Introduction

These students are not struggling for themselves alone. They are seeking to save the soul of America. They are taking our whole nation back to those great wells of democracy which were dug deep by the Founding Fathers in the formulation of the Constitution and the Declaration of Independence. In sitting down at the lunch counters, they are in reality standing up for the best in the American dream. They courageously go to the jails of the South in order to get America out of the dilemma in which she finds herself as a result of the continued existence of segregation. One day historians will record this student movement as one of the most significant epics of our heritage. MARTIN LUTHER KING JR.[1]

It began with a conversation. Four young African American men, in their first year at North Carolina Agricultural and Technical College, in a dormitory room, discussing their hopes and their frustrations. It was late 1959, and then it was early 1960, and of the many topics they talked about in these "bull sessions," the one they kept returning to was the challenge of leading a dignified life in the Jim Crow South. The experience of living with racial segregation had left them "exhausted," one later recalled. They talked, and they talked some more. And then, in the words of one of the students, "we just got tired of talking about it and decided to do something."[2]

Late in the afternoon of February 1, 1960, the four students—Ezell Blair Jr., Franklin McCain, Joseph McNeil, and David Richmond—entered the Woolworth store in downtown Greensboro. They browsed for a few minutes,

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purchased some small items, and then sat down at the lunch counter. "I'm sorry," the waitress told them, "we don't serve colored in here." Like most department stores in the American South, the Greensboro Woolworth welcomed African American customers but with one restriction: they were not allowed to sit at the lunch counter. The students pointed out that their money had been accepted at the nearby merchandise counter and asked why they were being refused at this one. "What do you mean?" asked Blair. "This is a public place, isn't it? If it isn't, then why don't you sell membership cards? If you do that, then I'll understand that this is a private concern." "But they wouldn't serve us," McNeil recounted. "So we just sat there until the lunch counter closed. Then we came on back to school."[3]

They returned the following morning, this time with reinforcements. The group of twenty or so students, including four women, went through the same routine. They made small purchases in the store, then took seats at the lunch counter and requested service. They were refused again. The students talked quietly among themselves; some used the time to keep up with their schoolwork. Police officers kept watch on the scene, as did local newspaper reporters. Around midday, about an hour and half after they arrived, the group went back to campus. The next morning, they were back again. By the end of the week, an estimated two hundred students had joined the Greensboro protests.[4]

What happened in Greensboro during the first week of February 1960 was remarkable. The American South in 1960 was a world in which Jim Crow still reigned, the prerogatives of white supremacy maintained by law, custom, and violence. Racial inequities defined life for blacks in the South, ranging from the most fundamental aspects of American citizenship—disfranchisement, separate and unequal education, a racially oppressive criminal justice system—to the corrosive day-to-day reminders of how the whites who held the levers of power viewed their black fellow citizens: separate water fountains, the casual use of first names or "boy" when addressing black men, whites-only lunch counters. Against this backdrop, for young black men and women to demand service at these lunch counters was a leap into uncharted and potentially dangerous territory. "Sure, we were scared, I suppose," Blair told a reporter. "We didn't know what to expect." They thought they might be arrested; they feared worse. The Greensboro sit-in campaign was a bold—some said reckless—act of concerted defiance against racial injustice.[5]

Greensboro was not the first time African Americans challenged

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discrimination at a lunch counter by sitting down, requesting service, and, when denied, refusing to leave. There was a long if sporadic history of this kind of protest. What separated the sit-ins that took place in Greensboro in February 1960 from all that came before was what happened next. The Greensboro protests became a national news event, and they inspired thousands to march, picket, boycott, sit-in, even to go to jail—actions few would have imagined doing before being moved by the images of young men and women quietly sitting on stools at a lunch counter. A week of remarkable events in Greensboro turned into an inspired frontal assault on racial practices throughout the South. The sit-ins became a movement.

The sit-ins first spread to other North Carolina cities: Durham, Winston-Salem, Charlotte, Raleigh. On February 11, students in Hampton, Virginia, brought the sit-in movement to the first city outside North Carolina. Next was Rock Hill, South Carolina. In Nashville, Tennessee, and Tallahassee, Florida, students already had been planning their own sit-in protests, and the news from Greensboro spurred them to act. By the end of February, students had organized sit-ins in thirty cities across seven states. A month later, sit-ins had taken place in forty-eight cities in eleven southern states.[6]

There was a repetitive quality to the sit-ins. Having identified a protest tactic that was powerful and easily replicated, students across the South performed the same basic routines again and again through the winter and spring of 1960. Put on nice clothes. Collect a few course books, maybe a Bible. Gather for a discussion of logistics, some final words of inspiration, perhaps a prayer. Then walk into a variety store, sit down at the lunch counter, and request service. That was it. It was predictable and powerful. For those who experienced the sit-ins—whether participants, supporters, or critics—much of the wonder of the movement was that so many different people in so many different places were doing the same extraordinary thing.

