights in the school issue, the Sibley Commission was without equal in the South. As such, it is a unique and highly revealing window into Georgia politics, political discourse, racial anxieties, and of course resistance to *Brown* at this time.<sup>43</sup>

In this section, however, I will focus on two aspects of the Sibley Commission. First, I will argue that the Commission was the fulcrum on which Georgia's segregation policies swung from massive resistance laws to moderate school policy. In other words, before the creation of the Sibley Commission, it was virtually guaranteed that should Atlanta schools have desegregated without a change to Georgia's massive resistance laws, Georgia would have faced a statewide closure of the public school system. Because Sibley made the nature of the crisis clear *and* because he described moderate alternatives to massive resistance as a way to maintain segregation without closing schools, the Commission's hearings made the abandonment of massive resistance law possible – even palatable – to increasing numbers of Georgians. Critically, the palatability of moderate policy rested on its *lawfulness* as much as its commitment to racial segregation. As such, it was an important site of *rearticulating* northern liberal visions of race-neutral law/legality/lawfulness for the racial goals of southern moderates. Second, I spotlight the role that business organizations, especially local chambers of commerce in many mid-sized towns and small cities, played in the popularization of moderate approach to school policy in Georgia. Business interests played a large role both in making moderate policy feasible for state legislators and in sharpening the ideological distinction between rural “extremists” and cosmopolitan “moderates” – a distinction that would matter for the settling of moderate *rearticulated* law-and-order into state policy in

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<sup>43</sup> Jeff Roche's excellent history on the Sibley Commission, *Restructured Resistance*, is an excellent source on the Committee's role in making moderate school policy possible in Georgia. Roche's history of the committee is complete: he details its history, creation, how it operated, what happened in each hearing, and its aftermath.

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1961. In sum, I approach the Sibley Commission here as setting the stage for a double coup: first, for moderate school policy to replace massive resistance laws, and second, for moderate discourses of colorblind *lawfulness* and *law-and-order* to entrench as state interests, discourses and policy formations of the New South.

Jeff Roche has noted that Sibley's chairmanship of the General Assembly Committee on Schools was so successful in part because "no one in Georgia could have symbolized both the southern patriarch and the modern New South businessman better than seventy-one-year-old John Sibley."<sup>44</sup> Indeed, Sibley had ties to Georgia's rural agricultural counties and to power elite in Atlanta. Born in 1888 to a farming family in rural Baldwin County located on the southern boarder Georgia's piedmont, Sibley returned to farming after graduating from Georgia Military College in 1904.<sup>45</sup> However, after two years of farming, Sibley decided to pursue a legal career. In 1918, after graduating from University of Georgia's law school, Sibley joined a leading Atlanta law firm, King & Spalding, where he took a case that would change the course of his career and eventually lead Vandiver to choose him to chair the Committee on Schools.<sup>46</sup> The case Sibley took was a contracts case, and the client was The Coca-Cola Company. After Sibley won the case, Coca-Cola president Robert Woodruff hired the young lawyer as associate council for the Company, and he rose to the position of General Council in 1935. After 22 years at the Coca-Cola, Sibley returned for a few years to King & Spalding – which often "lent" its legal expertise to city politicians and to Vandiver – before

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<sup>44</sup> Roche, *Restructured Resistance*, 85.

<sup>45</sup> John A. Sibley biographical note, Emory, MARBL, Sibley Papers. Text available at MARBL: <http://findingaids.library.emory.edu/documents/sibleyjohn437/printable/>. See also Roche, *Restructured Resistance*; and Christopher Allen Huff, "Sibley Commission," *New Georgian Encyclopedia*. Text available at: <http://russelldoc.galib.uga.edu/russell/view?docId=ead/RBRL125JAS-ead.xml;query=;brand=default>

<sup>46</sup> John A. Sibley biographical note, "John A. Sibley Speech," Richard Russell Library, University of Georgia. Text available at: <http://russelldoc.galib.uga.edu/russell/view?docId=ead/RBRL125JAS-ead.xml;query=;brand=default>

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retiring from law to turn to business.<sup>47</sup> In 1946, Sibley became chair of the board of trustees at Trust Company of Georgia, a large Atlanta bank, where he oversaw its “tremendous” growth in the postwar years.<sup>48</sup> Sibley would serve as chairman and later on the executive committee until his retirement in 1962. Along the way, Sibley also became president of the University of Georgia Alumni Association, a position that reflects the extent to which he was recognized and admired throughout the state.<sup>49</sup> Sibley’s personal history – his origins in Georgia’s rural piedmont belt and his later inclusion in Atlanta’s silk stocking crowd as both lawyer and businessman – made him an ideal chair for the Committee on Schools, which he headed with such singular authority that it became known as the Sibley Commission.<sup>50</sup>

Additionally, it is also likely that Vandiver chose Sibley because, unlike any number of rural county prospects, Sibley was both a committed segregationist and leery of massive resistance laws as state strategy to contain the threat of racial integration. In other words, he was a moderate, and with enough clout throughout Georgia to make moderate resistance strategies viable in the given climate. Indeed, this was clear to many Georgians, as Sibley was a figure that many regarded as a known moderate, but one with safely segregationist intentions. As one such resident put it in a letter to Sibley: “When I heard the news that you had been made ... Chairman [of the Sibley Commission] and when I read your opening statement, so logical and forceful, I could not restrain by exaltation that a modern Moses was

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<sup>47</sup> Roche, *Restructured Resistance*, 84.

<sup>48</sup> Sibley biographical note, MARBL.

<sup>49</sup> The foremost public university in the state and one of the oldest universities in the nation (founded in 1785, it was the first state-chartered university in the United States), University of Georgia is deeply ingrained in Georgia culture and history.

<sup>50</sup> Sibley’s documents (Emory, MARBL) reveal that Sibley’s authority on the committee was complete. Sibley headed each meeting, authored each committee report, decided on the question format of hearings, was the only committee member to speak to the media, and ran each committee hearing from beginning to end – including introductions and the handling of all witnesses.

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here to lead us out of our wilderness.”<sup>51</sup> Clearly, Vandiver had felt similarly when he chose Sibley to head the Committee, whose ranks included advisors in Vandiver’s administration, business leaders, and rural politicians – a cross-section of Georgia politics. No African Americans served on the Committee.

The Georgia General Assembly created the Sibley Commission and named its chairman in late January 1960, and the committee got to work immediately, quickly scheduling hearings in each of Georgia’s ten congressional districts for late February and March. From the beginning, Sibley approached the purpose of the committee as a mechanism to dislodge public opinion from massive resistance and create the space for moderate policy – specifically, a combination of local option, pupil placement, and tuition grants – to replace standing state school laws. This is clear both in Sibley’s use of North Carolina’s Pearsall Plan in the information-gathering stage of the Commission and its his carefully rigid construction of the questions he planned to use in the hearings. North Carolina’s plan, at this point almost four years old, was the starting point for the Sibley Commission. In the weeks before the hearings began, Sibley sent two envoys to North Carolina to examine and report on the success of the North Carolina plan. The two envoys, Harmon Caldwell and Battle Hall, reported that a mere five districts in the entire Tarheel State had experienced any desegregation in the four years since the Local Option (1955) and the Pearsall Plan (1956) had gone into effect.<sup>52</sup> Moreover, the number of black students in integrated white schools was minimal, and in raw numbers, integration had actually decreased in the state since 1956. The “number of Negro students attending schools for white students,” Caldwell and Hall reported, never exceeded ten or twelve, and “is less now than it was in 1956 when the plan first became

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<sup>51</sup> Letter, M.J. Witman to John A. Sibley, February 19, 1960. Emory University, MARBL, Sibley Papers, Box 125, Folder 1.

<sup>52</sup> Roche, *Restructured Resistance*, 133.

effective.”<sup>53</sup> What North Carolina pioneered in 1956 would soon become Georgia’s strategy. The achievement of North Carolina’s school plan – its ability to maintain incredibly high rates of racial segregation without falling afoul of federal law – was well-known by Atlanta moderates, and it was to that state’s plans that Sibley turned as he structured his hearing opening statement and questions.<sup>54</sup>

John Sibley, with the help of committee members, crafted a tightly worded statement to be delivered at the beginning of each hearing and equally carefully structured question to each white citizen who spoke at the hearings. At each hearing, Sibley forced a direct engagement with what Matthew Lassiter and Andrew Lewis have called the “moderates’ dilemma”: the dilemma created when federal court order requiring school desegregation was in direct conflict with state laws requiring school segregation.<sup>55</sup> The dilemma, in other words, was whether the state would sacrifice its system of public education in order to keep segregation law intact, or whether the state would sacrifice its massive resistance laws in order to keep public schools open and operating. Chairperson Sibley made this dilemma as painfully clear as possible for Georgians. Option One, Sibley said, was retaining existing massive resistance law at the expense of public education. Option Two, he said, was to repeal massive resistance

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<sup>53</sup> Herman Caldwell, quoted in Roche, *Restructured Resistance*, 133.

<sup>54</sup> The *Atlanta Journal*, for instance, ran an article in 1959 comparing Little Rock’s approach to segregation to Charlotte’s. The article asked, “Will we pursue Charlotte’s peaceful path, smoothed by its pupil placement plan, or will Atlanta be tortured as was Little Rock?” The answer, wrote columnist Norman Shavin, was clear, and involved a class-inflected economic calculation: “Compliance with the spirit of the Supreme Court’s school decision is the alternative to upheaval and economic tragedy.” The article then detailed the “success” of Charlotte: “By the fall of 1957, 45 Negroes had applied for admission to Charlotte’s previously all-white schools. Five were accepted. By the time schools opened, one had moved and one—the center of white-inspired agitation—attended but three days later quit. Three remained. In the fall of 1958, 25 Negroes applied for entry to previously white schools. Four were accepted. This past fall eight Negroes applied. One was admitted—Delores Waterman. Today, Delores—whom Ray interviewed with her father—is the only Negro in a previously white Charlotte school.” Norman Shavin, “Charlotte’s Story: A Model for Atlanta?” *The Atlanta Journal*, December 13, 1959. UGA, Vandiver Papers, Series I.A, Box 39, Folder 2.

<sup>55</sup> Matthew D. Lassiter and Andrew B. Lewis, eds., *The Moderates’ Dilemma: Massive Resistance to School Desegregation in Virginia* (Charlottesville, VA: University of Virginia Press, 1998).

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laws and replace them with a combination of local option and pupil placement laws that would ensure what limited desegregation occurred would be on a “voluntary” basis:

Essentially, these two choices are (1) Retain the existing laws which provide for school closing and the making of tuition grants, which under recent federal court decisions may require closing over the entire state, or (2) provide for a referendum whereby the people may express their sentiments at the polls for a change in our existing laws by the adoption of some form of pupil placement, either on a statewide or local option basis, and either with or without a parents’ freedom of choice provision whereby tuition grants could be made to individual pupils desiring to attend private schools rather than public schools. The first choice would contemplate private, segregated schools with tuition grants, assuming such laws are upheld by the courts, and the second choice would contemplate some desegregation in some areas of the state, but with local option and parents’ choice provision which would seek to insure that any integration which did occur would be on a voluntary basis.<sup>56</sup>

As each citizen approached the podium to submit his or her preference, Sibley –gavel given to him by his daughter for use at the hearings in hand – prompted a consideration these two options and *only* these two options. Those whites who submitted a preference for “integration” were few, and promptly redirected or dismissed as not adhering to the structure of the questions. Conversely, those who submitted a preference for “segregation,” as often occurred in the hearings held in Georgia’s Black Belt, were corrected: both options, Sibley assured these citizens, were options for segregation. The matter at hand was not whether white Georgians preferred segregation over integration, but whether to make state laws compatible with federal law or risk abandoning public education altogether. Sibley’s attempt to detangle “segregation” from “lawfulness” was more successful at some hearings than at others. For instance, at the Douglas hearing in southern Georgia, Sibley’s attempt to project Option Two as a measure of protection of segregated schools through Pupil Placement and Local Option failed utterly, as “witness after witness, when asked for his or her preference,

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<sup>56</sup> Prepared text of Sibley’s hearing address, “Questions for Use at Hearings,” Emory, MARBL, Sibley Papers, Box 129, Folder 8.

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stated simply, ‘segregation.’”<sup>57</sup> Such confusion explains why, at the hearings in Black Belt counties, Sibley emphasized “each community’s right to choose” the racial makeup of their local schools under Option Two, and used less the language of “saving” public education.<sup>58</sup>

The Sibley Commission hearings were a big media event in Georgia in 1960. The day following each hearing, state and local newspapers alike filled with stories, reports, and anecdotes from the hearing, and radio broadcasts provided live coverage. Newspapers often included tallies of Option One and Option Two broken down by county in their reports of each hearing. They also kept track – as did the Sibley Commission – of whether a citizen was representing him or herself, or else speaking on behalf of a group or organization. Indeed, while many spoke for just themselves, many others recognized the benefit of detailing to Sibley how many others they represented. Some citizens even submitted signed petitions as evidence of the numbers they represented. These were numbers assiduously recorded by the Committee as part of their tallies. Ramping the visibility up to high, the hearing held in Atlanta (which spanned two full days instead of the usual one), representing Georgia’s 5<sup>th</sup> congressional district, was televised on statewide networks. In this context, commentary on the hearings proliferated, and which citizens supported which Option – and for what reason – became well known and often discussed in Georgia.

Voicing preference for Option One (continuance of massive resistance laws) were most whites in majority-black Black Belt counties in southern Georgia (see Chapter Appendix A for full tallies for each option by race and district). Farm bureaus, trade unions, and spokespersons for local chapters of States’ Rights Council of Georgia, Citizen Council, and the Klan almost uniformly advocated for this option, even when they were clear that this

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<sup>57</sup> Roche, *Restructured Resistance*, 126.

<sup>58</sup> Quoted in Roche, *Restructured Resistance*, 122.

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might sacrifice public education in their own counties. Voicing a preference for Option Two (moderate school policies) were the residents of larger cities, including Atlanta, Athens, and Savannah, people from majority white counties in the northern piedmont region of the state, and organizations representing education and business. One of the largest and best-known groups advocating for Option Two was Help Our Public Schools (HOPE), which was an “open schools” grassroots organization created by a group of white Atlanta mothers dedicated to keeping public schools open. In 1959 and 1960, HOPE ran an impressive campaign for “open schools” in Atlanta, and gained support from moderates in other pockets of the state.<sup>59</sup>

Even more critical for Option Two, however, were business groups and chambers of commerce that organized support for the Local Option/Pupil Placement option. At the Washington hearing in Wilkes County, located near the South Carolina border, the Athens Area Industrial Group, representing a panoply of Athens-based manufacturers, mills, rubber works, and metal industry plants testified for Option Two, and helped generate momentum for moderate policy in the state.<sup>60</sup> Similarly, another Athens businessman (the brother of HOPE co-founder Beverly Downing) gathered close to 1,000 names of prominent business leaders in the state for support of Option Two.<sup>61</sup> Unsurprisingly, business leaders in Atlanta strongly supported Option Two. *Atlanta Constitution* editor Ralph McGill applauded this preference amongst business leaders and chambers of commerce for moderate school policy. “Happily,” he wrote at the height of the hearings, “the chambers of commerce are increasingly aware that segregation no longer is economically practical. Nothing better illustrates changes in the South than that the voice of the chamber of commerce is becoming more influential than that

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<sup>59</sup> For a careful investigation of the role HOPE played in the popularization of moderate school policy in Atlanta in 1959, see Matthew Lassiter, *Silent Majority*.

<sup>60</sup> Roche, *Restructured Resistance*, 111.

<sup>61</sup> Roche, *Restructured Resistance*, 173.

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of the demagogues of politics and extremist organizations. Conscience accusingly reminds business that it and the South have waited an unconscionably long time in moving to end a long discredited institution.”<sup>62</sup> Prevalent yet again here is Atlanta moderates’ articulation that moderate school policy would ensure a sound business environment and that the rural “demagogues” and “extremists” would injure the realization of the New South.

Black citizens would receive a different set of questions at the hearings. These included questions directed at law-and-order concerns and the average intelligence of black pupils. After asking whether the black favored desegregation of public schools, Sibley began on this alternative line of questioning. Sibley’s third question to black testifiers, for example, was: “Do you believe that racial tensions and friction would be diminished or accentuated as a result of desegregation?”<sup>63</sup> Questions four through six honed in on the difference in intelligence and educational performance levels between white and black students. For instance, blacks were prompted to testify whether or not they felt that “the average Negro pupil of any given grade level has particular grade level,” and what would occur should “Negro pupils [enter] a school of white students with higher IQs or achievement levels than the entering Negroes.” Recreating the accommodationist language of Booker T. Washington, Sibley also asked black testifiers: “Do you think that the Negro would be in as good a position to develop initiative and the capacity for development and leadership in a desegregated school as in a segregated school?” The final question betrayed the level of threat that even the moderate Sibley understood to emanate from the NAACP: “Are you aware of any pressure or intimidation being exerted upon Negroes in your community by the NAACP, the Southern

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<sup>62</sup> Reprinted in Ralph McGill, *The South and the Southerners: Uncorrected Proofs*. Boston, MA: Little, Brown and Company (1963).

<sup>63</sup> Prepared text of Sibley’s hearing address, “Questions for Use at Hearings,” Emory, MARBL, Sibley Papers, Box 129, Folder 8.

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Regional Council, the Urban League, or any other group promoting desegregation?” With such racial subtext in place, African Americans who testified at the hearings varied widely in their responses. As Roche explains, African Americans from Black Belt counties often voiced preference for segregation because of the presence of white townspeople and employers made it risky to do anything other than declare preference for Jim Crow.<sup>64</sup> Other African Americans, many of them from Atlanta and Savannah, where NAACP membership was particularly strong, refused the structure of the questions and resolutely argued for immediate racial integration – not just desegregation. Black civil rights leaders and their allies in the state well understood the Sibley Commission as an effort to preserve segregated education. Civil Rights lawyer and NAACP executive board member Joseph Rauh commented that the “Sibley Commission was set up at the very moment when massive resistance died. It was reborn again massive resistance.”<sup>65</sup>

In April 1960, but a few weeks after the last hearing took place, John Sibley published the majority report of the General Assembly Committee on Schools, which he authored himself. At once clear was Sibley’s disdain for the Supreme Court’s decision in *Brown* and his belief that moderate school policy was Georgia’s best defense against it. Indeed, Sibley’s segregationism was clear in both regards. For instance, he opened the majority report with a diatribe against *Brown*: “We consider this decision [*Brown v. Board of Education*] utterly unsound on the facts; contrary to the clear intent of the Fourteenth Amendment; a usurpation of legislative function through judicial process; and an invasion of the reserved rights of the states.”<sup>66</sup> Despite this opening statement, Sibley quickly turned to the reason for moderate

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<sup>64</sup> Roche, *Restructured Resistance*.

<sup>65</sup> Quoted in Roche, *Restructured Resistance*, 193.

<sup>66</sup> John Sibley, Majority Report of the General Assembly Committee on Schools, 1-2, April 28, 1960. Emory, MARBL, Sibley Papers, Box 125, Folder 3.

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policy in Georgia: “Nevertheless, we must recognize that the decision exists; that it is binding on the lower federal courts; and that it will be enforced.” In the majority report, Sibley walked through the particular crisis the state faced and the tallies of the hearings – the state was split down the middle, with five congressional districts preferencing Option One and five preferencing Option Two.

Sibley closed with a series of recommendations: (1) the repeal of Georgia’s school closure laws, (2) the passage of an amendment to the state constitution that “no child of this state shall be compelled against will of his or her guardian, to attend the public schools with a child of the opposite race,” (3) passage of a Local Option plan that would, as North Carolina’s did, allow for local districts to close or reopen individual schools “in accordance with the wishes of a majority of qualified voters,” (4) passage of a tuition grant provision, also similar to North Carolina’s, that would offset the cost of private education for students withdrawing from an integrated school or from a school closed by local option, (5) passage of a Pupil Placement provision, again nearly identical to North Carolina’s, that allowed for school transfer by way of a complicated admission process, and finally (6) passage of a Freedom of Association Amendment that would guarantee the right to choose who one would associate with in schools.<sup>67</sup> The last four recommendations together made up what would become Governor Vandiver’s four-part bundle of moderate resistance laws – what he would term the “Child Protection Plan” – in Georgia’s moderate school policy in January 1961. None of these recommendations explicitly mentioned race, all had been tested in federal courts in other states, and all were derived from North Carolina’s moderate school policies designed by the Pearsall Committee.

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<sup>67</sup> John Sibley, Majority Report of the General Assembly Committee on Schools, 17-18, April 28, 1960. Emory, MARBL, Sibley Papers, Box 125, Folder 3.

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Despite the clear segregationism at the heart of the majority report's recommendations, many Georgians still preferred massive resistance laws to any chance of desegregation. As such, neither Governor Vandiver nor state legislators moved immediately to repeal massive resistance or implement moderate policy. Meanwhile, the extended deadline given by Judge Hooper for Atlanta schools to desegregate was beginning to approach: September 1961 was a little more than a year away. In the spring of 1960, Georgia lawmakers, journalists, Sibley Committee members, and everyday citizens began to publically debate the merits of the majority report. As public debate ramped up through the summer and fall of 1960, John Sibley and other Committee members stressed the segregationism of Local Option and Pupil Placement. Ernest Vandiver advisor John Greer, who served on the Committee and signed the majority report, delivered one of several speeches endorsing moderate school policy as segregationist. "Every commission member," he declared, was "a segregationist."<sup>68</sup> The very aim of the committee, he added, was to "reinforce segregation" and keep "our system of equal but segregated education from being completely destroyed."

During this period, as Georgia began to debate the viability of its own school closure laws in light of the Sibley Commission's majority report, the discourse of law-and-order again structured the debate in the state. This was as true for massive resistance as for moderate resistance. Roy Harris, for instance, continued to use the "law and order" rhetoric of black criminality to argue for school closure over desegregation of any amount. "It would be a crime," he argued in the May 1960 edition of the *Augusta Courier*, "to sacrifice young white children in a race-mixed school, whether put there by local option, pupil placement or any

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<sup>68</sup> John Greer quoted in Eugene Patterson, "Two Routes and One Vehicle," *The Atlanta Constitution*, October 3, 1960. UGA, Vandiver Papers, Series I.A, Box 21, Folder 8.

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other means or device.”<sup>69</sup> Vandiver, meanwhile, continued to use the phrase “blackboard jungle” to describe the conditions of school integration present in northern cities – and likely in Georgia should the state bow to moderate policy preferences.<sup>70</sup>

However, also in the year 1960, moderate “law and order” discourses enjoyed heightened popularity. Many used language similar to editorialist Eugene Patterson’s straightforward language of law, order, and education: “If order and education are to continue in Georgia, the answer is the Sibley Commission’s majority report.”<sup>71</sup> Tellingly, the narrative architecture of “law or violence” rather than massive resistance’s “segregation or integration” also carried well past the Little Rock crisis in which it originated to structure Georgia’s own school debate. As a specter of past instability or threat, Little Rock became a touchstone of massive resistance violence by which moderates articulated its “law and order” curative after *Calhoun* made it necessary for the state to begin to confront the viability of its own school closure laws. In one of the more explicit appeals, Eugene Patterson warned that if Georgia chose the massive resistance path, “then a disaster greater than prophesied can strike Georgia, retard her children, revolutionize her politics, and dash her hopes into the pit with Arkansas.”<sup>72</sup> And, as this language from Ralph McGill demonstrates, the prospect of inhabiting the pit with Arkansas was intimately linked to the damage done to the state economy by massive resistance: “Little Rock and then Virginia showed us that not until the business leadership joins in the public debate and has its say, will the debate produce effective results. So long as it is left to the extremists, to those who make a profit out of merchandising prejudice, and to

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<sup>69</sup> Roy Harris, “Strictly Personal,” *Augusta Courier*, May 9, 1960 (MARBL, John A. Sibley Papers, Box 125, Folder 2).

<sup>70</sup> Ernest Vandiver, “Let Us Not Be Deceived, the Aims of the NAACP Are Clear,” speech before States’ Rights Council of Georgia, February 8, 1960 (UGA, Vandiver Papers, Series I.A, Box 9, Folder 4).

<sup>71</sup> Eugene Patterson, “Two Routes and One Vehicle,” *The Atlanta Constitution*, October 3, 1960. UGA, Vandiver Papers, Series I.A, Box 21, Folder 8.

<sup>72</sup> Eugene Patterson, “The Whirlpool is Tightening,” *Atlanta Constitution*, November 12, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 8).

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those who put themselves and their political position ahead of the welfare of school children and the nation itself, just so long will we have enticement to violence, chaos, a breakdown of law and the national integrity.”<sup>73</sup>

The more recent white rioting in New Orleans upon the integration of primary schools by first-grader Ruby Bridges in November 1960 immediately became a lesson in massive resistance’s tendency towards violence. Coming at the height of Georgia’s own school crisis, massive resistance in New Orleans quickly became a touchstone for moderates, who were quick to separate their school plans (themselves segregationist plans) from such violence as cleanly as possible. To such an end, one Atlanta newspaper said of the New Orleans rioters: “Georgia has had the benefit of observing from afar the events in Little Rock, Tennessee, Virginia, and Louisiana. If these cases have proved anything, it is that violence settles nothing. Firm action must be taken by law enforcement officers to see that no one—integrationist, segregationist, or whatnot—takes the law into his own hand ... Agitators, no matter what their cause, must not be allowed to create the monster of mob violence and substitute it for the rule of law.”<sup>74</sup> Turning a particularly colorful phrase, Patterson scolded New Orleans whites for being “the flotsam left on the beach by a tide that went out without warning. Yet this driftwood of the South is being pictured to the nation as the timber of Louisiana. ... While these few men and women carried their hateful signs and spat into the microphones, soiling the face of a great city, state leaders gave bravos to the disorderly few instead of giving leadership to the humiliated many.”<sup>75</sup> As such commentary about the “flotsam” and “driftwood of the South” shows, Georgia moderates considered massive

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<sup>73</sup> Quoted in Speak Out, McGill Asks Businessmen,” Feb 14, 1961. UGA, Vandiver Papers, Box 22, Folder 4.

<sup>74</sup> *The Macon Telegraph*, “Georgia Must Not Allow Agitators To Take Over,” November 19, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 8).

<sup>75</sup> Eugene Patterson, “Why Men Jeer at a 6-Year-Old,” *Atlanta Constitution*, November 18, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 8).

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resistance a political threat to their ability to implement moderate school policies, and wrapped their critique in a rather large amount of disdain for what they called the “violent few.” Patterson, like others, heaped disdain on the massive resistance leadership of Louisiana: “Even as grown men turn fury on 6-year-olds, the Louisiana Legislature egged the men on.” Articulating massive resistance strategies as uniquely violent and mob-like, moderates deftly detached their own segregationist policies from the racial violence embodied by massive resistance politicians and the mobs they incited.

Georgia politicians similarly leveraged New Orleans in support of repealing the state’s massive resistance laws in the run-up to the 1961 legislative session. State senator Carl Sanders (who succeeded Governor Ernest Vandiver in 1963) claimed that if massive resistance laws continued to stand, “we will have such a thing in Georgia as is happening in New Orleans today;” and House Floor Leader Frank Twitty stated forthrightly: “We (legislators) are human beings . . . we are not going to put a blot on the good name of Georgia.”<sup>76</sup> Patterson, in typically grand language, called for Georgia to “do better” than Louisiana: “Without changing her position of reluctance, which is politically understandable, she can and ought to prepare laws now to cope with the crisis when it comes—to control it with dignity and a manliness that will mark this state as a shrine of Southern honor, not scar it as a place where unprepared, unled men react by jeering at a 6-year-old.”<sup>77</sup> As such, the reality of white violence in Little Rock and New Orleans became fodder for political moderates in Georgia, who presented recommendations of the majority report as a way to save the state from spectacles of white massive resistance violence, to safeguard public

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<sup>76</sup> Charles Pou, “Open-School Vow Seen Industry Aid,” *Atlanta Journal*, November 18, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 8).

<sup>77</sup> Eugene Patterson, “Why Men Jeer at a 6-Year-Old,” *Atlanta Constitution*, November 18, 1960. UGA, Vandiver Papers, Series I.A, Box 21, Folder 8.

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education from collapse, and reawaken the state's commitment to lawfulness and law-and-order. In this way, moderate – or rearticulated – “law and order” became sutured to the passage of moderate school policy. Rapidly losing ground amongst many political elites was massive resistance's law-and-order narrative that articulated school integration as the precursor of racial violence against white schoolchildren and other white innocents.

However, it was not until January 1961, a full year after the creation of the Sibley Commission, that moderate school policy became a reality in Georgia. And it took an outbreak of racial violence on Georgia soil to launch both moderate law-and-order and moderate school policy into the articulated interests of the state.

## Chapter Appendix A

Hearing Tallies by Congressional District for White Participants, General Assembly Committee on Schools (Sibley Commission), March-April 1961. Number of people represented by participants appear in parentheses below each raw figure.♦

<b>Congressional District</b>	<b>No. for Option 1*</b>	<b>No. for Option 2*</b>	<b>No. for Integration</b>	<b>% for Option 1*</b>	<b>% for Option 2*</b>
<b>1 Sylvania</b>	144 (4,019)	44 (1,844)	1 (1)	76.2% (68.5%)	23.3% (31.4)
<b>2 Moultrie</b>	196 (20,480)	56 (4,074)	0 (0)	77.8% (83.4%)	22.2% (16%)
<b>3 Americus</b>	52 (12,593)	5 (23)	0 (0)	91.2% (99.8%)	8.8% (0.2%)
<b>4 LaGrange</b>	76 (3,390)	37 (1,454)	0 (0)	47.8% (69.9%)	52.2% (30.1%)
<b>5 Atlanta</b>	54 (8,505)	67 (14,155)	3 (3)	43.5% (37.6%)	54.0% (62.4%)
<b>6 Sandersville</b>	151 (8,260)	52 (5,582)	0 (0)	74.4% (59.9%)	25.6% (40.1%)
<b>7 Cartersville</b>	26 (4,077)	56 (2,986)	2 (2)	30.9% (57.7%)	66.7% (42.3%)
<b>8 Douglas</b>	98 (3,921)	48 (1,046)	0 (0)	67.1% (78.9%)	32.9% (21.1%)
<b>9 Gainsville</b>	68 (2,990)	118 (8,235)	1 (1)	35.8% (26.6%)	63.1% (73.4%)
<b>10 Washington</b>	98 (4,977)	48 (4,208)	0 (0)	67.1% (54.2%)	32.9% (45.8%)
<b>Total</b>	963 (73,212)	531 (43,607)	7 (7)	64.2% (62.7%)	35.4% (37.3%)

♦ Table numbers are based on General Assembly Committee on Schools, "Summary of Hearings, by District," MARBL, Emory University, John Sibley Papers, Box 126, Folder 4.

