

BOOK REVIEW

A CURIOUS PLACE FOR INTOLERANCE: ALABAMA'S SEGREGATED PUBLIC LIBRARIES

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A RIGHT TO READ: SEGREGATION AND CIVIL RIGHTS IN ALABAMA'S PUBLIC LIBRARIES, 1900-1965. By *Patterson Toby Graham*. Tuscaloosa, Alabama: The University of Alabama Press, 2002. Pp. xiii + 191. \$34.95.

In some localities there is no library service for Negro citizens at all. In one such place where I was a recent visitor, I asked one of the librarians how Negro readers were serviced. "Oh," she said, "they are not interested in reading."¹

INTRODUCTION

Public libraries now become sites of contention because of the ready accessibility of their collections.² Libraries, librarians, and library associations are sometimes at odds with various citizen groups or governmental entities regarding the appropriateness of making certain works or information available—either to patrons generally or younger patrons specifically.³

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1. Rice Estes, *Segregated Libraries*, 85 LIBR. J. 4418, 4419 (1960).

2. The American Library Association's policy manual lists access to information as one of its top priorities, stating that the "ALA will promote efforts to ensure that every individual has access to needed information at the time needed and in a format the individual can utilize, through provision of library and information services." AM. LIBRARY ASS'N, POLICY MANUAL 1.3.A. (1986), available at <http://www.ala.org/ala/ourassociation/governingdocs/policymanual/mission.htm>. The Association's manual also provides, "All individuals have equal access to libraries and information services." *Id.* at 1.3.A.

3. See, e.g., Bd. of Educ. Island Trees Union Free Sch. Dist. No. 26 v. Pico, 457 U.S. 853, 872 (1982) (plurality opinion) ("[L]ocal school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to 'prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.'" (quoting *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943))); *United States v. Am. Library Ass'n, Inc.*, 539 U.S. 194, 199 (2003) (plurality opinion) (reversing the district court's determination that the provisions of the

These contests occur against (and in significant part because of) a background norm of egalitarian access.

Patterson Toby Graham tells a multi-layered story of a different kind of contention about public library accessibility—the question of access to Alabama’s public libraries at a time when such libraries were sites of segregationist norms.⁴ The story he tells plays out in the larger context of Jim Crow and the tensions between progressive values and social control desires, between new and old norms, between local and outside norms, and between professional ethics and social pressures. Also informing the story as a whole is the symbolic and pragmatic importance of libraries.

What is disturbing about Graham’s account is the simple fact that Alabama’s white librarians did not do better in the circumstances in which they lived and worked. In this regard, the history is much like that of any such period we later come to rue—people allow dominant norms to, well, dominate. The moral lesson of such histories is inevitably two-fold. Most obviously, we are left with the aspiration—never necessary to state—to do better than our predecessors. A bit less obviously, such histories serve as cautionary tales that counsel modesty with regard to the likelihood of our doing so. While it is easy to feel a smug moral superiority as we read accounts of the manifold variants of intolerance and race-hate, we might do well to remember that such a sense is a direct product of our embracing dominant norms (currently, of toleration and inclusion), which is, of course, just what our “inferior,” generally white predecessors were doing, although the norms they embraced (of intolerance and exclusion) rightly appear heinous to us. This second moral lesson may well be a strain of the “banality of evil” idea;⁵ in any event, recognizing it may help reinforce the first lesson—that of the duty to do better.⁶

Children’s Internet Protection Act that condition a public library’s receipt of federal assistance for Internet access on the installation of software designed to block access to obscenity and child pornography, “and to prevent minors from” accessing harmful material were facially invalid); *Sund v. City of Wichita Falls*, 121 F. Supp. 2d 530, 547 (N.D. Tex. 2000) (holding a city council resolution violative of the First Amendment right to receive information because it gave library card holders the power to have books about children with gay and lesbian parents moved from the children’s section to the adult section of a public library); *READER’S BLOCK: INTERNET CENSORSHIP IN RHODE ISLAND PUBLIC LIBRARIES* (2005), available at <http://www.riaclu.org/friendly/documents/2005libraryinternetreport.pdf> (report by the Rhode Island Affiliate of the American Civil Liberties Union); Tammy Paolino, Op-Ed, *Proposed Gay Book Ban Would Leave Gaping Holes on School Library Shelves*, HOME NEWS TRIB., May 1, 2005, at A15 (noting an Alabama state representative introduced a bill that would prohibit public school libraries from housing books by gay authors or about gay characters); Herbert Mitgang, *Groups Aim to Counter Book Bans*, N.Y. TIMES, Sept. 7, 1982, at C11 (indicating that a majority of library censorship efforts involve pressure on school and public libraries to remove books from shelves or place them on restricted lists); H.R. 1039, 50th Leg., Reg. Sess. (Okla. 2005), available at http://www.lsb.state.ok.us/2005-06HB/HR1039_int.rtf (resolution “memorializ[ing] Oklahoma libraries to confine homosexually themed books and other age-inappropriate material to areas exclusively for adult access and distribution”).

4. PATTERSON TOBY GRAHAM, *A RIGHT TO READ: SEGREGATION AND CIVIL RIGHTS IN ALABAMA’S PUBLIC LIBRARIES, 1900-1965* (2002).

5. Hannah Arendt, seeking to understand Nazi enormities, used the phrase to describe Adolf Eichmann and other bureaucrats. The idea was that ordinary people, for the most ordinary reasons, can commit extraordinary crimes. See HANNAH ARENDT, *EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL* (2d ed. 1965). For a thoughtful discussion of Arendt’s views in this regard, see

Any feeling of disappointment, or lost opportunity, we might have regarding librarians, before and during the civil rights movement, is perhaps more than the standard unhappy recognition of our history of race relations. For librarians hold a somewhat special place in somewhat special places. Graham explains that Alabama's public libraries were the sites of civil rights demonstrations because of both local pragmatics and the library's symbolic value—they were notably public and were “ideally agencies of democracy and of culture.”⁷ Libraries are, we like to think, places of cultural transmission and self-improvement. They are places where we can challenge ourselves and be challenged by others. Ideas are contested in libraries; diversions are found. We are free, in libraries, to try to make ourselves better (or worse) and to pursue our own interests and our own vision of the good. Librarians, serving as guardians of these places and the opportunities they present, surely must have special obligations to safeguard our access to them. And so it is with special discomfort, perhaps, that we read a close account that takes us through the history of no library service, and then separate and unequal library service, and then formally desegregated service to Alabama's black population. For in this history, white librarians inside and outside Alabama remained largely passive, being moved by, rather than moving—or seeking to move—events within their realm. They stood as gatekeepers restricting access, not guardians assuring it.

The book is organized chronologically and conceptually, with chapters on white attitudes during both the early (1918-1931) and the later (depression years) development of black libraries, African-American communities and the black public library movement (1941-1954), the read-in movement (1960-1963), and librarians and the civil rights movement (1955-1965).

WHITE NORMS

Graham's first chapter (Black Libraries and White Attitudes, The Early Years: Birmingham and Mobile, 1918-1931) is largely the story of the sometimes conflicted norms of reform-minded, white Alabamians. In 1918, demonstrating a desire to improve the lot of African Americans while maintaining white supremacy, Birmingham became home to Alabama's first public library for African Americans,⁸ and in 1931, Mobile followed suit.⁹ Graham argues that these efforts demonstrated the “complex and often contradictory . . . priorities” behind the southern public library movement.¹⁰ Racism was a driving force in that movement, but it was of a paternalistic brand that sought to improve black welfare, although surely only up to a

RICHARD J. BERNSTEIN, *RADICAL EVIL: A PHILOSOPHICAL INTERROGATION* 205-24 (2002).

6. White librarians, in Alabama and elsewhere, had little influence on the demise of segregation in Alabama's public libraries. See, e.g., *infra* text accompanying notes 153-57.

7. GRAHAM, *supra* note 4, at 70.

8. *Id.* at 9.

9. *Id.* at 24.

10. *Id.* at 8.

point.¹¹ Segregated black library access was thus a result of seeking to improve the social conditions of African Americans in a cost-effective manner consistent with continued white domination and social control.¹² Segregation was a bedrock social and legal norm, and these reformers were uninterested in questioning its necessity (for civic stability) or its rationale (the inferiority of blacks).¹³

The Birmingham Library Board was fastidious in honoring segregationist norms: it required that the collections of its white libraries and its black branch be completely insulated from one another.¹⁴ By policy, if the black branch was able to secure a needed book from the Central Library, the book was not loaned to the branch but became part of its collection, and the branch's inadequate funds would be used to buy a replacement book for the Central Library.¹⁵ In 1922, Alabama's first African-American public librarian, Mattie Herd, was paid a third of the salary that other branch heads earned and was excluded from staff meetings.¹⁶ Her successor was criticized for allowing whites to use the black branch.¹⁷

This early history demonstrates that separate was not equal and that norms of supremacy and separatism could coexist with efforts to serve black communities.¹⁸ Such efforts were motivated in significant part by a legal framework that seemed to require at least minimal service to blacks as the tax on segregated service for whites. Referring to the scholarly debate regarding whether progressive instincts or a quest for social control drove American library policy, Graham concludes that "[i]n Birmingham and Mobile, at least, white library supporters were characterized by a desire for social improvement that resulted in social control."¹⁹

The book's second chapter (Black Libraries and White Attitudes II: The Depression Years) describes the interplay of local norms and those of outside entities such as the Julius Rosenwald Fund and New Deal agencies. The Rosenwald Fund supported a bi-racial library initiative in Walker County in 1931.²⁰ This program made huge strides in serving black readers; indeed, as a comparative matter, black readers were served nearly as well as or better than white readers in terms of books per capita, deposit stations, and circulation per capita.²¹ As was the case with "internal" reform efforts, the Rosenwald-funded effort worked within the norms reflected in "local custom and law."²² While the point of Rosenwald's philanthropy was black

11. *Id.* at 8, 25.

12. *Id.* at 8.

13. *See id.*

14. *Id.* at 13.

15. *Id.*

16. *Id.* at 14.

17. *Id.* at 15.

18. *See id.* at 25.

19. *Id.*

20. *Id.* at 29.

21. *Id.* at 31.

22. *Id.* at 32.

education, it was not, at least in the near term, to challenge segregation and its incidents.

