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By CHARLES E. WYNES

The Evolution of Jim Crow Laws in Twentieth Century Virginia*

JIM CROW as a state-established and state-maintained institution in Virginia is a child of the twentieth century. The Old Dominion, like the other Southern states, entered the new century with an absence of rigid, caste-like segregation established and maintained by state law. Not until 1900 did Virginia enact her first statewide segregation law, while as late as 1944 it was still adding to the, by then, long list of such statutes. Ironically, the greatest number, and often the most far-reaching, of these statutes was enacted not in the period 1901-1917, which might well be called that of “the nadir,” but rather in the 1920's and 1930's when Negroes at long last had entered upon the road which led to the Second Reconstruction. Yet, upon closer examination, that fact is not so ironi-
cal. During the period of the nadir Negroes were no threat to white Virginians; for most of their race had just been disfranchised by the new state constitution of 1902, while the first of the state segregation statutes, and even lynching, served to keep them in their “place.” But by the twenties, and especially by the thirties, once again white Southern-
ers knew that their world was changing, while many of its institutions were under attack both from within and without. Not only had some of the South’s segregation statutes already fallen before the federal courts, but at home Southern Negroes were attacking the constitutionali-
ty of white primaries, which had made the Democratic Party a kind of “white man’s club,” while nationally, that same Party increasingly was coming to reflect both the interests and the philosophy of Northern urban masses. Nor was there any longer a conservative Negro leader, Booker T. Washington, to counsel his people to “put down your buck-
et where you are.” At such times men’s thoughts turned to means by which the status quo might best be preserved, and new race laws fol-

For more than thirty years following the end of the Civil War whites and Negroes, with increasing frequency, rode together in the same railroad and streetcars in Virginia. Some of the railroads, at least for a while, forced Negroes to ride in the smoking car, or in a special

* The research for this article, which is part of a larger study on Negroes in twentieth century Virginia, was supported by grants from the American Philosophical Society and the Social Science Research Council.
jim crow car. But even this practice seems to have been an erratic one. As the twentieth century approached, railroad segregation became less and less frequent, so that by 1900, instead of referring to "the car where the Negroes rode," white Virginians spoke of the "present system" when they objected to mixing of the races on trains.

Then suddenly in 1900, the legislature passed and Governor J. Hoge Tyler signed into law Virginia's first statute requiring the railroads to furnish separate cars, or partitioned cars, for the two races. Just why this was done is not wholly clear. Certainly it was not done in response to any "state-wide demand," as some of the newspapers claimed. Nor is it enough to say that both this statute and the similar ones which followed were in "reaction to the bitter Populist struggles of the 1890's." Perhaps the growing respectability of racism and the legal sanctioning of separate but equal are better explanations, but race politics seems to be the most logical explanation. Not only were few whites free of racial bigotry during the Progressive era; even "gentlemen politicians" could not forego the temptation of "nigger baiting." And once such laws were enacted there were none but Negroes to work, futilely, for their repeal. Booker T. Washington, in an essay published just after his death in 1915, aptly summed up both the role of the politicians and that of the fearful whites:

In all my experience I have never yet found a case where the masses of the people of any given city were interested in the matter of segregation of white and colored people; that is there has been no spontaneous demand for segregation ordinances. In certain cities politicians have taken the leadership in introducing such segregation ordinances into city councils, and after making an appeal to racial prejudices have succeeded in securing a backing for ordinances which would segregate the negro people from their white fellow citizens. After such ordinances have been introduced it is always difficult, in the present state of opinion in the South, to have any considerable body of white people oppose them, because their attitude is likely to be misrepresented as favoring negroes against white people. They are, in the main, afraid of the stigma, "negro lover." 2

Substitution of "state" for "city," of "legislatures" for "city councils" and of "statutes" for "ordinances" makes this observation equally valid in the explanation of the action of the Virginia General Assembly and the Governor in 1900. With the door to rigid, state-sponsored segregation opened, the politicians could not resist the temptation to keep going through it, nor could the people find either the desire or the courage to stop them.


Four years later, in 1904, segregation on the railroads was further tightened when a new law authorized railroad operators to refuse ad-
mittance of any colored person to the dining, Pullman, parlor, chair, or compartment cars.3 In 1902 segregation on streetcars running between Richmond and Seven Pines in nearby Henrico County was provided for, while in 1906 the law was broadened to cover all streetcars operating in the state.4 Of course, on streetcars as later on buses, this meant setting aside a portion of the vehicle for use by Negroes. Still, a jim crow seat one day might be occupied by whites and the next, depending upon the number, by Negro or white passengers.

