J. SKELLY WRIGHT AND THE DESEGREGATION OF LOUISIANA

1949–1962

*James E. Wright III**

INTRODUCTION 4
I. J. SKELLY WRIGHT'S EARLY LIFE AND CAREER 9
II. THE INTEGRATION BATTLE BEGINS 14
A. EARLY LOUISIANA SCHOOL DESEGREGATION CASES FOCUS ON LOUISIANA STATE UNIVERSITY 14
1. JUDGE WRIGHT DESEGREGATES LOUISIANA STATE UNIVERSITY DEPARTMENT OF LAW 14
2. JUDGES WRIGHT AND CHRISTENBERRY DESEGREGATE LSU'S GRADUATE SCHOOL AND MEDICAL SCHOOL 18
3. JUDGE WRIGHT DESEGREGATES LSU'S UNDERGRADUATE SCHOOL 20
B. *BUSH V. ORLEANS PARISH SCHOOL BOARD*: THE FIGHT EXTENDS TO ORLEANS PARISH GRADE SCHOOLS 22
C. THE LANDMARK *BROWN* CASE 24
1. LOUISIANA MOVES FAST TO STOP *BROWN* 24
2. THE FIGHT BEGINS IN NEW ORLEANS: *BUSH* REACTIVATED 25
3. THE LOUISIANA LEGISLATURE DEPLOYS DELAY TACTICS 29
D. MANAGING HIS DOCKET THROUGH TURBULENT TIMES 32

* Partner, Jones Walker LLP, New Orleans, LA; J.D. 1978, Louisiana State University Law Center; B.S. Econ. 1974, Georgia Institute of Technology. This Article was delivered as the inaugural J. Skelly Wright Lecture on November 10, 2022, at Loyola University New Orleans College of Law. Portions of this Article are derived from a 2015 Article written by the author for the Loyola Law Review. *See* James E. Wright, III, *Bush v. Orleans Parish School Board: The Second Battle of New Orleans*, 61 LOY. L. REV. 135 (2015).

E. JUDGE WRIGHT SETS A DESEGREGATION PLAN DEADLINE 36
III. SHIFTING BATTLE LINES: THE LEGISLATURE ESCALATES ITS STATUTORY ASSAULT 38
A. THE LEGISLATURE RENEWS ITS ATTACK ON DESEGREGATION 40
B. JUDGE WRIGHT IS FORCED TO EXTEND THE DESEGREGATION DEADLINE 43
C. LOUISIANA COUNTERATTACKS: THE GOVERNOR AND LEGISLATURE FIGHT BACK 46
IV. THE DECISIVE BATTLE OF THE TEN-YEAR WAR 48
A. SCHOOL DESEGREGATION FINALLY BEGINS 53
B. GOVERNOR DAVIS CALLS FOR A SECOND EXTRAORDINARY SESSION OF 1960 TO FIGHT JUDGE WRIGHT'S ORDERS 59
C. THE LEGISLATURE HOLDS YET ANOTHER EXTRAORDINARY SESSION IN 1960 65
D. THE SEVEN-DAY BATTLE WAS DECISIVE 66
V. NEW BATTLE LINES: THE DESEGREGATION WAR EXPANDS 67
A. APRIL 15, 1957—JUDGE WRIGHT VOIDS MORAL CHARACTER CERTIFICATES IN *LUDLEY V. BOARD OF SUPERVISORS OF LSU* 69
B. MAY 15, 1957—JUDGE WRIGHT DESEGREGATES NEW ORLEANS CITY PARK IN *DETIEGE V. NEW ORLEANS CITY PARK IMPROVEMENT ASS'N* 70
C. MAY 15, 1957—JUDGE WRIGHT DESEGREGATES STREETCARS AND BUSES IN *DAVIS V. MORRISON* 71
D. NOVEMBER 28, 1958—THE PANEL DESEGREGATES SPORTING EVENTS IN *DORSEY V. STATE ATHLETIC COMMISSION* 73
E. 1958—EXHAUSTION OF ADMINISTRATIVE REMEDIES UNNECESSARY—LOUISIANA STATE UNIVERSITY NEW ORLEANS: *FLEMING V. BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY* 75
F. JANUARY 11, 1960—JUDGE WRIGHT ISSUES AN INJUNCTION BLOCKING WASHINGTON PARISH FROM PURGING BLACK VOTERS FROM VOTER ROLLS IN *UNITED STATES V. MCELVEEN* 76
G. MAY 25, 1960—JUDGE WRIGHT DESEGREGATES EAST BATON ROUGE PARISH SCHOOLS, ST. HELENA

PARISH PUBLIC SCHOOLS, AND STATE TRADE SCHOOLS 78
H. MARCH 20, 1962—THE PANEL DESEGREGATES INTERSTATE BUS TERMINAL FACILITIES IN *UNITED STATES V. PITCHER* 81
VI. JUDGE WRIGHT AND HIS FAMILY PERSEVERE THROUGH VIOLENT OPPOSITION TO HIS CONTROVERSIAL WORK 82
A. AMID HATRED, JUDGE WRIGHT'S FAMILY AND FRIENDS LEND HIM SUPPORT 82
B. JUDGE WRIGHT'S REFLECTIONS ON HIS NEW ORLEANS EXPERIENCE 86
C. JUDGE WRIGHT'S FIFTH CIRCUIT PROSPECTS ARE BLOCKED AGAIN 88
VII. FINAL CONTROVERSIES AND JUDGE WRIGHT'S LAST ORDERS IN NEW ORLEANS 93
A. JUDGE WRIGHT DESEGREGATES TULANE UNIVERSITY 93
B. JUDGE WRIGHT'S FAREWELL TESTIMONIAL LUNCHEON 96
C. LAST ORDER IN NEW ORLEANS: JUDGE WRIGHT ACCELERATES THE PACE OF DESEGREGATION 97
D. THE NEW JUDGE QUICKLY WITHDRAWS JUDGE WRIGHT'S LAST ORDERS 98
VIII. NEW HORIZONS FOR JUDGE WRIGHT 102
A. JUDGE WRIGHT'S APPOINTMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT 102
1. *HOBSON V. HANSEN*: JUDGE WRIGHT DESEGREGATES THE PUBLIC SCHOOLS OF WASHINGTON, D. C. 104
2. *BUNDY V. JACKSON*: JUDGE WRIGHT ESTABLISHES PROTECTIONS AGAINST WORKPLACE SEXUAL HARASSMENT 106
B. A PROLIFIC AUTHOR OF LAW REVIEW ARTICLES, JUDGE WRIGHT'S INFLUENCE STRETCHED BEYOND THE BENCH 107
C. JUDGE WRIGHT'S CLOSE RELATIONSHIPS WITH HIS LAW CLERKS 109
D. JUDGE WRIGHT'S DAYS IN NEW ORLEANS, RECALLED UPON HIS DEATH 110
IX. A LIFE IN CONTROVERSY WELL LIVED 113

INTRODUCTION[1]

J. Skelly Wright was a United States District Judge for the Eastern District of Louisiana from October 21, 1949, to April 9, 1962.[2] It was the dawn of the American Civil Rights movement.[3] Because his court's jurisdiction covered both Louisiana's largest city and its capital city,[4] his docket would be crowded with contentious desegregation litigation.[5] But when he was appointed on October 21, 1949, that was not apparent to Judge Wright.[6]

Within months of Judge Wright's appointment, the first of many federal lawsuits was filed in the Eastern District of Louisiana,[7] beginning the slow process of dismantling Jim Crow in Louisiana. From that moment, Judge Wright was immersed in the fight pitting Black citizens seeking recognition of basic civil rights against state and local officials resolute on maintaining the status quo of a segregated South.[8] Because he handled the vast majority of such cases, Judge Wright's name became synonymous with integration in Louisiana.[9]

There were always several pending desegregation cases on Judge Wright's docket throughout his thirteen-year tenure in the

1. Mr. Wright is a nephew of Judge Wright. Much of the information in this Article is based on the author's personal knowledge and his many conversations with Judge Wright, his cousin James S. Wright, Jr., and his father James E. Wright, Jr., occurring over many years up to July 31, 2023. In addition, many of the newspaper articles and editorials referenced in this Article were compiled in scrapbooks by Helen P. Wright, Judge Wright's wife of forty-three years.

2. *See supra* note 1; *see also* Michael S. Bernick, *The Unusual Odyssey of J. Skelly Wright*, 7 HASTINGS CONST. L.Q. 971, 979, 991 (1980); La. Pub. Broad., *Judge J. Skelly Wright: Louisiana Legends*, LA. DIGIT. MEDIA ARCHIVE (1983), http://ladigitalmedia.org/video_v2/asset-detail/LLOLG-0202.

3. *See* John Michael Spivack, Race, Civil Rights, and the United States Court of Appeals for the Fifth Judicial Circuit vii (1978) (Ph.D. Dissertation, University of Florida), http://ufdcimages.uflib.ufl.edu/UF/00/09/88/51/00001/racecivilrightsu00spiv.pdf.

4. *See generally* 28 U.S.C. § 98 (moving Baton Rouge from the Eastern District to the Middle District of Louisiana in 1971).

5. *See* Bernick, *supra* note 2, at 983–92.

6. La. Pub. Broad., *supra* note 2.

7. As discussed *infra*, on September 13, 1950, the lawsuit to desegregate LSU law school was filed and assigned to Judge Wright. *See* Wilson v. Bd. of Supervisors of La. State Univ., 92 F. Supp. 986, 986–87 (E.D. La. 1950), *aff'd*, 340 U.S. 909 (1951).

8. *See generally* Bernick, *supra* note 2, at 984–92.

9. Joel Wm. Friedman, *Desegregating the South: John Minor Wisdom's Role in Enforcing Brown's Mandate*, 78 TUL. L. REV. 2207, 2230 (2004).

Eastern District of Louisiana,[10] which ended when he became a circuit judge on the U.S. Court of Appeals for the District of Columbia Circuit.[11] During that time, fifteen of the eighteen federal desegregation cases filed in Louisiana were assigned to Judge Wright. [12]

Judge Wright, of course, did not act alone in many of his fifteen desegregation cases. Federal procedure at that time required a district judge to empanel a three-judge district court when a case raised a significant challenge to the constitutionality of a state law.[13] Fellow Eastern District Judge Herbert Christenberry sat on every three-judge district court because he was the nearest district judge.[14] The circuit judge member of the three-judge district courts was either Judge Wayne Borah of Louisiana or Judge Richard Rives of Alabama, both of whom sat on the Fifth Circuit.[15] Significantly, Judge Borah sat on all of the early Louisiana State University (LSU) desegregation cases. Judge Rives sat regularly on the numerous three-judge district courts for over six years in the highly contentious New Orleans school desegregation case, *Bush v.*

10. *See* Bernick, *supra* note 2, at 983–92.

11. *See id.* at 992.

12. *Payne v. Board of Supervisors of Louisiana State University*, No. 894 (E.D. La. June 12, 1951) was a Judge Christenberry case ordering the desegregation of the LSU graduate school as discussed *infra*. One desegregation case was filed in the Western District of Louisiana: *Constantine v. Southwestern Louisiana Institute*, 120 F. Supp. 417 (W.D. La. 1954). That case was decided by a three-judge district court composed of Fifth Circuit Judge G. Wayne Borah and District Judges Benjamin C. Dawkins and Edwin F. Hunter. *Constantine*, 120 F. Supp. at 418. Judge Hunter delivered the opinion for the court on April 22, 1954, finding unequal treatment of local Black students by Southwestern Louisiana Institute (now the University of Louisiana at Lafayette), by denying their admission to the local state university and ordering the admission of the plaintiffs. *Id.* at 421. Neither of these cases were appealed and both were decided before *Brown v. Board of Education*. *Compare Payne*, No. 894 (issued June 12, 1951), *and Constantine*, 120 F. Supp. at 421 (issued April 22, 1954), *with* Brown v. Bd. of Educ. (*Brown I*), 347 U.S. 483 (1954) (issued May 17, 1954). In *Board of Supervisors of Louisiana State University v. Fleming*, 265 F.2d 736 (5th Cir. 1959) (per curiam), Judge Christenberry issued an injunction from the bench requiring Black students to be registered at the new Louisiana State University New Orleans.

13. At that time, federal law required the district judge to empanel a three-judge district court to hear cases when a litigant sought to prevent the enforcement of state law on the basis that it violated the U.S. Constitution. *See* 28 U.S.C. § 2281 (repealed 1976).

14. La. Pub. Broad., *supra* note 2.

15. *See supra* note 1. *See generally* La. Pub. Broad., *supra* note 2. Judge Wisdom sat once as the circuit judge third member of one of the three-judge district courts in *Dorsey v. State Athletic Commission,* 168 F. Supp. 149 (E.D. La. 1958), *aff'd*, 359 U.S 533 (1959).

Orleans Parish School Board.[16] In a 1983 interview, Judge Wright highlighted the support he received from Judges Rives and Christenberry:

> Judge Christenberry was my colleague on the district bench there, . . . and while he did not get the same kinds of cases I got necessarily, . . . he did his job just like I did my job and when we went into three judge cases . . . he would be the first one called in because he was the nearest and there would be a court of appeals judge and that judge who sat on our three-judge cases was Judge Richard Rives of Alabama, Montgomery, Alabama. I would have to say that both of them, Judge Rives and Judge Christenberry, were every bit a part of this problem as I was and when they were called on to do their part, they responded absolutely and completely.[17]

Yet, Judge Wright was assigned all of the high-profile desegregation cases, including those desegregating the LSU law school and undergraduate school, and New Orleans public schools, street cars, and buses.[18] "[A]s the initiating judge, [Judge Wright] wrote all of the orders and the opinions and bore the brunt of the harassment that inevitably—even now—is characteristic of school desegregation cases."[19] Because he issued the enforcement orders and injunctions, he became the lightning rod for all the hate and hostility of the white politicians and citizens of Louisiana.[20] However,

16. *See, e.g.*, Bush v. Orleans Par. Sch. Bd., 138 F. Supp. 336 (E.D. La. 1956) (per curiam), *aff'd*, 242 F.2d 156 (5th Cir. 1957); *see also* Friedman, *supra* note 9, at 2221–29.

17. La. Pub. Broad., *supra* note 2.

18. ORAL HIST. PROJECT, THE HIST. SOC'Y OF THE D.C. CIR., HELEN PATTON WRIGHT 73 (1998) [hereinafter Helen Patton Wright Interview], http://dcchs.org/HelenPWright/helenpwright_complete.pdf ("Most of these did seem to fall to Skelly. You got a 50/50 chance of getting it. He certainly got the majority of them.").

19. John Minor Wisdom, Dedication, *J. Skelly Wright,* 32 LOY. L. REV. 303, 307 (1986).

20. *See id.*; Friedman, *supra* note 9, at 2229; *see, e.g.*, *Wilson*, 92 F. Supp. 986 (desegregating LSU law school); Tureaud v. Bd. of Supervisors of La. State Univ. 116 F. Supp. 248, 251 (E.D. La.), *rev'd* 207 F.2d 807 (5th Cir. 1953), *vacated per curiam*, 347 U.S. 971 (1954) (desegregating LSU undergraduate school); Bush v. Orleans Par. Sch. Bd., 138 F. Supp. 337 (E.D. La. 1956) (per curiam) (desegregating Orleans Parish Public Schools); New Orleans City Park Improvement Ass'n v. Detiege, 252 F.2d 122 (5th Cir. 1958) (per curiam) (affirming Judge Wright's district court judgment desegregating City Park), *aff'd*, 358 U.S. 54 (1958); Morrison v. Davis, 252 F.2d 102 (5th Cir. 1958) (per curiam) (affirming Judge Wright's district court judgment desegregating streetcars and buses); United States v. McElveen, 180 F. Supp. 10 (E.D. La.) (enjoining the purging of black voters), *aff'd sub nom.* United States v. Thomas,

Judge Wright's fellow judges attempted to protect him from the constant obloquy resulting from his numerous desegregation rulings:

> Although per curiam opinions are unsigned, i.e., they do not ascribe authorship to any individual panel member, Judge Wright in fact wrote all of these opinions. But by employing the per curiam format, Judges Rives and Christenberry were able to shield Wright to some degree from the further obloquy that invariably would have been directed at him if his precise role in these cases had become publicly acknowledged.[21]

For Louisiana, Judge Wright was the "focal point for one of the most intensive campaigns of harassment and abuse ever suffered" by a federal judge.[22] Judge Wright became the target of the segregationists' ire: "More than anyone else associated with this tragic epos, Wright was demonized and transformed into a virtual pariah in his home state, compelled to rely upon armed federal marshals to escort him to and from his office and to guard his home."[23]

Judge Wright's involvement in desegregating Louisiana began on October 7, 1950, with the case that integrated the LSU law school—four years before the *Brown v. Board of Education* decisions.[24] He sat on the three-judge district court with Judges Borah and Christenberry, but he acted alone in issuing the first federal desegregation preliminary injunction in Louisiana.[25] Judge Wright remained involved in Louisiana's desegregation cases until April 1962, when he assumed his appointment on the D.C. Circuit. One week before his move to Washington, D.C., Judge Wright issued his final order in *Bush v. Orleans Parish School Board*, which

362 U.S. 58 (1960); Davis v. E. Baton Rouge Par. Sch. Bd., 214 F. Supp. 624, 625–27 (E.D. La. 1963) (discussing Judge Wright's May 25, 1960, desegregation order); St. Helena Par. Sch. Bd. v. Hall, 287 F.2d 376, 376–78 (5th Cir. 1961) (discussing Judge Wright's 1960 district court order).

21. Friedman, *supra* note 9, at 2229.

22. Roger K. Newman, *Judge J. Skelly Wright: Thirty Years*, 7 HASTINGS CONST. L.Q. 857, 857–58 (1980) (quoting FRANK T. READ & LUCY S. MCGOUGH, LET THEM BE JUDGED: THE JUDICIAL INTEGRATION OF THE DEEP SOUTH 114 (1978)); *see also* Friedman, *supra* note 9, at 2230.

23. Friedman, *supra* note 9, at 2230 (citing ARTHUR SELWYN MILLER, A "CAPACITY FOR OUTRAGE": THE JUDICIAL ODYSSEY OF J. SKELLY WRIGHT 14 (1984)).

24. *Wilson*, 92 F. Supp. 986.

25. *See id.* at 987.

accelerated the pace of integration of Orleans Parish public schools.[26]

The ten-year battle in the *Bush* case was by far the biggest of the Eastern District desegregation cases.[27] This case pitted Judge Wright against Louisiana's Governor, legislature, and virtually the entire white population.[28] Because of the ferocity with which the State of Louisiana fought it, *Bush* captured the attention of the national media.[29] However, the adverse local public attention Judge Wright received forced him into an isolated life:

> History called on U.S. District Court Judge J. Skelly Wright in New Orleans, at a crucial time, on a crucial issue. He was one of the "58 lonely," yet brave, men to whom fell the task of implementing the Supreme Court's command in *Brown* that legally mandated segregation—our very own apartheid—be eliminated "with all deliberate speed." And he fought his particular battle against the [S]tate of Louisiana, a state one historian described as unmatched when it came to the "vigor, imagination, and frenzy . . . displayed in battling to maintain segregated public schools."[30]

This Article highlights Judge Wright's desegregation cases while he was on the district court in Louisiana, and includes discussions about his life, impact on the law, and legacy. Section I of this Article begins the discussion of Judge Wright's early life and career. Sections II through V then survey Judge Wright's Eastern District of Louisiana desegregation cases, which were handled and decided at the very beginning of the social reformation of Louisiana in the 1950s and early 1960s. The discussion starts with the cases desegregating LSU's law school, medical school, and undergraduate school—all decided before the *Brown* decisions—and continues to his last week as a district judge in New Orleans, when he issued orders desegregating Tulane University and speeding the pace of desegregation of the New Orleans public schools in the *Bush* case.

26. Bush v. Orleans Par. Sch. Bd., 204 F. Supp. 568 (E.D. La. 1962); *see also supra* note 1.

27. *Bush*, 138 F. Supp. 337.

28. Friedman, *supra* note 9, at 2214.

29. *See id.* at 2230.

30. John R. Brown, In Memoriam, *Judge J. Skelly Wright*, 57 GEO. WASH. L. REV. 1029, 1052 (1980) (quoting J. W. PELTASON, FIFTY-EIGHT LONELY MEN: SOUTHERN FEDERAL JUDGES AND SCHOOL DESEGREGATION (1961)). This characterization of Judge Wright comes from Mr. Sofaer, who served as a law clerk to Judge Wright for the 1965–66 term. *Id.*

Special attention is given to *Bush* because of its paramount importance in the pantheon of American desegregation cases of the twentieth century. Section VI addresses the backlash received by Judge Wright resulting from his decisions in these controversial cases. Section VII documents Judge Wright's final cases in New Orleans, and Section VIII recounts his move from the Eastern District of Louisiana to the United States Court of Appeals for the District of Columbia Circuit. Finally, Section IX concludes with comments on Judge Wright's continuing legacy.

I. J. SKELLY WRIGHT'S EARLY LIFE AND CAREER

As a young man, Skelly Wright was ambitious and as New Orleans as they come. He had a typical upbringing for the beginning of twentieth-century New Orleans. There was nothing particular about his formative years that would have led one to predict that he would become an early enforcer of civil rights.[31] In later years, Wright commented: "I was born and raised in New Orleans and I was just like anybody else . . . I wasn't any different."[32] Referring to Jim Crow, he added: "While I didn't embrace it, it didn't repel me."[33] Prior to assuming the bench, Judge Wright was a typical white New Orleanian.

> Few who knew Skelly Wright when he assumed the bench in 1949 . . . would have expected him to be the one to order school desegregation. Highly conventional in occupation and politics, though never a segregationist, he had done nothing in his life to protest the system of segregation, or in any way question the status quo.[34]

What did distinguish him, however, was his exposure to local politics through his mother and uncle, which taught him how things got done.[35] He also had a determination to make something of himself.

J. Skelly Wright was born in 1911 and grew up on Camp Street in the shadow of St. Stephen Church.[36] He was the second

31. *See generally Pressure and Hate Familiar to Wright*, SUNDAY ADVOC. (Baton Rouge), Apr. 16, 1978, at 1.

32. *Id.*

33. *Id.*

34. Bernick, *supra* note 2, at 972.

35. *See* LIVA BAKER, THE SECOND BATTLE OF NEW ORLEANS: THE HUNDRED-YEAR STRUGGLE TO INTEGRATE THE SCHOOLS 89 (1996).

36. *See supra* note 1.

of seven children.[37] His mother, Margaret Skelly Wright, was a ward leader for the Regular Democratic Organization, known as the Old Regulars.[38] His uncle was popular City Commissioner (Councilman) Joseph Patrick Skelly, whose campaign flyers boasted that he was born on St. Patrick's Day, an important qualification that secured the Irish vote.[39] The Skellys were fourth-generation Irish Americans from County Cork.[40]

In his youth, Wright walked to the neighborhood's segregated public elementary schools and took a segregated streetcar downtown to all-white Warren Easton High School. He got a job as a law-firm messenger, which kindled his interest in the law.[41] Wright received a scholarship to Loyola University New Orleans, where he graduated in 1931 with a Bachelor of Philosophy (Ph.B.) degree.[42] Upon graduation, he decided that he wanted to be a lawyer, so he got a teaching certificate and taught English, History, and Mathematics at Fortier High School during the day to pay for night classes at Loyola University New Orleans College of Law.[43] He earned his juris doctorate in 1934 and continued teaching at Fortier because there were limited opportunities for new lawyers amid the Great Depression. Every day at three o'clock p.m., he would trek downtown to a small law office, which he shared with a friend, to practice law for a few hours after teaching.

Wright got a big break in 1937 when, with the help of his Uncle Joe and Louisiana Senator Allan Ellender, he landed a coveted job as an Assistant United States Attorney for the Eastern District of Louisiana.[44] He was just twenty-six years old. There was one federal judge, Wayne Borah, whom Wright described as a "giant" on the bench, who had respect for the law and did not tolerate any foolishness in his courtroom.[45] Wright greatly admired his boss,

37. Bernick, *supra* note 2, at 972 (1980).

38. *See* BAKER, *supra* note 35, at 89. The Regular Democratic Organization, known as the Old Regulars, was a powerful Democratic machine in New Orleans in the early twentieth Century. Edward F. Haas, *Political Continuity in the Crescent City: Toward an Interpretation of New Orleans Politics, 1874-1986*, 36 LA. HISTORY 5, 6 (1998).

39. *See supra* note 1.

40. *See* BAKER, *supra* note 35, at 88.

41. *See supra* note 1.

42. *See id.*

43. Bill Monroe, In Memoriam, *J. Skelly Wright*, 102 HARV. L. REV. 369, 370 (1988).

44. Friedman, *supra* note 9, at 2214.

45. *See supra* note 1.

U.S. Attorney Rene Viosca, whom he considered the best trial lawyer in New Orleans. The First Assistant was Herbert Christenberry, also a Loyola law graduate.[46] Just five attorneys comprised the U.S. Attorney's office, and all five were involved in the prosecution of the Louisiana Scandal Cases in the late 1930s. These criminal cases, involving contractor kickback schemes with state officials, resulted in dozens of convictions of contractors and politicians and jail time for Louisiana's Governor and the president of LSU.[47] He said later that this job as an Assistant United States Attorney was a life-changing opportunity that fostered in him "a lifelong respect for the federal courts." In 1950—just thirteen years later—Wright and Christenberry would themselves be federal district judges and join Judge Borah in a three-judge district court to enter the first desegregation order in Louisiana under *Plessy v. Ferguson.*[48]

At the outbreak of World War II, Wright was thirty-one years old. He had prosecuted several cases for the U.S. Coast Guard and received a commission as lieutenant commander.[49] Six months after Pearl Harbor, he boarded a sub-chaser, the USS *Thetis*, at Key West to hunt for a Nazi U-Boat that had just sunk a U.S. merchant ship in the Florida Straits.[50] The *Thetis* tracked down and attacked the U-157 with depth charges, sending the U-157 and its crew of fifty-three to the bottom of the sea. It was only his second day aboard. He continued to serve on convoy escort and submarine patrol missions until his assignment to the legal staff of Admiral Harold Stark, the Commander of U.S. Naval Forces in Europe, who was in overall command of the massive D-Day invasion fleet in London.[51] There, he met and married Helen Patton, an admiral's daughter on the staff of the U.S. Embassy.[52] She would be an important and fiercely supportive companion during the difficult days ahead in New Orleans.

46. *Herbert W. Christenberry*, U.S. DIST. CT. E. DIST. OF LA., https://www.laed.uscourts.gov/herbert-w-christenberry.

47. *See generally Louisiana After Long – The Louisiana Scandals*, HUEY LONG, https://www.hueylong.com/legacy/louisiana-after-long.php (last visited Oct. 22, 2023).

48. *Wilson*, 92 F. Supp. 986.

49. *See* Helen Patton Wright Interview, *supra* note 18, at 21.

50. *See id.* at 21–22.

51. *See id.* at 15; *see also supra* note 1.

52. *See* Helen Patton Wright Interview, *supra* note 18, at 23–30.

After the War, he and Helen settled in Washington, D.C.,[53] where he began a law practice.[54] Higgins Industries, which manufactured the landing craft used by the D-Day invasion fleet, and United Fruit Company were among his valued clients.[55] At age thirty-five, he argued twice before the U.S. Supreme Court.[56] His first case before the Supreme Court was *Louisiana ex rel. Francis v. Resweber*, the infamous death penalty case in which Louisiana's traveling electric chair, "Gruesome Gertie," malfunctioned in St. Martin Parish, sending an electric current through Willie Francis for more than an hour without killing him.[57] The case raised constitutional questions of double jeopardy under the Fifth Amendment and cruel and unusual punishment under the Eighth Amendment, as applied through the Fourteenth Amendment.[58] Wright lost that case five to four.[59] However, he won his second Supreme Court case, *Johnson v. United States*,[60] a seminal constitutional criminal procedure case establishing that an arrest in violation of state law also violated the Fourth Amendment.[61]

In 1948, the New Orleans U.S. Attorney position opened when Herbert Christenberry was appointed to the district court; Wright informed Senator Ellender of his interest in the job.[62] Because no one believed that President Truman would be re-elected, Wright

53. *See supra* note 1; Helen Patton Wright Interview, *supra* note 18, at 34; Bernick, *supra* note 2, at 974.

54. *See* Bernick, *supra* note 2, at 974.

55. *Id.; see also supra* note 1.

56. Bernick, *supra* note 2, at 975.

57. *See* GILBERT KING, THE EXECUTION OF WILLIE FRANCIS: RACE, MURDER, AND THE SEARCH FOR JUSTICE IN THE AMERICAN SOUTH 7 (2008); Deborah W. Denno, *When Willie Francis Died: The "Disturbing" Story Behind One of the Eighth Amendment's Most Enduring Standards of Risk*, *in* DEATH PENALTY STORIES 17, 42 (John H. Blume & Jordan M. Steiker eds., 2009); Louisiana *ex rel.* Francis v. Resweber, 329 U.S. 459, 460 (1947).

58. Bernick, *supra* note 2, at 975.

59. *Id.* at 976.

60. Johnson v. United States, 333 U.S. 10 (1948).

61. Bernick, *supra* note 2, at 966–67. The Supreme Court held that the Government cannot "justify the arrest by the search and at the same time [] justify the search by the arrest." *Johnson*, 333 U.S. at 16–17.

62. *See* Patricia A. Behlar, J. Skelly Wright: The Career and Constitutional Approach of a Federal Judge 17-18 (Aug. 1974) (Ph.D. dissertation, Louisiana State University) (citing Interview with Hon. J. Skelly Wright, U.S. Cir. J., D.C. Cir., in Washington, D.C. (July 12, 1973)), https://repository.lsu.edu/cgi/viewcontent.cgi?article=3651&context=gradschool_disstheses.

planned to serve in that position for a year and then return to practicing law in Washington when Truman's presidency ended.[63] He got the job and, leaving his wife and young son in Washington, went to New Orleans to serve as U.S. Attorney until the end of President Truman's term.[64] However, to the nation's and the Wrights' surprise, President Truman was re-elected.[65] Nevertheless, his term as U.S. Attorney was brief, "uneventful," and, as Judge Wright later described it, "undistinguished."[66]

In 1949, a seat opened on the U.S. Court of Appeals for the Fifth Circuit.[67] Wright was interested and called his friend from his Assistant U.S. Attorney days, Tom Clark, who was now President Truman's Attorney General, to seek the appointment.[68] Clark obliged but joined the U.S. Supreme Court before Judge Wright's confirmation process could be completed.[69] Fifth Circuit Chief Judge Joseph Hutcheson suggested to new Attorney General Howard McGrath that Wright was too young and that Judge Borah deserved the appointment for his years of distinguished service, even though his appointment to the district court was through a Republican president.[70] McGrath agreed, and Judge Borah was appointed to the Fifth Circuit instead of Wright.[71] The Louisiana senators were not consulted because they had supported Dixiecrat candidate Senator Strom Thurmond for president against President Truman.[72] On October 21, 1949, President Truman appointed Wright to be a United States district judge for the Eastern District of Louisiana.[73] At thirty-eight years old Judge Wright was the youngest federal judge in the country.[74]

63. *See Pressure and Hate Familiar to Wright, supra* note 31.