The Works Progress Administration (WPA), charged with coordinating New Deal work relief projects, created a section on library services in 1938.²³ Unlike the Rosenwald Fund, which conditioned library support on providing services to African Americans, the WPA deferred to local norms on the question of whether blacks would be served by its projects.²⁴ As a result, the WPA library projects in Alabama did little for African Americans, whether by way of library services or employment.²⁵ Similarly, the Tennessee Valley Authority (TVA), established in 1933, failed to contest local norms on racial matters. The TVA provided library service to its workers in an effort to improve their circumstances.²⁶ As was the case with the WPA, the beneficiaries of TVA support were in large part white,²⁷ and there was little or no effort to make inroads into habits of supremacy and segregation. Indeed, “discrimination was an institutionalized part of the TVA library program.”²⁸

The most complex story Graham tells relating to white attitudes and black library service in the depression years is that involving the joint efforts of a New Deal agency, a private company, and a municipal library. The National Youth Administration (NYA) was created in 1935 to improve the employment prospects of poor young people.²⁹ It employed over 13,000 young Alabamians, over one-quarter of whom were black.³⁰ The American Cast Iron Pipe Company (ACIPCO) provided a social welfare system for its employees, including library service, and was a sponsor of the NYA’s work in Slossfield, a corporate suburb of Birmingham.³¹ Upon the request of ACIPCO’s president, the Birmingham Public Library Board agreed to open its second branch for African Americans, and it did so in 1940.³² The NYA supplied space and labor; ACIPCO and its Negro Auxiliary provided equipment, books, and salary support; the Birmingham Public Library and its board administered the library.³³

ACIPCO’s involvement stemmed from a tradition of welfare capitalism designed to improve the lot and character of workers, attract better workers, and prevent unionization.³⁴ Its social welfare system did not challenge

23. *Id.* at 33.

24. *See id.* at 34. This deference was particularly unfortunate, as the goal of the library services section was “initiating a program of ‘cultural democracy.’” *Id.* at 33.

25. *Id.* at 34-35. *But see infra* text accompanying note 46 (indicating WPA support of Huntsville’s black branch).

26. GRAHAM, *supra* note 4, at 38.

27. *Id.* at 40.

28. *Id.* at 48.

29. *Id.* at 44-45.

30. *See id.* at 45.

31. *Id.* at 43.

32. *Id.* at 46.

33. *Id.*

34. *Id.* at 43. Welfare capitalism efforts such as ACIPCO’s are good examples of norm entrepreneurship in the context of race relations. Apart from seeking to “attract and hold a better sort of em-

dominant segregationist norms. ACIPCO instead duplicated the services it provided the segregated races. “[B]ut unlike the WPA and the TVA the National Youth Administration had a well-developed racial conscience that originated at the national level of leadership.”³⁵ Like the Julius Rosenwald Fund’s Walker County work, the NYA overtly sought to improve library service to Slossfield’s African-American population.³⁶

There are several factors involved here: the WPA’s indifference to the issue of black library service, the TVA’s discriminatory hiring practices, the focus of the Rosenwald Fund and the NYA on library service to African Americans and their acceptance of a culture of racial separation, ACIPCO’s segregated worker welfare system, and the Birmingham Public Library’s willingness to support black library service (but only in the context of segregation). These factors paint a picture that is two-fold. Outside influence could make large gains in terms of library service to African Americans (Walker County and Slossfield being the examples), but the depression years were largely a period of “missed opportunities” in that regard.³⁷ One other fact emerges. Alabama’s segregationist norms regarding library service had not been directly challenged in any substantial way, either by internal reformers or external actors.

BLACK ACTION

In the third chapter (African-American Communities and the Black Public Library Movement, 1941-1954), Graham details how the motive force behind black public libraries came from black community leaders and depicts an early argument challenging the wisdom and justice of segregation, its underlying values, and its consequences. Graham describes the de-

ployee,” to “prevent . . . labor organization,” and “to promote an attitude among the workers that they shared a ‘common purpose’ with management,” such efforts could put their stamp on racial separatism as well. *Id.* at 43, 44. The community building that housed ACIPCO’s library served whites (who entered through the front door) on the first floor and blacks (who entered through a back door) on the second floor. *Id.* at 44. The company said that this configuration “promoted a more harmonious relation than ever existed before, the white men feeling a certain responsibility for the conduct of the colored men, and the colored workers maintaining a respectful attitude toward the place and its surroundings.” *Id.* (quoting ACIPCO, A STORY OF MODERN INDUSTRIAL RELATIONS 14 (1920)).

In an earlier era, John Fee, Kentucky abolitionist, sought to plant different norms regarding enforced separation:

Fee’s battle against prejudice became the main thrust of his antislavery warfare. It occupied most of his time with the building of antislavery and anticaste schools, churches, and communities, with which Fee tried to show people truth through example. He hoped that the example of racial equality in these institutions would break down people’s prejudices and that, as still-receptive children, the young people taught in his schools would learn egalitarianism. Finally—and to him most importantly—Fee believed that the Christianity preached in these institutions could serve as a mighty counterweight to the entrenched power of prejudice, greed, and peer pressure . . .

HAROLD D. TALLANT, *EVIL NECESSITY: SLAVERY AND POLITICAL CULTURE IN ANTEBELLUM KENTUCKY* 215 (2003).

35. GRAHAM, *supra* note 4, at 47.

36. *Id.*

37. *Id.* at 48.

velopment of black branch libraries in Huntsville, Montgomery, and Birmingham. Here we see, for the first time, a direct challenge to racial separation. In Birmingham, the Negro Advisory Committee (Advisory Committee), created in 1953 by black civic leaders at the suggestion of a member of the Birmingham Library Board, pressed for the desegregation of Birmingham's library system.³⁸ In the alternative, the committee proposed that revenue from a bond issue be spent proportionally (40% of the bond money to the black community, in rough parity with the latter's proportion of Birmingham's population).³⁹ As was the case with other civil rights efforts at the time, the argument was designed to show the economic implausibility (and hence the falsity) of the *Plessy v. Ferguson*⁴⁰ regime of separate but equal. The board, having earlier chosen to delay making any inroads into integration in order to await the outcome of *Brown v. Board of Education*,⁴¹ determined to build two libraries to serve the black residents of Birmingham.⁴² Separation, even if not equal, was worth significant investment.

The story was a bit more personal in Huntsville. Dulcina DeBerry, a retired teacher, settled in Huntsville in 1940.⁴³ There being no library service for blacks in Huntsville, DeBerry was surreptitiously lent books by Elizabeth Parks Beamgard, a librarian at the central library, in violation of library rules.⁴⁴ With Beamgard and DeBerry joining forces, a decision was made soon thereafter to begin providing library service to Huntsville's African Americans.⁴⁵ Service was minimal at first, but through the sustained efforts of the black community (including members of the Negro Library Board), help from the NYA and WPA, and a grant from the Rosenwald Fund, the library (ultimately the Dulcina DeBerry Branch) strengthened over time.⁴⁶

Segregationist norms remained unchallenged. Huntsville's first library had opened in 1818, and allowed only male patrons to use it.⁴⁷ In 1915, the Huntsville Library Board passed a bylaw restricting use of its new library—built with Carnegie funds—to whites.⁴⁸ Ultimately, even the bookmobile was segregated.⁴⁹ Against this backdrop, DeBerry, who began serving as librarian, created programs to encourage young black readers and to im-

38. *Id.* at 62. The Advisory Committee based its arguments on “[i]nterest, use, need, population, taxation, economy, inequalities, and democracy.” *Id.* at 64 (quoting the Negro Advisory Committee to Mervyn H. Sterne (Mar. 31, 1954) (on file in Archives Dept., Birmingham Public Library)).

39. *Id.* at 65.

40. 163 U.S. 537 (1896), *overruled by* *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

41. 347 U.S. 483 (1954).

42. GRAHAM, *supra* note 4, at 64-65.

43. *Id.* at 50.

44. *Id.* at 51.

45. *Id.* at 54.

46. *Id.* at 51-55.

47. *Id.* at 50.

48. *Id.*

49. *Id.* at 54.

prove their self-esteem.⁵⁰ Importantly, Huntsville saw library service finally provided to its black citizens in 1940.⁵¹

The Huntsville history underscores the potential importance—or at least the human significance—of small, local acts of subversion. In apparent violation of formal (legal and library) and informal social norms, Beamgard lent DeBerry books.⁵² While one might argue that toleration of such acts has a largely hegemonic consequence (helping to create the impression that the overarching system is somehow fair or right, or can readily accommodate justice in discrete cases), it is equally plausible that such acts help to manifest subversive norms and may provide occasions for their replication. Graham's account contains a number of such dominant-norm-defiance stories (and would likely contain more, if subversive acts were the sort of thing such actors more often recorded), particularly as the contest between segregationist and desegregationist norms intensified.⁵³

Library service did not come to Montgomery's African Americans until 1948.⁵⁴ Montgomery was the last major city in Alabama to offer such service.⁵⁵ In a two-week period in 1947, at least sixty African Americans had requested library service.⁵⁶ The city librarian argued for the immediate provision of such service.⁵⁷ Bertha Pleasant Williams came to direct the Union Branch Library, and through her efforts and those of the City Federation of Colored Women's Clubs and the Friends of the Library Association (a group of African-American community leaders), significant strides were made in providing service to African Americans.⁵⁸ Like Dulcina DeBerry in Huntsville, Bertha Pleasant Williams initiated programs for young readers.⁵⁹ As was the case in Huntsville, racial separation was not challenged.

The African-American leaders behind these efforts to provide library service to Alabama's black citizens actively campaigned within their own communities in an effort to create or increase the desire to utilize library resources. Birmingham's Negro Advisory Committee sought to communicate the message that the library was a place for all black citizens, not just the elite. "To communicate its message, the Advisory Committee prepared articles for the local papers, both black and white. It also sent speakers to radio and television stations, churches, schools, industrial sites, and

50. *Id.* at 52.

51. *Id.* at 50.

52. *Id.* at 51.

53. *See infra* note 111 and accompanying text. In Selma, there was no black branch. GRAHAM, *supra* note 4, at 115. Blacks occasionally got library service from an African-American maid at the back door of the Carnegie Library. *Id.* "These were unofficial exceptions overlooked by sympathetic librarians." *Id.* The human significance of such norm-defying acts, in the extreme setting of the holocaust, is discussed in VIKTOR E. FRANKL, *MAN'S SEARCH FOR MEANING* 137 (1963).

54. GRAHAM, *supra* note 4, at 56.

55. *Id.*

56. *Id.* at 57.

57. *Id.*

58. *Id.* at 59.

59. *Id.* at 60.

clubs.”⁶⁰ Similarly, Montgomery’s Bertha Pleasant Williams determined early on the necessity of publicizing the Union Street Branch, and so she wrote newspaper columns and was the first African American to speak on WSFA, a local radio station.⁶¹ Such efforts paid dividends in changing behavior. Birmingham experienced substantial increases in black library circulation, enrollment, and attendance.⁶² Circulation soon doubled at Montgomery’s Union Street Branch.⁶³

These efforts came against the backdrop of state and local laws and library rules and bylaws that actively enforced segregation. Birmingham’s library board determined to spend up to 35% of library bond revenue on black libraries rather than offer integrated services.⁶⁴ Montgomery officials used \$10,000 from a library bond issue for the same purpose.⁶⁵ The forces that successfully pressed for improved library service in this environment comprised African-American “clergy, educators, club women, and librarians.”⁶⁶ They did so in a cultural milieu of pervasive legal, social, and economic inequalities.