\* Option 1 = massive resistance option (school closure, interposition); Option 2 = moderate resistance option (local option, pupil placement, tuition grants, freedom of association amendment)

<b>District</b>	<b>Region Type</b>	<b>% Witnesses</b>
District 1 (Sylvania)	South Georgia	76.2% for Option 1
District 2 (Moultrie)	South Georgia	77.8% for Option 1
District 8 (Douglas)	South Georgia	67.1% for Option 1
District 3 (Americus)	Cotton Belt	91.2% for Option 1
District 6 (Sandersville)	Cotton Belt	74.4% for Option 1
District 10 (Washington)	Cotton Belt	64.2% for Option 1
District 4 (LaGrange)	Piedmont	52.2% for Option 2
District 5 (Atlanta):	Upper Piedmont	54.0% for Option 2
District 7 (Cartersville)	Northern mountain	66.7% for Option 2
District 9 (Gainsville)	Upper Piedmont	63.1% for Option 2

## **Chapter Six** **The Violence and Innocence of Law-and-Order in Georgia**

*Georgia may hold her head high in the Inaugural Parade today. The state has gained a large measure of national admiration and respect, and a new kind of prestige, over the two-week period just passed ... With rare exceptions, there has always been a fuss about it all [including] bombastic and hotheaded, senseless defiance [in the South]... But in Georgia, this has not been the case ... Georgia is not a state composed only of rednecks, fundamentalists, and fools ... The entire State of Georgia is, in fact, to be commended and applauded for its surprisingly gentle regard for the inevitable and total respect for law and decency.*

– Radio host Dick Mendenhall, upon Georgia’s repeal of its massive resistance laws, January 1961<sup>1</sup>

If the Sibley Commission made possible the importation of moderate “law and order” discourse into Georgia’s state interests, it was the desegregation of the University of Georgia that made it inevitable. When two African American students, Charlayne Hunter and Hamilton Holmes, arrived on campus in January 1961 amid outbursts of cross-burning and white rioting, many white Georgians worried about the image of the university and the state turned to a language of resistance that Atlanta moderates had honed for years. That is, white racial violence at UGA prompted the state to consider segregation as a choice between “law” and “violence.” In January 1961, there was such a groundswell of moderate discourse around the dangers of white violence that Vandiver was able to push through the repeal of massive resistance laws and a package of moderate school policy he termed the “Child Protection Plan” with relative ease – surely an impossibility before this moment. However, in UGA’s desegregation, this chapter argues, we witness not just an unprecedented transformation in school policy for a Deep South state, but also the alignment of state interests around the logic of moderate law-and-order.

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<sup>1</sup> Radio broadcast. January 20, 1961. Dick Mendenhall. Station WSAC. Vandiver Papers, Box 9, Folder 10.

Completing the trajectory begun in the previous chapter, this chapter draws on Gary Peller's theorization of race-consciousness and Claire Jean Kim's language of "triangulation" to detail the racialization of the emerging law-and-order state in Georgia and the logic by which the state exonerated itself from that very racialization – and the violence and innocence this necessarily entailed.

### **The Crisis: From Violence to Law-and-Order at the University of Georgia**

In the end, it was the desegregation of the Georgia's largest and oldest university, not Atlanta schools, which ended the legal reign of massive resistance in Georgia. On January 6, 1961, federal district court judge William Bootle ordered the University of Georgia, situated 65 miles northeast of Atlanta in the small city of Athens, to admit two African American students, Charlayne Hunter and Hamilton Holmes. Judge Bootle ruled not only that Hunter and Holmes be admitted to University of Georgia, but also that they be permitted to register and enroll immediately, not in the spring or following fall as some state political leaders and university officials had predicted and hoped.<sup>2</sup> Over the weekend, the state's massive resistance forces watched as their hopes for continued segregation at the state's best-loved public university evaporated. On January 7<sup>th</sup>, Hunter and Holmes registered for classes for the upcoming term and, in Hunter's case, registered for on-campus housing; on January 9<sup>th</sup>, Governor Vandiver closed the University and Georgia Attorney General Eugene Cook requested a stay of Bootle's order pending an appeal of the decision to the Fifth Circuit Court of Appeals; and January 10<sup>th</sup>, a Fifth Circuit judge overturned the stay, ordered the University reopened, and upheld Judge Bootle's order that the two African American students

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<sup>2</sup> Robert A. Pratt, *We Shall Not Be Moved: The Desegregation of the University of Georgia* (Athens, GA: University of Georgia Press, 2005), 84. Pratt, *We Shall Not Be Moved* is a good source for a full treatment of the legal battle to desegregate the University of Georgia. See also Calvin Trillin, *An Education in Georgia: The Integration of Charlayne Hunter and Hamilton Holmes* (New York: Viking Press, 1964).

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be admitted immediately. Finally, that same day, Charlayne Hunter and Hamilton Holmes arrived at UGA, registered, enrolled, and prepared to attend classes.

With the eyes of the nation on Athens, university officials and some student leaders plead for a calm integration, something that University of Tennessee had achieved the previous week. Dean of Students Joe Williams urged campus organizations to encourage their members to conduct themselves “in a manner which befits ladies and gentlemen.”<sup>3</sup> And, on the eve of Hunter and Holms’ arrival on campus Terry Hazelwood, a columnist at UGA student newspaper *The Red and Black*, cautioned reason in an editorial column: “We as students have two alternatives of action. We can remain calm, levelheaded, and think before taking action which we might later regret, or we can act in the same futile, violent manner in which students at other southern institutions have already done, and gain nothing.”<sup>4</sup> At work here, we might notice, is the moderate framing of the segregation question: at stake here is lawfulness and the perception of it, not resistance to desegregation in other forms. Despite Hazelwood’s caution, which included the admonition to “beware of demonstrations from outsiders [who] thrive on this kind of violence” that the “national newspapers ... have been known to sensationalize in a manner unfavorable to the South,” over the next days the campus erupted in continuous, spontaneous white rioting that captured the gaze of the nation and Georgians alike.

More than anything, it was this rioting – and especially the governor’s newfound need to control the image of the state amidst school integration, steering it away from embarrassing

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<sup>3</sup> Quoted in Terry Hazelwood, “Your Responsibility,” *The Red and Black*, January 9, 1961. The front page of this issue, which includes Hazelwood’s column, is available at University of Georgia’s online archives at: <http://www.libs.uga.edu/hargrett/archives/integration/rbextra.jpg>.

<sup>4</sup> Hazelwood, “Your Responsibility.” The student editors of *The Red and Black* had sparred with former state House speaker and racial demagogue Roy Harris over the previous year regarding integration, and pledged to encourage campus calm. Another voice of restraint came from student council vice president Pete McCommons who organized a petition signed by 2,000 (by his estimation) students opposing the closure of UGA in the event of its integration. Pratt, *We Shall Not Be Moved*, 85.

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and economically harmful displays of violent white lawlessness – that prompted Vandiver to at last publically urge the abandonment of massive resistance and the adoption of the recommendations of John Sibley’s majority report. In this section, I investigate this moment of abandonment of massive resistance as a turning point in the law-and-order rhetoric and interests of the state, for it was in this moment that the state began to embrace “law and order” as a matter of race-neutral application of law, law-and-order policy, and policing. At this juncture, this sort of racial neutrality in “law and order” targeted white massive resistance forces, and placed expressions of white force, mobism, and rioting under the badge of violent extremism to be reigned in by a neutral law-and-order state. It is worth noting at the juncture, however, that just as much as white moderate lamentations of anti-integration violence and mobism, moderates viewed black civil rights protest and use of public space as likewise disruptive of public peace and order. However, like in the racial confrontations that marked the desegregation of schools in Sturgis, Clinton, Little Rock, and New Orleans in previous years, it was the visibility of white violence – more, at this juncture, than the articulation of black protest as “disorder” – that prompted the Vandiver administration to abandon massive resistance for moderate resistance. The chain of events at University of Georgia also reveals that, in stark contrast to North Carolina, the transition to moderate resistance in Georgia was born in nationally visible white violence that the state, with Vandiver at the helm, in the end saw as danger and sought to curtail. In North Carolina, it was the fear of potential white violence that prompted Luther Hodges to advocate for the 1956 Local Option amendment; in Georgia, it was the very real presence of white violence at the state’s first – and highly visible – school integration that prompted Vandiver to embrace moderate policy.

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White students greeted the arrival of Charlayne Hunter and Hamilton Holmes to University of Georgia's campus on January 10<sup>th</sup>, 1961 with precisely the sort of violence and racial rhetoric that typifies national historical memory of mid-century white southerners. On the morning of the 10<sup>th</sup>, 200 white students gathered below the archway marking the main entrance to campus. There, they hung the likeness of Hamilton Holmes in effigy from the archway, alternately singing "Dixie," shouting "two, four, six, eight, we don't want to integrate!" and chanting "there'll never be a nigger in the -- -- house," with the names of various campus fraternities inserted in the blanks.<sup>5</sup> Throughout the day, white students burned gasoline-soaked crosses at several spots on campus, threw firecrackers, drove through the streets blocking traffic and waving confederate flags, and hurled racist epithets in protest of Hunter and Holmes' arrival.<sup>6</sup> That evening, hundreds of students led what the *New York Times* described as a "raucous parade" through downtown Athens, also in protest of the desegregation.<sup>7</sup> By all accounts, local police arrived at each scene, but largely let white protest unfold. When riots were dispersed and burning crosses were removed, it was almost solely at the intervention of Dean of Men William Tate, who with the support of the school administration behind him, repeatedly waded into the on-campus protests to douse crosses, cut down effigies, identify riot leaders, and seize student identification cards.<sup>8</sup>

After the first day of integrated classes, which themselves went without incident (when asked if she accomplished what she'd set out to do after her first integrated class at UGA, Charlayne Hunter replied dryly, "Well, to get an education, yes"), white resistance to

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<sup>5</sup> "200 Students Hang Effigy on Campus," *Atlanta Constitution*. January 7, 1961. "UGA-Integration Scrap Book of Paul Kea," Hargrett Special Collections, University of Georgia, William Tate Integration at UGA Files, 1961-1963UGA, Box 2, Folder 4.

<sup>6</sup> "200 Students Hang Effigy on Campus."

<sup>7</sup> Claude Sitton, "Anatomy of a Campus Riot," *New York Times*, January 15, 1961.

<sup>8</sup> Calvin Trillin, *An Education in Georgia*.

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integration continued.<sup>9</sup> Some resistance took the form of petitions, such as this one, signed by several thousand UGA students: “We will NOT welcome these intruders. We will NOT associate with them. We will NOT associate with white students who welcome them. We love our school. We WILL save it.”<sup>10</sup> Others resisted more visibly, with force, racial epithets, and violence. Following a basketball game between UGA and Georgia Tech that evening, an estimated group of 1,000 people (mostly students and some non-student members of the Klan, including Georgia Grand Dragon Calvin F. Craig) gathered in front of Hunter’s dormitory.<sup>11</sup> Armed with a bedsheet emblazoned with “Nigger, go home!!!” and epithet-laden chants, a “howling, cursing mob” threw rocks, bricks, and bottles at Hunter’s window, set fires in nearby woods, rolled logs into the road to disrupt traffic, and scuffled with reporters on the scene.<sup>12</sup> In her dorm room, she later recalled, Charlayne Hunter stood amid “jagged splinters of window glass and fragments” while outside the riot raged and inside “a group of girls began tramping in a continuous circle” the floor above her, “yelling insults first at [Hunter] and then at the [white] schoolmate who had come into befriend [her].”<sup>13</sup> This time when Athens Police were called to break up the rioters (belatedly, a full hour after the riot began),

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<sup>9</sup> Claude Sitton, “Georgia Students Riot on Campus; Two Negroes Out,” *New York Times*, January 12, 1961.

<sup>10</sup> “A Proclamation,” Students of ‘Passive Resistance,’ UGA, Governor’s Office Files, Subjects 1961-1962, Box 9, Folder 2.

<sup>11</sup> Sitton, “Georgia Students Riot on Campus.”

<sup>12</sup> “University Suspends Negroes for ‘Own Protection’ After Riots: State Police Take Pair to Atlanta,” *Savannah Morning News*, January 12, 1961. UGA, Vandiver Papers, Box 9, Folder 9; “Report of The Special Committee Appointed on the 12<sup>th</sup> Day of January 1961 by the Speaker of the House of Representatives of the General Assembly of the State of Georgia to find and ascertain facts concerning the certain happenings and episodes surrounding the admission of the new negro students to the university of Georgia,” Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 1, Folder 5. Other epithet-filled chants outside of Hunter’s dormitory included: “Two, four, six eight, we don’t want to integrate” and “One, two, three, four, we don’t want no nigger whore.” Quoted in Pratt, *We Shall Not Be Moved*, 94.

<sup>13</sup> Charlayne Hunter, “A Walk Through a Georgia Corridor,” *The Urbanite*, June 1961. Text available in Clayborne Carson, David Garrow, Bill Kovach, and Carol Polsgrove, Eds., *Reporting Civil Rights, Vol. 1* (New York: Library of America, 2003). Charlayne Hunter, a journalism major, wrote of the UGA riot in June 1961 in a tone what many recognized as her trademark calm, nerve, and humor. At the time of the riots, for instance, she recalled that she was “not at all afraid at this moment.” Recalling being told, also during the riot, that she was about to become “a black martyr, getting 50 dollars a day for this,” Hunter dryly commented that this was “a piece of news that would have considerably surprised my family.” Hunter, “A Walk Through a Georgia Corridor.”

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officers dispersed the rioters with tear gas and fire hoses.<sup>14</sup> University officials additionally called upon state troopers to help quell rioting, but troopers failed to respond until they were ordered to by Governor Vandiver to intervene, citing state law that they responded only to orders by the governor's office itself – a sign that state police adhered religiously the continued massive resistance policy of the Vandiver administration.<sup>15</sup> Meanwhile, several members of the local black community gathered at Hamilton Holmes' residence (he stayed with a prominent African American family in Athens) when they learned of a possible armed cross burning attack by the Klan.<sup>16</sup>

In the wake of these events, Hunter and Holmes were suspended for “safety” reasons, and four white students were suspended for inciting the riots. On January 14<sup>th</sup>, UGA's Dean of Students Joseph Williams responded to the rioting by reminding the student body of an Athens City ordinance that “prohibits parades and mass demonstration without full consent granted by the mayor and city council.” Individuals violating the no-demonstration ordinance, Williams assured students, “are subject to arrest and prosecution,” members of sororities and fraternities taking part in rioting risk losing their chapter charters, and student rioters would face suspension or expulsion. “Local advisers and national headquarters are being advised and are being requested to work with students to enforce law and order,” Williams warned.<sup>17</sup> After two days of increased policing, during which many forces in the state – worried that the University might close, horrified by the images of white violence filling national newspapers, and anxious that such images would result in political, legal, and economic repercussions –

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<sup>14</sup> “Report of The Special Committee,” Hargrett Special Collections, UGA, Georgia Integration Materials 1938-1965, Box 1, Folder 5.

<sup>15</sup> For his part, Vandiver denied delaying the dispatch of state troops, and claimed he sent them in good time to aide Athens police. Press Release, Ernest Vandiver and Peter Greer, January 12, 1961. UGA, Governor's Office Files, Subjects 1961-1962, Box 9, Folder 10.

<sup>16</sup> Pratt, *We Shall Not Be Moved*, 90.

<sup>17</sup> Letter to All Students, University of Georgia from Joseph Williams, Dean of Students. January 14, 1961. Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 1, Folder 5.

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the University reinstated Charlayne Hunter and Hamilton Holmes. Upon their return to campus, Tate arranged for Hunter and Holmes to be escorted – or in his words, “carried” – by Athens police to their classes to both ensure their safety and to ensure additional rioting did not erupt as they progressed through campus, and Governor Vandiver stationed state patrol officers around campus to dissuade further mob action.<sup>18</sup> For his own part, Vandiver ordered state troopers to UGA as well, explaining his decision as a call for the “people of the area and all involved to abstain from any action which might tend to promote violence or disorder.”<sup>19</sup>

In some respects, however, the damage was already done. For the nation, the events of early January 1961 left the unmistakable impression that white violence in Georgia could achieve what state laws could not: the continued segregation of the state’s educational institutions. As the *New York Times* commented: “The militant segregationists, seeing a signal victory in the removal of the Negroes, have only redoubled their efforts.”<sup>20</sup> But continued segregation forged in outright violence was tenuous indeed. First, there was the importance and popularity of the University of Georgia itself. The university enrolled a student body that was not only 90% Georgian, but also came from – and for the most part returned to – every county in the state.<sup>21</sup> Unlike Atlanta schools, UGW was, for many, synonymous with Georgia itself, and so well integrated into the history, culture, and identity of its white population that its closure was a sacrifice state politicians (most of whom had attended UGA themselves) and

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<sup>18</sup> Letter from William Tate to E.E. Hardy (Chief of Athens Police). January 23, 1961. Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 2, Folder 4.

<sup>19</sup> Press release. Ernest Vandiver. January 12, 1961. UGA, Governor’s Office Files, Subjects 1961-1962, Box 9, Folder 10.

<sup>20</sup> Claude Sitton, “Anatomy of a Campus Riot,” *New York Times*, January 15, 1961.

<sup>21</sup> Trillin, *An Education in Georgia*, 44. In the words of Dean of Men William Tate, “It’s not that way with [Georgia] Tech. The engineers don’t drift back to these little old counties. There’s not a soul in Meriwether County who gives a damn what happens at Tech.” Quoted in Trillin, *An Education in Georgia*, 44. Because UGA was so integrated with the history, identity, and people of the state, many advocated for its continued operation even if that meant on an integrated basis.

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the populace were unwilling to make.<sup>22</sup> Second, there was the decided precariousness of Georgia's massive resistance laws after both *Calhoun v. Latimer* and now Judge Bootle's court order. Finally and crucially, there was the fact of injury to Georgia's image and economy should the state double down once again on massive resistance laws in the midst of highly visible white violence and rioting.

All of these factors played decisive roles in Governor Vandiver's speech to the General Assembly on January 18<sup>th</sup>, a mere week after Hunter and Holmes arrived on campus, advocating that the Assembly repeal massive resistance laws and implement the moderate policies recommended by the Sibley Commission. By the end of the month, the General Assembly did just that. Wrapped up in this abrupt transformation in state education policy in the wake of UGA's integration was a parallel transformation: the very meaning of "law and order" – who could speak for it, who was guilty of its disruption, whose bodies it was meant to protect and from what dangerous forces – moved from being deeply contested to a heightened state interest with a settled political meaning. Once the language of a limited number of Atlanta business interests, newspaper editors and columnists, white suburbanites in Atlanta, and HOPE organizers, moderate law-and-order exploded into the vocabulary of the state in the theater of UGA's desegregation.

As news and imagery of white violence in Athens filled airwaves and newspapers, few endorsed the actions of the rioters. Those who did either applauded white rioters for the commitment to democracy or adopted a stance that blamed black integration for expressions of white violence. For instance, Peter Zach Greer, Vandiver's executive secretary, praised the rioters for being "possessed with character and courage not to submit to dictatorship and

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<sup>22</sup> Graduates from UGA included Ernest Vandiver, four generations of Talmadges, and several members of [Senator] Richard Russell's family also going back four generations. William Tate in Trillin, *An Education in Georgia*, 44.

tyranny.” Roy Harris, who sat on the University’s Board of Regents, used a rhetoric of “law and order” intimately tied to massive resistance to explain – and forthrightly praise – the violence at UGA. Blaming university officials for forcing white students to “accept Negroes on a social basis,” Harris explained that the violence occurred precisely because of the presence of black students on campus and the administration’s refusal to remove them.<sup>23</sup>

But like the UGA riots themselves, Greer and Harris’ approbation of white violence found little support in the Georgia’s news editorials, in the state’s political leadership, or in popular rhetoric. In fact, as we will see, many Georgians denounced the UGA riots in language similar to that used by the *New York Times* – as a “vulgar display” of extremism and violence that was the result of a “disregard for law and order” combined with “ignorance, mob psychology, and the influence of unscrupulous politicians.”<sup>24</sup> Student editorialist Terry Hazelwood reprovably wrote in *The Red and Black*: “Last night more than just a few rocks were hurled ... Ladies and gentlemen, this goes beyond good clean fun. It goes beyond one’s God-given right to peacefully assemble to state disapproval. Ladies and gentlemen, this is violence.”<sup>25</sup> This violence, Hazelwood made biting clear, made its way into national newspapers: “You ladies and gentlemen, you got your picture in the paper today. Was your named spelled right?”

Similarly admonitory, *Atlanta Constitution* cartoonist Clifford “Baldy” Baldowski depicted the riot in a single, striking figure of “The Big Man on Campus” – a monstrous, hulking Frankenstein of “mob violence” complete with crude stitching across the forehead,

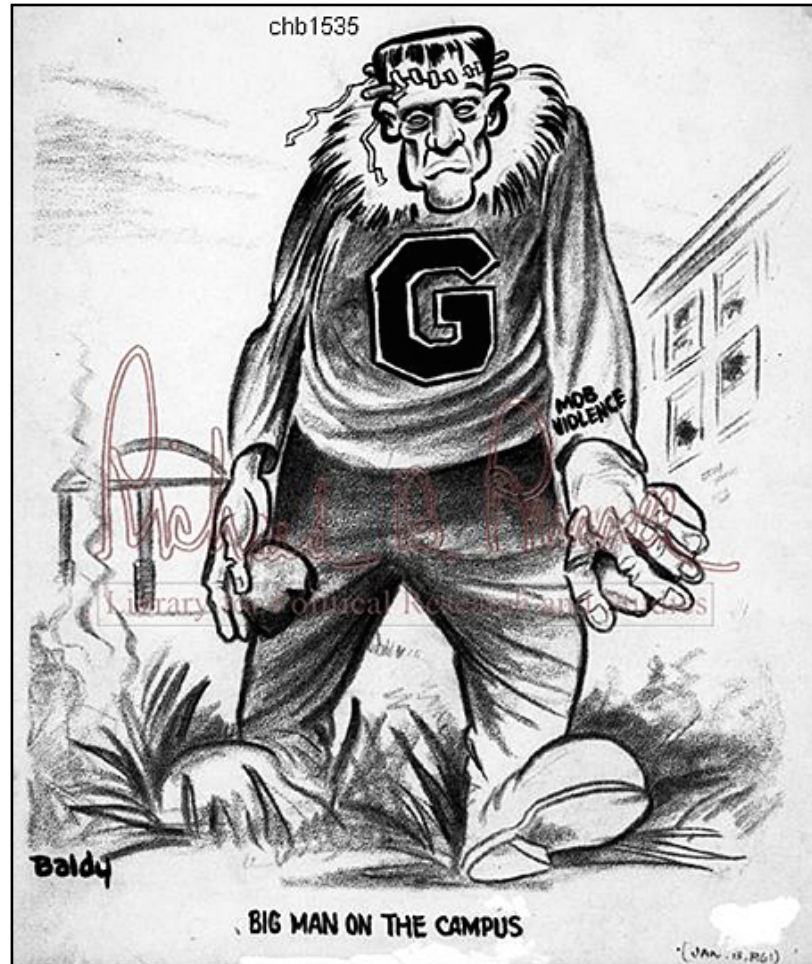
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<sup>23</sup> Quoted in Pratt, *We Shall Not Be Moved*, 94.

<sup>24</sup> Sitton, “Anatomy of a Campus Riot,”

<sup>25</sup> Terry Hazelwood, “Your Responsibility,” January 11, 1960. An image of Hazelwood’s column is available at University of Georgia’s online archives, at: [http://www.libs.uga.edu/hargrett/archives/integration/integration1\\_integration1\\_yourresponsibility.jpg](http://www.libs.uga.edu/hargrett/archives/integration/integration1_integration1_yourresponsibility.jpg).

unseeing eyes, stony grimace, and over-long arms ending in massive fists which close around lethal-looking rocks (Fig. 6.1).<sup>26</sup>



**Fig. 6.1:** Atlanta Constitution cartoonist Baldy depicts the white rioters at University of Georgia as one hulking, sightless, violent Frankenstein – the very antithesis of moderate (rearticulated) law-and-order. “Big man on campus,” Atlanta Constitution, January 18, 1961, Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

On Frankenstein’s chest is the insignia “G,” for the University of Georgia; behind it are Charlayne Hunter’s dormitory and the effigy of Holmes hanging from the UGA arch. Moving sightlessly forward, the figure displays the moderate admonition against unseeing (and

<sup>26</sup> “Big man on campus,” Atlanta Constitution, January 18, 1961, Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

therefore ignorant) mobism, lawlessness, and violence. Consider the similarities between this image and Herbert Block's cartoon in the *Washington Post* of the University of Georgia's riots, in which a Klansman falling into step next to an unsuspecting white UGA student tricks him to join the riot in country parlance: "Us collidge kids got to have more pep rallies."<sup>27</sup> With broken spelling, child's cap perched on his balding head, and rotund belly stretching his robes, the Klansman is both childlike and going to seed, a visual structure that positions the UGA violence as a product of ignorance and retrogression that infiltrated its student body from the outside. For both the *Atlanta Constitution* and *Washington Post*, white mobism is something outside of the decency of the typical white university student: it is the hulking, sightless Frankenstein and the mis-educated, backwards country Klansman. In the aftermath of the riots, castigations of the student mob were often rhetorically linked to the massive resistance movement's leaders in rural county unit politics. For many, topping the list of unscrupulous politicians whose influence incited the white mob violence at UGA was Roy Harris, whom many in the state began to view as not just a bulwark of segregation, but as dangerous, backward, and demagogic – and therefore a boon to northerners predisposed to view all southerners as such. Consider, for instance, Dick Mendenhall's WSAC radio broadcast, in which he lamented that Harris' rhetoric might be taken for representative of white Georgians:

Roy Harris and his Redneck band of dupes and malcontents must certainly be the darlings of a great portion of the national press. For they are constantly uttering loaded phrases which tend to collectivize and power the more ignorant extremist elements within Georgia. And this is the sort of thing that has created the distorted national picture of the state as a whole. There are intelligent, well educated, and worldly people in America today who will tell you, in all sincerity, that the State of Georgia is a commonwealth

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<sup>27</sup> Herblock, "Us Collidge Kids Got to Have More Pep Rallies," reprinted from the *Washington Post* in "Segregationists Prove Their Skill at Playing on Confusion," *New York Times*, January 15, 1961.

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peopled and controlled by ruffians, tobacco-chewers, backwoodsmen, and puffy-faced diehards who have never seen a shoe shop.<sup>28</sup>

The broadcaster's language is worth pausing over. First, in deriding the white student rioters at UGA – and their foremost defender and advocate, Roy Harris – Mendenhall emphasizes their violence without implicating segregation itself. The language of white extremism and violence afforded Mendenhall, like other moderates, the room to isolate the question of lawfulness and law-and-order from the question of segregation in schools. Second, Mendenhall performs a rhetorical conflation between white violence and class position. In his diagnosis of the student mob, racial violence is explained by way of a triangulation between the violence of poor whites, the nonviolence of metropolitan-minded white Georgians, and the photogenic Charlayne Hunter and Hamilton Holmes against which this white class politics played.<sup>29</sup> Indeed, Hunter and Holmes possessed all the qualities necessary for an integration test case. Both were top students in their respective Atlanta high schools, and each attended one year of college elsewhere while waiting for the courts to decide on their ability to attend UGA. Even more important than their academic chops, however, was their visual credibility. As Calvin Trillin, who covered UGA's integration for *The New Yorker* and would become a special ally of Hunter, described the pair in terms that capture the visual cues that would be on display in national newsreels and papers: "Good-looking and well dressed, they seemed to be light-complexioned Negro versions of ideal college students, models for an autumn Coca-Cola ad in a Negro magazine."<sup>30</sup> White Georgians could hardly ignore how the image of such

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<sup>28</sup> Radio broadcast. January 20, 1961. Dick Mendenhall. Station WSAC. UGA, Vandiver Papers, Box 9, Folder 10.

<sup>29</sup> I borrow the phrase "triangulation" from Claire Jean Kim in her classic article, "The Racial Triangulation of Asian Americans," *Politics & Society*, March 1999: 105-138. See Chapter One on the relationship between Kim's theorization and my own.

<sup>30</sup> Pratt, *We Shall Not Be Moved*, xx; Trillin, *An Education in Georgia*, 4.

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photogenic, respectable-looking, and light-skinned black students amid a frenzied mob of white rioters might play in the national news outlets.

Against the presence of Hunter and Holmes, Mendenhall explains white segregationist violence as a product of low-class whites' retrogression, extremism, and brutality. In Mendenhall's terminology, violence is the territory of Harris' "Redneck band of dupes," and the "ruffians, tobacco-chewers, backwoodsmen, and puff-faced diehards" that populate certain "extremist elements" in Georgia. These descriptors, furthermore, were all signifiers for the sort of poor whites that populated the agricultural counties and rural roads of Georgia. In opposition to these descriptors, the moderate-minded middle-class whites of metropolitan Atlanta became their unnamed foil – present even their absence – and resemble more closely the "intelligent, well educated, and worldly people in America" in their refusal of extremism and racial violence. Playing on these triangulated visions of the poor white "ruffian" of the backwoods counties, the unmistakably photogenic Hunter and Hamilton, and the moderate middle-class cosmopolitan, Mendenhall both explains and confines racial violence to an byproduct of white class position. Further, that he interprets the rioting as an unrepresentative "element" of Georgia narrows the scope of *which* whites are cast as villains to a regrettable sliver of the broader white population. Against the relief of poor white extremism, the bulk of Georgia began to travel in the slipstream of the moderate coalition. In their denunciation of the UGA riots, "lawfulness" and "law and order" became the natural and immanently available narrative to which to turn, and UGA's violence-laden integration provided the space in which to embrace the moderate narrative choice of *law or violence* over the massive resistance narrative choice of *integration or segregation*.