Naturally indignation and unpleasantries, as well as ugly and embar-
rassing scenes, followed as curtains were drawn about Negro pas-
sengers on the trains, while on the streetcars a member of one race — usually the Negro — was told by the conductor to move from a seat because it “belonged” to the other race. There is every reason for believing that the new segregation laws added to friction between the races.

Now, both disfranchised and segregated on the railroads and street-
cars (as well as steamboats, since 1900), Virginia Negroes were not fur-
ther segregated by law until 1912, when residential segregation was pro-
vided for. The residential segregation law empowered cities and towns
to designate districts as “white” or “colored,” on the basis of whether 50 percent of the inhabitants were white or Negro. While one could not be forced to move out of a district designated for the opposite race, beginning twelve months after such designation, persons of the opposite race were forbidden to move into the district. Violators might be fined from five to fifty dollars, plus an additional two dollars for each day they remained.5

As early as 1917 in a Kentucky case, Buchanan v. Warley, the United States Supreme Court declared such residential segregation laws to be unconstitutional, and in 1918 Virginia’s own Supreme Court of Appeals threw out a Clifton Forge ordinance (Irvine v. City of Clifton Forge). Twice more, in 1928 and 1930, the United States Supreme Court condemned similar laws, yet not till 1950 was the statute left out of the Code of Virginia.

Politically, of course, the least important people in any state are those in prison, yet not till 1918 did Virginia prescribe by law that the races be kept separate in the State Penitentiary.6 Two years later, in 1920, the Board of Directors of the Penitentiary ordered the prison super-
intendent and the superintendent of the state farm to see that the races were separated “as far as practicable.” It is not clear just how much

3 Guild, op. cit., p. 147.
4 Ibid; Pauli Murray (ed.), States’ Laws on Race and Color, and Appendices Containing Inter-
6 Ibid., p. 148.
segregation or integration had existed before the order was issued, but the Board of Directors admitted that the new instructions were issued because it was “found that proper separation of the races was [theretofore] not enforced.” It is certain, however, that the order led to separate dining halls for the first time.7

When further segregation laws came in the decade of the 1920’s, they seem to have come largely in response to the demands of a small but powerful pressure group — the Anglo-Saxon Clubs. This racist group was founded in Richmond in 1922, and within a year had spread to eleven other states. Its “fundamental purpose” was the “preservation and maintenance of Anglo Saxon ideals in America.” Aimed primarily at the “Negro Problem,” the Anglo Saxon Clubs also advocated more intelligent selection of immigrants allowed into the United States so as to strengthen “Anglo Saxon instincts, traditions, and principles” in America.8 The organizers and leaders of the Anglo Saxon Clubs were John Powell, the noted Virginia pianist; Dr. Lawrence T. Price, physician; Dr. W. A. Placker, State Registrar of Vital Statistics; Ernest Sevier Cox, world traveler, real estate man, disciple of Marcus Garvey, and lifelong devotee to the idea of removing black men from America, all of Richmond; and W. S. Copeland, editor of the Newport News Daily Press.9

Until 1926 Virginia had no statute requiring separate seating of the two races at public functions, although admittedly Negroes usually “stayed together” in public gatherings — normally in the back of the auditorium or other building, or in the balcony. This was not true at Hampton Institute, however. Founded in 1868 by the American Missionary Association for the higher education and practical training of Indians as well as Negroes, Hampton long since had become an overwhelmingly Negro institution, but one which always enjoyed peculiar acceptance by whites in the coastal city of Hampton. Consequently, whites attending public functions there could not always be sure of sitting next to other whites. Reportedly, in 1925 a white couple from nearby Newport News found themselves seated next to Negro students at a dance recital, after which the husband “launched a crusade for ‘better’ segregation ordinances.” That was where the Anglo Saxon Clubs entered the picture. Rigid segregation for all the state, including Hampton Institute, they began to demand, as they became a vociferous lobbying force for enactment of a state segregation law. The next year, Delegate G. Alvin Massenberg of Elizabeth City County, introduced the “Massenberg Bill”

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9 Norfolk Journal and Guide, July 18, 1925.
calling for separation of the races in all theatres, public auditoriums, and other places of public assembly.\textsuperscript{10}

The Anglo Saxon Clubs even suggested that integrated faculties at Negro educational institutions—specifically Hampton Institute—should be forbidden. To this suggestion, the \textit{Norfolk Journal and Guide}, owned and published by Negroes, replied that all of Richmond's Negro schools had white principals; whites staffed the state school for Negro deaf and blind, the state tuberculosis sanitorium, and the state mental hospital for Negroes—all apparently because white sentiment and economic interests demanded that they do so. Was the difference, asked the \textit{Journal and Guide}, "because at Hampton Negroes are treated as human beings and at the other places they are treated as \textit{inferior} human beings?"\textsuperscript{11}

The Massenberg Bill had some powerful opposition, however. Among its opponents were the Richmond Chamber of Commerce and the newspapers, \textit{Lynchburg News}, \textit{Norfolk Virginian-Pilot}, \textit{Norfolk Ledger-Dispatch}, and the \textit{Richmond News-Leader}. Commenting on this opposition, the \textit{Norfolk Virginian-Pilot} asked:

What is the matter with these Virginia Citizens and Virginia newspapers? Don't they believe in racial integrity and social separateness for the white and black races?

