

# BETWEEN NORTH AND SOUTH

Delaware, Desegregation, and the Myth of  
American Sectionalism



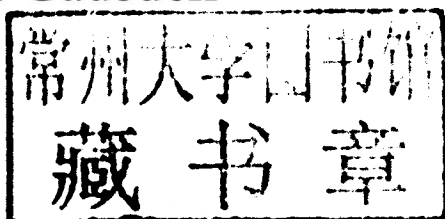
**BRETT GADSDEN**

# Between North and South

---

Delaware, Desegregation, and the  
Myth of American Sectionalism

Brett Gadsden



---

PENN

---

UNIVERSITY OF PENNSYLVANIA PRESS  
PHILADELPHIA

Copyright © 2013 University of Pennsylvania Press

All rights reserved. Except for brief quotations used for purposes of review or scholarly citation, none of this book may be reproduced in any form by any means without written permission from the publisher.

Published by  
University of Pennsylvania Press  
Philadelphia, Pennsylvania 19104-4112  
[www.upenn.edu/pennpress](http://www.upenn.edu/pennpress)

Printed in the United States of America  
on acid-free paper

2 4 6 8 10 9 7 5 3 1

*Library of Congress Cataloging-in-Publication Data*

Gadsden, Brett V., 1969–

Between north and south : Delaware, desegregation, and the myth of American sectionalism / Brett Gadsden. — 1st ed.

p. cm. — (Politics and culture in modern America)

Includes bibliographical references and index.

ISBN 978-0-8122-4443-4 (hardcover : alk. paper)

1. Segregation in education—Law and legislation—Delaware—History—20th century. 2. School integration—Delaware—History—20th century. 3. Discrimination in education—Law and legislation—Delaware—History—20th century. 4. African Americans—Education—Delaware—History—20th century. I. Title. II. Series: Politics and culture in modern America.

LC2802.D3G34 2012

379.2'6309751—dc23

2012008454

## Between North and South

## POLITICS AND CULTURE IN MODERN AMERICA

Series Editors: Margot Canaday, Glenda Gilmore,  
Michael Kazin, and Thomas J. Sugrue

Volumes in the series narrate and analyze political and social change in the broadest dimensions from 1865 to the present, including ideas about the ways people have sought and wielded power in the public sphere and the language and institutions of politics at all levels—local, national, and transnational. The series is motivated by a desire to reverse the fragmentation of modern U.S. history and to encourage synthetic perspectives on social movements and the state, on gender, race, and labor, and on intellectual history and popular culture.

*For Natasha*

As long as you are South of the Canadian Border,  
you are South.

*—Malcolm X, King Solomon Baptist Church,  
Detroit, Michigan, April 12, 1964*

## Contents

---

Introduction	1
PART I. CHALLENGING JIM CROW	21
Chapter 1. "There Is a Movement on Foot"	23
Chapter 2. "He Wouldn't Help Me Get a Jim Crow Bus"	59
PART II. ELIMINATING JIM CROW	99
Chapter 3. "The Delaware Method of Solving Things"	101
Chapter 4. "If We Must and Are to Have Integration"	136
PART III. EXTENDING BROWN'S MANDATE	171
Chapter 5. "The Other Side of the <i>Milliken</i> Coin"	173
Chapter 6. "For and Against School Busing"	213
Epilogue	241
Abbreviations	251
Notes	253
Index	305
Acknowledgments	313



## Introduction

In the early summer of 1974, freshman senator Joseph Biden (D-Del.) accepted an invitation from the Gordy Estates Civic Association at the Krebs School in Newport, Delaware, located just south of Wilmington, to discuss the issue of busing with his constituents. Two years earlier, school desegregation proponents had reopened a suit against the state board of education over the matter of racially segregated city and suburban schools. Building on litigation strategies developed roughly four decades earlier, which focused on the problem of school segregation in the context of the Jim Crow South, reformers now focused their efforts on a challenge to this persistent problem in a new context, one in which school segregation was rooted not in law but in geography, with white students concentrated in suburban schools and black students concentrated in city schools. In response, the U.S. district court had found a record of state-sponsored discriminatory practices in school and housing policy that reinforced segregation and had set about to consider a variety of remedies, including a two-way busing program that promised to transfer students between urban and suburban districts. The possibility that black and—worse—white students would be transferred across the municipal boundary sent a wave of anxiety through the white population.