64. *Id.*

65. *Id.*

66. Behlar, *supra* note 62, at 18 (citing Interview with Hon. J. Skelly Wright, U.S. Cir. J., D.C. Cir., in Washington, D.C. (July 12, 1973)).

67. *Pressure and Hate Familiar to Wright, supra* note 31.

68. *See id.* Judge Wright and Clark had prosecuted an antitrust case in Louisiana when Clark was a lawyer in the Antitrust Division of the Department of Justice in Washington. *See supra* note 1.

69. Bernick, *supra* note 2, at 978–79.

70. Behlar, *supra* note 62, at 17–18.

71. Wisdom, *supra* note 19, at 305 ("I know for a fact, without in any way reflecting on Judge Wright that Judge Hutchenson to his dying day had a guilty conscience for not supporting Skelly."); Behlar, *supra* note 62, at 21.

72. *See supra* note 1.

73. Monroe, *supra* note 43, at 371.

74. *Id.*; Wisdom, *supra* note 19, at 305.

II. THE INTEGRATION BATTLE BEGINS

The beginning of federal court-ordered desegregation in Louisiana came before the issuance of the landmark *Brown* decisions[75] in 1954 and 1955, and was directed at the undergraduate, graduate, medical, and law schools of Louisiana State University in Baton Rouge and New Orleans. After the *Brown* decisions, the federal courts began to address desegregation in local public schools and other public accommodations and facilities.

A. EARLY LOUISIANA SCHOOL DESEGREGATION CASES FOCUS ON LOUISIANA STATE UNIVERSITY

Judge Wright's early desegregation decisions were directed at several departments of Louisiana State University. First, he dealt with the law school. Second, Judge Wright ordered the desegregation of LSU's medical school. Finally, Judge Wright ordered the desegregation of LSU's undergraduate school.

1. JUDGE WRIGHT DESEGREGATES LOUISIANA STATE UNIVERSITY DEPARTMENT OF LAW

Judge Wright's involvement with the desegregation of public schools began less than a year after he took the bench.[76] On September 13, 1950, A.P. Tureaud, with the New Orleans chapter of the National Association for the Advancement of Colored People (NAACP), and Thurgood Marshall, Chief Counsel of the NAACP Legal Defense and Educational Fund, filed a class action lawsuit seeking to desegregate Louisiana State University Department of Law (LSU law school) entitled *Wilson v. Board of Supervisors of Louisiana State University*.[77] Judge Wright was assigned this

75. Brown v. Board of Educ. *(Brown I)*, 347 U.S. 483 (1954). In *Brown I* the Supreme Court held that separate but equal educational facilities for racial minorities are inherently unequal in violation of the Equal Protection Clause of the Fourteenth Amendment. *Id.* at 493. The Supreme Court further declared government enforced public school segregation unconstitutional and overruled the separate but equal doctrine of *Plessy v. Ferguson*, which had been in effect since it was decided in 1896. *Id.* at 494–45. In *Brown II* the Supreme Court held that the mandate of *Brown I* did not require a universal solution for all schools and that full compliance should be achieved "with all deliberate speed." Brown v. Board of Educ. *(Brown II)*, 349 U.S. 294, 299, 301 (1955).

76. *See* Bernick, *supra* note 2, at 984.

77. *Wilson*, 92 F. Supp. at 986–87; *see also supra* note 1.

case.[78] The *Wilson* case followed a previous failed effort to desegregate LSU law school filed in state court.[79] On January 10, 1946, Charles Hatfield, a Black New Orleanian WWII Army veteran and a senior at Xavier University, applied for admission to Louisiana's only public law school: LSU law school.[80] Two weeks later, he received a letter from the dean of LSU law school, denying him admission and stating that LSU did not admit Black students, and that Southern University was statutorily authorized to establish a law school for Black students.[81] However, no law school existed at Southern University.[82] As a result, on October 10, 1946, Hatfield filed suit in state court claiming that LSU had violated the Fourteenth Amendment.[83] In the 1938 case *Missouri ex rel. Gaines v. Canada*, the Supreme Court held that states providing a law school to white students also had to provide in-state legal education to Black students.[84] As a result, the state judge in the *Hatfield* case granted a writ of mandamus.[85]

Over the four months following the issuance of the writ, LSU scrambled to create a law school at Southern University on the second floor of Southern University's library[86] with four part-time professors borrowed from LSU and eight students.[87] Because of this, in April, 1947, the state judge dismissed the mandamus and lawsuit on the "ground[s] that Hatfield should have sought a mandamus against Southern," and not LSU.[88] Hatfield experienced much anger and contempt because of his lawsuit and, consequently,

78. *Wilson*, 92 F. Supp. at 986.

79. Sharlene Sinegal-Decuir, *Opening the Doors: The Struggle to Desegregate LSU Law School*, AROUND THE BAR, Feb. 2017 at 10, 10.

80. Gail S. Stephenson, *The Desegregation of Louisiana's Law Schools: A Slow and Tortuous 23-Year Journey*, 69 LA. B.J. 220, 221 (2021).

81. Sinegal-Decuir, *supra* note 79, at 10.

82. *Id.*

83. *See id.*; ztompkins1, *Prelude to Civil Rights: Viola Johnson and Charles Hatfield*, LSU LIBRS. (Feb. 25, 2021), https://news.blogs.lib.lsu.edu/2021/02/prelude-to-civil-rights-viola-johnson-and-charles-hatfield/.

84. Missouri *ex rel.* Gaines v. Canada, 305 U.S. 337, 352 (1938).

85. *See supra* note 1.

86. Stephenson, *supra* note 80 at 221 (citing EVELYN L. WILSON, LAWS, CUSTOMS AND RIGHTS: CHARLES HATFIELD AND HIS FAMILY 116, 145–46 (2004)).

87. Sinegal-Decuir, *supra* note 79, at 10.

88. Stephenson, *supra* note 80 at 221.

never enrolled in Southern law school.[89] Instead, he left Louisiana "to escape death threats and other acts of intimidation."[90]

Three years later on July 12, 1950, Roy Wilson and eleven other Black students applied for admission to LSU law school.[91] In response, on July 28, 1950, the LSU Board of Supervisors adopted a resolution directing the school's administrative officers to deny Wilson's application.[92] Thereafter, the dean of LSU law school advised Wilson by letter that the "State of Louisiana maintains separate schools for its white and colored [sic] students and that Louisiana State University does not admit colored [sic] students."[93]

On September 13, 1950, Roy Wilson filed a class action in federal court in Baton Rouge seeking admission to LSU law school and requesting temporary and permanent injunctions restraining the enforcement of the Board of Supervisors' order.[94] Wilson asserted that he complied with all of the requirements and qualifications but was denied admission solely because of his race or color in derogation of his rights guaranteed by the Fourteenth Amendment to the Constitution of the United States.[95] The lawsuit challenged the equality of LSU's and Southern University's respective law schools.[96]

Because the case raised the issue of the constitutionality of an order of a state administrative board,[97] Judge Wright promptly convened a three-judge district court comprised of himself and Judges Borah and Christenberry.[98] On September 29, 1950, just sixteen days after the case was filed, the three-judge district court held its hearing for a temporary injunction.[99] A week later, on October 7, 1950, Judge Wright wrote and delivered the decision of

89. ztompkins1, *supra* note 83.

90. *Id.* In May 2002, at the age of eighty-seven, Hatfield received Southern University Law Center's first Honorary Juris Doctorate just one month before his death. Sinegal-Decuir, *supra* note 79, at 10.

91. *See* Sinegal-Decuir, *supra* note 79, at 11; *see generally Wilson*, 92 F. Supp. at 987.

92. *Wilson*, 92 F. Supp. at 987.

93. *Id.*

94. *See id.* at 986–87.

95. *See id.* at 987.

96. *See id.* at 988.

97. *Id.*

98. *See id.* at 986.

99. *See id. at* 987.

the three-judge court.[100] The court ordered the desegregation of LSU law school under the prevailing separate-but-equal standard of *Plessy v. Ferguson*.[101] He wrote, the "Law School of Southern University does not afford to plaintiff educational advantages equal or substantially equal to those that he would receive if admitted to the Department of Law of the Louisiana State University."[102] Based on a finding of irreparable harm and violations of Equal Protection under the Fourteenth Amendment, Judge Wright also separately issued an interlocutory injunction.[103]

This rare separate-but-equal ruling found that the facilities and faculty at Southern University in Baton Rouge were not equal to those of LSU law school.[104] Judge Wright found that LSU's physical plant was valued at approximately $35 million, while Southern's physical plant was valued at just $2.5 million.[105] The record also showed two other inequalities between the two schools: (1) the annual operating budget of LSU law school was approximately $2 million, whereas the entire amount appropriated to establish the Southern law school was only $40,000,[106] and (2) the law library at LSU had 70,000 law books, while the Southern law library had only 12,300 law books.[107] LSU's attorneys countered those differences by contending that even though Southern did not have a separate building for its law school, Southern's facility was air-conditioned, while LSU's law building was not.[108] In a piece honoring Judge Wright's work, attorney Michael S. Bernick highlighted the groundbreaking aspect of Judge Wright's ruling: "The decision seems mild by today's standards, but it had little precedent at the time: in most similar cases courts had refused to recognize constitutional violations as long as there was any [B]lack facility, however unequal."[109] On November 1, 1950, Wilson became the first Black student admitted to LSU law school.[110] In a desperate effort to circumvent Judge Wright's order, LSU started an in-

100. *Id. at* 986.
101. Sinegal-Decuir, *supra* note 79, at 11.
102. *See Wilson*, 92 F. Supp. at 988.
103. *See id.* at 988–89.
104. *See id.*
105. *Id.* at 988.
106. Sinegal-Decuir, *supra* note 79, at 11.
107. *Id.*
108. *Id.*
109. Bernick, *supra* note 2, at 985.
110. Sinegal-Decuir, *supra* note 79, at 11.

vestigation of Wilson's character while the *Wilson* case was on appeal.[111] The investigation disclosed that Wilson had received psychiatric care while serving in the military during the Korean War, which led to his discharge from the U.S. Army.[112] On January 2, 1951, the Supreme Court affirmed Judge Wright's decision without comment.[113] As a result of the school's investigation, and in anticipation of a rejection due to the investigation, Wilson withdrew from law school on January 17, 1951.[114]

Though Wilson did not ultimately benefit from his victory in the Supreme Court, the decision nevertheless paved the path to desegregation at LSU. In the fall of 1951, three new Black students were admitted to LSU law school.[115] The first Black graduate of LSU law school was Dutch Morial, who later became the first Black mayor of New Orleans.[116]

In a later interview, Helen Wright recalled that the LSU law school case did not "create such [a] furor" as compared with the later LSU undergraduate case, which "created a real racket."[117] The LSU law school case was the first of many desegregation cases for Judge Wright.[118] Judge Wright would later remark: "Until that time, I was just another Southern boy,"[119] but his LSU law school decision was his "cross[ing of] the Rubicon."[120]

2. JUDGES WRIGHT AND CHRISTENBERRY DESEGREGATE LSU'S GRADUATE SCHOOL AND MEDICAL SCHOOL

Building on their victory in *Wilson*, Marshall and Tureaud filed separate suits to desegregate LSU's graduate school[121] and medical school.[122] The LSU graduate school case was assigned to

111. *Id.*
112. Stephenson, *supra* note 80, at 221.
113. Bd. of Supervisors of La. State Univ. v. Wilson, 340 U.S. 909 (1951) (per curiam).
114. Stephenson, *supra* note 80, at 221.
115. Sinegal-Decuir, *supra* note 79, at 12.
116. *Id.*
117. Helen Patton Wright Interview, *supra* note 18, at 63.
118. *See* Bernick, *supra* note 2, at 985.
119. KIM LACY ROGERS, RIGHTEOUS LIVES: NARRATIVES OF THE NEW ORLEANS CIVIL RIGHTS MOVEMENT 34 (1993) (citing Interview with Jack Bass (Jan. 15, 1979)).
120. *Pressure and Hate Familiar to Wright, supra* note 31.
121. *Payne*, No. 894.
122. Foister v. Bd. of Supervisors of La. State Univ., No. 937 (E.D. La. Feb. 26, 1952).

Judge Christenberry,[123] and the LSU medical school case was assigned to Judge Wright.[124] On June 12, 1951, Judge Christenberry, acting without a three-judge district court, ordered the desegregation of the Louisiana State University graduate school in *Payne v. Board of Supervisors*.[125] At the outset of the hearing, Judge Christenberry denied the Board's request for a three-judge panel, stating that the issue in the suit "does not involve a substantial constitutional question. It involves a question concisely and clearly decided by the highest court in the land."[126] LSU's president testified under questioning by Tureaud that Black students "are denied admission solely on account of their race" and that there was "no written rule or policy on the question."[127] The president said that other races were not excluded and that "Chinese, Filipino, and South and Central American students are admitted."[128] Under direct examination by Tureaud, Payne testified that he held "a bachelor of science degree from Southern University . . . served three years in the [U.S.] Army," eighteen months of which were overseas, and was the "chief meteorologist with a chemical warfare unit."[129] Under cross examination by LSU's attorney, Payne stated that he was a member of the American Legion, the NAACP, and the Baptist church.[130] LSU did not appeal the decision.

On February 26, 1952, Judge Wright, also acting without a three-judge district court, ordered the desegregation of the Louisi-

123. *Payne*, No. 894.

124. *Foister*, No. 937.

125. *Payne*, slip op. at 1–2; *see also Graduate School Loses Negro Suit: LSU Ordered to Admit Payne for Study*, TIMES-PICAYUNE (New Orleans), June 13, 1951, at 18 [hereinafter *Graduate School Loses Suit*].

126. *Graduate School Loses Suit*, *supra* note 125. Judge Christenberry was referring to the U.S. Supreme Court decision in *Missouri ex rel. Gaines*, which held that states must provide the same in-state legal education to Black students as it does to white students. *Missouri ex rel. Gaines*, 305 U.S. at 344–45. No Black in-state school had a graduate program. *See* George Morris, *Did LSU Really Start Integration in 1953? Curious Louisiana Investigates*, ADVOCATE (July 24, 2022), https://www.theadvocate.com/curious_louisiana/did-lsu-really-start-integration-in-1953-curious-louisiana-investigates/article_99a4b364-f8ae-11ec-a8f9-234c81307788.html.

127. *Graduate School Loses Suit*, *supra* note 125.

128. *Id.*

129. *Id.*

130. *Id.*

ana State University School of Medicine in *Foister v. Board of Supervisors*.[131] Judge Wright granted Foister a summary judgment and issued a permanent injunction against the Board of Supervisors, the president, and other school officials, writing that: "[T]hey are hereby permanently restrained and enjoined from refusing on account of race or color to admit the plaintiff, and any other Negro [sic] citizen of the [s]tate similarly qualified and situated, to the School of Medicine of Louisiana State University and Agricultural and Mechanical College."[132]

Both of these cases were unreported. They created little turmoil, probably because it was clear that—without a Black graduate school or medical school in Louisiana—there were no grounds to mount an opposition.

3. JUDGE WRIGHT DESEGREGATES LSU'S UNDERGRADUATE SCHOOL

On September 11, 1953, Judge Wright, acting without a three-judge district court, ordered the desegregation of LSU's undergraduate school in *Tureaud v. Board of Supervisors*.[133] Judge Wright held that the undergraduate program offered by Southern University was not substantially equal to the undergraduate program offered by LSU.[134] The plaintiff, A.P. Tureaud Jr., was the son of A.P. Tureaud Sr., the attorney for the plaintiffs in the *Wilson* and *Bush* cases.[135] Judge Wright found that the denial of Tureaud Jr.'s admission to the Junior Division of LSU to pursue the combined bachelor's and juris doctor degree program "solely because of his race and color denied a right guaranteed to plaintiff by the Fourteenth Amendment, and that such denial would inflict irreparable injury upon the plaintiff."[136]

On September 18, 1953, just seven days after Judge Wright's decision, Tureaud Jr. became the first Black person to enroll at

131. *Foister*, No. 937.

132. *Id.*

133. *Tureaud*, 116 F. Supp. at 251.

134. *Id.*

135. Perla Rodriguez, *University's Unfair Treatment of A.P. Tureaud Jr. Revisited After LSU Alumna Sends 66-year-old Letter to the Editor*, REVEILLE (Mar. 10, 2021), https://www.lsureveille.com/news/university-s-unfair-treatment-of-a-p-tureaud-jr-revisted-after-lsu-alumna-sends-66/article_9f23f05a-d1a8-11e9-b015-47b767122bfb.html.

136. *Tureaud*, 116 F. Supp. at 251.

LSU as an undergraduate student.[137] Then, on October 28, thirty-five days after Judge Wright's decision, a split panel of the U.S. Fifth Circuit vacated Judge Wright's decision, holding that the case involved an attack on the constitutionality of state law, and, therefore, fell within the jurisdiction of a three-judge district court—even though there was no mention of unconstitutionality of any state statute in Judge Wright's decision.[138] In dissent, Judge Richard Rives of Alabama, who would later sit on the three-judge district court of the *Bush* case,[139] stated that he viewed the case as one raising a factual question not requiring a three-judge district court.[140]

Nineteen days later, on November 16, 1953, the U.S. Supreme Court stayed the Fifth Circuit's decision pending the court's review of the case on the merits—the effect of which was to temporarily reinstate Judge Wright's order.[141] But it was too late for A.P. Tureaud Jr. After just fifty-five days in school, he withdrew due to continuous harassment and abuse.[142] In a later interview, Tureaud Jr. recalled, "The professors wouldn't recognize me; if I raised my hand, they wouldn't call on me. If I sat at one place in the room, students would move their chairs as far away from me as they could."[143] He was also tormented at his dorm room, where there were frequent loud radios, banging on the walls at night, and roadkill dropped at his door.[144] LSU revoked Tureaud Jr.'s registration and refunded his fees.[145]

On May 24, 1954, just one week after *Brown v. Board of Education* (*Brown I*)[146] was released, the Supreme Court vacated the Fifth Circuit's order and remanded the case for consideration in

137. *See* Morris, *supra* note 126.

138. Bd. of Supervisors of La. State Univ. v. Tureaud, 207 F.2d 807, 810 (5th Cir. 1953), *vacated per curiam*, 347 U.S. 971 (1954). Chief Judge Joseph C. Hutcheson Jr. of Texas who had blocked Judge Wright's nomination to the Fifth Circuit in 1949 and Robert Lee Russell, brother of Georgia segregationist Senator Richard Russel Jr., were in the majority. *See supra* note 1.

139. *See, e.g.*, *Bush*, 138 F. Supp. 336; Bush v. Orleans Par. Sch. Bd., 190 F. Supp. 861 (E.D. La. 1960) (per curiam), *aff'd per curiam*, 365 U.S. 569 (1961).

140. *Tureaud*, 207 F.2d at 810, 813 (5th Cir. 1953) (Rives, J., dissenting).

141. Tureaud v. Bd. of Supervisors of La. State Univ., 346 U.S. 881 (1953).

142. *See* Rodriguez, *supra* note 135.

143. *Id.*

144. *Id.*; *see also supra* note 1.

145. Morris, *supra* note 126.

146. *Brown I*, 347 U.S. 483.

light of the ruling in *Brown I* "and conditions that now prevail."[147] On March 30, 1955, Judge Wright reinstated his September 11, 1953, preliminary injunction.[148]

Despite the Supreme Court's landmark decision in *Brown I*, LSU's Board of Supervisors continued to fight the desegregation of its undergraduate school in the district court, the court of appeals, and the Supreme Court through 1958 when its appeals ran out.[149] However, it wasn't until May 12, 1964, that LSU admitted its first Black undergraduate student.[150] That student, Fairfax Bell, was enrolled in the 1964 LSU summer session in the same degree program Tureaud Jr. had been pursuing eleven years earlier in 1953.[151]

B. *BUSH V. ORLEANS PARISH SCHOOL BOARD*: THE FIGHT EXTENDS TO ORLEANS PARISH GRADE SCHOOLS

The New Orleans school case, *Bush v. Orleans Parish School Board*, was filed on September 4, 1952.[152] A.P. Tureaud and Thurgood Marshall filed the *Bush* case in federal district court in New Orleans on behalf of several Black parents.[153] The complaint alleged that, although the school board was authorized by Article XII § 1 of the Louisiana Constitution of 1921 to maintain separate schools for white and Black children, this practice violated federal law.[154] Accordingly, the plaintiffs sought a declaratory judgment and permanent injunction declaring the laws establishing segregated schools unconstitutional and void for violating the Equal Protection Clause of the United States Constitution.[155]

147. Tureaud v. Bd. of Supervisors of La. State Univ., 347 U.S. 971, 972 (1954) (per curiam).

148. *See* Bd. of Supervisors of La. State Univ., v. Tureaud, 228 F.2d 895, 895 (5th Cir. 1956) (per curiam).

149. *See* Bd. of Supervisors of La. State Univ., v. Tureaud, 225 F.2d 434 (5th Cir.), *set aside on reh'g per curiam*, 226 F.2d 714 (5th Cir. 1955), *vacated per curiam*, 228 F.2d 895 (5th Cir. 1956); Ludley v. Bd. of Supervisors of L.S.U., 150 F. Supp. 900 (E.D. La. 1957), *aff'd*, 252 F.2d 372 (5th Cir. 1958).

150. *See* Morris, *supra* note 126.

151. *Id.*

152. Bush v. Orleans Par. Sch. Bd., 308 F.2d 491, 492–93 (5th Cir. 1962).

153. DAVISON M. DOUGLAS, *BUSH V. ORLEANS PARISH SCHOOL BOARD* AND THE DESEGREGATION OF NEW ORLEANS SCHOOLS 2 (Bruce Ragsdale ed., 2005), https://www.fjc.gov/history/cases/famous-federal-trials/bush-v-orleans-parish-school-board-desegregation-new-orleans; *Bush*, 308 F.2d at 492–93.

154. Orleans Par. Sch. Bd. v. Bush, 242 F.2d 156, 158 (5th Cir. 1957).

155. *Id.*

This contentious desegregation case was assigned to Judge Wright.[156] For him, it would become a decade-long struggle to have the law as declared by the U.S. Supreme Court in *Brown I* enforced on the public schools in New Orleans. At the time, it was simply referred to as the "New Orleans School Crisis,"[157] but because of the magnitude of the struggle, it came to be called the "Second Battle of New Orleans."[158] Before it was over, Judge Wright would become the most known and the most hated man in Louisiana, his birthplace and home.[159]

With no precedent and little Supreme Court guidance,[160] Judge Wright's charge was formidable and a first for a federal court: to implement the amorphous mandate of *Brown I—with all deliberate speed*—in the Deep South community he called home.[161] It was also the first time a federal judge was required to draft a desegregation plan to be implemented by a school board.[162] After the *Brown I* decision, the *Bush* case was by far the principal desegregation case pending in Louisiana. All the attention of the state legislature and Governor would be directed at fighting the *Bush* case, and, consequently, at fighting Judge Wright.[163]

Of the many notable cases he decided over his thirty-nine-year judicial career, *Bush* would become Judge Wright's defining case.

156. *See Bush*, 308 F.2d 491.

157. *E.g.*, LA. STATE ADVISORY COMM. TO THE U.S. COMM'N ON C.R., THE NEW ORLEANS SCHOOL CRISIS v (1961) [hereinafter NEW ORLEANS SCHOOL CRISIS], https://www.law.umaryland.edu/marshall/usccr/documents/cr12sch6.pdf.

158. *See, e.g.*, Wisdom, *supra* note 19, at 307 ("This was indeed the Second Battle of New Orleans. The battle was much longer than the one that took place on January 8, 1815. It began in 1952 and is not over yet. It is more like a war than a battle."); *see also* Editorial, *The Battle of New Orleans,* N.Y. TIMES, Nov. 15, 1960, at 38 [hereinafter The Battle of New Orleans]; Clarence A. Laws, *Second Battle of New Orleans,* CRISIS, Jan. 1961, at 15, 15 ("The current school crisis in Louisiana is frequently referred to by representatives of the press as 'The Battle of New Orleans.' If anything, it should be called the 'Second Battle of New Orleans.' "); MORTON INGER, POLITICS AND REALITY IN AN AMERICAN CITY: THE NEW ORLEANS SCHOOL CRISIS OF 1960 (1969); BAKER, *supra* note 35; Brown, *supra* note 30, at 1040 ("The climactic, exhausting Second Battle of New Orleans was joined when Judge wright ordered the admission of a few [B]lack children to the first grade, with integration to extend one grade a year.").

159. DOUGLAS, *supra* note 153, at 38; *see also Pressure and Hate Familiar to Wright, supra* note 31.

160. Carl Tobias, *Public School Desegregation in Virginia During the Post-Brown Decade*, 37 WM. & MARY L. REV. 1261, 1268 (1996).

161. *See generally* Friedman, *supra* note 9, at 2211–12.

162. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 5–6, 59.

163. *See generally* Brown, *supra* note 30, at 1053–54.

Indeed, the 1961 Report of the Louisiana State Advisory Committee to the United States Commission on Civil Rights stated, "The school crisis in New Orleans was one of the most significant events of 1960, not only for the United States but for the entire world. Race relations is the most momentous domestic problem in our country."[164]

C. THE LANDMARK *BROWN* CASE

At the time the *Bush* case was filed, *Brown v. Board of Education* and its companion cases were making their way through the federal court system.[165] The parties in *Bush* agreed to a stay pending the Supreme Court's resolution of *Brown*.[166] On May 17, 1954, the Supreme Court decided *Brown I*, declaring government-enforced public-school segregation unconstitutional and overruling the separate-but-equal doctrine which had been in effect since *Plessy v. Ferguson* was decided in 1896.[167] Then, on May 31, 1955, the Supreme Court issued its second decision in *Brown II,* holding that school desegregation must proceed "with all deliberate speed," but giving vague guidance on implementation and timing.[168] Lower courts were left to decide how to implement *Brown II*.

1. LOUISIANA MOVES FAST TO STOP *BROWN*

After *Brown I*, Louisiana moved quickly to enact new laws in an attempt to block desegregation of its schools.[169] The Louisiana legislature would continuously pass legislation over the next eight years in feeble attempts to stop the inevitable.[170] Within days of the *Brown I* decision, "the Louisiana legislature passed a resolution condemning the Supreme Court's 'usurpation of power.' "[171] In its first set of laws in defiance of *Brown I*, the Louisiana legislature passed an amendment to the Louisiana Constitution that mandated the segregation of public schools as an exercise

164. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 1.

165. *Bush*, 242 F.2d at 158 n.3.

166. *Id.* at 158; DOUGLAS, *supra* note 153, at 2.

167. *Brown I*, 347 U.S. at 494–95; Plessy v. Ferguson, 163 U.S. 537, 550–51 (1896), *overruled by Brown I*, 347 U.S. 483 (1954).

168. *Brown II*, 349 U.S. at 301.

169. *See* DOUGLAS, *supra* note 153, at 3.

170. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80.

171. DOUGLAS, *supra* note 153, at 3; *see generally* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80.

of police power.[172] The populace supported the legislature's fight against *Brown* by voting for this amendment in November, 1954.[173]

The legislature also passed laws declaring that all Louisiana schools were to be operated on a racially segregated basis.[174] The first statute, Act 555 of 1954, implemented the constitutional amendment by providing "that all public elementary and secondary schools in the State of Louisiana shall be operated separately for white and colored [sic] children,"[175] and that funds for accreditation of integrated schools shall be revoked.[176] The second statute, Act 556 of 1954, empowered each parish school superintendent to determine which school a student could attend.[177]

2. THE FIGHT BEGINS IN NEW ORLEANS: *BUSH* REACTIVATED

On February 15, 1956, Judge Wright reactivated the *Bush* case.[178] He empaneled a three-judge district court composed of himself, Fifth Circuit Judge Wayne Borah, and District Judge Christenberry, all of whom were Louisiana natives.[179] The three-judge district court ruled that, in light of the *Brown* decisions, no serious constitutional question was presented and withdrew from the case.[180] The case was sent back to Judge Wright alone to consider the remaining legal questions and an injunction request from the plaintiffs.[181] On the same day, Judge Wright, in a separate decision, overruled the defenses of the school board and granted a temporary injunction.[182] He said complete compliance was not expected to be achieved overnight or in a year.[183] Rather, he ordered the school board officials to end segregation "after such time as may be necessary to make arrangements for admission of

172. LA. CONST. of 1921, art. XII, § 1 (1954), *invalidated per curiam by Bush*, 138 F. Supp. 336. *aff'd*, 242 F.2d 156 (5th Cir. 1957); *Bush*, 242 F.2d at 159; DOUGLAS, *supra* note 153, at 3.

173. DOUGLAS, *supra* note 153, at 3.

174. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80.

175. Act No. 555, 1954 La. Acts 1034.

176. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80.

177. *See id.*

178. *Bush*, 138 F. Supp. 336.

179. *Id.*

180. *Id.* at 337.

181. *See id.*; DOUGLAS, *supra* note 153, at 3; Friedman, *supra* note 9, at 2216–18.

182. *Bush*, 138 F. Supp. 337.

183. *Id.* at 341.

children . . . on a racially nondiscriminatory basis with all deliberate speed."[184]

Anticipating retribution, Judge Wright timed his order to be filed on Ash Wednesday, a day in local culture when most residents would be preoccupied with recovery from Mardi Gras and the beginning of Lent.[185] Judge Wright hoped that this timing would improve the chances of public acceptance of his order.[186]

Judge Wright's order closed with these oft-quoted words, which he first scribbled on the back of a Mardi Gras ball invitation as he sat on the edge of the bed on the Sunday morning before he issued the opinion:[187]

> The problems attendant desegregation in the deep South are considerably more serious than generally appreciated in some sections of our country. The problem of changing a people's mores, particularly those with an emotional overlay, is not to be taken lightly. It is a problem which will require the utmost patience, understanding, generosity and forbearance from all of us, of whatever race. But the magnitude of the problem may not nullify the principle. And that principle is that we are, all of us, freeborn Americans, with a right to make our way, unfettered by sanctions imposed by man because of the work of God.[188]

Judge Wright identified the "problem" as "changing a people's mores."[189] He included himself in his admonition, calling for "the

184. *Id.* at 342 ("It Is Ordered, Adjudged and Decreed that the defendant, Orleans Parish School Board, a corporation, and its agents, its servants, its employees, their successors in office, and those in concert with them who shall receive notice of this order, be and they are hereby restrained and enjoined from requiring and permitting segregation of the races in any school under their supervision, from and after such time as may be necessary to make arrangements for admission of children to such schools on a racially nondiscriminatory basis with all deliberate speed as required by the decision of the Supreme Court in *Brown v. Board of Education of Topeka*.").