WHITE REACTION

The fourth chapter (The Read-In Movement: Desegregating Alabama’s Public Libraries, 1960-1963) treats the efforts of African-American civil rights workers to desegregate Alabama’s libraries and white reactions to these efforts. Read-Ins were used to confront segregationist norms, alter public opinion, and prompt federal intervention.⁶⁷

Library segregation took many forms. It included separate library buildings for blacks and whites, separate bookmobile collections, prohibitions on black branches borrowing from the collections of white libraries, and discriminatory employment practices, including segregated staff meetings.⁶⁸ The most visible of these forms was separate library buildings. The transition from this practice of segregation to integration was complex and varied.

In Mobile, the decision was made in advance of any direct civil rights action (which came in 1961) to allow demonstrators to remain in the library, at least if they were well-behaved, as a means of denying them the publicity that might otherwise help to turn public opinion or bring federal intervention.⁶⁹ In 1960, a federal court⁷⁰ ordered a public library in Virginia to inte-

60. *Id.* at 63.

61. *Id.* at 60.

62. *Id.* at 64.

63. *Id.* at 60.

64. *Id.* at 65.

65. *Id.* at 61.

66. *Id.* at 66.

67. *Id.* at 69.

68. *See id.* at 49-68.

69. *See id.* at 72.

70. *Giles v. Library Advisory Comm. of City of Danville*, 5 Race Rel. L. Rep. 1140 (Vand. U. Sch. L.) (W.D. Va. 1960).

grate.⁷¹ In 1961, the Mobile Public Library was visited by blacks who requested services, was the object of a petition to desegregate, and was the site of repeated sit-ins.⁷² Thereafter, the library board quietly changed its policy, beginning its transition to integrated service.⁷³ In the end, Mobile's mayor and other officials were not willing to oppose library desegregation efforts.⁷⁴

Montgomery threatened to present a different story. Montgomery's political leaders had opted to close public facilities like parks, the city swimming pool, and the zoo, rather than comply with federal court orders.⁷⁵ Responding to both young African-American activists who staged a sit-in at the Carnegie Library and to a lawsuit filed by one of them, Montgomery officials proposed in 1962 to quietly integrate.⁷⁶ Nevertheless, civil rights attorney Charles Conley insisted on taking the case to trial in order to advance the broader cause of integrated public facilities.⁷⁷ Judge Frank M. Johnson Jr. enjoined racial discrimination at the Montgomery City Library.⁷⁸ The city responded with "vertical integration."⁷⁹ In order to prevent the races sitting in the same room, chairs and tables were removed from the main library and from the black branch. Ku Klux Klan members created a presence near the main library as it opened for its first desegregated day, and whites (including police officers) harassed white patrons of the (formerly black) Cleveland Avenue Branch.⁸⁰ Still, in short order, the furniture was replaced and African Americans freely used the main library.⁸¹ Ultimately, officials in Montgomery, like those in Mobile, were unwilling to make a stand for segregation even if they sought to symbolize their belief in the old values by instigating their "vertical integration" scheme and presenting a defense in court.⁸²

The story of integration at the Huntsville Library in 1962 was a quiet one, led by librarian Richard Covey, who advised that a lawsuit was likely if the library board did not desegregate the main library.⁸³ The board consequently ended its practice of excluding African Americans from the main library.⁸⁴

Birmingham was a different case. Huntsville benefited from diverse citizenry, a good number of whom were highly educated, and as a result, its politicians had little incentive, or perhaps inclination, to employ the invective

71. GRAHAM, *supra* note 4, at 72.

72. *Id.* at 73.

73. *Id.* at 72-75.

74. *Id.* at 73.

75. *Id.* at 75.

76. *Id.* at 77.

77. *Id.*

78. *Id.* at 75-78; *Cobb v. Montgomery Library Bd.*, 207 F. Supp. 880 (M.D. Ala. 1962).

79. GRAHAM, *supra* note 4, at 78.

80. *Id.* at 79-81.

81. *Id.*

82. *Id.* at 77-78.

83. *Id.* at 82.

84. *Id.* at 79-81.

tive and strategies of race-hate.⁸⁵ Birmingham, on the other hand, like Montgomery, had closed public facilities in response to federal court mandates to end segregation.⁸⁶ Such a reaction was presaged in 1960, when the voters of Danville, Virginia, expressed support for closing their library in response to a federal court ruling declaring the segregation of public libraries unconstitutional.⁸⁷ For leaders in Montgomery and Birmingham, such a response to federal demands for desegregation likely promised political dividends.⁸⁸ It also allowed them to blame the closing of public spaces on African-American political activists and their interloping allies, including the federal judiciary, thus underscoring the invidiousness of such “outside” interference. But we should not dismiss the likelihood that such responses were principled as well as pragmatic. These municipal leaders were likely trying to please their constituents, but they were also doing what they could to preserve their “traditional” way of life and its complex web of separatist and supremacist norms.⁸⁹

And yet, things were changing. Birmingham’s “Bull” Connor, Commissioner of Public Safety (whose bailiwick included both the police department and the public libraries),⁹⁰ and his fellow commissioners were staunch segregationists.⁹¹ However, strong pressure emerged from the federal judiciary’s holdings, from responses to the Connor government’s overreaction to those holdings,⁹² from the business community’s concerns about the effects of boycotts and demonstrations, from African-American activists, from newspapers, and from other sources.⁹³ Ultimately, the voters rejected Connor and his fellow commissioners at the polls in April, 1963.⁹⁴ The Southern Christian Leadership Conference led demonstrations thereafter, and black college students conducted sit-ins in the main library.⁹⁵ One day after the second sit-in, the library board voted unanimously to integrate Birmingham’s public libraries.⁹⁶ The library had desegregated (in 1963) by the time a desegregation suit brought against it the previous year was heard.⁹⁷

85. *Id.* at 82.

86. *Id.* at 83-85.

87. *Id.* at 71. The Danville library, like those in Selma and Montgomery, ultimately adopted a “vertical integration” scheme. *Id.* at 117.

88. *Id.* at 75.

89. *See id.* at 83.

90. *Id.* at 84.

91. *Id.* at 83.

92. *Id.* at 84-85.

93. *Id.* at 85, 90.

94. *Id.* at 85.

95. *Id.*

96. *Id.* at 90.

97. *Id.* at 91. Martin Luther King, Jr. was famously jailed shortly after the board’s vote, for violating a state court order forbidding him and others from demonstrating in Birmingham. Bull Connor’s notorious reaction to the SCLC-led demonstrations hastened the passage of the Civil Rights Act of 1964. *See id.* at 82, 85.

The contest of norms in Birmingham in the early 1960s was palpable. Importantly, there were political leaders dedicated to principles of racial separation and supremacy.⁹⁸ There was also the tradition that caused such leaders to be elected.⁹⁹ As well, Birmingham had demonstrated a tradition of refusing to compromise these policies, deciding to close, rather than desegregate, public facilities.¹⁰⁰ The law was moving in a contrary direction, as evidenced by the decision involving the library in Danville,¹⁰¹ Judge Johnson's decision in the Montgomery library case,¹⁰² Judge H. Hobart Grooms' decision in the recreational facilities case against Birmingham brought by Reverend Fred Shuttlesworth,¹⁰³ and the likely outcome of the suit brought by Lola Hendricks in 1962 to desegregate Birmingham's public libraries.¹⁰⁴ Apart from the issue of whether the law might *prohibit* segregated libraries and other public facilities, Graham suggests that no state or local law *required* library segregation in Birmingham.¹⁰⁵

Self-interest played a central role in the weakening of segregationist norms.¹⁰⁶ "[J]udicial and economic duress applied by blacks"¹⁰⁷ had their effects, as "Connor and the other commissioners had alienated white businessmen who wanted to make concessions to black leaders rather than face economic boycotts and sit-in demonstrations."¹⁰⁸ Reputational concerns played a role as well.¹⁰⁹ As for the law, it did not somehow autonomously morph into an engine to destroy formalized segregation, but it ultimately responded to anti-segregation claims in ways that substantially lessened the energies of the governmental actors responsible for enforcing segregation in Mobile, Montgomery, Huntsville, and Birmingham.¹¹⁰ Additionally, formal library segregation was a practice, and as such, it required continued commitment to act on its underlying values. This commitment was ultimately found wanting, particularly as increasing numbers of African Americans challenged white librarians, face-to-face, to act on the commitment.¹¹¹

98. *Id.* at 83.

99. *See id.* at 82-83.

100. *Id.* at 84.

101. *See* Giles v. Library Advisory Comm. of City of Danville, 5 Race Rel. L. Rep. 1140 (Vand. U. Sch. L.) (W.D. Va. 1960).

102. *See* Cobb v. Montgomery Library Bd., 207 F. Supp. 880 (M.D. Ala. 1962).

103. *See* Shuttlesworth v. Gaylord, 202 F. Supp. 59 (N.D. Ala. 1961).

104. *See* GRAHAM, *supra* note 4, at 84, 91.

105. *Id.* at 83. For a more specific description of his claim in this regard, *see id.* at 96-97 and *infra* text accompanying notes 229-30.

106. *See* GRAHAM, *supra* note 4, at 80, 83, 85.

107. *Id.* at 83.

108. *Id.* at 85.

109. *Id.*

110. *See id.* at 71-91.

111. During the unrest that pervaded Birmingham in 1963:

[Fant] Thornley [the director of Birmingham's library system] called a special meeting of the library board [the day after the second sit-in] . . . He apparently related that the library had served the [black] students in some fashion. [The director] asked for the board's approval of his handling of the situation, and he asked for instructions should another demonstration occur. Thornley explained that the Miles [College] students were quiet and decorous, and

And so it was with others on the scene. Graham reports that police were reluctant to jail, and did not arrest the African-American students during the second Birmingham Library sit-in, and that “[t]he crowd of young whites that met them as they departed remained non-violent.”¹¹² In Huntsville, “[t]here was no confrontation or angry words in our library . . . just a quiet changing of the status quo.”¹¹³ In Montgomery, Ku Klux Klan members “did not approach” black patrons taking advantage of the newly integrated library (although police were ultimately called).¹¹⁴ “According to the *Montgomery Advertiser*, whites using the library expressed no visible concern over the presence of blacks in the building. The new library members were ‘generally ignored by the white patrons.’”¹¹⁵ In Mobile, “blacks and whites were ‘using the library together in complete harmony.’”¹¹⁶

It seemed that this would be so in Anniston as well. But on September 15, 1963, two African-American ministers were assaulted and battered on the steps of Anniston’s Carnegie Library with fists, sticks, stones, bottles, chains, and knives.¹¹⁷ The ministers had intended to apply for membership at the newly-integrated facility.¹¹⁸ Graham briefly describes this disturbing event in his introduction’s first paragraph¹¹⁹ and returns to it in detail in chapter four.¹²⁰ The story of Anniston illustrates, once more, the complex and intense contest between norms, as a community sought to transition from segregated to integrated library service.