Although the organizers of the Krebs School event had presented the affair to Biden as an open discussion about busing, it had in truth been organized by the anti-busing Neighborhood Schools Association, whose leadership had pledged massive resistance to desegregation.<sup>1</sup> The group, which had already issued a flyer accusing the senator of reneging on pledges to oppose busing, now sought to attack him publicly. The coordinator of the event, John Trager, had established the “47–46 Committee” to monitor Biden’s record on busing, promising, “We’re going to hound Biden for the next 4 years if he doesn’t vote our position.” Not surprisingly, the meeting quickly degenerated into a multipronged attack on the senator.<sup>2</sup> In the minds of many constituents, Biden’s sin was that he had opposed a clause in the omnibus education bill during the Senate’s previous session that would have permitted jurisdictions facing court-ordered desegregation to return to court and possibly have their bus-

ing mandate vacated if their current plans did not conform with the prescriptions contained in the legislation. No matter that Biden had voted in support of all the other anti-busing measures and a compromise measure that affirmed the right of students to attend the schools nearest their homes. The organizers blamed Biden for the one-vote defeat of the measure.<sup>3</sup> For two hours Biden paced the auditorium stage and absorbed the ire of the 250-member audience, composed of mostly local white residents. He counseled patience and noted that the Wilmington situation hinged on developments in the Supreme Court as it deliberated upon a Detroit segregation case, *Milliken v. Bradley*, in which the facts were essentially the same.

In the mid-1970s, Biden and the nation had reached a crossroad of sorts in the struggle over the issues of racial segregation and inequality. Civil rights activists had won a succession of court rulings in the 1960s and 1970s and secured the passage of federal legislation in the mid-1960s that promised African Americans equality before the law. Still, as was made particularly clear when the movement turned its attention north and west and urban uprisings erupted in cities across the United States, segregation and inequality remained endemic in many parts of the country. And just as southern whites had often resisted the movement, so too did northern and western whites outside the South respond to the advance of reform, especially when its proponents made demands for more affirmative actions—measures that promised to advance desegregation outside the context of Jim Crow.<sup>4</sup>

Biden had campaigned for his Senate seat on a promise to support the ideals of the civil rights movement—such as racial equality and equal opportunity—that were enshrined in major legislation of the 1960s.<sup>5</sup> Now he attempted to explain his conditional support for school desegregation through a delicate explication of the sectionally inflected, highly politicized nomenclature that jurists, social scientists, politicians, activists, and the general public used to define forms of school segregation that ranged from the starkly unconstitutional to the supposedly innocuous. Biden expressed his support for busing only as a means of specifically addressing de jure segregation in schools, an institution associated with Jim Crow school systems in the U.S. South and border states. The young senator reiterated his opposition to busing as a remedy for racial imbalance—situations where the racial demographics of schools varied markedly from the demographic profile of a particular geography, but where such imbalances were functions of what observers considered racially neutral factors such as personal choice and socioeconomic disparities. Unlike the de jure discrimination of the Jim Crow

South, Biden reassured his audience that any segregation in Delaware was de facto in nature and therefore beyond the authority of the courts. In a further articulation of his evolving position on school desegregation, Biden promised to support an amendment counteracting any Supreme Court decision that sanctioned busing to overcome these forms of segregation. The Krebs School crowd was unmoved. In the face of constant interruptions and heckling, he yielded the microphone.<sup>6</sup>

Just over one year into what would become a long and distinguished career in national politics, Joe Biden had come face-to-face with a central challenge confronting public officials in the modern era. On one hand, politicians sought to answer the demands from black communities and civil rights activists that they dismantle systems of segregated schools and recognize blacks' rights as citizens; on the other, they faced persistent white opposition intent on maintaining segregated schools or, at the very least, minimizing the impact of school desegregation remedies. This book is a study of the decades-long struggle between proponents and opponents of school desegregation in Delaware and the evolving case law and consequent public policies. This project explores the historical roots of Biden's heated meeting with his constituents, as well as—more broadly—the possibilities and limits of the liberal consensus around civil rights in the post-World War II era.

