3-2020

Black and White: Derailment of Desegregation in East Baton Rouge Parish Schools

Leonard Ray

Black and White: Derailment of Desegregation in East Baton Rouge Parish Schools

by

Leonard Ray

Undergraduate honors thesis under the direction of

Dr. Gaines Foster

Department of History

Submitted to the LSU Roger Hadfield Ogden Honors College in partial fulfillment of the Upper Division Honors Program.

March 2020

Louisiana State University
& Agricultural and Mechanical College
Baton Rouge, Louisiana

Introduction

> We hold these truths to be self-evident, that all men are created equal, and are endowed by their creator with certain inalienable right, that among these are life, liberty, and the pursuit of happiness.
>
> ~ Thomas Jefferson

In 1776, when a slaveholder wrote those immortal words, he may not have meant *all* men. And he certainly didn't mean women. But words, once loosed, have a habit of taking on a life and meaning of their own. The promise enshrined in the Declaration of Independence, that of a truth self-evident and of rights inalienable, is the cornerstone of the American experiment. Such is our founding promise: all men and women are created equal. We all hold an equal stake in the American project. However, over the past few centuries, we as a nation have often failed to live up to that promise. The story told herein is yet another such example.

One of the central themes of American and *particularly* Southern history is race. Black Americans have always played an integral role in the fabric of the American story, ever since the first slaves stepped off the boat in 1619. Their story is our story. Three centuries of slavery gave way to civil war and reconstruction, which in turn gave way to another century of Jim Crow. For most of the American saga, black Americans have suffered systemic and systematic discrimination, treated as second-class citizens, as strangers in their own nation. Even after being declared free, a change they themselves showed significant agency in effecting, they were forced to use separate and unequal facilities, from bathrooms to water fountains to, as is the focus of this story, schools. In theory, though, all that was washed away when in 1954 the Supreme Court ruled in *Brown v Board of Education of Topeka* that "separate but equal" schools were not only inherently unequal but also inherently unconstitutional. In theory.

Two landmark Supreme Court cases will be mentioned later, one of which is *Brown*. The other perhaps lesser known case is *Swann v Charlotte-Mecklenburg Board of Education* (1971). *Brown*, of course, marked the end of the constitutional endorsement of *de jure* segregation that had been established in *Plessy v Ferguson* (1896) sixty years prior. The mandate of *Brown* was a mandate for integration. By the 1970s, however, most southern school systems remained largely segregated, and the Supreme Court was running out of patience for delay in the name of "all deliberate speed." *Swann* confirmed that the mandate of *Brown* was not merely the abolition of segregation but the introduction of integration. In *Swann*, the court held that busing was a valid remedy for racial segregation, even when said racial segregation was the result not of admission policies but of geographic and residential segregation. Thus, *Swann* marked the beginning of the era of busing and was an affirmation of such policies of active integration.

Brown, however, and *Plessy* before it, raise an important question that bears consideration: why integrate? The most obvious reason is that, as was well-established in *Brown*, separate but equal was inherently unequal. Throughout the Jim Crow period, schools provided for black students were far inferior in terms of funding and facilities when compared to those provided for their white counterparts. And as is demonstrated in this study, simply declaring schools no longer segregated is not enough to integrate them. The abolition of *de jure* segregation alone does not eliminate the material inequalities in schooling that segregation creates.

Rectifying such an injustice is important, but the benefits of desegregation goes beyond that. There is something to be gained for *both* races through the simple act of interacting with those who look different from you, and there is perhaps no better place for such interactions to

occur than in classrooms and schoolyards. This is not mere conjecture but has in fact been demonstrated in numerous other studies.[1]

This study leans heavily on statistical analysis, drawn largely from enrollment data provided by the East Baton Rouge Parish school board. The enrollment data covers the period from 1968, when *de jure* desegregation first reached all grades in all schools, and 2001, shortly before the conclusion of the desegregation case. Although numbers are provided for black and white enrollment, those for white enrollment are in fact simply numbers for nonblack enrollment. Such is not ideal, but we must work with the data we have, not the data we wish we had.

The core summary statistic used throughout this study is the Segregation Index, calculated for an individual predominantly white school as $S = \frac{B-C}{C}$ and an individual predominantly black school as $S = \frac{B-C}{C-1}$, where S is the segregation index, B is the percentage of the school that is black, and C is the percentage of the community to which the school is being compared that is black, be that the district or the parish. Thus, a perfectly segregated school, composed only of students of one race, would have a segregation index of 1, whereas a perfectly integrated school, that is, one with a racial breakdown that perfectly matches that of the community to which it is being compared, would have a segregation index of 0. The individual index is then converted into a weighted index through $W = S * \frac{E}{T}$, where S is the individual index, W is the weighted index, E is the enrollment of the school, and T is the total enrollment of all schools combined. The values of the weighted indices are then summed to create a segregation index for the district. The segregation index of the district uses the percentage of public school

[1] Charles S Bullock III, Mary Victoria Braxton,, "The Coming of School Desegregation: A Before and After Study of Black and White Student Perceptions," Social Science Quarterly, Vol. 54, No. 1 (June 1973): 132-138.

enrollment that is black as its comparison community, whereas the segregation index of the parish uses the percentage of parish residents that are black as its comparison community, thus allowing for conclusions to be drawn about both the state of desegregation relative to district enrollment as well as the state of desegregation relative to the overall population of the parish.

Data tells a story, and the story told in Baton Rouge is one that has been repeated all too often in American history: black America was made a promise, only to see that promise shattered in the face of white resistance. And we're all worse off for having that promise go unfulfilled. As Dr. Martin Luther King Jr. wrote in his famous letter from a Birmingham jail, injustice anywhere is a threat to justice everywhere. All men and women are created equal, and the meaning of justice is that they also ought to be seen and treated equally, judged not by the color of their skin but by the content of their character. That is the promise laid out by Jefferson in his famous Declaration. That is the dream proclaimed by Dr. King from the steps of the Lincoln Memorial. That is the vision that we as a nation are charged with fulfilling, or at the very least striving towards, such that each successive generation is a little bit closer than the last.

Progress has been made since the *Brown* ruling, and the failures of the past half-century are not such that such progress should be ignored entirely. Yet both the successes and the failures must be considered within the context of one another, and within that crucial context, one finds that the progress of the past several decades to have been woefully inadequate. That some degree of progress has been made is no reason to rest on our laurels. Such is the American mission, to continue marching forward along our journey toward a more equal society. The arc of history is long, and while it may bend toward justice in the long run, in those shorter spans such as that considered in this study, things are often a bit more complicated.

Chapter I: With All Deliberate Speed

In 1954, the East Baton Rouge Parish school system was, like the rest of its counterparts across the south, segregated by law. Of the schools in the system, 31 were white and 22 were black.[2] As was the case elsewhere in the South, despite the principle of "separate but equal" established by *Plessy v Ferguson* in 1896, those 22 black schools were vastly underfunded relative to their white counterparts. It was against this backdrop that the Warren Court handed down its verdict in *Brown v Board of Education of Topeka*, ruling that "separate but equal" is inherently unequal.[3]

It would be an understatement to say that the *Brown* ruling and the other desegregation cases that followed it had a profound impact on education policy across the South and even in other regions of the country. The story of the case and the "massive resistance" campaign that followed in response have been told at length in numerous works elsewhere and need not be repeated here. This is not that story, nor is it a broad and sweeping review of desegregation efforts across a whole country, or even a whole state. This is the story of one city's decades-long struggle with desegregation, and its ultimate failure to live up to the promise enshrined in *Brown*. Though local in nature and with its own fair share of unique twists, turns, and quirks, it is not exceedingly different from the story which played out in similar cities across the country in *Brown*'s decades-long wake. The story of desegregation in East Baton Rouge is thus the story of a single medium-sized city built along the banks of the mighty Mississippi River, yet it is also the story of America.

[2] Davis v. East Baton Rouge Parish Sch. Bd., 498 F. Supp. 580 - Dist. Court, MD Louisiana 1980
[3] Brown v. Board of Education, 347 US 483 - Supreme Court 1954

The saga begins with *Davis v East Baton Rouge Parish School Board,* originally filed on February 29, 1956.[4] The *Davis* case would spend the next 47 years winding its way through the judicial system, bouncing back and forth between the district and appellate levels, before finally reaching a settlement in August 2003.[5] Those 47 years saw 10 different presidencies, 7 different governors, and 6 different mayors.

Initially, the Baton Rouge desegregation case was in the hands of U.S. District Judge James Skelly Wright, who issued the initial order for the school system to desegregate in 1960. Wright had garnered a reputation as a foe of segregation, having overseen much of the New Orleans school desegregation case. However, in 1962, Wright was appointed to the Court of Appeals for the District of Columbia Circuit.[6] His replacement was Judge Elmer Gordon West, who would later in 1972 be reassigned to the newly created Middle District of Louisiana where he would continue to oversee the Baton Rouge desegregation case until assuming senior status in 1979.[7]

Judge West considered himself to be an ultra-conservative and a strict constructionist, and his jurisprudence reflected that. Civil rights and desegregation were no exception, and indeed his positions garnered him quite a bit of flak and controversy during his time on the bench.[8] In his first ruling on the *Davis* suit, West included in his ruling an aside which would prove rather reflective of his overall approach to the questions of desegregation going forward,

> I could not, in good conscience, pass upon this matter today without first making it clear, for the record, that I personally regard the 1954 holding of the United States Supreme Court in the now famous Brown case as one of the truly regrettable decisions of all times. Its substitution of so-called "sociological principles" for sound legal reasoning was almost unbelievable. As far as I can determine, its only real accomplishment to date has

[4] Davis v. East Baton Rouge Parish School Board, 214 F. Supp. 624 - Dist. Court, ED Louisiana 1963
[5] Adam Nossiter, "Baton Rouge Desegregation Case Ends," *Washington Post*, August 17, 2003.
[6] "James Skelly Wright," District Judges, Eastern District of Louisiana, accessed March 21, 2020.
[7] "Elmer Gordon West," District Judges, Eastern District of Louisiana, accessed March 21, 2020.
[8] Dennis Hannover, "Judge West looks back at his career," *The Advocate*, March 16, 1991, 1-B;S.

> been to bring discontent and chaos to many previously peaceful communities, without bringing any real attendant benefits to anyone.[9]

Time did not soften West's approach. In a 1991 interview, West stood by his remarks on *Brown* and the ultra-conservative approach he took to desegregation.[10] Thus, for the first half of its lifespan, the East Baton Rouge Parish desegregation suit remained in the hands of a man who was at heart not truly committed to the goal of desegregation.

