

## ***Coppedge v. Franklin* and *Swann v. Charlotte-Mecklenburg*: The Contributions Toward the Fight for Desegregation in North Carolina Public Schools**

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### **ABSTRACT**

The fight for school desegregation in North Carolina was a hard fought and long battle. Despite 1954–55 *Brown v. Board of Education* decisions of the US Supreme Court, school desegregation persisted. The significance of the first and second *Brown* decisions (often referred to as *Brown I* and *Brown II*) was not overlooked but challenged because of how the *Brown* decision underestimated how to fully eliminate barriers that manifested through unequal treatment and funding of segregated schools. North Carolina politicians employed mechanisms such as freedom of choice plans, the Pupil Assignment Act, and the Pearsall Plan to ensure the slow integration of North Carolina public schools. The evaluation of public opinion, North Carolina politics, and legal decisions employs a robust image of the battle between those who wanted integration and those who were staunch proponents of segregated schooling. This article provides an understanding of North Carolina’s “moderate” reputation and evaluates the compliance of North Carolina government officials to national legislation such as the Civil Rights Act of 1964 and federal financial assistance measures through the 1965 Elementary and Secondary Education Act. By analyzing national government legislation put forth in congruence with the fourth circuit district court case *Coppedge v. Franklin County Board of Education* [1967] and the Supreme Court case *Swann v. Charlotte-Mecklenburg Board of Education* [1971], this article shows the contributions of two legal cases to the desegregation of North Carolina public schools and how each case was necessary to achieving a more equal educational experience.

Keywords: *Brown v. Board of Education*, *Coppedge v. Franklin*, *Swann v. Charlotte-Mecklenburg*, desegregation, token integration

### **Introduction**

Historically, *Brown v. Board of Education* is known for its overturning of the “separate but equal” doctrine established in *Plessy v. Ferguson* of 1896 to declare racial segregation of public schools unconstitutional. In North Carolina, like in many states, segregation was the law of the land prior to 1955. After 1955, desegregation was slow even though North Carolina was nationally recognized for being one of the first states to comply with the *Brown* decision, as this reputation did not match reality. North Carolina school officials and politicians supported the “freedom of choice” plans that vastly slowed desegregation. The decision underestimated the difficulties of eliminating unequal funding, treatment, and other barriers of segregation for African American students. Supplemental cases, such as *Coppedge v. Franklin County Board of Education* [1967] and *Swann v. Charlotte-Mecklenburg Board of Education* [1971], were

necessary to further desegregate North Carolina public schools. The *Brown v. Board* decision left a legacy that highlighted the disparities of the educational system but failed to find the legal means to confront them and implement the multicultural education experience expected from integration.

### **What *Brown* Meant for Desegregation**

The ruling of the *Brown* case began the process of desegregating public spaces and is understood as one of the first movements toward equal education opportunities. *Brown* is significant because of its first steps toward desegregation and for the opposition that became the centerpiece of American politics and interpretations of the law for the next twenty years. Prior to *Brown*, every state in the US practiced racial segregation in school based on de jure or de facto segregation. De jure segregation is based on law, while de facto segregation is based on custom, or most followed patterns of residence. Before the first ruling of *Brown*, the dual system of schools was strongly established in seventeen states, one of which was North Carolina. Segregation in North Carolina was required by the state constitution and state statute (New York Times 1954). North Carolina, during this time, was not considered part of the Deep South, but an upper southern state where its citizens prided themselves on following law and order. This does not indicate that North Carolinians harbored no negative feelings about the Supreme Court decision: in fact, many thought it altered the constitution and that the court had acted with no legal precedent (Klarman 1994, 93). On May 17, 1954, in the first *Brown* decision, the court unanimously ruled that “in the field of public education the doctrine of ‘separate but equal’ has no place” (para. 6), explicitly overturning *Plessy v. Ferguson* [1896]. *Brown I* was one of the first indications that southern race relations were “destined to change,” due to the ruling’s “unambiguous, highly salient” nature (Daniel 2004, 261). The second decision, issued in 1955, also known as *Brown II*, was the implementation phase. *Brown II* ordered the dismantling of segregation in school systems to proceed with “all deliberate speed” (para. 7). The *Brown II* decision erred on the side of caution, displeasing both supporters of integration and its opponents. Furthermore, it “failed to provide much direction to the lower courts” due to the vagueness of the phrase “all deliberate speed” in terms of school desegregation progression (Daniel 2004, 261). The unintended consequences lay in the many strategies of resistance to the decision. *Brown* had little direct impact on desegregation. In fact, “in upper South states such as Tennessee and North Carolina, the percentage of blacks attending desegregated schools was, respectively, 0.12 percent and 0.01 percent in 1959–1960, and 2.7 percent and 0.54 percent in 1963–1964” (Klarman 1994, 83). Thus, more had to be done in the fight for desegregation, especially in North Carolina.