Once seated at the lunch counter, the students' carefully scripted drama became far less predictable. The next move was in the hands of others. The students waited on their stools, uncertain of what was to come next. Often it was the indignity of being ignored. Or perhaps the lights would be turned off, the lunch counter closed for the day. Sometimes a waitress or the manager would talk to them, plead with them to leave and take their cause somewhere else. Or the manager might threaten to call the police. If the students remained, the manager might follow through on his threat. When the police arrived, they brought their own script. They would require the manager to request in

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their presence that the students leave, only then arresting the students, marching them to a paddy wagon, and taking them off to jail.

The first arrests of the sit-in movement took place in Raleigh on February 12. In the coming weeks, hundreds of protesters would be arrested, tried, and convicted on various charges—trespass, disorderly conduct, breach of the peace, loitering. As the protests moved farther south, the number of arrests increased. In the Deep South, protesters were subject to harsh reprisals. City officials in Montgomery, Alabama, responded with what one sit-in protester described as an immediate "brutal and wide-sweeping campaign of official verbal abuse, new laws, investigations, police and court action." The number facing criminal charges for civil rights protests soon reached into the thousands. When arrested, some refused to pay bail, electing instead to sit in jail until their trials; when convicted, some chose jail sentences over paying a fine.[7]

But there were other possible outcomes to a sit-in protest. The next move might come not from a store manager or police officer, but from the crowds of white boys and men prowling behind their backs, with their Confederate flags, some wearing the white robes of the Ku Klux Klan. It might be a relentless barrage of jeers or taunts. It might be a drink dumped on a head or a hot cigarette butt dropped down the back of a shirt. It might be getting yanked from a stool, thrown to the ground, and viciously beaten.

The sit-ins provided a drama with a familiar opening act, but whose ending varied day to day and place to place. Each community had its own sit-in story. The students could never be quite sure what to expect. And this made the sit-ins particularly newsworthy. Journalists from across the country arrived to cover the protests. It was compelling theater—exciting, inspiring, and, at times, appalling.

By the end of the spring, the movement reached across the entire South. According to one estimate, fifty thousand protesters took part in the sit-in movement. The Greensboro protest "started a brush fire," wrote one contemporary observer, "which in the brief period of two months has assumed the proportions of an unquenchable conflagration."[8]

Four unknown students in Greensboro had set in motion events that would move a nation. Their quiet, bold act ignited the pent-up hopes and frustrations of young African Americans. A new chapter in the struggle for racial equality began, one that was more openly defiant, more participatory, and, in many ways, more successful than any that had come before.

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This book tells the story of the lunch counter sit-in movement of 1960, the events it set in motion, and what it achieved. In telling that story, I advance two arguments. First, I argue that the sit-ins cannot be fully understood without careful attention to the law—a point that historians of the civil rights movement have generally missed. Behind the now-iconic scenes of African American college students sitting in quiet defiance at whites-only lunch counters lies a series of underappreciated legal dilemmas—about the meaning of constitutional equality, the capacity of legal institutions to remedy different forms of injustice, and the relationship between legal reform and social change. At the time of the protests, some participants and many observers recognized the central importance of these legal issues. They remained at the center of debates over the sit-ins in the years immediately following, as the courts faced waves of appeals of protester convictions and as Congress considered a federal prohibition on racial discrimination by businesses that serve the public, including lunch counters and other eating establishments. Yet they have been largely overlooked in subsequent historical accounts. To understand the emergence and development of the sit-in movement, its reverberations throughout the nation in the years following, its achievements, and its failures, law must be at the heart of the story.[9]

Second, I argue that the national debate the sit-in protests generated about the constitutionality of racial discrimination in "public accommodations"—the legal term for privately owned and operated businesses that serve the general public—provides an illuminating case study of constitutional development in modern America. Although the students initiated the sit-ins with little conscious intention of making a formal claim of constitutional reconstruction, their actions sparked a debate on the scope of the constitutional meaning of equality that took place in the streets, in newspapers, in the offices of mayors, governors, and businessmen, in the courts, and in Congress. The courts, the traditional focal point for accounts of constitutional disputes, play a central role in this story, but judges were ultimately just one among many groups of influential actors. One of my goals for this book is to invite a broader understanding of how Americans have contested and constructed the meaning of their Constitution.