They do believe in racial integrity but they don't believe that Prussianized segregation enforced by the aid of a sheriff . . . has anything more to do with racial integrity than has the proposed Atlanta [Georgia] ordinance prohibiting negro barbers from serving white patrons. They believe, moreover, that segregation practiced voluntarily by the two races is incomparably more desirable than segregation made mandatory by formal enactment.

And we do have voluntary segregation in Virginia except at one point. That point is Hampton Institute. . . . [Even there] the two races instinctively sit apart, but on rare occasions when the hall is crowded there is a certain amount of indiscriminate seating.\textsuperscript{12}

Again, though, to oppose such a measure was to risk the charge of being a "Negro lover." Consequently, the Massenberg Bill passed the General Assembly and Governor Harry Flood Byrd allowed it to become law without his signature.\textsuperscript{13} Just as in the case of the railroads and streetcars, the new law served to aggravate race relations. It humiliated Negroes, and was a bitter reminder to them that the government of Virginia was really only a "white man's government." Thus by 1926, "freedom of choice" as to segregation or integration was all but dead. Only a few loopholes remained to be closed by the state, and that was soon done.

When the railroad segregation statutes were enacted early in the century, rail transportation was the only form of mass transportation avail-
able. By the 1920's, however, buses already had made serious inroads into rail passenger traffic. Yet, it was not until 1930 that the Virginia General Assembly enacted a segregation statute for buses operating in the state. The new law required that a portion of the seats on each bus be set apart for Negroes — but nothing was said about their being in the back.14 Before the law was enacted some form of segregation probably was the general custom or practice, at least in some areas of the state, but there was never any public demand that segregation on buses be prescribed by state law. Interestingly, it was not until four years later, in 1936, that another law mentioned the waiting rooms in the bus stations. And even then it did not specifically provide that separate waiting rooms had to be furnished, for it said only that the State Corporation Commission “may [sic] require the establishment by passenger motor carriers of separate waiting rooms at stations or depots for the white and colored races.” 15

There now remained but one other form of Virginia public transportation to be segregated — air transportation and its terminals. In this area the state was only partially successful, for aircraft seats were never segregated by law, though the few Negroes who used air transportation perhaps out of habit tended to take the back seats, where, incidentally, it was normally safer anyway. But on the ground, the State Corporation Commission in 1944 was given authority to require the establishment of separate waiting rooms. Again though, as was the case with bus stations, the law read only, “may require.” 16

Meanwhile, a year earlier, the first of two major attacks upon the practice of enforced segregation on the common carriers — both emanating from native whites within the state — had taken place. Virginius Dabney, author of Liberalism in the South, editor of the Richmond Times-Dispatch, and highly respected by both races, declared in a private letter to William M. Cooper of Hampton Institute on November 8, 1943:

My own feeling is that we ought to get busy right away in an effort to abolish Jim Crow laws in street cars and buses. I expect to come out on this editorially in the near future. It seems to me to be the one great irritant which can be done away with without public outcry. More and more people realize that this segregation on transportation lines is simply an irritant and nothing else.17

Within a week there appeared on the editorial page of the Times-Dispatch the following challenge to the state:

The time has come to do something about the well-nigh intolerable inter-racial friction on the streetcars and buses of the State. This friction stems largely from the laws which compel the segregation of white and colored passengers.

14 Ibid., 150.
15 Murray, op. cit., p. 482.
16 Ibid., 481.
17 Virginius Dabney to William M. Cooper, November 8, 1943 (Virginius Dabney Papers, University of Virginia Library.) Used by permission of Mr. Dabney, including permission for publication.
The purpose of these laws, when they were enacted, was to keep the races separate. Actually, under existing conditions they have the opposite effect, and they are a constant irritant. Hundreds, if not thousands, of times a day, these regulations serve to throw the races into closer contact than ever, and at the same time to wound the feelings of the Negroes.