North Carolina’s reaction to the ruling was quieter, as “state leaders had initially greeted the Brown edict with grudging acceptance, and in some cases warm approval,” and state education leaders “met one week after the Brown decision to discuss the problems of school attendance, transportation, and teacher assignment that would have to be faced under the new ruling” (Chafe 1980, 65). North Carolina state leaders accepted the decision, while upholding a moderate reputation due to their quieter reactions and compliance. It is important to note that “a school district’s compliance with Brown often merely meant offering ‘freedom-of-choice’ plans,” which “allowed courageous Blacks to enter white schools; few whites entered the previously all-Black schools” (Daniel 2004, 261). North Carolina’s moderate reputation was based on its decision not to engage in massive resistance, unlike other states like Virginia, South Carolina, Alabama, and Mississippi. North Carolina was viewed as moderate because no penalties were enacted for attempts to desegregate schools and no schools were closed abruptly to avoid desegregation,

unlike with the state's southern counterparts. What set North Carolina's approach apart from that of other southern states was the local referendum requirement on school closings (Batchelor 2015, 67). North Carolina also experienced lower rates of intimidation, violence, and restrictions of freedom than other southern states (Batchelor 2015, 5).

North Carolina's moderate reputation and reality did not align. Black North Carolinians suffered from prejudice, hate, and inequality, especially with the Ku Klux Klan (KKK) being very active in the state. Governor William B. Umstead took what was perceived as a moderate position on desegregation because he "acknowledged that 'the Supreme Court...has spoken,'" and the actions he took "toward working out means of compliance" were utterly different from other southern states (Chafe 1980, 65). Umstead, governor from 1953 until his death in 1954, at first supported segregation during his gubernatorial campaign, but altered his position after *Brown I* to preserve education and acknowledged the new law without outright defiance. For Umstead, preserving public education meant keeping the support of whites and what they wanted—the continuance of racially segregated schools. Umstead thus allowed local school boards across North Carolina to maintain racially segregated schools. After Umstead's death, Lieutenant Governor Luther H. Hodges served as North Carolina's governor from 1954 to 1961. Hodges continued a moderate rhetoric like that of the late Umstead until *Brown II*, after which he addressed the state in June 1955, claiming, "We must keep the peace if we are going to keep the schools...This is a time for calmness and courage. We need wise counsel rather than inflammatory headlines" (as quoted in Batchelor 2015, 44). He further urged the citizens of North Carolina to maintain and practice voluntary segregation for the 1956–57 school year. Hodges continued the stance of not favoring integration, but also considered preserving and following the law to be most important ("School Desegregation in Southern States, 1965–1966"). Even though *Brown* intended complete desegregation, several measures of pushback began in North Carolina in the name of "preserving" public education.

### **Pupil Assignment Act of 1955 and the Pearsall Plan**

Following the *Brown* decision, the state progressed with two anti-integration responses: the North Carolina Pupil Assignment Act of 1955 and the Pearsall Plan of 1956. Freedom of choice seemed like a viable option for desegregation, but the true purpose was "to forestall any meaningful level of racial desegregation while avoiding the categorical segregation condemned by *Brown* and increasingly unacceptable to federal jurists and the national government" (Rosen and Mosnier 2017, 162). The Pupil Assignment Act was passed in March, but not without some pushback from the Black community. In the early months of 1955, the Pupil Assignment Act, hailed the "segregation bill," brought together "50 Black leaders from throughout North Carolina [who] met in Durham in January 1955 to oppose the 'segregation bill' and urge testimony before the General Assembly...During the second week of February 1955 some 300 North Carolina leaders protested the bill" (Peebles-Wilkins 1987, 115). Despite the opposition, the general assembly passed the legislation. The Pupil Assignment Act had three major components that shifted the authority of desegregation from the state to local school education boards, thus eliminating the potential for lawsuits directed at all schools in the state. It made no direct reference to race, instead centralizing the language to include what would be in the "best interest" of the child, "effective instruction" of students, and "orderly and efficient administration of the schools" (Thuesen 2013, 208). The Pupil Assignment Act ensured a lengthy transition from segregation to complete integration and was one way that North Carolina leaders slowed the process of desegregation.