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Finally, Mendenhall's language betrays the central threat that white violence posed to Georgia at this critical juncture. The very image of Georgia was at stake. Indeed, the WSAC broadcaster's lamentation is not at all for the harm suffered by Charlayne Hunter, Hamilton Holmes, and the larger black community in Georgia who might have benefitted from the educational, economic, and political advantages that acceptance to the state's top public university would afford. The named harm, rather, is for the image of Georgia, whose white population Mendenhall frets might be mistakenly conflated with the villainous few. At stake for moderates in the context of the riots at University of Georgia, then, was nothing less than the good image of the state itself – and, presumably, its relationship to northern capital. Mendenhall was not alone in these views. The *Atlanta Constitution* editorial board likewise blamed what they termed “unlawful resistance to the Negroes” on a mere “12 or 20 hard-core segregationists” who were in any case, the newspaper argued, whipped into their frenzied “disregard for law and order” by “big names in state politics ... [who] are on the lips of many a student and professor, but will go unnamed here.”<sup>31</sup> The *Constitution*'s coy reference obliquely referred to Roy Harris, who was widely regarded as the rioters' primary, misguided agitator, and who some believed to have actually conspired with the students to incite the riot.<sup>32</sup>

If Roy Harris was cast in the role of extremist agitator and dangerous galvanizer of white massive resistance violence, then William Tate and Ernest Vandiver together filled the role of the brave defenders of lawfulness, moderation, and law-and-order. It became well known that in lieu of the local Athens police (who were reluctant to intervene in many of the white protests) and state troopers (who refused to act until express word from the governor's office

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<sup>31</sup> *Atlanta Constitution*, January 15, 1961.

<sup>32</sup> Pratt, *We Shall Not Be Moved*.

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arrived), William Tate nearly single-handedly quelled daytime on-campus protests, personally chopped down the raised black effigy at the University's historic arch, and doused the burning crosses that dotted the campus the first day of integrated classes. For his efforts, Tate received hundreds of letters, the bulk of which commended him for his actions.<sup>33</sup> Of the letters of support, only a handful praised him for ensuring the University's desegregation. An overwhelming majority commended him for his "lawfulness" and his ability to restore "law and order" to the campus in the wake of the white riots. Consider, for instance, the language of Stanley Ainsworth, a chairperson for an educational program in Georgia, who wrote to Tate: "The past few days have been trying for you, I am sure. Perhaps it will be of some help to you to know that a great many of us have a keen admiration or the way you have steadfastly supported law, order and decency." Fidelity to "law, order, and decency," for Ainsworth, did not require revising one's position on segregation itself. He continued: "I assume that the court orders were personally distressing to you, but the way in which you have put your personal feelings aside in order to attain broader and more far-reaching goals has increased my already considerable respect for your integrity and vision."<sup>34</sup> Or consider, as another example, the language of Mrs. E. Kontz Bennett of Waycross, Georgia. Congratulating Tate on his approach of shutting down rather than encouraging the riots (as Roy Harris and others had done, Bennett acknowledged), the Waycross resident promised support of law-and-order: "Since we are going to have the TV and the papers write us up, it

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<sup>33</sup> Tate estimated that he had received over 300 letters of support, 15 from those objecting to his actions, and ten from "'crackpots' who had a lot to say about racial differences, certain phrases in the Bible, or simple denunciation of 'nigger lovers.'" Letter from William Tate to Reverend Beverly A. Asbury, September 29, 1961. Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 2, Folder 1.

<sup>34</sup> Letter from Stanley Ainsworth (Chairman, Program for Exceptional Children) to William Tate and President Aderhold. January 13, 1961. Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, William Tate Integration at UGA Files, 1961-1963, Box 2, Folder 1.

seems such a wonderful opportunity to show that Georgia is *not* composed of hoodlums and mobs.”<sup>35</sup>

The language of everyday white Georgians is telling, and demonstrates the extent to which they began to use moderate “law and order” rhetoric as the manifest alternative to the racial violence engendered by continued massive resistance. But their language also betrays the racial calculus that this rhetoric entailed. First, Ainsworth’s admiration for Tate’s actions reveals law-and-order’s status as a suitably segregationist alternative to massive resistance – a formulation that would not have been possible without, for instance, the Sibley Commission, Atlanta business moderates, the editorial staff of the *Atlanta Constitution* and similarly moderate newspapers, and the ballooning class of home-owning white professionals in metropolitan Atlanta and Savannah. Ainsworth’s praise for setting “personal feelings aside” highlights the extent to which segregation by “law, order, and decency” was understood as the rational – rather than irrational, violent, or ignorant – choice. Second, like Dick Mendenhall, Bennett’s commendation of Tate rested both on a fear that Georgians might be mistaken for “hoodlums and mobs,” and the desire to keep a justifiably moderate image of Georgia intact. Finally, Tate’s own words reveal another facet of southern moderate law-and-order language: its commitment to racial neutrality and formal equality before the law. In his report to the General Assembly the week following the riots, Tate stated: “My part was very simple, because the law has to be observed and simply humanity and obedience to duty indicated that no group should be allowed to enter a dormitory and bother a student there.” In itself, this language embraces the deep relationship between the liberal value of equal protection (here,

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<sup>35</sup> Emphasis in original. Letter from Mrs. E. Kontz Bennett of Waycross, Ga. to William Tate. January 13, 1961. Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 2, Folder 1.

against violence) under the law popularized by postwar liberals and rearticulated law-and-order in the South.

Tate was not without support at the University of Georgia. A week after Judge Bootle's order, UGA faculty presented the university deans and press outlets with a resolution of support. Critically but perhaps unsurprisingly, the resolution pledged support for the "administrative authorities of the University of Georgia, especially the President, the Dean of Men, the Dean of Students, and the majority of the student body" not, as they might have done, for the education of Charlayne Hunter, Hamilton Holmes at a newly integrated UGA.<sup>36</sup> The undersigned faculty's terms of support were likewise revealing. Specifically, they reserved their commendation for the "manner" in which the administrative authorities and majority of white students "have conducted themselves under the trying conditions" of the integration, a "manner" that for the faculty involved "carrying out their responsibilities under the law" – a reference to Judge Bootle's court order mandating that Hunter and Holmes be allowed to register and attend UGA. Linked with this conception of lawfulness – in this sense, adherence to federal law over the massive resistance laws still on the books in Georgia – was the familiar language of law-and-order. Like other moderate forces in the state, the faculty resolution denounced the on-campus violence as "lawlessness" inspired by outside agitators: "We deplore and condemn the behavior of certain outside elements and those University students who regrettably joined in lawless demonstration." In pledging that they would not "retreat from the responsibility of standing steadfastly by the rules of law and morality," the faculty swore to uphold the "prestige of the University." In this sense, "prestige" is linked to the lawfulness and law-and-order manner with which one approaches desegregation. If the

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<sup>36</sup> Faculty Resolution protesting the rioting at UGA, January 1961, Hargrett Special Collections, University of Georgia, Georgia Integration Materials 1938-1965, Box 1, Folder 5.

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measure of prestige is law and law-and-order, the measure of malignance is lawlessness and violence. As a friend wrote to Calvin Trillin in the wake of the riots: “This is one of the most serious byproducts of segregation. The people get a disregard for the law.”<sup>37</sup>

It was in this environment that Governor Ernest Vandiver reconstructed his image – and with it, state policy – from steadfast “No, Not One” segregationism to a resolute enforcement of moderate lawfulness and law-and-order. In this transition, the defiance with which his administration had approached *Brown* and Atlanta school case *Calhoun v. Latimer* converted from a defense of the state’s massive resistance laws to a prelude to white violence. That is, suddenly in January 1961, state massive resistance laws – like the riots themselves – got recast as party to embarrassing spectacles of white violence that risked the good image of the state and endangered its economic prosperity. Against this backdrop, Vandiver changed course at top speed. The week after the riot, Vandiver stationed state patrol at University of Georgia to ensure that violence did not mar the scene of Hunter and Hamilton’s return to classes. Also that week Vandiver called for the repeal of the state’s massive resistance laws in a televised “State of the State” speech to the General Assembly, whose winter session had just begun. Announcing that he would not be “party to defiance of the law, as a few would wish, or do anything which might foment strife and violence in an explosive situation,” Vandiver came out for moderate school policy – and with it, rearticulated law-and-order.<sup>38</sup> And for his part, John Sibley touted the passage of moderate policy in themes of law-and-order, image, and education: “I think it’s had a very happy ending. The public school system has been

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<sup>37</sup> Quoted in Trillin, *An Education in Georgia*, 42.

<sup>38</sup> Vandiver press release quoted in “Face the Crisis With Dignity,” *Waycross Journal-Herald*. Editorial comment. January 16, 1961. UGA, Vandiver Papers, Box 9, Folder 1.

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preserved, law and order maintained and the reputation of the state and its people enhanced all over the world.”<sup>39</sup>

In the days after the “State of the State” address, resolutions from HOPE, civic organizations, and chambers of commerce poured into the governor’s office in support of moderate school policy. Nearly 1,000 signatures appeared on the Atlanta Chamber of Commerce’s resolution to support Vandiver’s so-called Child Protection Plan, which consisted of Local Option, Pupil Placement, Tuition Grant, and Freedom of Association laws. In the final days of January 1961, the General Assembly repealed all massive resistance laws and passed the Child Protection Plan bills with little resistance. Finally, on January 30<sup>th</sup>, 1961, Vandiver signed into law moderate school policy.

This was a turn of events that many in the Georgia press heralded. The *Waycross Journal-Herald*, for instance, opined that Vandiver’s statement made him an “honest and sincere man” whose commitment to law and to “courageously keep order” deserved the “gratitude of the decent people of Georgia.”<sup>40</sup> By contrast, Roy Harris’ “ill-considered charges” had “encouraged lawlessness.” The *Macon Telegraph and News*, weekly newspaper of the small town of Macon located 90 miles southeast of Atlanta at the edge of the state’s Black Belt, commented:

Last Wednesday’s demonstration, shocking as it was, has served a useful purpose. It has told the people of Georgia and authorities on the local, state, and federal level not to take for granted that a handful of ugly-tempered men cannot stir up strife among ordinarily decent, law-abiding youths ... No one’s youth, exuberance or misguided “principles” can not excuse any breach of the peace. Gov. Vandiver has already shown by deeds as well as words that he will brook no assault by anyone on the peace, good order and dignity of the state. Stationing state patrol forces at the University shows he means business.<sup>41</sup>

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<sup>39</sup> Quoted in Roche, *Restructured Resistance*, 192.

<sup>40</sup> “Face the Crisis With Dignity,” *Waycross Journal-Herald*. Editorial comment. January 16, 1961. UGA, Vandiver Papers, Box 9, Folder 1.

<sup>41</sup> “Twitty Reflects Attitude of Responsible Leader,” *The Macon Telegraph and News*. January 15, 1961, UGA, Vandiver Papers, Box 9, Folder 2.

In white Georgians' rush to embrace a self-image of decency, dignity, lawfulness, and "good order," Vandiver's renouncement of massive resistance strategy was read as a rebirth. And it was, in fact, a rebirth – a rebirth and reconstitution of the relationship between law, violence, state, and race in Georgia.

### **Toward Law-and-Order Politics in Georgia**

As a set of policies that ensured continued school segregation in overwhelming numbers, Vandiver's Child Protection Plan worked incredibly well. Atlanta schools desegregated in September 1961 when nine black 11<sup>th</sup> and 12<sup>th</sup> graders entered previously all-white public schools. But for the most part, Atlanta maintained (and sometimes re-invented) its patterns of racial segregation. In November 1962, for instance, Judge Hooper denied a motion of NAACP attorneys seeking to change Atlanta's desegregation plan on the grounds that it allowed schools to continue to operate on a segregated student assignment pattern. Both Hooper and an appeals court denied the motion. In 1965, Atlanta school board members voted to desegregate all grades (instead of a grade a year) under the state's Freedom of Choice amendment by the 1966-1967 school year. However, historian Alton Horsby, Jr. has found that "five years after the first desegregation, ninety-five percent of all the city's pupils were attending segregated schools."<sup>42</sup> At the same time, Atlanta's black student population ran into a different civil rights issue with regard to schools: when the 1967-1968 school session opened, Atlanta's all-black high schools were all double or "extended" session, meaning each school held two sessions of classes each day to accommodate severe overcrowding.<sup>43</sup> By the

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<sup>42</sup> Alton Horsby, Jr. "Black Public Education in Atlanta, Georgia, 1954-1973: From Segregation to Segregation," *Journal of Negro History* 76 (Winter-Autumn 1991), 31.

<sup>43</sup> Horsby, "Black Public Education in Atlanta," 32. Black parent sit-ins in front of school administration building in Atlanta with a list of twelve demands (date unknown, but September-Nov 1967), and the Atlanta

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1970-1971 school year, white flight had mushroomed and residential segregation had re-entrenched to the extent that desegregation under the Atlanta school plan was virtually impossible. In 1971, the U.S. District Court in Atlanta declared the city's school system a "unitary" one, but also noted that the "continuing resegregation" of schools in Atlanta since 1961. This resegregation was due, the court argued, to housing patterns that were beyond the court's purview and thus not a matter for the courts.<sup>44</sup> In the 1971-1972 school year, only 28,000 white students remained in public schools in Atlanta. Of 71,000 black students, only 13,149 attended desegregated schools.

As an expression of New South prosperity and racial progress, Vandiver's Child Protection Plan did something other than guarantee continued school segregation. In this section, I argue that when the state passed this bundle of moderate school policies in place of massive resistance, moderate law-and-order logic became entrenched in state interests that underpinned a dual racial exoneration for the newly moderate state. First, as I have argued throughout this chapter, the narrative architecture of moderate law-and-order discourse worked to exonerate political moderates (and after January 1961, the state itself) from the very exclusion their school policies secured into law. In this section, we witness the state fully embrace the benefits of this exoneration on the national stage. Even as moderate resistance policies maintained high amounts of segregation in schools statewide and even as moderates continued to work hard to prevent blacks from realizing full citizenship rights in other areas, Georgia won the praise – and continued corporate patronage – of the nation. This success, I suggest, was in large part due to the signal that rearticulated law-and-order sent to northern liberals, national politicians, corporations, and to some extent, the courts. Moderation, through

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Chamber of Commerce and Atlanta Community Relations Committee mediated, with the result of the end of "extended" sessions in all-black high schools by implementing portable classroom structures

<sup>44</sup> Cited in Horsby, "Black Public Education in Georgia," 36.

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rearticulated law-and-order, became legible as evidence of a New South, a South reborn, a South newly aligned with mainstream America.

Second, the narrative architecture of moderate law-and-order discourse worked to exonerate Georgia from the racialization of the expanding law-and-order state in Georgia itself. As much a danger to the success of the moderate New South as violent white extremism, black integrationism and civil rights protest was increasingly articulated at a disturbance to the public “peace,” the cause of social “disorder,” and the provocation to episodes of racial violence that was of equal danger to the economic goals of the state and the classed interests of white middle-class populations. As such, also in this section we will witness moderates’ increasing preoccupation of black rights-claiming and black protest as the *other* enemy of the moderate state and of moderate law-and-order, and in many ways this preoccupation only increased after moderate policies were secured into state laws and logics. In this sense, black civil rights reformers became the symmetrical inverse of violent white supremacists. Further, in the supposedly racially “neutral” law-and-order state, while white deviation from race-neutral law-and-order was narrowed to only the most violent of actions, all sorts of black behavior, patterns of conduct, actions, protest, and language became evidence of their disorder, lawlessness, and criminality. To be sure, attacks on black rights-claiming as lawless or criminal were by no means new or novel in this era. What was new and novel, however, was that black rights claiming and protest (legible in the New South order as “lawlessness” and “violence”) stood as an aberration to a moderate and ostensibly *race-neutral* or *colorblind* southern state. Indeed, partly what the moderates achieved in Georgia in 1961 was to reconstitute something familiar and well-worn about the supposed “lawlessness”

of blackness and make that co-extensive with the colorblind state rather than with Jim Crow, massive resistance, or racial extremism.

In this concluding section of the chapter, I explore this double exoneration of the moderate New South in the context of new moderate policy. In many ways, it paves the way for the work of the following chapter, in which I investigate new forms of policing that increasingly targeted black rights as a danger equal to overt white supremacist violence.

*Exoneration I: Escaping the Sin of Racial Violence*

Once a “No, Not One” segregationist, Governor Vandiver in 1961 articulated moderate school policy as something of an exoneration from the violence of massive resistance. On the eve of Atlanta high schools’ first desegregation in August 1961, Vandiver embraced a bright line between moderate law-and-order and violence encouraged by massive resistance. On statewide broadcast, he made this line very clear:

One choice led to darkness, ignorance, violence and massive integration. The other to light, learning, order and reliance upon a child protection plan and the good judgment of our people over Georgia to follow a system of voluntary segregation –the only remaining effective alternative available to us. The prospect of subjecting the children of Georgia to violence, padlocking the schools and colleges of the State and turning over a million children out on the street was unthinkable to me and was unthinkable to practically every member of the General Assembly. We pursued a course of discretion and honor – a course expected of a government of laws – a course designed to afford new and effective safeguards – a course to protect our children – a course to carry on legal resistance with every means available to us.<sup>45</sup>

Recalling the moderates’ victory over massive resistance a year later, Vandiver drove this point home again. Abolishing massive resistance laws in the state, he claimed, “saved [Georgia’s] children from the cesspools of ignorance, padlocked schools and colleges, and mob violence. This is the record. We stand upon it before that great body of god-loving, law-

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<sup>45</sup> Ernest Vandiver, “Report to the People of Georgia,” August 1961 (UGA, Vandiver Papers, Series IV, Box 6, Folder 3).

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abiding, honest, upright Georgia men, women and children.”<sup>46</sup> Tellingly, Vandiver casts the state’s moderate turn in school desegregation as the way of “law,” “order,” and “honor” in part by neatly separating it from massive resistance “darkness,” “violence,” and “padlocked schools.” Just as tellingly, he claims – correctly – that new policies of child protection and pupil placement (which he here terms “voluntary segregation”) enabled Georgia to pursue a strategy of “legal resistance” to school desegregation. Despite the fact that massive resistance strategies mostly relied on constitutional arguments as well as popular, violent mobilizations, Vandiver was correct that after 1961, Georgia successfully followed a path of legalistic resistance to school desegregation moored in moderate school policy. Even in Atlanta, very few schools integrated successfully, and many suffered resegregation over the course of the next decade.<sup>47</sup> But his emphasis on legal resistance, and the distinction he draws between it and massive resistance, mirrors the clean dividing line between “law and order” and violence. Indeed, it performs a similar sort of move, articulating moderate resistance to integration as legalistic and legitimate (the realm of “law and order”), and massive resistance to integration as unlawful and illegitimate (the realm of racial violence).

Newspaper reaction in 1961 to the implementation of moderate school policy in the state likewise praised it as moving the state towards lawfulness and progressivism, thus shielding the now decidedly New South state from the racial exclusion and containment at the root of its policies. This much was clear from the moment Vandiver pushed the end to massive resistance in January 1961. In the days after the “State of the State” address, many Georgia journalists linked narratives of lawfulness/law-and-order with narratives of progress and

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<sup>46</sup> Ernest Vandiver, Address before Georgia General Assembly, January 10, 1962 (UGA, Series IV, Box 5, Folder 1).

<sup>47</sup> Alton Hornsby, Jr. "Black Public Education in Atlanta, Georgia, 1954-1973: From Segregation to Segregation," *Journal of Negro History* 76 (Winter-Autumn 1991).

futurity. The *Atlanta Constitution*, for instance, gushed: “Gov. Vandiver has cleansed and refreshed the political climate of Georgia ... Gov. Vandiver famed his program as one of lawful resistance, not defiance or violence, but lawful resistance to desegregation; to rebuild defenses to ‘withstand the onslaughts in the courts’ and to see to it ‘in practically every community in Georgia, on a voluntary basis.’ That was his political purpose as the governor of a people whose majority holds ‘a deep conviction that separate facilities for the white and colored races are in the best interests of both races.’”<sup>48</sup> Here, Georgia is “cleansed” of unlawful defiance and violence just as much as its actual commitment to segregation is “refreshed.” Similarly, *Atlanta Constitution* cartoonist, Baldy, depicted the newly moderate governor as valiantly leading “Education in Georgia” and a gaggle of white school children out of a muck of “indecision” in which the children were previously drowning.<sup>49</sup> Behind Vandiver, who carries a schoolhouse effortlessly on his shoulders, the Georgia legislature follows not far behind, also scooping school children out of the muck. The cartoon positions Vandiver as the savior not only of public education, but also of the next generation of white citizens as the future of the state. For its part, the *Atlanta Journal* was simply relieved after Vandiver’s speech: “Georgia’s future is brighter than ever.”<sup>50</sup>

Other news outlets similarly praised Vandiver’s commitment to progress and lawfulness.

One radio broadcast in late January 1961, for instance, announced:

Georgia may hold her head high in the Inaugural Parade today. The state has gained a large measure of national admiration and respect, and a new kind of prestige, over the two-week period just passed. Many Southern States have had to face the touchy problem of Court-ordered integration—in colleges, in public schools, at downtown lunch counters, and elsewhere. With rare exceptions, there has always been a fuss about it all. And, with

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<sup>48</sup> Editorial, “Innate, Inbred Integrity Is Here,” *Atlanta Constitution*. January 19, 1961. Page 4. UGA, Vandiver Papers, Box 9, Folder 1.

<sup>49</sup> Clifford “Baldy” Baldowski, “... Come on kids!” *Atlanta Constitution*, January 19, 1961, p. 4. Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

<sup>50</sup> “A Pledge to the Future” *Atlanta Journal*. January 26, 1961. UGA, Vandiver Papers, Box 9, Folder 1.

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almost no exceptions, this has been precipitated, at least indirectly, by a bombastic and hotheaded, senseless defiance at executive and legislative levels of states concerned. But in Georgia, this has not been the case ... Georgia is not a state composed only of rednecks, fundamentalists, and fools ... The entire State of Georgia is, in fact, to be commended and applauded for its surprisingly gentle regard for the inevitable and total respect for law and decency.<sup>51</sup>

Familiar here is the moderate insistence that Georgia is not simply a land of “rednecks, fundamentalists, and fools,” nor of “bombastic and hotheaded, senseless defiance” of law, but rather of their opposites: “total respect for law and decency.” The *Waycross Journal-Herald* commended Vandiver on “great statesmanship” and his ability to take a “realistic approach” in the Child Protection Plan.<sup>52</sup> All of this language – lawfulness, reason, respect, decency, futurity, law and order, and prestige – positions Vandiver’s newfound moderation as an exoneration from the violent and demagogic mess in which he would have condemned Georgia if he had re-committed to massive resistance laws. Embedded but also invisible in this exoneration is the racial architecture of moderate school policy.

This exoneration was apparent when the General Assembly began, on January 27<sup>th</sup>, 1961, to repeal massive resistance laws and pass the legislation recommended by the Sibley Commission’s majority report. Maintaining its rhetoric of “cleansing,” the *Atlanta Constitution* enthused that the previous day’s repeal of six school closure laws was akin to a sort of purified lawfulness: “Beyond our boundaries, the legislature’s action brings Georgia to the top of responsible Southern leadership. Georgia’s leaders thought their way through the crisis instead of quitting and crying while the state’s law, order, education, and good name collapsed. The nation and the world will note what has been done here, and respect us for it... These representatives have done the right thing, the clean thing, and can explain their good

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<sup>51</sup> Radio broadcast. January 20, 1961. Dick Mendenhall. Station WSAC. Vandiver Papers, Box 9, Folder 10.

<sup>52</sup> “Governor Shows Statesmanship,” *Waycross Journal-Herald*. January 28, 1961. Editorial comment. UGA, Vandiver Papers, Box 9, Folder 1.

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reasons why, and so the very air of politics in Georgia is, suddenly, considerably cleansed.”<sup>53</sup>

Vandiver himself campaigned for the state legislature to pass his Child Protection Plan. In a press release, he advocated for what he termed “lawful process,” the “welfare and best interests of the children of Georgia,” and a positive image of the state:

If any person is so irresponsible as to counsel defiance of lawful processes and subject the teachers and children of Georgia to bodily hazard, he may do so, but he must answer to his conscience and to the future for it. ... It is my hope that the General Assembly will give these proposals a unanimous vote and that no member will allow himself to be recorded as voting against public education and against the welfare and best interests of the children of Georgia. Of all the roll calls in my administration, this one, dealing with the fate of the schools and the future of the youth of our state, I consider, is by far, the most important. Let us show to the nation and demonstrate to the whole world that Georgia is acting positively to protect her children and protect her good name.<sup>54</sup>

Vandiver’s language here of “showing the nation” and “demonstrating to the world” makes it clear that he considered the image of the state in his turn to embrace moderate school policy.

It became clear just how much the nation was, indeed, paying attention. Atlanta prepared for the August 27<sup>th</sup> desegregation of four white high schools by announcing a “Law and Order Weekend,” sponsored by more than fifty organizations, that was designed to minimize overt or violent resistance to school integration.<sup>55</sup> The weekend’s title alone suggests that “law and order” had by this date achieved a settled common sense: no violence, racial neutrality, and no racial disturbances. Mayor William B. Hartsfield and Atlanta Police Chief Herbert T. Jenkins made appearances on hourly radio and television spots to promote the “law and order” weekend and call for a “peaceful desegregation.” The Atlanta Chamber of Commerce also ran television spots and a special advertisement in the *Atlanta Constitution* that asked, “How

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<sup>53</sup> “A Cleansing Has Occurred,” *Atlanta Constitution*. January 28, 1961. UGA, Vandiver Papers, Box 9, Folder 1.

<sup>54</sup> Press Release, Vandiver, January 23, 1961. UGA, Governor’s Office Files, Speeches and Press Releases, Box 7, Folder 8.

<sup>55</sup> Claude Sitton, “Atlantans Unite in School Appeal, Peaceful Integration Drive Gets Wide Support,” *New York Times*, August 28, 1961, 1. These organizations included churches and religious organizations, such as the Greater Atlanta Council of Churches, and civic organizations such as HOPE and the Greater Atlanta Council of Human Relations, and the Atlanta Chamber of Commerce.

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Great is Atlanta?,” suggesting that Atlanta’s greatness – her progressivism and economic power – was intimately tied to the image of law-and-order desegregation.<sup>56</sup> Leslie Dunbar, executive director of the Southern Regional Council, noted that “Law and Order Weekend” campaign seemed to have prepared the city well for a peaceful desegregation: “More preparation has taken place in Atlanta prior to desegregation than in any other Southern city. There is every reason to believe that the result will show the value of advance planning.”<sup>57</sup>

This advance planning paid off. When Atlanta schools desegregated in late August 1961 with few outward signs of white resistance or violence, the *Atlanta Constitution* ran an editorial cartoon depicting a lazy newsroom. In the cartoon, reporters lounge at a newsroom desk smoking cigarettes, board expressions on their faces, and a photographer gazes out the window in search of something to photograph, to no avail.<sup>58</sup> Many on the national scene took this as a sign of Georgia’s success and racial progressivism. President Kennedy, for instance, praised Atlanta and Georgia as a whole for the “responsible, law-abiding manner” of the school integration.<sup>59</sup> In his statement, he spoke of Atlanta as a model: “I strongly urge the officials and citizens of all communities which face this difficult transition in the coming weeks and months to look closely at what Atlanta has done.” Robert Kennedy congratulated Governor Vandiver via telegram for the lack of “any violence” in Atlanta’s desegregation.<sup>60</sup>

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<sup>56</sup> Rebecca Burns, *Burial for a King: Martin Luther King Jr’s Funeral and the Week that Transformed Atlanta and Rocked the Nation* (New York: Scribner, 2011), 62.

<sup>57</sup> Quoted in Sitton, “Atlantans Unite,” 1.

<sup>58</sup> Clifford “Baldy” Baldowski, “Maybe something’s going on in China!” *Atlanta Constitution*, August 30, 1961, 4. There was indeed little disturbance at Atlanta schools. The *New York Times* reported that “four suburban youths and an avowed member of the American Nazi party” were arrested by Atlanta police when they failed to leave an off-limits school zone. Claude Sitton, “Racists’ Moves Fail,” *New York Times*, August 30, 1961, 1.

<sup>59</sup> Claude Sitton, “Racists’ Moves Fail,” *New York Times*, August 30, 1961, 1.

<sup>60</sup> Vandiver Press Release, Vandiver, August 31, 1961. UGA, Governor’s Office Files, Speeches and Releases, Box 7, Folder 7. Vandiver, for his part, claimed to have retorted to Robert Kennedy that “the great majority of Georgians ... are strenuously opposed to integration, but we fight out battles in the courts and not on the school grounds.”

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Members of the national press likewise found Atlanta to be praiseworthy. The *New York Times*, for instance, called Atlanta's desegregation "a new and shining example of what can be accomplished if the people of good will and intelligence, white and Negro, will cooperate to obey the law."<sup>61</sup> The image of law-abiding Atlanta stuck. In 1963, *Town & Country* magazine ran a special issue on Atlanta's racial progressivism and economic growth called, "The Miracle in Atlanta." Its rhetoric made clear just how far Atlanta's moderates had gone to ensure the nation viewed its moderate policies as evidence of the city's progressivism. The article's author, James Townsend, gushed:

Atlantans still look to the future... In the heart of an embattled region that faces grave social problems in the changes being wrought by integration, Atlanta stands as an oasis of tolerance. There was a time not long ago when Atlanta was expecting to lead the South in defying court orders to integrate. Rabble rousers, racists, extremists, and militant segregationists at that time predicted that the integrationists would meet their match in the leadership of Atlanta. They should have known better. There were significant signs as early as 1948 that Atlanta might lead the South, but it was clear that Atlanta's leadership had an entirely different direction in mind.<sup>62</sup>

Under the careful direction of the moderate coalition, Mayor Hartsfield, Governor Vandiver, and the 1961 state legislature, Atlanta's moderation made the city legible an "oasis of toleration" in an otherwise "embattled region." What moderates achieved, then, was the exoneration of the city from the sins of the South – and this was an exoneration that the language of "lawfulness" and "law and order" had helped them to achieve.

Ernest Vandiver capitalized on this achievement as his gubernatorial term wound down in 1962. In a speech to the General Assembly, he recalled the state's period of crisis that made up his first two years as governor and congratulated the state legislature for helping to create positive image of Georgia for the nation: "The cooperation which you and the preceding

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<sup>61</sup> Burns, *Burial for a King*, 63.