As was the case in Huntsville, Mobile, and even Montgomery, “Anniston’s civic leadership was unenthusiastic about actively defending segregation . . . in its public library.”¹²¹ Anniston had seen racial violence, and as was the case in Birmingham, reputational concerns arose along with an enlightening self-interest in the business community.¹²² In 1963, Anniston’s biracial Human Relations Council pressed for library integration,¹²³ African

violated no library rules other than its customary exclusion of Negroes. Also, the students eventually left the library “voluntarily and without incident or disturbance.”

Id. at 90 (quoting Minutes of the Birmingham Library Board (Apr. 11, 1963) (on file with Archives Dept., Birmingham Public Library)). *See also supra* note 53 and accompanying text. Another example of face-to-face confrontation is Anniston’s Ann Everett, who helped a black would-be library patron locate a source but told him that he would have to use an office rather than the reading room. GRAHAM, *supra* note 4, at 93.

112. *Id.* at 89-90.

113. *Id.* at 82 (ellipsis in original).

114. *Id.* at 79.

115. *Id.* (citing *Negroes Continue Library Use*, MONTGOMERY ADVERTISER, Aug. 14, 1962, C2).

116. *Id.* at 74 (quoting *Alabama Library Serves Negroes*, 36 WILSON LIBRARY BULL., Mar. 1962, at 504, 506). Robert Cobb, whose lawsuit had resulted in the desegregation of Montgomery’s library, used his new privileges to check out Shakespeare’s *Much Ado About Nothing*. *Id.* at 79. Whites of the period seemed more interested in harassing white patrons of formerly black branches, at least in Montgomery. *See supra* text accompanying note 80.

117. GRAHAM, *supra* note 4, at 94-95.

118. *Id.* at 1, 94.

119. *Id.* at 1.

120. *Id.* at 91-98.

121. *Id.* at 93.

122. *Id.*

123. *Id.*

Americans began applying for library membership, and a black would-be patron left the library when a librarian told him that he had to use one of the library offices to do his research.¹²⁴ The City Commission responded by voting to support desegregating the library,¹²⁵ and the library board then formally decided to desegregate the library.¹²⁶ Why the commissioners and board acted as they did is uncertain. Graham suggests that the City Commission acted as it did “[a]s a gesture of good will, and with little legal alternative,”¹²⁷ and he notes that the board’s stated rationale included legal reasons, the increasing rarity of a segregated municipal library in Alabama, and the desirability of avoiding both the kind of strife seen earlier that year in Birmingham and the presence of federal troops.¹²⁸ Perhaps such a rationale was also a means of appeasing segregationists.

The beating of Reverend W.B. McClain and Reverend Quintus Reynolds was the result of what appeared to be a quite thoughtful plan to quietly integrate the library gone awry.¹²⁹ The plan was hatched by the library board with the help of the Human Relations Council.¹³⁰ McClain and Reynolds were chosen to initiate the process and manifest the reality of the library’s desegregation.¹³¹ Quiet (if not secrecy) was the byword of the day¹³²—until word somehow got out. A mob awaited the ministers, and the promised police protection failed to materialize.¹³³ The ministers were chased to, and then from, their automobile, and ultimately were rescued from the white mob by a black motorist who took them to the hospital.¹³⁴ Reynolds suffered two stab wounds, but the men were released after being treated.¹³⁵

Graham declines to speculate about just how the plan might have gone awry—who might have leaked word and for what reason; was the absence of the police a matter of chance; why the librarian who was to call McClain in the event of trouble apparently failed to do so. The police were likely torn in such cases. Public Safety Commissioner Jack Suggs claimed that the board had asked that there be no uniformed officers visible at the scene.¹³⁶ He pledged to catch the perpetrators and announced that he was not in favor of integrating the library.¹³⁷

124. *Id.*

125. *Id.* The library board was of the view that the question of library desegregation should be answered by elected officials (the commissioners), not appointed officials (the board members). *Id.*

126. *Id.* at 93-94.

127. *Id.* at 93.

128. *Id.* at 94.

129. *Id.* at 93-94.

130. *Id.*

131. *Id.* at 94.

132. *Id.*

133. *Id.* at 94-95.

134. *Id.*

135. *Id.* at 95.

136. *Id.* at 96.

137. *Id.*

Librarians likely were torn as well. Ann Everett, the librarian who had helped (but only to a point) the African-American man who left the library when she told him he would have to use one of its offices to conduct his research, was later to complain that black youths had monopolized the library's tables and chairs, and she took special note of a black soldier who stayed long hours in the library.¹³⁸

Events in Anniston threatened to turn worse. Graham chronicles the retaliatory assault of a white man by five black youths several hours after the attack on the ministers and retaliatory gunfire on a black café several hours after that.¹³⁹ Why broader acts of violence did not occur is unclear. Graham details the quick actions of Anniston's mayor, who extended a public apology to McClain and visited the wounded Reynolds at the latter's home.¹⁴⁰ The mayor insisted that the recent white violence was not representative of the sentiments of Anniston's white community and offered a one-thousand dollar reward for the apprehension of the perpetrators.¹⁴¹ The library board, the local newspaper (which excoriated the "white thugs who would be far more uncomfortable in a library than in a jail"), a women's church group, and the Rotary Club contributed another \$850 toward the reward.¹⁴² The public safety commissioner committed to a fifty-dollar and week's vacation reward for the officer who solved the case.¹⁴³ Anniston's library was desegregated without incident the day after the attack on McClain and Reynolds.¹⁴⁴ McClain and Reverend G.E. Smith were escorted into the library by members of the library board, the Human Relations Council, and the City Commission.¹⁴⁵ Numerous policemen were there.¹⁴⁶ Police continued to serve at the library through year's end.¹⁴⁷ In part because McClain, Reynolds, and the white victim beaten by the black youths requested that the prosecutor dismiss the charges, there were no convictions for these beatings.¹⁴⁸ Perhaps the law in Anniston was simultaneously transformed and transcended.

Anniston demonstrated the intensity of some Alabamians' attachment to supremacist norms, the courage of those—particularly African Americans—who challenged those norms, and the conflicted views of law enforcement officials whose efforts were necessary to implement desegregation.¹⁴⁹ Birmingham had shown the ultimate futility of public servants deeply commit-

138. *Id.* at 96-97.

139. *Id.* at 95. See ALFRED L. BROPHY, *RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921* (2002) for a close examination of similar events—outside the context of desegregation efforts—spiraling out of control.

140. GRAHAM, *supra* note 4, at 95.

141. *Id.*

142. *Id.* at 95-96 (quoting *Local Reward Now Put at \$1500*, ANNISTON STAR, Sept. 16, 1963, at 1).

143. *Id.* at 96.

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.* at 97.

148. *Id.* at 96-97.

149. *See id.* at 91-98.

ted to segregation and as deeply opposed to intervention from without.¹⁵⁰ Mobile and Montgomery had exemplified the atrophying of public servants' commitment to segregation.¹⁵¹ The actions of Anniston's Library Board and City Commission may have illustrated the power of public servants committed, in the end, to ending segregated services.¹⁵²

LIBRARIANSHIP

Graham's final chapter tells the complex story of librarians struggling (and failing to struggle) with segregation. This chapter brings home most forcefully the multiple meanings of segregated library service, touching, as it does, the matter of professional segregation.¹⁵³ Graham details here the machinations of the American Library Association¹⁵⁴ (ALA) and the Alabama Library Association.¹⁵⁵ In this chapter we see individual librarians as well as their professional organizations navigating the morally troubling waters of segregation. Graham's helpful framework for this discussion comprises the following two issues regarding librarians: the tension between segregation's practice and librarians' professional ethic of freedom of thought and access to information, and the manifold dangers of opposing segregationist and supremacist norms. As for library organizations, Graham highlights the lack of a tradition of organized resistance and a reluctance to engage in "local" issues.¹⁵⁶ While the ALA could plausibly, if regrettably, characterize Alabama's libraries' separatist practices as a provincial matter, the Alabama Library Association could not. Different justificatory strategies occurred to each organization explaining, in the case of the national association, its "non-interference" with segregated libraries in the South, and in the case of the statewide group, its continuing segregation even after Alabama's libraries desegregated.¹⁵⁷

As to the issue of librarians individually, we might do well to recall Graham's treatment in prior chapters of the actions of librarians and boards relative to segregation.¹⁵⁸ But Graham adds three cases here: a librarian who unsuccessfully championed integrated bus service and was silenced by citi-

150. See *id.* at 82-91.

151. See *id.* 71-81.

152. The reason for this commitment (e.g., a belief in egalitarianism, a desire to abide by law, a wish to avoid being sued or demonstrated against, or simple fatigue) is another question. Graham, for his part, sees the stories of Anniston, Birmingham, Mobile, and Montgomery as conveying the same lesson about libraries: "[P]rotests or judicial action preceded the integration of the public libraries and these factors, more than a perceived ethical obligation moved librarians and library boards to act." *Id.* at 113.

153. See *id.* at 126-29.

154. See *id.* 120-26.

155. See *id.* 126-29.

156. *Id.* at 99.

157. See *infra* text accompanying notes 202-06 and 216-18.

158. See GRAHAM, *supra* note 4, at 49-56 (detailing actions of Huntsville's Dulcinea DeBerry and Elizabeth Beamgard); *id.* at 56-62 (detailing actions of Montgomery's Bertha Pleasant and Nellie Glass); *id.* at 81-82 (detailing actions of Huntsville's Richard Covey); *id.* at 91-98 (detailing actions of Anniston's Ann Everett).

zens, a librarian who resisted book banning and in so doing became the target of a state senator, and a librarian who convinced segregationists to desegregate their library.