185. *See supra* note 1.

186. BAKER, *supra* note 35, at 260.

187. Helen Patton Wright Interview, *supra* note 18, at 76–77 ("[H]e picked this thing up and he sat. He scribbled it all out and I never knew what ever happened to that original writing. . . . It was very eloquent and he had hoped that perhaps it would elicit some support, particularly from the religious community, some understanding, of where he really was coming from.").

188. *Bush*, 138 F. Supp. at 341–42.

189. *Id.* at 342. Mores: plural noun (1) "the fixed morally binding customs of a particular group," (2) "moral attitudes," (3) "habits, manners." *Mores*, MERRIAM-

utmost patience, understanding, generosity and forbearance from all of us" in dealing with the "problem."[190] In his book *Fifty-Eight Lonely Men*, J.W. Peltason called Judge Wright's closing line "perhaps the most cogent and brief argument against segregation penned in the entire controversy."[191] Judge Wright later explained his purpose: "There were a lot of people in this town that professed to be religious people, but they were racists, so the last paragraph of that desegregation opinion was aimed at them."[192] Judge Wright's desegregation order was the first judge-ordered desegregation in the states of the Old Confederacy.[193] One news reporter observed:

> Waking up with a giant headache after Mardi Gras, "The City that Care Forgot" started cleaning up the debris left by the Lord of Misrule and his merry disporters, went solemnly to Lenten services, and read the early afternoon headline: "COURT ORDERS DESEGREGATION OF NEW ORLEANS SCHOOLS." Six inches of rain fell that day.[194]

The editorial in the *Times-Picayune* the next morning doubted that white and Black children could ever attend the same schools: "If the court in saying that Orleans must establish an unsegregated school system meant that the school board mix white and Negro [sic] children . . . the Court was crediting the school board with super-human powers."[195]

In the years ahead, editorials of the *Times-Picayune* encouraged the school board lawyers and the legislature to exhaust all legal options to block desegregation.[196] Throughout the school crisis, the *Times-Picayune* and the *States-Item*, the local afternoon

WEBSTER, https://www.merriam-webster.com/dictionary/mores (last visited Oct. 23, 2023).

190. *Bush*, 138 F. Supp. at 342.

191. PELTASON, *supra* note 30, at 126.

192. John Pope, *Hysteria: Case Dismissed*, TIMES-PICAYUNE (New Orleans), Mar. 22, 1981, at 4.

193. DOUGLAS, *supra* note 153, at 3.

194. Wisdom, *supra* note 19, at 307 (citing Dalcher, *A Time of Worry in "The City that Care Forgot,"* REPORTER, Mar. 18, 1956, at 17).

195. Editorial, *New Desegregation Order*, TIMES-PICAYUNE (New Orleans), Feb. 17, 1956, at 12.

196. Editorial, *Time of Crisis in Public Education*, TIMES-PICAYUNE (New Orleans), Aug. 25, 1960, at 1 [hereinafter *Time of Crisis in Public Education*].

paper, continually published editorials supporting the fight against desegregation of the public schools.[197]

New Orleans Mayor Chep Morrison kept quiet and did nothing about the "problem" because he wanted to run for governor and needed the segregationists' vote.[198] The city's business leaders "believed in segregation [and] were likewise silent."[199] Local television station WDSU was the lone voice expressing support for desegregation.[200] In the months before desegregation began in 1960, WDSU's broadcast editorial observed:

> It seems as if most community leaders are trying to look the other way. Few people want to talk about it. Newspapers play it down . . . . It seems to us that New Orleans is drifting in an atmosphere of unreality toward a catastrophe, which if it occurs, could seriously hurt the city.[201]

Judge Wright had virtually no public support.[202] Except for the participation of other federal judges on three-judge district courts and appellate courts, Judge Wright upheld his judicial charge to carry out the law alone.[203]

The president of the school board declared that "the [b]oard 'would use every legal and honorable means of maintaining segregation within our schools.' "[204] Judge Wright's order was appealed to the U.S. Court of Appeals for the Fifth Circuit; the Fifth Circuit

197. *See, e.g.*, *id.*; Editorial, *Dreadful Day Comes at Last*, TIMES-PICAYUNE (New Orleans), Nov. 15, 1960, at 12 [hereinafter *Dreadful Day Comes at Last*]; Editorial, *Course of the Legislature*, TIMES-PICAYUNE (New Orleans), Dec. 3, 1960, at 12 [hereinafter *Course of the Legislature*]; Editorial, *Mask of the Bigot*, TIMES-PICAYUNE (New Orleans), Dec. 14, 1960, at 12; Editorial, *This is Not a Time for Recriminations*, TIMES-PICAYUNE (New Orleans), Aug. 8, 1961, at 8; Editorial, *A Call for Reason*, TIMES-PICAYUNE (New Orleans), Sept. 3, 1961, at 1; Editorial, *The Responsibility of Gov. Davis*, NEW ORLEANS STATES-ITEM, Nov. 8, 1960, at 8 [hereinafter *The Responsibility of Gov. Davis*].

198. ROBERT L. CRAIN & MORTON INGER, SCHOOL DESEGREGATION IN NEW ORLEANS 28 (1966), https://www.norc.org/content/dam/norc-org/pdfs/NORCRpt_110B.pdf.

199. *Id.*

200. *See id.* at 17, 28.

201. *Id.* at 17 (alteration in original).

202. *See generally id.* at 16–18.

203. *See generally id.*

204. Friedman, *supra* note 9, at 2219 (first quoting *Board Will Act on Court Ruling*, TIMES-PICAYUNE (New Orleans), Feb. 17, 1956, at 36); and then citing *School Board Fights Decree on Integration*, NEW ORLEANS STATES-ITEM, Feb. 16, 1965, at 1).

affirmed the order in March 1957.[205] On June 17, 1957, the U.S. Supreme Court denied certiorari.[206]

Back in the district court, the school board moved to vacate Judge Wright's February 15, 1956, preliminary injunction, contending that the plaintiffs had not posted the $1,000 bond as ordered by Judge Wright.[207] The plaintiffs immediately posted the bond, and on June 26, 1957, Judge Wright denied the motion to vacate.[208] The school board again appealed to the U.S. Court of Appeals for the Fifth Circuit, which again affirmed Judge Wright's decision on February 13, 1958.[209] A month later, the Fifth Circuit denied the school board's motion for rehearing, and the U.S. Supreme Court denied certiorari on May 26, 1958.[210] The school board's appeals delayed implementation of Judge Wright's order for two years and three months. The appeals were the only effective school-board tactic that delayed desegregation for any substantial amount of time. However, the state government assisted the school board in the fight against desegregation:[211] "Between 1954 and 1961, the Governor and the [l]egislature of Louisiana employed every conceivable means short of armed insurrection to prevent the New Orleans School Board from complying with federal court desegregation orders."[212] While the appeals were pending, the legislature was actively passing laws that further delayed implementation.[213]

3. THE LOUISIANA LEGISLATURE DEPLOYS DELAY TACTICS

Between 1954 and 1962, the legislature would continually pass new legislative packages designed to thwart desegregation—many were very imaginative, and others merely repetitive.[214] All

205. *See Bush*, 242 F.2d at 164 ("Whatever may have been thought heretofore as to the reasonableness of classifying public school pupils by race for the purpose of requiring attendance at separate schools, it is now perfectly clear that such classification is no longer permissible, whether such classification is sought to be made from sentiment, tradition, caprice, or in exercise of the State's police power.").

206. Orleans Par. Sch. Bd. v. Bush, 354 U.S. 921 (1957).

207. Orleans Par. Sch. Bd. v. Bush, 252 F.2d 253, 254–55 (5th Cir. 1958).

208. *Id.* at 255.

209. *See id.* at 253.

210. Orleans Par. Sch. Bd. v. Bush, 356 U.S. 969 (1958).

211. *See* DOUGLAS, *supra* note 153, at 4.

212. Spivack, *supra* note 3, at 161.

213. *See* DOUGLAS, *supra* note 153, at 4.

214. *See id.* at 4–5.

told, during that time, the state legislature passed some sixty statutes and resolutions and two constitutional amendments in an attempt to block school desegregation.[215] Most of the legislation—some forty-five legislative acts and resolutions—was passed during the 1960 Regular Session and the First, Second, and Third extraordinary Sessions.[216] Indeed, there would be five successive extraordinary sessions in late 1960 and early 1961. Certainly, 1960 was the most active legislative year of the twentieth century.[217] Never before or since has the Louisiana legislature been so reactive to a single matter.[218]

As the date for desegregation approached, Judge Wright and the three-judge court met regularly to hear the challenges to this legislation, after which there were appeals to the Fifth Circuit and the U.S. Supreme Court.[219] During the summer and fall of 1960, the legislature remained in almost continuous session to block the desegregation of the public schools.[220] The focus was clearly on the *Bush* case in New Orleans, the lead desegregation case in Louisiana.[221] These legislative efforts and the court proceedings and appeals arising therefrom were the primary causes of delay in the implementation of Judge Wright's February 15, 1956 order.[222]

After the *Brown I* decision in 1954, the legislature passed eight statutes and two constitutional amendments in support of racially segregated schools.[223] In the summer of 1956, the legislature quickly responded to Judge Wright's order with a second set of laws.[224] "[W]ithout a dissenting vote in either the Senate or House," the legislature passed thirteen acts to separate the races in schools, parks and playgrounds, athletic events, restrooms, eating and drinking facilities, and waiting rooms for passengers in intrastate commerce.[225] Of these acts, three dealt with schools: Acts

215. *See supra* note 1; *see generally* DOUGLAS, *supra* note 153.

216. *See generally* DOUGLAS, *supra* note 153.

217. *See supra* note 1.

218. Hurricane Katrina—the biggest natural disaster to hit Louisiana—only had one Extraordinary Session. *See Other Sessions*, LA. STATE LEGISLATURE, https://legis.la.gov/Legis/SessionInfo/SessionInfo.aspx (last visited Oct. 23, 2023).

219. *See* DOUGLAS, *supra* note 153, at 6.

220. *See id.* at 5–7.

221. *See generally id.* at 4–5.

222. *See generally id.* at vii.

223. *See generally id.* at 22.

224. *See id.* at 4.

225. *Ludley*, 150 F. Supp. at 902.

15, 249, and 319.[226] Act 15 required moral certificates from a school principal to enter college,[227] and Act 249 required removal of any school employee who promoted integration.[228] "In November 1956, [Louisiana] voters . . . approved a state constitutional amendment that [prohibited] lawsuits against school boards."[229] Writing for a three-judge district court in April 1957, Judge Wright ruled these statutes unconstitutional in a separate case, *Ludley v. Board of Supervisors*.[230]

Act 319 deprived the parish school boards of the ability to change racial classifications of schools and mandated that white teachers shall teach only white students, and Black teachers shall teach only Black students.[231] The Orleans Parish School Board waited until April 1958 to file a motion to dismiss under Act 319, claiming it was not the proper party defendant because, under the statute, it no longer controlled the racial classification of the public schools.[232] On July 1, 1958, Judge Wright held that this statute was unconstitutional on its face and denied the motion to dismiss.[233] In a tersely written three-paragraph opinion he stated:

> It would serve no useful purpose to labor this matter. The Supreme Court has ruled that compulsory segregation by law is discriminatory and violative of the equal protection clause of the Fourteenth Amendment. *Brown v. Board of Education of Topeka,* 349 U.S. 294, 75 S. Ct. 753, 99 L. Ed. 1083. Any legal artifice, however cleverly contrived, which would circumvent this ruling, and others predicated on it, is unconstitutional on its face. Such an artifice is the statute in suit.[234]

Judge Wright then entered another permanent injunction against the school board with the same terms of his February 15, 1956 injunction.[235] The U.S. Fifth Circuit denied the school board's appeal

226. *See id.*; Act No. 319, 1956 La. Acts 654.
227. *Ludley*, 150 F. Supp. at 901–02.
228. *Id.* at 902.
229. DOUGLAS, *supra* note 153, at 4.
230. *Ludley*, 150 F. Supp. at 903–04.
231. Orleans Par. Sch. Bd. v. Bush, 268 F.2d 78, 79 (5th Cir. 1959) (per curiam).
232. *Id.*
233. Bush v. Orleans Par. Sch. Bd., 163 F. Supp. 701, 702 (E.D. La. 1958).
234. *Id.*
235. *Bush*, 268 F.2d at 80.

on June 9, 1959.[236] The defendant's futile action resulted in the loss of another year and two months in the battle to desegregate.

In the summer of 1958, "[T]he legislature enacted yet a third [set] of anti-desegregation laws [that] empowered the [G]overnor to close any 'racially mixed public school or schools under court order to racially mix its student body.' "[237] Other statutes provided that no child could be compelled to attend any integrated school and that tuition grants were offered for attendance at private schools if a parish school system operated "no racially separate public school."[238]

D. MANAGING HIS DOCKET THROUGH TURBULENT TIMES

During all of this, Judge Wright still had to manage his regular docket of civil and criminal cases. He did not have a law clerk until 1958,[239] and his support staff consisted of only a secretary and a messenger.[240] In a later interview, his wife Helen remembered:

> He did not have any law clerks for the first nine years he was on the bench. The Chief Judge of the Circuit, Judge Hutcheson, did not approve of law clerks. He didn't think judges needed law clerks . . . . Skelly had a messenger and a secretary, and everything he wrote, he researched, cited, I guess you call it, and wrote for the first [nine] years . . . . His very first law clerk was Peter Powers, who is now up here in Washington, and then he had a second law clerk, Jack Martzell, and then Frank Weller—then Louie Claiborne, those four.[241]

Also, during this time, only two district judges handled all the cases in the Eastern District of Louisiana, which consisted of two divisions: New Orleans and Baton Rouge. Judges Christenberry and Wright were at the forefront of the development of pre-trial

236. *Id.* at 78.

237. DOUGLAS, *supra* note 153, at 4 (quoting Act No. 256, 1958 La. Acts 831); *see also Bush*, 190 F. Supp. at 861 n.1.

238. DOUGLAS, *supra* note 153, at 4.

239. *See* Helen Patton Wright Interview, *supra* note 18, at 61–62.

240. *See id.* at 62.

241. *See id.* at 61–62.

procedure. During this exceptionally busy time, they led the nation in judicial efficiency—they handled and closed more cases per judge than any other district in the United States.[242]

> In 1958, the Judicial Conference of the United States complimented Judges Wright and Christenberry of the Eastern District of Louisiana for leading the nation in the number of cases handled per judge; together they handled an average of 641 cases per year, while the national average was only 232 cases. Similarly in 1959, a report of the Senate Appropriations Committee praised Wright for leading the nation in cases handled during 1958, and singled out his use of pretrial procedures to facilitate settlements without trial.[243]

Judge Wright was very efficient at trying cases.[244] He made sure that court started on time and, as one of his law clerks observed, "[W]ould move [fifteen] to [twenty cases] in an hour and a half, while some judges would be there 'til noon with the same load."[245] He also moved his docket by setting three cases for trial every day.[246] He expected all counsel to be prepared to proceed to trial at the appointed hour.[247] He would interrupt counsel when they belabored a point and tell them to move on or get to the point.[248] "Knowledgeable lawyers who wanted their cases tried promptly, not put on the back-burner in hope of eventual settlement, considered Judge Wright an outstanding trial judge."[249] Regarding his work habits, Helen Wright observed:

> He was very expeditious in his working habits. He never had an extra piece of paper on his desk . . . . He decided things quickly and once and for all. He didn't seem to agonize. He left on time and he seldom brought work home with him, sometimes but not often. He put out the work and got on with the next thing.[250]

242. *See* Wisdom, *supra* note 19, at 305; PAUL J. COTTER, FIELD STUDY OF THE OPERATIONS OF UNITED STATES COURTS 65–66 (1959).

243. Bernick, *supra* note 2, at 979–80.

244. *See id.* at 998.

245. John Pope, *Civil Rights Judge Returns to Warm N.O. Welcome*, TIMES-PICAYUNE (New Orleans), Mar. 22, 1981, at 1.

246. Bernick, *supra* note 2, at 981.

247. *See id.* at 980–81.

248. *Id.* at 980.

249. Wisdom, *supra* note 19, at 305.

250. *See* Helen Patton Wright Interview, *supra* note 18, at 109.

Every August, Judge Wright would sit on cases pending in the Southern District of New York and other districts around the country to help ease the dockets there.[251] In addition to his service on the district court, Judge Wright taught a course on Federal Courts at Loyola University New Orleans College of Law, his alma mater, between 1952 and 1962.[252]

No discussion about Judge Wright's tenure on the Eastern District of Louisiana would be complete without a discussion of his maritime docket and contributions to maritime law. The 1950s were a time of revolutionary expansion of the oil and gas exploration into the Gulf of Mexico. This, along with the bustling Port of New Orleans's oceangoing vessel and river barge traffic, provided for a docket full of maritime cases, including personal injury, cargo, and collision suits.[253] Thus, Judge Wright tried many jury- and bench-trial maritime cases,[254] producing almost 100 reported maritime decisions, many of which were written decisions after bench trials.[255]

Judge Wright served as the trial judge for the landmark Jones Act personal injury case of *Offshore Co. v. Robison*,[256] one of the most important maritime cases in the Fifth Circuit. Maritime defense counsel had become used to obtaining directed verdicts on seaman status in Jones Act personal injury cases involving a new type of oilfield drilling vessel, the jackup rig.[257] Against the objections of defense counsel, Judge Wright allowed the question of seamen status of a roustabout on a jackup rig to go to the jury.[258]

251. Bernick, *supra* note 2, at 981.

252. *See* Maria Isabel Medina et al., *Making History – Loyola University New Orleans College of Law Welcomes Dean María Pabón López*, 58 LOY. L. REV. 1, 14 (2012).

253. *See supra* note 1.

254. In many instances, Judge Wright helped develop the General Maritime Law as a result of the many varied cases he decided. *See, e.g.*, Boudoin v. Lykes Bros. S.S. Co., 112 F. Supp. 177 (E.D. La. 1953), *rev'd*, 211 F.2d 618 (5th Cir. 1954), *rev'd*, 348 U.S. 336 (1955). In a judge trial, Judge Wright held the warranty of seaworthiness covered injuries to seamen caused by fellow crew members who have "dangerous propensities" as well as by a vessel's defective equipment. *Id.* at 179. The Fifth Circuit reversed his decision, but the Supreme Court reinstated it. Boudoin v. Lykes Bros. S.S. Co., 348 U.S. 336 (1955).

255. *See supra* note 1.

256. Offshore Co. v. Robison, 266 F.2d 769 (5th Cir. 1959).

257. *See id.* at 773.

258. *See id.*

Judge Wright's study of Jones Act status cases led him to this decision to give the status question to the jury.

> In 1958 [a] careful study of the results of the Supreme Court's cases led Judge Wright to the realization that the Court's intermittent statements seeming to make navigational duties a requisite to seaman status were "misleading." Judge Wright also pointed out that the Court's occasional suggestion that it was necessary for a plaintiff seeking seaman status to show that he worked on a vessel "in navigation" was no more than superfluous "loose language." A year later Judge Wisdom elaborated on Judge Wright's theme in his celebrated opinion in *Offshore Co. v. Robison*.[259]

This led to Judge Wisdom's momentous Fifth Circuit decision on appeal in *Offshore Co. v. Robison*, which established the test for when there is an evidentiary basis for a Jones Act case to go to the jury.[260] Judge Wisdom later remarked:

> [T]he advent of offshore drilling gave Skelly the opportunity to be innovative in protecting amphibious workers. He was an expert on Jones Act cases and on admiralty. In *Offshore Co. v. Robison*, for example, he allowed the jury to decide whether a roughneck on a floating drilling rig having retractable legs was a "seaman" on a "vessel." My name is usually associated with that case, but it was Skelly who led the way in the trial court by recognizing that the question was one for the jury.[261]

The *Robison* decision opened up the potential application of the Jones Act to the growing number of workers who were employed overwater in the emerging offshore oil and gas exploration industry.

Judge Wright has also been recognized as the first maritime judge to state that the real test for Jones Act status is whether the "claimant is more or less permanently employed aboard the vessel

259. David W. Robertson, *Judge Rubin's Maritime Tort Decisions*, 52 LA. L. REV. 1527, 1529–30 (1992) (citing Perez v. Marine Transp. Lines, Inc., 160 F. Supp. 853, 855 (E.D. La. 1958) (Wright, J.)). "The Supreme Court's [1991] decision in *McDermott* confirmed Judge Wright's [1958] insight [in *Perez*] by holding that navigational duties are not required for seaman status and explicitly stating that the Court's earlier expressions to the contrary were 'befuddling' language that 'the time has come to jettison.' " *Id.* at 1530 n.23 (citing McDermott Int'l, Inc. v. Wilander, 111 S. Ct. 907, 816 (1991)).

260. *See Robison*, 266 F.2d at 779.

261. Wisdom, *supra* note 19, at 305.

in a capacity which contributes to the accomplishment of her mission."[262] The Supreme Court's 1991 enunciation of the test for seaman status, declared in *McDermott International, Inc. v. Wilander*, had previously been "denominated as the 'real test' by Judge Skelly Wright"[263] in 1958—thirty-three years prior to *McDermott International*.[264]

Judge Wright enjoyed his maritime cases. They provided him a respite from his contentious civil rights docket, which he handled along with his maritime and other civil cases. Nevertheless, the desegregation battle continued, and Judge Wright's work was far from finished.

E. JUDGE WRIGHT SETS A DESEGREGATION PLAN DEADLINE

For the three years after Judge Wright's February 15, 1956 order, the school board only fought the order on appeal and had taken no steps toward implementing the order.[265] On July 15, 1959, the Fifth Circuit denied the school board's final appeal of Judge Wright's 1956 injunction.[266] On that same day, Judge Wright imposed a March 1, 1960 deadline (later extended to May 16, 1960) on the school board to provide the court with a desegregation plan to implement his order.[267] A week before the deadline, the school board filed a motion seeking to have Judge Wright vacate his order.[268] Then, at the hearing on the May 16 deadline, the school board filed another pleading stating that it could not file a desegregation plan because of state legislative restrictions on its authority.[269] Judge Wright denied the motion to vacate and, from the bench, stated with restraint:

> I will tell you now publicly what I have already told you in chambers. I am not going to hold any member of the school board in contempt if they do not present a plan by May 16, but

262. *Perez*, 160 F. Supp. at 855.

263. Eileen R. Madrid, *Seaman Status: The Supreme Court Recharts Its Course: Wilander and Gizoni*, 51 LA. L. REV. 1179 n.127 (1991) (quoting *Perez*, 160 F. Supp. at 855).

264. *Perez*, 160 F. Supp. 853.

265. *E.g.*, *Bush*, 268 F.2d 78.

266. *Id.*

267. Spivack, *supra* note 3, at 178. May 16, 1960, was one day short of the sixth anniversary of *Brown I*. *See Brown I*, 347 U.S. 483.

268. Behlar, *supra* note 62, at 78.

269. DOUGLAS, *supra* note 153, at 4.

> if they do not present a plan, I will come up with one. There will be a plan.[270]

Hours after the hearing Judge Wright entered his own plan.[271] His plan was simple and began with integration of the first grade in September 1960:[272]

> It is ordered that beginning with the opening of school in September 1960, all public schools in the city of New Orleans shall be desegregated in accordance with the following plan:
>
> A. All children entering the first grade may attend either the formerly all-white public school nearest their homes, or formerly all-Negro [sic] public school nearest their homes, at their option.
>
> B. Children may be transferred from one school to another provided such transfers are not based on consideration of race.[273]

This was the first time a federal judge would draft and implement a court-initiated plan.[274] It was also the first time a judge within the U.S. Fifth Circuit would enforce the *Brown* "decision by requiring a local school system to desegregate as of a date certain."[275] In a subsequent decision later that year, Judge Wright admitted that his plan was "a modest one involving initially only the first grade."[276] Years later, he recalled that "I didn't want to put anybody in jail because that would just make martyrs of them, so I just drew up my own plan."[277] For its part, the school board appealed Judge Wright's order to the Fifth Circuit and passed a

270. Behlar, *supra* note 62, at 78–79 (citing TIMES-PICAYUNE, May 17, 1960, at 3).

271. *Id.* at 79 (citing TIMES-PICAYUNE, May 17, 1960, at 3).

272. *Pressure and Hate Familiar to Wright, supra* note 31 ("It was remarkably simple: that beginning with the first grade, the child had to be sent to the school nearest to his home, irrespective of race.").

273. Bernick, *supra* note 2, at 988 n.78 (quoting *U.S. Court Orders New Orleans Pupil Integration in Fall*, N.Y. TIMES, May 19, 1960, at 19).

274. CRAIN & INGER, *supra* note 198, at 36 n.4; Ruth Bader Ginsburg, *Four Louisiana Giants in the Law*, 61 LOY. L. REV. 1, 8 (2015).

275. Friedman, *supra* note 9, at 2220. (2004).

276. *Bush*, 190 F. Supp. at 865.

277. *Pressure and Hate Familiar to Wright, supra* note 31.

motion calling on the Governor to "invoke the doctrine of interposition" to provoke a resolution before the schools opened in September.[278]

On June 2, 1960, a panel of the Fifth Circuit denied the school board's request for a stay of Judge Wright's May 16, 1960 desegregation order.[279] On July 10, 1960, Justice Hugo Black also refused to stay implementation of Judge Wright's May 16 order.[280] The full Supreme Court concurred that Fall.[281]

III. SHIFTING BATTLE LINES: THE LEGISLATURE ESCALATES ITS STATUTORY ASSAULT

During its Regular Session and First Extraordinary Session in the summer of 1960, the legislature continued its assault on Judge Wright's order.[282] At the opening of the Regular Session, the Governor "vowed that the 'New Orleans schools would remain segregated.' "[283] What was once a fight in the federal district and appellate courts involving the plaintiff, Benjamin Bush, and the school board had become a different battle entirely. Over several years, the legislature's initial tack was to enact "measures to deprive the Board of the power to comply" with Judge Wright's orders.[284] Because of these measures, the school board offered no plan of desegregation, resulting in Judge Wright devising a plan of his own.[285]

The school board was then paralyzed between Judge Wright's orders and the acts of the legislature to neutralize the school board's power.[286] After Judge Wright established the September 1960 start of the school year as the date for the school board to

278. Behlar, *supra* note 62, at 80 (first citing TIMES-PICAYUNE (New Orleans), June 15, 1960, at 1; then citing TIMES-PICAYUNE (New Orleans), June 16, 1960, at 2; then citing TIMES-PICAYUNE (New Orleans), June 21, 1960, at 1; and then citing TIMES-PICAYUNE (New Orleans), June 23, I960, at 21).

279. *See* DOUGLAS, *supra* note 153, at 18.

280. *Id.*

281. *Id.* at 19.

282. *See id.* at 5.

283. Spivack, *supra* note 3, at 178 (citing N.Y. TIMES, July 6, 1960, at 19).

284. *Bush*, 190 F. Supp. at 865.

285. *Id.*

286. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 6.

implement his plan, "a new line of attack was initiated" by the legislature, making "Orleans Parish and [the] School Board . . . the prime target."[287]

Following Judge Wright's May 16, 1960 order, the school board announced its plan to admit five Black girls to the first grade of two formerly all-white schools.[288] In doing so, the school board "brought on itself the official wrath of Louisiana."[289] Through the rest of 1960 and into 1961, the legislature would exist in almost "continuous session" and would take "every conceivable step to subvert the announced intention of the local School Board and defy" Judge Wright's orders.[290] Among the numerous acts passed were laws abolishing the Orleans Parish School Board, transferring the administration of the New Orleans schools to the legislature, and removing several members of the school board from office.[291] The three-judge court declared all these acts unconstitutional.[292] In one of his many *Bush* opinions, Judge Wright, writing for the three-judge court, declared that these efforts by the legislature were "part of the general scheme to deny the constitutional rights" of the *Bush* plaintiffs, adding, "But, more than that, there was in this legislation a deliberate defiance of the orders of this court issued in protection of those rights. If for no other reason, the measures were void as illegal attempts to thwart the valid orders of a federal Court."[293]

With September's integration deadline approaching and the school board's apparent attempt to follow Judge Wright's order, the battle lines shifted to a fight between the federal courts and the State of Louisiana: "Now the battle lines were drawn between the judicial power of the United States (represented by the District Court for the Eastern District of Louisiana and the Court of Appeals for the Fifth Circuit) and the [S]tate of Louisiana (represented by its Governor, [l]egislature, and other state officials)."[294]

287. *Bush*, 190 F. Supp. at 865.
288. *Id.*
289. *Id.*
290. *Id.*
291. *Id.*
292. *Id.*
293. *Id.*
294. Spivack, *supra* note 3, at 181.

A. THE LEGISLATURE RENEWS ITS ATTACK ON DESEGREGATION

Jimmie Davis was elected Governor in April 1960 on a strong segregation platform in a campaign filled with racially-charged rhetoric.[295] The New Orleans School Crisis and Judge Wright's May 16, 1960 deadline for a desegregation plan were at the center of the Governor's campaign.[296] At the outset of the legislature's regular session in July, Governor Davis "vowed that the 'New Orleans schools would remain segregated.' "[297] The legislature accommodated, passing its fourth and fifth sets of laws designed to block desegregation[298] by giving the Governor authority to take personal control of any school district ordered to desegregate.[299] The same statute restated the legislature's sole power to reclassify schools for use by another race.[300] The legislature also created a "sovereignty commission" to examine legal measures, including invoking "interposition," to protect the sovereignty of Louisiana.[301] Under "[t]he doctrine of interposition . . . a state [claimed] the authority to block or 'nullify' an action of the federal government if the state concluded that the federal government ([or] a federal judge) had acted" unconstitutionally.[302] Many of these laws were merely re-enactments of earlier statutes that had already been declared unconstitutional or were subject "to serious question as a result of court decision[s]."[303] In this regard, Judge Wright wrote for the three-judge district court:

> With singular persistence, at every session since 1954, its [l]egislature has continued to enact, and re-enact, measures directly intended to deny colored [sic] citizens the enjoyment of their constitutional right, the most recent and the most flagrant being the interposition declaration of the First Extraordinary Session of 1960 which purports to nullify the right itself.[304]

295. DOUGLAS, *supra* note 153, at 33.

296. *See id.* at 5.

297. Spivack, *supra* note 3, at 181 (quoting N.Y. TIMES, July 6, 1960, at 19).

298. *Bush*, 190 F. Supp. at 863 n.1.

299. *See* Act No. 496, 1960 La. Acts 948. It was also required that any suits challenging this Act or any section of it had to be brought against the State of Louisiana. Act No. 496, 1960 La. Acts 950. This was a feeble attempt to block the federal court jurisdiction over desegregation.

300. Act No. 496, 1960 La. Acts 949; DOUGLAS, *supra* note 153, at 5.

301. Act No. 15, 1960 La. Acts 25–26; DOUGLAS, *supra* note 153, at 5.

302. DOUGLAS, *supra* note 153, at 5.

303. Spivack, *supra* note 3, at 181; *see generally Bush*, 190 F. Supp. at 863 n.1.

304. *Bush*, 190 F. Supp. at 864.