The first Pearsall Committee, also known as the Governors' Special Advisory Committee on Education, was created by Governor Umstead after the first *Brown* ruling. Thomas J. Pearsall, speaker of the North Carolina House of Representatives, was head chairman. The committee drafted their first report in December, having two main objectives: "Preservation of public education...[and] Preservation of the peace." It urged North Carolinians "to act coolly, exercise restraint, exhibit tolerance, and display wisdom," and further stated that "the mixing of the races in the public schools...cannot be accomplished and should not be attempted" ("Governor's Advisory Committee on Education, 1954 Reports").

After the death of Governor Umstead, Lieutenant Governor Hodges continued the Pearsall Committee and decided to follow his predecessor in giving sole responsibility for public education to local school boards across the state. Following the ruling of *Brown II*, Hodges appointed the second North Carolina Advisory Committee on Education to consider the Supreme Court's implementation orders (Batchelor 2015, 44). As Hodges feared that Black members would be too susceptible to pressure from the NAACP, this second committee excluded them. The NAACP pushed for desegregation to start immediately and was considered by state officials to be an extremist group. In this ingenious approach of lambasting the NAACP, Hodges "evok[ed] fears of racial 'mixing' and united white conservatives" to endorse the committee and the plan they would soon set forth (Chafe 1980, 81). The second Pearsall Committee consisted of all white, male politicians or attorneys and appeared to be predisposed toward maintaining segregation (Batchelor 2015, 45). The committee members did not sufficiently represent counties with large Black populations, and the committee was not representative of the entire state. As a response to the push for integration imposed by the *Brown* decision, the second committee produced a plan named after the chairman, the Pearsall Plan to "Save Our Schools." Amended Article IX of the North Carolina State Constitution included the Pearsall Plan, and by majority vote it became part of the state's public school laws (Peebles-Wilkins 1987, 114). This amendment added three crucial features. First, it proposed a local option provision for permitting the suspension of operations of public schools by popular vote of the local community if school conditions were considered intolerable. The second was that the state would provide educational expense grants to private schools for children whose parents objected to their child attending an integrated school. The third was an amendment to the compulsory school attendance requirements, which allowed students to not be forced to attend school when a parent did not want their child to attend a mixed-race school; when it was not reasonable for them to be reassigned; and when it was not practical for them to attend private school ("Herring, Save Our Schools Pamphlet 1954"). Governor Hodges and the Pearsall Committee framed the Pearsall Plan as "a progressive alternative to extremism" (Chafe 1980, 73). This extremism included the violent, die-hard racists known as the KKK as well as the Black integrationists that demanded equality under the law, known as the NAACP. By equating the KKK and the NAACP, Hodges and the Pearsall Committee successfully manipulated public opinion; "the [Pearsall] plan was interpreted as a quintessence of moderation" and was seen as "the fire extinguisher to the fire set by the Supreme Court, noted as flexible and gradual and had safety value features" (Chafe 1980, 73–76). Progressive political leaders across the state and political leaders at the national level accepted Hodges' definition of the situation as "the only 'moderate' solution for the North Carolina school crisis" and "enabled North Carolina's business and political leaders to continue boosting the state as a progressive oasis in the South, a hospitable climate for Northern investment, [and] a civilized place in which to live" (Chafe 1980, 76–82). Through this

reputation and manipulation of public opinion, North Carolina upheld their moderate reputation as the Pearsall Plan was deemed valid.

The Pupil Assignment Act and the Pearsall Plan designed public policies that created measures to preserve the segregated landscape of public schooling and provide extreme token integration. North Carolina was nationally recognized for its compliance with the *Brown* decision, and the Pearsall Plan was deemed a “blueprint” for dealing with desegregation in the South (Peebles-Wilkins 1987, 117). This was despite the fact that the Pearsall Plan slowed desegregation of public schools and “represented a subtle and insidious form of racism” (Chafe 1980, 73). This national recognition was only an acknowledgement of legislation, not the result of the legislation passed in North Carolina. In reality, the Pupil Assignment Act and the Pearsall Plan made no public schools in North Carolina integrated besides some federally maintained schools on military bases, and by the 1963–64 school year, only one fourth of the state’s school districts had even begun to desegregate (Thuesen 2013, 202). Desegregation in North Carolina proceeded slowly, and integration did not begin to strengthen until the Civil Rights Act of 1964.