The laws result in closer inter-racial contact than would otherwise be the case because whereas white and colored passengers usually sit in separate seats, the invariably crowded condition in the aisles of streetcars and buses at rush hours throws the races together as never before. Colored passengers who get on crowded cars or buses have to push their way to the rear through a dense mass of white people. . . . It would be preferable if the Negroes were allowed to stand or sit in the car or bus wherever they could find room, thus avoiding the push through the packed aisles.

In all the larger cities . . . crowded conditions bring the races into closer contact than would be the case if segregation on transportation lines did not exist.18

Encouraged by the initial response, on November 21, Dabney returned to the subject:

... the alternatives which confront this section are as follows: We white Southerners can remedy the evident injustices in the treatment of the Negroes, and thereby win their confidence, respect, and cooperation, or we can refuse to do anything, and repeat the old nonsense to the effect that the problem will solve itself if people will only stop talking about it. The Times-Dispatch is fully convinced, from long and careful study, that the former course is the only course and that the best way to provoke bitter race clashes in this region over an indefinite period is for the whites to turn their backs on the legitimate appeals of the Negroes for justice.19

Public reaction? Not a single Virginia, or even Southern, newspaper took editorial notice, even though Dabney sent to the editors of most of the major newspapers in the South galley copies of his first editorial. Every one of them ignored it. Of the Northern papers to which he sent copies, the New York Herald Tribune, the New York Evening Post, and PM either reprinted it in toto or commented favorably upon it. In Dabney’s home city of Richmond, even the Richmond News-Leader ignored it.20

Of course, letters-to-the-editor constituted another barometer of response to the editorials, and Dabney wrote that these letters ran three-to-one in favor of his stand.21

Not surprisingly, however, the campaign failed completely. Only the most courageous would risk the charge of being “Negro lovers,” while the state’s political leaders were classically and expectedly weak-kneed. On January 1, 1944, Dabney wrote in a private communication:

I am afraid that the Governor [Colgate Darden] will not take any

18 Richmond Times-Dispatch, November 13, 1943.
19 Ibid., November 21, 1943.
20 Dabney to Elinor Bissell, January 18, 1944 (Dabney Papers); Armstrong, op. cit., pp. 59-60.
21 Dabney to Addison L. Luce, September 6, 1944. Dabney Papers.
part in the effort to change the segregation law, even to make it possible for localities to handle the matter for themselves. A delegation from the Inter-racial Commission called on him last week, and he seemed interested but not willing to do anything himself.\textsuperscript{22}

The next week, Dabney despairingly wrote to a Negro newspaper executive, “I must say that in so far as the abolition of segregation on the buses and street cars of Virginia is concerned, I do not feel optimistic. The politicians are so timid, that it appears almost hopeless to interest them.” \textsuperscript{23} To another approving Virginia correspondent, he wrote:

Unfortunately, I fear there is nothing we can do at this session of the General Assembly. No other Virginia paper has backed us up, and although we had a fine response in letters to the editor . . . it is obvious that the ground hasn’t been adequately prepared for this step. The colored leaders, as well as the white, have agreed that it would be best not to introduce the bill [to abolish segregation on the common carriers] at this time.\textsuperscript{24}

Thus ended the battle by a realistic native Virginian to save his state from the painful and costly experiences which it would undergo beginning only a decade later. It had become only too apparent that separation of the races was not the primary interest of white Virginians, and above all not that of their leaders. What Dabney proposed would have led, if adopted, not only to better feeling between the races, but to less physical contact as well. Something more was at stake in Virginia, as in all the South. Best expressing this point was a remark attributed to Governor Darden in 1945: “The weakness of the State of Virginia in defense of segregation is that it is not meant to separate, but to act as a shield for exploitation and oppression.” \textsuperscript{25}

If Virginians themselves would not tackle the problem which their own laws had created, it was a foregone conclusion that outside forces, especially the federal courts, would. Chipping away at segregation on the common carriers, the United States Supreme Court in 1946 ruled that interstate bus passengers were not subject to the state’s segregation laws \textit{(Morgan v. Commonwealth of Virginia)}. That same year the identical principle was held to apply to interstate passengers on the state’s railroads \textit{(Matthews v. Southern Railway)}. By then, committed fully to the principle of enforced segregation, both bus and railroad operators sought to accomplish the same segregationist end through resort to “company rules.” In 1948, William Chance, a Negro principal from Parmalee, North Carolina, while traveling from Philadelphia, Pennsylvania, to Rocky Mount, Virginia, refused in Richmond to change to a

\textsuperscript{22} Dabney to Robert H. Tucker, January 6, 1944 (Dabney Papers). For those unfamiliar with the workings of Virginia state government, it should be pointed out that unless the governor has “The Organization” on his side and committed to his program, he can do nothing. Governor Darden’s predecessor, James H. Price, was a classic example of how a Virginia governor can commit political suicide by bucking The Organization.