<sup>62</sup> James L. Townsend, "The Miracle in Atlanta," *Town & Country*, February 1963. Emory, MARBL, Sibley Papers, Box 129, Folder 6.

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Legislature gave my administration ... saved her children from the cesspools of ignorance, padlocked schools and colleges, and mob violence. This is the record. We stand upon it before that great body of god-loving, law-abiding, honest, upright Georgia men, women and children confident of their appraisal and history's verdict."<sup>63</sup> In a press release, Vandiver called "protecting the children of Georgia from violence and saving our State from disgrace" the "chief legacy" of his administration.<sup>64</sup> To make sense of these statements, it is essential to note that by the end of his administration Ernest Vandiver had not only switched his policy preferences from massive resistance to moderate resistance, but that by so doing, he inverted the law-and-order logic of the state. Gone was the rhetoric of "blackboard jungles" in which the mere presence of blacks – and therefore criminality – in a previously white classroom was the prelude to violence, lawlessness, and crime. In its place was a neat inversion, in which "cesspools" of white "ignorance" and "mob violence" was the great threat to "upright Georgia."

This inversion, I suggest, is discursive evidence of a larger phenomenon. Georgia moderates successfully leveraged "law and order" rhetoric as a means to maintain both Georgia's (and particularly Atlanta's) image as a leader of the New South *and* critical aspects of racial stratification, exclusion, and containment in the making of the New South's political and economic order. Jettisoning the former captains of massive resistance as violent whites unrepresentative of the state enabled moderates to preserve class-inflected benefits of white supremacy after Jim Crow's collapse. Furthermore, it allowed them to articulate those benefits as an escape from the incendiary sins of the Jim Crow South. Racial violence was the

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<sup>63</sup> Address of Ernest Vandiver before the General Assembly, January 10, 1962. UGA, Governor's Office Files, Speeches and Releases, Box 5, Folder 1.

<sup>64</sup> Press Release, Vandiver, December 31, 1962. UGA, Governor's Office Files, Speeches and Releases, Box 5, Folder 7.

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narrowed domain of a handful of poor rural whites, and colorblind law-and-order was the expanded territory of the majority of Georgians – now not just the Atlanta moderate elite, but any white person who, as Calvin Trillin once wryly noted, “had never been caught throwing a rock at a Negro.” In short, the inversion exonerated southern moderates from the sin of racial violence on the national stage and awarded them membership in the postwar project of nationalistic American exceptionalism and unprecedented progress.

### *Exoneration II: The Racialization of Law-and-Order*

Just as much as it exonerated the New South from the sin of racial violence, the narrative architecture of moderate law-and-order discourse also worked to exonerate the New South from the racialization of the expanding law-and-order state in Georgia itself. In this section, I spotlight the triangulation that rearticulated law-and-order performed for newly moderate Georgia. After the passage of the Child Protection Plan, Governor Vandiver well understood that there were two threats to the success of this plan: those whites still dedicated to massive resistance who might violently resist token desegregation, and blacks who were struggling to reveal the extent to which moderate Georgia remained dedicated to racial exclusion, stratification, and even violence. Over the course of this chapter, we have witnessed how the threat of white violence was identified and successfully controlled by moderate policies. We have also witnessed how what counted as white “violence” was contained to a narrow set of actions perpetrated by a narrow set of the white population. In this section, I examine how moderates sought to contain the second threat to the success of the moderate state: black civil rights struggle, protest, rights claiming, and integration. Here, we will witness an expansion instead of a narrowing, in which a large set of black behaviors, actions, and codes of conduct

were deemed “lawless,” “disorderly,” improperly race-conscious – all aberrations to the properly race-neutral, color-blind law-and-order state.

Consider, first, a visual of this triangulation that appeared at a critical moment for the creation of moderate politics in Georgia. On the heels of Governor Vandiver’s “State of the State” address in which he advocated the abandonment of massive resistance for moderate resistance, the *Atlanta Constitution* ran a political cartoon that captured the spirit of this shift (Fig. 6.2). In the cartoon, Vandiver stands behind his governor’s desk with sleeves rolled up and hammer in hand, having just tacked several announcements over the Seal of Georgia and the paintings that line his office wall. The new signs read: “I don’t like it but the Court ruling exists,” “Force if necessary to preserve the peace,” and “Violence and disorder will not be violated.” Above all of these Vandiver has hung a sign bearing the moderate motto, “Law and Order will prevail.” Two call buttons appear within easy reach of the governor’s fingertips, one labeled “police,” the other, “troops.” It is a scene that makes clear the new commitment of the state after the passage of moderate school policy. Indeed, the rearticulated logic of law-and-order at work in the signs in the scene are clear, as is Baldy’s suggestion that this logic replaced an older one – hence the fact that the “law and order” signs are tacked over the usual paraphernalia of the governor’s office. More important for my argument in this section is the group of people stationed in front of Vandiver’s desk in confrontation with Vandiver, the ones to whom he directs the question, “Now ... What can I do for you fellows?” Three figures have discernable labels: a cigar-smoking man who represents “Propagandists,” a pudgy white yokel with a balled up fist who represents “Inside Troublemakers,” and a folio-toting African American man who represents “Outside Agitators.”



**Fig. 6.2:** *The triangulation of law-and-order is apparent in this 1961 Baldy cartoon in which white “inside troublemakers” and black “outside agitators” stand ready to disrupt the newly law-and-order state presided over by Ernest Vandiver. Clifford “Baldy” Baldowski, “Now ... What can I do for you fellows?” Atlanta Constitution, January 16, 1961.*

Between these figures, a triangulation of racial law-and-order forms in which the colorblind law-and-order state stands in opposition to white “troublemakers” and black “agitators.” The propagandists wait to capitalize on any disruption. It is notable that white troublemakers and black agitators stand shoulder to shoulder on the same side of the room, a wide desk separating them from the Vandiver, the new representation of the law-and-order state. Both are threats to the survival of moderate policies and the New South to which these policies are committed. It is also notable that the white troublemaker connotes white violence by way of country clothes and balled-up fist (now resting at his side, having been arrested by law-and-order). On the other hand, the figure of the black “outside agitator,” a moniker

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usually reserved for the NAACP, is dressed finely in a suit and glasses. Bulging folio of papers tucked under his elbow, black agitation is dressed up as a lawyer. In this sense, what unites white violence and black civil rights – entities who are otherwise not discernibly similar – is their aberration from the moderate state and its new commitment to law (even if “I don’t like it”) and law-and-order (even if police and troops are necessary to enforce it).

Indeed, for many moderates, local desegregation efforts and the broader black civil rights movement were a danger to the success of moderate school policy, and so were maligned as “lawless” and “disorderly.” Let us take, for instance, the Freedom Riders’ campaign to desegregate bus terminals in the South in the spring of 1961. An *Atlanta Constitution* editorialist describing the scenes of mob violence that greeted the Freedom Riders in Alabama emphasized the disorder inspired by African American protest: “A test of law, and a test of order. For the white American, there is a duty to comply with the law. For the Negro American, there is a duty to maintain order.”<sup>65</sup> This lament was typical, and reminds us that the linking of white racial innocence to moderate law-and-order imperatives existed in relation to visions of both white violence and black “disorder.” Governor Vandiver made a similar protest when asked about the Freedom Riders’ entry into Alabama. Calling them an “unwelcome subversive group” for whom he felt a “deep resentment,” Vandiver focused his ire on their supposed lawlessness.<sup>66</sup> Their “sole avowed purpose,” Vandiver said in a press release, was “disturbing the peace of a section who are otherwise peaceful.” He elaborated: “Peace could be restored, as well as harmony between the races, if the administration in Washington would withdraw the Federal marshals and appeal to these riders to stay at home.”

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<sup>65</sup> “May Our Children Look Back Proudly On Our Response to Lawful Duty,” *Atlanta Constitution*, July 3, 1964.

<sup>66</sup> Vandiver Press Release, Vandiver, May 22, 1961, UGA, Governor’s Office Files, Subjects 1959-1962, Box 7, Folder 9.

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Here, both Vandiver and the *Atlanta Constitution* triangulate white citizens' responsibility to the moderate law-and-order state with white violence and black lawlessness.

Vandiver treated the attempted integration of University of Mississippi (Ole Miss) by James Meredith in September 1962 in similar fashion. In a press release, Vandiver announced:

Ours in a nation of laws. For anyone to defy the laws and constituted judicial process – and that includes “freedom riders” and outside agitators as well – in support of a particular cause, or because he disagrees with those laws or court orders – and may I say here that I very vigorously disagreed with the decisions of the U.S. Supreme Court – is to strike a blow at the very foundation of our nation. As long as Mississippi is a State of the United States, and does not secede from the Union, they, like every other State, must abide by the laws and the decisions of the courts which directly affect them. Speaking as one who has had to make the same hard decision that now faces the Governor of Mississippi, I believe Mississippi will eventually come to see that law and order is the only course open to them. As Governors, we are sworn to uphold the Constitution of the United States, as well as the Constitutions of our own States. We cannot tolerate violence and disorder, nor should we take any official action which encourages violence and disorder by others.<sup>67</sup>

Vandiver's triangulation here is between on the one hand, the Freedom Riders and “outside agitators” fighting for racial integration and on the other hand, the state of Mississippi for failing to prevent white violence. Advocating “law and order [as] the only course open to them [in Mississippi],” Vandiver suggests that such law-and-order would guarantee the eradication of two types of disorder: that caused by black civil rights protest and that caused by white perpetrators of violence.

The extent to which the triangulation between “neutral” law-and-order, white extremist violence, and black civil rights disorder cemented in Georgia politics and political culture is discernable in a series of political cartoons that the *Atlanta Constitution* ran from the 1960s to the 1980s. I will close out this section with an examination of four of these (See Chapter

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<sup>67</sup> Vandiver Press Release, September 30, 1962. UGA, Governor's Office Files, Speeches and Releases, Box 5, Folder 8.

Appendix). Each cartoon depicts, I argue, the racial triangulation between the law-and-order state and the white violence and black civil rights “agitation” that threatens its survival. Through this progression, we witness the close equation between white violence and black rights as imagined in the moderate New South, and the fact that this continued into the 1980s suggests that the moderate’s *rearticulation* of liberal law-and-order for the purposes of the New South significantly and durably altered the racial logic of *law*, *lawfulness*, and *law-and-order* in Georgia.

In the first (Fig. 6.3), which ran at the height of civil rights protest and white backlash in Atlanta in May 1962, Baldy depicts the dual danger to the moderate law-and-order state as two Frankensteins (the white Frankenstein familiar from the cartoon on the UGA riots in 1961), one white, one black, one “violence,” one “boycott.”<sup>68</sup> They are indistinguishable except for their skin color. And, in a further display of their unity, Baldy depicts them holding hands. In the second (Fig. 6.4), Baldy responds to the Student Nonviolent Coordinating Committee’s (SNCC) 1965 Americus movement that targeted voting rights and voter registration in the Black Belt bastion of Sumter County.<sup>69</sup> When a white youth was shot in a drive-by after reportedly stopping to watch black protests in progress, white backlash turned violent and attracted the disdainful gaze of the national press.<sup>70</sup> In Baldy’s commentary, racial rage bound black protestor and Old South white yokel together in mutual blindness. In the third (Fig. 6.5), Baldy responds to the white supremacist campaigning in the 1966 gubernatorial election in which Georgia two businessmen, Lester Maddox of Atlanta and

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<sup>68</sup> Clifford “Baldy” Baldowski, “Siamese Twins,” *Atlanta Constitution*, May 3, 1962. Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

<sup>69</sup> Clifford “Baldy” Baldowski, “Maybe we better see what’s happened!” *Atlanta Constitution*, July 31, 1965.

<sup>70</sup> “Trooper Force Raised to 100 at Americus After Youth is Slain; Halt Marches, Sanders Urges Both Races,” *Atlanta Constitution*, July 30, 1965, 1.

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James Gray of Albany ran on deeply segregationist platforms in the Democratic primaries.<sup>71</sup> For Baldy, Gray's virulent segregationism positioned him as a "brother under the skin" to the Black Power movement. Finally, in the fourth cartoon (Fig. 6.6), Baldy depicts, perhaps now ironically, the continued harmony of black civil rights and white supremacy into the 1980s in the image of a black protestor and white Klansman with their arms slung across each other's shoulders.<sup>72</sup> Demonstrating a symmetry that bonds and unites them, one says to the other, "Oh yeah, I'm a natural-born demonstrator myself."

A few things are of particular note in the progression of these cartoons. To begin, present in each one is the basic triangulation of white moderate law-and-order, white extremist violence, and black civil rights disorder. In each image the perpetrators of white supremacist violence and black civil rights protest appear in a symmetry that unites rather than divides them – and this is a unity that divides them from inclusion in the moderate law-and-order state. White moderate law-and-order, while absent in the cartoons, is nonetheless present in the position of the reader, who is invited to witness this symmetrical threat to law-and-order and public peace. The congruence between white violence and black civil rights, according to these images, rests on identical ability to disturb public peace and on the fact that they – unlike white moderates and the white moderate state – act in a racialized manner. In this sense, each cartoon turns the law-and-order state legibly colorblind. Baldy makes this much clear in how he titles each cartoon. White extremist violence and black civil rights lawlessness are "Siamese twins" and "Brothers under the skin." They are, for the southern moderate, kinsmen. As such, the arrival of the moderate law-and-order state also marks the moment when black civil rights became the conjoined twin, the brother to white violence.

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<sup>71</sup> Clifford "Baldy Baldowski, "Brothers Under the Skin," *Atlanta Constitution*, September 13, 1966.

<sup>72</sup> Clifford "Baldy" Baldowski, "Oh yeah, I'm a natural born demonstrator myself!" *Atlanta Constitution*, July 23, 1981, 4. Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

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This architecture performs two important functions for the moderate state. First, it expands what counts as black lawlessness to a whole set of civil rights practices and arguments while contracting white violence to its most extreme expression. Second, it positions the state as the exonerated enforcer of colorblind law-and-order. Indeed, the “brothers under the skin” designation renders new state policies as part of a colorblind narrative in which skin color of white and black extremists alike operates as a chimera obscuring a more basic character that actually unites them: race-conscious lawlessness and violence. Finally, we might also notice that what this symmetrical racial extremism disrupts is both law-and-order and, as the 1962 cartoon makes clear with the image of the boarded up grocery store, the economic stability of the New South. The common threat – the thing that unites black and white protest as twins – is economic peril to the race-neutral, colorblind New South.

### **Conclusion**

In light of this triangulation between white law, white extremist violence, and black lawlessness, my revision of Gary Peller’s claim in “Race Consciousness” becomes apparent. Recall from Chapter One that Peller identifies the “basic racial compromise” of the civil rights era as the equation of black nationalism and white supremacy.<sup>73</sup> In this compromise, Peller argues, “the dominant conception of racial justice was framed to require that black nationalism be equated with white supremacists, and that race-consciousness on the part of either whites or blacks be marginalized as beyond the good sense of enlightened American culture.” In searching for the roots of this equation, Peller looks to integrationism and black civil rights as the ground of compromise that was palatable for the majority of white

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<sup>73</sup> Gary Peller, “Race Consciousness,” *Duke Law Journal* Vol. 1990, No. 4 (September 1990), 760.

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Americans who sacrificed their ideology of white supremacy for the universalistic, progressive ideology of “rights” and “integration.” In this sense, the celebration of racial progress arrives in the same moment that *any* race-consciousness departs, for such consciousness under integrationism is legible only as the paradigmatic opposite of the universal good of colorblindness. Not only this, but black nationalism and white supremacy, in committing the selfsame sin of race-consciousness, are the common enemies of the properly liberal state committed to “truth, universalism, and progress.”<sup>74</sup>

The journey that law-and-order took in the New South, and particularly the journey it took in Georgia, both parallels Peller’s argument and offers a refinement. For Peller, the integrationists insist that colorblindness is the neutral ground from which racism departs. This renders black nationalism and white supremacy the symmetrical adversaries of racial progress. For the New South, southern moderates insisted that law-and-order is the neutral ground from which racial violence and racial disturbance departs. And this renders white “troublemakers” and black “agitators” the perfectly symmetrical foes of New South progress and law-and-order. As such, moderate law-and-order state performs a similar kind of work as colorblind norms. In fact, the former is arguably wrapped up in the very *creation* of colorblind norms in the postwar age. Nonetheless, what my research suggests is that southern moderates performed this triangulation not on the ground of black nationalism and white supremacy, but on the ground of narrow perceptions of white violence and expanded perceptions of black lawlessness, in which black “lawlessness” is understood as the inevitable result of black civil rights. Where for Peller the racial bargain around colorblindness made it so “anyone can engage in racism because we can identify racism from a vantage point of race neutrality,” I propose that the racial bargain around moderate law-and-order made it so a narrow strip of

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<sup>74</sup> Peller, “Race Consciousness,” 772.

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white behaviors (overt violence, retrogressive extremism) but a wide swath of black behaviors (including claiming civil rights, protest, use of public space, organizing, boycotts, etc.) required the intervention of the neutral law-and-order apparatus that grew and expanded around this logic. In light of scholarship on what Jacqueline Dowd Hall terms “the long civil rights movement,” we can understand this progression not as a period of reluctant but rapid southern progress followed by post-civil rights white backlash, but rather as a period in which the very notion of progress coincided with the preservation of race-inflected benefits of class privilege and the relocation of racial violence from the prerogative of private citizens to the apparatus of the state itself.<sup>75</sup>

In wrapping up, I want to close by suggesting that this triangulation was particularly powerful because rearticulated law-and-order won out in Georgia not just rhetorically, but also institutionally. As massive resistance laws gave way to moderate approaches to school desegregation, state interests also shifted. Rather than protecting the massive resistance movement’s school closure laws, state politicians suddenly became institutionally bound to ensure the success of moderate school policy, and began to dedicate state resources to its success and longevity. Eager to protect the racial class benefits of racial stratification *and* maintain the image of a moderate state, a stable racial order, New South corporatism, Georgia became committed to moderate law-and-order apparatus that has only expanded in the intervening decades. This laid the groundwork for important shifts in state-level law-and-order policy and policing tactics that are the subject of the following chapter. Indeed, rearticulated “law and order” narratives began to entrench into state policy when moderates started to invest in a range of ostensibly “colorblind” or “race neutral” policing strategies

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<sup>75</sup> Jacqueline Dowd Hall, “The Long Civil Rights Movement and the Political Uses of the Past,” *Journal of American History* (2004).

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meant to enforce and perform for the nation the new image of Georgia. Police proved to be an important stage on which the state performed its newfound racial neutrality and colorblindness – even as they worked in conjunction with moderate politicians and New South business interests to preserve the racial logic of moderate resistance and contain the momentum of the black civil rights movement. As we will see in the process, an expanding range of behaviors, claims, and actions by black citizens came to be understood as dangerous, even lawless and criminal, aberrations to the properly colorblind law-and-order state. Tellingly, this is a process that stretches from the New South to today.

Appendix A



**Fig. 6.3:** *The Atlanta Constitution's Baldy depicts the dual danger to the moderate law-and-order state in this image of two Frankensteins, one white, one black, one "violence," one "boycott" as a response to a 1962 civil rights campaign in Atlanta boycotting establishments that required segregated seating. Clifford "Baldy" Baldowski, "Siamese Twins," Atlanta Constitution, May 3, 1962. Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.*



**Fig. 6.4:** Editorial response to racial unrest in Americus, Georgia, 1965. Clifford “Baldy” Baldowski, “Maybe we better see what’s happened!” Atlanta Constitution, July 31, 1965.



**Fig. 6.5:** Baldy responds to the white supremacist campaigning in the 1966 gubernatorial election in which Georgia two businessmen, Lester Maddox of Atlanta and James Gray of Albany ran on deeply segregationist platforms in the Democratic primaries. Clifford “Baldy” Baldowski, “Brothers Under the Skin,” Atlanta Constitution, September 13, 1966.



**Fig. 6.6:** Clifford “Baldy” Baldowski, “Oh yeah, I’m a natural born demonstrator myself!” Atlanta Constitution, July 23, 1981, 4. Richard B. Russell Library for Political Research and Studies, University of Georgia Libraries.

## **Chapter 7**

### **Performing the Racial State: Rituals in Law, Order, and Policing in the New South**

*“There are legitimate grounds for saying that in Albany sophisticated police work has done the traditional – almost legendary – job of the mob, i.e., the suppression of Negro dissent and assertion of rights.”*

– Leslie Dunbar of the Southern Regional Council on the form of racial violence in Albany, Georgia in 1962<sup>1</sup>

“Law and order” exploded into the political life of North Carolina and Georgia in the milieu of *Brown v. Board of Education*. While its meaning was at first deeply contested amongst differently classed factions of southern whites seeking to resist the Supreme Court decision on their own terms and to secure their own political and economic fortunes, the moderate coalition’s ultimate victory on the direction of school policy in both states largely settled its meaning by the early 1960s.<sup>2</sup> Moderates, borrowing and rearticulating the rhetoric and principles of northern racial liberalism, deeply shaped the race- and class-based logic of “law and order” in the New South. Throughout North Carolina, Georgia, and beyond, as politicians, business elites, and white middle-class metropolitan populations used the term, “law and order” came primarily to mean “enforcing the law equally without fear or fervor.”<sup>3</sup> More than anything else, this vigilant-but-neutral stance signified the desire to achieve the visual absence of any “extremist” white violence or black civil rights movement-related “disorder” that might trample the progressive image of the New South, disrupt the emergent corporate-capitalist economy (and the white middle-class interests wrapped up in it), or thwart

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<sup>1</sup> Leslie Dunbar, “Introduction” in Howard Zinn, “Albany: A Study in National Responsibility” (Atlanta, GA: Southern Regional Council Publication, 1962), vi.

<sup>2</sup> This is not to suggest that “law and order” took on a sole or singular logic in these states or others. To be sure, “law and order” is a malleable term whose meaning could and would be shaped in different settings by such diverse figures as George Wallace, Richard Nixon, Lyndon B. Johnson, Ronald Reagan, and William Clinton, to name a few. See Chapter 2.

<sup>3</sup> Letter, H. Alan Dale to John A. Sibley, December 13, 1960. Emory, MARBL, Sibley Papers, Box 125, Folder 3

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the success of moderate policies to protect whites from racial integration in schools and elsewhere. As I have argued throughout the dissertation, moderate law-and-order introduced an ideological triangulation in which the imagery of extremist white violence and black civil rights “lawlessness” secured for the New South and its white constituents a seemingly race-neutral and thus *innocent* domain of lawfulness, order, and progress.

In this chapter, we witness law-and-order’s flight from its home base of school policy. Indeed, neither the rhetoric nor the political utility of “law and order” faded once the direction of state school policy was established in favor of Local Option and Pupil Placement. Rather, both the language of “law and order” and the logic that moderates imbued it with began to travel – into broader state interests, into policy domains, and into the practices of state officials and officers. Moderate law-and-order, this chapter argues, came to structure the terrain of what I call in this chapter the New South state – that is, a state converted to (a) a post-industrial and consumer-oriented corporate-capitalist economy, and therefore a state dependent on the influx of capital and investments from the north, and (b) moderate approaches to *Brown v. Board of Education* and, more broadly, integration and black civil rights.

The chapter proceeds as follows. I begin in primarily in North Carolina (and anecdotally in Georgia), where the rhetoric of rearticulated “law and order” traveled into state rhetoric, policy areas, and official practices beyond school policy in the late 1950s and into the 1960s. Here, I use archival research and secondary historical work to present evidence of rearticulated law-and-order as an emergent state logic with institutional implications in state and local crime policy and policing. Embedded in my discussion of these reforms is a broader analysis of their relationship to the moderate coalition’s economic and political objectives in

the region. Thus, in this section I use a combination of political theory and historical scholarship on whiteness, class, and policing to suggest that moderate elites reformed aspects of law enforcement in part to protect changing property relationships in the New South and in part to police the color line in this emerging economy. The chapter concludes in Georgia with two small case studies, which I use to explore the impact of moderate “law and order” on actual police tactics, and to explore how these tactics reproduced – or “performed” – racial innocence in the New South at the same time that it renewed up racial stratification and even violence.

It is important to note from the beginning that I treat the institutional expansions and reforms I discuss in this chapter (which are by any account modest and incomplete in the 1960s) not as causal explanations for expansions in state or national crime policy, for the ballooning of carceral institutions or practices, or for changes in law enforcement procedures. Rather, I treat them as preliminary but nonetheless promising evidence that moderates’ “law and order” logic – and especially its triangulation of white extremism and black lawlessness against the “neutral” New South state – travelled beyond the narrow setting of school policy to become a broader state logic, one to which politicians dedicated resources, and therefore one that look on socio-political, economic, and ideological power.

### **Policy and Policing: Reforms and Expansions**

The 1950s and 1960s saw modest by nonetheless important expansions and reforms of state criminal codes, municipal laws, and policing tactics in North Carolina, Georgia, and elsewhere – the beginnings of the modern law-and-order state in the South.<sup>4</sup> Evidence

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<sup>4</sup> Legal historian Anders Walker demonstrates that politicians in Mississippi and Florida achieved similar expansions to state criminal codes and use of police forces, both designed to limit the effect of *Brown*. Anders

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suggests that the majority of these reforms targeted white property and black protest. For instance, over a two-year period between 1957 and 1959, North Carolina's General Assembly created or updated multiple felony charges for property damage (including homes, fences, churches, crops, and public buildings and lands), instituted mandatory minimums for parole in cases of theft, reformed larceny laws, created stricter juvenile "delinquency" laws, and created new categories of criminal "neglect" of minors.<sup>5</sup> Similar expansions occurred in Georgia in the late 1960s in the area of property, which likewise newly carried felony charges.<sup>6</sup> Local municipalities also passed anti-protest and anti-assemblage ordinances that often served to criminalize black use of public space. In Atlanta, for instance, a barrage of city ordinances (some old, some newly adopted or updated) pertaining to traffic flow, trespass, failure to disperse, and unlawful assembly routinely hampered a year-long concerted effort by the Student Nonviolence Coordinating Committee (SNCC), Southern Christian Leadership Conference (SCLC), and the local Committee on the Appeal for Human Rights (COAHR) to desegregating public accommodations in Atlanta in 1960 and 1961.<sup>7</sup>

Law enforcement, both in major cities and at the level of the state, also underwent reform and re-professionalization in the New South. The 1950s and 1960s saw the modest expansion of state police agencies (state patrol and state bureaus of investigation), justices of the peace,

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Walker, *The Ghost of Jim Crow: How Southern Moderates Used Brown v. Board of Education to Stall Civil Rights* (New York: Oxford University Press, 2009).

<sup>5</sup> North Carolina General Statutes, Chapter 14: Criminal Law, available at <http://www.ncga.state.nc.us/gascripts/statutes/statutestoc.pl?Chapter=0014>.

<sup>6</sup> *Atlanta Constitution*, "Atlanta Negro Students Sit In at 10 Cafeterias; 77 arrested, Post Bond," March 10, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 7); Ernest Vandiver, "Combined State of the State and Budget Message," Statement before Georgia General Assembly, January 9, 1961 (UGA, Ernest Vandiver Papers, Series IV, Box 6, Folder 7).

<sup>7</sup> Herbert Jenkins, "Atlanta Police Department Special Bulletin: Police Procedures Concerning Public Demonstrations, Sit-Ins, and Picketing," January 29, 1964 (MARBL, Newsweek Records, Box 24, Folder 23).

and municipal police forces.<sup>8</sup> But far more importantly than small increases in the number of officers, these decades saw new relationships between existing police forces, race, and state power. Through the 1950s, law enforcement in the South was largely controlled at the local level by county sheriff offices. By contrast, the powers of the state patrol in Georgia and North Carolina were confined to traffic and vehicle infractions on state highways. Officers were specifically limited to not usurp the duties of local sheriffs or municipal police except in the absence of these officers or express invitation by local authorities.<sup>9</sup> However, beginning in 1957, concurrently with the explosive Little Rock crisis and the growth of moderate political influence in the state, Georgia restructured police power away from local sheriff control, towards state police control, and in 1960 modestly expanded their numbers.<sup>10</sup> Sheriffs, as elected local officers, were vested in protecting Black Belt white constituencies who overwhelmingly favored massive resistance over the moderates' favored Local Option plan. State police, however, were appointed to state-level office under control of the governor, and responded to orders originating in that office rather than to local constituencies.

Not all police power shifted. In both North Carolina and Georgia, local sheriffs maintained most of their usual powers of enforcement, but state police and, in North Carolina's case, the officers of the State Bureau of Investigation, were no longer confined to enforcing traffic laws on state highways. Instead, they became the principle officers in events relating to desegregation crises, black civil rights activism, and white vigilantism, and were often directed at the call of the governor to curb white anti-black civil rights violence and

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<sup>8</sup> Walker, *The Ghost of Jim Crow*; David Cunningham, *Klansville, USA: The Rise and Fall of the Civil Rights-Era Ku Klux Klan* (New York: Oxford University Press, 2013).

<sup>9</sup> Weldon Cooper, "The State Police Movement in the South." *The Journal of Politics*, Vol. 1, No. 4 (1939):414-433.

<sup>10</sup> Ernest Vandiver, "Combined State of the State and Budget Message," Statement before Georgia General Assembly, January 9, 1961 (UGA, Ernest Vandiver Papers, Series IV, Box 6, Folder 7).

mobism in various localities throughout the state. Indeed, only the governor, and not city mayors, school superintendents, or university officials could call in or direct the state police; this power resided exclusively with the governor's office.<sup>11</sup> This requirement not only consolidated police power with the state, but also allowed newly moderate interests to be enforceable at the state rather than the local level where open resistance and violence was more likely to unfold. While these reforms were by no means unique to North Carolina and Georgia, they nonetheless operated to consolidate the racial logic of liberal law-and-order into routine state practices in the New South.

### **Securing Corporate Capitalism, Securing New School Policy**

There were two structural reasons for these developments, and they were deeply intertwined: the emergence of new property relationships in the new corporate-capitalist southern economy and moderate approaches to segregation in schools and elsewhere. First, as previous chapters excavated in some detail, moderate politicians were reliant on a political base of business elites, white middle-class professionals who populated the metropolitan suburbs, and moderate-minded newspaper editors and journalists. This moderate coalition was invested in transitioning the South from a crumbling, aristocratic plantation economy based on repressive labor and supported by agrarian-dominated political machines to what Matthew Lassiter calls a “postindustrial Sunbelt economy,” which was instead based on corporate-capitalism, suburban growth, home-ownership, and consumerism.<sup>12</sup> In this section, I argue that this transition – which was at once a transition in the form capitalism took in the South and a transition in the (always racialized) class structure of the region – in part prompted the reforms in policing outlined above. For this analysis, I employ a range of scholarship on the

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<sup>11</sup> *New York Times*, “News from the Week in Review,” January 15, 1961.