On July 29, 1960, the attorney general filed suit in state court in New Orleans seeking an injunction to prevent the school board from complying with Judge Wright's order.[305] As a result, on August 16, 1960, Judge Wright granted the *Bush* plaintiffs' motion to add Governor Davis and Louisiana's attorney general as defendants in order to challenge the various state statutes.[306] He also set the plaintiffs' motion to block these statutes for hearing on August 26, 1960.[307] On August 17, 1960, the Governor announced "his intention to take control of the Orleans Parish schools" under the authority of the new state laws.[308] The Governor would try this stunt six times.[309]

The day before the hearing, the *Times-Picayune* published a front-page editorial that praised the delay tactics of the Governor, school board, and legislature but lamented that those efforts would not be successful.[310]

> State and local officials, with skill and determination, have been fighting a legal battle to save segregation . . . . Legal efforts still are being made to avoid integration of the New Orleans public schools. We approve heartily the right to exhaust every legal avenue, for this, too, is a right given by the Constitution. We regret that we do not expect these legal efforts to be successful for long.[311]

On August 26, 1960, Judge Wright convened another three-judge panel—comprised of Chief Judge Richard Rives of the Fifth Circuit, Judge Christenberry, and himself—to consider the constitutionality of several of the previously unadjudicated laws that were passed from 1956 through 1960.[312] These included laws that gave the legislature the exclusive right to reclassify the racial composition of public schools;[313] the Governor the power to take over any school under court order to desegregate and to operate that

305. Behlar, *supra* note 62, at 80; *see also supra* note 1.

306. Bush v. Orleans Par. Sch. Bd., 187 F. Supp. 42, 43–44 (E.D. La. 1960) (per curiam), aff'd per curiam, 365 U.S. 569 (1961).

307. *Id.* at 43.

308. DOUGLAS, *supra* note 153, at 5; *see also* Behlar, *supra* note 62, at 80.

309. *See supra* note 1.

310. *Time of Crisis in Public Education*, *supra* note 196.

311. *Time of Crisis in Public Education*, *supra* note 196.

312. *See Angry Gremillion, Staff Storm from U.S. Court School Hearing: Judges Take Cases Under Advisement,* NEW ORLEANS STATES-ITEM, Aug. 26, 1960, at 1 [hereinafter *Angry Gremillion*].

313. Act No. 496, 1960 La. Acts 949; *Bush*, 187 F. Supp. at 44.

school on a racially segregated basis;[314] the Governor the right to close any school ordered to integrate;[315] the Governor the right to close all the schools in the state if one was integrated;[316] and the Governor the right to close any school threatened with violence or disorder.[317] Three statutes passed in 1954, 1956, and 1960 were duplicative in that they all required segregation of the races in public schools and withheld all state funds from integrated schools.[318] Indeed, many of the statutes passed throughout the school crisis were repetitive and merely restatements of laws previously declared unconstitutional.

During the hearing, Attorney General Jack Gremillion was held in contempt over sharp exchanges with the court about the Governor ducking service and failing to appear at the hearing.[319] About his attempt to avoid personal service, Governor Davis stated that "[i]f they can do everything they are trying to do, this [s]tate no longer has its sovereignty . . . . We will no longer have a United States of America—it will be something else."[320] However, Judge Rives ruled that Governor Davis had been properly served through state employees.[321] Judge Rives said Governor Davis's personal appearance was not necessary and denied Gremillion the right to speak on behalf of the Governor.[322] Gremillion shouted at the judges, "[y]ou are running over us roughshod . . . . If anything is causing confusion it is the procedure here in this court," and then stormed out, calling the court a "kangaroo court."[323]

The Governor failed in his attempt to deter Judge Wright's panel from enforcing integration. The three-judge court knocked

314. Act No. 496, 1960 La. Acts 949–50; *Bush*, 187 F. Supp. at 44.

315. Act No. 256, 1958 La. Acts 831–32; *Bush*, 187 F. Supp. at 45.

316. Act No. 495, 1960 La. Acts 946; *Bush*, 187 F. Supp. at 45.

317. Act No. 542, 1960 La. Acts 1004; *Bush*, 187 F. Supp. at 45.

318. *See* Act No. 555, 1954 La. Acts 1035 ("All public elementary and secondary schools in the State of Louisiana shall be operated separately for white and colored [sic] children."); Act No. 319, 1956 La. Acts 654 ("[T]o provide for the exclusive use of school facilities therein by white and Negro [sic] children respectively . . . ."); Act No. 333, 1960 La. Acts 679 ("To prohibit the furnishing of free school books, school supplies, or other school funds or assistance to integrated schools . . . ."); *Bush*, 187 F. Supp. at 45.

319. *See* DOUGLAS, *supra* note 153, at 34.

320. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 9.

321. *Angry Gremillion*, *supra* note 312.

322. *Id.*

323. *Id.*; Behlar, *supra* note 62, at 81.

down all of these state laws as unconstitutional.[324] On August 31, 1960, Judge Wright issued the necessary injunctive order to enforce the decision of the three judges.[325] His order enjoined the Governor and other state and local officials from enforcing these new laws.[326] The order further enjoined Attorney General Gremillion and state civil district court Judge Oliver Carriere from enforcing Carriere's order enjoining the school board from complying with Judge Wright's desegregation orders.[327] Finally, Judge Wright ordered that the school board "comply with the order of this Court, sitting with one judge, dated May 16, 1960 . . . requiring desegregation beginning with the first grade."[328] On September 1, 1960, the Supreme Court acted swiftly in denying the school board's hastily filed motion to vacate the court's injunction.[329]

B. JUDGE WRIGHT IS FORCED TO EXTEND THE DESEGREGATION DEADLINE

In his May 16, 1960 order, Judge Wright set the opening of school in September 1960 as the date to begin the actual desegregation of the public schools in New Orleans.[330] However, on August 29, 1960, Judge Wright met in chambers with the attorneys for the parties in the *Bush* case.[331] Four moderates on the school board assured Judge Wright that, although they had not submitted their own desegregation plan, they would comply with his order.[332] The school board asked for a one-year extension to implement the court's school desegregation order, which was strenuously objected to by the attorneys for the *Bush* plaintiffs.[333] Judge Wright acknowledged that the school board had been hampered from complying with his order by the acts of the Governor and the injunction issued by the state judge.[334] He stated that "he was impressed with

324. *See Bush*, 187 F. Supp. at 44, 45.

325. Spivack, *supra* note 3, at 186 n. 76; *see Bush*, 187 F. Supp. at 45–46.

326. *See Bush*, 187 F. Supp. at 45–46.

327. *Id.* at 46.

328. *Id.* at 45.

329. *See* Bush v. Orleans Par. Sch. Bd., 364 U.S. 803 (1960); NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 10.

330. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 6.

331. *See* CRAIN & INGER, *supra* note 198, at 43.

332. Spivack, *supra* note 3, at 186 (citing INGER, *supra* note 158, at 32); CRAIN & INGER, *supra* note 198, at 43.

333. Behlar, *supra* note 62, at 82; *see also High Court Appeal on School Case—Davis: Rault Quits as Lawyer for Board*, NEW ORLEANS STATES-ITEM, Aug. 30, 1960, at 1 [hereinafter *High Court Appeal on School Case*].

334. *See* Behlar, *supra* note 62, at 82; Spivack, *supra* note 3, at 186.

the sincerity and good will of the school board,"[335] and, despite strenuous objections from the attorneys for the *Bush* plaintiffs, Judge Wright granted the school board an extension until November 14, 1960.[336] Judge Wright also accepted the school board's request to give the board greater authority over the placement of Black students who requested transfers to previously all-white schools.[337]

Thurgood Marshall and A.P. Tureaud telephoned Fifth Circuit Chief Judge Rives at his home in Montgomery, Alabama, to seek an order voiding the extension order; however, Judge Rives denied the request.[338] Marshall and Tureaud filed no formal appeal and thereby acquiesced to the delay.[339] Nevertheless, the delay gave the school board time to determine how many Black students wanted to be transferred and plan their course of action with Judge Wright.[340]

Judge Wright did not disclose the real reason for his grant of the nine-and-a-half-week delay to November 14, 1960—a date in the middle of the school year with no apparent significance to the lawyers present at the conference.[341] But behind the scenes, Judge Wright had been preparing for the implementation of his order. In late August, he had made an inquiry to local U.S. Attorney Hepburn Many about using U.S. Marshals or federal troops, if necessary, to enforce his order.[342] He knew that he needed the commitment of the Department of Justice (DOJ) to provide the necessary U.S. Marshals to enforce his order.[343] Mr. Many received "an irate telephone call" from Mississippi Senator James Eastland, chairman of the Senate Judiciary Committee, who inquired whether Many was requesting federal troops.[344] Mr. Many hung up after Eastland repeatedly "denounced Judge Wright as 'a no-good son of

335. Behlar, *supra* note 62, at 82.

336. Spivack, *supra* note 3, at 186; Behlar, *supra* note 62, at 82.

337. DOUGLAS, *supra* note 153, at 6; *see also High Court Appeal on School Case*, *supra* note 333.

338. Behlar, *supra* note 62, at 82–83.

339. *Id.* at 83.

340. *Id.* at 82.

341. JACK BASS, UNLIKELY HEROES: THE DRAMATIC STORY OF THE SOUTHERN JUDGES OF THE FIFTH CIRCUIT WHO TRANSLATED THE SUPREME COURT'S BROWN DECISION INTO A REVOLUTION FOR EQUALITY 132 (1981).

342. *See supra* note 1; BASS, *supra* note 341, at 132.

343. *Id.*

344. *Id.* at 133.

a bitch.' "[345] Mr. Many told Eastland "he would not listen to that kind of language about the judge before whom he practiced."[346]

Mr. Many conferred with DOJ officials in Washington about Judge Wright's inquiry.[347] However, the Eisenhower DOJ would not commit the U.S. Marshals to enforce Judge Wright's order because it felt that federal intervention would be too provocative, and it was concerned about the potential negative political impact of "another Little Rock" during the upcoming Kennedy-Nixon presidential election.[348] Without the support of U.S. Marshals, Judge Wright would have no way to enforce his orders.[349] Because of its concern of political fallout, the Eisenhower Administration wanted the orders delayed until after the November 8, 1960 presidential election.[350] As a result, Judge Wright had no choice but to grant the school board's request for a delay:

> I had no way of enforcing the order. I knew I wasn't going to get any help out of the police, state or city, so I had to work with Washington . . . to get this job done because I knew that I was going to be alone, totally and absolutely alone . . . . I was interested in getting this job done without killing any people.[351]

He ordered that school desegregation should begin on the first Monday after the election.[352] It was the only time that Judge Wright ruled against the *Bush* plaintiffs in the ten years he was on the case[353]—his hands were tied.

On September 8, the Orleans Parish public schools opened on a segregated basis under "relative calm" in the city.[354] The school

345. *Id.*

346. *Id.*

347. *See* Friedman, *supra* note 9, at 2223; BASS, *supra* note 341, at 133.

348. *See* BASS, *supra* note 341, at 132–34; Helen Patton Wright Interview, *supra* note 18, at 80.

349. *See* BASS, *supra* note 341, at 132,133 (citing Interview with Judge Wright on May 15, 1980).

350. Helen Patton Wright Interview, *supra* note 18, at 80.

351. BASS, supra note 341, at 133–34 (citing Interview with Judge Wright on May 15, 1980).

352. Friedman, *supra* note 9, at 2224.

353. *See supra* note 1.

354. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 11.

board finally began preparing for November 14, 1960.[355] In an attempt to evade the desegregation plan, "the Board announced a testing program for any first-grade child electing a school other than" the child's automatically assigned school.[356] This process required that Black students request and receive approval to transfer to previously all-white schools, thereby limiting the number of Black children allowed to transfer to those schools.[357] By October 10, there were 134 Black applicants who responded to the school board's bulletin and requested transfers to formerly all-white schools.[358] Under this testing program, only five Black first-grade children (one of whom would drop out before November 14) were allowed to transfer to attend first grade at previously all-white schools.[359] On October 27, the school board announced that five Black applicants had been accepted and would attend first grade at two white schools in classrooms segregated by sex.[360] The school board also selected two schools in the same low-income white neighborhood, William Frantz Primary School and McDonogh No. 19 School, as the formerly all-white schools to be desegregated.[361] The school board kept the identites of the two schools confidential until the Black children arrived on November 14;[362] this would limit the reach of any resulting turmoil to the same area of the city.[363]

C. LOUISIANA COUNTERATTACKS: THE GOVERNOR AND LEGISLATURE FIGHT BACK

The next day, the Governor, under pressure from segregationist leaders throughout the state, called the legislature into an extraordinary session beginning on November 4.[364] This would be the first of five successive extraordinary sessions of late 1960 and

355. *See id.* at 10–13.

356. *Bush*, 204 F. Supp. at 569; *see also* Spivack, *supra* note 3, at 187.

357. *See* Behlar, *supra* note 62, at 83.

358. *See Bush*, 204 F. Supp. at 570; Spivack, *supra* note 3, at 187.

359. *Bush*, 204 F. Supp. at 569; *see also* DOUGLAS, *supra* note 153, at 6.

360. CRAIN & INGER, *supra* note 198, at 53–54; Spivack, *supra* note 3, at 187. The separation by sex was an apparent attempt to appease local business leaders who had met privately with the school board president, demanding single-sex classrooms and segregated toilets. CRAIN & INGER, *supra* note 198, at 48.

361. Spivack, *supra* note 3, at 187; CRAIN & INGER, *supra* note 198, at 50.

362. CRAIN & INGER, *supra* note 198, at 54.

363. Spivack, *supra* note 3, at 187; CRAIN & INGER, *supra* note 198, at 50.

364. DOUGLAS, *supra* note 153, at 7; *see also* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 12.

early 1961 intended to deal with Judge Wright's desegregation orders.[365]

After just four days, the legislature enacted a seventh set of laws, twenty-nine in all, attempting to block and delay desegregation in New Orleans.[366] These included laws that made it a state crime with a mandatory jail term and fine for any federal judge or other federal officer to enforce any desegregation order; transferred the powers of the Orleans Parish School Board to the legislature; closed any school operated in violation of state law; revoked the teaching certificate of and denied salary to any teacher operating contrary to state law; and denied class credit to students in schools operating contrary to state law.[367] The centerpiece of the Governor's legislative package was an interposition resolution declaring *Brown* and Judge Wright's orders null and void.[368] Also, the legislature repealed seven laws previously declared unconstitutional and re-enacted five repealed laws.[369] One legislator boasted, "[W]hat we are doing is calling for a showdown between the federal government and the State of Louisiana to find out where we stand."[370] The Governor signed the twenty-nine bill package on the evening of November 8.[371] These acts of the legislature were a prelude to the decisive battle to come. Judge Wright had the three-judge district court ready to meet nightly during the

365. CRAIN & INGER, *supra* note 198, at 73; *see also* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80–83; *see Other Sessions*, *supra* note 218.

366. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80–81; Robert N. Kelso, *List of Events Leading up to School Mix Showdown,* NEW ORLEANS STATES-ITEM, Nov. 14, 1960, at 3.

367. DOUGLAS, *supra* note 153, at 6–7; NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 81.

368. Friedman, *supra* note 9, at 2222; *see also* Bush v. Orleans Par. Sch. Bd., 188 F. Supp. 916, 922, 926 (E.D. La. 1960), *aff'd per curiam,* 365 U.S. 569 (1961) ("Interposition is an amorphous concept based on the proposition that the United States is a compact of states, any one of which may interpose its sovereignty against the enforcement within its borders of any decision of the Supreme Court or act of Congress, irrespective of the fact that the constitutionality of the act has been established by decision of the Supreme Court . . . . The conclusion is clear that interposition is not a constitutional doctrine. If taken seriously, it is illegal defiance of constitutional authority.").

369. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 12.

370. Friedman, *supra* note 9, at 2222 (quoting James H. Gillis & Robert Wagner, *Interposition Bill Approved by House*, TIMES-PICAYUNE (New Orleans), Nov. 7, 1960, at 22).

371. *Id.*

1960 legislative special sessions in order to declare each newly penned law unconstitutional as soon as it had been passed.[372]

It is hard to imagine more contemptuous repudiations of federal authority than a state declaring a ruling of the U.S. Supreme Court void and threatening the arrest of any federal judge or U.S. Marshal for carrying out the commands of the Supreme Court. But concepts of federalism hardly deterred the Louisiana legislature in the fall of 1960—that task remained in Judge Wright's hands.

Judge Wright did have at least one supporter in the legislature. Newly elected New Orleans Representative Moon Landrieu stated that he could not "in good conscience" go along with the Governor's steamrolled legislation during the three-day First Extraordinary Session of 1960.[373] The thirty-year-old graduate of Loyola Law School "cast the lone vote opposing suspension of the rules" and was the only legislator to vote against all twenty-nine acts of the Governor's November 4, 1960 legislative package.[374] No white political leader dared recommend compliance with Judge Wright's orders to desegregate the schools.[375] White politicians said Landrieu "had dug his political grave, but he held onto his House seat in 1963."[376] In 1965 he won a city council seat with strong support from Black voters and was elected mayor of New Orleans in 1970.[377]

IV. THE DECISIVE BATTLE OF THE TEN-YEAR WAR

On Thursday, November 10, 1960, the decisive battle in the ten-year war on desegregation in New Orleans began in Baton Rouge. It would last for seven days and nights. The legislature fired the first salvo by appointing a committee to assume control of the Orleans Parish schools in order to block the desegregation planned for November 14.[378] On the afternoon of November 10,

372. *See supra* note 1, *see also* DOUGLAS, *supra* note 153, at 8.

373. Kevin McGill, *New Orleans Political Patriarch Moon Landrieu has Died,* AP NEWS (Sept. 5, 2022, 2:38 PM), https://apnews.com/article/louisiana-new-orleans-race-and-ethnicity-racial-injustice-obituaries-415f5b79a4bb66dc22ca3682d8396d7f.

374. BASS, *supra* note 341, at 135; CRAIN & INGER, *supra* note 198, at 60.

375. *See* LIGHT TOWNSEND CUMMINS ET. AL., LOUISIANA: A HISTORY 378 (Bennett H. Wall & John C. Rodrigue eds., 6th ed. 2013).

376. McGill, *supra* note 373.

377. *Id.*

378. DOUGLAS, *supra* note 153, at 7; NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14.

four members of the legislative committee, including the Governor's floor leader, went to New Orleans and physically took control of the school board's office with armed state police.[379] The committee ordered all school board employees, except the superintendent, to clear the building.[380] Three hours later, Judge Wright fired back by issuing a temporary restraining order (TRO), without a hearing, against the legislature's seizure of the Orleans Parish School Board.[381] He ordered that the elected school board be restored to power and enjoined the enforcement of the new state statutes.[382] He "also issued an order restraining state and local officials from arresting or initiating any criminal proceedings against federal officers for the performance of their duties."[383]

As with all other orders, Deputy U.S. Marshals traveled to Baton Rouge to serve the orders on the state officials.[384] At six o'clock that evening, the school board's counsel advised the board that, as a result of Judge Wright's order, the board had been placed back in power.[385] The board then "formally authorized the transfer of the five [Black] schoolgirls into all-white schools."[386]

That night, the Governor "announced that the [First Extraordinary Session of 1960] was not over; it had only recessed."[387] He called on the legislature to reconvene on Sunday and declared that a Second Extraordinary Session would follow the automatic termination of the First.[388] The *New Orleans States-Item* fully supported the legislature's continued efforts to preserve segregation, and declared that Governor Davis should be praised if his legislative plan proved successful, printing "[t]his newspaper supports his efforts in that direction, as in past sessions of the [l]egislature we have recommended enactment of the measures that were intended to preserve segregation."[389]

379. CRAIN & INGER, *supra* note 198, at 62–63.
380. *Id.*
381. *Id*. at 63; DOUGLAS, *supra* note 153, at 7.
382. DOUGLAS, *supra* note 153, at 7.
383. *Id.*
384. CRAIN & INGER, *supra* note 198, at 63.
385. *Id.*
386. *Id*.
387. *Id.*
388. *Id.*
389. *The Responsibility of Gov. Davis*, *supra* note 197.

As the November 14 integration deadline approached, a frenzy was building in the city. In the face of numerous threats, U.S. Marshals and city police were again detailed to Judge Wright's home and chambers.[390] Judge Wright would be escorted by U.S. Marshals everywhere he went.[391] On Friday, November 11, the *New Orleans States-Item* irresponsibly inflamed the situation by publishing a photograph of Judge Wright's home on its front page.[392]

Adding more fuel to the fire, on Saturday, November 12, State Education Superintendent Shelby Jackson declared a statewide school holiday on Monday, November 14.[393] State police were sworn in by the legislature to act as deputy sergeants-at-arms and dispatched to New Orleans to enforce the school closure.[394] Also on Saturday, November 12, U.S. Attorney General William Rogers "announced that the full powers of the Department of Justice would be used if necessary to support Judge Wright's desegregation order."[395] The DOJ had provided Judge Wright with 150 out-of-state U.S. Deputy Marshals to enforce his desegregation orders.[396] The stage was now set for a showdown between the federal and state governments.[397]

At ten o'clock a.m. on Sunday, November 13, Judge Wright issued restraining orders against the holiday declared by Superintendent Jackson.[398] Judge Wright also ordered Jackson to appear in his court on Sunday for a contempt hearing for violation of Judge Wright's August 27 injunction, which prohibited any state official from "interfering with the operation of the public schools for the Parish of Orleans by the Orleans Parish School Board pursuant to the orders of this Court."[399] At the hearing, when Judge Wright asked Jackson "if he intended to interfere with the operation of the

390. *See* Emile Comar, *School Board Target: Special Session Meets Sunday Addressing Out of Office Hint*, NEW ORLEANS STATES-ITEM, Nov. 11, 1960, at 1; *see also supra* note 1.

391. *See supra* note 1.

392. *See* Comar, *supra* note 390.

393. DOUGLAS, *supra* note 153, at 7.

394. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14.

395. DOUGLAS, *supra* note 153, at 7.

396. Friedman, *supra* note 9, at 2223.

397. *Id.* at 2223–24.

398. *See* CRAIN & INGER, *supra* note 198, at 63.

399. *Bush*, 187 F. Supp. 42; DOUGLAS, *supra* note 153, at 7; *Jackson Faces Contempt Action for Holiday Edict*, TIMES-PICAYUNE (New Orleans), Nov. 14, 1960, at 17.

New Orleans schools, Jackson answered 'No' in a quavering voice so low that Wright repeated the question and told him to speak up so that everyone in the courtroom could hear."[400]

Throughout this critical time, the legislature had the support of most white Louisianans,[401] who displayed their support with rallies, letter writing, and more.[402] For example, on Sunday, November 13, 1960, the mayor of Monroe sent a telegram to the legislative delegation from Monroe:

> The white citizens of Monroe and Ouachita Parish are supporting you and the [G]overnor one thousand percent. Let's battle the U.S. courts to the bitter end and learn once and for all whether the [S]tate of Louisiana, its legislature and its [G]overnor are going to run the affairs of our state or whether or not traitors like Skelly Wright and a Communist Supreme Court is going to take over, and run our state. We are supporting you all the way and ask that no stone be left unturned in this all important fight to preserve our traditional way of life. If we lose this fight then we have lost it all. Keep up the good work.[403]

Also on Sunday morning, the legislature was still in continuous session in its First Extraordinary Session of 1960.[404] The proceedings were broadcast on statewide television, which Judge Wright watched in his chambers while he took notes.[405] During these proceedings, the legislature passed its eighth packet of laws attempting to block Judge Wright's desegregation order.[406] The legislature fired the Orleans Parish school superintendent and school board attorney for refusing to identify the Black girls who would be attending the previously all-white schools, replaced the special committee that was to run the New Orleans schools with the entire legislature, reaffirmed the previously declared school holiday to take place on November 14, and swore in state police as sergeants-at-arms and dispatched them to New Orleans to block

400. BASS, supra note 341, at 135; *see also* JIM CARL, FREEDOM OF CHOICE: VOUCHERS IN AMERICAN EDUCATION 45 (Jon L. Wakelyn & Micheal J. Connolly, eds., 2011).

401. *See* DOUGLAS, *supra* note 153, at 51–53.

402. *See id.* at 53.

403. *Id.*

404. *See* CRAIN & INGER, *supra* note 198, at 63–64.

405. *See id.* at 64.

406. *See* DOUGLAS, *supra* note 153, at 7.

the opening of the schools the next morning.[407] The legislature thought that replacing the eight-man committee with the entire legislature would make it impossible for Judge Wright to issue restraining orders, because there was no legal precedent for enjoining an entire legislature.[408]

The legislature recessed at nine o'clock p.m.[409] The state police could not determine which schools were to be integrated, so state troopers were placed at all forty-eight elementary schools in New Orleans.[410] That night, the halls of federal district court in New Orleans were full of lawyers, reporters, and politicians; it was unlike any other Sunday night before or since.[411] They waited while Judge Wright was in chambers preparing his new order in response to the latest last-minute legislation.[412] They did not have to wait long.

> Forty-five minutes later, Judge Wright issued a new order against the entire 140-member state legislature, the [G]overnor and [L]ieutenant [G]overnor, and various other state and local officials, directing them to take no action "interfering with the operation of the public schools for the Parish of Orleans by the Orleans Parish School Board." Federal marshals prepared to escort the [B]lack children into the white schools the next morning.[413]

In all of his previous orders, Judge Wright had enjoined only the enforcement of the numerous statutes that had been passed by the legislature over the preceding six years.[414] This time, on the night before desegregation of the schools was to begin in New Orleans, he enjoined the Governor, each member of the legislature, and virtually every public official in every parish in Louisiana from taking any act that would interfere with his orders.[415] It was bold,

407. *Id.*; CRAIN & INGER, *supra* note 198, at 64; *see also* Emile Comar, *Marshals Escort Four Negro Girls into Two Schools as Crowds Jeer: No Violence as City Cops Keep Watch*, NEW ORLEANS STATES-ITEM, Nov. 14, 1960, at 1.

408. CRAIN & INGER, *supra* note 198, at 64.

409. DOUGLAS, *supra* note 153, at 7.

410. Comar, *supra* note 407.

411. *See supra* note 1.

412. *See id.*

413. DOUGLAS, *supra* note 153, at 7; *see also* Bill Billiter, *U.S. Judge Enjoins Legislature: No Interferences in Schools, Order*, THE TIMES-PICAYUNE (New Orleans), Nov. 14, 1960, at 1.

414. *See* discussion *supra* Section II.E, Part III.

415. Billiter, *supra* note 413.

unprecedented, and perhaps the most expansive injunction ever issued by a federal judge, but Judge Wright was determined that school desegregation would finally proceed in New Orleans the next morning.[416] One author later captured the gravity of Judge Wright's unprecedented action: "The legislature had done its best; Judge Wright had done more. For the first time a federal judge had addressed a restraining order to an entire legislature. But then never before, at least not since the Civil War, had any legislature ever so defied a federal judge."[417]

Judge Wright's new injunction impacted virtually every public official in Louisiana, including mayors, chiefs of police, sheriffs, district attorneys, and the heads of the state military and state police.[418] Immediately thereafter, U.S. Marshals fanned out across the state to serve the new order on the Governor, the attorney general, the speaker of the house, school board members, legislators, and other officials.[419] As with each of the previous services of process, the Governor and other state officials attempted to evade service, so the marshal dropped the orders on the floor in front of the secretary's desk, whereupon the secretary quickly covered them with a plastic sheet as if to pretend that there was not proper service.[420]

The school board was trapped again, this time between Judge Wright's order and the legislature's school closure order.[421] The board decided to keep the Orleans Parish public schools open and proceed with its planned desegregation the next morning.[422] The public schools in all other Louisiana parishes closed for the declared holiday.[423]

A. SCHOOL DESEGREGATION FINALLY BEGINS

On the morning of Monday, November 14, 1960, public school desegregation began in New Orleans.[424] At seven o'clock a.m., Judge Wright met a group of thirty U.S. Marshals in his chambers

416. *See id*.
417. PELTASON, *supra* note 30, at 231.
418. *See* Billiter*, supra* note 413; Kelso, *supra* note 366.
419. Billiter*, supra* note 413; *see* Pope, *supra* note 192; *see also supra* note 1.
420. Pope, *supra* note 192; *see also supra* note 1.
421. DOUGLAS, *supra* note 153, at 7.
422. *Id*.
423. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14.
424. *See* DOUGLAS, *supra* note 153, at 8.

to provide them with certified copies of his court order and instructions to enforce it.[425] In an interview eight years later, Judge Wright described that morning:

> At seven o'clock in the morning, I met the [U.S. Marshals] in my chambers and there were about thirty of them there. Then, the rest were being kept out of town so as not to create a problem; to be used only if needed, and these [marshals] were going to be used in the actual delivery of the children to the schools []. I told them exactly how to act; what to do. The state legislature had met all the prior night—and I mean all night—and was still meeting at nine in the morning; and they were sending guards down to be stationed. They were swearing in guards all night to be stationed in the various schools to keep the Negro [sic] children out. And the [marshals] had to be instructed as to what to do if opposed by a guard. So, when I did all of that, I gave them a copy of the order and we even got some glue, blue ribbon and I got a seal, and we impressed a blue ribbon and put the seal on the paper so it was made to look very official. I said to the [marshals], if the guards stop you, just show them this, and I hoped that might satisf[y] them[;] . . . the only thing I did tell them was if a guard pulled a gun then back up and come back and see me; do not go forward. Nobody pulled a gun.[426]

At ten o'clock a.m., Leona Tate, Tessie Prevost, Gail Etienne, and Ruby Bridges, escorted by U.S. Marshals, entered the first grade at formerly all-white elementary schools.[427] This was the first public disclosure of the schools that were chosen by the school board.[428] Other than the school board and New Orleans Police Superintendent Joseph Giarrusso, no state or local official knew the identity of the schools until this point.[429] Additionally, this was the first implemented school integration "below the college level in

425. Interview by Mary Gardner Jones with J. Skelly Wright, J. of the U.S. Ct. of Appeals for the D.C. Cir. 51 (Sept. 9, 1968) [hereinafter J. Skelly Wright Interview] (transcript available in the Ralph J. Bunche Collection, Moorland-Spingarn Research Center, Howard University).

426. *Id.*

427. DOUGLAS, *supra* note 153, at 8; *see also* Comar, *supra* note 407. Five girls had been accepted but one backed out at the last minute. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 11; DOUGLAS, *supra* note 153, at 8.