The lunch counter sit-ins stand apart from other major protest campaigns of the civil rights era in large part because they raised uniquely difficult and contested legal questions. As a general matter, the civil

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rights movement engaged the law in two basic ways. One was for activists to demand a change to established law. Laws and government policies that discriminated against African Americans defined southern society. Litigation challenges to segregation in public schools and to policies disenfranchising African American voters were aimed at removing flagrantly discriminatory laws from the books.

The other was for civil rights activists to demand that government enforce existing law. After the Supreme Court's breakthrough 1954 ruling in *Brown v. Board of Education* striking down state-mandated segregation in schools, the goal of most of the major protest campaigns of the civil rights era was to force southern officials to follow federal law or to pressure the federal government to step in and enforce its own law. The battles for desegregated education were largely efforts to get localities to comply with *Brown*. The 1961 Freedom Rides were designed to test a 1960 Supreme Court ruling declaring racial discrimination in interstate transportation facilities illegal. Their success, according to one of the organizers, depended "upon the racists of the South to create a crisis, so that the federal government would be compelled to enforce federal law."[10]

The sit-in movement was different. The legal history of the sit-ins does not fit comfortably in either the legal-change or legal-enforcement model. Some at the time understood what the students were doing as a challenge to existing law, either Jim Crow laws or the use of state authority to protect racial discrimination at lunch counters. Some saw it as an effort to enforce existing law, namely, the constitutional requirements of *Brown*. And some saw the protests as an effort to simply avoid these legal issues altogether and to remake racial practices through an appeal to morality rather than law. All these understandings could coexist because no one could state with much confidence what the law actually was when it came to the sit-ins. This pervasive uncertainty regarding the most basic question—*What is the law?*—set the sit-ins apart from the other major protest campaigns of the civil rights era.

By 1960 most southern states had either removed segregation statutes from the books or no longer enforced these laws. Most of the privately owned lunch counters the students targeted were not compelled to discriminate by law. But they were also not required not to discriminate by law. Outside the South, many states and localities had civil rights laws that prohibited racial discrimination in eating establishments and other public accommodations. Courts throughout the nation generally recognized a common-law right to service in places that provided lodging and in certain forms of public transportation, but

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they did not extend this right to service in retail or eating establishments. When sit-in protesters were arrested, southern officials charged them not with violating segregation policy, but with some race-neutral criminal violation, such as disturbing the peace, disorderly conduct, or trespass. The key question then—the question to which there simply was no clear answer—was whether a private citizen who operated an eating facility, subject to no legal requirement to segregate, could make racially discriminatory choices of whom to serve.[11]

The Supreme Court in the 1940s and 1950s launched two doctrinal revolutions involving its interpretation of the Fourteenth Amendment—the amendment to the Constitution ratified directly after the Civil War that prohibits states from depriving individuals of "life, liberty, or property, without due process of law" or denying them "the equal protection of the laws." One doctrinal revolution centered on the *scope* of the amendment's application. This involved a reconsideration of the limits of the Fourteenth Amendment's "state action" requirement. In its narrowest form, the state action doctrine is quite straightforward: The Fourteenth Amendment restricts government, not private individuals. The Supreme Court's seminal articulation of the state action doctrine, the *Civil Rights Cases* of 1883, outlined the basic public-private dichotomy on which the doctrine was based. The Fourteenth Amendment does not protect against "the wrongful acts of individuals, unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings," the Court explained. "The wrongful act of an individual is simply a private wrong. . . ." The Court never abandoned this basic principle. Yet beginning in the 1940s, the Court steadily expanded the definition of state action to incorporate more and more activity that it had previously confined to the private sphere, thereby expanding the reach of the Fourteenth Amendment.[12]

The other, more famous Fourteenth Amendment revolution of the period involved the *meaning* of the equal protection requirement. The focal point of this line of cases was *Brown* and the Court's rejection of the *Plessy v. Ferguson* doctrine under which state-sanctioned segregation had been deemed to satisfy the equal protection requirement as long as equal facilities were available. If the facility at issue was publicly owned and operated, the law was clear. After *Brown* and decisions that soon followed extending *Brown*'s mandate to public beaches, golf courses, buses, and other publicly controlled facilities, segregation in government-operated facilities violated the constitutional requirement of equal protection. Similarly, if state or local law required the private lunch counter to segregate, the same reasoning applied: the law consti-

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tutes state action, the Fourteenth Amendment applies, and the segregation policy is unconstitutional.[13]

In the aftermath of *Brown*, these two lines of evolving equal protection doctrine—one centered on the scope of the equal protection clause, the other on its meaning—appeared to be converging. The Supreme Court not only reinterpreted the equal protection clause to prohibit state-sanctioned segregation; it also gradually expanded the reach of the clause into the private sphere. A business that opened its doors to all but refused to allow blacks to sit at the lunch counter seemed to mark the exact spot where these two lines of doctrine collided.