<sup>12</sup> Lassiter, *The Silent Majority*, 11.

role of police in governing and maintaining racialized class interests throughout American history. In the New South, I shall argue, state law enforcement's new powers over racial incidents such as Klan activity and school integration suggests that they were instrumental in protecting the image, and thus the property interests, of the New South's politicians, business elites, and white middle-class suburban populations.

As Nikhil Pal Singh argues, whiteness “does not issue directly from private property.”<sup>13</sup> It emerges, rather, from “the governance of property and its interests in relationship to those who have no property ... and who are therefore imagined to harbor a potentially criminal disregard for propertied order.” The propertied nature of whiteness is in this regard as much a product of the *governance* or *enforcement* of property relationships in a capitalist system as they are a product of property's (racially stratified) accumulation itself. This insight not only expands theorization of “whiteness as property” past Cheryl Harris' classic contention that “rights in property are contingent on, intertwined with, and conflated with race,” but also points toward a path of analysis in which state enforcement power, and particularly policing institutions, is central.<sup>14</sup>

The historical relationship between the maintenance of racialized property relationships and policing runs deep. As far back as the early eighteenth century South Carolina, slave patrols (or “paddyrollers,” in the terminology of the day) offered the power of the state to the enforcement of chattel slavery.<sup>15</sup> Fearing that awe of the overseer's whip was insufficient to control the state's large slave populations, South Carolina, and soon other southern states,

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<sup>13</sup> Nikhil Pal Singh, “The Whiteness of Police,” *American Quarterly*, Vol. 66, No. 4 (December 2014), 1091.

<sup>14</sup> Cheryl Harris, “Whiteness as Property,” *Harvard Law Review*, Vol. 106, No. 8 (June 1993), 1714. See also George Lipsitz, *The Possessive Investment in Whiteness: How White People Profit from Identity Politics* (Philadelphia, PA: Temple University Press, 1998); and more foundationally, W.E.B DuBois, *Black Reconstruction in America, 1860-1880* (New York: The Free Press, 1998 [1935]).

<sup>15</sup> Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, MA: Harvard University Press, 2003).

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created patrols to enforce slave codes, return fugitive slaves to their masters, and patrol escape routes. Just as importantly, their presence, southern lawmakers believed, dissuaded slaves from organizing revolts and mass uprisings – a well-worn and reasonable fear common to slave-owning societies in the Americas and the Caribbean.<sup>16</sup> As historian Sally Hadden argues, the very history of southern policing grows out of this “early fascination, by white patrollers, of what African American slaves were doing” and the resultant “watching, catching, or beating of black slaves” who rebelled against, resisted, or evaded labor.<sup>17</sup> Policing the color line as much as the property line, the patrols’ very existence was dedicated to legally enforcing and brutally maintaining white property rights in its slave population. In Singh’s helpful terminology, the accumulation of property (cotton, tobacco) and the accretion of capital required the vigilant and punitive “governance of property” (slave bodies, slave labor). It was this need to *govern* property relationships, and specifically slaves as both property and labor, which prompted the formation of the nation’s first state-funded police forces.<sup>18</sup>

The institutional intimacy of property, whiteness, and policing continued well past slavery’s end. In the northern industrial cities of Philadelphia, Chicago, and New York, metropolitan police forces formed in part at the insistence of industry leaders eager to protect property rights. As historian Sam Mitrani shows in the case of Chicago, business interests

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<sup>16</sup> On slave rebellions in the United States and Caribbean (and the fear thereof), see Gerald Horne, *The Counter-Revolution of 1776: Slave Resistance and the Origins of the United States of America* (New York: New York University Press, 2014); Gelien Matthews, *Caribbean Slave Revolts and the British Abolitionist Movement* (Baton Rouge, LA: Louisiana State University Press, 2006); Robin Santos Doak, *Slave Rebellions* (New York: Chelsea House, 2006); Kenneth S. Greenberg, *Nat Turner: A Slave Rebellion in History and Memory* (New York: Oxford University Press, 2003); Mark M. Smith, ed., *Stono: Documenting and Interpreting a Southern Slave Revolt* (Columbia, SC: University of South Carolina, 2005).

<sup>17</sup> Sally Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, MA: Harvard University Press, 2001), 4.

<sup>18</sup> On the relationship between plantation capitalism and slave patrols, see Hadden, *Slave Patrols*; Samuel Walker, *Popular Justice: A History of American Criminal Justice* (New York: Oxford University Press, 1998); Singh, “The Whiteness of Police”; Jay R. Mandle, *The Roots of Black Poverty: The Southern Plantation Economy after the Civil War* (Durham, NC: Duke University Press, 1978).

pushed city governments to “build powerful armed institutions that could defend their property and their interests from the new threats that accompanied the development of a wage labor economy” in the mid- to late nineteenth century.<sup>19</sup> The work stoppages, strikes, working-class riots, and industrial unrest – and the perceived threats thereof – of the poor and precariously white immigrant populations in these cities contributed to the formation of metropolitan police departments during the Progressive era.<sup>20</sup> The protection of property rights against the (sometimes threatened, sometimes real) rebellion of the working class was the primary task of early urban police forces, which only began to focus more narrowly on crime control with the passage of the Volstead Act.<sup>21</sup>

In the Progressive era South, by contrast, county courts and local sheriffs were tasked with enforcing the productivity of the region’s largely black plantation labor forces. They did this by way of law and violence. As historian Jonathan Weiner explains, southern planters extracted capital not through mechanization, technological innovation, or the de-skilling of waged labor (the practices of northern industrial cities) but from the forceful coercion of racialized labor well into the 1930s. Thus, where the industrial wage laborer was “forced to be free,” the black agricultural laborer became, in Loïc Wacquant’s phrase, “free fixed labour”

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<sup>19</sup> Sam Mitrani, *The Rise of the Chicago Police: Class and Conflict, 1850-1894* (Urbana-Champaign, IL: University of Illinois Press, 2014), 3. See also Eric Monkkonen, *Police in Urban America, 1860-1920* (New York: Cambridge University Press, 2004).

<sup>20</sup> On the relationship between capital and police forces in the nineteenth and early twentieth century urban north, see Mitrani, *The Rise of the Chicago Police*; Kristian Williams, *Our Enemies in Blue: Police and Power in America* (Boston, MA: South End Press, 2007). On the racially suspect or precarious status of European immigrants, see David Roediger, *Wages of Whiteness: Race and the Making of the American Working Class* (New York: Verso, 1994); David Roediger, *Working Toward Whiteness: How America’s Immigrants Became White: The Strange Journey from Ellis Island to the Suburbs* (New York: Basic Books, 2005); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1999); Noel Ignatiev, *How the Irish Became White* (New York: Routledge, 2008).

<sup>21</sup> Monkkonen, *Police in Urban America*.

for the southern planter, and was bound to the plantation on a number of fronts.<sup>22</sup>

Economically, the system of debt peonage and sharecropping indebted many African Americans to a single landowner, and required them to work out of this debt. But the former slave's bounded-ness to the plantation was also secured through a complex of law, policing, convict lease, and extralegal violence. Legally, southern state legislatures passed a series of laws designed to keep black laboring populations immobile. As Weiner explains, because the coercion of black labor was "likely to provoke resistance and flight," the very structure of the southern plantation economy "required restrictions on labor mobility – formal laws and informal practices that tied workers to the land and limited their access to alternative employment."<sup>23</sup>

In this environment, state militias and county sheriff offices often functioned as "labor recruiters for planters, rounding up 'vagrants' at times of labor shortage" and enforcing the barrage of state laws designed to maintain the property line between planter and laborer. For instance, in a 1904 enforcement of Georgia's vagrancy laws, police in the cotton belt hamlet of Newton arrested "idle Negroes" to "scare them back to the farms from which they emanated."<sup>24</sup> In 1927, when a river flood displaced 400 thousand black tenants from their residences, the Mississippi National Guard patrolled "closed" refugee camps to ensure that

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<sup>22</sup> Jonathan M. Weiner, "Class Structure and Economic Development in the American South, 1865-1955," *The American Historical Review*, Vol. 84, No. 4 (October 1979): 970-992; Wacquant, "From Slavery to Mass Incarceration," 42.

<sup>23</sup> Weiner, "Class Structure and Economic Development in the American South," 985. Enticement laws, for instance, made the hiring of another planters' workers a criminal offense. Contract enforcement laws leveraged heavy fines on laborers who broke or resisted labor contracts. Emigrant agent laws restricted out-of-state labor recruitment. Most importantly, vagrancy statutes criminalized black freedom of movement by making free movement of unemployed or non-laboring workers illegal. Vagrancy statutes were often used to force blacks and poor whites to sign labor contracts with landlords or punishing them with prison, where they were caught up in the convict lease system. These laws together criminalized the black labor mobility and authorized the use of law enforcement to, in Nikhil Singh's terminology, "govern" the property interests of white landowners. For more on the use of vagrancy laws in the South, see Weiner, "Class Structure and Economic Development in the American South" and Blackmun, *Slavery By Another Name*.

<sup>24</sup> Weiner, "Class Structure and Economic Development in the American South," 982.

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“blacks could not get out and labor recruiters from other areas could not get in.”<sup>25</sup> And in 1932, when planters put out a plea for more cotton pickers in Macon, Georgia, police “scoured the town’s streets, arresting sixty blacks on ‘vagrancy’ charges and immediately turning them over to a plantation owner.”<sup>26</sup> Across the South there were reports that “police arrested every black found in the railroad station” attempting to board northern-bound trains in an effort to contain its labor force during the Great Depression.<sup>27</sup> Thousands more were arrested on vagrancy charges and sold back out to plantations, turpentine forests, and railroads in the convict lease system.<sup>28</sup> In this way, county sheriffs and state militias were dedicated to the *governance* of white property rights and, in Cheryl Harris’ phrase, “whiteness as property” in Jim Crow’s repressive labor economy. Indeed, alongside sharecropping and peonage, state laws, and vigilante organizations such as the Klan, southern courts and sheriffs together policed the property line as a racial line into the 1930s – often brutally and nearly uniformly without legal repercussions.<sup>29</sup>

It would not be until the 1940s, with the vast restructuring of southern state economies seeking to solidify of the corporate-capitalist New South, that southern politicians would begin to re-professionalize police forces – selectively and in patchwork fashion – to “govern” the interests of the New South. Business interests were central to new uses of police power. For instance, in a show of New South ethos that combined economic and racial concerns, the Atlanta Chamber of Commerce issued a public statement in 1961 urging “businesses serving

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<sup>25</sup> Weiner, “Class Structure and Economic Development in the American South,” 980.

<sup>26</sup> Blackmun, *Slavery By Another Name*, 375.

<sup>27</sup> Weiner, “Class Structure and Economic Development in the American South,” 983; Blackmun, *Slavery By Another Name*.

<sup>28</sup> Blackmun, *Slavery By Another Name*; Moulder, *Convicts as Capital*; Oshinsky, *Worse Than Slavery*.

<sup>29</sup> John S. Williams of Covington, Georgia, was indicted for peonage and murder of African American laborers on his farm in 1921. He was an outlier – the only white man convicted for the murder of a black man in the South between 1877 and 1966. Pete Daniel, *In the Shadow of Slavery: Peonage in the South, 1901-1969* (Urbana, IL: University of Illinois Press, 1972).

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the general public in Atlanta to do so without regard to race.”<sup>30</sup> According to the Chamber, “nothing could possibly be more divisive among all peoples of our town than the unwise, unfortunate and possibly unruly demonstrations” of black civil rights protestors and white counter-demonstrations headed by the Klan. In a familiar triangulation, the Chamber identified black civil rights protest and white extremism as symmetrical threats to Atlanta’s business interests. As one member put it in a letter to Atlanta’s newly elected mayor, Ivan Allen: “Atlanta’s racial problems will rise up like dragon’s teeth from now on. They must be solved as they arise in order to keep tensions from becoming so deep and strong as to harden the community into a state of economic and social immobility.”<sup>31</sup> The capital interests of New South elites prompted political elites to invest in altered strategies of law-and-order and policing – no longer to forcefully maintain a “fixed” or immobile black labor force, but to help secure the for the South entry into the corporate-capitalist economy of the nation. Because this integration was dependent on the introduction of northern capital into southern cities and state economies, New South politicians were especially eager to contain any racial violence, disorder, or unrest – white or black – that may disrupt this flow of capital and investment. The use of state police to contain these threats, as we shall see, was an important tool for the moderates.

The second structural reason for the expansions and reforms in law-and-order policy and police in the New South was the moderate coalition’s victory on school policy in the late 1950s and early 1960s. In these years, moderate politicians in both North Carolina and Georgia found themselves committed to ensuring the success of moderate resistance policies – Local Option and Pupil Placement, among others – to *Brown*, oftentimes in locales where

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<sup>30</sup> Georgia State Chamber of Commerce, “Chamber of Commerce Statement of Racial Policy,” (MARBL, Newsweek Records, Box 24, Folder 2).

<sup>31</sup> Edward S. White, undated letter to Ivan Allen (MARBL, John Sibley Papers, Box 125, Folder 4).

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white residents still preferred the (always intransigent and sometimes violent) tactics of massive resistance and black residents resisted the slow pace, paternalism, and tokenism of moderation. Further than this, they were also dedicated to maintaining segregation in areas besides school – public accommodations, transportation, hotels, theaters, restaurants and lunch counters, parks and swimming pools – through moderate tactics of delay, law-and-order, and tokenism. To maintain racial exclusions as far as possible in the New South state, moderate politicians turned to the logic, policies, and policing tactics of liberal law-and-order. I attend to these structural realities in turn below. Specifically, the need to protect new moderate approaches to segregation from two disparate forces – white, often rural and poor, constituencies who feared the loss of their economic and social status in the collapse of Jim Crow laws and black civil rights activists who recognized moderation as tokenism and delay rather than equality – constituted the second structural reason why state politicians turned to law-and-order policy, rhetoric, and policing in the 1950s and 1960s.

The fall of massive resistance laws and the passage of moderate school policies in North Carolina and Georgia in 1956 and 1961 respectively did not presage a sea change in white attitudes concerning race or integration. Despite North Carolina's success at limiting racial integration in schools to token amounts, the state witnessed, in the words of historian David Cunningham, the "phoenix-like rise" of the Ku Klux Klan.<sup>32</sup> Even as politicians, newspaper editors, religious organizations, and business elites in the state denounced Klan organizations as "poisonous" and "basically un-American," North Carolina became home to between 10,000 and 12,000 dues-paying members by the middle of the decade – more members than all other southern states combined.<sup>33</sup> White supremacist organizations were not prominent in

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<sup>32</sup> Cunningham, *Klansville, USA*, 10.

<sup>33</sup> Cunningham, *Klansville, USA*, 4.

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Georgia as they were elsewhere in the South, but white populations in the state's wide cotton belt nonetheless maintained their deep commitment to traditional (and traditionally rigid) patterns of segregation and racial violence after the moderate turn in state policies in 1961.<sup>34</sup>

On the other hand, black civil rights organizations increasingly recognized the southern moderate as an enemy rather than an ally in racial equality. As Martin Luther King, Jr. wrote in his famous letter from Birmingham jail in 1963:

I must confess that over the last few years I have been gravely disappointed with the white moderate. I have almost reached the conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizens' Council or the Ku Klux Klanner but the white moderate who is more devoted to order than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice ... who paternalistically feels that he can set the timetable for another man's freedom; who lives by the myth of time; and who constantly advises the Negro to wait until a 'more convenient season.'"<sup>35</sup>

In this passage, King identifies a broader concern of student movements in moderate states and cities: the white moderate's paternalistic commitment to delay, and to "order" as "the absence of tension" was a powerful and often successful tool against nonviolent civil rights tactics.<sup>36</sup>

But even as many whites remained committed to the racial apartheid of Jim Crow and many African Americans remained committed to integrating southern institutions, broader state interests in North Carolina and Georgia changed considerably after the introduction of moderate school policies. Local Option and Pupil Placement policies prompted moderate

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<sup>34</sup> Joseph Luders, "Civil Rights Success and the Politics of Racial Violence," *Polity*, Vol. 37, No. 1 (January 2005): 108-129. See also Joseph Luders, "The Economics of Movement Success: Business Responses to Civil Rights Mobilization," *American Journal of Sociology*, Vol. 111, No. 4 (January 2006): 963-998.

<sup>35</sup> Martin Luther King, Jr., "Letter from Birmingham Jail," April 16, 1963, reprinted in James M. Washington, ed., *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King, Jr.* (New York: HarperCollins, 1991), 295.

<sup>36</sup> William Chafe, *Civility and Civil Rights: Greensboro, North Carolina and the Black Struggle for Freedom* (Oxford University Press, 1981); Luders, "Civil Rights Success and the Politics of Racial Violence;" Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006).

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politicians to dedicate state resources to these policies' success and longevity. Specifically, moderate governors led state legislatures to expand anti-protest and pro-property criminal laws and used the power of their own office to re-professionalize law enforcement in an effort to prevent, on the one hand, potentially disastrous spectacles of white violence and, on the other hand, black civil rights victories. Both white violence and black activism, these politicians worried, would alert northern and international forces to the segregationism and violence of moderation and arrest the flow of capital into the very New South cities that were these politicians' political base.

The curtailment of visible spectacles of white violence, especially at sites of school desegregation and black civil rights protest, was a central goal of police re-professionalization efforts. Governor Luther Hodges of North Carolina, for instance, reformed law enforcement by bringing justices of the peace under the oversight of appellate court review, thereby, "centralizing the lower tiers of North Carolina's judicial system and restoring 'respect,' as [Hodges] put it, for the state's legal system."<sup>37</sup> At the height of the school policy debates, the North Carolina governor also counseled the Sheriff Association to enforce state laws equally, regardless of race:

[T]he Sheriff, though elected by the voters of a single county, is in a sense a State officer. It is his duty to see that the laws of the State are enforced to maintain peace and order ... One of the big answers to effective law enforcement in motor vehicle violations revolves around the fact that uniform justice must be given. We must create a public opinion that will make our jury system more effective. We must treat everyone alike so far as arrest and charges are concerned and deal firmly but fairly with all violators.<sup>38</sup>

Given the centrality of law-and-order rhetoric within North Carolina's response to *Brown* that was the subject of Chapter 3, it is not surprising that Hodges's statement to state sheriffs

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<sup>37</sup> Walker, *The Ghost of Jim Crow*, 71.

<sup>38</sup> Luther Hodges, Speech before the Annual North Carolina Sheriffs Association Convention, August 4, 1956 (Luther Hodges Papers, UNC Wilson Library, Series 4.2, Box 172, Folder 2062).

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stressed “uniform justice,” an “effective” law enforcement and jury system, and the fact that although sheriffs are elected locally, they are still “state officers” came in the midst of propaganda for the Pearsall Plan. The implementation of moderate school policy in 1955 and 1956, when paired with first, its investment in New South corporate-capitalism and second, with the problem that much of the state’s citizenry embraced strict segregation in their local schools and communities, prompted reforms in a political institution seemingly unrelated to school policy – law enforcement. To this end, Hodges’ instruction to local sheriffs that they enforce laws uniformly and without regard to race can be read as an effort to ensure that moderate policies would be enforced – and that black integration “disorder” nor white mob violence would not derail the institutional success of the state’s new school policies. Hodges’ emphasis on creating “public opinion” amenable to “uniform justice” makes clear that the racial “neutrality” of law enforcement was critical to the public image of North Carolina as a lawful, orderly, and progressive New South state. As historian David Cunningham puts it, the North Carolina Bureau of Investigation’s “prevailing orientation to the civil rights struggle was that ‘extremists’ on both sides – the KKK as well as the NAACP – threatened law and order.”<sup>39</sup>

As organized Klan activity grew in North Carolina, Governor Luther Hodges and his successor Terry Sanford, who governed the state from 1960 to 1964, used a combination of the State Highway Patrol and the rather more professionalized officers of the State Bureau of Investigation to surveil, police, and report upon a wide range of incidents, groups, and individuals connected to Klan organizations. In 1955, Hodges directed the state legislature to expand the “benefits, duties, authorities, and requirements” of the State Bureau of Investigation (SBI) in part to monitor and patrol white vigilante groups that threatened the

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<sup>39</sup> Cunningham, *Klanville, USA*, 193.

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emerging moderate policy order.<sup>40</sup> Under the direct orders of Hodges and Sanford, the SBI and the State Highway Patrol surveilled and reported upon Klan activity across the state, and sometimes harassed Klan members. The scope of surveillance was wide. Officers recorded dates, times, and locations of Klan rallies, made detailed summaries of members' speeches and movements, recorded names and license plates, compiled biographical data on high-ranking members, and even estimated the size of burning crosses.<sup>41</sup> In his history of the United Klans of America in North Carolina, Cunningham notes that while the state patrol sometimes openly declared sympathy with Klan agendas and SBI officers "saw themselves as professionals," adopting air of "detached disdain" for white vigilantism, both entities served to circumscribe the ability of organized white supremacy to function in the state.<sup>42</sup> The criminalization of white extremism and white violence in North Carolina was part of a concerted effort to ensure the success of moderate school policies and protect the state's image of civility, and by extension, its economy.

But if white extremism was one target of re-professionalized policing tactics, black civil rights activism was another target. Just as governors Hodges and Sanford used state police forces to monitor Klan rallies, they likewise used these forces to gather information on civil rights activities, leaders, and movements. State forces policed any likely civil rights activity and detailed arrests made, and both governors amassed large collections of detailed reports on figures from Martin Luther King, Jr. to Robert F. Williams, on large regional and national organizations from the NAACP, SNCC, SCLC, and the Freedom Riders to local school

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<sup>40</sup> Cunningham, *Klanville, USA*, 192-193. See also Anders Walker, *The Ghost of Jim Crow*.

<sup>41</sup> See broadly, North Carolina State Archives, Terry Sanford Papers, General Correspondence, Boxes 111, 112, 227, 232, 282, 283, 346, 347, 348, various folders.

<sup>42</sup> Cunningham, *Klanville, U.S.A.*

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desegregation efforts peopled by local black parents.<sup>43</sup> Special attention was paid to the method of arrest. As a memo from the County Attorney in Greensboro, North Carolina put it in 1963: “While it is the hope of everyone concerned that there will be no future mass arrests of demonstrators resulting in hundreds of prisoners being turned over to [the sheriff], we must be prepared with some orderly procedure for handling hundreds of prisoners . . . In order to adopt an orderly procedure for this purpose, I have conferred with a great many people including Governor Sanford.”<sup>44</sup>

On top of such monitoring, state forces used new anti-protest laws to criminalize black civil rights efforts. In this endeavor, School Commission chairman Thomas Pearsall continued to provide counsel on matters pertaining to racial conflict. When the Freedom Riders scheduled stops in North Carolina in 1960, Governor Terry Sanford called upon Thomas Pearsall to help formulate state policy to ensure law-and-order. True to form, Pearsall recommended a batch of measures to reduce the likelihood of racial violence, including implementing anti-trespass laws, anti-rioting laws, and increased authority to peace officers, state troopers, and other law enforcement officials.<sup>45</sup> For Pearsall, a central aspect of state use of peace officers was their performance of North Carolina’s progressive image:

Plans probably should be made with Troop Commanders for alerting and calling the patrol into action on short notice, but always without creating excitement and without publicity. I am thinking here in terms of being prepared to meet any situation resembling

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<sup>43</sup> See, for instance, memos on MLK and the Freedom Riders: David Lambert to Terry Sanford, Highway Patrol Memo, “Visit of Reverend Martin Luther King to North Carolina as Reported by Sergeant Logan B. Lane, State Highway Patrol, Elizabeth City,” December 21, 1962 (NC State Archives, Terry Sanford Papers, General Correspondence, Box 232, Folder “Segregation”); C. Raymond Williams to Terry Sanford and Hugh Cannon, Highway Patrol Memo, “Hate Riders Traveling Through North Carolina, 17 June 1961,” June 19, 1961 (NC State Archives, Terry Sanford Papers, General Correspondence, Box 111, Folder, “Segregation, General”).

<sup>44</sup> Durward S. Jones (County Attorney) to Sheriff Clayton H. Jones, Memorandum on “Future Mass Arrests of Demonstrations,” May 23, 1963 (NC State Archives, Terry Sanford Papers, General Correspondence, Box 347, Folder “Segregation H-J”).

<sup>45</sup> Letter, Thomas Pearsall to Terry Sanford, May 29, 1961 (UNC Wilson Library, Pearsall Papers, Series 1, Box 1, Folder 19).

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mob violence or dangerous concentration of crowds around bus terminals or other stops of Freedom Riders or other groups of that nature.<sup>46</sup>

Governor Sanford implemented many of Pearsall's recommendations, and made a practice of using the state police to surveil and criminalize black civil rights efforts through his tenure in office.

For instance, in the textile town of Wilmington in July 1963, when African Americans picketed outside the county courthouse to protest ongoing segregation in the city, state troopers and local police together arrested 97 protesters, who they charged with "disturbing the peace" and "disrupting court progress" and sentenced to thirty days in county jail.<sup>47</sup> In the college town of High Point, located between Greensboro and Winston-Salem, over five hundred African Americans picketed and sung for racial integration in September of 1963. When an "unruly crowd" of local whites numbering nearly 2,000 gathered and some threw rocks at passing picketers, the state police made a show to attending newspaper photographers of dispersing the white mob with warnings that "positive action will be taken" should they refuse to disperse, but quietly arrested several African American protesters for trespassing and "congregating on the street against Police orders."<sup>48</sup> Later that fall, Governor Sanford ordered state troops to Elizabeth City, a coastal town where black students, mostly from local high schools and the nearby State Teacher's College, were in the midst of a campaign to desegregate drug store lunch counters, restaurants, and other establishments. Although 215 were arrested for loitering and trespassing, the state patrol's report made clear that the arrests

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<sup>46</sup> Letter, Pearsall to Sanford, May 29, 1961.

<sup>47</sup> Colonel David T. Lambert, State Highway Patrol memorandum to Terry Sanford, "Racial Situation in Wilmington, North Carolina," July 9, 1963. NC State Archives, Terry Sanford Papers, General Correspondence 1963, Box 347, Folder "Segregation K-L."

<sup>48</sup> Colonel David T. Lambert, State Highway Patrol memorandum to Terry Sanford, "Racial Situation in High Point, North Carolina," September 11, 1963. NC State Archives, Terry Sanford Papers, General Correspondence 1963, Box 348, Folder "Segregation H."

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occurred with “no violence.”<sup>49</sup> In fact, “no violence,” especially when journalists and photographers were present, was a common theme in state patrol reports to the governor’s office, and indicative of a moderate-led effort to perform the state as neutral, even-handed, law-and-order, and progressive.<sup>50</sup>

It is critical to note that the polices and policing tactics described here differed significantly from the sort of police work that marked the Jim Crow order, but that this transition was far from uniform or complete. Nevertheless, North Carolina’s moderate school policy proved fruitful ground for law-and-order measures which conformed to the principles articulated by postwar racial liberals: racially-neutral law enforcement practices, strengthened effectiveness of laws, juries, and police, and (at least the appearance of) a racially uniform justice system. The reforms and tactics of southern moderates in the areas of law-and-order police and law enforcement demonstrate that rearticulated “law and order” had become not only the language of the moderate coalition on school policy, but also a guiding logic of the state to which policies and resources were dedicated. However, as the following section illustrates in greater detail through two case studies in the state of Georgia, the ideological product of these reforms was a triangulation of law-and-order in which white violence and black civil rights are rendered the common enemies of the colorblind, progressive, and law-and-order New South.

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<sup>49</sup> Colonel David T. Lambert, State Highway Patrol memorandum to Terry Sanford, “Report on Racial Incidents, Elizabeth City, Received from Sergeant Logan B. Lane,” September 25, 1963. NC State Archives, Terry Sanford Papers, General Correspondence 1963, Box 347, Folder “Segregation K-L.”

<sup>50</sup> State police records in the North Carolina State Archives: NC State Archives, Terry Sanford Papers, General Correspondence 1963, Boxes 111, 112, 232, 347, and 348, various folders.

### **The Atlanta Movement, 1960-1964**

The civil rights movement in Atlanta is often remembered as a victory for both black activists and white moderates. Through a combination of direct-action protest and negotiations with Atlanta mayor William B. Hartsfield and white business moderates, it is argued, black students succeeded in desegregating downtown lunch counters in September of 1961, concurrently with the first-time desegregation of four Atlanta high schools. The northern press heralded this combination of school and lunch counter desegregation as the “miracle in Atlanta,” and President John F. Kennedy urged other southern cities to “look closely at what Atlanta is doing and to meet their responsibilities as the officials of Georgia and Atlanta have done with courage, tolerance, and above all, respect for the law.”<sup>51</sup> Contemporary scholars echo this praise for the success of the Atlanta movement.<sup>52</sup> But these diagnoses of a black-moderate victory over white supremacy and violence ignore the essential failure of civil rights activism in Atlanta in achieving its aim to make Atlanta an “open city.” As historian Stephen G.N. Tuck explains, “The most striking feature of the Atlanta movement ... was the failure of the student protesters to achieve a swift, comprehensive desegregation agreement.”<sup>53</sup> Indeed, despite the desegregation of downtown lunch counters and a handful of other venues, by the passage of the Civil Rights Act of 1964 the student movement had failed on most of their

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<sup>51</sup> James Townsend, “Miracle in Atlanta,” *Town & Country Magazine*, February 1963, 90 (MARBL, Sibley Papers, Box 129, Folder 6); quoted in Ivan Allen, Statement at citywide meeting, January 29, 1964 (MARBL, Newsweek Records, Box 24, Folder 23).

<sup>52</sup> Joseph Luders for example, argues that the movement “ensured the political marginalization of extreme segregationists and greater political responsiveness to the African-American leadership in the form of law enforcement committed to protecting public order and the suppression of violent white counter-mobilization.” See Luders, *The Civil Rights Movement and the Logic of Social Change* (New York: Cambridge University Press, 2010), 88. Elizabeth Jacoway and David R. Colburn, eds., *Southern Businessmen and Desegregation* (Baton Rouge, LA: Louisiana State University Press, 1982).