428. CRAIN & INGER, *supra* note 198, at 64.

429. *See id.*

the five resisting states of the Deep South, South Carolina, Georgia, Alabama, Mississippi, and Louisiana."[430]

Anticipating violence, "[m]ore than 100 law enforcement officers surrounded the two schools" to maintain order.[431] A crowd of hundreds, "mostly women and children[,] gathered to jeer the [B]lack children and to urge white parents and children to boycott the schools."[432] White women in front of the schools cursed at the few white parents who dared bring their children to school.[433] Judge Wright telephoned the mayor that morning to complain that the police chief was letting the crowd get too close to the schools, but the mayor took no action to ensure the safety of the schoolchildren.[434]

As word spread as to which schools would be integrated, white parents withdrew their children from the schools.[435] By Monday afternoon, 500 white students had been withdrawn from each school, leaving only the four young Black girls in attendance.[436] McDonogh No. 19 continued the rest of the year with thirty-two teachers and three of the Black girls.[437] Similarly, William Frantz had sixteen white children and one Black child, with a full complement of teachers.[438]

Meanwhile, in Baton Rouge, the legislature went back into extraordinary session that morning to respond to Judge Wright's overnight injunction and the morning's events.[439] Judge Wright's Sunday-night injunction outraged the Governor and the legislators, who were taken by surprise.[440] However, it did not deter their efforts to block desegregation. Lieutenant Governor C.C. Aycock

430. Spivack, *supra* note 3, at 192–93.

431. DOUGLAS, *supra* note 153, at 8.

432. *Id.*

433. J. Skelly Wright Interview, *supra* note 425, at 53.

434. *Id.* at 58.

435. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14; CRAIN & INGER, *supra* note 198, at 65.

436. J. Skelly Wright Interview, *supra* note 425, at 51–52.

437. *Id.* at 52; *see also* CRAIN & INGER, *supra* note 198, at 65.

438. J. Skelly Wright Interview, *supra* note 425, at 52; *see also* CRAIN & INGER, *supra* note 198, at 64–65.

439. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 58.

440. *See* CRAIN & INGER, *supra* note 198, at 64.

addressed the legislature, describing Judge Wright's actions as "the genesis of an era of judicial tyranny."[441] Adcock added that:

> The practical effect of Judge Wright's order is to serve notice upon the people of Louisiana that they are being governed not by their elected officials, not by the laws of Louisiana, and not by the Constitution of the United States, but instead by a self-styled and self-appointed one-man board of trustees which will decide what is proper and what is improper for the welfare of the three million people in the state.[442]

Other legislators reacted with equal fury. House Speaker Tom Jewell of Point Coupee Parish was equally defiant to Judge Wright's new injunctions, stating that "the federal court had no hand in sending me here, and I cannot concede to them the right to restrain my actions in this body."[443] Senator William Cleveland of Crowley said Judge Wright's injunctions were the "most serious thing that ever happened to any state in the union" and challenged Judge Wright to arrest him.[444] Representative John Garrett of Claiborne Parish called the day "another black Monday in the [S]tate of Louisiana and another black Monday in the United States of America."[445] Hoping to instigate a showdown between the federal government and the State of Louisiana, Garrett called for the arrest of Judge Wright before sundown.[446]

Yet again, the legislature voted to oust the Orleans Parish School Board from office.[447] Two state judges granted requests by state officials for TROs to prohibit the Orleans Parish School Board from taking any further action.[448] The U.S. Attorney removed the

441. *La. Senate Actions are Listed: Solons Start Day's Work Early Monday*, TIMES-PICAYUNE (New Orleans), Nov. 15, 1960, at 18 [hereinafter *La. Senate Actions*].

442. *Id.*

443. *Solons Fire Board Members: 4 in N.O. Addressed Out of Office*, TIMES-PICAYUNE (New Orleans), Nov. 15, 1960, at 22 [hereinafter *Solons Fire Board Members*]; *see also* James H. Gillis & Robert Wagner, *Solons Unseat Board Members*, TIMES-PICAYUNE (New Orleans), Nov. 15, 1960, at 1.

444. *La. Senate Actions*, *supra* note 441.

445. *Solons Fire Board Members*, *supra* note 443.

446. Gillis & Wagner, *supra* note 443.

447. DOUGLAS, *supra* note 153, at 8; *accord* J Gillis & Wagner, *supra* note 443; *Solons Fire Board Members*, *supra* note 443; *La. Senate Actions*, *supra* note 441.

448. *Legislature Enjoined 2nd Time in 24 Hours: Restrained from Ousting Board Members*, TIMES-PICAYUNE (New Orleans), Nov. 15, 1960, at 1.

cases to federal court, whereupon Judge Wright immediately vacated the state judge's orders.[449] Before Monday night ended, "Judge Wright issued an order nullifying the state court order and restraining state officials from taking any action to remove the elected school board."[450]

The Tuesday morning editorial of the *New York Times* covered Monday's events in New Orleans:

> The Battle of New Orleans
>
> When a little girl in a white dress with white ribbons in her hair walked into the William Frantz Primary School in New Orleans yesterday, it seemed that the United States of America had won another battle . . . . Four of them actually did go yesterday to two schools which had previously been segregated. They did this in spite of the Governor of Louisiana, the legislative majority of Louisiana, the Louisiana State Superintendent of Schools and a force of state police. They were able to do it because a courageous Federal [J]udge, J. Skelly Wright, prohibited the State of Louisiana from interfering with the integration of the New Orleans schools . . . . There was no serious disorder. If little girls in white dresses with white ribbons in their hair were a menace to the State of Louisiana or to American civilization as a whole, the fact was not yesterday apparent.
>
> New Orleans is one of the most relaxed and thoroughly charming cities in this country. It has an easygoing, tolerant tradition. It is, therefore, altogether fitting that in New Orleans the law of school desegregation should win its first, however slight, victory in the deepest South.[451]

The *Times-Picayune* had a completely different take on the day's events:

> Dreadful Day Comes at Last
>
> The day most New Orleanians had dreaded for six years came Monday . . . . We hold the opinion that integration of the schools will damage them but that this damage will not be as bad as would have been total destruction . . . . The Orleans [P]arish [S]chool [B]oard, the [G]overnor, the attorney-general

449. *Id.*

450. *Id.*

451. *The Battle of New Orleans*, *supra* note 158.

> and members of the [l]egislature have worked hard to avoid even token integration. We join more than a million fellow citizens in Louisiana in regretting that their efforts did not achieve complete success . . . . So far as we are concerned, we don't like school integration any better in 1960 than we did in 1954, when we urged a relentless legal fight against it; but it doesn't do any good to adopt an ostrich attitude and stick our heads in the sands.[452]

The legislature was not the only group to take action in defiance of Judge Wright's orders. Also, "[o]n Tuesday the 15th, roving packs of truant teenagers tried to break into the two integrated schools but were [blocked] by the police. Eleven arrests were made."[453]

452. *Dreadful Day Comes at Last*, *supra* note 197.

453. CRAIN & INGER, *supra* note 198, at 65.

B. GOVERNOR DAVIS CALLS FOR A SECOND EXTRAORDINARY SESSION OF 1960 TO FIGHT JUDGE WRIGHT'S ORDERS

The legislature's Second Extraordinary Session of 1960 began on November 15.[454] To thwart the service of federal court injunctions on the legislature, the session's first meeting was conducted "in strict secrecy."[455] The legislature passed a resolution praising the white parents who withdrew their children from the desegregated schools and urging them to sustain the boycott.[456] The legislature also targeted Judge Wright directly:

> Another resolution called for the disqualification of Judge Wright from further participation in the New Orleans school desegregation litigation on grounds that he "has a personal bias against the State of Louisiana, its [e]xecutive [d]epartment, its [l]egislature and its [j]udiciary . . . which has made it impossible for him to fairly and impartially discharge the duties of his office."[457]

Other Louisiana officials set their sights even higher. In an address to the state legislature, U.S. Senator Russell Long declared "that he 'would personally vote to impeach the entire [U.S.] Supreme Court.' "[458]

The legislature also passed another bill creating a new school board, the members of which were to be appointed by the Governor.[459] The legislature also declared all acts of the disbanded school board illegal and warned "all banks and businesses not to do business with, honor checks of, or make loans to the 'old' school board."[460] In addition, all funds of the disbanded school board were transferred to the legislature, and educational expense grants were provided for children attending nonprofit, nonsectarian, nonpublic schools.[461] Finally, the legislature fired the school superintendent and the board's lawyer for not disclosing the names of the Black students and the white schools to be integrated.[462] The atmosphere was so intense that there was a clear threat from floor

454. *Id.* at 69.
455. *Id.*
456. DOUGLAS, *supra* note 153, at 8.
457. *Id.* at 8–9.
458. *Id.* at 9.
459. *Id.* at 19.
460. CRAIN & INGER, *supra* note 198, at 69.
461. *Id.*
462. *Id.*

leaders that any "legislator who dared even to question these bills" would be charged with treason.[463] Finally, the "legislature called on other states to invoke the doctrine of interposition in a coordinated effort."[464]

On Tuesday evening, a crowd of five thousand people showed up for a Citizens Council of Greater New Orleans rally at the municipal auditorium to protest desegregation.[465] Demagogues from across the state exhorted the crowd to action. State Representative W.K. Brown of Grant Parish "called for the arrest of Judge Wright for 'causing disorder, chaos, strife[,] and turmoil in this state.' "[466] State Representative John S. Garrett of Claiborne Parish, chairman of the joint legislative committee on segregation, warned that "if the public permits the integration of four Negro [sic] girls today, there may be 5,000 next week."[467] Willie Rainach encouraged civil disobedience and a scorched earth policy;[468] he urged the crowd to "[b]ring the courts to their knees . . . [and] empty the classrooms where they are integrated."[469] In support of his position, Rainach argued, "A day lost can be made up; a week, a year lost is not fatal . . . . But once bloods are mixed, that is forever fatal."[470] Leander Perez called "for demonstrations against the NAACP, the Communists, the 'Zionist Jews,' Judge Wright, and 'the real culprit, malefactor and double-crosser[—]the weasel, snake-head mayor.' "[471] Some witnesses described the meeting as "a gathering straight out of Nazi Germany."[472] The speakers pressed for a protest march on the school board building, city hall, and Judge Wright's chambers.[473]

On Wednesday, in response to prodding by the Citizens Counsel, about one thousand people, mostly teenagers, crowded into

463. *Id.*

464. DOUGLAS, *supra* note 153, at 8.

465. *Id.*; *see also* CRAIN & INGER, *supra* note 198, at 65, 66.

466. DOUGLAS, *supra* note 153, at 8.

467. *Impeach Wright, Rally Urged*, NEW ORLEANS STATES-ITEM, Nov. 16, 1960, at 23.

468. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14; CRAIN & INGER, *supra* note 198, at 65.

469. CRAIN & INGER, *supra* note 198, at 65–66.

470. *Id.*

471. *Id.*

472. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14.

473. *Id.*

downtown streets and buildings.[474] The police directed fire hoses on the mob as it approached the school board building on Carondelet Street.[475] The mob then charged City Hall and the new public library on Loyola Avenue.[476] Continuing its spree, the mob ran through the business district, throwing bricks and bottles at Black people in buses and cars and chanting "Hang Skelly Wright, Hang Skelly Wright."[477] The mob of white New Orleanians wreaked havoc downtown.

> A crowd of teenagers and adults marched on the prescribed buildings, chanting: "Two, four, six, eight, we don't want to integrate." City police, under Superintendent Joseph Giarusso, attempted to control the mob by the use of mounted police and a few firehoses. No whites were injured, but several Negroes [sic] were hurt by flying glass as bus windows were shattered by vandals and two Negroes [sic] were severely beaten. The mob dispersed before it reached the heart of the business district.[478]

That night "Mayor Morrison went on television to call for an end to the violence . . . [and] told his audience that his administration was still offering passive resistance to the Supreme Court."[479] He emphasized that the New Orleans police department was not enforcing the federal court order, but was only trying to maintain law and order.[480] Later that night, Black teenagers roamed the streets seeking revenge for the stoning of Black citizens during the day.[481] Many white people were attacked by Black gangs and one white person was shot.[482] City police arrested more than 250 people that night.[483]

The war drums of resistance continued to beat throughout November and December 1960, and the personal attacks on Judge Wright continued in a macabre way. During the last week of November, one hundred white people marched into the Louisiana

474. DOUGLAS, *supra* note 153, at 8.
475. *Id.*
476. Friedman, *supra* note 9, at 2225.
477. DOUGLAS, *supra* note 153, at 8; Friedman, *supra* note 9, at 2230.
478. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14.
479. CRAIN & INGER, *supra* note 198, at 67.
480. *Id.*
481. *Id.*
482. *Id.*
483. *Id.*

State Capitol with a coffin containing a blackened effigy dressed in judicial robes and labeled "Smelly Wright."[484] Louisiana lawmakers gave the marchers a standing ovation.[485] In keeping with the charge that he was a traitor to his race, legislators referred to Judge Wright as "Judas Scalawag Wright" on the floor of the legislature.[486]

On November 18, the three-judge panel held hearings on the legislation passed during the First Extraordinary Session, and heard requests by the parents in the *Williams v. Davis* case to block further state interference with the public schools; by the school board to delay desegregation until the appeal to the U.S. Supreme Court was decided; and by the U.S. Attorney for an injunction blocking the penalty provisions of the Interposition Act.[487] On November 30, 1960, Judge Wright delivered the decision of the three-judge court.[488] Judge Wright's opinion carefully laid out the confusing, disjointed history of the labyrinth of laws passed by the legislature, dating as far back as 1954 and including twenty-five of the acts passed during the First Extraordinary Session of 1960.[489] The court denied the State's interposition claim and declared the acts at issue unconstitutional.[490] The court also "denied the school board's motion to vacate [Judge] Wright's desegregation order and issued an order restraining more than 700 state and local government officials from interfering with school desegregation in New Orleans."[491] On March 20, 1961, the U.S. Supreme Court affirmed, without comment, the decision of the three-judge court.[492] The

484. *Trail Blazers on the Bench: The South's U.S. Judges Lead a Civil Rights Offensive*, TIME, Dec 5, 1960, at 14, 14 [hereinafter *Trail Blazers on the Bench*] (stating that the marchers carried a coffin with a "blackened, singed effigy of a man they have little reason to love: J. (for James) Skelly Wright, the tough-minded U.S. District [J]udge who had ordered New Orleans schools to begin integration."); *see also Orleans Parents, Pupils Make School Protest*, THE TIMES-PICAYUNE (New Orleans), Nov. 24, 1960, at 1; Friedman, *supra* note 9, at 2230.

485. RUBY BRIDGES, THROUGH MY EYES 18 (1999) (citing *Parents Stage Demonstration: Carry Black Coffin, Flags into Capitol*, TIMES-PICAYUNE (New Orleans), Nov. 24, 1960, at 22).

486. *See supra* note 1; Friedman, *supra* note 9, at 2230.

487. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 14–15.

488. *See Bush*, 188 F. Supp. 916.

489. *See Bush*, 188 F. Supp. at 920 nn. 1–2.

490. *Id.* at 930.

491. DOUGLAS, *supra* note 153, at 9; *see also* CRAIN & INGER, *supra* note 198, at 72.

492. Orleans Par. Sch. Bd. v. Bush, 365 U.S. 569, 569 (1961) (per curiam).

Court also affirmed the August 27, 1960 order declaring unconstitutional seven acts passed by the legislature in the summer of 1960.[493]

Throughout November and December 1960, white women protested daily outside William Franz and McDonough No. 19 schools.[494] The demonstrations finally broke on December 14, when a cold front dropped the temperature to the low thirties.[495] That day, the John Chase cartoon in the *New Orleans States-Item* featured a drawing of "Ol' Man Winter," who declared: "I Make Heads Cooler—Too Cold to Demonstrate."[496] Chase seemed to be poking fun at the segregationists. His cartoon from December 13, 1960, after the three-judge court rejected the doctrine of interposition, depicted a grave with the words "Doctrine of Interposition—Amen" written on the tombstone.[497] On December 31, 1960, Chase published a cartoon of a New Orleans citizen asking Father Time to take the school crisis with him as the year came to an end.[498]

On December 3, 1960, the *Times-Picayune* editorial urged the legislature to adjourn its current session because of the impracticality of passing laws that had already been declared unconstitutional.[499] The editorial further claimed that "[n]othing can be done immediately to repair the damage done by the integration and depopulation of the two schools."[500] This claim reflected the paper's continued belief that desegregation had wrecked the public schools of New Orleans. These pronouncements further fueled the agitation of the local populace. The paper urged that legislators could propose new ideas after the appeals of the current court decisions had run their course.[501] The city's leading paper advocated a ceasefire and regrouping to continue the fight with new ideas.

On Sunday night, December 11, 1960, the legislature, still sitting in its Second Extraordinary Session of 1960, passed a law that blocked the payment of salaries to teachers at integrated William

493. *Id.*

494. CRAIN & INGER, *supra* note 198, at 74; *see supra* note 1.

495. *See Light Sleet, Rain Bring 39 Low Here*, NEW ORLEANS STATES-ITEM, Dec. 14, 1960, at 1; John Chase, Cartoon, NEW ORLEANS STATES-ITEM, Dec. 14, 1960, at 14.

496. Chase, *supra* note 495.

497. John Chase, Cartoon, NEW ORLEANS STATES-ITEM, Dec. 13, 1960, at 8.

498. John Chase, Cartoon, NEW ORLEANS STATES-ITEM, Dec. 31, 1960, at 6.

499. *See Course of the Legislature*, *supra* note 197.

500. *Id.*

501. *Id.*

Franz and McDonough No. 19 public schools.[502] Previously during that session, the legislature had passed bills blocking the school board's control of its own funds deposited in local banks and warning banks against honoring the board's checks.[503] The state removed Whitney National Bank as its fiscal agent for continuing to honor payroll checks issued by the school board.[504] The legislature thus cut off the school board's operating funds and power to borrow, leaving teachers of the Orleans Parish Public Schools without pay. St. Louis heiress Ellen Steinberg, upon hearing this news, announced at a Manhattan cocktail party that she would donate $500,000 to the school board.[505]

On December 20, 1960, the DOJ filed contempt charges against Lieutenant Governor Aycock, House Speaker Jewel, and Superintendent of Education Jackson, for acting in defiance of a federal court order by refusing to pay the teachers at desegregated William Frantz and McDonough No. 19 schools.[506] The three men were later allowed to purge their contempt by complying with the court orders.[507]

The next day, December 21, Judge Wright, writing for the three-judge district court, invalidated the principal acts of the Second Extraordinary Session.[508] The invalidated acts had warned banks not to do business with the school board, transferred school board funds to the legislature, created a new school board run by the legislature, and appointed the state's attorney general as counsel for the school board.[509] Judge Wright wrote that the attempt to replace the school board's chosen counsel with the attorney general

502. *House Unit OKs 4 Bills; Include Board Ouster*, NEW ORLEANS STATES-ITEM, Dec. 12, 1960, at 1.

503. *See* H.R. Con. Res. 2, 1960 Leg., 31st Extraordinary Sess. (La. 1960); H.R. Con. Res. 23, 1960 Leg., 31st Extraordinary Sess. (La. 1960); H.R. Con. Res. 28, 1960 Leg., 31st Extraordinary Sess. (La. 1960).

504. NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 15.

505. *Outright Gift, is Heiress' Aim*, TIMES-PICAYUNE (New Orleans), Dec. 20, 1960 (§ 3), at 2.

506. *La. Officials Face Contempt Hearing Here*, NEW ORLEANS STATES-ITEM, Mar. 2, 1961, at 2; *School Board Ouster Among Bills OK'd in House*, NEW ORLEANS STATES-ITEM, Dec. 12, 1960, at 1.

507. *See Contempt Case Quashing Asked*, TIMES-PICAYUNE (New Orleans), Mar. 14, 1961, at 1; *Two Contempt Actions to Halt: U.S. Will Drop Aycock, Jewell Charges*, TIMES-PICAYUNE (New Orleans), Mar. 3, 1961, at 1; *Aids Must Carry Out U.S. Orders: Jackson*, NEW ORLEANS STATES-ITEM, Mar. 24. 1961, at 1.

508. *Bush*, 190 F. Supp. at 866.

509. *Id.*

was "exposed as one of the [l]egislature's less sophisticated attempts to preserve racial discrimination in the public schools of New Orleans."[510] Additionally, he ordered four large New Orleans banks to honor the school board's checks, and ordered the New Orleans tax collector to remit funds collected to the school board's bank account.[511]

C. THE LEGISLATURE HOLDS YET ANOTHER EXTRAORDINARY SESSION IN 1960

On December 17, 1960, the legislature opened the Third Extraordinary Session for 1960. Governor Davis proposed a one-percent sales tax hike to fund aid grants for white students to attend private, non-integrated schools.[512] The Governor's effort to raise taxes brought about much dissension in the ranks of those legislators who had strongly supported the Governor's efforts to block desegregation. Senator P.H. Rogers of Grand Cane strongly opposed the new tax on the Senate floor, saying, "I defy anybody to call me an integrationist. I'll knock their teeth down their throats."[513] Shreveport Senator Jackson B. Davis declared: "The people of this state are being hoodwinked."[514] Another proposed bill would have made it against the law for a minister to preach in support of desegregation from the pulpit.[515] Both of these bills were rejected by the legislature.[516] Even the staunchest segregationist could not be seen as voting for a tax increase.[517]

On January 12, 1961, in defiance of Judge Wright's orders, the legislature voted again to remove the superintendent of the Orle-

510. *Id.* at 867.

511. *Id.* at 866–67.

512. H.R. 3, 1960 Leg., 32d Extraordinary Sess. (La. 1960); H.R. 4, 1960 Leg., 32d Extraordinary Sess. (La. 1960); H.R. 6, 1960 Leg., 32d Extraordinary Sess. (La. 1960); *Tax Measures are Proposed in Legislature: Key Sales Levy Hike is Introduced*, TIMES-PICAYUNE (New Orleans), Dec. 18, 1960, at 1.

513. James H. Gillis & Robert Wagner, *Davis is Verbally Attacked in Senate: Final Vote is not Taken on Tax Measure,* TIMES-PICAYUNE (New Orleans), Jan. 7, 1961, at 4.

514. *Id.*; *see also Senate Vote on Tax Bill Delayed: Measure Returned to Calendar*, NEW ORLEANS STATES-ITEM, Jan. 6, 1961, at 1.

515. *See supra* note 1; *see also* Robert Collie, *A "Silent Minister" Speaks Up*, N.Y. TIMES, May 24, 1964, at 12.

516. *See supra* note 1.

517. *See* Gillis & Wagner, *supra* note 513.

ans Parish public schools from office and appoint new members assigned by a legislative committee.[518] This was the legislature's sixth attempt since the summer of 1960 to replace the school board. As they had on the five other occasions, Judges Reeves, Christenberry, and Wright again convened as a three-judge district court and enjoined this action.[519]

The school crisis continued. St. Bernard Parish public schools had opened their doors to over 600 white Orleans parish students, and another 132 white students were in other public or private schools.[520] Still, 286 white students were receiving no education.[521] The legislature reimbursed St. Bernard Parish for the expenses of educating the Orleans Parish students.[522] The White Citizens Council organized a campaign to intimidate white families who sought to send their children to the two desegregated schools; the intimidation campaign included such tactics as harassment on the street, threatening phone calls, tire-slashing, and window-breaking.[523] The white boycott of McDonogh No. 19 was finally broken on January 27, 1961,[524] when the first white student since November 17, 1960, entered the school.[525] Outside the school, jeering white women yelled at the third-grade boy, saying he was a "traitor," as U.S. Marshals escorted him into school.[526]

D. THE SEVEN-DAY BATTLE WAS DECISIVE

The seven-day battle, which started on November 10, 1960, was the decisive battle of the ten-year war. It broke the back of Louisiana's intense and tenacious opposition to desegregation. Public school integration, even though token, had been launched

518. *Redman Gets Ouster Notice: Steps by U.S. on Behalf of School Head Hinted*, TIMES-PICAYUNE (New Orleans), Jan. 13, 1961, at 1.

519. *U.S. Court Issues Restrainer Order*, NEW ORLEANS STATES-ITEM, Jan. 13, 1961, at 1.

520. CRAIN & INGER, *supra* note 198, at 72.

521. *Id.*

522. *Id.*

523. *Id.* at 76.

524. *Racist Line Cracks: Pupil Ends Full Boycott of School*, BUFFALO COURIER-EXPRESS, Jan 28, 1961, at 2 [hereinafter *Racist Line Cracks*]; *McDonogh Boycott Cracks,* NEW ORLEANS STATES-ITEM, Jan. 27, 1961, at 1.

525. *McDonogh Boycott Cracks, supra* note 524; *Racist Line Cracks, supra* note 524.

526. *Racist Line Cracks, supra* note 524; *see also McDonogh Boycott Cracks, supra* note 524.

in New Orleans. More importantly, a beachhead had been established from which further headway could be made. The Governor and legislature had lost their impact.

> The battle between the federal courts and the [S]tate of Louisiana was now utterly predictable, and many were wondering when Davis and his floor leaders would cease beating the dead horse. In all, Governor Davis called five special sessions, extending all the way to February 26, 1961, but at each succeeding session fewer and fewer significant acts were introduced. The oratory in these sessions grew more heated, and the denunciations of Judge Wright, the Supreme Court, the federal government, the school board, and all the other enemies of diehard segregation and white supremacy grew more vehement, but after November 30, 1960, it was assumed that any act the legislature passed to interfere with the school desegregation would be struck down by the federal courts.[527]

Nevertheless, the slow process of desegregation of the public schools in all parishes of Louisiana would require court involvement for years to come.

V. NEW BATTLE LINES: THE DESEGREGATION WAR EXPANDS

By this time, the desegregation fight had also spread beyond New Orleans to other parishes and state schools. On May 25, 1960, Judge Wright granted "summary judgment in the form of a permanent injunction against further operation of the public schools of [St. Helena Parish] on a racially segregated basis."[528] He simultaneously granted the same relief against the East Baton Rouge Parish public schools and five state trade schools.[529] The magnitude of the work Judge Wright and his colleagues undertook to enforce the Supreme Court's *Brown II* mandate amidst the defiant local response in New Orleans was extraordinary.

> The New Orleans litigation is, complete unto itself, an encyclopedia of every tactic of resistance ever employed by all other states combined. Over the relatively short span of time between 1952 and 1962, that one case consumed thousands of

527. CRAIN & INGER, *supra* note 198, at 73.

528. *See* Hall, 287 F.2d at 376.

529. *See* E. Baton Rouge Par. Sch. Bd. v. Davis, 287 F.2d 380, 381–82 (5th Cir. 1961); La. State Bd. of Educ. v. Allen, 287 F.2d 32, 33 (5th Cir. 1961) (per curiam); La. State Bd. of Educ. v. Angel, 287 F.2d 33, 33–34 (5th Cir. 1961) (per curiam).

> hours of lawyers' and judges' time: it required forty-one separate judicial decisions involving the energies of every Fifth [C]ircuit judge, two district court judges, and the consideration of the U.S. Supreme Court on [eleven] separate decisions. By the end of the decade, backed by the Fifth Circuit and in the face of attacks from all flanks, Federal District Judges J. Skelly Wright and Herbert Christenberry had invalidated a total of forty-four state statutes enacted by the Louisiana legislature; had cited and convicted two state officials for contempt of court; and had issued injunctions forbidding the continued flouting of their orders against a state court, all state executives, and the entire membership of the Louisiana [l]egislature.[530]

Between 1954 and 1962, the state legislature passed sixty-one legislative acts and resolutions and two constitutional amendments directed at blocking desegregation of schools.[531] Fifty-two of these were passed during the five extraordinary sessions of the legislature which started on November 4, 1960, as the desegregation date approached, and ended in January 1961.[532] The focus of Louisiana's fight against desegregation was entirely on the *Bush* case in New Orleans as the lead school desegregation case in Louisiana and, perhaps, in the nation. The three-judge court of Judges Rives, Christenberry, and Wright was very busy during 1960 and 1961. Judge Wright was exceptionally busy during that time because he wrote all of the opinions, orders, and injunctions of the three-judge court.[533]

530. Douglas Raymond Davis, Crossing Over: An Oral History of the Desegregation Experience of Public School Personnel in East Baton Rouge Parish, Louisiana. Public School Personnel in East Baton Rouge Parish, Louisiana 60 (1999) (Ph. D Dissertation, Louisiana State University), https://digitalcommons.lsu.edu/cgi/viewcontent.cgi?article=7983&context=gradschool_disstheses (citing Frank T. Read, *Judicial Evolution of the Law of School Integration Since Brown v. Board of Education in* THE COURTS, SOCIAL SCIENCE AND SCHOOL DESEGREGATION 1, 14–15 (Betsy Leven & Willis D. Hawley eds., 1977)).

531. *See* NEW ORLEANS SCHOOL CRISIS, *supra* note 157, at 80–83.

532. *See id.*

533. *See supra* note 1.

A. APRIL 15, 1957—JUDGE WRIGHT VOIDS MORAL CHARACTER CERTIFICATES IN *LUDLEY V. BOARD OF SUPERVISORS OF LSU*[534]

While the *Bush* case was proceeding in his court, Judge Wright also entered orders in other early desegregation cases in Louisiana. During the 1956 Regular Session, the Louisiana legislature passed Acts 15 and 249.[535] The legislature had passed these acts as an additional stunt to prevent Black students from being admitted to state universities.[536] Act 15 provided that an applicant must obtain a certificate of good moral character from his parish school superintendent and high school principal to submit with his application.[537] Buried in the number of other acts passed that year was Act 249, which provided that a teacher shall lose tenure protection and be removed from office for "advocating or in any manner performing any act toward bringing about integration of the races within" public schools or universities.[538]

Black plaintiffs seeking to attend LSU, Southeastern Louisiana University, and Southwest Louisiana Institute (now University of Louisiana at Lafayette) filed three separate discrimination lawsuits, which were consolidated in *Ludley v. Board of Supervisors*.[539] In *Ludley*, the defendant schools contended that Acts 15 and 249 were "entirely unrelated and must be considered separately."[540] Judge Wright reviewed the legislative history and found it was clear that "the specific purpose of the two acts in suit [was] to prevent the registration of Negroes [sic] at institutions of higher learning . . . designated as exclusively for white students."[541] He also recalled that the legislative scheme of dividing discriminatory legislation "into two separate acts, one apparently innocuous, was used by the 1954 Louisiana [l]egislature and was condemned in" the *Bush* case.[542]

534. Ludley v. Bd. of Supervisors of L.S.U., 150 F. Supp. 900, 902 (E.D. La. 1957), *aff'd,* 252 F.2d 372 (5th Cir. 1958).

535. *See id.* at 902.

536. *Id.*

537. *Id.*

538. *Id.*

539. *See id.* at 900; *Orleans, State Argue appeals Against Mix: Integrate*, NEW ORLEANS STATES-ITEM, Jan. 15, 1958, at 1.

540. *Ludley*, 150 F. Supp. at 902.

541. *Id.* at 903.