Juliette Hampton Morgan, a librarian at Montgomery's Carnegie Library and a member of Montgomery's only interracial organization, the Alabama Human Relations Council, spoke publicly in favor of the boycott of the city's buses following Rosa Parks' arrest in 1955.¹⁵⁹ After she wrote a letter to the editor of the *Montgomery Advertiser*, she became an object of vilification among a good number of Montgomery's white citizens.¹⁶⁰ Whites threw rocks through her windows, made threatening telephone calls, sought to have her fired, and generally treated her with contumely.¹⁶¹ She endured this treatment for over a year, was granted a leave of absence from the library, and died shortly thereafter, in the summer of 1957, perhaps a suicide.¹⁶² Graham notes that she "would be the last white public librarian in the state to speak openly in favor of civil rights for black citizens during the movement years" and also that she "never publicly expressed the exact nature of her views in regard to discrimination by the library at which she was employed."¹⁶³ White librarians would not be in the forefront, at least in speaking roles, in the struggle to desegregate the states' libraries.

Segregation in Alabama required work. Some of the work was done by ordinary citizens (even if sometimes organized into councils or the Klan), as in the successful campaign of terror waged against Juliette Morgan¹⁶⁴ and in the attack on the ministers in Anniston. But much important work fell to state officials *qua* officials. Graham delineates such work in the case of State Senator E.O. Eddins and his 1959 campaign to oust Emily Wheelock Reed, director of the Public Library Service Division, for her refusal to reveal her views on segregation and to remove from her division all books thought to be sympathetic to integration and communism.¹⁶⁵ Garth Williams' *The Rabbits' Wedding*,¹⁶⁶ a children's book about the wedding of a black and white rabbit, was a major source of controversy.¹⁶⁷ Reed stood not on the principle of equality, but on the principle of informational neutrality, or balance, and refused to excise the book.¹⁶⁸ Reed ultimately left the state,

159. *Id.* at 100.

160. *Id.* at 101.

161. *Id.*

162. *Id.* at 100-01.

163. *Id.* at 102.

164. *Id.* at 101-02.

165. *Id.* at 103-04.

166. GARTH WILLIAMS, *THE RABBITS' WEDDING* (1958).

167. GRAHAM, *supra* note 4, at 104. A Martin Luther King, Jr. book about the Montgomery bus boycott, *STRIDE TOWARD FREEDOM* (1958), was also part of the controversy. *Id.* at 109.

168. *Id.* at 107-08. Principles of neutrality present moral conundrums. It was argued that the ALA's Intellectual Freedom Committee might make headway on preserving integrationist works in southern libraries if it counseled presentation of segregationist works in non-southern libraries. *Id.* at 112. Some librarians developed "a belief in social responsibility that occasionally led the focus away from pluralism and objectivity." *Id.* at 135. Early on, American librarians had seen themselves as "moral censor[s]," choosing appropriate literature for patrons—and safeguarding them from the rest. *Id.* at 134.

but not before Eddins unsuccessfully tried to pass legislation designed to oust her, nor before he succeeded in passing legislation that increased the authority an appointed board had over her and otherwise made her employment less tenable.¹⁶⁹

The Eddins story illustrates not only the tenacity of political leaders in their efforts to preserve segregation,¹⁷⁰ but also other factors in this contest of norms. Competing regional norms;¹⁷¹ fear;¹⁷² the availability of surrogate norms;¹⁷³ reputational concerns, both national¹⁷⁴ and local;¹⁷⁵ and law¹⁷⁶ all played roles. The Eddins effort highlights the importance of censorship in service of supremacy and separation.¹⁷⁷ Eddins' view was simple: "The integrationist doesn't have any right to express his opinion, not down here."¹⁷⁸

The remarkable story of Patricia Blalock, director of Selma's Carnegie Library, highlights the effective moral agency of one white librarian who successfully contested segregation in an environment dominated by segregationists.¹⁷⁹ Her lack of a formal education in librarianship¹⁸⁰ and the aber-

169. *Id.* at 110-11.

170. Graham notes that so many segregationist bills were introduced in the legislature in 1958 and 1959 that a Joint Segregation Screening Committee was necessary to evaluate them. *Id.* at 103.

171. Emily Reed "considered herself a Midwesterner," was a Phi Beta Kappa graduate of Indiana University, and had obtained a library degree from the University of Michigan. *Id.* at 106.

172. Graham notes that a number of Eddins' legislative colleagues disagreed with him, but were afraid to say so, not wanting to be branded as favoring integration. *Id.* at 107. This danger was real. Graham observes that George Wallace's commitment to segregation in his unsuccessful 1958 gubernatorial campaign was viewed by the voters (or at least portrayed by his opponent) as insufficiently steadfast. *Id.* at 103. More generally, Graham claims that "the practitioners of massive resistance created a climate of fear that fostered the censorship of library materials." *Id.* at 102.

173. White librarians opposed censorship more readily than segregation. *Id.* at 104. Perhaps this allowed some white librarians to be on the "right" side of some professional battles, without forcing them to confront the pervasive forces of segregation head-on.

174. National attention from a variety of quarters was hostile to Eddins' position on *The Rabbits' Wedding*. *Id.* at 108.

175. The press in Alabama was hostile to—and sometimes demeaning of—Eddins' position on *The Rabbits' Wedding*. *Id.*

176. See *supra* note 170 and text accompanying note 169. Graham also observes that a legislative subcommittee that included Eddins could not establish that Reed could be legally ousted. GRAHAM, *supra* note 4, at 110.

177. Graham observes: "[M]assive resistance to integration drew some white Southerners to defend segregation with the same measure their forebears had used to defend slavery; they attempted to curtail the free expression of information and ideas contrary to their own." *Id.* at 112.

178. *Id.* at 107 (quoting *White, Black Rabbit Wedding is 'Annulled' After Racial Protests*, BIRMINGHAM NEWS, May 22, 1959, at 1). Silence as strategy runs through the nation's history of race relations and was crucial to slaveholding interests. See, e.g., DON E. FEHRENBACHER, *THE SLAVEHOLDING REPUBLIC: AN ACCOUNT OF THE UNITED STATES GOVERNMENT'S RELATIONS TO SLAVERY* 22 (Ward M. McAfee ed., 2001) (discussing South Carolinian Thomas Lynch's insistence during the Second Continental Congress that debating whether slaves were property would be the "end of the confederation," and South Carolinians' later beliefs that public discussion between northerners and southerners regarding slavery was dangerous, and that Congress had no right to discuss slavery). Alabama state representative Gerald Allen, commenting about his bill that would ban gay-authored or gay-themed books from Alabama's public school libraries, was reported to have said, "I don't look at it as censorship, . . . I look at it as protecting the hearts and souls and minds of our children." Paolino, *supra* note 3.

179. GRAHAM, *supra* note 4, at 112.

180. *Id.* at 115.

rational nature of her story perhaps serve as a dual critique of the state's librarians. Selma was a deeply segregated community.¹⁸¹ Its white Citizens' Council was a predominantly white-collar, norm-reinforcing engine.¹⁸² Dominating politics and leading public opinion, it "'drew a tight net of conformity' around white Selma, directing social and economic retaliation upon whites who displayed racial views inconsistent with the norm."¹⁸³ It pressured African Americans as well.¹⁸⁴ Patricia Blalock's library board members, including the mayor and a judge, were strong segregationists.¹⁸⁵ Her staff was not in favor of desegregating the library.¹⁸⁶ Nevertheless, she was able to convince the board in 1963 to desegregate the library. She appealed to inevitability (pointing to Montgomery and Birmingham) and the likelihood of demonstrations, ultimately claiming that she would have to close the library if it was not desegregated.¹⁸⁷ The library was quietly desegregated. Blalock then promoted Annie Molette, the library's African-American maid, to library assistant.¹⁸⁸

Graham concludes from the story of Patricia Blalock that segregationists were more willing to be persuaded by fellow whites than by "black demonstrators, 'outside agitators,' and federal judges."¹⁸⁹ This is doubtlessly true—indeed, I suspect in many cases it would have been hard to separate segregationist and anti-interventionist motivations in many white Alabamians' minds. That Graham is correct suggests (unless we choose to treat Selma, and possibly Huntsville,¹⁹⁰ as a non-replicable aberration) the lost opportunity for self-generated desegregation initiatives in Alabama's libraries. "Blalock's performance demonstrated that southern librarians could be effective agents of social change, even in the most inhospitable political environments."¹⁹¹ Even though they were not.

Blalock's story may suggest one other thing. Apart from her unusual stance on racial issues (compared, for example, to her staff's) and her unusually acute political and diplomatic skills, the fact that she had no formal library education and accepted the position of director only with some reluctance¹⁹² may have increased her willingness to seek leverage with her board. That is, one of the incidents to professional advancement and status-seeking

181. *Id.* at 113.

182. *Id.* at 114.

183. *Id.* (quoting STEPHEN L. LONGNECKER, *SELMA'S PEACEMAKER: RALPH SMELTZER AND CIVIL RIGHTS MEDIATION* 37 (1987)).

184. *Id.*

185. *Id.* at 115-16.

186. *Id.* at 118.

187. *Id.* at 116-17.

188. *Id.* at 118.

189. *Id.* at 120.

190. Graham does treat Huntsville as a very special case, and probably appropriately so. *See supra* text accompanying note 85.

191. GRAHAM, *supra* note 4, at 120. Blalock's case illustrates lost opportunities for segregation reform from within, as the depression-years cases of Walker and Stossfield Counties illustrated lost opportunities for library service reform from without. *See supra* text accompanying note 37.

192. GRAHAM, *supra* note 4, at 115.

is the continuing desire to preserve or enhance such status. These status desires are not unusually at odds with staking out leadership positions on contested moral issues. Patricia Blalock may have been the perfect insider/outsider. Her example makes us wonder how successful other librarians might have been in integrating their libraries, had they possessed the inclination and the will.

Of course, Blalock's board's likely motivation was to preserve segregation as a larger way of life. Although many committed segregationists feared that any wedge driven into segregation's structure threatened to crack the entire edifice,¹⁹³ Selma's library board was of the belief that library integration was much less threatening than school desegregation or equal voting rights.¹⁹⁴ Perhaps a wedge could serve as a brake. Or perhaps they thought the edifice already broken.

Moving from librarians to their professional associations, Graham's analysis of the reluctance of the ALA to press for integrated library services and the reluctance of the Alabama Library Association to change its segregation practice uncovers a good number of issues of continuing interest.¹⁹⁵ Paramount among these is the matter of informal, or *de facto*, segregation. A 1963 study commissioned by the American Library Association purported to uncover substantial evidence of pervasive racial discrimination in non-southern library service, largely effectuated through the means of neighborhood branches, which disproportionately served white neighborhoods and tended to serve largely segregated populations.¹⁹⁶ Northern librarians rejected the study, thus appearing to be as unconcerned as they accused their southern counterparts of being about racial discrimination in library services.¹⁹⁷ One of the consequences of a formalized system of apartheid is the dominant belief that equal treatment is an incident of the absence of such a formal system.¹⁹⁸ Put more simply, if the law forbids certain practices of segregation or discrimination, the result must be equality.¹⁹⁹ Few whites seemed interested in the question of library services to the nation's blacks who resided outside the South because the law outside the South did not deny them library access.²⁰⁰ This sounds like a variation of separate but equal: legally non-separate therefore equal.