This lack of commitment was reflected in the plan initially adopted by the school board and approved by the district court. In his ruling, Judge West cited two of the most infamous phrases from the *Brown* case, which stated that desegregation was to be accomplished "as soon as practicable" and "with all deliberate speed." These two phrases were of course extremely vague, and district judges enjoyed a great deal of latitude in interpreting what they meant for specific localities. In the case of Baton Rouge, "all deliberate speed" translated to a pace that was nothing short of glacial. According to the initial plan, Schools were to be opened for transfers for 11th and 12th graders starting with the 1963-1964 school year, with *de jure* desegregation extending to the 10th grade in the 1964-1965 school year, to the 9th grade in the 1965-1966 school year, and so on and so forth until *de jure* desegregation was achieved all the way through to kindergarten. Thus, East Baton Rouge Parish was on track to be fully desegregated, at least by law, by the 1974-1975 school year, a full twenty years after the *Brown* decision had been handed down. The plan included no measures to address *de facto* segregation.[11] The promise of *Brown* had thus been diluted nearly to the point of non-existence.

This initial desegregation plan did not last especially long. On December 29, 1966, the Fifth Circuit Court of Appeals, which at the time held jurisdiction over Alabama, Georgia, and

[9] Davis v. East Baton Rouge Parish School Board, 214 F. Supp. 624 - Dist. Court, ED Louisiana 1963
[10] Dennis Hannover, "Judge West looks back at his career," *The Advocate*, March 16, 1991, 1-B;S.
[11] Davis v. East Baton Rouge Parish School Board, 219 F. Supp. 876 - Dist. Court, ED Louisiana 1963.

Florida, in addition to Mississippi, Louisiana, and Texas, handed down its ruling in a bundle seven desegregation cases, broadly referred to as *United States v. Jefferson County Board of Education*.[12] *Jefferson County* fundamentally expanded the mandate of *Brown* from the mere elimination of *de jure* segregation to encompass the uprooting of *de facto* segregation. As Judge John Minor Wisdom writes,

> "The Brown case is misread and misapplied when it is construed simply to confer upon Negro pupils the right to be considered for admission to a white school". The United States Constitution, as construed in Brown, requires public school systems to integrate students, faculties, facilities, and activities. If Brown I left any doubt as to the affirmative duty of states to furnish a fully integrated education to Negroes as a class, Brown II resolved that doubt. A state with a dual attendance system, one for whites and one for Negroes, must "effectuate a transition to a [unitary] racially nondiscriminatory school system." The two Brown decisions established equalization of educational opportunities as a high priority goal for all of the states and compelled seventeen states, which by law had segregated public schools, to take affirmative action to reorganize their schools into a unitary, nonracial system.[13]

As Judge Wisdom continues, emphasis his, "*The only school desegregation plan that meets constitutional standards is one that works.*"[14] This represented a vital shift in terms of the very meaning of desegregation as a concept. It was not enough, according to the courts, for a school district to merely open the doors of its white schools to black pupils and vice versa. School districts were now expected to take action to remedy the reality of *de facto* segregation, with the courts prepared to take the reins if need be.

Within the next couple weeks, the Fifth Circuit struck down Baton Rouge's initial desegregation plan as being insufficient in light of the *Jefferson County* ruling.[15] Judge West's

[12] United States v. Jefferson County Board of Education, 372 F. 2d 836 - Court of Appeals, 5th Circuit 1966.
[13] United States v. Jefferson County Board of Education, 372 F. 2d 836 - Court of Appeals, 5th Circuit 1966.
[14] United States v. Jefferson County Board of Education, 372 F. 2d 836 - Court of Appeals, 5th Circuit 1966.
[15] Davis v. East Baton Rouge Parish School Board, 372 F. 2d 949 - Court of Appeals, 5th Circuit 1967.

reaction was apoplectic, as he made very clear in scathing prose penned in reaction to the Fifth Circuit's ruling. West decried the ruling as being "unusual because of its glaring inconsistencies, ambiguity, and sheer unconstitutionality. West's rant continued, as he complained about how the Baton Rouge case wound up bundled with the cases in the *Jefferson County* ruling in the first place, and he extensively cited Judge Gewin's dissent in the *Jefferson County* case to further demonstrate his discontent. West even went so far as to suggest that the *Jefferson County* ruling was in violation of the Civil Rights Act of 1964. Overall, Judge West was very displeased with this ruling, to say the least.[16]

Judge West did, however, raise some very important questions about the meaning of desegregation in his ruling. Regarding the distinction between *de facto* and *de jure* desegregation that is at the heart of the *Jefferson County* case,

> Suppose the school desegregation plan already in operation in a given area is working to the extent that all students do, in fact, have a free and unfettered choice of the school which he will attend, and suppose the situation arises where it cannot be fairly said that there any longer exists "de jure" segregation but that segregation does continue to exist on a neighborhood, de facto, free choice basis. In such an event, does such an area then join the Northern states against whom this decision is not intended to operate, or does the operation of the statute then become enlarged to cover such de facto segregation simply because the area involved is located in one of the seventeen Southern or Border states?[17]

Obviously, given his "ultra-conservative" nature, Judge West's point was not that efforts should be made by the courts to achieve *de facto* desegregation in the north as well, but that the lack of such efforts make the singling out of southern states for these efforts rather arbitrary. West's argument can be summed up with a quote he pulled from *Briggs v Elliot*, that "The Constitution, in other words, does not require integration. It merely forbids segregation."[18]

---

[16] Davis v. East Baton Rouge Parish School Board, 269 F. Supp. 60 - Dist. Court, ED Louisiana 1967.
[17] *ibid.*
[18] *ibid.*

The spat over the *Jefferson County* case demonstrates how, right from the start, the legacy of *Brown* and the precise meaning of desegregation was being fiercely contested, even amongst those who sought its implementation. Even Judge West, in spite of his reluctance, conceded that "It is far too late for anyone to take issue with the fact that the established law of the land now requires that there be no forced segregation in public schools," adding that "No one will dispute the fact that, in the past, Negro children have been short changed when it comes to educational opportunity, especially in the South."[19] Judge West was no crusader for segregation and massive resistance, yet the rhetoric he invoked in castigating *Jefferson County* was foreshadowing for what would become the core questions of school desegregation in the coming decades, both in Baton Rouge and across the country: what does the constitution actually ask of school systems? Just how far should desegregation go?

Regarding Baton Rouge specifically, West did ultimately comply with the Fifth Circuit ruling, albeit under protest, drafting a corrected decree for desegregation. Starting in the 1967-1968 school year, all grades, from kindergarten all the way through the 12th, were to be legally desegregated, with a transfer system put in place to allow black children to transfer to white schools and vice versa. The ruling even provided an explanatory form letter for the school system to send to parents regarding the change in policy. Essentially, the 1967 ruling maintained the approach taken in the 1963 ruling, albeit at a much faster pace and with a slightly heavier hand.[20] In spite of the Fifth Circuit's urging that such plans must include efforts to combat *de facto* segregation as well as *de jure* segregation, there appeared to be few provisions in the 1967 ruling that would achieve such an effect. Thus, for the most part, the 1967 ruling was little more than a restatement of the 1963 ruling.

---

[19] *ibid.*
[20] *ibid.*

The plan outlined in the 1967 ruling did not last especially long either, as it was soon after supplanted by a plan drafted in 1970 by a biracial committee. The 1970 plan, as outlined in a 1978 ruling, operated primarily based on a neighborhood school concept, with students attending the school closest to their residence. It also provided for a majority-to-majority transfer system, allowing students who were in the majority to transfer to schools where they would be in the minority.[21] The new plan was hardly an earth-shattering shift from its predecessors that had been embraced in the sixties, and all desegregation provisions relied on completely voluntary actions by parents. The impact was, as one might expect, rather limited, and by 1975, the plaintiffs were back in court alleging that the 1970 plan had been insufficient in addressing desegregation. Judge West disagreed, and ruled in favor of the 1970 plan. In the same ruling, however, he went even further, declaring that the dual system had been successfully dismantled and that "the East Baton Rouge Parish school system is a unitary system, and there are simply no justiciable issues left in this particular case."[22] With that, Judge West dismissed the East Baton Rouge Parish school desegregation case, putting an end to our winding story.

Except not quite, because the Fifth Circuit Court of Appeals disagreed with Judge West's assessment. As the Fifth Circuit reminded West, there exists a presumption under *Swann v Charlotte-Mecklenburg Board of Education*, a 1971 landmark Supreme Court case on desegregation, against the very existence of one-race schools.[23] And despite Judge West's declaration of a unitary system, many of the schools in the parish remained one-race. Thus, in 1978, the Fifth Circuit Court of Appeals vacated and remanded the dismissal. The Baton Rouge

[21] Davis v. East Baton Rouge Parish Sch. Bd., 570 F. 2d 1260 - Court of Appeals, 5th Circuit 1978.
[22] Davis v. East Baton Rouge Parish School Board, 398 F. Supp. 1013 - Dist. Court, MD Louisiana 1975.
[23] Davis v. East Baton Rouge Parish Sch. Bd., 570 F. 2d 1260 - Court of Appeals, 5th Circuit 1978.

desegregation case thus bounced back down to the district level, by which point a new sheriff was in town with some very different ideas about desegregation.

Judge John V. Parker was appointed to District Court for the Middle District of Louisiana by Jimmy Carter in 1979. Parker was a Baton Rouge native, having graduated from Baton Rouge High School in 1949.[24] Two of the schools he attended, Hollywood Elementary and Fairfield Elementary, would later be closed as a result of his desegregation order.[25] Having taken the reins from the retiring Judge West, in his first ruling on the desegregation case in 1980, Judge Parker seemed downright appalled by the lack of progress that had been made. As he wrote, simply stating the facts,

> At present, about 68,000 pupils attend 113 public schools in East Baton Rouge Parish. The racial proportion is about 60 percent white-40 percent black. At this time (the 1979-1980 school year) the East Baton Rouge Parish School Board operates 35 all-black schools and 32 all-white schools. Although the government has not seen fit to establish precise numbers, it is undisputed that a majority of black students in the parish still attend all-black schools and a majority of the white students still attend all-white schools. Only 46 schools (about 40 percent of the total) have racially-mixed student bodies.[26]

The school board had not done absolutely nothing, of course. From 1965 to 1974, there was a redrawing of school attendance zones; however, at no point was this done with desegregation in mind, or even in such a way as to be conducive to desegregation, as one deposition from an assistant superintendent of schools conceded.[27]

The precise numbers that are available tell largely the same story as was observed by Judge Parker. Below is the Segregation Index from 1968, when *de jure* segregation was first implemented across the parish in all grades, to 1980.