542. *Id.*

In *Bush*, "a statute, apparently valid on its face, became unconstitutional when applied in tandem with discriminatory legislation."[543] As factual support for the true intent of the legislation, Judge Wright found that "not a single principal of a public school or superintendent of a public school system signed a certificate for a [Black student] to go to a white school."[544] Based on these findings, Judge Wright issued interlocutory injunctions to enforce the decision of the three-judge court.[545] The Fifth Circuit affirmed *Ludley* on February 15, 1958, and the U.S. Supreme Court denied certiorari on October 13, 1958.[546]

B. MAY 15, 1957—JUDGE WRIGHT DESEGREGATES NEW ORLEANS CITY PARK IN *DETIEGE V. NEW ORLEANS CITY PARK IMPROVEMENT ASS'N*[547]

On May 15, 1957, Judge Wright, acting in open court on a motion for summary judgment without a three-judge district court, enjoined the enforcement of state laws denying Black people the use of New Orleans City Park.[548] The case had been filed in 1952 but held in abeyance, pending a Supreme Court ruling, during which time the litigants had an agreement whereby Black people could use the golf course on certain days and white people could use it on others.[549]

Before ruling, Judge Wright stated that the law cited by the assistant attorney general had been disposed of in prior litigation; the *Bush* case and similar park cases in Atlanta and Baltimore—decided by the U.S. Supreme Court, no less—addressed this exact issue.[550] On May 27, 1957, he entered the written judgment, finding:

543. *Id.* at 903-04.

544. *Id.* at 903.

545. *See id.* at 904.

546. Bd. of Supervisors v. Ludley, 252 F.2d 372, 377 (5th Cir.), *cert. denied*, 358 U.S. 819 (1958).

547. *See* New Orleans City Park Improvement Ass'n v. Detiege, 252 F.2d 122 (5th Cir. 1958) (per curiam), *aff'd per curiam*, 358 U.S. 54 (1958).

548. *Judge Orders Bus Integration; Plan 5th Circuit Court Appeal: City Park Case Also Decided*, NEW ORLEANS ITEM, May 15, 1957, at 1 [hereinafter *Judge Orders Bus Integration*].

549. *See Court Affirms Ruling on Park: Association Loses Appeal on Facilities Use*, TIMES-PICAYUNE (New Orleans), October 21, 1958, at 1; *Transit, City Park Segregation Loses: Appeals to Delay Effectiveness of Ruling*, TIMES-PICAYUNE (New Orleans), May 16, 1957, at 1 [hereinafter *Transit, City Park Segregation Loses*].

550. *Transit, City Park Segregation Loses*, *supra* note 549.

> [A]ll laws of the State of Louisiana and municipal ordinances of the City of New Orleans denying on the basis of race or color plaintiffs and others similarly situated the use of the facilities of New Orleans City Park are unconstitutional and void in that they deny and deprive plaintiffs and other Negro [sic] citizens similarly situated of the equal protection of the laws and due process of law secured by the Fourteenth Amendment of the constitution of the United States.[551]

On February 13, 1958, the Fifth Circuit rejected the park's contention that Judge Wright erred by not hearing evidence to determine whether psychological considerations were present that justified the denial of access to City Park on a non-segregated basis.[552] The Supreme Court dismissed City Park's appeal and denied certiorari on October 20, 1958.[553]

C. MAY 15, 1957—JUDGE WRIGHT DESEGREGATES STREETCARS AND BUSES IN *DAVIS V. MORRISON*[554]

With A.P. Tureaud as their lead lawyer, Abraham Davis and William Adams filed suit in federal court in the spring of 1957, seeking (1) a declaration that all Louisiana laws requiring segregation of the races on local public transportation were unconstitutional; and (2) an injunction barring enforcement of such laws.[555] Mayor Chep Morrison, Police Chief Provosty Dayries, and New Orleans Public Service, Inc. (NOPSI), the transit system operator, were named as defendants.[556] NOPSI was worried that a boycott could cause financial ruin, as had occurred in Montgomery, Alabama, and actually wanted to end the problem of transit segregation.[557] However, state law still required segregation on public transportation.[558] Yet again, this controversial integration lawsuit was assigned to Judge Wright.

On May 15, 1957, just minutes after he issued the injunction in the City Park case, Judge Wright granted the *Davis* plaintiffs'

551. *See supra* note 1.

552. *Detiege*, 252 F.2d at 123.

553. New Orleans City Park Improvement Ass'n v. Detiege, 358 U.S. 54 (1958) (per curiam).

554. *See* Morrison v. Davis, 252 F.2d 102 (5th Cir. 1958) (per curiam).

555. *See Morrison*, 252 F.2d at 102.

556. *See id.*

557. J. Skelly Wright Interview, *supra* note 425, at 48–49.

558. *See Morrison*, 252 F.2d at 102.

motion for summary judgment and issued the requested injunction.[559] Judge Wright rejected the city attorney's arguments that no one had ever been arrested for refusing to sit behind the segregation signs on the streetcars and buses.[560] He held that it was not necessary that the plaintiffs be subject to prosecution—as had occurred in Montgomery with Rosa Parks—in order to have standing to challenge the statute.[561] Judge Wright stated, "It is not the court's view that in our civilization it is necessary to have incidents requiring arrests to have the rights of people declared."[562]

The defendant appealed Judge Wright's order to the Fifth Circuit, which affirmed Judge Wright's decision on February 19, 1958, and denied rehearing on March 28, 1958.[563] The Supreme Court denied certiorari on Monday, May 26.[564] After Judge Wright received the Supreme Court's denial of certiorari, he promptly issued a new order to go into effect at midnight on Friday, May 30, 1958—Memorial Day—when there would be less use of the transit system.[565]

That Friday evening, Helen Wright went to the opera with a friend; when she returned to her Newcomb Boulevard home, there was an eight-foot cross, soaked with kerosene, burning in the middle of the lawn.[566] Fearful of what might have happened, Helen and her friend ran inside, where Helen found Judge Wright and their son sound asleep, completely unaware of what was happening.[567] Judge Wright went outside, knocked the cross down, and extinguished the smoldering fire, before returning to bed.[568]

Helen Wright felt it was a "cowardly symbol of intimidation."[569] Judge Wright felt it was " 'just someone looking for publicity.' But he added, 'I figure it had to be a Ku Klux Klan thing. It

559. *See id.* (affirming Judge Wright's district court judgment); *Judge Orders Bus Integration*, *supra* note 548.

560. *Judge Orders Bus Integration*, *supra* note 548.

561. *Id.*

562. *Transit, City Park Segregation Loses*, *supra* note 549.

563. *Morrison*, 252 F.2d 102; *see supra* note 1.

564. Morrison v. Davis, 356 U.S. 968 (1958).

565. *See supra* note 1.

566. Helen Patton Wright Interview, *supra* note 18, at 82; *Cross is Burned on Judge's Lawn in New Orleans*, EVENING STAR (D.C.), May 31, 1958, at A-2.

567. Helen Patton Wright Interview, *supra* note 18, at 82.

568. *Id.*

569. *Id.* at 83.

wasn't done by an amateur.' "[570] He later said, "If they did that to intimidate me, they wasted their time . . . because I missed the whole show."[571] Certainly, if such an event were to occur today, a special team of federal investigators would be flown in and a dragnet would be cast to immediately apprehend the perpetrators. But other than a brief call to the local police,[572] Judge Wright never made an issue of the event with law enforcement. The charred cross remained on the side of the Wright home until the family moved to Washington, never having been collected as evidence for an investigation.[573]

A news reporter boarded the St. Charles streetcar to witness the moment Judge Wright set to end segregation on public transportation, and he later observed:

> When the time came, the motorman stopped the streetcar. Passengers, white and [B]lack, watched as the motorman walked down the aisle toward the back, picked up the signs that differentiated white and [B]lack sections from the seatbacks on either side, returned to the front of the car, placed the signs on the floor, and started the car moving again. Nobody made a sound. Nobody changed seats. Not much had happened. But everything had changed. A few of the blacks [sic] who entered streetcars and buses after that moment chose seats in front.[574]

Morrison would be the first court-enforced integration actually carried out in New Orleans.[575]

D. NOVEMBER 28, 1958—THE PANEL DESEGREGATES SPORTING EVENTS IN *DORSEY V. STATE ATHLETIC COMMISSION*[576]

On November 28, 1958, a three-judge district court, composed of Circuit Judge Wisdom and District Judges Christenberry and Wright, struck down portions of Louisiana's Anti-Mixing Law and the State Athletic Commission's rule that prohibited white and

570. *Cross is Burned on Judge's Lawn in New Orleans*, *supra* note 566.

571. Pope, *supra* note 192.

572. Helen Patton Wright Interview, *supra* note 18, at 83.

573. *See supra* note 1.

574. Monroe, *supra* note 43, at 371.

575. *Racial Seating on Buses Ends*, EVENING STAR (D.C.), May 31, 1958, at A-2.

576. Dorsey v. State Athletic Comm'n, 168 F. Supp. 149 (E.D. La. 1958), *aff'd*, 359 U.S 533 (1959).

Black fighters from competing against one another or appearing on the same fight card.[577]

Dorsey was a Black prizefighter who filed a declaratory judgment action requesting an injunction to restrain the Louisiana State Athletic Commission from enforcing a regulation and a statute prohibiting athletic contests between Black and white athletes.[578] The state statute under attack, Act 579, provided:

> [A]ll persons, firms and corporations are prohibited from sponsoring, arranging, participating in, or permitting on premises under their control any dancing, social functions, entertainments, athletic training, games, sports or contests and other such activities involving personal and social contacts, in which the participants or contestants are members of the white and negro [sic] races.[579]

Other provisions of Act 579 required provision of separate seating arrangements, bathrooms, and drinking water and that facilities for members of the white and Black races were to be marked with signage, prohibiting members of one race from sitting in the seating arrangements or using the bathroom facilities of the other race.[580]

Pursuant to Act 579, the Athletic Commission adopted Rule 26, which provided: "There shall be no fistic combat match, boxing, sparring, or wrestling contest or exhibition between any person of the Caucasian or 'white' race and one of the African or 'Negro' [sic] race; and, further, it will not be allowed for them to appear on the same card."[581]

Judge Wisdom wrote the opinion for the court.[582] Relying on the Supreme Court's ruling in *Brown I*, he ruled that any classification on race was "inherently discriminatory and violative of the Equal Protection Clause of the Fourteenth Amendment."[583] And

577. *Id.* at 153.

578. *Id.* at 150.

579. Act 579, 1956 La. Acts 1054, *invalidated by Dorsey,* 168 F. Supp. 149; *Dorsey*, 168 F. Supp. at 150.

580. Act 579, 1956 La. Acts 1054–55, *invalidated by Dorsey*, 168 F. Supp. 149.

581. *Dorsey*, 168 F. Supp. at 150 (quoting State Athletic Commission Rules and Regulations Rule 26).

582. *See id.* at 148.

583. *Id.* at 151.

he did so in the clear and unequivocally stated belief that the Fourteenth Amendment's Equal Protection Clause mandated total colorblindness, i.e., precluded any reliance by the government on race as a factor in decision-making.[584] The court rejected the Commission's reliance on the State's police power to preserve peace and good order, finding that any such power is limited by the Constitution.[585] Accordingly, the court ruled that both the statute and Commission rule were unconstitutional and enjoined the State, the Athletic Commission, and their officers and employees from enforcing these laws to the extent they attempted to prohibit boxing contests between fighters of different races.[586]

E. 1958—EXHAUSTION OF ADMINISTRATIVE REMEDIES UNNECESSARY—LOUISIANA STATE UNIVERSITY NEW ORLEANS: *FLEMING V. BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY*[587]

Louisiana State University New Orleans (LSUNO) was to start classes for its inaugural school year on Friday, September 12, 1958.[588] Ten Black student applicants, who had been denied admission, sought an injunction compelling their admission.[589] The case was assigned to Judge Christenberry, who quickly scheduled a hearing, without a three-judge district court, for September 8 so that a determination could be made regarding the student's admission without missing any days in class.[590] LSUNO contended that the students were not entitled to an injunction because they had not exhausted their administrative remedies prior to filing suit.[591]

584. *Id.* at 153.

585. *Id.* at 152

586. *Id.* at 153.

587. The *Fleming* district court opinion was not reported. The cited newspaper articles have been used to support the factual statements regarding the district court proceedings throughout this subsection.

588. *300 Unique New Orleans Moments: University of New Orleans Opens in Fall 1958*, NOLA.COM (July 1, 2017), https://www.nola.com/300/300-unique-new-orleans-moments-university-of-new-orleans-opens-in-fall-1958/article_a17df6ef-0f80-53b3-8e9c-52dc8b4383b5.html.

589. *See Fleming*, 265 F.2d at 737; *Admit Negroes, LSUNO Ordered: Injunction is Granted by Federal Judge*, TIMES-PICAYUNE (New Orleans), Sept. 9, 1958, at 1 [hereinafter *LSUNO Ordered*].

590. *See LSUNO Ordered*, *supra* note 589. *see also supra* note 1.

591. *See Fleming*, 265 F.2d at 738.

However, the students had letters from the Registrar denying admission based on the school board's policy not to permit admission of Black students.[592]

In an unreported decision delivered from the bench, Judge Christenberry rejected the Board of Supervisors' contentions and issued an injunction requiring admission without the need for exhaustion of administrative remedies.[593] Judge Christenberry also rejected LSUNO's request for a stay of the injunction pending an appeal.[594] By September 11, 1,430 students had registered at LSUNO, 53 of whom were Black students.[595]

The decision was affirmed by the Fifth Circuit on April 23, 1959.[596] The Fifth Circuit held that it would be a "vain and useless" procedure for a Black student who was denied admission to exhaust administrative remedies when he already had a letter from the Registrar advising him that it was against the Board of Supervisors' policy to admit Black students.[597]

F. JANUARY 11, 1960—JUDGE WRIGHT ISSUES AN INJUNCTION BLOCKING WASHINGTON PARISH FROM PURGING BLACK VOTERS FROM VOTER ROLLS IN *UNITED STATES V. MCELVEEN*[598]

In an early voting rights case decided on January 11, 1960, Judge Wright issued an injunction blocking the efforts of Washington Parish elected officials to purge the voter registration rolls of all persons illegally registered.[599] In the spring of 1959, the Registrar of Voters focused on purging voter registrations for defects or deficiencies in registration cards.[600] This resulted in a disentrancement of 85% of the Black voters and only 0.07% of the white voters.[601] At the end of 1958, there were 1,517 Black voters registered in Washington Parish, but by June of 1959 there were

592. *See id.*

593. *LSUNO Ordered*, *supra* note 589.

594. *Id.*

595. *Other Judges Consider Stay: Two Jurists Join Wisdom in LSUNO Case,* TIMES-PICAYUNE (New Orleans), Sept. 12, 1958, at 23.

596. *Fleming*, 265 F.2d at 738.

597. *Id.*

598. *United States v. McElveen*, 180 F. Supp. 10 (E.D. La.), *aff'd sub nom.*, United States v. Thomas*,* 362 U.S. 58 (1960).

599. *Id.* at 11, 14.

600. *Id.* at 11.

601. *Id.*

only 236.[602] Judge Wright found that the elected officials had colluded with the White Citizens Council.[603]

The defects or deficiencies in the Black voters' registration cards consisted of "misspellings, deviations from printed instructions, failure to compute age with exact precision, and illegible handwriting."[604] This purge process resulted in the removal of "almost all the [Black] voters from the rolls [while leaving] the white voters practically untouched, even though over 50% of the white registration cards [had] the same defects and deficiencies as did the challenged [Black voter] cards."[605]

Judge Wright held that the purge was in violation of the Fifteenth Amendment and that the Black voters had been illegally removed from the rolls.[606] Judge Wright wrote, a "court need not, and should not, shut its mind to what all others can see and understand. Discriminatory application of a statute, even one unobjectionable on its face, is unconstitutional."[607]

Judge Wright ordered the rescission of the purge of the Black voters because they had been illegally removed.[608] He also ordered that the registrar maintain a tabulation showing the race of challenged registrants and, if more than 5% of any race was challenged, the registrar would provide a detailed report to the court giving the basis of the challenge and whether members of the other race had similar challenges.[609]

The defendants appealed to the Fifth Circuit which, on January 21, 1960, issued a stay of Judge Wright's injunction pending appeal.[610] One day later, the solicitor general applied to the Supreme Court to vacate the stay and to grant a writ of certiorari to review Judge Wright's judgment.[611] The Supreme Court heard the

602. *Id.* at 12.

603. *Id.* at 13.

604. *Id.* at 12–13.

605. *Id.* at 13–14.

606. *Id.* at 14

607. *Id.* (citation omitted).

608. *Id.* at 11.

609. *1377 Returned to Vote Rolls: U.S. Judge Orders Restoration of Names,* TIMES-PICAYUNE (New Orleans), Jan. 12, 1960, at 1.

610. *See* United States v. Thomas, 361 U.S. 950, 950 (1960) (per curiam); *High Court Action Asked for Voters: U.S. Moves in Washington Parish Case,* TIMES-PICAYUNE (New Orleans), Jan. 23, 1960, at 1 [hereinafter *High Court Action Asked for Voters*].

611. *High Court Action Asked for Voters*, *supra* note 610.

case on an expedited basis due to a state election scheduled for April 19, 1960.[612] On February 29, 1960, the Supreme Court granted certiorari, vacated the Fifth Circuit's stay, and affirmed Judge Wright's decision.[613]

G. MAY 25, 1960—JUDGE WRIGHT DESEGREGATES EAST BATON ROUGE PARISH SCHOOLS, ST. HELENA PARISH PUBLIC SCHOOLS, AND STATE TRADE SCHOOLS[614]

Four years after his first order in the *Bush* case, Judge Wright conducted hearings on motions for summary judgment to enjoin the East Baton Rouge Parish School Board, the St. Helena Parish School Board, and several trade schools operated by the state from continuing to operate on a segregated basis.[615] The four lawsuits—*East Baton Rough Parish School Board v. Davis*, *St. Helena Parish School Board v. Hall*, *Louisiana State Board of Education v. Angel*, and *Louisiana State Board of Education v. Allen*—had been filed by Thurgood Marshall and A.P. Tureaud in the Baton Rouge Division of the Eastern District of Louisiana and had been pending for several years;[616] the lawsuits were held in abeyance while the *Bush* case proceeded as the Louisiana test case.

After Judge Wright's October 13, 1959 order in the *Bush* case for the school board to file a desegregation plan, the plaintiffs in *Davis, Hall, Angel,* and *Allen* reactivated their cases.[617] Judge Wright granted summary judgment in favor of all plaintiffs and on May 24 and 25, 1960, he entered permanent injunction orders against further racially segregated operation of the state and local public schools at issue.[618] His injunction orders were substantially the same as the injunction order he had issued in the *Bush* case on

612. *Thomas,* 361 U.S. at 951.

613. *Thomas*, 362 U.S. at 59.

614. *See* E. Baton Rouge Par. Sch. Bd. v. Davis, 287 F.2d 380 (5th Cir. 1961); St. Helena Par. Sch. Bd. v. Hall, 287 F.2d 376 (5th Cir. 1961); Louisiana State Bd. of Educ. v. Angel, 287 F. 2d 33 (5th Cir. 1961) (per curiam); and Louisiana State Bd. of Ed. v. Allen, 287 F.2d 32 (5th Cir. 1961) (per curiam).

615. *See Davis*, 287 F.2d at 381; *Hall*, 287 F.2d at 376; *Angel*, 287 F.2d at 33–34; *Allen*, 287 F.2d at 33.

616. *Davis*, 287 F.2d at 381; *Hall*, 287 F.2d at 376; *Angel*, 287 F.2d at 33–34; *Allen*, 287 F.2d at 33.

617. Davis, *supra* note 530, at 60; *see also supra* note 1.

618. *See supra* note 1.

February 15, 1956.[619] The defendants in all four cases appealed to the Fifth Circuit.

The Fifth Circuit affirmed all four decisions on February 9, 1961.[620] Thereafter, the defendants in three of the four cases appealed to the Supreme Court, which denied the appeals on September 1, 1961.[621]

On the same day that the Fifth Circuit affirmed Judge Wright's orders in the four cases, the Governor called the Second Extraordinary Session of the 1961 Legislature "into session to act 'relative to the education of the school children of the [s]tate . . . for the preservation and protection' of state sovereignty."[622] Within days, the Governor certified as emergency legislation a local option law to allow a parish-wide vote on whether to convert public schools to private schools in yet another attempt to block Judge Wright's desegregation orders in these and other cases.[623]

Judge Wright, writing for the three-judge court, held that it was clear from the legislative history of the statute that the "subsurface purpose" of the new law was:

> [T]o provide a means by which public schools under desegregation orders may be changed to 'private' schools operated in the same way, in the same buildings, with the same furnishings, with the same money, and under the same supervision as the public schools. In addition, as part of the plan, the school board of the parish where the public schools have been 'closed' is charged with responsibility for furnishing free lunches, transportation, and grants-in-aid to the children attending the 'private' schools.[624]

Judge Wright observed that the legislation was similar to other segregation statutes:

619. *Hall*, 287 F.2d at 376 ("The order appealed from is in substantially the same terms as that entered by the District Court in the Case of Bush et al v. Orleans Parish School Board . . . ."); s*ee generally Bush*, 138 F. Supp. 337.

620. *Davis*, 287 F.2d at 381; *Hall*, 287 F.2d at 376; *Angel*, 287 F.2d at 33–34; *Allen*, 287 F.2d at 33.

621. E. Baton Rouge Par. Sch. Bd. v. Davis, 368 U.S. 831 (1961); St. Helena Par. Sch. Bd. v. Hall, 368 U.S. 830 (1961); Louisiana State Bd. of Educ. v. Allen, 368 U.S. 380 (1961).

622. Hall v. St. Helena Par. Sch. Bd, 197 F. Supp. 649, 651 (E.D. La. 1961) (alteration in original), *aff'd*, 368 U.S. 515 (1962).

623. *Id.*

624. *Id.*

> As with the other segregation statutes, in drafting [the new law] the [l]egislature was at pains to use language disguising its real purpose. All reference to race is eliminated, so that, to the uninitiated, the statute appears completely innocuous.
>
> . . . .
>
> It is only after an analysis of this school closing measure with other sections of the Act and related legislation that the purpose, mechanics, and effect of the plan emerge.[625]

Judge Wright wrote that "[i]rrespective of the express terms of the statute, particularly in the area of racial discrimination, courts must determine its purpose as well as its substance and effect."[626] He then proceeded to review the public statements of the Governor's staff, the Governor's house floor leader, the president of the senate, and other state officials in local newspapers.[627] The Governor's office had publicly stated that the new law "should not be construed as indicating the state would tolerate even token integration" and that it "would be used in parishes either having or threatened with desegregation: Orleans, East Baton Rouge and St. Helena."[628] The Governor's house floor leader and sponsor of the law said on the floor that the law "does not authorize any school system to operate integrated schools. We haven't changed our position one iota."[629] The president pro tempore of the Senate declared: "As I see it, Louisiana is entering into a new phase in its battle to maintain its segregated school system. The keystone to this new phase is the local option plan we have under consideration."[630]

To top it off, the legislation had draconian enforcement provisions. The law imposed "mandatory jail sentences and fines for anyone 'bribing' parents to send their children to desegregated schools"; the fines were used to reward informers.[631] There were also "mandatory jail sentences for anyone inducing parents or school employees to violate state law, that is, by 'attend(ing) [sic] a

625. *Id.* at 652.
626. *Id.*
627. *Id.* at 652–53.
628. *Id.* at 653.
629. *Id.*
630. *Id.*
631. *Id.* at 655.

school in violation of any law of this state,' " and rewards for those who reported violators.[632]

Judge Wright held that the law violated the Equal Protection Clause because it "require[d] such extensive state control, financial aid, and active participation that in operating the program the state would still be providing public education."[633] The school board appealed directly to the U.S. Supreme Court, which affirmed the district court on February 19, 1962.[634]

H. MARCH 20, 1962—THE PANEL DESEGREGATES INTERSTATE BUS TERMINAL FACILITIES IN *UNITED STATES V. PITCHER*[635]

On November 2, 1961, Sargent Pitcher Jr., the district attorney of East Baton Rouge Parish, filed petitions in state court against the Greyhound Corporation and Continental Southern Lines, Inc., seeking TROs to prohibit the defendants from violating state law by failing to provide separate accommodations for white passengers traveling interstate.[636] The state court issued the requested TROs the very next day.[637] Because TROs expire after ten days under Louisiana law, Pitcher filed new petitions against the defendants before the expiration of the first TROs, seeking new, identical TROs.[638] The district attorney repeated this process so that a TRO would always be in effect.[639] The U.S. DOJ brought suit in federal court in Baton Rouge seeking permanent injunctions to stop this state-court circus act.[640]

On March 20, 1962, a three-judge district court composed of Circuit Judge Wisdom and District Judges Wright and West, on cross motions for summary judgment, issued an injunction prohibiting the district attorney, sheriff, and police chief of East Baton Rouge Parish from proceeding any further in state court and from enforcing the state laws that required separate waiting rooms at interstate bus terminals.[641] In an opinion written by Judge

632. *Id.* (alteration in original).

633. *Id.*

634. St. Helena Parish School Board v. Hall, 368 U.S. 515 (1962).

635. *United States v. Pitcher*, 7 RACE RELS. L. REPS. 223 (1962) (Wisdom, West, & Wright, JJ.).

636. *Id.* at 255.

637. *Id.*

638. *Id.*

639. *Id.* at 266.

640. *Id.*

641. *Id.* at 277.

Wright, the court found that the state laws violated the Equal Protection Clause of the Fourteenth Amendment and imposed an undue burden on interstate commerce in violation of the Commerce Clause of Article I § 8 of the Constitution.[642] Judge Wright also wrote that the state law violated the U.S. Interstate Commerce Commission Act, which prohibited the use of racially segregated spaces at facilities for interstate common carriers.[643] The state laws were therefore unconstitutional, null, and void under the Supremacy Clause of Article VI of the U.S. Constitution.[644]

VI. JUDGE WRIGHT AND HIS FAMILY PERSEVERE THROUGH VIOLENT OPPOSITION TO HIS CONTROVERSIAL WORK

Because of his high-profile enforcement of federal law, Judge Wright and his family became the focus of much hate and hostility, which required that they be protected by U.S. Marshals and New Orleans police; the protective detail often stayed in the Wrights' home and escorted Judge Wright to work.[645] There were many death threats and constant hate calls to the Wright home.[646] Old friends shunned them; a cross was burned on their lawn; and Judge Wright was harassed on the street, villified, and made a pariah in his hometown for doing his constitutional duty to enforce the law.[647]

A. AMID HATRED, JUDGE WRIGHT'S FAMILY AND FRIENDS LEND HIM SUPPORT

In 1960, a city poll showed that Judge Wright had a higher name recognition than the Governor of Louisiana.[648] As Judge Wright later recalled in an interview, about 93% of Louisianians recognized Judge Wright's name, while less than 60% recognized the Governor's name and about 80% recognized the mayor of New Orleans's name.[649] The mid-century social views on race provoked the community's resounding rejection of Judge Wright.

642. *Id.* at 266.
643. *Id.*
644. *Id.*
645. *See supra* note 1; Friedman, *supra* note 9, at 2230.
646. *See supra* note 1; Comar, *supra* note 390.
647. *See supra* note 1; Helen Patton Wright Interview, *supra* note 18, at 69, 82.
648. *See supra* note 1.
649. *Pressure and Hate Familiar to Wright, supra* note 31.

> In the communities of the pre-*Brown* era, where social and economic and occasionally political power overlapped, ostracism could be complete. Judges such as John Minor Wisdom of the Fifth Circuit and J. Skelly Wright of the Louisiana federal district court were among those who felt its sting: Wright was "the most hated man in New Orleans," where 90% of the public knew of him by name or as the "integration judge" and where old friends crossed the street to avoid having to speak.[650]

On some nights, New Orleans police were detailed to protect the Wrights at home.[651] Helen Wright described it as an awkward situation: "They didn't like his decision, let's put it that way. They didn't approve of him[,] and I think they probably thought they would prefer that he not have the protection."[652] It is hard to imagine having to rely on someone who did not like you to protect you, but that was Judge Wright's reality. On another night, when Judge Wright's twelve-year-old son, Jimmy, was home alone, the phone rang, and Jimmy answered it. "Let me speak to that dirty [N word]-loving Communist," the voice demanded. Young Jimmy coolly replied, "He's not at home, may I take a message?"[653]

Helen Wright was her husband's most avid supporter during the tumultuous and lonely years of the desegregation cases: "Helen was his main source of strength. Though she had grown up in Washington against a backdrop of segregation, she nonetheless stood unswervingly by him. While others urged him to be more cautious in changing the social structure, she gave her full support to his decisions."[654]

Judge Wisdom, who personally knew what the Wrights endured, observed, "Her steadfastness made life bearable for Skelly when segregationists gave him a hard time in New Orleans."[655] Helen Wright quietly endured the hostilities along with her husband and son. Fifth Circuit Judge Elbert P. Tuttle wrote, "[T]hose of us who have had the privilege of knowing Helen, his wife, realize

650. BASS, *supra* note 341, at 114–15 ("[M]ore than 90 percent of the public recognized Wright by name . . . . Only 70 percent could name the mayor of New Orleans, and fewer could name the [G]overnor of Louisiana.").

651. *See supra* note 1.

652. Helen Patton Wright Interview, *supra* note 18, at 82.

653. *See supra* note 1. "N-word" is used in place of the racial slur used in the referenced material.

654. Bernick, *supra* note 2, at 986.

655. Wisdom, *supra* note 19, at 304.

that much of the fortitude and courage required of him was equally demanded of her. His survival was truly a family team effort."[656]

During the height of the *Bush* case in 1960, Helen Wright had lunch with a friend. Helen later recalled the lunch discussion, in which she ended her relationship with her friend:

> [Helen's friend abruptly stated,] "Helen, there's something I've got to say to you." I knew where she stood on these issues and it was not where Skelly and I stood at all. I said, "Never mind, I know what you're going to say, but, I don't think it should affect our friendship. Skelly does what he believes is right and though you may not agree with it, that's certainly your privilege and I don't think it should affect our friendship." "NO, no, I've got to say this." I said, "All right, what is it?" She said, "You've just got to know that there are times when I am ashamed to be seen with you." I said, "Well, I'll tell you something, you need never be ashamed again." That was the end of that.[657]

Even the Wrights' loyal friends became subjects of the despicable abuse aimed at Judge Wright. A false rumor was floated uptown that Judge Wright was having an affair with the wife of a close friend down the street.[658] As soon as he heard it, he and Helen went to see their friends to express their regrets that they had been personally dragged into the ugliness and nastiness of the school crisis.

Whenever Judge Wright handed down one of his desegregation decisions, the telephone would often ring with harassing calls at the Wright family residence.[659] Helen Wright chastised her husband for not forewarning her to avoid answering the phone.

