

STATUS BRIEFING AND WORK PLAN

Dr. Martin Luther King, Jr. Memorial Commission
Brown v. Board of Education Scholarship Committee
General Assembly of Virginia



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Special Subcommittee on the 50th Anniversary of Public School Closings in Virginia

The Honorable Henry L. Marsh, III, *Chairman*
The Honorable Rosalyn R. Dance, *Vice Chairwoman*

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Dr. Martin Luther King, Jr. Memorial Commission *Brown v. Board of Education* Scholarship Committee General Assembly of Virginia

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Special Subcommittee on the 50th Anniversary of Public School Closings in Virginia

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Dr. Martin Luther King, Jr. Memorial Commission: Legislative History

On November 3, 1983, President Ronald Reagan signed federal legislation to establish the third Monday of every January as the Martin Luther King, Jr. National Holiday. On August 27, 1984, he signed into law legislation providing for the Martin Luther King, Jr. Federal Holiday Commission. The first national King Holiday was observed on January 20, 1986, and by January 16, 1989, approximately 44 states had established a state holiday to honor Dr. King. In the years immediately following the establishment of the federal King Holiday, the Commonwealth of Virginia was among the first states to establish a state legislative or executive level commission, pursuant to the federal law, to implement the objectives of the federal law at the state level.

In 1992, pursuant to House Bill 997, patroned by the late Delegate William P. Robinson, Jr., the Virginia General Assembly created the Dr. Martin Luther King, Jr. Memorial Commission as a legislative study commission. In 1997, House Bill 2198 (Robinson), was enacted to elevate the Commission to the level of a permanent statutory commission under the authority of the General Assembly. Under the current law, § 30-192.4 of the Code of Virginia, the Commission, a bipartisan legislative agency, has the responsibility for leading the Commonwealth in honoring the legacy of Dr. King through educational, historical and cultural programs, public policy analysis, and public discourse on contemporary issues.

***Brown v. Board of Education* Scholarship Committee: Legislative History**

One result of the two-year commemoration of the 50th anniversary of *Brown v. Board of Education* was the creation of the *Brown v. Board of Education* Scholarship Program by the 2004 Virginia General Assembly. The Program's purpose is to assist persons who were enrolled or eligible to enroll in the public schools of Virginia during Massive Resistance between 1954 and 1964, in jurisdictions that closed public schools to avoid desegregation. Eligible Virginians may use the award for transitional education programs to prepare for success in GED and adult education programs, or to obtain the General Education Development (GED) certificate, an adult high school diploma, career or technical education or training, College Level Examination Program (CLEP) credit, a two-year or four-year undergraduate degree from an accredited public or private Virginia institution of higher education, and graduate degrees at the masters and doctoral levels.

Public School Closings in Virginia

Throughout much of the South, state laws before the Civil War prohibited the education of African Americans, and the majority of African Americans that learned to read did so illegally. After Reconstruction, a system of laws, known as "Jim Crow laws," were enacted to continue the rigid system of segregation that pervaded every area of society, including public accommodations, schools, housing, employment, restaurants, religious affiliations, health care services, criminal justice system, and transportation. This separation of the races was upheld under the doctrine of "separate but equal," by the United States Supreme Court in 1896 in *Plessy v. Ferguson* (163 U.S. 537). It was an era in which a set of unwritten social rules was imposed, requiring African Americans to be deferential to whites at all times. Beginning in 1915, a series of decisions questioning the constitutionality of segregation in institutions of higher education were heard in state and federal courts. Until this time, the doctrine of "separate but equal" had remained unchallenged for nearly 50 years.

Throughout the Commonwealth, school conditions for African American students, including curricula, textbooks and equipment, bus transportation, and school buildings were grossly inferior to the public education afforded white students. Typically, public schools for African American received "far less

financial support than did white schools, had fewer books, worse buildings, and less well paid teachers. Ramshackle, segregated schools marked black Virginians with a stigma of inferiority and the status of second-class citizenship that they would have to endure throughout their lives.” (Virginia Historical Society: The Civil Rights Movement in Virginia, February 7 - June 19, 2004).