<sup>53</sup> Tuck, *Beyond Atlanta: The Struggle for Racial Equality in Georgia, 1940-1980* (Athens, GA: University of Georgia Press, 2001), 112.

central aims.<sup>54</sup> As student leader Prathia Hall told Atlanta's new mayor, Ivan Allen, in 1964, "Despite its 'liberal' reputation, Atlanta is still a segregated city. Businessmen are permitted complete discretion whether or not they will perpetuate the continuous insult of segregation and discrimination."<sup>55</sup> Far from being a bellwether of racial progress in the New South, as Atlanta is often remembered and celebrated, it lagged behind other southern cities on several measures of integration and civil rights.<sup>56</sup> I argue that the institutionalization of the moderates' "law and order" narrative was the central element that frustrated the Atlanta movement's aims.<sup>57</sup> By using new kinds of policing practices and innovations in the criminal code to target (mostly) black direct action protest and (sparingly) white counter-protest, moderate state interests protected racial hierarchy in the city and arguably expanded the reach of the carceral system particularly for black citizens.

On March 9, 1960, Morehouse College students Lonnie King and Julian Bond published "An Appeal for Human Rights," a document scripted by students at six black universities, in the *Atlanta Constitution* and other state newspapers.<sup>58</sup> The Appeal called for the end to discrimination in public life in Atlanta in the areas of education, jobs, housing, hospitals, law enforcement, and public spaces like movie houses, concert venues, and restaurants. Cognizant of Atlanta moderates' penchant for delay, King and Bond stated the immediacy of their rights-claims in the text of the Appeal:

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<sup>54</sup> These aims were outlined in "Action for Democracy," a document produced in a meeting of over 200 civil rights activists in Atlanta on October 18, 1963, but had been elemental of the movement since its beginning in 1960. Claude Sitton, "Negroes Step Up Pressure in Atlanta," *New York Times*, January 19, 1964.

<sup>55</sup> Claude Sitton, "Atlanta Whites Act to End Crisis," *New York Times*, January 29, 1964.

<sup>56</sup> Tuck, *Beyond Atlanta*, 126.

<sup>57</sup> In this consideration, I deviate from typical analyses of the Atlanta movement, which are interested in questions of its impact on the national movement, in the nature of student dissent, and in factions of radical and black elite approaches to civil rights that marked black leadership. These are fascinating literatures in their own right. See particularly Brown-Nagin, *Courage to Dissent*; Donald L. Grant, *The Way It Was in the South: The Black Experience in Georgia* (New York: Birch Lane Press, 1993); Tuck, *Beyond Atlanta*.

<sup>58</sup> The universities represented in the Appeal were Atlanta University, Clark College, Morehouse College, Morris Brown College, Spelman College, and Interdenominational Theological Center.

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We do not intend to wait placidly for those rights which are already legally and morally ours to be meted out to us at a time. Today's youth will not sit by submissively, while being denied all of the rights, privileges, and joys of life. We want to state clearly and unequivocally that we cannot tolerate, in a nation professing democracy and among people professing Christianity, the discriminatory conditions under which the Negro is living today in Atlanta, Georgia – supposedly one the most progressive cities in the South.<sup>59</sup>

One week later, in the first act of the Committee on the Appeal for Human Rights (COAHR), King and Bond led more than 200 black students in a concerted effort to request service at ten downtown lunch counters. They were denied entry at every establishment, and the Atlanta police department and state troopers, which had been training for such an event since the Greensboro, NC sit-ins began the previous month, responded swiftly: a combination of city and state police under the direction of Atlanta police chief Herbert Jenkins arrested seventy-seven protesters on the first day, and in what would become a routine practice throughout the state, charged them with newly passed state anti-trespass and unlawful assembly laws.<sup>60</sup>

From the beginning, Atlanta's political and business elites mobilized "law and order" policing to frame the protesters as disorderly, unlawful, and disruptive of the city's racial progress. In a statement to the press, Governor Vandiver claimed that the Appeal was "calculated to breed dissatisfaction, discord, and evil ... The mass violations of state law and private property rights definitely are subversive in character. It is obvious that agitators both from without and from within the State have taken it upon themselves to pursue a pattern that can only lead to violence and anarchy."<sup>61</sup> Here Vandiver makes use of the "law and order" narrative familiar from the school desegregation debate, which was rapidly reaching its

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<sup>59</sup> COAHR, "An Appeal for Human Rights," March 9, 1960.

<sup>60</sup> Gene Britton, "Atlanta Negro Students Sit In at 10 Cafeterias; 77 Arrested, Post Bond," *Atlanta Constitution*, March 16, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 7); *The New York Times*, "77 Held in Atlanta," March 16, 1960.

<sup>61</sup> Ernest Vandiver, Press Release, March 9, 1960 (UGA, Vandiver Papers, Subjects 1960, Box 21, Folder 6).

height.<sup>62</sup> Black protesters were “agitators” whose demonstrations would bring “violence and anarchy” to the otherwise enterprising and harmonious city. Further than this, Vandiver signaled both Georgia’s interest in keeping the visibility of racial struggle to a minimum and the expanded use of state police for this end: “As far as I am concerned, Georgia law prohibiting such acts will be enforced. If local law enforcement fails for any reason, the State will provide such forces as are needed to protect the people, their property, and preserve order.”<sup>63</sup>

The *Atlanta Constitution* applauded Vandiver’s message and the use of police power to stifle protest, also on “law and order” terms. In its editorial page following the first day of protest, the paper praised the city’s law enforcement against the “agitators bent on disorder”: “Atlanta police, county and state officers have fulfilled the function presently imposed on them by state law. In those places where the proprietor requested the students to leave and there was refusal in the presence of an officer arrests were made as required by law.”<sup>64</sup> Such praise remained even as the lunch counter movement dragged on for another year. In October of 1960, after a brief summer hiatus, COAHR’s movement began again, and this time it was joined by Martin Luther King, Jr., members of the Student Non-Violent Coordinating Committee (SNCC), and the Southern Christian Leadership Conference (SCLC). The Atlanta movement re-launched its campaign, targeting lunch counters at eight downtown stores. On October 19, nearly two thousand protesters shut down sixteen lunch counters, and fifty (including Martin Luther King, Jr., who was transferred to a maximum-security rural prison

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<sup>62</sup> By the time of the Atlanta Movement’s inaugural protests, the Sibley Commission was in the midst of its hearings, and moderation was enjoying unprecedented popularity in Georgia as a whole, but especially in Atlanta, where preference for Option Two (moderate resistance) was high. See Chapters 5 and 6.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Atlanta Constitution*, “‘Protest’ Incidents Need No Repetition,” March 16, 1960 (UGA, Vandiver Papers, Series I.A, Box 21, Folder 7).

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and sentenced to hard labor, only later to be released on Kennedy's intervention) were arrested – again without brutality and again for trespass and unlawful assembly.<sup>65</sup>

Mayor Hartsfield arranged for the release of the protesters and a thirty-day truce to negotiate a settlement with downtown proprietors, but the negotiations proved fruitless because the owner of the largest downtown department store “refused to even attend the meetings.”<sup>66</sup> Protest resumed. By the end of November not a single lunch counter remained open in downtown Atlanta and students broadened their movement to include other kinds of establishments. In the end, the city's “law and order” tactics worked well as a delaying tactic until the economic pressure became too great for business moderates to ignore. Finally, in March of 1961 Atlanta's moderate-heavy Chamber of Commerce stepped in. On March 7<sup>th</sup>, in an agreement facilitated by Atlanta moderates and derided by the student leaders who originated the campaign, black civil rights leaders signed an agreement with downtown Atlanta merchants to desegregate city lunch counters beginning in September 1961, the same month Atlanta schools were set to desegregate.

The moderates' framing of lunch counter negotiations foreshadows further use of “law and order” rhetoric and tactics as the student movement entered its next phase. While many accounts of the Atlanta movement end here, with the success of lunch counter desegregation in September 1961, in fact the movement continued on, to far less success, until after the 1964 Civil Rights Act legally ended racial discrimination in accommodations. Even then, the movement filed suits and continued to organize for compliance with anti-discrimination laws through the 1960s. In October 1963, civil rights leaders called an Atlanta Summit to discuss the future of the movement in the city. Frustrated at the intransigence of moderate business

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<sup>65</sup> Brown-Nagin, *Courage to Dissent*, chapter 6.

<sup>66</sup> Tuck, *Beyond Atlanta*, 113.

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leaders and city officials, by the slow pace of school desegregation, and by the severe overcrowding in black schools (sometimes resulting in double shifts of students), COAHR and SNCC launched an all-out campaign to make Atlanta an “open city:” desegregation of public accommodations, housing, and health facilities; establishment of programs to guarantee fair employment and hiring practices; and draft a plan with city officials for the total desegregation of Atlanta schools.<sup>67</sup>

In response to renewed picketing, demonstrations, and marches, city officials again mobilized “law and order” tactics honed in 1960 and 1961. Day after day, black activists and white counter-protesters (many of them members of groups such as the Ku Klux Klan, the National States’ Rights Party, and Georgians Unwilling to Surrender) filled opposite sides of downtown streets.<sup>68</sup> Arrests followed, and after a week Mayor Ivan Allen called a citywide meeting. In a prepared statement, Allen, who like his predecessor was routinely heralded in the northern press as a pragmatic and progressive-minded moderate, renewed the city’s pledge to “law and order.” Describing Atlanta as a city whose “tolerance has been almost unlimited,” Allen contended that white Atlantans had done much to accommodate black civil rights: “In every instance, white citizens have given up exclusive privileges which they had enjoyed in the pattern of racial discrimination. In each instance, the negro citizen received rights which previously had been denied to him.”<sup>69</sup> Against this backdrop of unparalleled accommodation, civil rights, and racially uniform equality, Allen called the current protests a threat to racial progressivism in the city:

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<sup>67</sup> Tuck, *Beyond Atlanta*; Brown-Nagin, *Courage to Dissent*; Alton Hornsby, “Black Public Education in Atlanta, 1954-1973: From Segregation to Segregation,” *The Journal of Negro History* Vol. 76, No. 1 (Winter-Autumn 1991): 21-47.

<sup>68</sup> Luders, *Logic of Social Change*, 89.

<sup>69</sup> Ivan Allen, Statement at Citywide Meeting, January 29, 1964 (MARBL, Newsweek Records, Box 24, Folder 23).

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During the past several days, demonstrations which have been fomented and staged by irresponsible elements, some of them from outside Atlanta, have exposed our city to the danger of infection, by the virus of violence that has paralyzed the progress of so many cities in our nation... [They] will find that they cannot undermine Atlanta's solid foundation of fairness and freedom... These destructive efforts must and shall be brought to an end. The public safety of our city must and shall be protected. Law and order must and shall be enforced and maintained.<sup>70</sup>

The clean line the Allen draws between black destruction, irresponsibility, and disorder and white moderate "good will" and "law and order" was brought into sharper relief when he introduced Chief of Police Jenkins to read aloud the state's procedures for public demonstrations, sit-ins, and picketing "as interpreted by the city attorney."<sup>71</sup> Noting that "police officers have the right and duty to see that such picketing and assemblies remain lawful and peaceful," Jenkins then outlined state laws that would be used to enforce law and order in civil rights protests: traffic flow, unlawful assembly, anti-trespass, failure to disperse, and assembly for the purposes of disturbing the peace or to commit an unlawful act.<sup>72</sup>

For the remainder of the 1964 protests, Allen and Jenkins were true to their word. Combining small concessions (in an effort to appease black activists and end the all-out drive for an open city) and the exploitation of divisions within the Atlanta movement with renewed arrests in accordance with moderate state laws directed at black protest, moderates defeated nearly all of the Summit's aims.<sup>73</sup> Even after the passage of the Civil Rights Act of 1964, black Atlantans continued to battle segregation in their city, particularly in housing, jobs, and what Alton Hornsby calls the move from "segregation to segregation," in public education.<sup>74</sup>

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<sup>70</sup> Ivan Allen, Statement at Citywide Meeting.

<sup>71</sup> Ivan Allen, Statement at Citywide Meeting.

<sup>72</sup> Herbert Jenkins, "Atlanta Police Department Special Bulletin: Police Procedures Concerning Public Demonstrations, Sit-Ins, and Picketing," January 29, 1964 (MARBL, Newsweek Records, Box 24, Folder 23).

<sup>73</sup> For more on the moderate exploitation of divisions within the Atlanta movement, see chapters 6 & 7 of Brown-Nagin, *Courage to Dissent*.

<sup>74</sup> Hornsby, "Black Public Education in Atlanta," 22.



**Fig. 7.1:** *The triangulation law-and-order in Atlanta, 1964: White police (law and order), African American civil rights protestors (black lawlessness/disorder) and the Klan (white lawlessness/violence).*

I have sought here to reread 1960s Atlanta, so often upheld as a paragon of pragmatic racial politics and successful civil rights protest and negotiation, as a site where moderate “law and order” took practical root in policing tactics. Racial exclusion in Atlanta – legible in the steadfastness of segregation and the criminalization of black use of public space – remained intact after the school crisis of 1960 largely because Georgia institutionalized moderate “law and order” narratives originally used to rid the state of its massive resistance laws. As the Atlanta case shows, the institutional afterlife of moderate “law and order” had deep and lasting impacts on the conflation between black rights and themes of lawlessness, criminality, and disorder. A photograph taken of the Atlanta Movement in 1964 illustrates this triangulation (Fig. 7.1).<sup>75</sup> In the photograph, an Atlanta policeman stands between two simultaneous demonstrations. At left, African American activists demonstrate against a

<sup>75</sup> <http://www.georgiaencyclopedia.org/articles/history-archaeology/civil-rights-movement>

segregated restaurant, one of them carrying the sign, “Atlanta’s image is a fraud.” At right, members of the Ku Klux Klan protest the desegregation of an Atlanta hotel. Behind them, a movie theater advertises Cary Grant in *Charade*. Between black rights protest and white supremacist violence steps the police, an action that at once enforces law-and-order, demonstrates the racial neutrality of the state, and renders – falsely – the white Klan and black rights protestors perfect, symmetrical inverses of each other, and perfect, symmetrical threats to the New South.

### **The Albany Movement, 1961-1963**

In August 1962, in the eighth month of the movement to desegregate the city of Albany, located in the heart of Georgia’s black belt, fifteen black students knelt in front of the city’s segregated public library, singing and praying. After a few minutes, police officers under the direction of Chief Laurie Pritchett asked the students to leave or be arrested. A *New York Times* journalist described the following arrest as follows:

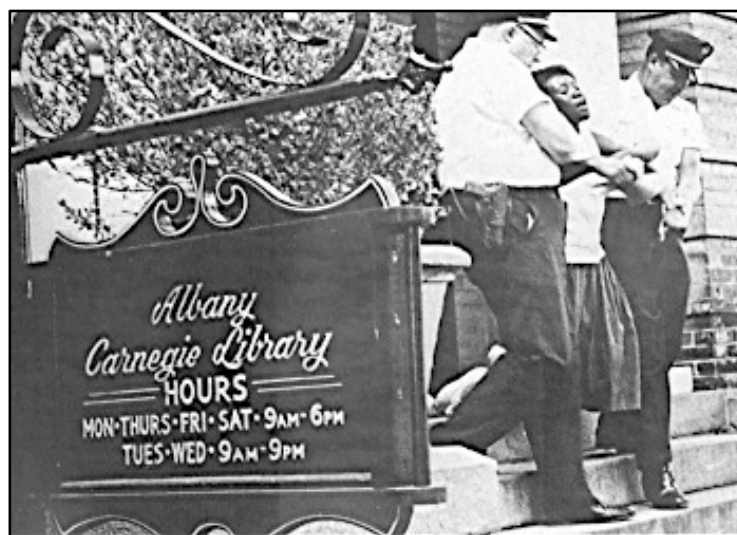
When no one moved, the police firmly but gently picked up the demonstrators, still singing, and carried them to a patrol wagon. Two officers scooped up one big girl as carefully as surgeons. Another cradled a smaller girl in his arms. So quick, quiet and efficient had been both the demonstration and the arrests that Albany was virtually unaware of the challenge to its customs. The incident reflects the remarkable restraint of Albany’s segregationists and the deft handling by the police of racial protests.<sup>76</sup>

Troubling in its praise of police officers for their gentleness, care, and deftness, the *New York Times* description nonetheless gets right the *kind* of “law and order” tactics that Albany law enforcement (and the Georgia state troopers who, on Vandiver’s command, joined them) used to repeatedly defeat the civil rights movement in the city (Fig. 7.2). Indeed, in current scholarship the Albany movement is still read as a standout failure of Martin Luther King, Jr.

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<sup>76</sup> Hendrick Smith, “Moderate Voices Muted in Albany, Ga.,” *The New York Times*, August 5, 1962 (MARBL, Newsweek Records, Box 18, Folder 3).

personally and the civil rights movement generally.<sup>77</sup> As *U.S. News* reported in 1962, “not a single racial barrier fell in the nine months of militant campaigning by Negroes. Public parks, pools and libraries have been closed to prevent their integration. This city is just as segregated as ever.”<sup>78</sup> In the next summer, the movement fared no better. Several theories for the movement’s defeat by Albany whites have been put forward, including resource depletion, lack of federal intervention, and inability to effectively impose economic costs on white merchants and city officials, but the “non-violent” strategies of city and state police under the direction of police chief Laurie Pritchett remains a central and defining theory. As Steven Barkan notes, “it is impossible to understand the movement’s development and demise without taking into account the part played by the police, courts, and prisons.”<sup>79</sup>



**Fig. 7.2:** In this video still, Albany police arrest African American student protestors in front of Albany Carnegie Library, August 2, 1962.<sup>80</sup>

<sup>77</sup> Luders, *Logic of Social Change*; Steven E. Barkan, *Protesters on Trial: Criminal Justice in the Southern Civil Rights and Vietnam Antiwar Movements* (New Brunswick, NJ: Rutgers University Press, 1985).

<sup>78</sup> *U.S. News and World Report*, “Now It’s Passive Resistance by Whites—The Albany, Ga. Plan,” September 3, 1962, 43 (MARBL, Newsweek Records, Box 18, Folder 3).

<sup>79</sup> Barkan, *Protesters on Trial*, 69.

<sup>80</sup> “WSB-TV newsfilm clip of African American student protestors singing as they are arrested by police at the Albany Carnegie Library in Albany, Georgia, August 2, 1962,” Civil Rights Digital Library. Full clip available at: [http://crdl.usg.edu/cgi/crdl?action=retrieve;rset=001;recno=1;format=\\_video](http://crdl.usg.edu/cgi/crdl?action=retrieve;rset=001;recno=1;format=_video).

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However, most scholars, following contemporary commentators of the movement, articulate the actions of law enforcement as a suddenly intransigent and defiant move for a previously moderate city. *U.S. News & World Report* noted that “Albany was considered a rather moderate southern city” until demonstrations began; the *New York Times* declared that “moderate voices [were] muted in Albany” by the end of the first summer of protest.<sup>81</sup> In contrast to these analyses that read Albany as the extension of massive resistance intransigence, I argue that Albany’s defeat was the result of the institutionalization of moderate “law and order” politics following the collapse of massive resistance laws in 1961. In similar fashion to Atlanta (see Chapter 6), the virtually concurrent Albany movement was likewise defeated by institutionalized moderate “law and order” politics on two fronts: the first postwar expansions in moderate law-and-order policy and new approaches to policing that likewise were born of rearticulated law-and-order strategies. Noticing the moderate “law and order” strategies involved in the movement’s defeat takes seriously the commitment of post-massive resistance Georgia to the intensification, rather than the abatement, of racial violence. Once again, the political effect of moderate “law and order” tactics was to remove racial violence from view, relocate it within the state, and revision this move as a form of racial neutrality and uniform law-and-order.

The Albany movement began in November 1961 when members of SNCC entered the white waiting room of Albany’s main bus terminal to test whether the city would comply with the Interstate Commerce Committee’s desegregation order, which was set to go into effect that same day. The arrest of five students for obstructing traffic outside the bus terminal on November 17<sup>th</sup> led a coalition of SNCC, NAACP, Southern Leadership Conference (SLC),

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<sup>81</sup> *U.S. News and World Report*, “Now It’s Passive Resistance by Whites,” 45; Smith, “Moderate Voices Muted in Albany, Ga.,” *The New York Times*, August 5, 1962.

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and local black ministers (including Martin Luther King, Jr.) to form the Albany movement, which was to last through the summer of 1963. Very quickly, the movement expanded from its initial target of bus terminals to encompass desegregation of all aspects of public life. Libraries, parks, restaurants, downtown merchants, swimming pools, community centers, and public toilets were also targeted, both in direct action demonstrations and in an omnibus suit filed by the NAACP in U.S. District Court in July 1962. From the beginning, the Georgia General Assembly's 1960 expansion of Georgia's criminal code played a central role in the city's successful resistance to the activists' demands. In the absence of recently collapsed massive resistance laws, the city routinely "denied that race had been an issue in the arrests."<sup>82</sup> Chief Pritchett ordered city and state police to arrest demonstrators for violating a range of long-established city ordinances and newly formed state laws – both technically unconnected with segregation.<sup>83</sup> Rather than explicit reference to segregation, Albany law enforcement charged demonstrators with parading without a permit, obstruction of traffic, unlawful assembly, failure to disperse, anti-trespass, disorderly conduct, and disturbing the peace.<sup>84</sup> These were routine charges against the more than 1,200 civil rights activists jailed in the first year of the movement alone. The reliance on ostensibly race-neutral expansions of the state criminal code re-envisioned black protest as disorderly and unlawful, and by contrast, state law as the legitimate protector of "law and order" racial peace. As one black activist pointed out, "the city says it doesn't enforce segregation... Actually, what it means is that it doesn't invoke segregation."<sup>85</sup>

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<sup>82</sup> Howard Zinn, "Albany: A Study in National Responsibility" (Atlanta, GA: Southern Regional Council Publication, 1962), 7.

<sup>83</sup> Zinn, "Albany: A Study in National Responsibility," 7.

<sup>84</sup> Barkan, *Protesters on Trial*, 62-63.

<sup>85</sup> Quoted in Hedrick Smith, "Segregation Stronghold: People of Albany, Ga., Long to Escape National Attention Over Racial Turmoil," *New York Times*, August 15, 1962 (MARBL, Newsweek Records, Box 18, Folder 3).

Just as important as the expansion of criminal justice to stifle and criminalize black protest was the nature of the arrests themselves. As *U.S. News* reported, Pritchett “began rebuilding and retraining his force” in the months prior to the launching of the first demonstrations – and concurrently with the solidification of moderate approach to school desegregation in Georgia.<sup>86</sup> Determined to both protect Albany from direct action protest and remain in conformity with newly moderate state interests, Pritchett “held daily classes in how to handle demonstrations without force or violence. He hammered home the idea that physical contact should be avoided, no police dogs were to be used, no tear gas fired or night sticks swung – except in extreme cases.”<sup>87</sup> Pritchett was true to his word. When demonstrations heated up again in summer of 1962, he proudly announced that despite an isolated bottle-throwing incident by a black protester, “not one of my men ever lifted his night stick from his belt.”<sup>88</sup>

Instead, Pritchett ordered police to form a line to break up the demonstration, and several activists were arrested without incident. Note, for instance, the visual difference between Chief Pritchett’s approach to black protest and Birmingham police commissioner Eugene “Bull” Connor’s in the 1963 Birmingham campaign (Fig. 7.3 & 7.4).<sup>89</sup> In the first figure, Pritchett orders the arrest of 130 kneeling African American protesters. His stance is certainly authoritative, and resulted in violence-ridden jail time in county jails for many of the protesters, but lacks the visceral physical brutality painfully evident in the second figure, Bill Hudson’s now famous photograph of a Birmingham police officer under the direction of Chief Connor using a police dog to attack a young African American protestor.

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<sup>86</sup> *U.S. News and World Report*, “Now It’s Passive Resistance by Whites,” 46.

<sup>87</sup> *U.S. News and World Report*, “Now It’s Passive Resistance by Whites,” 46.

<sup>88</sup> Quoted *U.S. News and World Report*, “Now It’s Passive Resistance by Whites,” 46.

<sup>89</sup> [http://www.pbs.org/wgbh/amex/eyesontheprize/story/img\\_06\\_albany\\_03.html](http://www.pbs.org/wgbh/amex/eyesontheprize/story/img_06_albany_03.html). Bill Hudson, *The New York Times*, May 4, 1963.



**Fig. 7.3:** Albany police chief Laurie Pritchett orders the arrest of black protestors outside Albany City Hall, July 20, 1962.



**Fig. 4:** Bill Hudson's photograph of Birmingham police dogs attacking a black high school student protester during the Birmingham Campaign, May 3, 1963. The photograph appeared on the front page of *The New York Times* the following day.

Of Pritchett's more restrained strategy, one Albany policeman said: "We broke the back of the lawbreakers that night. The Negroes nonviolence movement became violent, and when

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that happened the Negroes lost a lot of sympathizers – here and in other places.”<sup>90</sup> The officer’s intuition proved prophetic, and Pritchett earned applause from both the northern and southern press for succeeding in the “number one job of law enforcement in recent Georgia history.”<sup>91</sup> Even Howard Zinn, professor of history at Spelman College and advisor to SNCC, who was critical of the mass imprisonment of black protesters in Albany and of their treatment while in jail conceded: “Police brutality is evil. Chief Pritchett should be commended for not engaging in it, and also for acting as he has, forthrightly and effectively, to prevent the white mobsters from gaining any degree of control.”<sup>92</sup> In short, Pritchett’s use of law enforcement, and particularly the non-violent means by arrests were made, recast Georgia policing, historically famous for its racism and brutality, as procedurally sound, racially uniform and properly “law and order,” just as it recast black civil rights protest as an unseemly and dangerous violation of those principles.

Black citizens of Albany not only suffered the continuation of segregation in all aspects of life (save for bus terminals, which desegregated due to their federal jurisdiction) – clear enough racial inequality in its own right – but activists were routinely subjected to physical racial violence in jail. Anticipating that city jails would fill up and recognizing that violence need not happen in the visible space of the street, Pritchett arranged for protesters to be bussed to jails in nearby Baker and Terrell counties, long dubbed “Bad Baker” and “Terrible Terrell” amongst African Americans for their known history of brutality. Both Baker and Terrell had already been sites of failed direct action protest, the first in rural areas in the state, and were infamous for their violence long before the Albany movement. As Zinn reminds us, “Albany’s police chief ‘kept the peace’ by applying the same technique [in the summer of 1962] he had

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<sup>90</sup> Quoted *U.S. News and World Report*, “Now It’s Passive Resistance by Whites,” 46.

<sup>91</sup> Zinn, “Albany, A Study of National Responsibility,” 22.

<sup>92</sup> Zinn, “Albany, A Study of National Responsibility,” 22.

used in the December demonstrations: he put into prison, by the hundreds, Negro men, women, and children who in one way or another were protesting segregation.”<sup>93</sup> While in jail, blacks confronted circumstances “ranging from mere miserable discomfort (‘We were 88 in one room with 20 steel bunks and no mattresses’) to worse (‘I don’t want to near nothing about freedom,’ Sheriff Matthews of Terrell County told Charles Sherrod as he struck him in the face).”<sup>94</sup> And yet, because the interior of jails was not visible to the national press, neither was the essential violence of such incarceration visible. Many activists, committed to a “jail no bail” strategy of flooding the prisons, remained in prison rather than accept bail, but the outsourcing of activists to jails in the “rural hinterland” of Georgia meant that even the impact of this strategy was blunted.<sup>95</sup> Ultimately, the combination of non-violent arrests with the incarceration of black protestors and cruelty within jails themselves crippled the Albany movement. Worse still, it removed racial violence from the streets and lodged it in the criminal justice system – a trend that would continue long after the movement’s collapse in 1963.

Essential to the relocation racial violence into the institutions and policies of the state was its expulsion of white mobs. Several commentators have noted that despite its location in Georgia’s rural black belt, the traditional home of racial extremism in the state, the Albany movement lacked any significant organized disturbances by the Klan, White Citizens Council, or States’ Rights Council.<sup>96</sup> In reality, Pritchett’s “law and order” tactics sought to minimize actual white violence, but more often than not white extremist groups’ presence in the state became a reason to “protect” civil rights demonstrators by placing them in jail. For example,

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<sup>93</sup> Zinn, “Albany, A Study of National Responsibility” 2.

<sup>94</sup> Zinn, “Albany, A Study of National Responsibility” 4.

<sup>95</sup> Tuck, *Beyond Atlanta*, 152.

<sup>96</sup> Luders, “The Economics of Movement Success: Business Responses to Civil Rights Mobilization.”

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during the summer 1962 demonstrations, Pritchett and Albany Mayor Asa Kelly claimed that “Klan, Citizen Council types were waiting a chance to invade Albany” and that activists were “arrested to prevent violence and for their own protection.”<sup>97</sup> Pritchett went on to declare: “If they come back tomorrow, we will arrest them if we have to put them in jails all over Georgia. This can erupt into violence at any time. We can’t allow the NAACP, SNCC, or any other nigger organization to take over this town by mass demonstration.”<sup>98</sup> Whether or not Citizen Council whites planned any attacks on Albany civil rights workers (and no attacks were reported), the stand taken by Kelly and Pritchett remains important, for it signaled the delegitimization of white mob violence in the eyes of the newly moderate state on narrow and circumscribed terrain, but provides evidence of the impact of this on blacks, who were likewise understood as the perpetrators of violence. As Leslie Dunbar, the executive director of Southern Regional Council, noted, “not only has the police refrained from violence, but it prevented white mobsters from gaining even momentary control.”<sup>99</sup> Transferring the definition of white violence exclusively onto white mobs as “extremists” and black protestors as “lawless,” Pritchett claimed “law and order” as the non-violent antidote to both white violence and the black disorder that provoked it. At the end of the Albany movement in 1963, Dunbar wrote: “There are legitimate grounds for saying that in Albany sophisticated police work has done the traditional –almost legendary – job of the mob, *i.e.*, the suppression of Negro dissent and assertion of rights.”<sup>100</sup> Dunbar’s contention that law enforcement, in its suppression of black freedom, performed the traditional work of the white mob underlines the extent to which the institutionalization of moderate “law and order” narratives into state laws

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<sup>97</sup> Quoted in Daily Press Collect, Atlanta Bureau of *Newsweek*, undated 1962 (MARBL, Newsweek Records, Box 18, Folder 4).