193. *Id.* at 98. Wedge theory had served as a staple in the South's armory in disputes regarding slavery. *See, e.g.*, FEHRENBACHER, *supra* note 178, at 77 (claiming southern unity on the issue of abolishing slavery in the District of Columbia was most effectively encouraged by the argument that such abolition would serve as an "entering wedge" for attacks on slavery throughout the nation).

194. GRAHAM, *supra* note 4, at 120.

195. *Id.* at 120-30.

196. *Id.* at 124.

197. *Id.* at 124-25.

198. *See* Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1378-79 (1988) (characterizing attainment of formal equality as important to African Americans but noting the continued role of white race consciousness in the domination of blacks).

199. *Id.*

200. *See* GRAHAM, *supra* note 4, at 125.

Another issue of continuing interest that Graham mines is the array of arguments that counseled against an aggressive desegregationist stance by the American Library Association, while expressly or implicitly disavowing segregation.²⁰¹ On one hand, there were claims that southern librarians needed the support of colleagues outside the South—colleagues who did not face the risks of their southern counterparts.²⁰² Implicit in this claim is the moral predicate that segregation is an evil and should be eradicated regardless of its location. One response to such a claim is to accept the moral predicate but shift the terms of the debate to tactics. Graham points to the chair of the Intellectual Freedom Committee of the ALA (and director of the University of Miami's library) who argued that intervention by outsiders would, for a variety of reasons, threaten desegregation efforts by southern librarians.²⁰³ Another response to interventionist arguments is to claim that a superior norm trumps the anti-segregation moral predicate. Reminiscent of the intertwining of slavery and states' rights, there were those who argued that the ALA should not intrude in local matters.²⁰⁴ Such claimants could be seen as disavowing segregation while upholding a superior norm against cultural imperialism. ALA leaders made other arguments as well, including that reform should be initiated at the local level and that the structure of the ALA prevented it from doing more.²⁰⁵

These arguments sought to justify the ALA's failure to praise the civil rights effort, join desegregation suits as amicus, or pass a resolution against library segregation.²⁰⁶ The ALA never expressed itself in the Emily Reed controversy, despite the fact that one of the points of contention was her circulating ALA book lists.²⁰⁷ In 1961, the ALA adopted a statement against discrimination in library access, and in 1962 and 1963, it issued statements encouraging libraries to integrate.²⁰⁸ The Civil Rights Act of 1964 rendered subsequent ALA debate less meaningful.²⁰⁹

The ALA did exert pressure on chapters that were not integrated.²¹⁰ It forbade its officers from taking part in the activities of segregated organizations and revoked the chapter status of state associations that did not desegregate—Alabama lost its chapter status in 1956.²¹¹ Informal social norms, not infrequently, trump formal norms. Such was the case with the Alabama

201. *Id.* at 120-26.

202. *Id.* at 121-22.

203. *Id.* at 123.

204. *Id.* at 121.

205. *Id.*

206. *Id.* at 122. These were the observations of Rice Estes, librarian at the Pratt Institute. He powerfully argued that “[w]hen a book is banned in the smallest hamlet, there is a vigorous protest. . . . But when a city takes away the right of citizens to read every book in the public library, we say nothing. The problem has suddenly become ‘local,’ and a very good alternative for ‘untouchable.’” *Id.* at 121 (quoting Estes, *supra* note 1, at 4418) (Graham adds “and” before “a very” to the original) (ellipsis in original).

207. *Id.* at 111-12.

208. *Id.* at 122-25.

209. *See id.* at 125.

210. *Id.* at 128.

211. *See id.* at 125.

Library Association, whose constitution deemed eligible for membership anyone who was interested in promoting the association's objectives, but whose practice barred African Americans.²¹² Unsuccessful efforts were made to desegregate the association in 1951 and 1963.²¹³ Proponents of desegregation included Richard Covey, whose Huntsville library had desegregated in 1962 as a result of his arguments that legal action was inevitable if the board failed to act,²¹⁴ and opponents included Montgomery's Farris Martin, who had presided over his library's court-ordered desegregation.²¹⁵ Arguments against integrating the association ranged from the legal (meeting rooms and conference venues would not accommodate African Americans because of segregation ordinances) to the sociological (a dangerous racial climate made integration unpropitious).²¹⁶ Non-arguments were employed as well.²¹⁷ As was the case with the ALA, the arguments tended not to extol the virtues of segregation but only its pragmatics. Such arguments might be seen as vestigial forms, or at least reminders, of the claims that slavery was a necessary evil.²¹⁸

212. *Id.* at 126.

213. *Id.* at 126-27.

214. *See supra* text accompanying note 83.

215. GRAHAM, *supra* note 4, at 127.

216. *Id.*

217. The director of the University of Alabama Library, identifying himself as a representative of a "conservative institution," was reported to have declaimed, "Who is stuffing these Negroes down our throats?" Barbara Bishop & Kayla Barrett, *Integration and the Alabama Library Association: Not so Black and White*, 33 LIBR. AND CULTURE 141, 148 (1998)). GRAHAM, *supra* note 4, at 127.

218. Harold Tallant observes that slavery was pronounced a necessary evil by many southerners prior to the 1820s (its regrettable consequences were outweighed by the negative consequences speculated to attend its abolition), but that by the 1830s, the Lower South was firmly of the view that it was a positive good. TALLANT, *supra* note 34, at 4-6. It was different in the Upper South:

Throughout most of the period before the Civil War, white Kentuckians generally viewed slavery . . . as an evil to their state, but one whose burdens must be borne patiently until some safe and practical solution to the problem could be found. To them, slavery was a necessary evil.

Id. at 3. Justice White dissented in a 1971 case that upheld the closing of public swimming pools in Jackson, Mississippi, in response to federal trial and appellate court determinations that held enforced segregation of its recreational facilities violated equal protection. He strongly reacted to what seems at least an echo of the "necessary evil" argument:

Watson [v. *City of Memphis*, 373 U.S. 526 (1963)] counsels us to reject the vague speculation that the citizens of Jackson will not obey the law, as well as the correlative assumption that they would prefer no public pools to pools open to all residents who come in peace. The argument based on economy is no more than a claim that a major portion of the city's population will not observe constitutional norms. The argument based on potential violence, as counsel for the city indicated at oral argument, unfortunately reflects the views of a few immoderates who purport to speak for the white population of the city of Jackson. Perhaps it could have been presented, but there is no evidence now before us that there exists any group among the citizens of Jackson that would employ lawless violence to prevent use of swimming pools by Negroes and whites together. In my view, the Fourteenth Amendment does not permit any official act—whether in the form of open refusal to desegregate facilities that continue to operate, decisions to delay complete desegregation, or closure of facilities—to be predicated on so weak a reed. Public officials sworn to uphold the Constitution may not avoid a constitutional duty by bowing to the hypothetical effects of private racial prejudice that they assume to be both widely and deeply held. Surely the promise of the Fourteenth Amendment demands more than nihilistic surrender.

Palmer v. Thompson, 403 U.S. 217, 260-61 (1971) (White, J., dissenting) (citation omitted).

The Alabama Library Association desegregated at the end of 1964 and rejoined the ALA in the summer of 1965.²¹⁹ Its continued policy of segregation after Alabama's municipal libraries had desegregated may help to explain why internal reform was a nearly unknown phenomenon in Alabama's libraries.

Graham offers a thoughtful explanation of the inertia of Alabama's white librarians. As a group, they were politically moderate and agnostic on "race."²²⁰ A professional ethic that might have pitted them against segregation was overpowered by a long normative tradition favoring separation and supremacy.²²¹

Most who believed segregation wrong could not imagine actively opposing it. For native southerners, it meant questioning what they had been taught in school, at church, and at home, challenging the "natural order" of things. Supporting integration meant allying with the enemy, not the southern blacks, but the "hypocritical" white outsiders. It meant risking ostracism and possibly worse.²²²

Graham concludes that in the end, it was the efforts of black civil rights protestors—not white librarians—that were central to integrating libraries, and he treats Patricia Blalock as a special case of a white librarian who was

219. GRAHAM, *supra* note 4, at 128-29.

220. *Id.* at 129.

221. Again, we might make room for the possibility that some aspects of professional ethics, or at least the professional ethos, could have preserved—rather than degraded—professional inertia in segregation's direction. See *supra* text accompanying notes 192-93.

222. GRAHAM, *supra* note 4, at 130. Robert Gordon discusses the challenge to imagination that law can represent:

[O]ne must look closely at these belief-systems, these deeply held assumptions about politics, economics, hierarchy, work, leisure, and the nature of reality, which are profoundly paralysis-inducing because they make it so hard for people (including the ruling classes themselves) even to *imagine* that life could be different and better.

Law, like religion and television images, is one of these clusters of belief—and it ties in with a lot of other nonlegal but similar clusters—that convince people that all the many hierarchical relations in which they live and work are natural and necessary.