### **The Civil Rights Act of 1964 and Federal Financial Assistance Measures**

As desegregation did not progress extensively after the rulings of *Brown I* and *II*, the federal government had to pass more legislation if it wanted an integrated, functioning society. After Lyndon B. Johnson became president, Congress passed the Civil Rights Act of 1964, which had five main provisions. The act outlawed discrimination in public spaces; authorized the attorney general to initiate suits or to intervene in school desegregation and other discrimination cases; forbade racial discrimination in places of employment and unions; permitted the halting of funds to federally aided, racially discriminatory, or segregated government-funded programs; and prohibited registrars from applying different standards to voting applicants (New York Times 1964). President Johnson claimed that the law’s purpose was “not to divide but to end division...and to promote...a more constant pursuit of justice and a deeper respect for human dignity” (New York Times 1964). North Carolina’s reaction to the new law was mixed. The *New York Times* reported that “reaction in North Carolina, while mixed, provided one of the brightest pictures of progress in the South. Led by Terry Sanford, many state and local officials took a position of acceptance and compliance” (Sitton 1964). As a result of the Civil Rights Act, the Department of Health, Education, and Welfare (HEW) became significantly involved in public education funding. The act “gave the U.S. Secretary of Education the authority to collect data to document implementation of Brown and provide grants to school districts to assist with school desegregation efforts” (Brown 2004, 182). Title VI stated that federal funds could be withdrawn from any racially discriminatory public or private agency (Drone 2005, 413–14). Title VI was important because it allowed any noncompliance to result in funding deficiencies. HEW officials became essential in desegregation efforts because they forced local school administrators to pledge compliance with the laws calling for nondiscrimination. These pledges had to be filed with HEW by March 1965 (Drone 2005, 414). The first set of desegregation guidelines were issued in April 1965 and detailed minimal requirements.

In 1965, the Elementary and Secondary Education Act (ESEA) was passed by Congress to reward desegregation efforts with substantial funding for education (Batchelor 2015, 100–1). North Carolina’s moderate stance and its citizens’ overall compliance with law and order seemed to be rewarded by this new legislation, although some residents had a negative reaction. Specifically, the white citizens of Franklin County, an eastern county, claimed that they “disliked the federal government’s meddling in local affairs” (York 2020, 85). In April 1965, US

Commissioner of Education Francis Keppel announced that “North Carolina was the first state in full compliance with federal regulations and therefore was fully entitled to receive federal funds” (Drone 2005, 414). However, much of this money, approximately \$550,000, was to be directed to the eastern districts of North Carolina with high concentrations of Black students (York 2020, 83). The Civil Rights Act and the distribution of federal funding made school desegregation more of a necessity than ever because funding determined everything from teacher salaries and classroom construction to potential classes and training being taught. Southern states would have to move beyond tokenism and into integration if they wanted to keep their public schools afloat. In 1966, HEW released tougher, more specific guidelines “that looked skeptically at freedom-of-choice schemes and, moreover, introduced numerical school desegregation targets” (Rosen and Mosnier 2017, 162). Local school board segregationists were resistant to these changes, and “some districts that hadn’t desegregated tried to subvert compliance with HEW guidelines by getting a court order, because judicial standards varied” (Frankenburg and Taylor 2015, 38). HEW directed district courts to evaluate proposed desegregation plans based on the new guidelines, which led the way for courts to invalidate freedom of choice plans. HEW guidelines strengthened and indirectly affected the rulings of lower courts because they “were the minimum required as part of a court desegregation order, [and] they helped make judicial requirements more uniform across districts” (Frankenburg and Taylor 2015, 44). HEW continued to impose harsher guidelines over time to demand more desegregation progress as southern states continued to resist. With the Civil Rights Act and the ESEA, courts that struggled to implement desegregation to comply with *Brown* in the face of local resistance were further empowered and supported by laws.