One example of disparate public education for African Americans was Robert Russa Moton High School in Prince Edward County, Virginia, built in 1939 for Black children. The school was inadequate and overcrowded from the start. Unlike Farmville High School, which white students attended, Moton had no gymnasium, cafeteria, auditorium with fixed seats, locker rooms, or infirmary. As the enrollment at the school continued to grow, the county built temporary "tarpaper shacks"—outbuildings made of wood, covered in tarpaper, and heated with a single stove—which were invariably leaky and chilly.

Parents, students, and PTA members were greatly disturbed by the inequities in public education and the gross inadequacies at Moton School, and tried to work through the all-white school board to bring about change. However, the school board was extremely unresponsive to their request for a new school and other improvements. Frustrated by the lack of progress and angry at the disparity between high schools for African American and white students, on April 23, 1951, students at the Robert Russa Moton High School, led by Barbara Johns and John and Carrie Stokes, staged a strike. Students either remained on school grounds and carried picket signs, or sat at their desks with books unopened, not participating in lessons, while the strike committee sought to meet with the Prince Edward County school superintendent and other officials. Those meetings were futile. The students also asked to meet with NAACP lawyers from Richmond. The student-led strike resulted in the case known as *Davis v. County School Board of Prince Edward County*, one of five cases consolidated as *Brown v. Board of Education* that challenged the doctrine of "separate but equal" as unconstitutional under the equal protection clause of the Fourteenth Amendment. The facts in the Virginia case provided the inspiration and legal basis upon which *Brown v. Board of Education* was argued before the Supreme Court.

Fifty-five years ago on May 17, 1954, the United States Supreme Court ruled unanimously in *Brown v. Board of Education of Topeka, Kansas*, that the "separate but equal" doctrine adopted in *Plessy v. Ferguson* was unconstitutional. This historic decision struck the death blow that ended the era of Jim Crow and legally sanctioned segregation throughout American society. However, states were slow to desegregate public schools. Due to state resistance, the Supreme Court set guidelines for dismantling segregation without deadlines in a separate decision in 1955, known as *Brown II*, which contained the famous phrase "with all deliberate speed."

Brown v. Board of Education: Virginia's Response

In 1959, after the U.S. Supreme Court's decision in *Brown*, Virginia embarked on a public policy of Massive Resistance in which public schools were closed in several school divisions, depriving thousands of school children an education. Although public schools were eventually re-opened in other areas of the Commonwealth, they remained closed in Prince Edward County for five years, until the Supreme Court ordered the re-opening of these schools in 1964.

Despite the Supreme Court ruling in *Brown* that school segregation was unconstitutional, public schools in Virginia did not immediately begin to desegregate. In fact, all levels of government demonstrated intense resistance to compliance with the *Brown* decision, as the Commonwealth exhausted every possible means to avoid desegregation.

The resistance lasted 10 years, during which time schools were closed in ***Arlington, Charlottesville, Norfolk, Prince Edward County, and Warren County*** for various periods of time, and military enforcement of the law to integrate schools that did stay open was necessary. However, Prince Edward County was the only jurisdiction that closed its public schools for five years, depriving thousands of African American students and hundreds of white students of an education. In other parts of the Commonwealth, African American students—and there were very few—attending white schools were harassed, threatened, isolated, humiliated, and treated with contempt.