Robert W. Gordon, *New Developments in Legal Theory*, in *THE POLITICS OF LAW: A PROGRESSIVE CRITIQUE* 281, 287 (David Kairys ed., 1982). Gordon notes that "the main constraints upon making social life more bearable are these terrible, constricting limits on imagination." *Id.* at 291. Kimberlé Crenshaw criticizes Gordon for overemphasizing consent and minimizing coercion in his analysis. "Clearly, something other than their own structure of thought prevents Blacks from changing their world. . . . [I]deology convinces one group that the coercive domination of another is legitimate." Crenshaw, *supra* note 198, at 1358. Harold Tallant describes the difficulty of rejecting entrenched norms in the context of slavery. "Caught between their potential for antislavery idealism and their loyalty to racism, property, and reputation, Kentuckians found they could not successfully serve two masters. For in loving one, they came to hate the other." TALLANT, *supra* note 34, at 219. As for the psychological effects of participating in an institution about which one might have moral qualms, Tallant maintains that white Kentuckians felt anxiety rather than guilt. *Id.* at 12-13. Perhaps this was true of moderate white Alabama librarians as well. Graham points to two instances of white librarians expressing shame—one regarding the segregation of the Alabama Library Association and the other regarding the ALA's failure to take a stand on efforts to cleanse southern libraries of books promoting integration. GRAHAM, *supra* note 4, at 112, 128.

a true integrationist.²²³ Most white librarians, within and without Alabama, simply got out of the way, allowing the initial pressure from a social, political, and economic culture of racial separation and supremacy—first supported by law and ultimately opposed by it—and the subsequent pressure from activists, the federal government, and the law to dictate the realities of racial discrimination in Alabama’s libraries.²²⁴

LAW

The law moved from the separate but equal paradigm of *Plessy* in 1896 to the separate-is-unequal paradigm of *Brown* in 1954. Social understandings moved as well. Where *Plessy* had failed to describe its own reality (separate was rarely equal by any metric), the world after *Brown* required states and municipalities to grapple with the meanings of *Brown* and its progeny, largely in terms of their effects on a wide range of Jim Crow laws. There was not simply the question of whether the law could require segregation or discrimination; there were questions of whether the law could allow them. One way of asking this question is to ask whether certain private acts of discrimination can be made unlawful. The Civil Rights Act of 1964 answered this question in a number of contexts and, in tandem with the *Brown* line of cases, allowed federal judges and others to effectively mandate change.²²⁵ Alabama’s constitution, statutes, municipal ordinances, and interpretations thereof had enforced segregation in a wide variety of contexts, from marriage and education to public accommodations and health care.²²⁶ Public library segregation was just one of segregation’s contexts. As we have seen, the move from segregated libraries played out in a number of ways, from the anticipatory actions of Selma’s Patricia Blalock and the smooth transition initiated by Huntsville’s Richard Covey to the court-ordered transition in Montgomery.²²⁷

The law—or at least its detail—does not loom large in Graham’s account, nor need it, necessarily. Undeniably, segregation was an important legal, social, political, economic, and cultural institution. Certainly the law played a central role in Jim Crow, as it had in slavery, but Graham is more interested in norms of all kinds—formal and informal, legal and non-legal, local and foreign. Indeed, one way to see Graham’s history of public library segregation in Alabama is as a contest of norms, featuring individuals, governments, and business entities as the contestants. Even granting the central role of law in segregation, one could do well, as does Graham, to carefully investigate the power and effect of the formal and informal non-legal norms

223. GRAHAM, *supra* note 4, at 130.

224. *See id.*

225. *Cf. id.* at 128.

226. *See* STATES’ LAWS ON RACE AND COLOR 21-34, 617-620 (Pauli Murray ed., 1950).

227. *See* GRAHAM, *supra* note 4, at 112-20 (detailing Patricia Blalock’s attempts to desegregate Selma’s public library); *id.* at 127-30 (detailing Richard Covey’s attempt to desegregate Huntsville libraries); *id.* at 76-78 (detailing Robert Cobb’s lawsuit against Montgomery).

and the mechanisms of norm reinforcement that were central to segregation's vitality. Such investigations might take their orientation from the notion that law is a tool that responds to, or serves, social desires and needs—that it typically reflects and maintains these desires and needs rather than creates them.²²⁸

Even so, Graham's careful and well-researched account could be nicely supplemented by a closer examination of the role of law in Alabama's library segregation. Graham writes, for example, that in 1950 "state segregation laws forbade the Huntsville Public Library from providing integrated service."²²⁹ About Birmingham in 1954, he writes that "no state or local law required library segregation."²³⁰ An explanation of this seeming inconsistency or shift (and a number of them occur)²³¹ would be helpful. To the extent that librarians, their boards, and the city commissions depended upon arguments that the law required, permitted, or disallowed certain actions, it would be helpful to have an idea of what the underlying law, and their sense of it, was. Let us revisit this quite complex issue of clarification of law—and the sense of law—shortly.

Another example of the usefulness of a fuller accounting of the role of law in library segregation is suggested by Graham's description of Huntsville's transition to desegregation and the role of its librarian, Richard Covey.²³² Graham treats Covey as different from Selma's Patricia Blalock, whom he rightfully calls a "genuine integrationist."²³³ He sees Covey as

228. Oliver Wendell Holmes touches on the notion of law as a tool:

[T]he social end which is aimed at by a rule of law is obscured and only partially attained in consequence of the fact that the rule owes its form to a gradual historical development, instead of being reshaped as a whole, with conscious articulate reference to the end in view.

Oliver Wendell Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 469 (1897). Holmes is reacting, in part, to a sometimes unresponsive formalism in law, as in the case of the distinction between embezzlement and larceny. *Id.* at 469-70. Roscoe Pound treats the ends of law as follows:

I am content to think of law as a social institution to satisfy social wants—the claims and demands involved in the existence of civilized society—by giving effect to as much as we may with the least sacrifice, so far as such wants may be satisfied or such claims given effect by an ordering of human conduct through politically organized society. For present purposes I am content to see in legal history the record of a continually wider recognizing and satisfying of human wants or claims or desires through social control; a more embracing and more effective securing of social interests; a continually more complete and effective elimination of waste and precluding of friction in human enjoyment of the goods of existence—in short, a continually more efficacious social engineering.

ROSCOE POUND, AN INTRODUCTION TO THE PHILOSOPHY OF LAW 99 (1922). None of this is to say that the law cannot lead. Indeed, while the law's move from segregation undeniably reflected a sense of moral abhorrence regarding enforced racial separatism, it doubtlessly helped to create (and reinforce) one as well. The law played a similar role in supporting segregation and discrimination. *See infra* note 269. For a view of the relation of law and morals arguing that in an important sense the former precedes the latter, see KARL OLIVECRONA, LAW AS FACT 150-61 (1939).

229. GRAHAM, *supra* note 4, at 54.

230. *Id.* at 83.

231. The first claim may simply be the opinion of librarian Elizabeth Beamgard or it may be limited to bookmobiles (as possibly covered by transportation statutes). *Id.* at 54-55. The second claim may be based on *Brown's* arguable effect on library segregation (the recalcitrance of Alabama legal interpreters notwithstanding). None of these explanations satisfy.

232. *Id.* at 82, 130.

233. *Id.* at 130.

belonging to a group of librarians who held “moderate racial views” and who “reacted to duress by black activists and to judicial pressure by leading their libraries toward integration.”²³⁴ According to Graham, Covey led the Huntsville library’s move from desegregation in 1962, by arguing that he had been named in a suit brought against Gadsden’s library, where he had served as director from 1956 to 1960.²³⁵ “He warned that similar action was in store for Huntsville if nothing was done about its segregation policy.”²³⁶ Graham may well be right to make more of Covey’s Gadsden background than his anticipatory strategy in Huntsville. That is, as Graham suggests, Covey was in some sense reacting “to duress by black activists and to judicial pressure”²³⁷ only if we take into account his Gadsden experience,²³⁸ but there had been no such pressure in Huntsville, at least as detailed by Graham.²³⁹ A fuller understanding of the law—or what Covey and his board thought it was—would be helpful in fleshing out both social context and personal motivation.

As for social context, Graham reports that Huntsville’s citizens “found little appeal in the race-baiting politics of George Wallace.”²⁴⁰ How might this have been reflected in Huntsville’s ordinances? Would it have made a difference in Huntsville’s municipal law, as compared to that of other Alabama cities, say Selma or Birmingham? Unfortunately, reconstructing municipal law with any precision may be impossible. As for personal motivation, Graham details Covey’s 1963 integration efforts as president of the Alabama Library Association.²⁴¹ Covey had received applications from six librarians at Tuskegee Institute.²⁴² He replied to them that the association had never offered membership to an African American but had only offered poor excuses.²⁴³ Covey then argued to Executive Council members that it was wrong to exclude blacks under an association constitution that purported to be inclusive.²⁴⁴ In response to pragmatic arguments regarding the inability of blacks to be accommodated in hotels and meeting places, he argued that the duties of the association trumped the actions of localities.²⁴⁵ Covey, unsuccessful in his efforts with the Executive Council, wrote to the Tuskegee librarians that he was “ashamed.”²⁴⁶ Here we see Covey using a moral argument: association responsibilities trumped municipal non-

234. *Id.*

235. *Id.* at 82.

236. *Id.*

237. *See id.* at 130.

238. *See id.* at 82.

239. *Id.*

240. *Id.*

241. *Id.* at 127-28.

242. *Id.* at 127.

243. *Id.*

244. *Id.*

245. *Id.*

246. *Id.* at 128.

accommodation practices.²⁴⁷ Interestingly, he uses a legalistic argument as well, appealing to the association's inclusive constitution.²⁴⁸

It is true that Covey was responding to applications from black librarians in his efforts as association president, rather than instigating a move to integration *sua sponte*.²⁴⁹ But, he pressed for integration of the Alabama Library Association with the arguments at his disposal.²⁵⁰ As was the case in his efforts at Huntsville, his argument was at least, in part, legalistic.²⁵¹ Covey may have developed a strong moral predisposition to integration, reflected in his anticipatory transition to integration in Huntsville's library in 1962 (where he based his argument on his Gadsden experience with law) and his leadership of the Alabama Library Association in 1963 (where he based his argument in important part on the association's constitution).²⁵² He may well have used legal and formal arguments in service of a moral goal. His correspondence with the Tuskegee librarians (references to "weak excuses" and to being "ashamed")²⁵³ reflects the idioms of moral aspiration, not legalistic capitulation. Without a clearer picture of legal understandings, it is difficult to say whether Covey was simply reacting to his Gadsden experience when he pressed for integration in Huntsville, or whether he was utilizing law to serve moral ends, as his "constitutional" argument as association president suggests he might have been. It is a virtue of Graham's well-researched and carefully-documented history that we can ask such questions.

These questions, concerning the legal understandings of the day, are difficult to answer for a variety of reasons. Foremost among them is the gap between written law and practice. Karl Llewellyn famously observed that the law is what officials do about disputes,²⁵⁴ and Oliver Wendell Holmes had even more subversively posited that the law consisted of "prophecies of what the courts will do."²⁵⁵ In important ways, the law guides our conduct by providing the occasion for our making guesses about just what it requires, permits, and forbids. Did cases striking down segregated dining cars in trains,²⁵⁶ or disallowing (formally) segregated treatment of African Americans in graduate school²⁵⁷ and compelling their admission to law

247. *See id.* at 127.

248. *See id.* This argument has a moral foundation as well, expressly promoting the value of abiding by stated principles (which is to say, avoiding hypocrisy) and perhaps implicitly recognizing the value of fidelity to (at least some) law.

249. *Id.*

250. *See id.* at 127-28.

251. *See id.*

252. *See id.* at 82, 127-28.

253. *Id.* at 127-28.

254. K. N. LLEWELLYN, *THE BRAMBLE BUSH: ON OUR LAW AND ITS STUDY* 3 (2d ed. 1960). Just as famously, Llewellyn, some 20 years after the book's publication, characterized what he took to be a spate of over-reaction to his claim as "grotesque farce." *Id.* at xi.

255. Holmes, *supra* note 228, at 461.

256. *Henderson v. United States*, 339 U.S. 816, 824-26 (1950) (holding the practice of segregating dining cars violative of the Interstate Commerce Act).