---

[24] Charles Lussier, "BR's U.S. Judge John Parker dies at age 85," *The Advocate,* July 16, 2014.
[25] Charles Lussier, "Parker quits school case," *The Advocate*, July 26, 2001.
[26] Davis v. East Baton Rouge Parish Sch. Bd., 498 F. Supp. 580 - Dist. Court, MD Louisiana 1980.
[27] *ibid.*

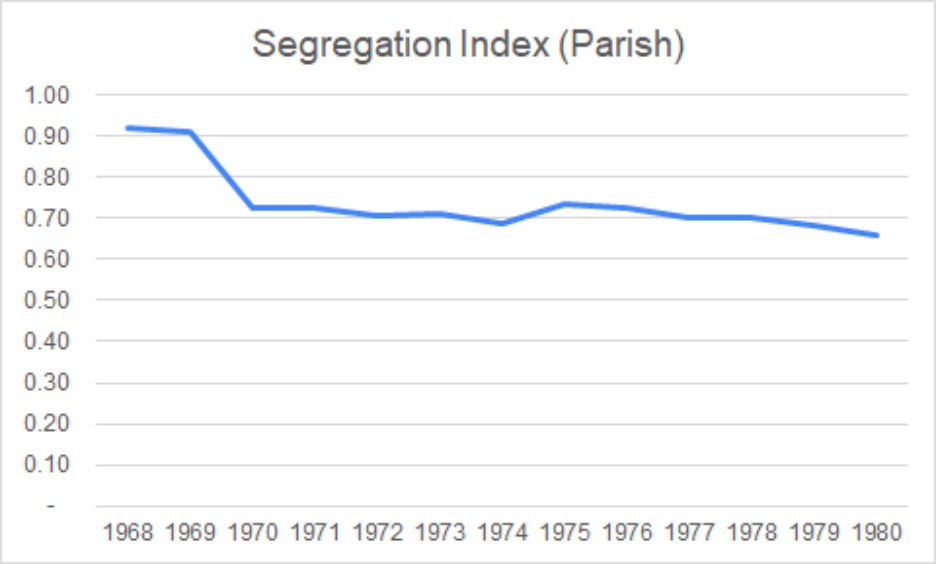


Fig 1

As Figure 1 shows, there is a large initial drop in segregation around 1970, after which desegregation essentially stalls out. None of the policies put in place by either Judge West or the school board appear to have any substantial effect, beyond the simple abolition of *de jure* segregation in 1968. Going into the 1980s, the index continues to hover around 0.7, which, while better than 1, is still fairly high. Even newly opened schools were often practically one-race, such as Crestworth Elementary and Glen Oaks Elementary, both opened in the 1973 school year. Glen Oaks in its first year had 532 white students and only 3 black students, whereas Crestworth had 485 black students and no white students at all. Progress was marginally better among the high schools and segregation remained marginally more egregious among the elementary schools, but across the board the story was largely the same; from 1970 to 1980, little to no progress had been made on desegregating the public school system in East Baton Rouge Parish.

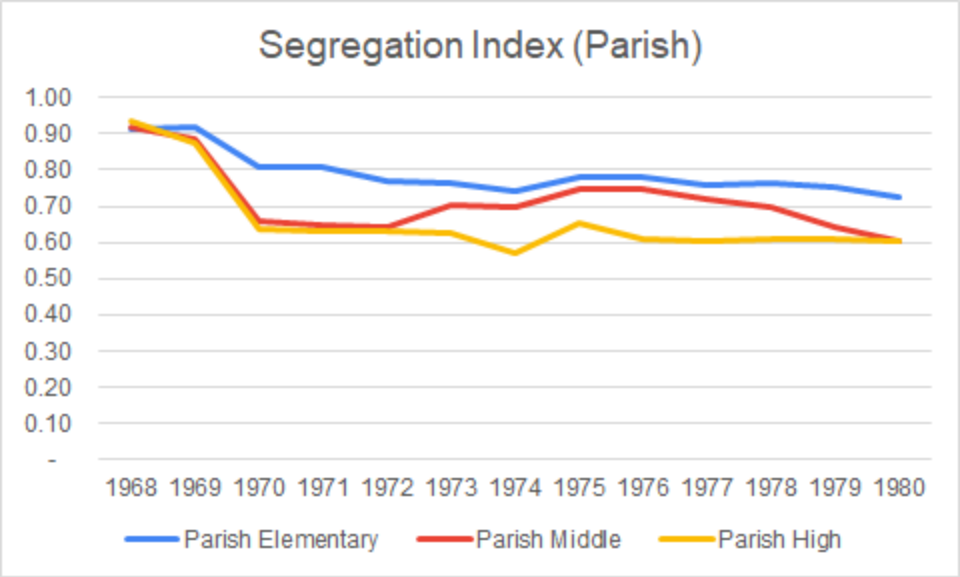


Fig 2

Perhaps predictably, these policies also did not trigger any substantial amount of white flight; at no point during this period does the difference between the percentage of the parish that is black and the percentage of the district that is black exceed ten points, however this is likely primarily because of said policies' ineffectiveness when it comes to desegregation. In short, throughout the 1960s and 1970s, Judge West aided and enabled the East Baton Rouge Parish School System in dragging its feet against the tide of desegregation. As a result, by 1980, the system remained largely segregated.

In Federalist No. 78, Alexander Hamilton argued that the judiciary was the "least dangerous branch." However, what the courts say and do matters, and can have massive implications and impacts on the communities they oversee. Judge West used that massive power to aid the school board in stymying progress on desegregation. As will be seen with his successor, however, the extensive use of those powers can sometimes have rather unintended consequences as well.

Chapter II: Root and Branch

When the desegregation case reached the desk of the newly appointed Judge Parker in 1980, it was already twenty-four years old. Yet after winding its way through the US court system for the past quarter century, very little progress had been made in terms of actual integration. It had taken a dozen years from the initial filing to achieve even full *de jure* abolition of segregation, and after another dozen years the school system remained largely segregated. As Judge Parker wrote in his 1980 ruling, in keeping with the standards set by *Swann*, the dual school system must be eliminated "root and branch," and it now seemed as if such a goal would not be achievable without drastic action being taken. In September 1980, Judge Parker ordered the school board to submit a plan for additional desegregation, and the school board did submit a plan, as did the federal government.[28]

The school board plan was, as Judge Parker describes it, essentially a "neighborhood school-voluntary magnet plan." From the start, the board had ruled out incorporating school closure or certain other "court-approved desegregation tools," and the product was disappointingly limited in scope. The plan set up three magnet school zones stretching east-west across the district. Each zone would have a handful of special focus or magnet schools, which would be augmented by an expansion of the existing system-wide magnet schools. Many of these newly designated special focus and magnet schools were to be existing schools with those special focus and magnet programs "added on," not unlike the gifted-and-talented system presently used by the system. Thus, for the most part, the special focus students would be learning in separate classrooms from the rest of the student body.[29]

[28] Davis v. East Baton Rouge Parish Sch. Bd., 498 F. Supp. 580 - Dist. Court, MD Louisiana 1980.
[29] Davis v. East Baton Rouge Parish Sch. Bd., 514 F. Supp. 869 - Dist. Court, MD Louisiana 1981.

The school board provided for a three year timeframe for implementation, as it would take a while to convince parents that sending their children to these schools was worthwhile. Many of these special focus schools were to be located in one-race schools, again, not unlike the modern gifted-and-talented system. The goal was to achieve 8% of the student body being the opposite race from the majority by 1981, 15% by 1982, and 25% by 1983. Despite significant support from many of the experts who testified in the case, including Dr. Gordon Foster, who crafted the federal government's proposed plan, Judge Parker still found significant fault with the board plan. The school board's plan left eighteen elementary schools defined by the board as one-race, and another twenty-one schools which hovered around a 9:1 racial ratio which the board defined as fully desegregated even though they quite clearly were not. Combined, these practically still segregated schools accounted for a full 48% of elementary school enrollment. While Judge Parker ultimately rejected the school board's plan as a sufficient remedy for desegregation, he nonetheless encouraged the Board's continued experimentation with magnet and special focus schools.[30]

In addition to the plan submitted by the school board and the plan that would ultimately be drafted by the court, there was also a third plan submitted by the United States Department of Justice. The federal government's plan was distinct from and is not to be confused with the plan crafted by the district court; indeed, in the *Davis* case, the federal executive and the federal judiciary play distinct roles. The federal government's plan was crafted and presented by Dr. Gordon Foster, an expert witness in desegregation cases as well as a professor at the University of Miami. The plan put forward by the government is described as a "pair 'em, cluster 'em and bus 'em plan," similar to the busing-based plans operated elsewhere in the South. However,

[30] *ibid.*

based on the testimony provided in the Baton Rouge case, these plans in many cases turned out to be poor cures, sometimes resulting in even greater segregation than before their implementation.[31]

The government plan was found to be lacking for other reasons as well. In crafting the plan, Foster lacked certain key pieces of information such as a pupil locator map and fully up-to-date enrollment data. The plan assumed that the acceptable margin of error relative to the makeup of the district enrollment, which at the time was roughly 60-40, was 15%. Thus, schools would have to be between 25.4% and 55.4% black to pass muster, a degree of precision which was rejected by the court as excessive and unnecessary.[32]

Judge Parker's biggest issue with the plan put forward by the federal government, however, was its clustering of schools based solely on racial make-up with no concern for their location. One of the most extreme examples of this was the cluster consisting of Ryan and Harding, two black elementary schools located in north Baton Rouge, and Shenandoah, a white elementary school a full fourteen miles to the southeast. Even despite such Draconian measures, five elementary schools would have fallen outside the acceptable range as defined by Foster, and one secondary school would have remained 100% black. Judge Parker thus rejected the government's plan as a recipe for resegregation and disaster, though he noted that certain elements of the plan were sound and pledged to include those elements in the court's plan where possible.[33]

In crafting the court's plan, Judge Parker had several key goals. Obviously, real *de facto* desegregation was a high priority; a lack of promise on this front had been the primary reason for

[31] *ibid.*
[32] *ibid.*
[33] *ibid.*

the rejection of the board's plan. Additionally, given what the court identified as the "adverse effects" of long-distance transportation on children, the court plan sought to minimize both excessively lengthy travel times as well as the use of what Parker referred to as "hazardous traffic arteries." Finally, Parker hoped to assuage the concerns of parents by ordering a "safety and security survey" of every school in the system prior to the start of the 1981-1982 school year. What went unspoken in the ruling, but what every party involved was clearly well-aware of, was the looming threat of white flight. The court thus found itself teetering atop a nearly impossible tightrope. If the desegregation plan adopted was too ambitious, white parents would flee the public system in droves; if it was too conservative, no real progress on desegregation would be made to begin with. In attempting to realize the idealistic promise enshrined in *Brown*, Judge Parker, like many of his counterparts across the South, found himself in a quagmire.[34]

Yet he did what he thought best with what he had at his disposal, and the resulting plan sought to strike a middle ground between the overly-conservative board plan and potentially disastrous government plan while incorporating the best elements of each. Judge Parker made very clear that the court was going to be acting with a much heavier hand from this point forward. Temporary buildings, used by the school board to maintain all-white schools, would be removed, with no more being put in place without the approval of the court. Similarly, no schools would be closed or reopened or have their attendance zones altered without the approval of the court. Fifteen elementary schools and as well as temporary buildings at predominantly white schools, together accounting for nearly 5,000 students, were to be closed.[35]

The board had gone into the court battle hoping to keep all of their schools open, but simply looking at some of the schools that were closed by the court reveals how absurd this goal

[34] *ibid.*
[35] *ibid.*

truly was. Most were under-utilized, far too small, absolutely ancient, or some combination of the three, such as the 75-year-old all-black South Boulevard Elementary, or the all-black Perkins Elementary, which ranked number one on the district's list of "worst" schools. It seems quite clear that the board was not, as they may have claimed, bending over backwards to keep these aging, under-used buildings open to enhance the education of their students.[36] Even as the case dragged on into the 1980s, the East Baton Rouge Parish School Board was still actively working to slow desegregation.