> As soon as the case would come down someone would hear it on the radio and pick up the telephone and start screaming epithets through the phone at me; . . . I remember one of these cases when he failed to tell me he was going to issue this order and I got these vile phone calls. I called him up and I said, "What have you done, sugar?" "Oh, why, what?" I said, "They're screaming again." He told me what he'd done and I

656. Elbert P. Tuttle, *Chief Judge Skelly Wright: Some Words of Appreciation*, 7 HASTINGS CONST. L.Q. 869, 871 (1980).

657. Helen Patton Wright Interview, *supra* note 18, at 68–69.

658. *See supra* note 1.

659. Helen Patton Wright Interview, *supra* note 18, at 67.

> said, "Don't you ever do it again without giving me a little warning—to . . . not answer the phone."[660]

But these harassing calls did not only come to the Wrights' home. At his chambers, Judge Wright's secretary would screen his calls. However, during one lunch hour he answered the phone while she was out. He was amazed at the obscenities with which she had to deal on a regular basis. Even Judge Wright's mother received threatening phone calls—one such anonymous coward yelled at Mrs. Wright that she should have drowned her son when he was born.

While most fellow Louisianans had great contempt for Judge Wright's actions, others from afar monitored the school crises with great interest. In December of 1960, *Time* magazine placed him and several other Southern federal judges handling civil rights cases on an "honor roll without precedent in U.S. legal annals."[661] On June 12, 1961, Yale University conferred an Honorary Doctor of Laws on Judge Wright.[662] Eleven others received honorary degrees that day, including Justice Felix Frankfurter.[663] Judge Wright received the longest applause when his citation was read:

> Son of New Orleans, war-time officer of the Coast Guard, United States Judge. We salute today more than your exemplary career as lawyer and citizen. In recent years, you and your brother federal judges in the South have written a proud page in the history of our law and in our history as a people. Yours has been the most difficult of all tasks a judge must perform to school the people in the law, when this requires a change in their prevailing customs. With lonely courage, you have done your duty under circumstances of great difficulty. Yale pays tribute to the tradition of law you so steadfastly represent and confers upon you the degree of Doctor of Laws.[664]

Years later, Helen Wright said that this was the first real indication to her that someone was watching and supporting what

660. *Id.*

661. *Trail Blazers on the Bench*, *supra* note 484, at 14. The magazine lauded them for "act[ing] at the sacrifice of friendships and political hopes, but collectively [] launch[ing] one of the great, orderly offensives of legal history." *Id.*

662. Behlar, *supra* note 62, at 109 (citing NEW YORK TIMES, June 3, 1961, at 2).

663. *See supra* note 1; Behlar, *supra* note 62, at 109.

664. Yale Citation, J. Skelly Wright, Honorary Doctor of Laws (June 12, 1961) (on file with the author).

her husband was doing in New Orleans.[665] Judge Wright would also receive honorary degrees from the University of Notre Dame, the University of Southern California, Georgetown University, New York Law School, the University Düsseldorf, Howard University, the University of Vermont, and Loyola University of New Orleans.[666]

B. JUDGE WRIGHT'S REFLECTIONS ON HIS NEW ORLEANS EXPERIENCE

In a 1968 interview, Judge Wright offered some personal insight into what he felt during this tumultuous time in his life:

> It became increasingly clear with one decision piling on another decision that I was going [to continue] to do what I was doing, and I became more and more isolated from the community. I became better and better known, and more and more hated, for what I was doing.[667]

> [M]ore and more I became a loner. I didn't see a lot of people, a few friends, I guess, but not too much. Sometimes I felt like I was imposing on them because you don't want to tarnish other people . . . . In fact, I had six brothers and sisters and it affected all of them.[668]

He was able to continue because he convinced himself that he was right and "there's no retreat from that."[669] He added, "At least there is no retreat for someone who wants to live within himself. To me, there is no other way, I just couldn't turn any other way."[670] For his part, he recognized that "these were unusual times and no one else was there to do it; and so I felt that I should do what I could to see that the job was done as peacefully as possible."[671]

In the end, he persevered, not only because he followed the dictate of the Supreme Court, but also because he was convinced that he was doing what was morally and socially right:

> I'm a real Southerner[,] I didn't believe any of this [sic] that I was doing it because of the Supreme Court. This made me a

665. *See supra* note 1.
666. *See id.*
667. J. Skelly Wright Interview, *supra* note 425, at 53–54.
668. *Id.* at 55.
669. *Id.* at 55–56.
670. *Id.* at 56.
671. *Id.* at 52.

> bigger man and so on. While there may have been some validity to that, in the beginning, it didn't last long. I became convinced that not only was I right in following the Supreme Court, but what I was doing was morally and socially right, so I was going to do it. I could have cut corners, I could have delayed[.] I didn't have to be aggressive about this, and still be within the structure and the commands of the Court, but I became convince[d] I was right, so I moved away. I wasn't going to allow the Supreme Court decision to be frustrated by this kind of delay.[672]

In a 1983 television interview, Judge Wright was asked whether the threats and hostilities had any impact on him.

> Well quite frankly, I really didn't think of all of these things. I knew what was taking place. I knew that I was hated and I would think 80 percent to 90 percent of the people. I knew that every now and then they would come up and put police and marshals, two police and two marshals in my house for a period of time. I assumed that they had gotten some reason to put these people in my house for a period of time. And I didn't particularly ask any questions about it . . . . I was kind of a loner anyway. A judge tends to be a loner. And a federal judge in the situation I found myself, I got more so, I stayed pretty close to the courthouse and stayed pretty close to home and so I didn't have all of that contact with people generally.[673]

Judge Wright never said it, but the numerous police and marshal deployments were the result of constant death threats. Nevertheless, he had a special way of minimizing the impact of the hostilities on his work, saying he was not afraid to do his job:

> I was frightened from time to time but not seriously. One time somebody, I think, actually tried to push me out in front of the stream of traffic. I was walking one half block from the courthouse on the curbside of Camp Street and somebody pushed me out into the street and I just missed a car that came by. After that, I walked on the inside of the sidewalk so that I wouldn't get pushed out into the street . . . . Obviously, I thought of dire things but quite frankly, it didn't affect my

672. *Id.* at 56.

673. La. Pub. Broad., *supra* note 2.

> work and it certainly didn't affect what I did. I think I did what I felt I had to do and I wasn't afraid to do it.[674]

One thing is very apparent in reading or listening to Judge Wright's interviews—he did not hold any grudges or express any ill will toward any of the politicians, citizens, or former friends for their hostile and invective behavior. His resoluteness in the face of this profound hate directed at him and his family caught the attention of the nation.

> Judge Wright's refusal to back down from his quest to defend the rule of law and uphold the supremacy of the Constitution in New Orleans had made him a national figure . . . . [H]e was hailed as a hero by the national media, many of whose members had come to New Orleans to cover the activities surrounding the initial desegregation of Frantz and McDonogh [No.] 19. Scores of printed articles and television reports from outside the Bayou State expressed respect and admiration for his refusal to buckle under the pressure of standing, frequently alone, against the combination of potent forces aligned against him.[675]

While he was universally hated in his native Louisiana, he had gained the respect of others in the nation. Nevertheless, Judge Wright was determined to see the job he started through to its completion.

C. JUDGE WRIGHT'S FIFTH CIRCUIT PROSPECTS ARE BLOCKED AGAIN

In the Spring of 1961, two vacancies opened up on the U.S. Court of Appeals for the Fifth Circuit.[676] Judge Wright's name was prominently mentioned as a possible nominee.[677] However, because of his desegregation rulings, there was great opposition.[678] One scholar would later observe: "Those who disapproved of the manner in which Wright discharged his duties during the desegregation controversy in Louisiana used all the political leverage at

674. *Id.*
675. Friedman, *supra* note 9, at 2230.
676. *Id.*
677. *Id.*
678. *Id.* at 2231.

their disposal to prevent his elevation to the Court of Appeals for the Fifth Circuit."[679]

The Louisiana legislature passed a resolution opposing any nomination of Judge Wright, citing his " 'utter disregard of the sovereignty of the state' and general incompetence."[680] During the debate, white supremacist Representative Wellborn Jack of Caddo Parish shouted:

> When we pass this resolution, he won't have a snowball's chance in Hell of getting promoted. And I don't want our senators to say he should be promoted to get him out of the way of doing harm. He's the judge, the jury, the executioner—the people in Washington are his bosses. Federal [j]udges are supposed to be dignified.[681]

Representative W.K. Brown of Grant Parish fumed on the House floor: "You are no God, Skelly Wright. You are not even a competent judge, Skelly Wright. You are a traitor to this state."[682] However, Representative John Schwegmann Jr., an avowed segregationist from Jefferson Parish whose supermarket business had received a favorable ruling in a price-fixing case, spoke in favor of Judge Wright.[683] Schwegmann recalled his numerous appearances in Judge Wright's court: "I honestly believe the judge makes the decisions as he sees the law is written . . . . I have no animosity against the judge."[684]

The Louisiana legislature's opposition had limited impact on Judge Wright's judicial future.[685] What did influence President Kennedy, however, was the opposition of Louisiana's U.S. Senators Russel Long and Allen Ellender.[686] Long was up for re-election in 1962.[687] He told President Kennedy that he would not win re-elec-

679. Behlar, *supra* note 62, at 104.
680. Bernick, *supra* note 2, at 979, 990.
681. Behlar, *supra* note 62, at 107 (quoting STATE-TIMES, May 16, 1961, at 9-A).
682. *Id.* at 106 (quoting TIMES-PICAYUNE (New Orleans), Nov. 16, 1960, at 1).
683. *Id.* at 107.
684. *Id.* (quoting STATE-TIMES, May 19, 1961, at 9-A).
685. Bernick, *supra* note 2, at 979, 991.
686. *Id.* at 979, 990.
687. *Id.* at 979, 991.

tion if he did not veto Judge Wright's nomination to the Fifth Circuit Court of Appeals.[688] Senator Ellender half-heartedly presented the U.S. Senate with a proclamation of the Louisiana legislature that encouraged "the U.S. Senators from Louisiana to oppose the confirmation by the U.S. Senate of the nomination of Judge J. Skelly Wright to fill any Federal office or position of trust, including that of judge of the U.S. Circuit Court of Appeals for the Fifth Circuit."[689] The irony is that these two Louisiana Senators knew Judge Wright well—Ellender had recommended him to be an Assistant U.S. Attorney in 1937 and Long had been a student of Judge Wright at Fortier High School where they became lifelong friends, with Long occasionally staying as an overnight guest at the Wrights' home in Washington. Judge Wright did not resent the Senators' actions, later saying, "I knew they had to do it."[690] Senator Eastland of Mississippi—who, as head of the Senate Judiciary Committee, controlled the hearing schedule—stated his adamant opposition to Wright's appointment.[691]

Judge Wright did have support for a nomination to the Fifth Circuit, but not from the South.[692] An editorial in the *New York Times* opined that if Wright did not get the appointment, it would be "a clear case of a courageous judge being denied advancement for outrageous political reasons."[693] The day after he received his honorary law degree from Yale in May 1960, fifteen Yale law professors expressed their support for Judge Wright's nomination to the Fifth Circuit; they stated that it was not that they supported his decisions, but that he had "a total aggregate of judicial achievement during his eleven years on the bench."[694]

The Kennedy Administration was not up for the fight.[695] It did not want to alienate powerful Southern senators such as Long

688. *Id.* at 979, 990 n.96 (1980) (citing VICTOR NAVASKY, KENNEDY JUSTICE 272–83 (1971)).

689. Behlar, *supra* note 62, at 106 (quoting 107 Cong. Rec. 9401 (1961)). This was buried in several other petitions calling for imposition of a duty on shrimp, the investment of revenue from the tidelands off Louisiana's shores, and a commendation to the State of Alabama for its defense of states' rights. *Id.* at 108 n.3.

690. Pope, *supra* note 192.

691. Monroe, *supra* note 43, at 372; Behlar, *supra* note 62, at 103.

692. Behlar, *supra* note 62, at 109.

693. *Id.* (quoting NEW YORK TIMES, June 3, 1961, at 2).

694. *Id.* at 109–10 (Aug. 1974) (quoting NEW YORK TIMES, June 3, 1961, at 2).

695. *See id.* at 110.

and Eastland over judicial appointments.[696] Further, a nomination of Judge Wright to the Fifth Circuit as Long was facing reelection would antagonize Long and compel him to use his right of home-state senatorial courtesy to block Judge Wright's nomination.[697] However, this did not become necessary because Wright did not receive the nomination to the Fifth Circuit.[698]

When President Kennedy did not nominate Judge Wright to the Fifth Circuit, Attorney General Robert Kennedy called Judge Wright to express his disappointment and explain that there was no way he could have won Senate approval.[699] Justices Black and Douglas wrote letters to Judge Wright conveying their disappointment.[700] In his letter to Judge Wright, Justice Douglas wrote that "someday soon you will be sitting on this Court, a place where you rightfully belong."[701] One former New Orleans news reporter later noted that Judge Wright's thankless work on the desegregation cases thwarted his opportunity to advance his judicial career in New Orleans:

> If he had not fought that fight with such manifest conviction, J. Skelly Wright almost certainly would have become a judge on the Fifth Circuit Court of Appeals and lived out his life in New Orleans, honored and esteemed by old friends, neighbors, and fellow citizens. But he was now a pariah.[702]

Nevertheless, Judge Wright continued on with his Louisiana desegregation cases issuing new orders and injunctions in a number of cases.[703]

One Friday in early December 1961, Deputy Attorney General Byron White called Judge Wright with an offer of an appointment to the U.S. Court of Appeals for the District of Columbia Circuit.[704] The President wanted an answer by Tuesday.[705] After only a few days of consideration, he called White to accept the appointment.[706]

696. *Id.*
697. *Id.*
698. *Id.*
699. Bernick, *supra* note 2, at 979, 990.
700. *Id.* at 979, 990 n.96.
701. *Id.*
702. Monroe, *supra* note 43, at 372.
703. See, e.g., *Hall*, 197 F. Supp. at 655; *Pitcher*, *supra* note 635.
704. Behlar, *supra* note 62, at 110–11.
705. *See supra* note 1.
706. Behlar, *supra* note 62, at 111.

On December 15, 1961, President Kennedy announced Judge Wright's nomination.[707] Luckily, Louisiana Senators Long and Ellender could not block this nomination through use of their senatorial courtesy.[708]

The news reports covering Judge Wright's appointment to the Court of Appeals showed the differing attitudes of the presses of Washington and New Orleans toward Judge Wright. The *Washington Post* reported that Judge Wright "is best known for his courage and his fierce determination . . . . He stood up against tremendous pressure from segregationists in Louisiana."[709] The *Post* added:

> The selection of Judge J. Skelly Wright . . . is gratifying . . . . [He] has earned a promotion by [twelve] years of able service as a [f]ederal trial judge and especially by his unruffled and courageous decisions that guided New Orleans through its desegregation ordeal. Sometimes Judge Wright is inaccurately praised as a great champion of desegregation. Rather, his distinction lies in the fact that he upheld the law of the land in the face of an intemperate rampage on the part of the government of Louisiana.[710]

In contrast, the *Times-Picayune* merely reported on the appointment and stated that Judge Wright "has been a controversial figure in some quarters" because of his desegregation rulings.[711] The *States-Item* also simply recounted that Judge Wright "has been a controversial figure in New Orleans."[712]

Judge Wright's Senate confirmation hearing was held on February 28, 1962.[713] Senator Eastland, Chairman of the Senate Judiciary Committee, did not attend, but instead assigned two Midwest Senators to conduct the hearing.[714] For their parting shot, not one member of Louisiana's congressional delegation attended

707. *Id.*

708. *Id.*

709. James E. Clayton, *New Appeals Court Judge Termed Able and Tough Young Professional*, WASH. POST, Dec. 17, 1961, at B4.

710. *Prettyman to Wright*, WASH. POST, Dec. 19, 1961, at A14.

711. *Wright to D.C. Appeals Court: Ellis May get District Bench Here, Report*, TIMES-PICAYUNE (NEW ORLEANS), Dec. 16, 1961, at 1.

712. *JFK Appoints Wright to D.C. Appeals Court*, NEW ORLEANS STATES-ITEM, Dec. 16, 1961, at 3.

713. Behlar, *supra* note 62, at 112 n.1.

714. *See supra* note 1.

Judge Wright's Senate confirmation hearing, not even his personal friend, Louisiana Senator Russell Long. Additionally, the Louisiana Bar Association and the New Orleans Bar Association bucked tradition and did not take official positions on his nomination.[715] There was no opposition to the nomination; however, "members of the District of Columbia Bar did speak in support of it."[716] Subcommittee Chairman John Carroll of Colorado observed that Judge Wright's "quiet courage" in carrying out his duties as District Judge had "won the respect of lawyers from all corners of this country."[717] In his usual unflappable manner, Judge Wright later humorously referred to his appointment with a double-entendre, saying his appointment had been "kicked upstairs."[718]

VII. FINAL CONTROVERSIES AND JUDGE WRIGHT'S LAST ORDERS IN NEW ORLEANS

Before he departed New Orleans in April 1962, Judge Wright fired two final parting shots of his own on desegregation. First, he ordered the desegregation of Tulane University, and second, he ordered an acceleration of the desegregation of the Orleans Parish public schools.

A. JUDGE WRIGHT DESEGREGATES TULANE UNIVERSITY

On March 28, 1962, Judge Wright issued his decision granting a summary judgment to order the desegregation of Tulane University in *Guillory v. Administrators of Tulane University*.[719] Also on that day, the Senate confirmed the nomination of Judge Wright to the U.S. Court of Appeals for the District of Columbia Circuit.[720]

715. Behlar, *supra* note 62, at 112. This led Judge Wright's younger brother, James E. Wright Jr. to resign his membership in the New Orleans Bar Association. *Id.* at 112 n.2 (citing Interview with James E. Wright Jr.). He could not resign from the Louisiana Bar Association because all Louisiana lawyers are required to be members. *Id.* (citing Interview with James E. Wright Jr.).

716. *Id.* at 112–13.

717. *Id.* at 112 (quoting *Wright Nomination to D.C. Circuit: Hearing Before the Senate Judiciary Subcomittee).*

718. *Id.* at 111 n.3 (quoting J. Skelly Wright, *The Federal Courts and the Nature and Quality of State Law,* 13 WAYNE L. REV. 317, 324 (1967)).

719. Guillory v. Adm'rs of Tulane Univ., 203 F. Supp. 855, 855 (E.D. La.), *rev'd per curiam*, 306 F.2d 489 (1962).

720. Behlar, *supra* note 62, at 113.

A Loyola law graduate named Jack Nelson was the lead lawyer for the plaintiffs in the *Guillory* case.[721] He presented a detailed history of Tulane University going back to its founding as a state school in 1847.[722] Tulane claimed that it was "immune from the command of the Fourteenth Amendment," citing an 1883 U.S. Supreme Court case, which held that discrimination by individuals or private businesses could not be prohibited by federal law.[723] However, Judge Wright found that the school had a sufficient nexus with the state to apply the Fourteenth Amendment.[724] He concluded:

> For, history to one side, the present involvement of the state is sufficient to subject Tulane to the constitutional restraints on governmental action. Indeed, the University still operates under a special legislative franchise; it continues to enjoy a very substantial state subsidy in the form of a unique tax exemption for commercially leased property; it still receives considerable revenues from lands which the state has not altogether relinquished; and three public officials remain on its governing board. Clearly, it falls within the rule of *Cooper v. Aaron*[] that "State support of segregated schools through any arrangement, management, funds, or property cannot be squared with the (Fourteenth) Amendment's command." The consequence is that Tulane University cannot discriminate in admissions on the basis of race.[725]

His conclusion was based on a review of Nelson's history of the school. The school was originally chartered in 1847 as a state school, the University of Louisiana.[726] To honor its new benefactor, Paul Tulane, the school was renamed the Tulane University of Louisiana in 1884.[727] The governance of the school and the use of public buildings was transferred to the Tulane Educational Fund.[728] As part of the transfer, the state gave tax-exempt status to the Tulane Educational Fund and required that state officials, including the Governor and mayor of New Orleans, be on the

721. *Guillory*, 203 F. Supp. at 856.

722. *Id.* at 859–60.

723. *Id.* at 858; *see* United States v. Stanley (*Civil Rights Cases*), 3 S. Ct. 18, 62 (1883).

724. *Guillory*, 203 F. Supp. at 863–64.

725. *Id.*

726. *Id.* at 859.

727. *Id.* at 861.

728. *Id.*

board.[729] Judge Wright quoted a 1906 report of the Tulane president, a former Louisiana Supreme Court Justice, that, as a result of a state constitutional amendment, "the Tulane University of Louisiana, . . . is, and remains the University of Louisiana established by the [s]tate in 1847."[730] As recounted in the Tulane case opinion, Tulane's president concluded his 1906 report stating:

> "No one can read the Constitution of the State, the Legislative Acts and the judicial decisions bearing on the subject without perceiving that the Tulane University of Louisiana is nothing more nor less than the University of Louisiana established by the [s]tate in 1847, continued under a slight change of name and under control of Administrators appointed in a different way from that formerly pursued, but deriving their authority directly from the [s]tate."[731]

Judge Wright found nothing in the law or history of the school that changed that status.[732] He also found that Paul Tulane's restriction that his donation was to benefit "white young persons"[733] did not "supply a constitutional basis for racial discrimination."[734] Judge Wright closed his opinion by observing:

> This case has overtones of litigation designed to rescue the University from the unfavorable position in which it now finds itself, particularly with respect to large foundations created to dispense funds to institutions of higher learning. The statement of the Board indicating that it "would admit qualified students regardless of race or color if it were legally permissible" supports this suggestion.[735]

He was referencing Tulane's need for grant money from large national foundations which had begun to require recipients to have "integrated student bodies."[736] Indeed, two weeks later, the Tulane student paper, the *Hullabaloo*, lambasted the Tulane board's "spinelessness" for not taking action on its own but instead using

729. *Id.*
730. *Id.* at 863 (quoting Fenner, J.).
731. *Id.* (quoting Fenner, J.).
732. *Id.*
733. *Id.* at 860.
734. *Id.* at 857.
735. *Id.* at 864.
736. Cheryl V. Cunningham, The Desegregation of Tulane University 9 (Dec. 1982) (M.A. thesis, University of New Orleans), http://www.tulanelink.com/PDF/desegregation2.pdf.

Judge Wright as the "fall guy . . . . the perfect flunky—a man fearlessly opposed to segregation and 'used to being spat upon in public for his unpopular decisions.' "[737] The student newspaper denounced the Tulane board's apparent strategy to blame Judge Wright if desegregation was ordered:

> The suit allowed the board an easy way out, the article stated; it could pacify New Orleanians by appearing to be forced by a "scalawag" to admit blacks [sic] and, at the same time, court the foundations. The author castigated the Tulane board for selling out to the popular whims of the foundations and queried if [the] Ford [Foundation] decided to promote the theory that the earth is flat, whether the Tulane board would "crawl to Ford and agree to teach world flatness in exchange for another set of bowling alleys."[738]

On April 9, 1962, Judge Wright issued an injunction against Tulane ordering the university to admit the plaintiffs.[739] The *Shreveport Times* called Judge Wright's *Tulane* order "a final gesture of arrogance."[740] Tulane's attorney later remarked that Judge Wright "stuck integration in Tulane's ear."[741]

B. JUDGE WRIGHT'S FAREWELL TESTIMONIAL LUNCHEON

On April 2, 1962, the New Orleans Chapter of the Federal Bar Association honored Judge Wright at a sendoff testimonial luncheon.[742] Judge Christenberry addressed the attendees, saying he was pleased that Judge Wright had been elevated to the court of appeals but regretted "the end of a long and happy partnership," recalling that they had worked together since 1937 at the U.S. Attorney's office and later as judges.[743] Judge Christenberry credited Judge Wright with having much to do with the exceptional record of the Eastern District of Louisiana in disposing of cases and clearing the crowded docket.[744] In presenting a gift to Judge Wright,

737. *Id.* at 73 (citing HULLABALOO, Apr 13, 1962).

738. *Id.* (citing HULLABALOO, Apr 13, 1962).

739. *Id.* at 70.

740. *Id.* at 72 (quoting *The Federal Court and Tulane*, SHREVEPORT TIMES).

741. *Id.* at 69 (quoting Interview with Wood Brown, III (May 2 1981)).

742. *Testimonial Lunch Pays Honors to Judge Wright: Speakers Voice Tribute to Departing Jurist*, TIMES-PICAYUNE (New Orleans), Apr. 3, 1962, at 14 [hereinafter *Testimonial Lunch Pays Honors to Judge Wright*].

743. *Id.*

744. *Id.*

Judge Christenberry added, "This is a small token of the high esteem which we hold you and the profound respect which you have earned as a lawyer, judge and individual."[745]

In his closing remarks to the New Orleans Bar, Judge Wright thanked those present and proclaimed: "I leave with no regrets. I wouldn't change a line of it."[746] At the end of the lunch, Judge Wright received a standing ovation.[747]

C. LAST ORDER IN NEW ORLEANS: JUDGE WRIGHT ACCELERATES THE PACE OF DESEGREGATION

On April 3, 1962, Judge Wright delivered his final opinion in the *Bush* case.[748] He noted the persistence of significant inequalities between Black and white schools.[749] In the two years since he had issued his desegregation plan in May 1960, requiring desegregation of one class per year starting with the first grade, only twelve out of approximately 13,000 eligible Black students had been admitted to white schools.[750] In addition, 5,540 Black elementary school children—but no white children—were on platoon.[751] Classes for Black students were "conducted in classrooms converted from stages, custodians' quarters, libraries, and teachers' lounge rooms, while similar classroom conditions did not exist in the white schools."[752]

Judge Wright's new order prohibited the school board from applying the Louisiana Pupil Placement Act,[753] which required testing of students before allowing a transfer to a desegregated school.[754] This law had been used to limit the number of Black students who could transfer to white schools. He further ordered

745. *Id.*

746. *Id.*; Behlar, *supra* note 62, at 113 (citing TIMES-PICAYUNE (New Orleans), Apr. 3, 1962, at 1).

747. *Testimonial Lunch Pays Honors to Judge Wright*, *supra* note 742.

748. *Bush*, 204 F. Supp. 568.

749. *Id.* at 571.

750. *Id.* at 570.

751. *Id.* at 571. Platoon School: "a departmentalized school in which the pupils of each grade are organized into platoons that take turns in using the classrooms, shops, auditorium, gymnasium, and other physical resources of the school." *Platoon School*, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/platoon%20school (last visited Dec. 12, 2023).

752. *Bush*, 204 F. Supp. at 571.

753. Act No. 492, 1960 La. Acts 939.

754. *Bush*, 204 F. Supp. at 569.

that, in the fall of 1962, grades one through six of the New Orleans schools would be desegregated.[755]

On April 9, 1962, Judge Wright also entered his final order in the *Bush* case, enforcing the accelerated pace of desegregation set forth in his April 3 opinion.[756] Judge Wright's closing words in the *Bush* case recognized the inherent inequity of a desegregation plan implemented in stages:

> Generations of Negroes [sic] have already been denied their rights under the separate but equal doctrine of *Plessy v. Ferguson*[] and, at the present pace in New Orleans, generations of Negroes [sic] yet unborn will suffer a similar fate with respect to their rights under *Brown* unless desegregation and equal protection are secured for them by this court.
>
> The School Board here occupies an unenviable position. Its members, elected to serve without pay, have sought conscientiously, albeit reluctantly, to comply with the law on order of this court. Their reward for this service has been economic reprisal and personal recrimination from many of their constituents who have allowed hate to overcome their better judgment. But the plight of the Board cannot affect the rights of school children whose skin color is no choice of their own. These children have a right to accept the constitutional promise of equality before the law, an equality we profess to all the world.[757]

These were Judge Wright's last words as a federal district judge in New Orleans.

D. THE NEW JUDGE QUICKLY WITHDRAWS JUDGE WRIGHT'S LAST ORDERS

Judge Wright left New Orleans on April 15, 1962, for his new post in Washington, D.C., as circuit judge on the U.S. Court of Appeals for the District of Columbia Circuit. He departed his home state but would return many times to visit family, attend conferences, and give speeches. He never lost interest in what was happening in his hometown.

755. *Id.* at 571.

756. *See Bush*, 308 F.2d at 495.

757. *Bush*, 204 F. Supp. at 571.

President Kennedy nominated Frank B. Ellis to replace Judge Wright on the district court.[758] Ellis had been President Kennedy's 1960 Louisiana campaign manager.[759] Ellis and Judge Wright were friends and played golf together on occasion.[760] Ellis was also the law partner of Judge Wright's younger brother.

Judge Ellis wasted no time in undoing Judge Wright's final orders in New Orleans. On April 19, 1962, Judge Ellis entered an order staying Judge Wright's April 9 temporary injunction in the *Tulane* case and granted Tulane a new trial.[761] Then, on May 15, 1962, Judge Ellis issued his opinion overturning Judge Wright's summary judgment and temporary injunction, finding that the degree of state action was in dispute, making summary judgment inappropriate.[762]

On July 21, 1962, a Fifth Circuit panel composed of Judges Wisdom, Brown, and Cameron affirmed Judge Ellis's *Tulane* ruling.[763] In a per curium opinion, the Fifth Circuit held that Judge Ellis had not abused his discretion in granting a new trial and dissolving Judge Wright's temporary injunction.[764]

On remand, Judge Ellis held a quick trial on August 3, which was nothing more than a presentation of the same evidence and repeat of the same arguments the plaintiffs and Tulane had made to Judge Wright on summary judgment.[765] Judge Ellis then took over four months to render a decision.[766] The November 30 editorial of the *Hullabaloo* expressed impatience with both the board and Judge Ellis because the national foundations threatened to cut off grants if Tulane was not integrated by the year's end.[767] On December 5, 1962, Judge Ellis finally issued his opinion.[768] He found that state involvement in the "Tulane board [was] not so significant that it may fairly be said [to be] actions of the State of

758. Friedman, *supra* note 9, at 2231.

759. *Id.*

760. *Id.*

761. Cunningham, *supra* note 736, at 76.

762. *Guillory*, 203 F. Supp. at 864.

763. Guillory v. Adm'rs of Tulane Univ., 306 F.2d 489, 490 (5th Cir. 1962) (per curiam).

764. *Id.*

765. Cunningham, *supra* note 736 at 84.

766. *See id.* at 84, 95.

767. *Id.* at 95.

768. Guillory v. Adm'rs of Tulane Univ., 212 F. Supp. 674 (E.D. La. 1962).

Louisiana."[769] Judge Ellis's opinion gave no hint of any disputed factual issue that would have prevented the granting of summary judgment.