\* \* \*

To make better sense of the contest between school desegregation proponents and opponents, I explore three interrelated concepts: civil rights liberalism, geographic sectionalism, and white reaction. As historians have expanded their study of the civil rights movement, civil rights liberals who sought remedies in the courts (particularly to address school segregation) have received a critical reassessment. In gauging their accomplishments, scholars have focused on the “unfinished agenda” of *Brown v. Board of Education* and the prohibitively high “costs” of school desegregation, especially to black teachers. Some have even argued that *Brown* did more to undermine reform than to advance it, while others have critiqued the limitations inherent in a court-oriented approach to social change. In hindsight, scholars have also noted that the focus of the NAACP and other organizations on formal equality before the law, their emphasis on civil rights instead of economic rights, and their concession to Cold War imperatives had a moderating influence on the civil rights movement. A few scholars have even taken the position of

white opponents of desegregation, claiming that the reforms undermined the political, economic, and social rights of whites. And further filtering their analysis through the perspective of underclass ideology, they have concluded that desegregation, especially in the 1970s, opened the doors of white schools to a torrent of poorly behaved and disrespectful black children.<sup>7</sup> I contend that civil rights liberals and school desegregation proponents in Delaware possessed a sophisticated understanding of the discursive and structural bases of racial inequality in U.S. society and forwarded a dynamic, powerful, and efficacious challenge to those foundations. Moreover, their tactics were sensitive to the changing patterns of racial segregation both in the Jim Crow context, when state law sanctioned segregation, and in the post-Jim Crow era, when school segregation was a function of the sum of discriminatory education and housing policy.

Contained within the legal strategies was also a sustained challenge to the institutional inequalities in state school systems that enforced diminished black political, economic, and social standing. On the whole, school desegregation proponents leveled an adaptive attack upon racial inequality—to address problems of race and resources—that took advantage of the shifting political opportunities of the postwar period to confront the varying terrain of segregation both inside and outside the framework of the Jim Crow South.<sup>8</sup> Reformers offered a progressive critique of white nationalist discourses that served as the ideological foundations for Jim Crow segregation. They disputed the notion that race was a biological fact, ideas about blacks' innate difference and inferiority, and claims that individual intelligence was a function of race. Their demands that the state of Delaware recognize African Americans as citizens also challenged, as the political scientist Dean Robinson observed, "one of the oldest American political fantasies—what Ralph Ellison calls the desire to 'get shut' of the Negro in America—to banish [blacks] from the nation's bloodstream, from its social structure, and from its conscience and historical consciousness."<sup>9</sup>

In exploring the power and possibilities of campaigns to desegregate the nation's schools, this book also challenges portrayals of school desegregation proponents, especially the lawyers who often stood at the center of these dramas, as polite moderates who were beyond the effective influence of grassroots actors and aloof from black popular opinion.<sup>10</sup> Such portrayals were given substance by the often rigid demands of the laws and the courts. As the legal scholar Herbert Eastman warned of the documents that largely frame stories about civil rights litigation, "The [legal] complaint omits the social