### **Coppedge v. Franklin County Board of Education**

Before the 1965–66 school year, Franklin County schools were completely segregated by race. The Civil Rights Act of 1964, the new HEW guidelines, the ESEA funding, and the court case *Coppedge v. Franklin County Board of Education* [1967] changed the landscape of Franklin County. The ruling of the case was essential for derailing the freedom of choice plans that North Carolina politicians had put forth with the Pearsall Plan in 1956 in compliance with the *Brown* decision. The 1966–67 school year brought little progression: “only six Black students attended schools with white students. In 1967–68 the figure stood at a mere forty-five” (Batchelor 2015, 71). In early August 1968, Judge Algernon Lee Butler ordered the complete desegregation of Franklin County. Butler was the chief judge of the US District Court for the Eastern District of North Carolina (York 2020, 72). Judge Butler had a change in opinion concerning freedom of choice plans for school districts. After first supporting the idea, he realized that “freedom of choice was impossible in a county where intimidation of blacks was widespread” (York 2020, 72). Franklin County adopted the Pearsall Plan in 1956 and then adopted the freedom of choice system to desegregate its schools. Black residents began to exercise their rights under this plan and soon encountered serious threats. The KKK was large and visible, with membership estimated at “between seven hundred and two thousand” (York 2020, 29). The strong presence of the Klan resulted in school desegregation being incredibly slow, and nearly nonexistent.

In *Coppedge v. Franklin* [1967], plaintiffs filed complaints about a racially segregated school system that “was denying the plaintiffs and members of their class the equal protection of the law” (para. 1). Another complaint that Judge Butler addressed involved the unequal environments and conditions in which white and Black schools functioned. The plaintiffs’ motion further alleged “that defendants have continued to perpetuate inferior schools for Negro

students” (para. 6). In Judge Butler’s findings of fact, he noted that “schools previously maintained as all-white schools [were] substantially superior in building and equipment to the all-Negro schools,” and that despite the financial assistance under the Elementary and Secondary Education Act, “serious disparities remain[ed]” (para. 17). In the hearing on the application for a permanent injunction on July 27, 1966, the court entered an interim order. The interim order said that defendants were to “conduct a new freedom of choice period and were enjoined from engaging in any act, practice or policy of racial discrimination in the operation of the public-school system of Franklin County” (para. 4). In 1967, when both sides came before the court, the defendants argued that the Franklin County school system was not racially discriminatory and maintained they had followed the law, including the Civil Rights Act and the interim order. After hearing both sides, Judge Butler ruled on August 21 that the freedom of choice method of desegregation was invalid. The white citizens had mixed reactions, and the Franklin County Citizens for the Preservation of Public Schools called for a school boycott, but the plan was eventually abandoned (York 2020, 105).

Judge Butler’s ruling in *Coppedge* was one of the first that invalidated freedom of choice plans as a viable option for desegregation. The case highlighted racial disparities, but it also found that while the freedom of choice plan gave an illusion of desegregation, it actually rendered the people vulnerable to acts of intimidation. Butler’s decision would soon be accompanied by a Supreme Court ruling in 1968 that would also see freedom of choice plans as invalid plans for desegregation for all states.

### **The Significance of Swann v. Charlotte-Mecklenburg County Board of Education**

On track to become one of the most significant school desegregation cases in history, *Swann v. Charlotte-Mecklenburg County Board of Education* [1971] was a suit originally filed on January 19, 1965, by North Carolina lawyer Julius Chambers, as part of the NAACP Legal Defense and Education Fund (LDF). Chambers’ initial attempt to change Charlotte’s racial landscape was unsuccessful until he renewed his efforts in federal court a few years later, which eventually brought him in front of the US Supreme Court in 1971. The Charlotte-Mecklenburg school system began token integration in 1957, but by the fall of 1964, it remained totally segregated (Rosen and Mosnier 2017, 170). The school system was the forty-third largest in the nation, but only 3 percent of Black children were assigned to a majority-white school (*Swann v. Charlotte-Mecklenburg* [1971]). The school board had utilized the North Carolina Pupil Assignment Act to forestall meaningful school desegregation. Julius Chambers’ initial suit in 1964 was filed on the basis of challenging Charlotte’s continuation of racially-based pupil and teacher assignments and the school board’s use of gerrymandering to limit integration (Rosen and Mosnier 2017, 167). Soon after, the school board adopted a new pupil assignment act in March 1965, in “which student assignment at 90 percent of the system’s 109 schools would be controlled by newly introduced geographic school attendance zones (Rosen and Mosnier 2017, 167). Although Chambers rejected this plan entirely because it was not aimed at seeking full integration, the court upheld that the plan satisfied the *Brown* mandate. In 1968, the Supreme Court made a significant stride toward integration through the decision of *Green v. County School Board of New Kent County* in Virginia. The ruling upheld the notion of *Coppedge v. Franklin* [1967], the case argued by Chambers in the Fourth Circuit court that nullified freedom of choice plans as adequate means for integration. After the Supreme Court ruling, Chambers reopened the *Swann v. Charlotte-Mecklenburg* case, hoping that the *Green v. County School Board* ruling was an indication of a Supreme Court shift to favoring more rapid desegregation (Batchelor 2015, 126).