As for the contents of the district court's plan itself, it largely sought to pair or cluster primarily white schools with primarily black schools. The pairing and clustering occurred within three zones that the school district was divided into, one of the elements borrowed from the board's plan, so as to minimize the long travel times and geographic absurdities present in the government plan. In theory, the court plan would reduce the number of one-race elementary schools from forty-eight to eleven, with the 17.5% of the students those eleven schools were composed of moving on to fully desegregated schools at the secondary level.[37]

Judge Parker had only dealt with desegregation for about a year or so now, and he already seemed exasperated. As he pointed out, if the school board's plan was adopted, then there would be an appeal from the plaintiffs and from the Department of Justice. If the government's plan was adopted, there would be an appeal from the school board. If the court crafted its own plan, as seemed to be the most likely outcome, there would probably be an appeal from all three parties. As Parker wrote,

> Consequently, the uncertainty and expense of litigation will continue, regardless of this court's decision. Isn't that ridiculous? This case has been going on for twenty-five years, and more, and it appears to be no closer to a final termination than it was on the day it was filed. Yes, that is ridiculous. And under these circumstances, I suggest to all the

[36] *ibid.*
[37] *ibid.*

> parties that none of you have anything to lose by sitting down and discussing this situation with each other and frankly exploring the possibility of a consent decree to finally resolve and put an end to this long-standing litigation.[38]

Unfortunately for Judge Parker, his headaches were just beginning, as he spent the next decade-and-a-half at loggerheads with a series of successive school boards. In one 1996 hearing, he quoted a Methodist hymn, saying that "Jesus loves me, this I know, for the Bible tells me so," before adding, "Of course, Jesus may be the only one at the present time." Parker's desegregation work earned him the ire of much of white Baton Rouge, to the point that he and his family were even receiving death threats.[39]

From Parker's point of view, the school board was simply not acting in good faith, nor had it been acting in good faith at any point over the course of this winding saga. Many school board members seemed to have similar opinions of Judge Parker. One board president, George Richard, was quoted in the local paper as calling Parker a "bastard" after the 1981 order was issued, though Richard would later claim he believed Parker was just following his conscience. When faced with the pleas of another board president, Jim Talbot, to "stop this insane busing," Parker responded by mailing Talbot a letter containing nothing but a copy of the U.S. Constitution.[40]

Ultimately, it seemed that Parker and the various school boards he feuded with had fundamentally different views of what the struggle over school desegregation meant. To Parker, the resistance to desegregation was and always had been about racism. In one quote from the 1996 hearing, he echoed those famous words from the Declaration of Independence in excoriating past school boards for their inaction, saying that, "For whatever reason, or whatever

---

[38] *ibid.*
[39] Peter Shinkle, "Judge views desegregation as historic struggle," *The Advocate*, March 11, 1996.
[40] *ibid.*

cause, the majority of the East Baton Rouge Parish School Board has never, until now, been willing to bring itself to do what's right, to accept the notion that all men, including those whose skin is black, are created equal." In Parker's eyes, *Brown v Board* meant that the Reconstruction Amendments "mean what they say" and that white America would have to finally reckon with the fact that all men really were created equal.[41] The school board, for its part, seemed to have a much more conservative view of what desegregation ought to mean. As Clayton Wilcox, interim superintendent at the time of Parker's departure, put it, "This case was filed on behalf of black children because they didn't have the resources to get the right education. I think if you asked them, they did not file for the right to sit next to white children."[42]

Over the course of the next decade, there were dozens of supplementary orders tweaking the court plan, but the general underlying principles remained the same.[43] Going into the 1982-1983 school year, the court desegregation plan was to be extended to the middle and high schools, using a system of feeder schools detailed in the 1981 ruling. As the 1981-1982 school year progressed and the date for desegregation of the middle and high schools approached, the school board crafted several alternative plans and, either unable or unwilling to agree on any one of them, sent them all to the court for consideration. With the blessing of the court, Superintendent Raymond Arveson sat down with the attorneys of the various parties to discuss his plan, but these negotiations proved fruitless. As Judge Parker indicated, had the Superintendent's proposal enjoyed the support of the other parties as well as his own school board, the court would have likely accepted it; however, seeing as how it enjoyed the support of neither of those groups, the situation was rather different. Ultimately, the Superintendent's plan

[41] *ibid.*
[42] Charles Lussier, "Parker quits school case," *The Advocate*, July 26, 2001.
[43] Jessica E. Watson, Quest for Unitary Status: The East Baton Rouge Parish School Desegregation Case, 62 La. L. Rev. (2002).

was rejected, as were the various others that had been submitted, in favor of the plan drafted by the court.[44]

About a month after this ruling was handed down the school board finally agreed on a plan, upon which Judge Parker ruled on April 30, 1982. Both the plaintiffs and the government took issue with board's new plan, claiming that it would fail to desegregate Scotlandville Middle School. In theory, the board plan would have achieved this in two ways: by busing in Asian students, which the board argued ought to be counted as white, and by establishing a magnet program there to draw in more white students. The government and plaintiffs objected on multiple grounds. First, legal precedent was clearly against counting non-black racial minorities as whites, and second, the claims that the magnet program would be sufficient to draw in more white students was unconvincing. Judge Parker went on to dismiss the school board's other objections to the court plan, such as the use of single-grade and double-grade centers as opposed to three-year middle schools and the increased transportation costs that would be incurred, as unsubstantiated, unconvincing, or insufficient. As Parker writes, "neither additional transportation nor 'white flight' are acceptable reasons for declining to effectively desegregate the school system." Despite these issues, citing the general duty of the court to defer to local authorities where possible, Parker accepted the school board's proposed plan with some significant modifications. In theory, this modified plan would result in Scotlandville Middle School, previously all-black, becoming 38% black.[45]

The 1982 rulings also gave some consideration to the progress on the elementary front. In a previous ruling, Parker had raised concerns regarding a few elementary schools in clusters that, despite the new plan, remained predominantly black. Parker requested the school board provide a

[44] Davis v. East Baton Rouge Parish Sch. Bd., 533 F. Supp. 1161 - Dist. Court, MD Louisiana 1982.
[45] *ibid.*

proposal for remedying this, to which the school board responded by doing absolutely nothing on account of "fear of white flight." Thus, Parker once again asked the school board for a proposed remedy, this time not as an invitation but as an order.[46]

In addition to dragging its feet with its half-hearted implementation of the court-ordered plan, the board appealed Parker's rulings that there remained a dual system, and thus for the fourth time in two decades, the case found itself before the Fifth Circuit Court of Appeals. The Fifth Circuit affirmed and upheld Parker's rulings, pointing out in its own words that

> The Board's major justification for the continued existence of so many one-race schools is that they result from the "perfectly normal phenomenon of ethnic residential preference and impaction" for which school officials bear no responsibility. The argument fails both on its own premise and as a principle of law…. The racial isolation of many of the schools in the EBRP system, therefore, is in this important respect the result of the Board's conduct since 1954.[47]

In short, the school board was using every excuse it could latch onto to not desegregate, with none of those excuses having a legal leg to stand on. Additionally, the Fifth Circuit upheld the district court's ruling which shot down an attempt by the school board to exploit a loophole to keep Baton Rouge Magnet High School predominantly white. What had been clear to Judge Parker seemed just as clear to the Fifth Circuit; the school board was, and had since essentially the very beginning, been acting in bad faith on questions of desegregation.[48]

The data suggests that the court-ordered busing plan showed some promise, at least initially. The Segregation Index value for the parish dropped from around 0.7 to around 0.4 between 1980 and 1982, the largest such drop observed in the entire 33-year period studied. Furthermore, that value actually remained around 0.4, which although far from perfect still represents substantial progress, until 1986. Even after resegregation, as seen in Figure 3, the

---

[46] *ibid.*
[47] Davis v. East Baton Rouge Parish School Bd., 721 F. 2d 1425 - Court of Appeals, 5th Circuit 1983.
[48] *ibid.*

index suggests that the school system remained at least marginally more desegregated in 2001 than it had been in 1980. In short, while court-ordered busing certainly had its flaws, it was a marked improvement from doing nothing at all, or for that matter the ineffective and half-hearted foot-dragging undertaken by the school board and Judge West in the 1960s and 1970s. Those flaws, however, would prove to have massive implications not only for the school system, but for the demographics of East Baton Rouge Parish as a whole. For all the promise the court plan showed, things were about to fall apart.