As a matter of constitutional law, the difficult situation arose when the owner of a public accommodation that was not required by state law either to segregate or not to segregate chose to discriminate. Could one claim that the discrimination policy of this "private" actor itself constituted an equal protection violation? The claim in this case would be based on the argument that a public accommodation that opens its doors to all customers and provides a basic service to its community, even if technically private, in effect functions as a state actor.[14]

Another legal wrinkle was the possibility of a constitutional challenge not to the owner's discriminatory choice, but to the involvement of the state in enforcing that choice. Even if there were no constitutional limitation to a private business owner's choice of whom to serve, there could be a constitutional problem when the owner, faced with an African American who refused to leave the establishment after being denied service, called the police. Although the police were acting under a trespassing or disorderly conduct statute—laws that were racially "neutral," in that the text of the statute made no reference to race—and although they were enforcing a private choice, the arrest and subsequent prosecution were obviously actions of the state. Were southern states denying African Americans equal protection of the laws by enforcing the discriminatory policies of private business owners? The critical precedent here was the 1948 case *Shelley v. Kraemer*, in which the Supreme Court held that judicial enforcement of private contractual agreements to refuse to sell property to African Americans violated the equal protection clause.[15]

At the heart of these constitutional questions is a dilemma basic to the entire premise of the state action doctrine: in modern society there is no unproblematic, neutral manner by which the line between the public and private spheres can be drawn. A group of legal scholars known as the legal realists had been insisting on this point since the early twentieth century, as they sought to break down the legal and

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conceptual barriers that limited the reach of the economic regulation. The public-private distinction on which the state action doctrine relies is not a fact. It is a decision. It is a legal construct. In practically any situation that might arise as a site of significant social contestation, state involvement of some sort can be located. State action might be found in state support or encouragement of private choice; the involvement of police or the courts in enforcing private decisions; licensing or regulatory schemes; the existence of durable customs that can be traced to prior or ongoing state action; the recognition that nominally private action is serving a particularly public function or affecting a public interest; or the acknowledgment that when the state has the capacity to act, the absence of state involvement is itself a choice—is itself a form of state "action." The inherent instability of the public-private distinction, amplified in the middle decades of the twentieth century by shifting judicial interpretations of the state action doctrine, meant that both sides of the contest over racial discrimination at lunch counters felt they had strong claims that the Constitution was behind their cause.[16]

Finally, there is the question of whether the federal courts or Congress should lead this particular constitutional transformation. Even if one believed that racial discrimination in this realm of public life violated the Constitution, was this a constitutional violation for which the courts could or should provide relief, or was the appropriate remedy for this found elsewhere, perhaps in the form of congressional action? If one concluded that this particular form of discrimination was constitutionally permissible, there remained the question of whether it should still be made illegal—legislatures, whether local, state, or federal, can protect rights beyond what the Constitution requires—because it violated basic principles of morality or it was unwise as a matter of policy.

This tangled web of legal questions gave the history of the sit-ins a distinctive trajectory. Although attacking racial discrimination at lunch counters and other public accommodations was integral to the civil rights movement of the 1960s, this particular facet of Jim Crow was not a central concern for racial justice groups prior to 1960—in part because civil rights lawyers saw other targets as more open to legal challenge. The student protesters thus aimed their energies at a target that was in certain ways a fresh one, its vulnerabilities uncertain. Yet because the legal issues were so fluid, the civil rights lawyers overcame their initial skepticism and joined the struggle. This is not to say the students always welcomed the lawyers when they arrived on the scene.

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They were concerned that the lawyers sought to take over their movement by transforming their protests into a litigation campaign.

The contested legal issues also contributed to divisions among defenders of segregation. Those who opposed the students' claims differed on the strength of their commitment to segregation, on the lengths they were willing to go to protect segregation, and the role that the police and courts should play in this struggle. Southern officials generally wanted students arrested and prosecuted for their protest actions. Lunch counter operators were not anxious to send potential paying customers to jail and often hesitated to take this step.