Massive Resistance: Legislative, Legal, and Political Infrastructure

1954/55

Response to the May 17, 1954 Supreme Court decision came quickly in the General Assembly of Virginia. Governor Stanley appointed the Commission on Public Education on August 30, 1954. Composed of 32 legislative members, the Commission was charged with examining the effect of the decision on the Commonwealth and making recommendations that they deemed proper. After many meetings and a lengthy public hearing, on November 11, 1955, the Commission issued its report, in which it stated emphatically that "separate facilities in our public schools are in the best interest of both races, educationally and otherwise, and that compulsory integration should be resisted by all proper means in our power." The report recommended 12 legislative actions to achieve that goal:

1. That school boards be authorized to assign pupils to particular schools and to provide for appeals in certain instances.
2. That no child be required to attend an integrated school.
3. That the sections of the Code relating to the powers and duties of school boards relative to transportation of pupils be amended so as to provide that school boards may furnish transportation for pupils.
4. That changes be made in the law relating to the assignment of teachers.
5. That localities be authorized to raise sums of money by a tax on property, subject to local taxation, to be expended by local school authorities for educational purposes including cost of transportation and to receive and expend State aid for the same purposes.
6. That school budgets be required to include amounts sufficient for the payment of tuition grants and transportation costs under certain circumstances.
7. That provision be made for the reimbursement by the State of one-half of any additional costs which may be incurred by certain localities in payment of tuition grants required by law.
8. That local school boards be authorized to expend funds designed for public school purposes for such tuition grants as may be permitted by law without first obtaining authority therefore from the tax levying body.
9. That the employment of counsel by local school boards be authorized to defend the actions of their members and that the payment of costs, expenses and liabilities levied against them be made by the local governing bodies out of the county or city treasury as the case may be.
10. That the Virginia Supplemental Retirement Act be broadened to provide for the retirement of certain private school teachers.
11. That the office of the Attorney General should be authorized to render certain services to local school boards.
12. That those sections of the Code relating to the minimum school term, appeals from actions of school boards, State funds which are paid for public schools in certain counties, school levies and use thereof, cash appropriations in lieu of school levies, and unexpended school funds, be amended.

Before any of these recommendations could be implemented, the Commission realized that § 141 of the Constitution of Virginia must be amended to allow state funds to be used to pay tuition grants and scholarship funds to private, segregated schools when public schools are closed. Governor Stanley called a special session of the General Assembly in November 1955 to take the first steps toward a constitutional convention.

1956

In addition to amending the Virginia Constitution, the 1956 General Assembly introduced a flurry of Massive Resistance legislation. The budget bill began to appropriate money only to "efficient" (i.e., segregated) school systems, and the "doctrine of interposition" was introduced into the legislative lexicon. The recommendations of the Commission on Public Education became law and the Pupil Placement Board was created for the purpose of assigning students to particular schools.

1957

Legislation to suppress those who would fight against segregation was passed, and the Committee on Law Reform and Racial Activities began its work. Members of the NAACP, plaintiffs and attorneys in the Virginia desegregation cases were all brought before the General Assembly and made to testify about their activities. In addition to questioning their motives and methods, the Committee also laid bare the financial records of many of these individuals, subjecting them to a level of public scrutiny and intimidation that was unprecedented.

1958

The legislature passed laws that allowed for the closing of public schools whenever military forces were used by the Federal government or whenever the "peace and tranquility" of any school division was likely to be disturbed. Localities were authorized to use state-funded tuition grants to send white children to private schools when public schools were closed.

1959

The General Assembly abandoned the "Massive Resistance" approach for "Freedom of Choice." A new tuition grant/scholarship program was enacted for white children attending nonsectarian private schools or public schools outside of the locality in which they reside. Legislation was also passed giving tax credits for donations to private schools, and repealing compulsory attendance laws.

1964

The Supreme Court's decision in *Griffin v. School Board of Prince Edward County* (the only school division in Virginia to close all of its public schools) was rendered May 25, 1964—almost 10 years to the day from *Brown*. The high court mandated that schools be reopened, and the General Assembly responded by repealing the laws it had enacted to protect segregated schools. Piece by piece, the legislative architecture of resistance was dismantled.