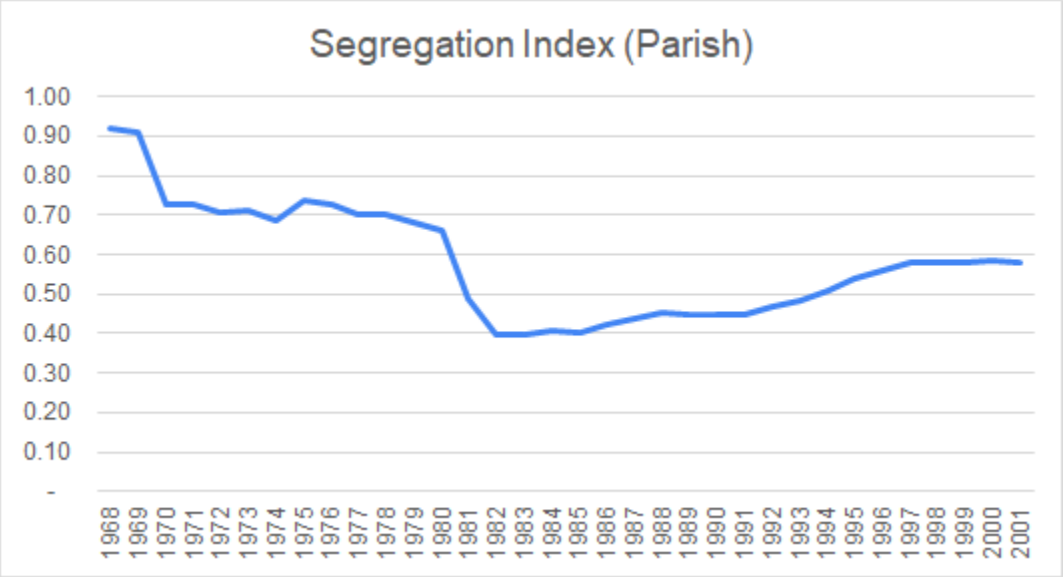


Fig 3

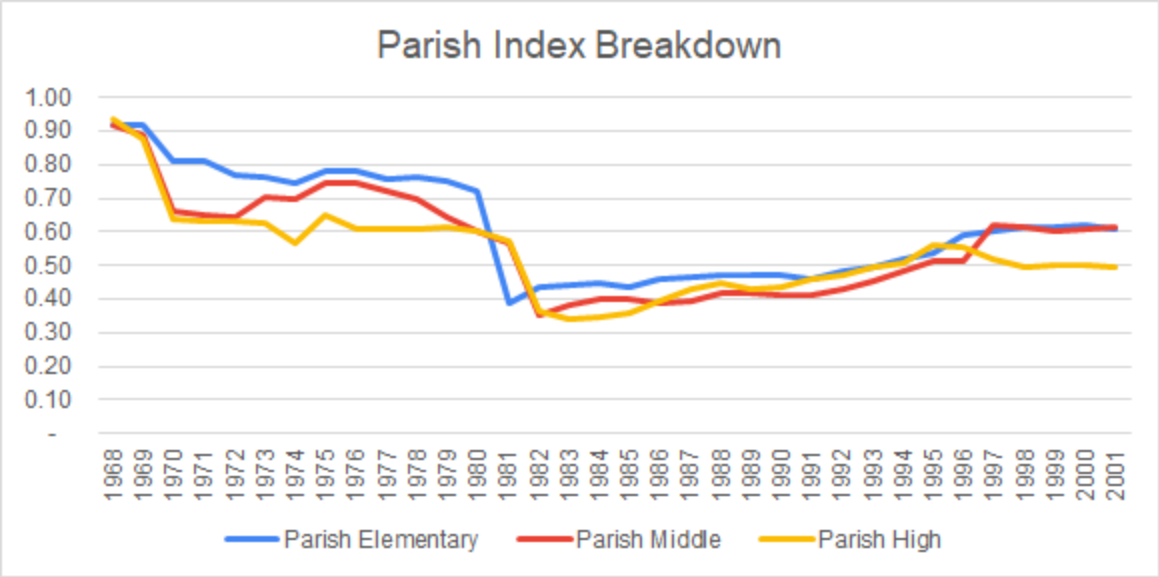

Parish Index Breakdown
1.00
0.90
0.80
0.70
0.60
0.50
0.40
0.30
0.20
0.10
-
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
Parish Elementary
Parish Middle
Parish High

Fig 4

Chapter III: Retreat and Resegregation

To say that the court-ordered busing plan adopted by Parker was unpopular with white Baton Rouge would be the understatement of the century. As of 1993, a mere 11% of white parents in Baton Rouge supported court-ordered busing as implemented.[49] Among the East Baton Rouge Parish electorate, 63% felt that the public education system had gotten worse since the introduction of court-ordered busing in 1981, compared to a mere 7% who felt it had gotten better. The same group polled was also asked which remedy for segregation they supported most strongly. According to the polling, 62% supported returning to a neighborhood schools-based plan, 22% supported utilizing more magnet schools, and 11% supported some form of controlled choice, in which attendance zones would be abolished and students would mostly attend their schools of choice where possible. Support for the current plan sat at a measly 4%.[50]

As of the 2001-2002 school year, the last studied in this project, the Segregation Index was just under 0.6, a significant jump from its low of 0.4 during the heyday of court-ordered busing. Judging by the trends observed between the conclusion of court-ordered busing and that end point, there is little reason to believe that it has seen any significant drop since then. In every successive census since 1980, the white population of East Baton Rouge Parish has declined. To clarify, this is not the proportion of East Baton Parish that is white, though that has shrunk as well; the raw number of white people living in East Baton Rouge Parish is significantly smaller today than it was in 1980. The difference between the demographics of the parish and the demographics of the school district have only grown starker, as white parents have abandoned the public schools in ever greater numbers. Furthermore, even when one isolates the effect of whites fleeing the parish or fleeing the public system and looks solely at the state of

[49] Community Schools and Capital Outlay Plan Table 3.
[50] Community Schools and Capital Outlay Plan Table 5.

desegregation within the public school system itself, one still sees resegregation. In short, in just about every metric, desegregation as implemented in East Baton Rouge Parish has failed in its goal while contributing significantly and quantifiably to white flight.

There were some attempts to staunch the bleeding and salvage desegregation during this period, but these were either largely ineffective or failed to win over the support of the electorate. In 1988, then-Superintendent Bernard Weiss put forward a "School Redesign" program with the aim of expanding the reach of magnet programs and further encouraging voluntary desegregation. However, "School Redesign" never attained the reach that had been envisioned, was chronically underfunded, and was ineffective at combating desegregation. As a result, by May 1996, School Redesign had been scrapped. Another plan, referred to as the Community Schools and Capital Outlay Plan, was submitted by the board in 1993. This plan would have resulted in opening ten new schools, the expansion of three existing schools, and the closure of twelve existing schools. However, Parker refused to consider the new plan until the board demonstrated that it could be funded. In April 1994, a $215 million bond issue was put before the voters of East Baton Rouge Parish to fund the project, only to fail with 62.8% voting against. The next year, then-Superintendent Gary Mathews put forward a plan for "community-sensitive attendance zones," coupled with a promise to make a concerted effort to equalize resources among schools, but the plan was scrapped before even being voted on by the school board.[51]

In 1996, the plaintiffs and the school board were finally able to agree on a consent decree which formulated a new plan for school desegregation. Court-ordered busing was abandoned in favor of what the decree called "community sensitive attendance zones," drawn to "maximize a sense of community and ownership of the schools." This was to be augmented by a voluntary

[51] Jill Arnold and Chris Miller, "East Baton Rouge's School Desegregation Case," *The Advocate*, July 26, 2001.

majority-to-minority transfer program and a greater emphasis on specialized programs such as the gifted, talented, and magnet programs in majority-black schools, with the hope of attracting white students to said schools. The new plan increased spending by $12.2 million over the course of five years, primarily on the new magnet schools and on improved resources for the predominantly black inner-city schools.[5253] For a single shining moment, it seemed that the East Baton Rouge school desegregation saga might actually take a turn for the better. Even Judge Parker, somewhat jaded after years of fruitless efforts to bring about desegregation, seemed optimistic:

> This is the first time in 40 years that we've ever had a majority of the East Baton Rouge Parish School Board who was willing to stand up and acknowledge publicly its responsibility for the desegregation of the East Baton Rouge Parish school system and who intend apparently to do something about it rather than to let the court issue orders and let the court worry about it.[54]

The optimism did not last.

It did not take long at all for the 1996 plan to start to go off the rails. The $2 billion bond issue and sales tax put forward to pay for the new plan was defeated at the polls in November 1997, with 63% voting against. In November 1998, a less ambitious $218 million tax plan was passed, the first in over 25 years, only for part of the collection to be delayed by Judge Parker for several months after the Justice Department contended that it would not actually help remedy desegregation. In 1999, Judge Parker ruled that the terms of the consent decree limited school enrollment, an interpretation which the school board strongly objected to. The school board claimed that the numbers listed in their plan had always been mere estimates and had never been intended as limits. Parker ultimately ordered the board to modify the attendance zones to drop

[52] 1996 Consent Decree.
[53] Jill Arnold, Chris Miller, "East Baton Rouge's School Desegregation Case," *The Advocate*, July 26, 2001.
[54] Peter Shinkle, "Officials must act in 'good faith'," *The Advocate*, March 13, 1996.

enrollment numbers below the limits, over the board's objections. Finally, in 2001, Parker approved new attendance zones and a revamping of the magnet system, calling the previous setup a "complete and utter failure." Parker also ordered the board to craft a new policy keeping school enrollment below the numbers set out in the consent decree. The school board appealed this decision, only to have the Fifth Circuit rule against them.[55]

By this point, Parker had had enough with the school desegregation case, jaded by years of efforts rendered fruitless by a series of uncooperative boards. In July of 2001 he took advantage of his senior status to hand over the reins of the case to the newly-appointed Judge James Brady. In Parker's parting statement, he remarked that, "the School Board has many teachers and other employees who do understand the need to get this business behind them. What they lack is leadership from their leaders," adding that it seemed clear to him that the board's lawyers would "still rather litigate than desegregate." One school board member, Patrice Niquille, suggested that Parker had been too lax in his dealings with the school board, and that he "let them get away with murder." Of his own role in all of this, Parker declared that

> Although I intensely dislike leaving any task unfinished, I am not willing to undertake even one more unsuccessful attempt at resolving this case. Unlike Sisyphus, who was condemned to spend eternity pushing a boulder to the top of the hill, only to have it roll back every time, this senior judge is not required to continue pushing the stone.[56]

Judge Brady would oversee the case for the next two years, which saw further bickering and negotiating between the parties of the case. On June 18, 2003, after lengthy negotiations mediated by Tucker Melancon, US District Judge, and Bernard Boudreaux, executive counsel to Governor Mike Foster, the parties to the case were able to reach an agreement in principle.[57] This

[55] Jill Arnold, Chris Miller, "East Baton Rouge's School Desegregation Case," *The Advocate*, July 26, 2001.
[56] Charles Lussier, "Parker quits school case," *The Advocate*, July 26, 2001.
[57] Charles Lussier, "Parties say school talks successful," *The Advocate*, June 19, 2003.

agreement held up as the details were worked out and finally, on August 14, 2003, Judge Brady signed the settlement agreement, marking the end of the 47-year-long saga of the East Baton Rouge desegregation case.[58]