In the reopening of *Swann*, Chambers hoped to have the case heard by the newly appointed Judge James McMillan, who had been confirmed to the Western District of North Carolina in June 1968. Chambers perceived that Judge McMillan was “in the middle on the issue of school desegregation—neither an ardent segregationist nor a proponent of speedy or substantial alteration of the racial status quo” (Rosen and Mosnier 2017, 170). Chambers’ preference was solidified when he litigated *Swann* before McMillan. Initially, McMillan saw little wrong with the school board’s policies concerning desegregation, and even praised the board at the beginning of the hearing for a “higher level of desegregation than any of the other school systems reviewed in appellate court decisions” (Batchelor 2015, 126–28). Judge McMillan’s opinion began to change after hearing Chamber’s carefully crafted, impenetrable argument against the school board’s method of desegregation. In his notes on the hearing, he takes notice of how enlightened he was concerning the racial realities of local schools, and he even noted in the court documents “and I confess to having felt my own share of emotion on this subject and all the years before I studied the fact” (McMillan 1969–70). McMillan ordered the school board to draft plans for school desegregation to be proposed in court in June and August 1969.

In anticipation of Judge McMillan’s ruling, in June 1969, the North Carolina General Assembly passed an “anti-busing law that expressly prohibited the use of any state funds for court-ordered busing to implement desegregation” (Rosen and Mosnier 2017, 173). In February 1970, the school board presented two alternative pupil assignment plans to the district court, the partial “Finger Plan” and the finalized “Board plan.” The Finger Plan was submitted by court-appointed expert Dr. Finger, and only differed from the board plan in its handling of the system’s elementary schools. Both plans proposed rezoning attendance zones and implementing strategies of reassignment, but the board plan, with regard to elementary schools, “relied entirely upon gerrymandering of geographic zones” (*Swann v. Charlotte-Mecklenburg Board of Education* [1971], para. 10). On February 5, 1970, McMillan ruled that only districtwide busing would be substantial enough for the process of school desegregation in the Charlotte-Mecklenburg area, immediately opposing the June 1969 law passed by the North Carolina General Assembly. As this immediately attracted national attention, segregationists feared that McMillan’s decisions would be upheld and busing would become a national routine (Rosen and Mosnier 2017, 178). Some opponents thought “Judge McMillan had gone beyond constitutional limits in his proposal to make Charlotte Schools one of the least segregated systems anywhere” (Saxon 1995). Unsatisfied with McMillan’s ruling, the school board appealed to the Fourth Circuit Court of Appeals. Not only did the Fourth Circuit “vacate the orders with regard to busing elementary students” but during the appeals process, there was heavy opposition (Batchelor 2015, 126). The opposition came from Governor Scott of North Carolina, the State Board of Education, and the Nixon administration, who all denounced McMillan’s busing orders. President Nixon issued a statement that reinforced “his opposition to busing, again urging that students be permitted to attend neighborhood schools” (Batchelor 2015, 127). The win Chambers had hoped for in the *Swann* case was not yet in sight, and Chambers continued to fight.

Both Chambers and the school board were unsatisfied with the ruling of the Fourth Circuit Court of Appeals, paving the way for *Swann* to be heard in the US Supreme Court in 1971. Chambers opposed the “Fourth Circuit’s rejection of McMillan’s order for implementation of the Finger plan for elementary schools,” and the school board opposed “the affirmation of McMillan’s desegregation plans for the school system’s junior and senior high schools” (Rosen and Mosnier 2017, 185). Both sides requested that the Supreme Court review the case. The



Supreme Court named the central issue as student assignment and laid out four problem areas in section five, as follows:

(1) to what extent racial balance or racial quotas may be used as an implement in a remedial order to correct a previously segregated system; (2) whether every all-Negro and all-white school must be eliminated as an indispensable part of a remedial process of desegregation; (3) what the limits are, if any, on the rearrangement of school districts and attendance zones, as a remedial measure; and (4) what the limits are, if any, on the use of transportation facilities to correct state-enforced racial school segregation (*Swann v. Charlotte-Mecklenburg Board of Education* [1971], para. 22).