257. *McLaurin v. Okla. State Regents for Higher Educ.*, 339 U.S. 637, 639-42 (1950) (holding segre-

school²⁵⁸ mean that public library segregation was impermissible? Did *Brown*? Did a decision in Virginia²⁵⁹ or Montgomery²⁶⁰ outlawing public library segregation apply to Birmingham? What guesses—what arguments—did these and other decisions allow relevant actors to make?²⁶¹ Perhaps it was obvious to all, at some point between 1954 and 1962, that desegregation of public libraries was legally required. However, clearly there was heel-dragging in Alabama and elsewhere, and it would be worth exploring the relation of law to this recalcitrance.²⁶²

Paul Finkelman writes about what he calls the “gap that sometimes existed between statutes and practice” in the context of segregation.²⁶³ Noting that Pauli Murray found that only two states formally mandated public hospital segregation, he observes: “Everywhere in the South, . . . public hospitals were segregated. This was accomplished by statute, local ordinance, administrative practice and interpretation of statutes, and custom.”²⁶⁴ As to public libraries specifically, Finkelman writes, “Texas and North Carolina segregated their public libraries by statute, while other states did not, presumably because they did not imagine blacks using public libraries. Nevertheless, when blacks tried to use them, they were either refused access or forced into segregated facilities.”²⁶⁵ Ralph Ellison told a story of a black library’s creation in Oklahoma City as a reaction to a municipal library being segregated because of “just a custom.”²⁶⁶ The role of law that emerges in library segregation is murky.

gated treatment of education graduate student violative of the Fourteenth Amendment).

258. *Sweatt v. Painter*, 339 U.S. 629, 633-36 (1950) (requiring admission of a black student to law school on equal protection grounds).

259. *Giles v. Library Advisory Comm. of City of Danville*, 5 Race Rel. L. Rep. 1140, 1142 (Vand. U. Sch. L.) (W.D. Va. 1960).

260. *Cobb v. Montgomery Library Bd.*, 207 F. Supp. 880, 884 (M.D. Ala. 1962).

261. Arguments can be made for many purposes, including appeasement. Graham reports that in the course of the *Cobb* litigation in Montgomery, after the city’s offer to integrate and avoid trial was rebuffed, “[t]he city’s attorneys made it clear that . . . they would have to create the appearance of mounting a vigorous defense ‘for political reasons.’” GRAHAM, *supra* note 4, at 77. The city went on to argue that the library was not segregated—Cobb simply had no library card, and had not asked for one. *Id.*; *Cobb* 207 F. Supp. at 883. Here we have a legal argument that—like the library associations’ arguments—refused to embrace segregation. See *supra* text accompanying notes 201-05, 216. Judge Johnson turned against the city its argument that “possibly” one black person held a library card. *Cobb* 207 F. Supp. at 884. This legal argument by the city apparently reflected its conclusion that constitutional law was “well-settled” against public library discrimination. *Id.* at 881-82.

262. “The problem of segregated libraries in the South—and the writer of these words is a southerner—is certainly a complex one and difficult for outsiders to understand. The curious difference in temper in various localities, the progress of some cities and the backsliding of others, are quite confusing.” Estes, *supra* note 1, at 4418. See MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY 321-442 (2004) for a discussion of southern evasion of and resistance to *Brown*.

263. Paul Finkelman, *The Radicalism of Brown*, 66 U. PITT. L. REV. 35, 43 n.44 (2004) (discussing STATES’ LAWS ON RACE AND COLOR, *supra* note 226, at 17).

264. *Id.*

265. *Id.* at 49 (footnote omitted).

266. Arthur G. LeFrancis, *Our Chosen Frequency: Norms, Race, and Transcendence in Ralph Ellison’s Cadillac Flambé*, 26 OKLA. CITY U. L. REV. 1021, 1022 (2001) (quoting Hollie I. West, *Ellison: Exploring the Life of a Not so Visible Man*, in CONVERSATIONS WITH RALPH ELLISON 235, 237 (Maryemma Graham & Amritjit Singh eds., 1995)).

C. Vann Woodward writes of the “mushroom growth” of race laws during the first twenty years of the last century.²⁶⁷ “Much of the code was contributed by city ordinances or by local regulations and rules enforced without the formality of laws.”²⁶⁸ He continues:

[L]aws are not an adequate index of the extent and prevalence of segregation and discriminatory practices in the South. The practices often anticipated and sometimes exceeded the laws. It may be confidently assumed—and it could be verified by present observation—that there is more Jim Crowism practiced in the South than there are Jim Crow laws on the books.²⁶⁹

While Jim Crow statutes and ordinances abounded throughout the South, and touched on a wide variety of activities and facilities, it was impossible to formally regulate all areas of life. As a result, one was left with one’s guesses and commitments.

The guesses and arguments made by dominant culture, including white librarians, library board members, and city commissioners against a highly reticulated and entrenched backdrop of segregationist tradition,²⁷⁰ laws, folkways, interpretations, and understandings were guesses and arguments that—without a push—favored the status quo. The law needed to speak clearly, consistently, and with some force²⁷¹ in order for segregation to be questioned, let alone overturned. Local norms would continue to drive the issue of race separation, even after *Brown*. But eventually, writes Graham, the “deeply ingrained racial attitudes of white Southerners were becoming less impregnable by the 1960s.”²⁷² Why this was so is a question of “law and.”

267. C. VANN WOODWARD, *THE STRANGE CAREER OF JIM CROW* 82 (3d ed. 1974).

268. *Id.*

269. *Id.* at 87. Woodward cautions that recognizing the importance of non-law in segregation and discrimination should not incline us toward a view that law was unimportant. Reacting against the laissez-faire invocations of William Graham Sumner’s notion that “legislation cannot make mores,” Woodward argues with some passion that Jim Crow statutes played a central role in “tightening and freezing—in many cases instigating—segregation and discrimination.” *Id.* at 88, 91 (quoting GUNNAR MYRDAL, *AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY* 580 (1962) (Woodward’s text deletes the word “of” before “instigating” in the original).

270. See GRAHAM, *supra* note 4, at 130.

271. Courts sometimes suggested that law had so spoken:

The sole question presented by this cause is whether or not these plaintiffs and other Negroes similarly situated, in being denied the opportunity to play golf on the Mobile Municipal Golf Course, have been deprived, under color of law, of their rights, privileges, and immunities as secured by the Constitution and laws of the United States. This question is not unique. It is not new. It has been resolved by the Supreme Court of the United States and the Fifth Circuit Court of Appeals.

Sawyer v. City of Mobile, 208 F. Supp. 548, 549 (S.D. Ala. 1961).

272. GRAHAM, *supra* note 4, at 130.

"LAW AND"

The picture *A Right to Read* gives us of the law's role in pronouncing unconstitutional the segregation of Alabama's libraries is perhaps clearer than the picture it paints of the law's role in helping create and reinforce library segregation. Neither legal story is attended to in great detail. The history of a conceptual transition—in the minds of librarians and their boards—from a notion of the law requiring, then permitting, then prohibiting library segregation is not fully treated, but this is simply to say that Graham did not write another book. The history he uncovers is carefully researched and nicely told. Mixing personal stories and institutional histories, Graham treats a wide variety of competing norms and the strategies deployed to weaken and strengthen them. He is balanced in his treatment of the individuals and entities he features, and he remains focused on his subject throughout, although clearly placing it in the larger contexts of Jim Crow and the civil rights movement. Graham cites a 1948 report by the director of the Birmingham Public Library that only one out of twenty-one surveyed southern libraries allowed African Americans unrestricted access.²⁷³ A 1954 survey reported a marked increase in the number of integrated southern libraries, but these libraries were overwhelmingly in locales with small black populations.²⁷⁴ Segregated libraries remained the order of the day in Alabama, and one wonders whether this testifies to the power or irrelevance of law.

The real strength of Graham's book—and it is a very substantial strength indeed—is his treatment of a host of informal social factors and mechanisms relevant to the formal desegregation of Alabama's libraries. These factors and mechanisms include the expectations of library service fostered by philanthropy, business, and federal programs; black community values growing out of segregated urban experience; a younger generation of better-educated blacks; campaigns by black leaders to increase black library patronage and the readership of black children; black direct action campaigns; an ultimate press by blacks for integration; white embarrassment and concern for community reputation; the self interest of white business leaders; the professional values of librarianship; massive resistance by whites and their citizen councils and the Klan; and political accountability to white voters.

Further, he shows law as a normative prod, law taking a back seat, and law being accommodated to regional norms. Where law once tightened and reinforced Alabama library segregation, it eventually helped to loosen and dissolve at least its formal incidents.²⁷⁵ The law shift. d. Jim Crow law had been a profound and powerful force. It served segregation mightily. In the story of access to Alabama's libraries, the law helped lead and it certainly

273. *Id.* at 69-70.

274. *Id.* at 70.

275. *See, e.g., id.* at 77-79.

followed. It was used anticipatorily, as by Richard Covey in Huntsville;²⁷⁶ it was effectively ignored in places like Montgomery for as long as was practicable;²⁷⁷ it was then used to dismantle formal library segregation. It was played with, resisted, tweaked, accommodated, violated, and obeyed.

Law and custom had long interacted in support of Alabama library segregation.²⁷⁸ Ultimately the law came to say that this tradition could not stand.²⁷⁹ An optimist might say the law had found itself. Graham shows that it did so mostly with help from African-American leaders, young and old.

276. *See id.* at 82.

277. *See id.* at 75-81.

278. C. Vann Woodward described such interaction:

The Jim Crow laws put the authority of the state or city in the voice of the street-car conductor, the railway brakeman, the bus driver, the theater usher, and also into the voice of the hoodlum of the public parks and playgrounds. They gave free rein and the majesty of the law to mass aggressions that might otherwise have been curbed, blunted, or deflected.

WOODWARD, *supra* note 267, at 93.

279. A federal court put it as follows:

[T]he defendants, . . . have in the past and are at the present time pursuing a policy, custom or usage which provides for the enforced exclusion of members of the Negro race in the use of the public library system The fact that other like facilities are available to plaintiff and members of plaintiff's race (i.e., the branch library) does not affect plaintiff's rights to the equal use of the main library [S]uch action . . . denies to the plaintiff and all other Negroes in the City of Montgomery their right to use said library . . . such deprivation denies to the plaintiff and other members of his race similarly situated, rights guaranteed by the Fourteenth Amendment to the Constitution of the United States. . . . [T]he plaintiff . . . is entitled to the use of the library . . . in Montgomery, Alabama, on the same basis as white citizens.

Cobb v. Montgomery Library Bd., 207 F. Supp. 880, 884 (M.D. Ala. 1962).