Today, East Baton Rouge Parish is home to *roughly* equal black and white populations, but this was not always the case. As of 1960, the parish was only around 32% black, a figure that would decline to 29% as of the 1970 census. However, in each successive census since 1970, the percentage of East Baton Rouge Parish that is black has increased, and in each successive census since 1980, the white population of the parish has decreased. From 1980 to 2010, the number of white residents in East Baton Rouge Parish declined from over 250,000 to 214,927, while the black population continued to increase at a roughly linear pace. If the 2020 census were to reveal that blacks now constituted a plurality of the parish's residents, such would be not especially shocking.[59]

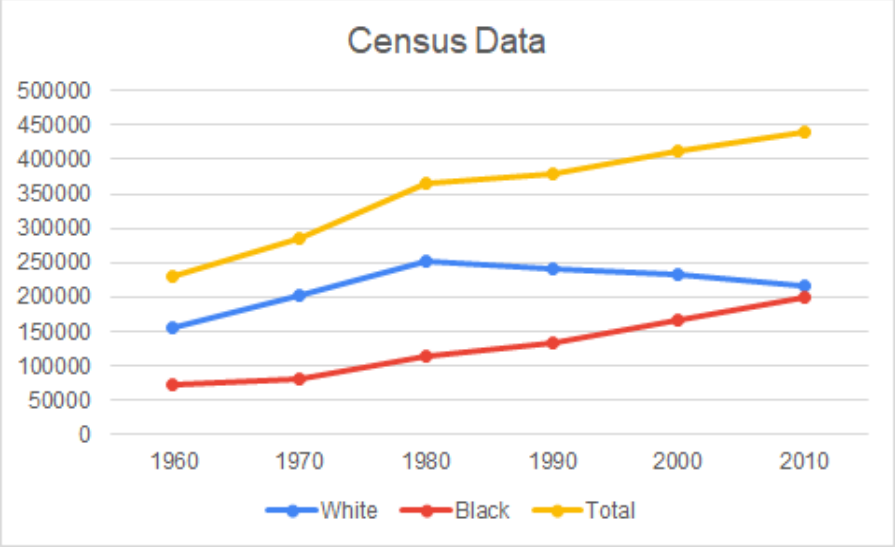
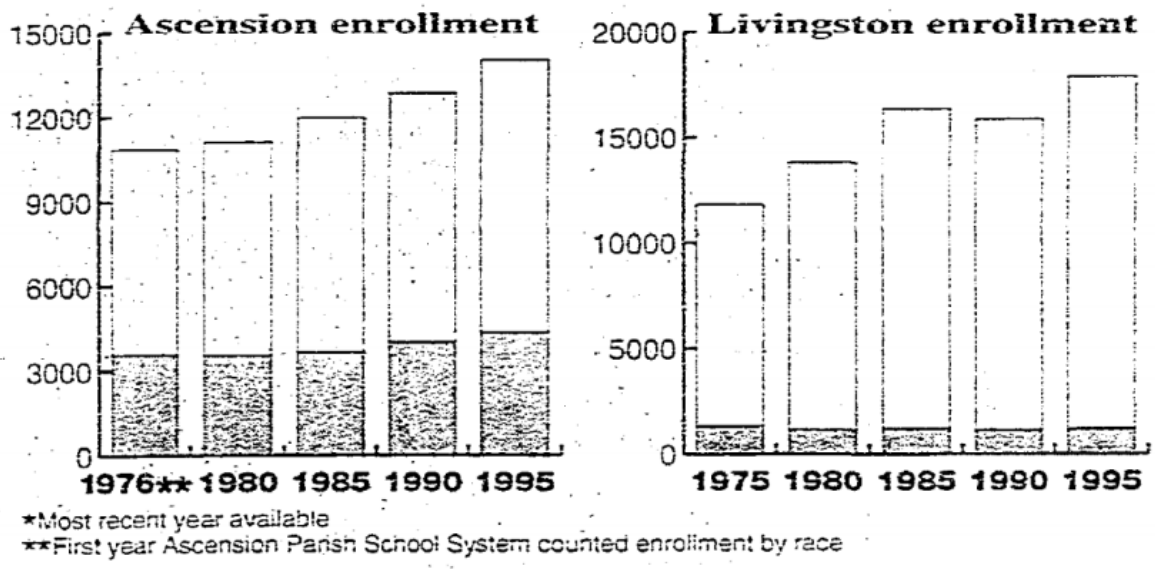


Fig 5

[58] Adam Nossiter, "Baton Rouge Desegregation Case Ends," *Washington Post*, August 17, 2003.
[59] 1960, 1970, 1980, 1990, 2000, and 2010 decennial censuses.



[60]

Fig 6

It is fairly easy to trace the decline from 1980 to 1990 and even the decline from 1990 to 2000 directly to the implementation of court-ordered busing, as whites flocked to neighboring parishes such as Ascension and Livingston. This is reflected in the enrollment data for Ascension and Livingston Parish, which both see clear jumps in white enrollment between 1980 and 1995. Yet the white population continued to decline even after the end of court-ordered busing, a fact which appears curious at first glance. With the threat of forced integration no longer hanging over the heads of white Baton Rougeans, why would they continue to flee?

One intuitive explanation is that the dwindling white population and growing black population created a feedback loop whereby as the black population continued to ascend to further prominence certain elements of the white population felt further alienated.[61] Indeed, in 2004, East Baton Rouge Parish elected its first black Mayor-President, Kip Holden, who had

[60] Christopher Baugman, illustrated by Charles Chauff, "White Flight," *The Advocate*, March 13, 1996.
[61] To be clear, white flight is motivated by racism, be it explicit or subconscious, a fact that should not be obscured by the use of more delicate words such as "alienated." White parents fled East Baton Rouge Parish largely because they could not stand the thought that their children would have to go to the same schools as black children.

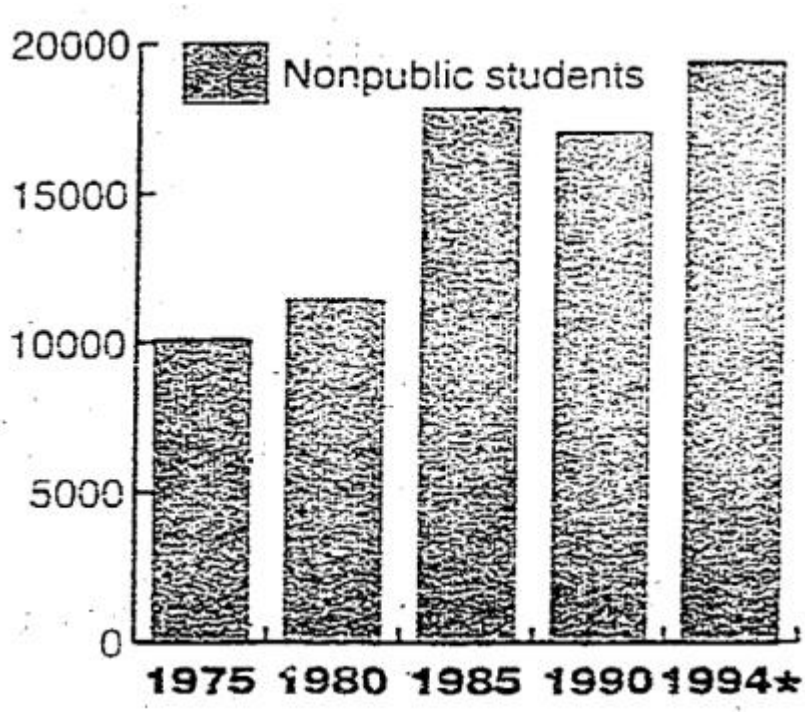
previously sought the job in 1996 and 2000, winning 34% and 43% of the vote in each respective election.[62] There were other important factors that contributed to Mayor-President Holden's 2004 victory that are beyond the scope of this thesis, but the increased share of electorate that black voters represented should not be understated, and it certainly merits bearing in mind that since Holden's first victory in 2004, East Baton Rouge Parish has been governed by a black Mayor-President. As the proportion of the parish that is black grows, so does the political power and influence of the black population, and as the black population gains further political power and influence, more whites feel compelled to flee.

Another explanation is that, as the white flight of the 1980s and 1990s was motivated primarily by events in the school system, said white flight occurred disproportionately among young families; that is to say, parents in their thirties and forties as well as their children. Thus, the later declines in population were already set in motion, as a disproportionate portion of the residents that remained were older and no longer having children. That having been said, both hypotheses involve several elements which lie outside the scope of this study, and thus a conclusive acceptance or rejection cannot be rendered herein. Even so, they nonetheless bear mentioning as potential contributing factors.

Even among whites who remained in East Baton Rouge Parish, the period following the introduction of court-ordered busing saw a widespread abandonment of the public school system. As can be seen, the rate at which the district's population became proportionally more black exceeded significantly the rate at which the parish became proportionally more black. As of 1980, the district was only about ten points more black than the parish; by 2000, it was a difference of thirty points. Even simply looking at raw numbers, between 1980 and 2000, the

[62] Louisiana Secretary of State Election Results, November 5, 1996; November 7, 2000; November 2, 2004.

decline in white enrollment is greater than the decline in white residents of the parish, with the number of white pupils enrolled in the public school system dropping by 20,771 while the number of white residents of the parish only dropped by 19,000.[63] Considering that white flight from the parish likely involved entire families and thus included a number of non-school aged whites, the gap between whites abandoning the school system and whites fleeing the parish entirely is likely even starker. A glance at growth of East Baton Rouge Parish's nonpublic schools tells a similar story; during the period from 1975 to 1995, the number of nonpublic schools grew from 29 to 50, while nonpublic enrollment nearly doubled from just over 10,000 to almost 20,000.



[64]

Fig 7

[63] 1980, 1990, 2000 censuses.
[64] Christopher Baugman, illustrated by Charles Chauff, "White Flight," *The Advocate*, March 13, 1996.