At the Supreme Court, the justices struggled with the legal issues raised by the sit-ins. They were hesitant to give the civil rights movement another sweeping *Brown*-like constitutional victory—at least not on this particular constitutional claim. The state action issue that the sit-in challenge raised, according to one legal commentator, was the "most crucial" question that the Court faced in the early 1960s, and its resolution "may have more far-reaching implications and greater consequences than even" *Brown*. The justices overturned protester convictions in the sit-in cases, but they did so on narrow grounds, concluding that there was insufficient evidence to support a conviction or that there was direct state encouragement of or involvement in the lunch counter manager's decision to discriminate. It is one of the most extraordinary aspects of the legal history of the sit-ins that the Court never definitively answered the constitutional question raised by the sit-in protests.[17]

As a matter of law, the ultimate victory of the sit-in movement came not from the Supreme Court but from Congress, and it came more than four years after the sit-ins first captured the nation's attention. Title II of the Civil Rights Act of 1964 effectively outlawed racial discrimination in public accommodations across the nation. But between February 1, 1960, when the four students in Greensboro launched their first sit-in, and July 2, 1964, when President Lyndon B. Johnson signed into law the Civil Rights Act, the legal status of the students' claimed right to equal service remained an open question.

The sit-ins launched a national debate over the legality and morality of discrimination in public accommodations. "The whole Nation has to face the issue," Justice William O. Douglas wrote in 1964. "Congress is conscientiously considering it; some municipalities have had to make it their first order of concern; law enforcement officials are deeply implicated, North as well as South; the question is at the root of demonstrations, unrest, riots, and violence in various areas. The issue . . .

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consumes the public attention." This book explains how a diverse collection of people, from college students and lunch counter managers to Supreme Court justices and members of Congress, struggled to come to terms with this issue.[18]

Why have historical accounts of the sit-ins missed the critical legal issues involved? Two reasons stand out. First, the students themselves made a self-conscious effort to define their actions as an alternative to traditional civil rights reform, as an alternative to litigation and lawyers. Historical accounts have generally embraced this perspective, leading to a focus on dynamics of social protest mobilization and organization rather than legal issues. This book will show, however, that the students' own anti-legalistic posture influenced their expectations about the law and the distinctive legal issues raised by racial discrimination in public accommodations.

Second, the legal history of the sit-ins lacks the dramatic courtroom victory that traditionally marks the triumphant endpoint of legal narratives. Unlike the powerful narrative arc of the history behind *Brown* or Clarence Gideon's fight for a right to a lawyer, the constitutional claim of the sit-in protesters never had its breakthrough moment in the Supreme Court. The passage of the Civil Rights Act was a dramatic and climactic moment, to be sure, but one that historians have generally connected to more proximate events, such as the dramatic 1963 protest campaign that Martin Luther King Jr. led in Birmingham, Alabama, rather than the student lunch counter protest movement that made headlines years earlier. Our historical understanding of the sit-ins thus has been detached from the legal context that shaped the movement and the legal debates that the movement sparked.

By insisting that the sit-in movement cannot be understood without careful attention to the distinctive legal issues involved in lunch counter discrimination, this book offers a fresh approach to this familiar but misunderstood historical episode. The law loomed large in the minds of movement participants, their opponents, and the many others—including judges, political figures, and the press—who played a role in the history of the sit-ins. Law should therefore have a central place in our historical reconstructions of these events. A full account of the sit-in movement requires a recognition of the ways that ordinary citizens with little knowledge or interest in the intricacies of constitutional doctrine were nonetheless moved by their assumptions about what the law required, what it allowed, and what it prohibited—

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what scholars have called "legal consciousness." This book considers how various groups assessed the costs and benefits of relying on legal institutions. It also examines the nuances of equal protection doctrine as it stood in the early 1960s, for this was the terrain on which lawyers and judges struggled to make sense of the students' defiant challenge to the racial status quo. My goal in this book is to place in the foreground the legal issues that historical accounts of the sit-ins have too often relegated to the distant background.[19]

In *The Sit-Ins*, I strive to write a legal history in which the experiences, actions, and commitments of everyday people as they struggle to make sense of and improve the world around them blend, as seamlessly as possible, with formal legal change. My account seeks to capture the ways in which social action external to established legal institutions affects (or fails to affect) the path of the law as well as the ways in which formal legal norms translate into lived experience.[20]