The decision took several months, and by the summer of 1970, “it was clear that the Supreme Court would use Chambers’ Charlotte case as its vehicle for setting the terms of the proper scope of court-mandated school desegregation” (Rosen and Mosnier 2017, 179). The most controversial topic was the opinion on busing as a tool for desegregation, but the Court came to a unanimous decision in April 1971. The Supreme Court ruled in favor of *Swann*, upholding Judge McMillan’s order, and sanctioned the busing of white and Black students to other neighborhoods as a tool to achieve racial balance in schools. Chief Justice Burger wrote the final opinion and “rebuffed the school board and the justice department” by upholding the “constitutionality of busing as a means to dismantle the ‘dual school systems’ of the South” (Saxon 1995). The ruling was a substantial win for Chambers, but also for federal district court judges. For Chambers, the court-ordered busing “was a valid tool of equitable relief,” which Chambers and the LDF considered a complete victory (Rosen and Mosnier 2017, 185). For federal district court judges, the decision affirmed McMillan’s order, which also affirmed the role of federal district courts in the overseeing of local school district operations. Prior to 1971, Supreme Court desegregation decisions, like the *Brown* decision, had failed to “delineate which equitable remedies lower courts could use in issuing desegregation orders” (Daniel 2004, 262). *Swann* not only filled this void but also was proof of the Supreme Court’s acknowledgement of the failures of earlier approaches to school desegregation, like the freedom of choice plans and pupil assignment acts in various states.

The Supreme Court ruling came with opposition, with the contesting parties reacting bitterly. There were tense periods for high schools, and as a result of the order, “Charlotte-Mecklenburg lost approximately ten thousand white students as white parents moved their families to rural districts over the next few years” (Batchelor 2015, 127). White parents in Charlotte formed “citizen” groups that opposed the newly integrated schools, and even several years after the Supreme Court ruling, the Charlotte-Mecklenburg schools refused to come up with a plan conforming to McMillan’s requirements. This required lawyer Julius Chambers to constantly monitor developments and Judge McMillan to “oversee the system’s desegregation efforts” (Rosen and Mosnier 2017, 187). Although opposition continued among Charlotte whites for many years, gradually “the finality of the Supreme Court’s decision and the determination of the Charlotte establishment to avoid unnecessary controversy led to the implementation of McMillan’s sweeping desegregation order—including its substantial use of busing—without serious incident” (Rosen and Mosnier 2017, 186). Four years later, McMillan withdrew his constant monitoring of the school system, after he found that “his plan had gained wide acceptance and decided that the busing of 45,000 of Charlotte’s 75,000 students was going well (Saxon 1995). The Charlotte-Mecklenburg school system became a national model of successful transition to integrated schools by the mid-1970s.

## Conclusion

The path to school desegregation was not an easy one, especially with the perceived moderate reputation of North Carolina, which led to the successful postponement of desegregation through the Pearsall Plan and Pupil Assignment Act. The purpose here is not to discredit *Brown* and its accomplishments, but rather to recognize how school desegregation did not happen all at once. Political and legal systems often worked against each other, but with the persistence of Black integrationists, the federal government, and key legal experts like Julius Chambers, progress came along with hope for the multicultural, equal educational experience. The rulings of *Coppedge v. Franklin County Board of Education* [1967] and *Swann v. Charlotte-Mecklenburg Board of Education* [1971] were influential in the fight for desegregation in North Carolina public schools because each of them invalidated North Carolina's so-called plans of desegregation in their own way. *Coppedge v. Franklin* invalidated freedom of choice plans proposed by the Pearsall Committee and set forth by the Pearsall Plan as a meaningful solution to segregated schools, while *Swann v. Charlotte-Mecklenburg* validated busing as a solution to achieve integration. Working in congruence with the Civil Rights Act of 1964 and the 1965 Elementary and Secondary Education Act, both cases proposed concrete solutions for achieving integration and a multicultural educational experience. Although *Brown v. Board of Education* was significant in addressing racial disparities, the vague language of the *Brown* decisions caused the fight for desegregated schools to persist beyond 1955.

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