\textsuperscript{23} Dabney to Ira F. Lewis, President of the Pittsburgh Courier Publishing Company, January 16, 1944 (Dabney Papers).

\textsuperscript{24} Dabney to Elinor Bissell, January 18, 1944 (Dabney Papers).

\textsuperscript{25} Quoted in Pittsburgh Courier, January 6, 1945 (Clipping in Dabney Papers).
Jim crow car and was put off the train. He went to court, and in Roanoke a district federal judge upheld the legality of the practices of the carriers. On appeal to the United States Circuit Court of Appeals in Richmond, the decision was reversed and later upheld by the Supreme Court in 1952 (Chance v. Lambeth). Nevertheless, carriers as often as not continued the practice.

Once more, in 1950, realistic Virginians, this time a tiny handful of political leaders, attacked the common carriers segregation laws. They were led by Delegate Armistead L. Boothe of Alexandria, who introduced a bill to repeal all such statutes. He was joined by Delegates E. Griffith Dodson, Jr., and Julian Rutherford, both of Roanoke, George Cochran of Staunton, and John H. Daniel of Charlottesville. Supported by these delegates, Boothe also introduced another bill which would have established a state race relations commission consisting of nine members and appointed by the governor. Among Boothe's supporters outside the legislature were the influential Virginians, Colgate Darden, former governor and then president of the University of Virginia; Robert T. Marsh, vice president of the First Merchants National Bank of Richmond; J. B. Woodward, President of the Newport News Shipbuilding and Dry Dock Company, the state's largest single employer; and the Reverend H. St. George Tucker, former Presiding Bishop of the Protestant Episcopal Church of America.

Before the General Assembly met, Boothe eloquently presented his case through the pages of The Virginia Law Review in November, 1949:

The subject of Civil Rights in Virginia must be faced openly and squarely by the people of Virginia. As a physical disease cannot be cured by ignoring it, so this social problem cannot be solved by failure to recognize it, to study it and to think about it.

It will be our duty to the past, the present and the future to recognize and foster equality of opportunity in employment, education, housing and health among all our citizenry, regardless of race or color. We must think. We must act. We cannot continually exclaim against the Federal Government usurping the powers of the state without exercising those powers ourselves as our responsibilities require.

Some changes in our segregation laws should be made. In some parts of the state the segregation laws are not observed even in intrastate commerce. Our legislature might consider the desirability, from a practical as well as from a constitutional standpoint, of repealing the state segregation laws affecting all forms of transportation. This would be a wise and courageous step forward in preparing the people of Virginia to meet the staggering social problems which they will inevitably face in the future.

28 Ibid., pp. 969-70.
The Boothe proposals never had a chance. They were killed in the Courts of Justice Committee of the House by a vote of nine to seven, and the field was abandoned to the federal courts, which began to move with dispatch less than five years later.

Prophetically, a Southern expatriate remarked after a visit to the South in 1930:

An occasional trip through the South by anyone who has known the South well for many years, is always interesting. In respect to the Negro there are some signs of progress, but the great outstanding phenomenon is the 'stand pat' condition of the South on race relations. Wherever there is change there is some economic background for it...

If anything dethrones Jim Crow, it will be economic causation combined with enforcement of constitutional law.29

More than thirty years later the prediction came true in the form of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

At the heart of Virginia's refusal to face reality, and thus solve much of her racial problem without "outside interference," was not any "innate conservatism" of her people, or even devotion to the "Southern way of life." Indeed the blame lay where it has ever since about 1830, with her political leaders. As John H. Young, a Negro and a special correspondent for the (Negro) Pittsburgh Courier, astutely observed in 1945:

The people of Virginia are ready to grant to Negroes a long-deserved status of equality. There remains the obstacle of that political group, which seeks to camouflage the real will of the people because of a fear of loss of power, that must be overcome before Virginia can point the way for other Southern States.

As gallant as is the effort of [Virginia] liberals, they still have a long way to go before they can shake off the shackles of machine politicians who hide their real fear of loss of power under the cloak of acting according to the demands of their constituency.30

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29 William Pickens, "Re-Visiting the South." The Crisis, XXXVII (April, 1930), 127.
30 Pittsburgh Courier, January 6, 1945 (Clipping in Dabney Papers). In support of Young's contention there is the statement by Virginian Dabney: "The basic trouble at the time [1943-44] was that the 'Organization' leadership was dead against doing anything about segregation on street cars and buses ...." Dabney to the author, April 26, 1966.