Telling this story requires that I draw upon a variety of approaches to legal history. Narrowing my focus along certain dimensions—a single legal claim, charted over a five-year period—allows me to expand my cast of characters and institutional settings. Each of the following chapters revolves around a distinctly situated group of people who played a role in the legal history of the sit-ins: the student protesters, civil rights lawyers, movement sympathizers, civil rights opponents (a group that included white business owners, southern state officials, racist demagogues, and libertarian ideologues), the justices of the U.S. Supreme Court, and federal lawmakers who played a role in the passage of the Civil Rights Act of 1964. Each group confronted the constitutional claim that emerged from the sit-in protests. Members of each group were guided not only by their visions of the way the world should be, but also by their understanding of the tools they had at their disposal.

I consider not only how the claim fared in different contexts and different institutional settings, but also how it translated from one setting to another. I give careful attention to the ordering of rights claims: the way in which one institution treated a constitutional right often affected how other institutions subsequently evaluated the claim. One of the most valuable insights offered by recent scholarship on constitutional development outside the courts (what scholars sometimes label "popular constitutionalism") has been to emphasize the ways in which constitutional meaning emerges from the interaction of groups and institutions situated in distinct social contexts and responding to different institutional responsibilities—between, for example, movement activists and lawyers, courts and the political branches. It is at

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these points of intersection that we can see the crucial moments of recognition, the flow of alternative constitutional norms between society and its courts, the reconciliation of the formal language of the law and evolving social norms. The sit-in protests offer a rich case study to examine the ways in which constitutional claims took shape and were transformed as they moved into and through the legal system. The legal history of the sit-ins puts on display what one legal historian has described as "the movement of consciousness, arguments, and doctrine throughout the process of law creation."[21]

By giving proper attention to the distinctive organizational and institutional demands of these different groups, we can better understand the legal history of the sit-ins. We can better understand, for example, how student activists, civil rights lawyers, and liberal Supreme Court justices could all agree on the fundamental wrongness of racial discrimination at lunch counters, but could arrive at very different conclusions as to the proper remedy for this wrong. Or why southern business operators and student protesters shared a belief that the issue was best resolved outside of the courts, while southern politicians and civil rights lawyers shared a belief that the issue should be resolved in the courts. Attention to institutional sensibilities also illuminates the awkward dance between the Supreme Court and Congress that resulted in the passage and judicial approval of the Civil Rights Act.

It is to the young men and women who ignited this constitutional debate that we now turn.

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ONE

The Students

We want the world to know that we no longer accept the inferior position of second-class citizenship. We are willing to go to jail, be ridiculed, spat upon and even suffer physical violence to obtain First Class Citizenship.

—STUDENT NEWSLETTER, BARBER-SCOTIA COLLEGE, CONCORD, NORTH CAROLINA, FEBRUARY 1960[1]

As the lunch counter demonstrations spread across the South in early 1960, drawing in thousands of students and capturing the nation's attention, everyone—blacks, whites, supporters, opponents, the students themselves—struggled to figure out what was happening. Why had college students suddenly emerged as the protagonists of the nation's civil rights struggle? Why had they taken up this bold sit-in tactic? Why, of all the daily injustices that African Americans suffered in the South, did they focus on lunch counters? What was it about these particular protests that allowed them to catch on across the South like they did?

This chapter considers these questions from the perspective of the African American students who took part in the lunch counter protests in the winter and spring of 1960. When the students explained why they had been moved to action and what they hoped to achieve, one theme dominated: the sit-ins were about dignity. They spoke of the indignities of being refused service at a downtown lunch counter or cafeteria. They described the sense of pride they felt when they walked into one of these establishments, sat down, and refused to leave until served.

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Even efforts to embarrass and demean them—whites dumping food on their heads, knocking them off their stools, kicking them on the floor; police officers marching them out of the stores and into police stations; judges telling them they were criminals—became, in the eyes of the students, new opportunities to display and demand recognition of their inalienable dignity. "I will not accept a back seat," announced one student leader following his first sit-in. "I will not accept being cast aside. I will not accept being ignored because I am a Negro."[2]

It is tempting to leave it here, with the sit-ins as a parable of resilient human dignity. Generations of subjugation and humiliation created a reservoir of frustration that eventually overflowed, expressed in an act of youthful resistance so simple and humane that it thrust before the eyes of a reluctant nation an object lesson in the vicious delusions of white supremacy.