Tulane may have temporarily escaped a judicial finding that it was a quasi-public school, but it had not solved its integration problem. The petitioners pressed their case by quickly appealing to the Fifth Circuit on December 6.[770] Tulane had had enough. On December 12, the board voted unanimously to admit Black students into the university in February 1963.[771]

In the *Bush* case, on May 23, 1962, Judge Ellis vacated Judge Wright's last order and restored the schedule for the desegregation of the New Orleans schools by one grade each year.[772] On appeal, Judges Rives, Brown, and Wisdom of the Fifth Circuit affirmed the holdings of Judges Wright and Ellis that the school board's implementation of the student testing was unconstitutional.[773] However, on the question of acceleration of desegregation, Judge Wisdom opined that the court was "struck by the lack of a sound basis for acceleration or deceleration."[774] The Fifth Circuit panel then split the difference between Judges Wright and Ellis by implementing a plan that allowed for the integration of the first five grades by 1964 and one grade per year thereafter.[775]

Desegregation in New Orleans progressed at a very slow pace. By the 1964–65 school year, only 873 Black students out of over 100,000 Black students in New Orleans attended desegregated

769. *Id.* at 687.

770. Cunningham, *supra* note 736 at 98.

771. *Id.* This action was most likely motivated by a $6 million grant by the New York-based Ford Foundation, which required a certification by Tulane that it was a desegregated institution. *See id.* at 8–9. Judge Wright recognized this in his March 28, 1962, opinion:

> This case has overtones of litigation designed to rescue the University from the unfavorable position in which it now finds itself, particularly with respect to large foundations created to dispense funds to institutions of higher learning. The statement of the Board indicating that it "would admit qualified students regardless of race or color if it were legally permissible" supports this suggestion.

Guillory, 203 F. Supp. at 864. (footnote omitted). Because of this, Judge Wright raised the suggestion that the suit may, in fact, be a "friendly" proceeding to free Tulane from this dilemma. *Id.*

772. DOUGLAS, *supra* note 153, at 11.

773. *Bush*, 308 F.2d at 492.

774. *Id.* at 501.

775. *Id.* at 502–03.

schools.[776] Three years after the Fifth Circuit ruling, even Judge Ellis recognized the woeful insufficiency of Judge Wisdom's Fifth Circuit plan to accomplish desegregation in any timely way. In 1965, Judge Ellis ordered a new plan for the desegregation of the Orleans Parish public schools.[777] After his wholesale rejection of Judge Wright's last order in *Bush* in May of 1962, Judge Ellis adopted Judge Wright's plan and ordered the school board to create single-school districts, without regard to race, on a year-by-year basis for succeeding grades.[778] Schools would be desegregated starting with the fifth grade in 1965–66 and add two more classes every year until the twelfth grade was reached by 1969–70.[779]

The *Bush* case finally came to an end in the late 1970s. Judge Christenberry, who had been on the three-judge district court panels in the early days of the *Bush* case, was assigned the case after Judge Ellis's retirement in 1965. In 1975, Judge Christenberry declared that the Orleans Parish public schools were in compliance with the *Bush* desegregation order and that the biannual reports of the School Board were no longer required.[780] Judge Christenberry stated that he would completely dissolve the court order in 1977 if there were no new actions filed by the NAACP.[781] After Judge Christenberry's death on October 5, 1975, Judge Charles Schwartz quietly dissolved Judge Wright's court order in 1978.[782] The case that had come in with such a roar went out like a lamb.

During Judge Wright's tenure on the *Bush* case between 1952 and 1962, there were forty-one separate judicial decisions, including six by the Supreme Court, all of which affirmed Judge Wright's decisions in the federal district court:[783]

> Before the warfare had ended, in 1962, Judge Wright had issued forty-one rulings—an average of one every three months for ten years. He eventually had injunctions in force against

776. Daniel Kiel, *It Takes a Hurricane: Might Katrina Deliver for New Orleans Students What* Brown *Once Promised?*, 40 J.L. & EDUC. 105, 119–20 (2011).

777. *Parish in Louisiana Gets School Order*, N.Y. TIMES, Apr. 28, 1965, at 16.

778. CARL L. BANKSTON III & STEPHEN J. CALDAS, A TROUBLED DREAM: THE PROMISE AND FAILURE OF SCHOOL DESEGREGATION IN LOUISIANA 59 (2002).

779. *Id.*

780. *Id.* at 61.

781. *Id.*

782. *Id.*

783. Monroe, *supra* note 43, at 371–72.

> the Governor, the Attorney General, the Superintendent of Education, the state police, the National Guard, all district attorneys, all sheriffs, all mayors and police chiefs, anyone acting in concert with them and, finally, the entire legislature. In the words of Jack Bass, Judge Wright, with the support of the federal judiciary and eventually the Justice Department, had faced down "the full force and power of the entire [S]tate of Louisiana."[784]

It was an epic struggle.

VIII. NEW HORIZONS FOR JUDGE WRIGHT

A. JUDGE WRIGHT'S APPOINTMENT TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Judge Wright went on to serve on what many consider to be the most influential circuit court in the United States, the United States Court of Appeals for the District of Columbia Circuit.[785] The circuit court appointment launched a new phase of Judge Wright's career:

> The appointment opened up a new quarter century of opportunity for Judge Wright to define his sense of constitutional justice from a higher bench. It also took Skelly and Helen Wright and their son from a landscape of implacable hostility into a climate of social warmth and intellectual acceptance. In Washington, recognized immediately as a jurist of granite qualities, the judge could also flourish as a person. A steadily building coterie of friends, most of them lawyers, judges, and Supreme Court justices, discovered in Skelly Wright a man of complexity and warmth, magnetic in his humanity, and simultaneously a character engagingly defined around the edges by some fine eccentricities.[786]

Moving to Washington, D.C., did not end the controversies of Judge Wright's judicial life. One of his first Washington controversies came in the 1964 case *In re President and Directors of Georgetown College, Inc.*, when he ordered a blood transfusion to a dying Jehovah's Witness.[787] His blood transfusion order in that

784. *Id.*

785. *Id.* at 372.

786. *Id.*

787. *In re* President & Dirs. of Georgetown Coll., Inc., 331 F.2d 1000, 1002 (D.C. Cir. 1964).

case was unprecedented.[788] Yale Professor Alexander Bickel, among others, criticized Judge Wright for "'rushing' to the hospital 'with robes flapping.' "[789] It was controversial and one of the earliest pro-life decisions issued by a federal court.

He wrote hundreds of opinions while on the Court of Appeals in Washington, many of which were equally controversial. He gave life to "unconscionability" in contracts in *Williams v. Walker-Thomas Furniture Co.*,[790] and found a warranty of habitability in every rental contract in *Javins v. First National Realty Corporation*.[791] He recognized that de facto discrimination was as illegal as de jure discrimination in *Hobson v. Hansen.*[792] In June 1971, during the height of the Vietnam War, he strongly dissented when his court entered a TRO blocking the *Washington Post*'s publication of the Pentagon Papers.[793] Just twelve days later, on June 30, 1971, the U.S. Supreme Court adopted Judge Wright's position in a landmark decision allowing the *Washington Post* and *New York Times* to publish the Papers.[794] In 1973, his court, sitting en banc, ordered President Nixon to comply with a Grand Jury *subpoena duces tecum* for his White House recordings in *Nixon v. Sirica.*[795] In *Ethyl Corp. v. EPA,*[796] he held that the EPA could ban lead in gasoline even though the harmful effects of lead had not yet been proven with certainty, and in *Bundy v. Jackson*, he was the first to hold that workplace sexual harassment that creates a hostile work environment may constitute gender discrimination under

788. *See generally In re* President & Dirs. of Georgetown Coll., Inc., 331 F. 2d 1000 (D.C. Cir. 1964).

789. MILLER, *supra* note 23, at 184 (quoting Thomas C. Grey, *J. Skelly Wright*, 7 HASTINGS CONST. L.Q. 873, 873 (1980)); *see also In re Georgetown Coll.,* 331 F.2d at 1011–15 (Miller, J., dissenting); *In re Georgetown Coll.* 331 F. 2d at 1015–18 (Burger, J., dissenting); Richard L. Beatty, *Court Authorized Blood Transfusion Over Adult Patient's Religious Objection – A Violation of the First Amendment? (*Application of the President and Directors of Georgetown College, Inc., *D.C. 1964)*, 26 MONT. L. REV. 95 (1964).

790. *See* Williams v. Walker-Thomas Furniture Co., 350 F.2d 445, 448–50 (D.C. Cir. 1965).

791. Javins v. First Nat'l Realty Corp., 428 F.2d 1071, 1082 (D.C. Cir. 1970).

792. Hobson v. Hansen, 269 F. Supp. 401, 494 (D.D.C. 1967), *aff'd sub nom.* Smuck v. Hobson, 408 F.2d 175 (D.C. Cir. 1969) (en banc).

793. *United States v. Wash. Post Co.*, 446 F.2d 1322, 1325 (D.C. Cir. 1971) (Wright, J., dissenting).

794. *N.Y. Times Co. v. United States*, 403 U.S. 713 (1971) (per curiam).

795. Nixon v. Sirica, 487 F.2d 700, 722 (D.C. Cir. 1973) (per curiam). Judge Wright wrote the major portion of the en banc court's opinion. *See supra* note 1.

796. Ethyl Corp. v. EPA, 541 F.2d 1, 55 (D.C. Cir. 1976) (en banc).

Title VII of the Civil Rights Act of 1964.[797] All of these cases, although controversial at the time, are now considered mainstream law.

1. *HOBSON V. HANSEN*: JUDGE WRIGHT DESEGREGATES THE PUBLIC SCHOOLS OF WASHINGTON, D. C.

The 1967 case of *Hobson v. Hansen*[798] threw Judge Wright once again into the public-school desegregation cauldron, but this time he was in the North. Chief Judge David Bazelon designated him to sit as a district judge because all of the D.C. district judges had recused themselves on the grounds that**,** under the D.C. city charter, they had appointed the members of the school board.[799] Famed civil rights lawyer William Kunstler represented the plaintiffs.[800] In *Hobson*, Judge Wright eliminated the "tracking" system in the public schools of Washington, D.C.[801] The "tracking" system placed children according to test scores.[802] However, Judge Wright found that the system often resulted in placement of students along racial lines, placing most Black students in lower tracks and white students in upper tracks.[803]

In concluding his opinion in *Hobson*, Judge Wright recognized the duty of a court to confront the difficult constitutional issues that elected officials would not; it was a lesson he had learned from his Louisiana experience:

> It would be far better indeed for these great social and political problems to be resolved in the political arena by other branches of government. But these are social and political problems which seem at times to defy such resolution. In such situations, under our system, the judiciary must bear a hand and accept its responsibility to assist in the solution where constitutional rights hang in the balance. So it was in *Brown v. Board of Education*, *Bolling v. Sharpe*, and *Baker v. Carr*. So it is in the South where federal courts are making brave attempts to implement the mandate of *Brown*. So it is here.[804]

797. Bundy v. Jackson, 641 F.2d 934, 939 (D.C. Cir. 1981).
798. *Hobson*, 269 F. Supp. 401.
799. *See supra* note 1.
800. *Hobson*, 269 F. Supp. at 405
801. *Id.* at 407.
802. *Id.*
803. *Id.*
804. *Id.* at 517.

In *Hobson,* Judge Wright expanded the concept of discrimination to include de facto discrimination.[805] This had never been done before. *Hobson* has been referred to as the most important case involving schools since *Brown*.[806]

Judge Wright's opinion in *Hobson* drew national attention and reignited the controversy surrounding his role in school desegregation. Conservative columnist and avowed segregationist James Kilpatrick reacted with a scathing column: "In brief, this opinion is the outpouring of a despot who has swallowed emotionalism and regurgitated law."[807] Judge Wright liked the column so much that he cut it out, underlined the quote, and sent it to his younger brother in New Orleans. In her memoirs, Helen Wright wrote about the impact of *Hobson* on their personal lives:

> Fury flew again and some of our hosts upon our arrival became more "former friends." The second time around the surprise element is gone and therefore it is more tolerable—disappointing, but tolerable . . . . It certainly was *déjà vu*. Even in Washington, D.C., the subject of desegregation became explosive. Once again, and for similar reasons, ostracism became a part of our social life (to a milder degree, I must admit). It seemed unbelievable that we should face tension and bigotry again after so many years of it. As I reminded myself so often, we learned again that true friendships are precious while false friends are numerous.[808]

The controversies surrounding Judge Wright and desegregation did not end with his move North. However, just like during his time in New Orleans, Judge Wright's docket on the Court of Appeals addressed numerous other issues outside of desegregation. Many of these decisions unrelated to desegregation also placed Judge Wright on the controversial cutting edge of the law.

805. *Id.* at 515.

806. Judy Pasternak, *J. Skelly Wright; Renowned Liberal Appellate Judge*, L.A. TIMES, Aug. 8, 1988, at 14.

807. James Kilpatrick, *Bizarre D.C. Integration Law Augurs National Woe*, PRESS TELEGRAM (Long Beach), July 10, 1967, at B2.

808. HELEN PATTON WRIGHT, MY JOURNEY: RECOLLECTIONS OF THE FIRST SEVENTY YEARS 105–06 (1995).

2. *BUNDY V. JACKSON*: JUDGE WRIGHT ESTABLISHES PROTECTIONS AGAINST WORKPLACE SEXUAL HARASSMENT

In *Bundy v. Jackson*, decided in 1981, Judge Wright wrote the first appellate decision holding that sexual harassment in the workplace that creates a hostile work environment may constitute gender discrimination under Title VII of the Civil Rights Act of 1964.[809] Sandra Bundy, a vocational rehabilitation specialist employed by the D.C. Department of Corrections, claimed to have suffered persistent sexual intimidation by her supervisors and brought a Title VII claim for sexual harassment.[810] Judge Wright's opinion established that a Title VII claim could be founded on sexual harassment in a workplace, even when the complainant had not lost any job benefits.[811] Recognizing that no court had gone this far before, Judge Wright found:

> What remains is the novel question whether the sexual harassment of the sort Bundy suffered amounted by itself to sex discrimination with respect to the "terms, conditions, or privileges of employment." Though no court has as yet so held, we believe that an affirmative answer follows ineluctably from numerous cases finding Title VII violations where an employer created or condoned a substantially discriminatory work environment, regardless of whether the complaining employees lost any tangible job benefits as a result of the discrimination.[812]

After reviewing cases finding discriminatory and offensive work environments based on race, Judge Wright posed the question: "How then can sexual harassment, which injects the most demeaning sexual stereotypes into the general work environment and which always represents an intentional assault on an individual's innermost privacy, not be illegal?"[813]

Judge Wright's opinion in *Bundy* was heralded as "groundbreaking;" it "set an important, influential legal precedent and became both a focal point for public discussion of sexual harassment and a rallying point for feminists in the early 1980s. Bundy's case

809. *Bundy*, 641 F.2d at 943–44.
810. *Id.*
811. *Id.* at 943.
812. *Id.* at 943–44.
813. *Id.* at 945.

was discussed widely in law reviews and covered extensively in the press, generating sympathy for the victims of sexual harassment."[814] Although derided in conservative quarters as an improper assertion of a judge's personal morality,[815] just five years later, the Rehnquist Supreme Court, with Chief Justice Rehnquist delivering the opinion for the Court, unanimously adopted Judge Wright's position in *Bundy*.[816] That principle is now part of the standard guidelines of the modern, diverse workplace.

These are just a few examples of Judge Wright's many appellate decisions. Because of his court's jurisdiction over the nation's capital, he also decided other important cases involving agency law, environmental law, and the First Amendment.

B. A PROLIFIC AUTHOR OF LAW REVIEW ARTICLES, JUDGE WRIGHT'S INFLUENCE STRETCHED BEYOND THE BENCH

In addition to the more than 1,000 opinions he wrote in nearly forty years as a district and circuit judge, Judge Wright authored fifty-eight law review and other articles, making him one of the most prolific off-the-bench writers in modern times.[817] He wrote on a wide range of topics, and filled his pieces with challenging commentary and candid admissions. His law review topics included: *Pre-Trial on Trial,*[818] *Justice at the Dock: The Maritime*

814. CARRIE N. BAKER, THE WOMEN'S MOVEMENT AGAINST SEXUAL HARASSMENT 120 (2008).

815. Walter Berns, *Let Me Call You Quota, Sweetheart*, COMMENT. MAG. (May 1981), https://www.commentarymagazine.com/article/let-me-call-you-quota-sweetheart/. Conservative constitutional law scholar Walter Berns chided Judge Wright for imposing his personal morality in *Bundy*:

> This truly inspired reading of the statute was offered by Chief Judge J. Skelly Wright, a judge made in the mold of Douglas and not given to acquiescing in Congress's decision as to what is good for the country. As he wrote in the Harvard Law Review a few years ago, the Warren Court especially must be praised for teaching us that there is "no theoretical gulf between the law and morality," by which Judge Wright meant that the law must be made to conform with morality—someone else's law and his morality . . . . If the law of this case becomes the law of the land—Wright's opinion was issued only in January of this year—private as well as public employers can be held to have discriminated if, like the city of Washington here, they permit their female employees to be subjected to unwelcome sexual advances.

Id.

816. Meritor Savs. Bank, FSB v. Vinson, 477 U.S. 57 (1986).

817. *Published Works of J. Skelly Wright*, 57 GEO. WASH. L. REV. 1060 (1989); ON COURTS AND DEMOCRACY: SELECTED NONJUDICIAL WRITINGS OF J. SKELLY WRIGHT 283–85 (Arthur Selwyn Miller ed., 1984).

818. J. Skelly Wright, *Pre-Trial on Trial*, 14 LA. L. REV. 391 (1954).

Worker and Mr. Justice Black,[819] *Politics and the Constitution: Is Money Speech?*,[820] *Color-Blind Theories and Color-Conscious Remedies*,[821] *Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality?*,[822] and *In Praise of State Courts: Confessions of a Federal Judge.*[823]

Judge Wright also delivered invited lectures at twelve law schools.[824] In 1965, he delivered the first James Madison Lecture at New York University not given by a Supreme Court Justice—his topic: *Public School Desegregation: Legal Remedies for De Facto Segregation.*[825] He proposed that de facto segregation was just as violative of the Constitution as de jure segregation—a novel proposal for the time.[826] That lecture was later published as an article for the *New York Law Review*.[827] In 1981, he delivered the George Dreyfous Lecture at Tulane University to the largest crowd in the lecture's fifteen year history, with extra seating being brought into the moot court room where the lecture took place.[828] The title of his lecture was "The Bill of Rights in Britain and America: A not Quite Full Circle."[829] Among those in attendance were New Orleans Mayor Dutch Morial, the first Black graduate of LSU law

819. J. Skelly Wright, *Justice at the Dock: The Maritime Worker and Mr. Justice Black*, 14 UCLA L. REV. 524 (1967).

820. J. Skelly Wright, *Politics and the Constitution: Is Money Speech?*, 85 YALE L.J. 1001 (1976).

821. J. Skelly Wright, *Color-Blind Theories and Color-Conscious Remedies*, 47 U. CHI. L. REV. 213 (1980).

822. J. Skelly Wright, *Money and the Pollution of Politics: Is the First Amendment an Obstacle to Political Equality*?, 82 COLUM. L. REV. 609 (1982).

823. J. Skelly Wright, *In Praise of State Courts: Confessions of a Federal Judge*, 11 HASTINGS CONST. L.Q. 165 (1984).

824. James Madison Lecture at New York University, 1965; Robert L. Jackson Lecturer National College of State Trial Judges, 1966; Lecturer University of Texas, 1967; Irvine lecturer Cornell University, 1968; Brainerd Currie lecturer Duke University, 1979; Lecturer Notre Dame in London, 1974; Meiklejohn lecturer Brown University, 1976; Lecturer administrative law Tulane University in Grenoble, 1979; Francis Biddle lecturer Harvard Law School, 1979; George Dreyfous lecturer Tulane University, 1981; Sam Rubin lecturer Columbia University School of Law, 1982; and Mathew Tobriner lecturer Hastings College of Law, University of California, Berkley 1983. *See supra* note 1.

825. J. Skelly Wright, *Public School Desegregation: Legal Remedies for De Facto Segregation*, 40 N.Y.U.L. Rev. 285 (1965).

826. *Id.*

827. *Id.*

828. Pope, *supra* note 245.

829. *See* J. Skelly Wright, *The Bill of Rights in Britain and America: A Not Quite Full Circle,* 55 TUL. L. REV. 291 (1981).

school; Barbara Guillory Thompson, plaintiff in the Tulane desegregation case and now sociology professor at Dillard University; and several federal judges.[830] He received a standing ovation, but more so out of appreciation for him than the content of his talk.[831]

Judge Wright's non-judicial writings and lectures were as bold and provocative as his judicial opinions. He was never shy about expressing his views, and even relished the fact that they may stir some controversy. He enjoyed debate, even challenging his detractors to respond.

C. JUDGE WRIGHT'S CLOSE RELATIONSHIPS WITH HIS LAW CLERKS

In contrast to his early days on the district court when law clerks were not authorized, Judge Wright became highly sought after by law clerks as a circuit judge.[832] Judge Wright's wife recalled that, among his clerks, "[h]e had a reputation of being fair and decent and competent and a good person with whom to work."[833] He seldom interviewed his law clerks but relied on recommendations from law professors he knew and previous law clerks.[834] To be considered for a clerkship with Judge Wright, a candidate had to be editor-in-chief of his or her school's law review.[835] Helen later remembered that he had a close relationship with his clerks:

> He loved them and they loved him. The rapport between him and law clerks was exceptional. He discussed things with them. He asked their opinion. He respected their opinion. He gave them a sense of being useful and knowledgeable and helpful. I think there are very few, there may have been one or two with whom he perhaps didn't get along quite so well. But, generally speaking, they were all just crazy about him and he of them.[836]

830. *See supra* note 1; Pope, *supra* note 245.

831. *See supra* note 1.

832. *See* Helen Patton Wright Interview, *supra* note 18, at 103.

833. *Id.*

834. *Id.* at 102.

835. *Id.* at 103; *SCOTUSblog on Camera: Donald B. Verrilli Jr. – Complete*, SCOTUSBLOG (Sept. 15, 2023), http://www.scotusblog.com/media/scotusblog-on-camera-donald-b-verrilli-jr-complete/.

836. Helen Patton Wright Interview, *supra* note 18, at 100–01.

During his time as a circuit judge, more of Judge Wright's law clerks went on to clerk at the Supreme Court than those of any other federal or state judge.[837] A study covering the period of 1962 to 2004 ranked him as the top judge in the country for feeding law clerks to the Supreme Court—a total of thirty-four clerks—which is an amazing statistic considering that he assumed senior status on June 1, 1986, eighteen years before the studied period ended.[838] Many of his law clerks went on to have careers in teaching at many of the nation's leading law schools, judgeships, and other prestigious positions of employment.[839]

D. JUDGE WRIGHT'S DAYS IN NEW ORLEANS, RECALLED UPON HIS DEATH

After a long illness, Judge Wright passed away on August 6, 1988, at his home in Westmoreland Hills, Maryland, outside of

837. TODD C. PEPPERS, COURTIERS OF THE MARBLE PALACE: THE RISE AND INFLUENCE OF THE SUPREME COURT LAW CLERK 32 (2006); *see also* ARTEMUS WARD & DAVID L. WEIDEN, SORCERERS' APPRENTICES: 100 YEARS OF LAW CLERKS AT THE UNITED STATES SUPREME COURT 84 (2006).

838. PEPPERS, *supra* note 837, at 32.

839. Those include Michael W. McConnell - Professor at Stanford University Law School and Director, Stanford Constitutional Law Center; Senior Fellow, Hoover Institution (Former U.S. Circuit Judge, United States Court of Appeals for the Tenth Circuit); Donald B. Verrilli, Jr. - Solicitor General of the United States, 2011–16, lecturer in law Columbia University Law School; Raymond C. Fisher - U.S. Circuit Judge, United States Court of Appeals for the Ninth Circuit; Abraham David Sofaer - former U.S. District Judge, United States District Court for the Southern District of New York and later legal advisor of the Department of State; Susan Estrich - professor at the University of Southern California Gould School of Law (in 1977, she was the first female president of the *Harvard Law Review*); L. Michael Seidman - professor at the Georgetown University Law Center; Randall Kennedy - professor at Harvard Law School and Rhodes Scholar; Carol S. Steiker - Friendly Professor of Law at Harvard Law School (in 1981, she was the second female president of the *Harvard Law Review*); Richard Fallon - professor at Harvard Law School and Rhodes Scholar; Robert Weisberg - professor at Stanford Law School; Geoffrey R. Stone - professor at the University of Chicago Law School, Dean of the University of Chicago Law School (1987–94), and Provost of the University of Chicago (1994–2002); William Whitford - professor at the University of Wisconsin Law School; Thomas C. Grey - professor at Stanford Law School and Marshall Scholar; Michael C. Harper - professor at Boston University School of Law; Robert Weisberg – professor at Stanford Law School; Keith P. Ellison - U.S. District Judge, United States District Court for the Southern District of Texas; Louis F. Claiborne - Deputy Solicitor General of the United States, visiting fellow at the University of Sussex in England, and British barrister; John F. Walsh - United States Attorney for the District of Colorado; Richard "Rick" Cotton - current Executive Director of the Port Authority of New York and New Jersey, former Executive Vice President and General Counsel of NBC Universal; Curtis A. Hessler - former Assistant Secretary of the Treasury for Economic Policy. *See supra* note 1.

Washington. He was seventy-seven years old. Many of the tributes to Judge Wright harkened back to his days in New Orleans.

His obituary in the *New York Times* recognized him as "a pioneer in the desegregation of public schools and public transportation in his native New Orleans" and recalled the difficult days there:

> In the months after his order to integrate the public schools in New Orleans in 1960, Judge Wright was shunned by old friends. A cross was burned on the lawn of his home. Telephone threats against his life became so numerous that police guards were assigned to protect him.
>
> In the end, Judge Wright had his way, bringing about not only the integration of the public schools in New Orleans but also the integration of universities, buses, parks, sporting events, and voting lists, historic moves that reverberated elsewhere in the South in the 1950s and 1960s, the era of the civil rights campaigns.[840]

Phil Johnson, another Loyola graduate, delivered the nightly WWL-TV editorial for decades in New Orleans. Reporting on Judge Wright's death, Johnson said that Judge Wright was controversial but was one of New Orleans' heroes:

> New Orleans lost one of its heroes on Saturday. Federal Judge J. Skelly Wright died at seventy-seven at his home near Washington. To call him a hero was to invite controversy. He is the judge who ordered the integration of this city's public schools in 1956. It doesn't sound like much today. But then, thirty-two years ago, it was a most controversial step. But, thank goodness, in Judge Wright we had a man unafraid of controversy . . . . His decision put him in the center of a personal firestorm. Friends shunned him, a cross was burned on his lawn, federal marshals were assigned to guard him, day and night . . . . Jimmie Davis was Governor then. And segregationists ruled the legislature. They tried to fire the School Board. Judge Wright wouldn't let them. They tried to have the state take over the Orleans Parish School System. Judge Wright blocked that. They tried to close the schools. He kept them open. In all, he slapped down over 100 laws passed by the legislature in clumsy attempts to avoid integration . . . .

840. Marjorie Hunter, *Judge J. Skelly Wright, Segregation Foe, Dies at 77*, N.Y. TIMES, Aug. 8, 1988, at D10.

> Some may not agree, but we are all in his debt . . . . And when the chips were down, he rose above the pettiness and the bigotry rampant in this community and did what had to be done. He was, indeed, a hero. He is a part of the history of us all.[841]

In his *Yale Law Journal* Tribute to Judge Wright, Judge Abner Mikva, a former congressman from Illinois and younger fellow Judge on the Court of Appeals for the District of Columbia, recalled first learning about Judge Wright:

> Becoming a judge on the same court with Skelly Wright was something like joining the Yankees while Lou Gehrig was on the team. From my earliest days as a young lawyer and legislator in Illinois, I had heard about Judge Wright, then holding forth as a District Judge in Louisiana. I read with admiration and respect about his repeated bouts with the Louisiana establishment to uphold the rule of law of *Brown v. Board*. He had taken on his colleagues, his community, and many of his home-state friends to carry out his obligations as a judge. I had learned by that time that the most important measuring-stick by which to rate public people was their courage. For Judge Wright you needed a big stick . . . .
>
> In the Chicago vernacular with which I grew up, "He seen his duty and he done it." Great game Skelly—you were the Ironman of the bench. We will never forget you. [842]

Justice William Brennan delivered a eulogy at Judge Wright's memorial service at the National Cathedral which was later published in the *Yale Law Journal*. He captured Judge Wright's essence when he said:

> J. Skelly Wright, my close and dear friend of over [thirty] years, was a remarkable man. The brilliant achievements he crowded one upon another in almost [forty] years on the federal bench richly earned him his national reputation as one of the outstanding jurists of the nation's history. His lasting impact in shaping the development of the law of civil rights and liberties has vastly enriched us all . . . . Skelly Wright was a quiet, modest man, more embarrassed than happy with praise. He was a man of principle, and a wholly compassionate com-

841. *Phil Johnson Editorial* (WWL-TV television broadcast Aug. 8, 1988).

842. Abner J. Mikva, *Remembering Skelly Wright*, 98 YALE L.J. 211, 211 (1988).

> plete human being who never lost sight of the human dimensions of the great problems that confront society. We are a better America because Skelly Wright lived.[843]

IX. A LIFE IN CONTROVERSY WELL LIVED

During his thirteen years on the federal bench in New Orleans, Judge Wright left a mark on the landscape of Louisiana—perhaps more than any other judge. From the day he decided the *Wilson* case in 1950, it seemed that everything Judge Wright touched was controversial. He was involved in all the great legal issues of his time as if it had been his destiny. Starting with his desegregation cases of the 1950s, like *Wilson*, *Tureaud*, and *Bush*, and continuing through to his notable decisions on the D.C. Circuit, like *Georgetown*, *Williams, Javins*, *Hobson,* the Pentagon Papers case, the Nixon Tapes case, and *Bundy*, he was a pioneer in many important areas of the law including the First Amendment, environmental law, contract law, agency law, gender discrimination, and, of course, civil rights. He hit them all the same way: head on—never flinching—and never afraid to make a controversial decision.

The newspaper accounts of the 1950s and early 1960s have one reoccurring word used in reference to him: "controversial." He indeed was controversial, and he loved every minute of it. His tenure on the bench coincided with major transformations of the American way of life, and he was right in the thick of it. Today, some seventy years later, he remains a controversial figure to many in his hometown. The truth is that, while he was quiet and reserved and did not seek recognition, he did relish controversy. To him, being controversial meant that you were doing something. Of all the traits that he brought to his service as a federal district judge, perhaps the most important were that he did not fear controversy and was unflappable in the face of immense personal assaults on him and his family.

After all the ugliness and hate thrown at him and his family by his home state, he never held a grudge. He understood the sensitivity and importance of what he was doing and that it required "patience and forbearance"—the closing words from his 1956 *Bush* decision. Even though he was hated, he never hated back. He went from being the most known and hated man in New Orleans in 1960

843. William J. Brennan, Jr., *Tribute to Honorable J. Skelly Wright*, 98 YALE L.J. 207, 207, 209 (1988).

to one whom few can identify today. As such, he is a significant, although elusive, figure of Louisiana history.