chemistry underneath the events normally invisible to the law—events that create the injury or compound it. In this complaint, we lose the fullness of the harm done, the scale of the deprivations, the humiliation of the plaintiff class members, the damage to greater society, the significance of it all.”<sup>11</sup> Granted, the National Association for the Advancement of Colored People (NAACP) was not the most radical black freedom organization. And *Brown v. Board of Education* and school desegregation were no panaceas to the sum total of racial oppression in the South or elsewhere. Still, the movement to desegregate public education did represent grassroots sentiment about the inequalities, inequities, and stigma inherent in the system of segregated schooling, even if it also reflected the orientation of civil rights groups that believed the law was an efficacious avenue for change.<sup>12</sup> Legal challenges provided important means through which black citizens could express and advance their complaints about the problems inherent in segregated schools.<sup>13</sup> The formal arguments of attorneys, as expressed in organizational memos and legal briefs, and the novelty and power of historic court decisions often subsumed local people’s voices. Still, they were not silenced. Attorneys’ rearticulation of popular complaints in language that reflected legal and social science discourses gave their challenges much power while provoking tensions between groups committed to direct action and stirring debates among blacks over the proper avenues for reform. I hold that strategic legal tactics proved an important means of enabling black students to gain recognition of their rights as citizens and to escape the stigma and inequalities of segregation’s institutions. Indeed, the legal proceedings and subsequent political wrangling were important sites in which all the parties were able to “tell stories.” These stories, as the legal scholar Thomas Ross has observed, “reveal, with special clarity, the deeper nature of . . . struggle[s] to move to a world where discrimination on the basis of race truly has no place, no purpose, no logic.”<sup>14</sup> Even if the struggles over segregated schooling lacked the compelling theater of direct action campaigns such as those in Birmingham or the militancy of the Black Panther Party, strategic legal challenges proved essential in creating a public record of complaints, expanding notions of citizenship, and gaining blacks increasing access to public resources and higher-quality educational programs in many ways that had been beyond the effective interventions of other movements.<sup>15</sup>

This work also challenges the portrayal of school desegregation proponents as ideological dogmatists.<sup>16</sup> To this end, my consideration of the efforts of activists challenges many ideological and organizational typologies that

frame studies of African American freedom struggles, such as accommodation versus agitation, desegregation versus separatism, civil rights liberalism versus black power, and integration versus community control.<sup>17</sup> The organizations that oversaw the Delaware litigation campaign—the NAACP and later the American Civil Liberties Union (ACLU) and Center for National Policy Review (CNPR)—were certainly rooted in the traditions of democratic nationalism and legal liberalism.<sup>18</sup> But as the NAACP oriented its resources toward an attack upon segregation, it tapped into the energy of movements steeped in self-help and voluntarism to fuel its own campaign. In these challenges to the color line that advanced the cause of desegregation and black education, school desegregation proponents drew upon decades-long efforts focused on increasing the capacity of historically black institutions. We can discern a similar blurring of typological lines in school desegregation proponents' challenges to segregation in urban and suburban schools in the 1970s. As the campaign advanced, and later as activists and school officials turned their attention to formulating an equitable remedy, reformers fashioned a kind of fusion politics that took into account black interest in civil rights liberalism and community control politics. The efforts of school desegregation proponents in this study, especially as they responded to evolving political developments within black communities, defy these neat categorizations and necessitate an appreciation of the organizational adaptability of civil rights organizations.

An exploration of the work of civil rights advocates in Delaware presents historians with an opportunity to expand our geographic scope of American race relations and of movements to advance and thwart black freedom struggles. In broad sectional sweeps, Delaware is often overlooked—too small and insignificant, too far north to demand the attention of southern historians, too far south for scholars of the North, or too marginal in the grand scheme of national politics.<sup>19</sup> But Delaware was one of the central proving grounds for the NAACP's campaign against segregation in education. The first state to ratify the U.S. Constitution on December 7, 1778, it was here that the organization won its first case ordering the desegregation of the undergraduate programs at a public university.<sup>20</sup> Moreover, two Delaware state court decisions (*Belton v. Gebhart* and *Bulah v. Gebhart*), both initiated by the NAACP, marked the first time that segregated white primary and secondary schools were ordered to admit black students.<sup>21</sup> The cases were then bundled with *Brown v. Board of Education* (Kansas), *Briggs v. Elliott* (South Carolina), *Davis v. County School Board of Prince Edward County* (Virginia), and *Bolling v.*

*Sharpe* (District of Columbia) as companion cases upon which the Supreme Court set about reevaluating the merits of *Plessy v. Ferguson* and the constitutionality of segregation in public education. The findings of fact in the Delaware cases provided Chief Justice Earl Warren with important justifications for his ruling in *Brown* that segregated schools were inherently unequal. In the aftermath of *Brown*, Delaware experienced one of the first episodes of white reactionary backlash—later characterized as massive resistance—after the Milford Board of Education admitted a small group of black students to the local white high school in 1954.<sup>22</sup> Delaware's senior senator, John J. Williams, cast the vote that broke the southern filibuster to the 1964 civil rights bill. School desegregation proponents in Delaware also won the nation's first interdistrict, metropolitan desegregation suit, and the eventual remedy in that case represented the most extensive outgrowth of the direct attack campaign initiated three decades earlier.<sup>23</sup> According to the terms established by the original architects of the NAACP's direct attack strategy challenging segregation in public schooling, the cumulative effects of the long litigation campaign proved to be a considerable success, largely unrealized in the rest of the nation. This process was painfully slow, sometimes inequitable, and never a panacea for the myriad problems associated with race and education. But according to educational experts Gary Orfield and Chungmei Lee, Delaware was also among the most desegregated states for black students in the nation by the end of the twentieth century.<sup>24</sup>