Yet while this parable dominates American popular memory of the sit-ins—which we celebrate at commemorative events, watch in documentaries, and read about in everything from works of historical scholarship to picture books for children—it is limited as an explanation for this transformative chapter in American history. To explain why the sit-ins occurred when they did and achieved what they did requires situating the students' timeless claim of human dignity into its particular historical moment. We need to consider why thousands of young men and women shook loose the routines of their lives, why the protests took place at this time, and why, of all the indignities Jim Crow exacted, the students targeted this particular form of racial subordination. Economic and political factors—including the post–World War II growth of the African American middle class and explosion of American consumer culture—played key roles, as did the inspiring examples of anti-colonialism movements overseas and protests against segregation at home. To these, I add a factor that largely has been overlooked in histories of the sit-ins: the legal landscape of America in 1960.

Assumptions about what the law required, what it allowed, its capacity to uproot unjust practices, and the role of lawyers and courts in social change efforts all played a powerful role in defining how the students understood their situation. Although it was a moral sensibility—a belief that this form of racial discrimination was simply wrong—rather than any desire to make a legal claim that moved them to action, most of these young activists seemed to assume that the law was somehow on their side. They were demanding "rights which are already legally and morally ours," explained the leaders of the Atlanta student movement. Their actions were animated by the belief that the racial discrim-

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ination they suffered on a daily basis at these lunch counters was just as much a violation of their fundamental rights as discrimination in schools or voting or the many other realms of public life into which Jim Crow had extended its reach.[3]

As this chapter will detail, the sit-ins took shape at an opportune moment in the legal battle against Jim Crow. Legal breakthroughs such as the Supreme Court victory in *Brown v. Board of Education* had raised expectations for change. These expectations had dissolved into frustration as court-centered implementation failed to move a defiant white South to desegregate its schools. In launching the sit-in movement, the students offered an alternative to the litigation and lobbying campaigns that had promised so much but delivered so little.

The legal situation in 1960 also shaped the students' choice of target. One of the reasons racial discrimination at lunch counters was such an inviting and powerful objective for the sit-ins was the fact that, unlike schools or the polls, established civil rights organizations had largely avoided direct challenges to this particular facet of Jim Crow. Civil rights lawyers recognized the distinctively difficult legal dilemmas raised by privately operated businesses that served the public and thus focused their energies elsewhere. The relative neglect of this issue by others served the student movement well. Few of the students appreciated the concerns about constitutional doctrine that steered civil rights organizations away from the challenging discriminatory lunch counter service in the South. What they knew was that this was an offensive practice and no one seemed to be doing anything about it. Among the students themselves and among outside sympathizers, the sit-ins resonated in large part because it was clear that this was the students' protest, that it was not being orchestrated by faraway civil rights strategists or radical ideologues.

The students turned legal dilemmas into social movement opportunities. The atmosphere of frustrated expectations and legal uncertainty surrounding the sit-in protests proved critical to their achievements.

The Sit-Ins Begin

Precursors

As the sit-in movement spread across the South, many were left wondering: Where did this all come from? Everyone seemed to have an explanation. The students tended to emphasize the spontaneous elements

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of the sit-ins. The protests, they insisted over and over again, were nothing more than a necessary, commonsense response to this particular racial injustice. They were tired of the indignities of segregation, and no one seemed to be doing anything that actually changed their lives, so they acted. Leaders of civil rights organizations emphasized connections between the 1960 sit-ins and earlier protest campaigns—campaigns in which their organizations had more conspicuous roles. Segregationist opponents insisted that the students were actually controlled by "outside" groups intent on instigating racial unrest (perhaps not just outside the South, some insinuated, or just bluntly stated, but outside the United States).

Putting aside baseless claims that foreign Communists were behind the sit-ins, each of these seemingly contradictory explanations contain seeds of truth. The sit-in movement was a break from the past, a bold and largely unplanned venture into uncharted waters. Yet at the same time, established civil rights organizations played critical roles in the movement, and previous protest efforts, including earlier sit-ins, also contributed to the 1960 movement. A movement this decentralized, built upon thousands of individual and small-group decisions, was the child of many parents. It was spontaneous and independent. It was also a product of a complex network of communication between protest communities and the result of years of careful organization and planning. In its many locations and over its half-year life span, the sit-in movement was all these things.[4]

