WHEREVER THERE'S A FIGHT

HOW RUNAWAY SLAVES, SUFFRAGISTS, IMMIGRANTS, STRIKERS, AND POETS SHAPED CIVIL LIBERTIES IN CALIFORNIA

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As Segregated as the Deep South

By the early 1960s, more than a century of socially sanctioned and judicially enforced residential segregation had branded racially distinct neighborhoods into cities throughout the state, particularly in sprawling Los Angeles County. From the Japanese American enclave of Gardena in the south and the African American ghetto of Watts in mid-county to the Mexican American barrio of Boyle Heights in the east and the white suburbs of the San Fernando Valley in the far northwest, it was not uncommon for a public school student in the Los Angeles Unified School District to attend a school that was ethnically and racially segregated.

Despite the 1954 *Brown v. Board of Education* decision outlawing "separate but equal" schools, some California schools, particularly in the southern part of the state, were as segregated as those in the Deep South. Although the civil rights movement focused on dismantling government-sanctioned segregation in the South, Californians continued to battle de facto segregation in the Golden State.

In 1963 Mary Ellen Crawford attended Jordan High School in Los Angeles's Watts neighborhood. The auditorium in the largely African American school had been condemned, and the school lacked basic equipment. But when the Los Angeles Unified School District announced plans for a million-dollar renovation of the school, activists complained that the result would be the "best segregated high school in the city." The NAACP and the United Civil Rights Committee brought a class action lawsuit representing Crawford and other African American students, calling for integration between Jordan and nearby South Gate High School, which despite being only a mile away was almost entirely white.

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This proposal mobilized the white parents of South Gate, who submitted petitions to the school board protesting integration.

After Martin Luther King's Southern Christian Leadership Conference and the Student Nonviolent Coordinating Committee organized a two-mile march through downtown Los Angeles on June 24, 1963, to protest school segregation, Los Angeles school board member Charles Smoot charged, "These champions of equality come here to lend their support to local Negro demands that their race be given special status, special privileges, and special advantages over other races in this school system."

A few months after *Crawford v. Board of Education* was filed, Superior Court Judge Alfred Gitelson ordered the school board to end segregation at Jordan High. The board successfully delayed a trial for five years by pledging to desegregate and then presenting plans that impacted only a handful of the district's hundreds of thousands of students. By the time the case went to trial in 1968, it had expanded to cover 192 schools in predominantly African American and Mexican neighborhoods.

In 1970 Judge Gitelson issued a landmark ruling criticizing the district's "slavish adherence" to assigning students only to schools in their neighborhoods. The veteran jurist believed this policy perpetuated school segregation by reflecting residential segregation—*de facto* segregation. Citing a long list of the school board's omissions and actions, Judge Gitelson added *de jure* segregation—government-sactioned segregation—to his description of the district's conduct. Charging that the school board's directives, which sounded as if they were in fact seeking integration, "were solely for public relations, to attempt to keep minorities pacified," he mandated integration by the 1971-72 academic year.

White politicians swiftly condemned the decision. Los Angeles Mayor Sam Yorty predicted that the decision would polarize the city. California Governor Ronald Reagan called the decision "utterly ridiculous," and Robert Finch, President Nixon's Secretary of Heath, Education, and Welfare, called it "totally unrealistic." Judge Gitelson was branded the "busing judge" and voted out of office. The school board appealed his order, delaying its implementation.

Several months after the ruling, Governor Reagan signed the Wakefield anti-busing measure, named after Floyd Wakefield, South Gate assembly member and owner of a sporting goods store. The law prohibited busing for any purpose without written parental permission. Immediately after Governor Reagan signed the bill, San

Francisco's school board filed a lawsuit with the state supreme court challenging the law's constitutionality.

In January 1971, the high court ruled that school districts were still legally responsible for desegregation. Although the new law only outlawed schools from busing students without parental consent, districts could still assign students to schools outside their neighborhoods. Parents could keep their children off school buses, but they were nevertheless responsible for transporting their children to their assigned schools. Justice Matthew Tobriner wrote that to create "a parental power to refuse consent to pupil assignments would beget a parental right to discriminate, and to do so in a context of social strife would enable many to exploit the right to inflict racial prejudice."

In reaction to the decision, Assemblyman Wakefield sponsored the Student School Assignment Initiative, which appeared on the November 1972 ballot as Proposition 21. The initiative prohibited assigning students to public schools on the basis of race, creed, or color and eliminated requirements that school districts keep records on racial imbalance and develop plans to eliminate such imbalance. When the initiative passed, it calcified school segregation tied to residential segregation.

Within forty-eight hours of the election, the ACLU petitioned the state supreme court to rule that the initiative violated the equal protection guarantees of the U.S. Constitution.

In January 1975, a unanimous California Supreme Court issued a mixed decision on the validity of Proposition 21. The high court ruled that school districts could take race into account when making school assignments for the purpose of integration. But districts no longer had to keep statistics on the racial and ethnic composition of school populations. Civil rights advocates were floored: without the data, it would be impossible to document racial segregation.

Meanwhile, the *Crawford* case was still winding its way through the courts. In 1976 the California Supreme Court vindicated Judge Gitelson's 1970 order, ruling that the Los Angeles school board had "in bad faith segregated its schools" and reaffirming its 1963 ruling in *Jackson v. Pasadena*, in which the court ruled that segregation itself was significant, regardless of whether the school district or state had *intentionally* caused it. By reiterating that the distinction between *de jure* and *de facto* discrimination "retains little, if any, significance for the children whose constitutional rights are at issue," the California Supreme Court set a stricter desegregation standard than the U.S. Supreme Court, which in a 1973 Colorado school segregation case had ruled that plaintiffs had to prove that the state had purposefully segregated students. The distinction between the two standards proved important years later in bringing the *Crawford* case to a close.

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The California high court sent the *Crawford* case back to the lower court for implementation of court-ordered integration. That task fell to Superior Court Judge Paul Egly. He approved a plan covering eighty-five thousand children and calling for busing students across vast Los Angeles County.

Just days before busing was to begin, in September 1978, a flurry of judicial actions left the plan's future in doubt. Bustop, a group of largely white parents opposed to mandatory busing, petitioned Judge Egly to halt the plan. He refused, but Bustop received an eleventh-hour stay from the court of appeal just eleven days before the first day of school.

For four days following the appellate court ruling, attorneys for the NAACP Legal Defense and Educational Fund, the ACLU, the Los Angeles Center for Law and Justice, and the Integration Project worked nonstop on an appeal to the California Supreme Court. The court ordered that the plan be implemented as scheduled, on September 12. Bustop hurriedly petitioned U.S. Supreme Court Justice William Rehnquist to keep the buses from rolling.

Although he denied Bustop's request, Justice Rehnquist provided the group a political roadmap by suggesting that the state constitution be amended to prohibit busing.

State Senator Alan Robbins of the San Fernando Valley quickly introduced legislation for a constitutional amendment that freed school boards from any obligation to desegregate which exceeded federal standards. Since the U.S. Supreme Court had ruled in 1973 that only government-instigated segregation violated the Equal Protection Clause, California courts could only order desegregation if plaintiffs could prove that the school district intentionally segregated students. The amendment, which appeared on the November 1979 state ballot as Proposition 1, was approved by almost 70 percent of voters.

Though civil rights advocates challenged the legality of Proposition 1, a 1982 U.S. Supreme Court ruling upholding its constitutionality formally ended the judicial fight to desegregate Los Angeles public schools. The *Crawford* case, begun nearly twenty years earlier, was effectively dead.