<sup>98</sup> Quoted in Daily Press Collect, Atlanta Bureau of *Newsweek*, undated 1962

<sup>99</sup> Leslie Dunbar, Introduction to Zinn, “Albany: A Study of National Responsibility,” vi.

<sup>100</sup> Dunbar, “Introduction,” vi.

and practices intensified racial violence. The white mob, along with the brutal county sheriff, was suppressed and delegitimized in the wake of Georgia's school crisis – on the visual field if not in reality.

### **Conclusion**

This chapter has sought to demonstrate that moderate “law and order” discourse, emerging in the debates over the direction of school policy after *Brown*, became a guiding state logic around which policies and practices began to take shape, including the reforms in policing discussed here. I have further suggested two structural reasons – the emergence suburban white class interests in the New South economy and the success of moderate approaches to segregation – for these expansions and reforms, however modest, patchwork, and incomplete as they were in the 1960s.

In closing, I want to suggest that the institutional travel of law-and-order presented in this chapter helped to consolidate the relocation of racial violence from the prerogative of the white mob (with the permission of the Jim Crow state) to the prerogative of the state itself. But more than relocating *where* racial violence was primarily lodged or even its particular form, New South politicians also helped author a reformation in the ideological terrain racial violence. With moderate school policy in place, the image of the state at risk, and the ascendancy of the New South economy on the line, southern moderates rendered any violation of the ostensibly “neutral” law-and-order state legible as “lawlessness,” “disorder,” or “violence.” As many white southerners saw it, both the constricted territory of white violence (understood as discrete, extreme acts of white terrorism) and the expansive territory of black lawlessness (understood as a broad set of behaviors, language, use of public space, actions, and movements) became the *new* racial violence. Triangulated into the lawful middle

was the facially neutral, colorblind, and law-and-order – that is, racially innocent – state. In policing white and black “extremism,” the New South state performed for the nation its progressivism, its colorblindness, and its dedication to protecting the public from racial “disorder” and “harm.”

Further than this, it was in part on this terrain of vigilant-but-neutral “law and order” that the New South and the nation ideologically converged in these decades. In their rearticulation of racial liberalism during the school policy debates of the 1950s and 1960s, southern white moderates produced “law and order” as a guiding logic of the New South. But “law and order” existed not just in the mouths of southern business elites, moderate politicians, and their predominantly white, mostly suburban and middle-class constituencies. It existed also in California, where Ronald Reagan delivered in 1964 a career-making speech in which he announced that “there is no such thing as a Right or Left” when “the ultimate freedom” for the individual is “consistent with law and order.”<sup>101</sup> It existed in the rhetoric and policies of civil rights liberals like Lyndon B. Johnson, who in 1965 articulated anti-poverty and anti-discrimination policies as generative of “law and order.”<sup>102</sup> And it existed in Richard Nixon’s ability, in the late 1960s, to unite white southerners and blue collar and suburban whites nationwide into a “great Silent Majority” dedicated to victory in Vietnam and law-and-order at home.<sup>103</sup> By 1970, *Time* magazine’s “Man and Woman of the Year” were “The Middle

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<sup>101</sup> Ronald Reagan, “A Time for Choosing,” televised speech, October 27, 1964.

<sup>102</sup> Michael Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2007); Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014); and Judah Schept, *Progressive Punishment: Job Loss, Jail Growth, and the Neoliberal Logic of Carceral Expansion* (New York: New York University Press, forthcoming 2015).

<sup>103</sup> Rick Perlstein, *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2009); Robert Mason, *Richard Nixon and the Quest for a New Majority* (Chapel Hill, NC: University of North Carolina Press, 2014).

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Americans.”<sup>104</sup> These Americans, *Time* makes clear, were not “the extremists of the right” but “both Republicans and Democrats” nationwide who expressed outrage at the “chaos” and “lawlessness” of the 1960s and who demanded the reduction of crime and the return of “safety in the streets” as frequently as they did lower taxes and the end to school bussing.<sup>105</sup> Thus, during these decades the nation united around an economic politics of corporate capitalism and suburban growth and a durable myth of American progress that traded racial extremism for colorblindness and white violence for vigilant but neutral law-and-order.<sup>106</sup>

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<sup>104</sup> “Man and Woman of the Year: The Middle Americans,” *Time*, January 5, 1970.

<sup>105</sup> “Man and Woman of the Year: The Middle Americans,” *Time*, January 5, 1970.

<sup>106</sup> On the convergence of the South and the nation around a politics of “colorblind” suburban growth, white middle-class privilege, and post-industrial capitalism, see Matthew Lassiter’s excellent concluding chapter, “Regional Convergence,” in Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2007).

## **Conclusion**

### **The Political Structure of Racial Innocence from the Postwar South to Post-Racial America**

*“Americans, unhappily, have the most remarkable ability to alchemize bitter truths into an innocuous but piquant confection and to transform their moral contradictions, or public discussion of those contradictions, into a proud decoration, such as are given for heroism on the field of battle.”*

– James Baldwin, “Many Thousands Gone,” 1955<sup>1</sup>

Racial violence does not speak for itself. In 1962, when police arrested hundreds of civil rights protestors in Albany, Georgia and arranged for them to be incarcerated in violence-ridden county jails in “Terrible Terrell” and “Bad Baker” counties, the *New York Times* commended Chief of Police Laurie Pritchett and his officers for their “remarkable restraint” and “deft handling” of civil rights demonstrations.<sup>2</sup> In 1992, a Simi Valley jury acquitted Los Angeles police officers of the beating of Rodney King, in which he sustained six kicks and 33 baton strikes, because they were apparently unable to find the blow that constituted “unreasonable” or “excessive force” from the series of video stills presented at trial. And in 2014, a grand jury decided to not indict the officer responsible for the death of Eric Garner, an unarmed black man selling loose cigarillos, on a street corner in Staten Island, New York.

The localities that have endured patterns of racialized state violence since the formal fall of the Jim Crow order pervade the American landscape. These patterns attend no regional fault lines, follow no red state versus blue state divides, and obey no particular rules of urban blight or subdivision safety. They occur in southern metropolises and midwestern suburbs, in prison cells and in police custody, but also in a multiplicity of public spaces: in city parks, in

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<sup>1</sup> James Baldwin, “Many Thousands Gone,” *Notes of a Native Son* [1955] in *Baldwin: Collected Essays* (New York: Library Classics of America, 1998), 24.

<sup>2</sup> Hendrick Smith, “Moderate Voices Muted in Albany, Ga.,” *The New York Times*, August 5, 1962 (MARBL, Newsweek Records, Box 18, Folder 3).

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impoverished neighborhoods, and on broad, day-lit residential streets. They include persons well-known and unknown: Rodney King and Eric Garner, but also teenager Michael Brown, who, although unarmed, was killed by an officer on a residential street in a working class neighborhood in Ferguson, Missouri; twelve-year-old Tamir Rice, whose horseplay with a toy gun in a Cleveland park prompted officers to shoot him upon approach; Alexia Christian, a mother who suffered fatal gunshot wounds in the back of an Atlanta Police Department squad car; and Freddie Grey, a twenty-five-year-old man whose spine was nearly severed while in the custody of Baltimore police.

The deaths just named constitute but a single – perhaps the most visible – facet of state violence that is visited disproportionately on African Americans and other people of color. Nonetheless, even this level of racial violence does not speak for itself. Surprisingly, it is not always legible *as* violence. Of the trial that followed the Rodney King beating, political theorist Robert Gooding-Williams observes that many allowed themselves to inhabit a “positivist” or “‘Dragnet’ fantasy” that “there are brute facts that speak for themselves.”<sup>3</sup> In this fantasy, the image of an officer’s baton against King’s skull, of another’s boot in collision with his chest, constitute facts so “brutal, so “plain and unembellished” that they would make their own racism manifest, speak, without the need for analysis or deconstruction, their own violence, and make King’s own case at trial.<sup>4</sup> Indeed, the videotape of Rodney King’s beating demonstrates a level of racial violence by the police so unmistakable that it recalls the image of the “brutal” Bull Connor rather than that of the “restrained” Laurie Pritchett. Likewise, the abundance of videos and photographs that have emerged in recent years of black men (many reports highlight men, but black women and trans persons have similar fates) being harassed

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<sup>3</sup> Robert Gooding-Williams, “Look, A Negro!,” in Robert Gooding-Williams, ed., *Reading Rodney King, Reading Urban Uprising* (New York: Routledge, 1993), 167.

<sup>4</sup> Gooding-Williams, “Look, A Negro!,” 165.

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and killed in interactions with police demonstrates the great depth that racial violence can take today. In Philadelphia alone, over 16% of police-related shootings involved unarmed persons between 2007 and 2013, and the black community bore the overwhelming brunt of this percentage.<sup>5</sup> Like King's body, and like data on mass incarceration, statistics on race and solitary confinement, or reports of maltreatment and withheld food in prisons, these images contain the "fantasy" that racial violence's depth and breadth might, in speaking for itself, be revealed as violence.

Yet the approval of the Albany police, the acquittal of officers in King's trial, the refusal of grand juries in New York, Ferguson, and elsewhere to indict officers, and the acceptance of large sections of the American public of the legal soundness of such outcomes, suggests that racialized state violence does not, or does not always, speak for itself. As Judith Butler notes of the King trial, "there is no simple recourse to the visible" – especially, perhaps, when the beating was of a black man and the language the defense used was that of King's "dangerous intention" to violate the "rule of law" LAPD officers were sworn to protect.<sup>6</sup> What these outcomes suggest, then, is that we must begin to attend to the paradox of routine, sometimes explicit, racial violence in an era ideologically, and to a large extent legally and institutionally, committed to formal legal equality, colorblind law-and-order, and race-neutral rule of law.

This chapter is an attempt to begin such an analysis. In what follows, I return to one of the motivating arguments of the dissertation: contemporary racial innocence, James Baldwin's concept for the rosy veil of ignorance we willfully place between ourselves and the reality of

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<sup>5</sup> George Frachner and Steven Carter, *An Assessment of Deadly Force in the Philadelphia Police Department*, Collaborative Reform Initiative (Washington, DC: Community Oriented Policing Services, 2015).

<sup>6</sup> Judith Butler, "Endangering/Engendering: Schematic Racism and White Paranoia," in Robert Gooding-Williams, ed., *Reading Rodney King, Reading Urban Uprising* (New York: Routledge, 1993), 17.

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racial injustice, is rooted in a reformation in racialized state violence since the technical fall of the Jim Crow order. Racialized state violence today, I argue, follows in the ideological slipstream of the New South's convergence with the nation. This convergence began, as previous chapter's conclusion suggested, in southern moderates' rearticulation of racial liberalism and continued in the language of "law and order" popular in the South, but also in vast swaths of the nation and on both the right and the left. In conjunction with moderate law-and-order's convergence with the nation was the broader discursive rise of formal legal equality and "colorblindness." As other scholars have argued, the 1960s saw more than the rhetorical rise of formal legal equality; that decade also witnessed the beginning of what Kimberlé Crenshaw and Gary Peller call a "blanket of legal prohibitions against racial discrimination" in which legal and police procedure is no outlier.<sup>7</sup> For instance, Title VI of the 1964 Civil Rights Act, the Omnibus Crime Control and Safe Streets Act of 1968, the police misconduct provision of the 1994 Violent Crime Control and Law Enforcement Act together prohibit racial (and sex- and national origin-based) discrimination in police departments receiving federal funds. Since 1994, the Justice department has had the power to regulate and restructure police departments with unconstitutional practices. And this has resulted in multiple reports and multiple reform efforts. Since 2010, the Department has released reports detailing the racially discriminatory, unconstitutional, and too often deadly practices of law enforcement in Newark, Seattle, New Orleans, Albuquerque, Ferguson, Cleveland, and Philadelphia, among other cities.

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<sup>7</sup> Kimberlé Crenshaw and Gary Peller, "Reel Time/Real Justice" in Robert Gooding-Williams, *Reading Rodney King, Reading Urban Uprising* (New York: Routledge, 1993), 62; Jerome Skolnick and James Fyfe, *Above the Law: Police and the Excessive Use of Force* (New York: The Free Press, 1993); Cheryl Harris, "Equal Treatment and the Reproduction of Inequality," 69 *Fordham Law Review* 1753 (2001).

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These and similar efforts have introduced, unevenly, the basic values of postwar racial liberalism to criminal justice, police practices, and court procedure by mandating race-neutral application of law, normalizing colorblind justice, and layering legal procedure to protect the enforcement of public safety from the personal discretion of racially “corrupt” and “lawless” officials, county courts, and police officers that contributed centrally to the racial terrorism of Jim Crow.<sup>8</sup> While not uniform or fully realized, this trajectory nonetheless begs an important question: What does it mean that state violence, visited so disproportionately on black citizens on a number of fronts (only one of which is police brutality), operates against a backdrop of state neutrality, uniform proceduralism, formal equality, and rule of law? Or, put differently, how are we to understand the nation’s celebrated commitment to racially neutral laws and their enforcement if this commitment resides alongside, or even buttresses, practices of racialized state violence? What if, in the words of Crenshaw and Peller, “racial power continues to work ... decades after it has been outlawed as a matter of formal decree, cultural convention, and elite preference” – and not as a sporadic if regrettable return to Jim Crow lawlessness, but as an expression of formal equality and law-and-order?<sup>9</sup>

Through the lens of police violence and its aftermath from Rodney King to today – a single yet, for my purposes usefully visible, facet of racialized state violence – I show how “post-racial” America performs ideological work nearly identical to that rehearsed by moderates in the New South. What this common ideological ground suggests to me is that southern moderates were successful in their rearticulation of postwar racial liberalism, that they converged with a nationwide “silent majority” that included liberals and conservatives around a politics of middle-class consumerism and colorblind “law and order,” and that the

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<sup>8</sup> Crenshaw and Peller, “Reel Time/Real Justice; Skolnick and Fyfe, *Above the Law*.

<sup>9</sup> Crenshaw and Peller, “Reel Time/Real Justice,” 57.

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politics of law-and-order and the politics of colorblindness combined to have an enduring impact on American racial formation. This claim is not a causal one. Rather, I want to show that beyond regional convergence on “law and order” discourse, there was an even more fundamental agreement on who (which racialized subjects) could speak for “law and order” and who (which other racialized subjects) violated it. This agreement, I conclude, informs both the basis for the continuation of racial violence past the formal end of Jim Crow – evident in the brutal conditions endured by Albany protesters, the beating of Rodney King, and the death of Eric Garner, among others – and in the same stroke creates the politics of innocence produced in racial violence’s wake.

The emergence and rearticulation of liberal law-and-order in the postwar New South, such as we witnessed in this dissertation, might seem unstable ground for an analysis of the beatings and deaths of African Americans at the hands of police in the contemporary era. Indeed, where in Atlanta and Albany we witnessed state politicians and police alike working to “perform,” for the benefit of the state’s image and economy, Georgia’s rejection of white violence, we witness in the contemporary era its seeming *return*. But calling police violence or their legal outcomes a “throwback” to or an incomplete “escape” from Jim Crow, as Kimberlé Crenshaw and Gary Peller have argued, “differentiates” it “too sharply from other sites for the production and exercise of American racial power.”<sup>10</sup> Contrary to such a view, I take up Crenshaw and Peller’s contention that “formal prohibitions like those against police brutality and against racial discrimination are necessarily always mediated through narrative structures” to spotlight the role triangulated “law and order” discourse continues to pair white (rogue police) lawlessness and black (criminal, rioter, looter) lawlessness together as symmetrical extremes that are antagonistic to racial progress, rule of law, and formal equality.

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<sup>10</sup> Crenshaw and Peller, “Reel Time/Real Justice,” 59.

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### **From the Postwar South to Post-Racial America**

As I demonstrated in previous chapters, the rearticulated rhetoric of “law and order” worked to exonerate political moderates (and southern states converted to moderate policies) from the very exclusion their school policies secured into law. In the process, the moderate politicians, business elites, and the white middle-class populations who benefitted from the emergence of the New South appeared as relatively progressive whites dedicated to law, law-and-order, and racial neutrality in an otherwise backwards and violent South. In this sense, they at once rendered themselves innocent of the very exclusions their policies built into law and, at the same time, displaced onto poor rural whites (most often the proponents of massive resistance to *Brown*) the macabre shadow of violence and racism. In this displacement, the domain of what is legible as white violence contracted to include only the most backwards of people and most discriminatorily violent of actions: lynchings, vigilante mobs, and individual acts of racial terrorism, all associated with the “lawlessness” of Jim Crow. At the same time, the domain of what was legibly innocent expanded around visions of a law-abiding, consumerist, progressive New South and the whites that inhabited it. Thus, even as southern moderates worked very hard to retain racial stratification in the emergence of the New South, their invocation of massive resisters and poor rural white supremacists as the sole perpetrators of racial violence exonerated them in the eyes of many, even and perhaps especially in the North. In what follows below, we witness how this exoneration – *from the sin of white violence* – translated to the “post-racial” era and more specifically, to the context of police violence today. As we will see, commentators on police violence (conservative and liberal) perform an similar displacement as their moderate forbearers when they describe criminal racial violence either as a temporary retreat into “lawlessness,” the intentional misapplication

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or “corruption” of proper procedure, or the result of “bad apple” officers working outside the (racially neutral, uniform, formally equal) boundaries of the law.

Also in previous chapters, I argued that the moderates’ discourse of “law and order” worked to exonerate political moderates from the inherent racialization of the expanding law-and-order state. In the context of school desegregation and black civil rights protest, black “disorder” and “lawlessness” became the *other* enemy of law-and-order and New South economic progress. As we just witnessed in the cases of Atlanta and Albany (and previously in post-*Brown* school policy settings), black civil rights activists came to be understood as the symmetrical inverse of violent white supremacists, both of which were triangulated against neutral law-and-order. Yet the domain of black lawlessness – or more precisely, what became legible as black lawlessness – went in the opposite direction of its white twin. Rather than narrowing, it expanded around a wide set of movements, language, uses of public space, and actions to become an almost boundary-less catalogue of potentially dangerous “behaviors” that required the state’s surveillance, intervention, and suppression. I further argued that the criminalization of blackness, while by no means novel, particularly in the South, for the first time was made co-extensive with a racially “neutral” or “colorblind” state in the 1950s and 1960s. In fact, the very logic of the newly “neutral” state dedicated to “protecting” the public from the supposed lawlessness of disorderly and violent blacks exonerated the New South from the very racialization this logic produced. As the cases of Atlanta and Albany also demonstrated, this racialization was both material and ideological in nature, and included the surveillance and incarceration of hundreds upon hundreds of civil rights protestors, sometimes in incredibly brutal conditions away from public view.

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In what follows, we witness how this second exoneration – *from the sin of racialization* – was translated in the “post-racial” era to the contexts of police violence indicated above. As we will see, today’s proponents of law-and-order exonerate themselves from the racial impact of policing that far too often results in the precarity, shortening, and ending of black lives. Put differently, at the precise moment that the beating of King and the killing of Garner comes to be understood as the regrettable but “reasonable” use of force, the vigilant but “sound” application of police procedure, or the tragic but “noble” protection of public safety, King and Garner come to be understood as threatening, criminal, or lawless.<sup>11</sup> They, and to a large degree, those African Americans who most militantly protested their fates, came to take on a wide set of movements, actions, behaviors uses of public space that became evidence of the “lawlessness” and “criminality” of black communities – even, as we shall see, in liberal critiques of police violence. Just as in the domain of New South school policy, the “whiteness of police” and the “condemnation of blackness” exist side-by-side in an allegorical bond of law versus black lawlessness, order versus black disorder, and lawfulness versus the potential threat of black violence or crime.<sup>12</sup> In Robert Gooding-Williams’ phrase, this juxtaposition is the evidence of the “supersaturation of meaning” that black bodies have long contained in the American context, and often still contain, even in the celebrated context of formal legal equality.

Below, I excavate this double exoneration – from the sin of white violence and from the sin of racialization – through conservative and liberal discourses on police violence and its

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<sup>11</sup> For instance, the president of New York’s police union, Patrick Lynch, described Eric Garner as “criminal who served significant jail time [and] . . . brought crime, disorder and fear to the community,” and police as “members who are in good standing of their own communities who have dedicated their lives to the noble cause of protecting others.” Press Release, “PBA President Pat Lynch Speaks on Autopsy Review in Eric Garner Case,” Patrolman’s Benevolent Association, September 19, 2014.

<sup>12</sup> Nikhil Pal Singh, “The Whiteness of Police,” *American Quarterly*, Vol. 66, No. 4 (December 2014); Khalil Golbran, Mohammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern America* (Cambridge, MA: Harvard University Press, 2011).

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aftermath. Liberals, while critical of the racial nature of police violence, nonetheless situate the lawlessness of “rogue” cops and the lawlessness of black “rioters” and “looters” as symmetrical violations of the properly race-neutral and properly law-and-order state.

### *Black Physicality and Colorblind Officers*

To begin, conservative defenses of police in cases of racial violence very often racialize the target of violence as inhabiting a “disorderly,” “lawless, or “violent” body that requires containment or suppression by the police. Importantly, this racialization is discursively positioned as an aberration to race-neutral rule of law, to law-and-order, or to public safety. In turn, the police, as officers of the formally equal and racially neutral state, are positioned as the vigilant protectors of public order, and are thus not are imagined to inhabit racialized bodies at all. Indeed, should police name their whiteness, it would disrupt their self-narrative as officers upholding neutral laws.<sup>13</sup> Black physicality as a proxy for black “lawlessness” or “criminality” plays a central role. For instance, in his testimony regarding the beating of Rodney King, Sergeant Stacey Koon described for the jury King’s legs as “cocked,” his voice as “bear-like,” and his “hulk-like” body as intent on “overcoming” the taser that he used to subdue him.<sup>14</sup> As Koon described it:

He kinda gave out a bear-like yell ... He repeated this groan similar to a wounded animal and then I could see the vibrations [of the taser] on him but he seemed to be overcoming it ... I thought the suspect was under the influence of PCP ... It’s kinda like a policeman’s nightmare that the individual that’s under this is super strong and they have more or less a one-track mind, they exhibit super strength, they equate it with a monster, is what they equate it with.<sup>15</sup>

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<sup>13</sup> By whiteness, I do not mean white. While racial diversity is a problem in many police departments, it is also true that not all police officers involved in cases of racial violence are white. For more on this subject, see Charles M. Blow, “Officers’ Race Matters Less Than You Think,” *New York Times*, March 26, 2015.

<sup>14</sup> *New York Times*, “Sergeant Says King Appeared to Be on Drugs,” March 20, 1992.

<sup>15</sup> University of Missouri School of Law, “Excerpts from the LAPD Officers’ Trial.” Transcript available at: <http://law2.umkc.edu/faculty/projects/ftrials/lapd/kingtranscript.html>.

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Such descriptors as “cocked,” “hulk,” and “monster” are echoed in official police testimony and unofficial police comments in other cases. For instance, in the wake of the death of Tamir Rice, the 12-year-old black boy who police shot upon approach in a Cleveland city park in 2014, the president of Cleveland Patrolman Association, Steve Loomis, used Rice’s physicality as evidence of his threat to public safety. “He’s menacing,” said Loomis, “He’s 5-foot-7, 191 pounds. He wasn’t that little kid you’re seeing in pictures. He’s a twelve-year-old in an adult body.”<sup>16</sup> Like Koon, Loomis directs the public gaze to something threatening (“menacing,” “adult”) in Rice that is manifest *in* him and therefore legible in his physical body. The officers responsible for the beating of King and the death of Rice are by contrast situated as neutral actors against which blackness intrudes and lays bare a “menace.” Against the neutral backdrop of the state and its officers, black physicality draws a bright line between bodies that threaten public order and orderly bodies who secure the safety of public space.

Officer Darren Wilson mirrored this language in his testimony to a grand jury in the death of unarmed black teenager Michael Brown in 2014. Wilson testified that Brown was like a “demon” whose “aggressive, hostile” body could not be subdued before the bullets that entered his body became lethal.<sup>17</sup> For Wilson, Brown’s size was indicative of violence. “When I grabbed him,” Wilson explained to the grand jury, “the only way I can describe it is I felt like a 5-year-old holding onto Hulk Hogan. Hulk Hogan, that’s how big he felt and how small I felt just from grasping his arm.”<sup>18</sup> By the time Wilson had fired shots, reportedly to stop Brown’s forward movement, Wilson experienced him, as officer Koon experienced King, as inhabiting an almost superhuman body that refused the power of bullets. “That’s the only way I can describe it,” Wilson testified, “it looks like a demon, that’s how angry he

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<sup>16</sup> Quoted in Jonathan Capehart, “It’s Tamir Rice’s Fault,” *Washington Post*, March 2, 2015.

<sup>17</sup> State of Missouri v. Darren Wilson, Grand Jury Testimony, Volume V, 227.

<sup>18</sup> State of Missouri v. Darren Wilson, Grand Jury Testimony, Volume V, 212.

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looked ... It looked like he was almost bulking up to run through the shots, like it was making him mad that I'm shooting at him. And that face he had was looking straight through me, like I wasn't even there, I wasn't even anything in his way.”<sup>19</sup> Paired with this testimony was Wilson's knowledge of a strong-armed theft of a convenience store that matched the description of Brown and an accomplice, further imbuing the figure of Brown with the perception of threat.

One does not need to delve deeply to witness the racialization central to the comments of Officer Loomis or the testimony of Sergeant Koon or Officer Wilson. Such descriptors as “Hulk,” “monster,” and “aggressive” recall well-worn conceptualizations of blackness as indelibly linked to superhuman strength and violence. King's perceived use of PCP and Brown's alleged theft links these racializations firmly with criminality. As important as this racialization is for our understanding of how black citizens continue to be perceived as threatening, of equal importance is how Koon, Loomis, and Wilson position themselves as officers credibly responsible for containing violence and criminality in these situations. It is against the backdrop of lack of personal responsibility (the ostensible drug use, the seeming gunplay, the reported theft) and perceived threat (that King and Brown were read as “overcoming” officers' efforts to subdue them), that one is invited to decipher the officers' actions. In this way, and just as we witnessed in the New South, at the same moment that a wide range of black movements, uses of public space, and actions become linked to “lawlessness” and “violence” the police are understood as using, if zealously and tragically, sound procedures meant to enforce laws that apply to everybody regardless of race. In these officers' narratives, the perceived threat of blackness is identified as exactly the thing the state is authorized to subdue; it is a deviation from race-neutral law-and-order society that the

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<sup>19</sup> State of Missouri v. Darren Wilson, Grand Jury Testimony, Volume V, 228.

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police are pledged to protect. This analysis reveals that facially neutral laws, police procedure (even in using deadly force to subdue a “suspect”), and protection of public safety both racializes blacks as requiring forceful police intervention and exonerates the state from the racial impact of police violence.

### *Bad Cops, Black Rioters, and the Colorblind State*

When the Simi Valley jury acquitted the four officers charged for “excessive force” in the beating of Rodney King, civil unrest and insurrection in protest of the verdict spread through Los Angeles, setting it aflame. When the grand jury in Ferguson, Missouri failed to indict Officer Wilson for the death of Michael Brown, protests against police discrimination and racial violence, already underway for various deaths, renewed and spread across the country. And when the death of Freddie Gray in 2015 became public knowledge, Baltimore erupted in protest and sometimes-militant insurrection. Commentary on these uprisings, often called “riots,” proliferated in their wake. As Gooding-Williams noted about the 1992 Los Angeles Uprising, conservatives saw the “rioters” as “embodying an uncivilized chaos” or “expressing a repressed opportunism just waiting for an excuse to flout the law,” both of which “needed to be stamped out in order to restore law and order” in Los Angeles.<sup>20</sup>

The same has been true for Ferguson and Baltimore. During the Baltimore Uprising, for instance, the president of the Baltimore police department Gene Ryan, in registering dismay at the militancy of some protesters, most of whom were black, commented that they “looked and sounded like a lynch mob.” And when Ferguson erupted in protests after the death of Brown, the Fox News network featured a segment entitled, “Liberal outlets creating a lynch mob

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<sup>20</sup> Gooding-Williams, “Look, A Negro!,” 169.

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mentality in Ferguson?”<sup>21</sup> Given the history of American lynching, the flip of this racial script is deeply problematic, but Ryan’s explanation is nonetheless revelatory of the racial common sense at work here. For Ryan, it was because the (predominantly black) protestors were “calling for the immediate imprisonment of these officers without them ever receiving due process that is the constitutional right of every citizen, including law enforcement officers” that made them – in acting outside the law, outside due process, outside formal equality, and therefore outside lawfulness – as a “lynch mob.”<sup>22</sup> This narrative contortion works only, it must be said, in the triangulated logic of law-and-order that perceives (Jim Crow) white lawlessness as the symmetrical, and therefore identical, inverse of black protest, both of which are positioned in opposition to race-neutral law and its enforcement.

While the latent racism and foolishness of Fox News’ and Ryan’s logic was quickly pointed out by liberals, less recognizable is the way in which liberal narratives themselves often reproduce the racial triangulation of law-and-order honed in the New South by the moderate coalition.<sup>23</sup> The liberal view, as Gooding-Williams notes, while emphasizing “the social causes of the ‘riots’ – joblessness, poverty, and in general, socioeconomic need” likewise understood those involved in insurrection as “bearers of chaos.”<sup>24</sup> Liberal critiques of police violence, while correct in identifying the uneven racial impact of police use of force on black lives and communities, often identify this impact as a deviation from correctly race-

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<sup>21</sup> Howard Kurtz, “Liberal Outlets Creating a Lynch Mob Mentality in Ferguson?” *Fox News*, August 19, 2014. This segment can be found online at <http://video.foxnews.com/v/3738063554001/liberal-outlets-creating-lynch-mob-mentality-in-ferguson/?#sp=show-clips/daytime>.

<sup>22</sup> Quoted in Colin Campbell and Justin George, “Baltimore Police Union President Likens Protestors to ‘Lynch Mob,’” *The Baltimore Sun*, April 22, 2015.

<sup>23</sup> Charles M. Blow, for instance, made it clear that Gene Ryan failed to perceive the tortured racial logic embedded in his comment: “These ‘lynch mob’ invocations are an incredible misuse of language, in which the lexicon of slaughter, subjugation and suffering are reduced to mere colloquialism, and therefore bleached of the blood in which it was originally written and used against the people who were historically victims of the atrocities.” Blow’s article also includes a more complete list of media commentators and political elites who used the terminology of “lynch mob” to describe black protesters than I do here. See Charles M. Blow, “‘Lynch Mob’: Misuse of Language,” *New York Times*, April 27, 2014.