In 1964, the United States Supreme Court found in *Griffin v. School Board of Prince Edward County*, 377 U.S. 218 (1964), that "closing the Prince Edward County schools while public schools in all the other counties of Virginia were being maintained denied the petitioners and the class of Negro students they represent the equal protection of the laws guaranteed by the Fourteenth Amendment" and called for "quick and effective relief" to "put an end to the racial discrimination practiced against these petitioners under authority of the Virginia laws." The plaintiff in *Griffin*, a school age child, won for school children throughout the nation the right to an education when this right has been established in state constitutions. Notwithstanding the dismantling of the legal infrastructure and *formal* end of Virginia's Massive Resistance, desegregation cases continued to be heard in federal courts in Virginia until 1984. The last Virginia desegregation case was finally dismissed in 2001. In 2003, the General Assembly of Virginia passed a resolution expressing profound regret over the closing of the Prince Edward public schools, and in 2004, in addition to several other related measures designed to seize and maximize Virginia's Redemptive Moment, established the *Brown v. Board of Education* Scholarship Program and Fund for the education of persons throughout the Commonwealth who were affected by the school closings.

The Commemoration: 50th Anniversary of Public School Closing and 55th Anniversary of *Brown*

The year 2009 marks the convergence of the anniversary of several historic events and milestones in Virginia and United States history. Two such events are the 50th anniversary of the closing of public schools in many Virginia localities and the 55th anniversary of the 1954 Supreme Court decision in *Brown v. Board of Education*. The public school closings in Virginia and the national commemoration of the landmark decision in *Brown* will be recognized locally and nationally. In 2004, the MLK Commission was directed by the General Assembly to lead and coordinate the commemoration of the 50th anniversary of the *Brown* decision, and to follow through on subsequent initiatives and outcomes of the observance. Therefore, Senator Marsh has established the Special Subcommittee on the Fiftieth Anniversary of Public School Closings in Virginia to facilitate the Commission's work in this regard. He has been joined in this effort by Delegate Rosalyn R. Dance, Chairwoman of the *Brown v. Board of Education* Scholarship Committee, which was established, in part, upon the recommendation and support of the King Commission during the commemoration of the 50th anniversary of the decision.

The Special Subcommittee is composed of members of the King Commission, the *Brown v. Board of Education* Scholarship Committee, and nonlegislative citizens who represent the legal, business and corporate communities, the state and federal court systems, professional education organizations, public and higher education officials, teachers, relevant state agencies and local governing bodies, community organizations, recent *Brown* scholars, and localities in which public schools were closed to avoid desegregation. The Special Subcommittee duties include planning, developing, leading, and coordinating the statewide observance of these historic events commencing in the fall of 2009 and concluding in the spring of 2010.

Proposed Work Plan

The staff proposes a thematic approach to the Special Subcommittee's meetings for the purpose of planning the commemoration that parallels the historical highlights of the era and adopted activities for the observance. This approach provides sufficient flexibility to accommodate presentations, work sessions, and task groups to accomplish the following objectives.

July 14, 2009: Organizational Meeting

- Staff Report and Work Plan
- Encyclopedia Virginia
- Presentations: Public School Closings in Virginia
- Commission Discussion and Decisions
- Schedule of meetings

August 2009: Work Session

- Presentations: Highlighting Warren County
- Task Groups Progress Reports
- Meeting in Warren County

September 2009: Work Session

- Presentations: Highlighting Arlington County
- Task Groups Progress Reports
- Meeting in Arlington County

October 2009: Inaugural Event—Richmond

November—Public Discourse

- Presentations: Highlighting Charlottesville
- Task Groups Progress Reports
- Meeting in Charlottesville

December 2009—Reports and Recommendations

- Presentations: Highlighting Norfolk
- Task Groups Progress Reports
- Meeting in Norfolk

January—April 2010: Staff Work

May 2010: Concluding Event

- Presentations: Highlighting Prince Edward County
- Task Groups Progress Reports
- Meeting in Prince Edward County