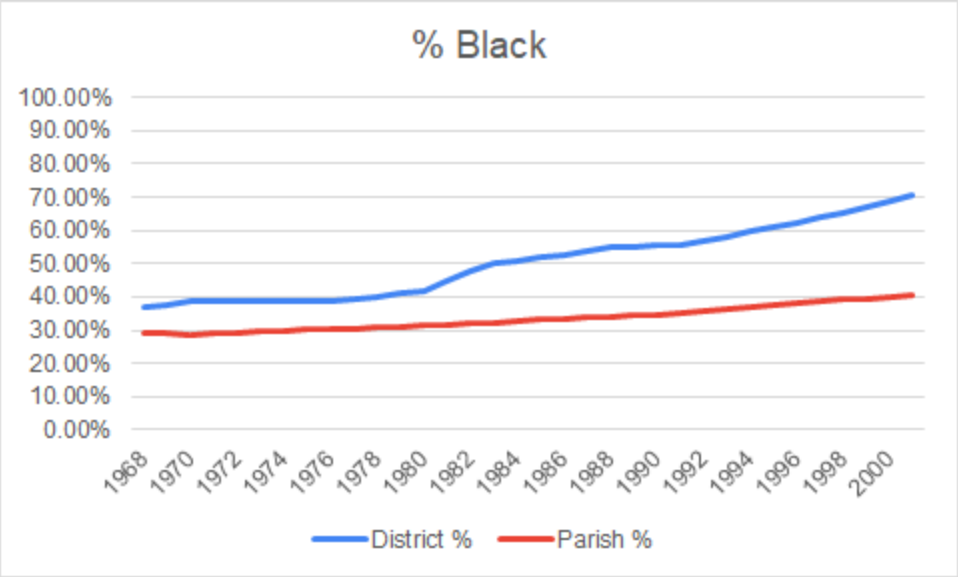


Fig 8

The data shows a large initial drop in the number of white students attending public schools at the same time as the introduction of court-ordered busing. Further breaking down the data, this decline is seen most starkly in white enrollment in elementary schools, which declined by roughly 38% between 1978 and 1982. There are declines over this same period in white enrollment for middle and high schools, but the shift is nowhere near as drastic. This is possibly due to a reluctance to remove children from the public system when they only have a few years remaining before graduating, as well as a generally greater aversion among white parents to integrated classrooms for younger age groups. Why this greater aversion exists is unclear, though it may be tied to white parents viewing their children as more vulnerable in their younger years. It also may be tied to fears that younger children are more susceptible to being indoctrinated by a school system taking marching orders from Washington, with part of that indoctrination being racial integration itself. Notably, prior to the introduction of court-ordered busing, the elementary schools were significantly more segregated than either the middle or high schools, as seen in Figure 4, and even with court-ordered busing they ultimately failed to integrate to the same

extent as the middle and high schools. A few years after the introduction of court-ordered busing, the decline in white enrollment largely levelled off, and the number of white students remained steady until the early 1990s. It should be noted, however, that given that black enrollment was continuing to increase at a linear rate, the overall proportion of district enrollment that black pupils constituted continued to increase during this period. Starting in the 1990s, the raw number of white pupils in public schools once again entered a steady decline, which remained the case through to the end of the data studied.[65]

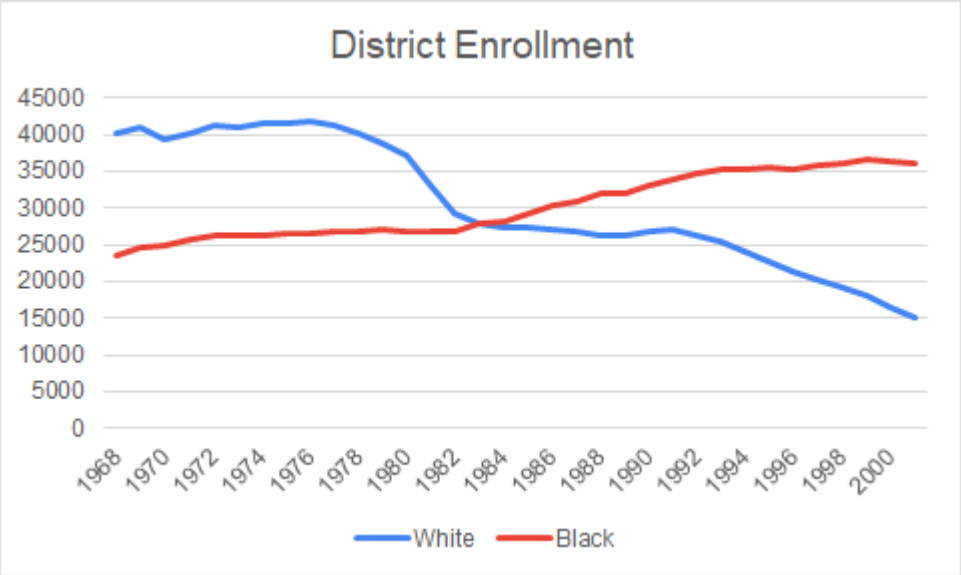


Fig 9

[65] While the steady number of white students in the later 1980s may well simply be attributable to all the folks who would have left having left as well as the retreat from desegregation observable elsewhere in the data, I do not have an adequate or convincing explanation for why the number of white students begins to decline again starting in the early 1990s.

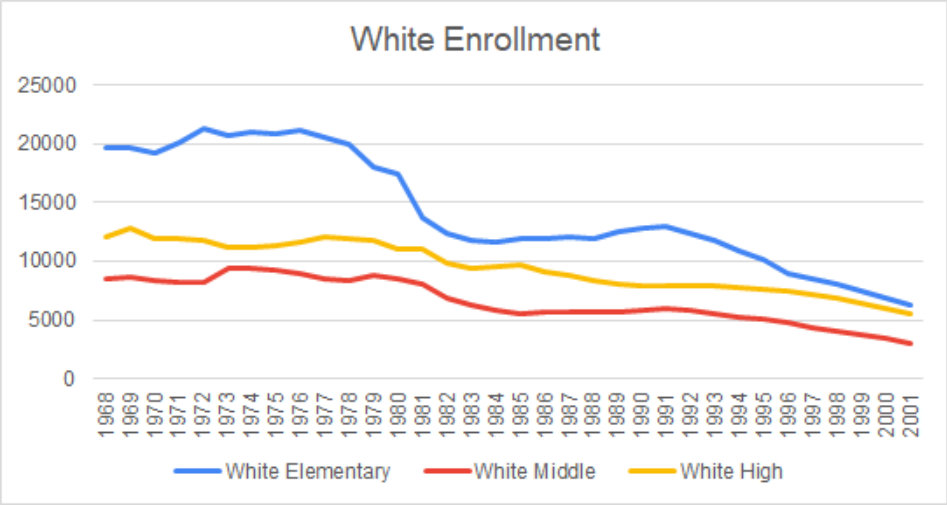


Fig 10

Finally, even when one sets aside the decline in the white population of the parish and the decline in the number of white students enrolled in the public school system, one still observes significant and quantifiable resegregation within the public school system. Below is a chart showing the Segregation Index, with the overall enrollment of the school district being used as the baseline population.

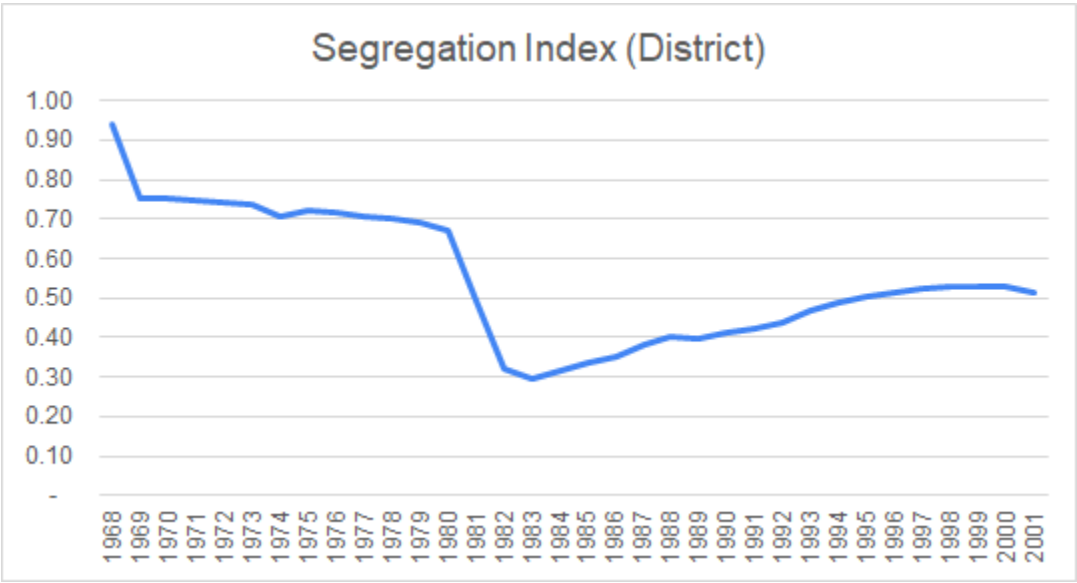


Fig 11

Thus, even when one observes solely the children who remain in the public school system, ignoring white flight from the parish and ignoring white flight from the public schools, there

remains a significant degree of resegregation. The district court was simply unable to keep up with the demographic shifts and a rather uncooperative school board and keep the clusters it originally set out effective. By the mid-1990s, it was clear that the court-ordered busing, while better than nothing, was still largely a failure.

As mentioned above, the end of the school desegregation case did not mark the end of school segregation in East Baton Rouge Parish. The white population of the parish continued to decline, as did white enrollment in the school system. The school system itself was not fully segregated as it had once been, but it would not be accurate to describe it as properly integrated either. Furthermore, the school district itself became increasingly fractured in the following years. In 2002, Zachary and Baker reached a settlement with the Justice Department and later the East Baton Rouge Parish School Board allowing them to carve out their own school districts and begin operating their own school systems starting in the 2003-2004 school year.[66] Central followed not long after, opening its own school district starting in the 2007-2008 school year.[67] Most recently, on October 12, 2019, a southeastern chunk of the parish voted to incorporate as the City of St. George, with the expressed intent of establishing a new school district for their new city.[68] At the end of the day, people vote with their feet, and for all its good intentions the district court was simply unable to keep up as white Baton Rouge abandoned the public school system and fought desegregation on every front possible. The dream of a desegregated school system, at least here in East Baton Rouge Parish, was stillborn.

[66] Charles Lussier, "Parties say school talks successful," *The Advocate*, June 19, 2003.
[67] "About," About, Central Community School System, accessed March 21, 2020.
[68] Louisiana Secretary of State Election Results, October 12, 2019

Conclusion

The question is not whether desegregation in East Baton Rouge Parish failed; it clearly and quantifiably did fail, as the data above demonstrates quite irrefutably. While the situation is undeniably a substantial improvement from the days of *de jure* segregation, a full sixty-six years after *Brown*, there remain clearly identifiable white schools and clearly identifiable black schools in East Baton Rouge Parish. Only a marginal degree of the progress made in the early 1980s remains, and given the pace of resegregation that has followed, even that meager half-step forward is at risk of being erased. The question, then, for the historian to ask, is *why* desegregation in East Baton Rouge Parish failed.