<sup>24</sup> Gooding-Williams, “Look, A Negro!,” 169.

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neutral laws and their enforcement, side-stepping and thus reinforcing the more fundamental relationship between the racialization of violence and the logic of the race-neutral, proceduralist, law-and-order state. By articulating the racial impact of state violence an anomaly or divergence from correct procedure or the disruption of “law and order, liberal critiques reproduce racial triangulation on terms similar to moderates in the New South.

One site of this is liberal commentary that laments the “damaged,” “sour,” or “frayed” relationship between communities of color and law enforcement. President Barak Obama’s commentary on the death of Michael Brown and the protests it inspired, for instance, included the following assessment of community-police relations: “Mistrust exists between local residents and law enforcement. In too many communities, too many young men of color are left behind and seen only as objects of fear ... given the history of this country, where we can make progress in building up more confidence, more trust.”<sup>25</sup> In similar fashion, Hillary Clinton remarked that incidents like Michael Brown’s death are “what happens when the bonds of trust and respect that hold any community together fray.”<sup>26</sup> The assumption here is that it is the breakdown of otherwise smooth, normal, or regular police-community relations that leads to the death of unarmed black men and to the militarized policing of black protest. The focus on bad policing leaves untouched broader, systemic questions of racial violence that are both tied to and far exceed law enforcement practices themselves.

More often, the liberal critique of racialized police violence centers on a “we’re better than that” narrative that impugns black (criminal, protest) lawlessness and white (police) violence at opposite yet symmetrical problems that the introduction of centrist, race-neutral

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<sup>25</sup> “Full Transcript: Obama’s Remarks on Ferguson, Mo. and Iraq,” *The Washington Post*, August 18, 2014. Text available at: [http://www.washingtonpost.com/politics/running-transcript-obamas-remarks-on-ferguson-mo-and-iraq/2014/08/18/ed29d07a-2713-11e4-86ca-6f03cbd15c1a\\_story.html](http://www.washingtonpost.com/politics/running-transcript-obamas-remarks-on-ferguson-mo-and-iraq/2014/08/18/ed29d07a-2713-11e4-86ca-6f03cbd15c1a_story.html).

<sup>26</sup> Quoted in Zeke Miller, “Hillary Clinton on Ferguson: ‘We Are Better than that,’” *Time Magazine*, August 28, 2014.

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state policies and their fair enforcement will correct. In this sense, black lawlessness and white violence are triangulated against the properly blank, neutral, colorblind state. For instance, regarding the protests that erupted in the wake of Brown's death, President Obama cautioned law enforcement thus: "There's no excuse for excessive force by police or any action that denies people the right to protest peacefully. Ours is a nation of laws: of citizens who live under them and for the citizens who enforce them." Police violence and the racial impact such violence enforces, Obama here makes clear, is corruption of state power. At the same time, Obama cautioned protestors to "not give into ... the passions and the anger that arise over the death of Michael Brown," thus recognizing some forms of black protest as lawlessness to be legitimately reigned in by the state. While perhaps on point and almost certainly politically savvy, in his dual caution against police violence and lawless protest, Obama positions the state at as a race-neutral entity standing between these two symmetrical aberrations.

A similar move is discernable in the language of Hillary Clinton and former Attorney General Eric Holder. Clinton, who stated in the wake of Brown's death that "we can't ignore the inequities that persist in our justice system that undermine our most deeply held values of fairness and equality," like Obama lamented: "nobody wants to see our streets look like a war zone [between police and protesters]. Not in America, we are better than that." For his part, Holder stated that unlawful, unconstitutional, or excessive police violence, while a real problem that prompted several Department of Justice investigations, "the vast majority of our law enforcement officers perform their duties honorably and are committed to respecting their

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fellow citizens' civil rights as they carry out their very challenging work."<sup>27</sup> He, too, cautioned against protesters resorting to lawless behavior. These statements are both intent on taking seriously the reality of police violence in America and, at the same time, position that reality as departure from the function, mechanisms, and policies of a colorblind state. In this sense, liberal critiques of policing, which almost always come with a symmetrical caution against black lawlessness and anger, re-inscribe the very proceduralism and colorblind norms that have been bound up with the criminalization of blackness since the liberal reforms of mid-century.

The triangulation of (white) police and black lawlessness is further buttressed by public perceptions that while perhaps legally sound, verdicts such as that in the Rodney King beating trial were unjust, and simultaneous, that post-trial "riots" and "looting" were similarly problematic. For instance, a Gallup poll shortly after the 1992 Los Angeles Uprising found that 92% of black respondents and 73% of white respondents thought the Simi Valley verdict unjust, and similar numbers, 79% of white respondents and 74% of black respondents, thought the "violence was unjustified" in the post-trial riots.<sup>28</sup> Both the brutal beating of King and the Simi Valley jury's acquittal of them and, on the other hand, the post-trial insurrection came to be understood as symmetrically violent, symmetrically unjust, and therefore symmetrical deviations from the neutral ground of law-and-order justice. Such deviations, it is critical to note, are understood to be violations of law-and-order and, simultaneously, colorblindness.

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<sup>27</sup> Statement by Attorney General Eric Holder on Federal Investigation into Death of Eric Garner, Department of Justice, December 3, 2014. Full statement available at: <http://www.justice.gov/opa/speech/statement-attorney-general-holder-federal-investigation-death-eric-garner>.

<sup>28</sup> "Riots in Los Angeles: Scat Support for Verdict or Rioting," *New York Times*, May 3, 1992.

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In sum, conservative and liberal discourses surrounding instances of racialized state violence seem at first blush to diverge from each other around the most basic of issues: whose actions need surveillance and management, whose actions are dangerous to society's safe functioning, and even who is at "fault" in these deaths. However, their common currency is a sense of state neutrality and formal equality that the death of black men by police officers violates and disrupts. Edited out of the exchange is the possibility that racial violence is deeply ingrained in current state practices, and not just in police brutality, that have served to reconstitute the racial impact of state violence well past the formal death of Jim Crow. Indeed, edited out of contemporary discourse is an accounting of the full extent of racial violence, and the possibility that such violence is constructed by – not a simply a deviation from – the ideal of the post-racial American state. As I have attempted to show in brief here, this is true on both the right and the left. In conservative defenses of police, the death of unarmed black men is folded back onto their criminal tendencies, their physicality, and their perceived lack of personal responsibility that led them to arrive at *this* place and with *this* cop and with *this* outcome. Police, as neutral and noble state officers, are simply enforcing public order. On the other hand, in many liberal critiques, racial violence is the result of a system that is "broken" in application, a "bad apple" officer, or "soured" relations between police and black communities. In both discourses, race is constantly situated as an aberration to the properly neutral, colorblind, proceduralist state.

Shrouded in this triangulation, contemporary racial violence does not speak for itself. Indeed, the enduring insistence that racial violence is an aberration from the regular function and enforcement of law veils both the state's "condemnation of blackness" and the "whiteness

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of police.”<sup>29</sup> Further, and perhaps precisely because it is present in an era that condemns with ease the lawlessness of lynching, the racism of midcentury southern demagogues, and the brutality of white mobs that marked the Jim Crow South as a corruption of the American Creed, racial violence from the New South to today remains alternately present, and at certain times very visible, and un-recognizable. The terminology of racial liberalism and “law and order” is, in this way, the “piquant confection” of which James Baldwin warned.

“Americans,” he wrote in 1955, “unhappily have the most remarkable ability to alchemize bitter truths into an innocuous but piquant confection and to transform their moral contradiction, or public discussion of those contradictions, into a proud decoration, such as are given on the field of battle.”<sup>30</sup> Understood in the shared terminology of the New South and post-racial America, the surge towards rearticulated law-and-order has often served to alchemize the *bitter truths* of racial violence – racial patterns of mass incarceration, police brutality, solitary confinement, the death penalty, and more – into the *piquant confection*, the *proud decoration*, of racial neutrality and colorblindness. As such, the turn to lawfulness, constitutionalism, and race-neutral law-and-order that was the celebrated accomplishment of southern white moderates becomes legible as the production of racial innocence.

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This dissertation has engaged “racial innocence” as a deep problem of American democratic life. Writing in 1962, James Baldwin identified innocence as the “crime” of being willfully untouched by the racial injustices that pervade American life: “But it is not permissible that

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<sup>29</sup> The phrasing here is homage to Khalil Muhammad’s *The Condemnation of Blackness* and to Nikhil Singh’s excellent essay “The Whiteness of Police.” Khalil Gilbran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Urban America* (Cambridge, MA: Harvard University Press, 2007); Nikhil Pal Singh, “The Whiteness of Police,” *American Quarterly*, Vol 64, No. 4 (2014): 1091-1099.

<sup>30</sup> Baldwin, “Many Thousands Gone,” 24.

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the authors of devastation should also be innocent,” Baldwin wrote, “It is the innocence which constitutes the crime.”<sup>31</sup> Beginning, and now ending, with that critical insight, this dissertation argues that racial innocence exists not only in the mind, in the ideological space where Baldwin and contemporary scholars who take up his critique tend to locate it, but also in the very fabric our political rhetoric, in the structures of our policies and institutions, and in the arguments and actions of politicians and populations with classed and raced interests.

“Law and order” in the New South, especially where it converged with the economic and political trajectory of the nation, I have argued, is an important rootstock of contemporary racial innocence. Beginning in the 1940s, northern racial liberals began to spotlight the problem of “lawless” southern white violence, viewing it as deeply inconsistent constitutional guarantees and national principles. The following decade, in the context of *Brown v. Board of Education* and the black civil rights movement, the language of “lawfulness” (with regard to *Brown*) and “law and order” (with regard to its implementation) traveled south, where it became an important rhetoric of various white resistance movements dedicated to hindering the impact of *Brown*. In a departure from scholarship that investigates the law-and-order politics of the region’s conservative demagogues and extremists, I highlight instead its centrality in the rhetoric and policies of southern moderates. Fighting to shore up economic and political power in the corporate-capitalist metropolises of the New South, and maintain racial stratification in its emergence, white moderates turned to the centrist and race-neutral language of liberal law-and-order.

Capturing and rearticulating the language and, indeed, the political thought, of postwar racial liberalism, I have demonstrated throughout the dissertation, enabled southern moderates

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<sup>31</sup> James Baldwin, “My Dungeon Shook: Letter to My Nephew on the One Hundredth Anniversary of the Emancipation,” *The Fire Next Time* [1963] in *Baldwin: Collected Essays* (New York: Library Classics of America, 1998), 292.

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to contain black protest on ostensibly “colorblind” grounds, preserve racial stratification in schools without the coarseness of Jim Crow violence, and entrench punitive law-and-order logic in a broadening range of state-level policy and practices. In the process, “law and order” became not only a popular rhetoric amongst state politicians, business elites, and the white middle class, but also a heightened state interest, guiding state and popular logic, and emergent policy formation. Yet in moving the region from the lawless and racist *violence* of Jim Crow to the racially neutral *law-and-order* New South, moderates succeeded in recasting the essential racialization of “law and order” – which created narrow categories of white violence but broad categories of black violence – as an exoneration from the incendiary crimes of the Old South. In this sense, this study not only offers revisions to the development of law-and-order in the South, highlighted its intimate relationship to economic and class interests, and demonstrated how these combined to successfully resist *Brown*, but more broadly offers new insight into the political-institutional foundations of contemporary racial innocence.

Below, I offer three notes that summarize the contributions this argument makes to the disciplines of American political development and political theory.

### *On the Regional Convergence of Law-and-Order*

While this dissertation is centrally concerned with unearthing the development of “law and order” politics in the South as a rootstock of racial innocence, I have also understood this development to be deeply tied to the nation on a number of fronts. As the postwar *rearticulation* of racial liberalism reveals, “law and order” – as a political rhetoric, a guiding state logic or interest, and emergent policy formation – was not and is not bound to the South or to southern conservatism. If anything, southern moderate’s embrace of “law and order” is

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the product of recognizing the political and economic benefits of borrowing and reshaping postwar racial liberalism. This analysis positions the dissertation in relation to two literatures, the first on racial politics and moderation in the New South, and the second on the political historicization of modern law-and-order politics itself.

First, the dissertation contributes to scholarship on the New South. The question of “what happened” in the New South is an important one for scholarship in American political development. In highlighting white resistance to *Brown v. Board of Education* and the black civil rights movement, many view such resistance as the harbinger of the New Right and the “backlash” politics that defined the conservatism of the 1980s. Others, notably Matthew Lassiter, Joseph Lowndes, and Robert Mickey, in highlighting the growth of white suburban politics, democratization, and colorblindness in the midcentury South, contend that the region is better understood as having “converged” with the nation.<sup>32</sup> Both my understanding of the central role white southern moderates played in the political-economic emergence of the postwar New South and the racialized class interests produced in its construction aligns with this scholarship. However, where Mickey is concerned with democratization and Lassiter’s main objective is to unearth a *residential* politics of white suburban growth that remade structures of racial exclusion in Jim Crow’s dissolution, my alternative focus is on “law and order” and the reconstitution of racial violence during the same period. This lens has allowed me to uncover additional lines of regional convergence that this literature on which this literature has not focused.

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<sup>32</sup> Matthew Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton, NJ: Princeton University Press, 2006); Joseph E. Lowndes, *From the New Deal to the New Right: Race and the Southern Origins of Modern Conservatism* (Yale University Press, 2009); Robert Mickey, *Paths Out of Dixie: The Democratization of Authoritarian Enclaves in America’s Deep South, 1944-1972* (Princeton, NJ: Princeton University Press, 2015).

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Second, primarily because of my focus on white political moderates in the New South, this dissertation additionally offers a different view of the development of “law and order” politics than is present in existing scholarship. Unlike most scholarship on “law and order,” this dissertation does not have as its object the nationalization of crime policy or the making of mass incarceration. Much of scholarship on law-and-order, identifies its motivating racial component as primarily or exclusively conservative (and southern) in orientation and origin.<sup>33</sup> The rise of law-and-order politics in the 1960s and 1970s, this literature contends, is the result of southern racial conservatives working to maintain the prerogatives of Jim Crow, or else the result of Nixon’s politics of “southernization” which disingenuously capitalized on white anxieties about “street crime” in the wake of civil rights “militancy” and “race riots.”<sup>34</sup>

But as I demonstrate, this scholarship does not contend with the sidelining of white extremism in vast areas of the South in the wake of World War II, the Cold War, and *Brown*. Indeed, the victories that southern moderates achieved in the area of school policy was indicative of their broader victory in becoming, as Lassiter puts it, “the clear fulcrum of political power” in the region.<sup>35</sup> The development of nationalized production structures, contracts with northern industry, and new practices by corporations of opening regional

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<sup>33</sup> Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995); Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1999); Michael Flamm: *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005); Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007); Vesla Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21 (Fall 2007): 230-265

<sup>34</sup> See, for instance, Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of Conservatism, and the Transformation of American Politics* (New York: Simon & Schuster, 1995); Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1999); Michael Flamm: *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005); Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2007); Vesla Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development* 21 (Fall 2007): 230-265.

<sup>35</sup> Lassiter, *Silent Majority*, 11.

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offices in the South introduced a new corporate-capitalist economic structure to southern states and, as Mickey has demonstrated in great detail, fundamentally reshaped the region's political fault lines.<sup>36</sup> The South's economic restructuring prompted a massive shift in political power from the old rural-agrarian strongholds of the Democratic Party to rapidly growing suburban cities like Charlotte and Atlanta. This reality reveals that "southernization" explanation of law-and-order politics' emergence at midcentury rests on faulty ground.

At the same time, the dissertation to some extent resists, and in other ways aligns with, the contrary argument that northern liberals were responsible for the ascendance of law-and-order politics at midcentury.<sup>37</sup> As I have attempted to show, "law and order" in midcentury operated on contested political ground, and like racial liberalism itself, was dynamic, evolving, and connected various political orientations. One of these was southern moderation, which borrowed and rearticulated the ideology of racial liberalism in their effort to resist the power of *Brown* and the black civil rights movement. Importantly, this stream both derived from and converged again with "law and order" as it was popularized in the nation.

### *On the Structure of Racial Innocence*

This dissertation has also sought to contribute to, even push, scholarly understanding of Baldwinian racial innocence. Writing at the height of the civil rights age, James Baldwin understood racial injustice to be inseparable from one's deliberate blindness towards it. White citizens, Baldwin argues, "have destroyed and are destroying hundreds of thousands of lives

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<sup>36</sup> Mickey, *Paths Out of Dixie*. See also the complex theorizations of southern politics' transformation at midcentury found in the work of Kevin Kruse, Lisa McGirr, and Joseph Crespino, who centralize the role industry played in the region's transition to modern conservatism. Joseph Crespino, *Strom Thurmond's America* (New York: Hill and Wang, 2012); Kruse, *White Flight*; McGirr, *Suburban Warriors*. See also Elizabeth Jacoway and David Colburn, eds., *Southern Businessmen and Desegregation* (Baton Rouge, LA: Louisiana State University Press, 1982).

<sup>37</sup> Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014); Judah Schept, *Progressive Punishment: Job Loss, Jail Growth, and the Neoliberal Logic of Carceral Expansion* (New York: New York University Press, forthcoming 2015).

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and do not know it and do not want to know it.” This unknowingness is, he says, “the crime of which I accuse my country and my countrymen, and for which neither I nor time nor history will ever forgive them.”<sup>38</sup> Put differently, it is Americans’ unknowingness that underwrites their continued adherence to policies, norms, and principles that do violence to the life chances and life conditions of African Americans and other racial minorities. Scholars of racial innocence identify the centrality of this blindness to the crime of racism in American life. For Baldwin, political theorist Lawrie Balfour writes, innocence is a “resistance to facing the horrors of the American past and present and their implications for the future ... a kind of deliberate blindness or deafness, a refusal to acknowledge uncomfortable truths.”<sup>39</sup> Critically, Baldwinian innocence does not mean materially *guiltless* or *faultless*, but rather *free from* or *untouched by*. It is the state of being untouched by racial injustice that has structured our national past and continues to pervade our present. In this sense, innocence is, as George Shulman notes, decidedly more than a “gap between our professed ideals and our actual practices;” deeper than this, it is a “motivated blindness” towards what we do not want to know.<sup>40</sup>

Contemporary political theory has done well to take seriously innocence as a crime. Describing it as “willful ignorance,” Balfour incisively argues that racial innocence truncates the nation’s capacity for democracy because it “sustains a mind-set that can accommodate *both* an earnest commitment to the principles of equal rights and freedom regardless of race *and* a tacit acceptance of racial division and inequality as normal.”<sup>41</sup> With equal force, Jack

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<sup>38</sup> Baldwin, “My Dungeon Shook,” 292.

<sup>39</sup> Lawrie Balfour, *Evidence of Things Not Said: James Baldwin and the Promise of American Democracy* (Ithaca, NY: Cornell University Press, 32).

<sup>40</sup> George Shulman, *American Prophecy: Race and Redemption in American Political Culture* (Minneapolis, MN: University of Minnesota Press, 2008), 19.

<sup>41</sup> Balfour, *Evidence of Things Not Said*, 27-28.

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Turner contends that racial innocence, as blindness, allows white citizens to remain in “mental and moral slumber,” unawake to the realities of racial injustice and thus unawake to the liberatory possibilities of a conscious democracy.<sup>42</sup> And Shulman, leaving little room for the redemption of the national creed, claims that the crime of racial innocence is foundational to the national project itself. America (and more precisely, American liberalism), he argues, is centrally “constituted by disavowing its deep connection to racial domination.”<sup>43</sup> Despite the differences in theorizing the relationship between American liberalism and racial innocence, contemporary theorists of African American political thought have brought the question of innocence’s *crime* to the center of questions of American democracy. In rich fashion, this literature spotlights the impoverished position attachment to racial innocence places the American soul – an important critique that scholars in race and American political development have likewise begun to take seriously.<sup>44</sup>

Building on the insights of this scholarship, this dissertation highlights not just innocence as crime, but also as achievement. If racial innocence’s criminality resides in its ignorance, its achievement resides in its willfulness. Fittingly and jarringly, Baldwin characterized the crime of innocence as the perennial “achievement” of the nation and its citizenry:

One of the things that distinguishes Americans from other people is that no other people as ever been so deeply involved in the lives of black men, and vice versa. This fact faced, with all its implications, it can be seen that the history of the American Negro problem is not merely shameful, it is also something of an achievement. For when the worst has been said, it must also be added that the perpetual challenge posed by this problem was always, somehow, perpetually met.<sup>45</sup>

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<sup>42</sup> Jack Turner, *Awakening to Race: Individualism and Social Consciousness in America* (Chicago, IL: Chicago University Press, 2012), 89.

<sup>43</sup> George Shulman, *American Prophecy*, 19.

<sup>44</sup> Lassiter, *Silent Majority*; Naomi Murakawa and Katherine Beckett, “The Penology of Racial Innocence: The Erasure of Racism in the Study and Practice of Punishment,” *Law & Society Review* 44 (2010): 695-730; Daniel Martinez HoSang, *Racial Propositions: Ballot Initiatives and the Making of Postwar California* (Berkeley: University of California Press, 2010).

<sup>45</sup> James Baldwin, “Stranger in the Village,” *Notes of a Native Son* [1953] in *Baldwin: Collected Essays* (New York: Library Classics of America, 1998), 129.

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That is, even as the injustice of racial hierarchy tests the sanctity of our political system, constitution, and principles, it is the achievement of racial innocence that allows that challenge, relentlessly posed, to be relentlessly met. That Americans continue to remain ignorant of what they know is, in this sense, rather remarkable – an accomplishment that requires both effort and will. My analysis of southern moderates and the birth of law-and-order politics in the New South constitutes a study in precisely this sort of “achievement.”

While both Baldwin and the scholars who take up his critique have trenchantly illuminated racial innocence as an enduring problem for American democracy, highlighting it as a problem of “mind-set” and “mentality,” I have sought here to situate the problem of innocence as an inherently political one – a product of specific and historically grounded political rhetoric, policy formations, elites, and institutions.<sup>46</sup> As I see it, this is a turn not so much away from political theory as towards American political development. Racial innocence is not just something in the mind or the psyche, but is also the product of institutional forces. In particular, as I have argued, contemporary racial innocence derives in part from the political and economic creation of the New South. In the final analysis, the New South economy and its racialized class politics are an important, even central, element in the political production of racial innocence. Indeed, southern moderates’ efforts to (a) introduce a corporate-capitalist, or as others have called it, a “postindustrial sunbelt economy,” to the South, (b) wrest political power from the Democratic Party political machines that buttressed

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<sup>46</sup> Balfour, *Evidence of Things Not Said*, 7, 27. At least two recent studies consider the political development of racial innocence directly. First, in his study of postwar California ballot initiatives, Daniel HoSang shows that racial innocence is created in regular, racially weighted policy-making practices that capitalize upon the liberal language of individual rights, equality of opportunity, and egalitarianism. In this sense, I follow HoSang, Murakawa, and Beckett’s practice of investigating the political roots of racial innocence. Daniel Hosang, *Racial Propositions*, especially the conclusion, “Blue State Racism.” Second, Naomi Murakawa and Katherine Beckett turn to carceral practices to demonstrate that as the definition of racism narrowed in antidiscrimination law over the last three decades, criminal justice institutions simultaneously expanded—a dynamic that has produced racial innocence in the “erasure” of state-supported violence from view. Naomi Murakawa and Katherine Beckett, “The Penology of Racial Innocence”

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the crumbling “labor-repressive” plantation and textile mill-dominated Old South economy, and (c) maintain the “propertied” benefits of whiteness in that transition were in large part what prompted moderates increasingly to look north, towards racial liberalism and towards law-and-order, in the postwar years. Thus, in centering southern moderation and corporate-capitalism in the South, this dissertation sheds light on how racialized class politics, such as emerged and solidified in the postwar New South, structure racial innocence.

### *On Historicizing Racial Violence*

Finally, this dissertation has additionally sought to contribute to scholarly understanding of racial violence. I have argued that contemporary racial innocence is rooted in part in a reformation in the forms and mechanisms of racialized state violence during the postwar decades. The racial structure of state violence in the contemporary United States, from the mass incarceration of African Americans and Latino/as to police brutality in the streets, has not escaped the inspection of scholars in American politics, political theory, or in the related fields of law, history, and sociology. Some of the richest scholarship in these areas underlines the slippage between previous eras of racial violence and today – that is, between the invention of slave patrols and the policing of blackness-as-crime in public space today; between the creation of the category “felon” and the persistent racialization of criminal disfranchisement policies; and between Jim Crow’s “twin infamies” of convict lease and lynch law and present-day institutions dedicated to surveilling, detaining, and incarcerating “dangerous” populations.<sup>47</sup> The slippage between these eras is indeed telling, as the racial

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<sup>47</sup> In 1893, Frederick Douglass declared: “Convict Lease and Lynch Law are the twin infamies which flourish hand in hand in many of the United States.” Frederick Douglass, “The Convict Lease System,” reprinted in Robert W. Rydell, ed, *The Reason Why the Colored American Is Not in the World’s Columbian Exhibition* (Urbana-Champaign, IL: University of Illinois, 1999 [1893]). On slavery, slave patrols and contemporary policing, see Loïc Wacquant, “From Slavery to Mass Incarceration,” *The New Left Review* 13 (January 2002):

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border constructing which lives require the protection of the state (and from whom) finds its roots in the nation's capitalist commitment to chattel slavery and in subsequent orders of labor extraction.<sup>48</sup> Throughout the American context, as Gooding-Williams has noted, "Black bodies, in fact, have been supersaturated with meaning."<sup>49</sup>

There is something basically and crisply revelatory in drawing these lines, in tracing this historical trajectory of blackness' "supersaturation" from previous regimes of racial domination to today. Such scholarship is revelatory precisely because it understands the racial impact of contemporary policing and carceral practices with a long historical lens, and in so doing makes race central rather than incidental to the creation of the modern carceral regime, its practices, and its practitioners. At the same time, this scholarship prompts confrontation with the racial domination in this regime as part of a lineage of racial supremacy that today's discourse of "color-blindness" and "post-racialism" routinely veils, disavows, or places squarely in the past. In this scholarship, we therefore play witness to contemporary practices

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41-60; Nikhil Pal Singh, "The Whiteness of Police," *American Quarterly*, Vol. 66, No. 4 (December 2014). On the creation of the category "felon," see Andrew Dilts, *Punishment and Inclusion: Race, Membership, and the Limits of American Liberalism* (New York: Fordham University Press, 2014). On Jim Crow and contemporary incarceration, see James A. Manos, "From Commodity Fetishism to Prison Fetishism: Slavery, Convict-leasing, and the Ideological Productions of Incarceration," in Geoffrey Adelsberg and Lisa Guenther, eds. *Philosophy in a Time of Mass Incarceration* (New York: Fordham University Press, 2015); David M. Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1996); Douglas A. Blackmon, *Slavery By Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II* (New York: Anchor Books, 2008). See additionally, Khalil Gilbran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press, 2010); Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010).

<sup>48</sup> On slavery and capitalism, particularly as labor extraction, see Wacquant, "From Slavery to Mass Incarceration"; Edmund Morgan, *American Slavery, American Freedom* (New York: W.W. Norton, 1975); Edward Baptiste, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014). On convict lease and southern capitalism, see Randall G. Sheldon, "Convict Leasing: An Application of the Ruche-Kirshheimer Thesis to Penal Changes in Tennessee, 1830-1915," in David Greenberg, ed., *Crime and Capitalism: Readings in Marxist Criminology* (Philadelphia, PA: Temple University Press, 1993); Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Rebecca H. Moulder, "Convicts as Capital: Thomas O'Conner and the Leases of the Tennessee Penitentiary System, 1871-1883," *East Tennessee Historical Society's Publications* (1976): 40-70.

<sup>49</sup> Robert Gooding-Williams, "Look, A Negro!," in Robert Gooding-Williams, ed., *Reading Rodney King, Reading Urban Uprising* (New York: Routledge, 1993), 158.

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of racial domination to which mainstream America is often disastrously and, as James Baldwin himself might say, criminally innocent.

However, instead of underlining the singular steadfastness of Jim Crow, this dissertation has focused instead in drawing distinctions between previous eras of what Nikhil Pal Singh calls “high white supremacy” and the present moment: racialization of violence and the criminalization of blacks, long ago secured to justify the legitimacy of the slave owner and the enforcement of Jim Crow, operates today in the absence of formal ascriptive hierarchy.<sup>50</sup> In this sense, and in the tradition of critical race theory scholarship on colorblindness, I understand contemporary racial violence as both a *continuation* of and a *break* from past forms of racial violence protected or authored by the state.<sup>51</sup> As I see it, this is an important distinction, but one that is also easy to overstate. What it does allow us to see, however, is how racial violence’s survival well past the technical fall of Jim Crow is buttressed and sustained by the language of racial liberalism, the terminology of “law and order,” and an ideology of racial innocence. The relevant slippage, then, is not precisely (or just) between eras of high white supremacy and today, but (also) between North and South, between racial liberalism and racial exclusion, and between the form that racialized state violence has taken since midcentury and the politics of innocence that pervades contemporary American life.

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<sup>50</sup> Nikhil Pal Singh, “The Whiteness of Police,” *American Quarterly*, Vol. 66, No. 4 (December 2014).

<sup>51</sup> See, for instance, Ian Haney Lopez, “‘A Nation of Minorities’: Race, Ethnicity, and Reactionary Colorblindness,” *Stanford Law Review* Vol. 59, No.1 (2007); Gary Peller, “Race Consciousness,” *Duke Law Journal* Vol. 1990, No. 4 (September 1990); Neil Gotanda, “A Critique of ‘Our Constitution Is Color-Blind,’” *Stanford Law Review* 44(1) (1991): 1-68; Gary Peller, “Race Consciousness,” *Duke Law Journal* 178 (1990); Cheryl Harris, “Equal Treatment and the Reproduction of Inequality,” *69 Fordham Law Review* 1753 (2001); Alan David Freeman, “Legitimizing Racial Discrimination Through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine,” *62 Minnesota Law Review* 1049 (1978); Ian Haney Lopez, “‘A Nation of Minorities’: Race, Ethnicity, and Reactionary Colorblindness,” *Stanford Law Review* 59 (2007); Cass Sunstein, “Affirmative Action, Caste, and Cultural Comparisons,” *Michigan Law Review* 97 (1994): 2410-2455; David Strauss, “Discriminatory Intent and the Taming of *Brown*,” *University of Chicago Law Review* 56 (1989).