\* \* \*

Positioned directly on the Mason-Dixon Line, the border state of Delaware also provides an interesting opportunity to study a provincial hybrid, one in which ostensibly southern and northern modes of U.S. race relations operated. Historians and historical actors have described other border states in similar terms, evoking a number of metaphors, including "a world between," "middle ground," "gateway," and the "'Dixie-Yankee' duality. On the fault line between the Jim Crow South and the "free" North, in communities where slavery and freedom coexisted, scholars have noted distinctive demographic features, including fewer numbers of black residents and lower black-white ratios, greater ethnoreligious diversity, fewer incidences of ritualized racial violence in the form of race riots and lynchings, and blacks' greater access to mechanisms of political power, including the right to vote. They have also noted more highly developed commercial and industrial sectors with links to



national and international markets, relatively high levels of unionization, and the predominance of allegedly *de facto* (as opposed to *de jure*) forms of segregation. A culture of “polite racism” is often described, a testament to border state whites’ perceived commitment to civility and a more humane—though still unequal—mode of race relations.<sup>25</sup>

It is not surprising that students of Delaware have figured the state’s history in a manner that lends to it an air of duality. In his reflections on the history of school desegregation, Chancellor Collins Seitz described Delaware “as a northern state with a southern exposure,” a statement meant to testify to the mixed quality and moderate mystique of the state.<sup>26</sup> They have positioned Wilmington as part of the political, economic, and cultural complex of the northern, urban industrial vein that runs up the Delaware River through Chester and Philadelphia, Pennsylvania, and Camden and Trenton, New Jersey.<sup>27</sup> In contrast, the southern Kent and Sussex counties are noted for sharing the more traditional, southern, rural, and agricultural characteristics of the more conservative, former slaveholding area of the Delmarva Peninsula in Maryland and Virginia—and by extension the Upper and Deep South.<sup>28</sup> Historians recall how downstate agrarian interests dominated Delaware political culture throughout the early to mid-twentieth century. As such, the state never abolished slavery within its border. Indeed, as historian Robert L. Hayman, Jr., has argued, “Delaware defended the institution with an increasing intensity as disunion approached, and the overtly racist ideology it embraced would inform its public stance for many generations to come.”<sup>29</sup> As the national debate over slavery reached a boiling point in 1861, the Delaware General Assembly rejected Lincoln’s experiment in compensated emancipation and railed against the federal government’s intrusion in the internal affairs of the state. The Democrats, having run on a platform committed to the hegemony of the “White Man’s Party,” dominated politics for most of the last quarter of the nineteenth century. The state’s congressional delegation opposed all forms of federal intervention—Reconstruction, the Civil Rights Bill of 1866, the Fourteenth and Fifteenth Amendments—that offered any measure of equality to blacks and threatened to undermine the white racial monopoly on political, economic, and social power in the state. Delaware systematically disenfranchised African Americans by the early twentieth century. And in extending the “badge of servitude” to its black citizens, the general assembly wrote into the state’s constitution language demanding segregation in public schools.<sup>30</sup> In figuring the implications of the state’s dual character, journalist Richard Kluger summed,





Figure 1. Delaware political map. By Michael Page, Emory University Libraries.

An unspoken quid pro quo arrangement had evolved between the sophisticated Wilmington plutocracy and the downstate conservative farmers who still had the votes that passed the laws that ran the state. If Wilmington saw to it that statewide taxes were kept low and did not foist a lot of costly social-welfare programs on the southern counties—particularly anything that would materially benefit the