Surely, Judge West deserves part of the blame. West at heart did not believe in desegregation as a project, and decades were lost while he feuded with the appellate court. Yet Parker struggled to make much progress as well, in addition to sparking the massive demographic shifts that followed court-ordered busing. Unlike West, Parker really did try, and he deserves a great deal of credit for approaching desegregation so earnestly at a time when it made him a pariah in his own community. The judges who presided over the case, and the extent to which they actually cared about attaining a truly unitary system, did matter to some degree, especially when one looks at some of the collateral damage of the desegregation efforts. Yet the reach of a judge is ultimately limited by the fact that, at the end of the day, an appointed judge is a poor substitute for a duly-elected school board. The damage done during West's tenure was only possible because there existed an uncooperative school board for West to enable. Similarly, the damage done during Parker's tenure was only possibly because the board had dragged its feet for so long and because even a full quarter century after *Brown*, it was ultimately unwilling to face reality.

Judges are in general reluctant to act as legislators or as executives. Their role in the well-oiled machine of American constitutional democracy is just what their name entails, to judge and to interpret. The role of writing the laws and of enforcing them ultimately falls to other bodies, or at least it should in theory. Yet when one such body, say, a local school board, abandons its constitutional mandate on account of electoral fears or personal prejudice, it falls on the judiciary to pick up the slack and to act in a way that the judiciary is fundamentally not designed to act.

And in playing school board, judges are forced to walk an impossible tightrope. To act too aggressively is to incite massive white flight, fundamentally altering the demographics of the community and the school system. After all, there can be no real integration if the whole of the white community has abandoned the public school system. Yet to act too conservatively is to ensure that no real progress occurs in the first place. And without a cooperative school board backing it up or, ideally, taking the lead, there is but a sliver of middle ground between those two pitfalls, if any such middle ground even exists at all. Desegregation was not doomed to fail from the start; however, for a federal judge to walk that tightrope alone, without any support from the bodies that are *supposed* to be responsible for these issues, school boards, is simply too much to ask.

The trouble with judges playing school board runs deeper than the fact that in general it is something that they would rather not do and that in general it is a very tall order. The school board is elected, a reflection of the community whose schools it governs. The district judges are appointed; even if they are local, as Parker very much was, politically they are easily cast as outsiders, foisting the will of Washington upon the community. People often don't appreciate being told what to do, and they *especially* tend to not appreciate it when the one telling them

what to do was not someone they chose. For there to be real change, it had to come from the elected representatives of the people, the school board.

Yet the greatest strength of the school board, that they are the elected representatives of the community, is also their greatest weakness. Local school boards are, for better or for worse, reflections of the communities that elected them, and in East Baton Rouge Parish during the period studied, it was clearly for the worse. The school board was uncooperative and acted in bad faith on desegregation because that was what the white majority wanted. Even when, in the 1990's, they began to come up with halfway decent plans, it was the voters who repeatedly denied funding for those plans at the polls. If there is only one lesson to be learned from the lengthy desegregation saga told herein, it is that local elections matter, and they matter quite a lot.

The overwhelming majority of Americans probably could not tell you who their school board member is. School board elections are not flashy, as presidential races or even statewide contests often are. But school boards and city councils are the front lines of representative democracy. These are the front lines of the republic. This is where one's vote counts more than anywhere else. This is where change happens, or, in the case of the Baton Rouge desegregation story, where change is frustrated and defeated.

Desegregation failed because the white majority in East Baton Rouge Parish wanted it to fail, and because that majority voted in school board members who would help make sure it failed. Having an uncooperative district judge like West certainly didn't help desegregation, and the collateral damage wrought by Parker's 1981 busing order is impossible to ignore. Yet focusing solely on the actions of the judiciary ignores the fact that if the school board had been a little less racist and a little more cooperative, there would have been no need for such an

intervention in the first place. Yet for the school board to adopt such positions was impossible, because that wasn't what the voters wanted. The school board failed East Baton Rouge Parish as a whole, but it did not fail the section of the community that voted it into office.

There is a cruel catch-22 inherent in all of this mess. The K-12 years are some of the most formative in a person's life. There is perhaps no better opportunity to teach the lesson that all men and women really are created equal, regardless of the color of their skin, and there is perhaps no better means to teach that lesson than by simply having the races exist together in the same spaces, and to learn together in those same spaces as equals. Desegregation may not be a magic bullet, but it could be the closest thing society has in terms of tools for combating racism. Yet the only way desegregation can ever be implemented is with the consent of the parents and the electorate, and so long as they remain prisoners to the prejudices of generations past, that consent will always be withheld. Desegregation could be one of the greatest tools for combating racism, but to be implemented requires as a precondition that the chains of racism have already been largely shed. As the East Baton Rouge Parish school desegregation saga shows, those chains very much so have yet to be shed.

A house divided against itself cannot stand, and Baton Rouge is very much so just such a house. Such was seen in the 2016 election for mayor-president, when Sharon Weston Broome, a black woman, edged out a victory against Bodi White, champion of St. George secessionism, by a margin of 52% to 48%.[69] Such was seen in the Alton Sterling shooting and the subsequent fallout. And such is seen through a cursory glance at what has happened in the public school system over the course of the past fifty years. Leaders love to talk about healing, but healing

[69] Louisiana Secretary of State Election Results, December 10, 2016.

simply cannot take place without first righting the wrongs that caused those wounds in the first place, and that simply has not happened here.

There is no magic wand or silver bullet. The road to integration is a long, hard, and thorny one. And as this story shows, one wrong step can cause massive collateral damage, even with the best of intentions. Yet to not walk that road at all, whether due to personal prejudice or fear of missteps and backlash, is a disservice to the thousands of black Americans still condemned to an inferior education at ancient and underfunded public schools. Education could be the great equalizer, yet it cannot serve as such unless there is truly equal access to education.

Parker viewed desegregation as part of the broader quest for racial justice in America, and he was right to do so. The battle over desegregation in the half-century wake of *Brown* represented a new phase of that quest. There are no longer laws that state that blacks are inferior, or that they may not send their children to the same schools as whites. There do not need to be. Racism does not need to be legislated for its poison to infect a society. One half of town merely needs to "know" that the other half, those who live on the other side of Florida, those whose skin looks different from our own, are the other. School segregation is not the cause of racism, nor would successful integration have made racism magically disappear overnight, but even so, attending a school that's full of people who look like you and never having meaningful interactions with people who look different certainly doesn't hurt the reinforcement of such prejudices. Schools should look like their communities. Our society would be better for it if they did.

The cornerstone of the American experiment is the promise enshrined in those immortal words, that "all men are created equal." Yet it is not enough to merely *say* that all men and women are created equal, as our legal system largely does now. All men and women must be

seen and treated as equals, and not just under the law. Such is the dream espoused by Dr. Martin Luther King Jr, that someday Americans will judge one another and be judged not by the color of their skin, but by the content of their character. Such is the dream at the heart of the American project. Yet it is a dream that still eludes us even now, and so long as there exist white schools and black schools as opposed to there simply being schools, it will continue to elude us.

Bibliography

Court Documents

Brown v. Board of Education, 347 US 483 - Supreme Court 1954.

Davis v. East Baton Rouge Parish School Board, 214 F. Supp. 624 - Dist. Court, ED Louisiana 1963

Davis v. East Baton Rouge Parish School Board, 372 F. 2d 949 - Court of Appeals, 5th Circuit 1967.

Davis v. East Baton Rouge Parish School Board, 269 F. Supp. 60 - Dist. Court, ED Louisiana 1967.

Davis v. East Baton Rouge Parish School Board, 398 F. Supp. 1013 - Dist. Court, MD Louisiana 1975.

Davis v. East Baton Rouge Parish Sch. Bd., 570 F. 2d 1260 - Court of Appeals, 5th Circuit 1978.

Davis v. East Baton Rouge Parish Sch. Bd., 498 F. Supp. 580 - Dist. Court, MD Louisiana 1980.

Davis v. East Baton Rouge Parish Sch. Bd., 514 F. Supp. 869 - Dist. Court, MD Louisiana 1981.

Davis v. East Baton Rouge Parish Sch. Bd., 533 F. Supp. 1161 - Dist. Court, MD Louisiana 1982.

Davis v. East Baton Rouge Parish School Bd., 721 F. 2d 1425 - Court of Appeals, 5th Circuit 1983.

United States v. Jefferson County Board of Education, 372 F. 2d 836 - Court of Appeals, 5th Circuit 1966.

East Baton Rouge Parish School Board Records

(provided through communication with the East Baton Rouge Parish School Board)

Enrollment Data, 1968-2001.

Community Schools and Capital Outlay Plan, 1993.

Consent Decree, 1996.

Election Results

Louisiana Secretary of State Election Results, https://voterportal.sos.la.gov/, November 5, 1996.

Louisiana Secretary of State Election Results, https://voterportal.sos.la.gov/, November 7, 2000.

Louisiana Secretary of State Election Results, https://voterportal.sos.la.gov/, November 2, 2004.

Louisiana Secretary of State Election Results, https://voterportal.sos.la.gov/, December 10, 2016.

Louisiana Secretary of State Election Results, https://voterportal.sos.la.gov/, October 12, 2019.

Journal Articles

Bullock III, Charles S, and Mary Victoria Braxton, "The Coming of School Desegregation: A Before and After Study of Black and White Student Perceptions," *Social Science Quarterly*, Vol. 54, No. 1 (June 1973): 132-138.

Watson, Jessica E., "Quest for Unitary Status: The East Baton Rouge Parish School Desegregation Case," *Louisiana Law Review,* Vol. 62, No. 3 (Spring 2002): 953-983.

Newspaper Articles

Arnold, Jill, and Chris Miller, "East Baton Rouge's School Desegregation Case," *The Advocate*, July 26, 2001.

Baugman, Christopher, illustrated by Charles Chauff, "White Flight," *The Advocate*, March 13, 1996.

Hannover, Dennis, "Judge West looks back at his career," *The Advocate*, March 16, 1991, 1-B;S.

Lussier, Charles, "Parker quits school case," *The Advocate*, July 26, 2001.

Lussier, Charles, "Parties say school talks successful," *The Advocate*, June 19, 2003.

Lussier, Charles, "BR's U.S. Judge John Parker dies at age 85," *The Advocate*, July 16, 2014.

Nossiter, Adam, “Baton Rouge Desegregation Case Ends,” *Washington Post*, August 17, 2003.

Shinkle, Peter, “Officials must act in ‘good faith’,” *The Advocate*, March 13, 1996.

Shinkle, Peter, “Judge views desegregation as historic struggle,” *The Advocate*, March 11, 1996.

Websites

Central Community School System, “About,” About, accessed March 21, 2020.

Eastern District of Louisiana, “Elmer Gordon West,” District Judges, accessed March 21, 2020.

Eastern District of Louisiana, “James Skelly Wright,” District Judges, accessed March 21, 2020.