The two decades preceding the Greensboro sit-ins saw sporadic sit-in protests at lunch counters and restaurants. In the 1940s, the Congress of Racial Equality (CORE), a newly formed interracial organization committed to nonviolent protest, led restaurant sit-ins in Chicago; delegates at a Congress of Industrial Organizations meeting in Columbus, Ohio, sat in at a segregated restaurant; and African American federal employees in Washington, DC, sat in at segregated eating establishments. In the 1950s, CORE organized sit-ins in cities in the North as well as the Upper South. In 1959, CORE reached deeper into the South when it organized a series of sit-ins in Miami in conjunction with a workshop it held in the city.[5]

Another precursor to the Greensboro sit-ins was a protest campaign in the late 1950s that began in Oklahoma City and spread to cities across the Midwest. In 1958, members of the Oklahoma City NAACP Youth Council—led by Clara Luper, a high school teacher and the group's adviser—organized a series of lunch counter sit-in protests. Luper took a group of black children, ages seven to fifteen, into a down-

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town Oklahoma City drugstore, where, after being refused service, they sat until closing time. After several days of protests, the store's corporate management decided to desegregate lunch counters at its nearly forty stores in Oklahoma, Missouri, Kansas, and Iowa. When members of the NAACP Youth Council in Wichita, Kansas, heard about Oklahoma City, they began their own lunch counter sit-in. From there, sit-in protests and boycotts spread to several other cities in Oklahoma and Kansas.[6]

Although some scholars have insisted that these sit-ins, not the ones that took place in Greensboro in February 1960, mark the true beginning of the sit-in movement, it is important to recognize the limitations of the earlier protests. The press gave little coverage to these events. Victories could be frustratingly uneven. Lunch counters that activists thought they had desegregated would sometimes revert back to racial exclusion. The NAACP national office made no effort to publicize the actions of their youth branches. In fact, NAACP officials chastised Luper for organizing the protest and urged her to stop.[7]

The significance of these scattered, occasionally effective protests took on a new meaning after February 1960. Once it became clear that the sit-in movement was something to be embraced, the NAACP leaders discovered a new appreciation for what their Youth Councils in the Midwest had been doing in the preceding years, and they sought to link the Greensboro protests to the earlier sit-ins. The leader of the Durham NAACP Youth Council would later claim to have talked to the Greensboro Four (each of whom had connections to the NAACP through the Youth Councils) about earlier sit-in protests in nearby Durham. CORE founder James Farmer claimed that a CORE pamphlet that described early sit-in protests inspired the Greensboro Four to act.[8]

Despite these after-the-fact efforts, there was little evidence that these early protests had made much of an impression, if any, on those who initiated the 1960 sit-ins. The Greensboro Four, according to a person who interviewed them in the midst of the sit-in movement, had "heard vaguely of scattered protests such as the sit-in demonstration in Oklahoma in 1958, but their knowledge of this was hazy." In the many interviews they gave and statements they made in the winter and spring of 1960, they never mentioned earlier sit-ins. The influence the precursor sit-ins had on the student sit-in movement of 1960 was not as their model or inspiration, but as a piece of recent history that in February 1960 suddenly became a precious commodity among established civil rights activists struggling to claim a piece of credit for this new movement.[9]

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Greensboro

When Ezell Blair, Franklin McCain, Joseph McNeil, and David Richmond walked into the Greensboro Woolworth on the afternoon of February 1, 1960, their demonstration could very well have followed the pattern of these earlier sit-ins. They could have gotten some local attention. They could have convinced a local restaurant operator to stop discriminating. Maybe, as in Oklahoma, they could have even inspired others to follow. But this time, to everyone's surprise, including the four freshman who started it all, things turned out quite differently.

From the first afternoon sitting at the Woolworth lunch counter, the Greensboro Four knew what they wanted. They wanted to be served while seated at the counter, just like any other paying customers. They wanted to demonstrate—to themselves, to their classmates, to their parents, to the whites who defended segregation—the severity of the injustice of racial discrimination and their commitment to doing something about it. Beyond this, as they were the first to admit, they had no elaborate plan of action. In the end, their February 1 sit-in is best described, in the words of historian Clayborne Carson, as "a simple, impulsive act of defiance."[10]

As more protesters joined the sit-ins in Greensboro, the demands of organizing and negotiation forced themselves upon the students. Thus began an often uneasy dance between the inspired spontaneity that brought the movement to life and the inescapable demands for strategy and guidance. Three days into the protest, the head of the Greensboro NAACP, George Simkins—who had no experience with and assumed the national NAACP office had little interest in this kind of protest—contacted CORE for help. Two CORE field secretaries headed to the South to conduct workshops in nonviolent protests, while others organized pickets of Woolworth and Kress stores in the North. CORE was the first of the national civil rights organizations to take decisive action in support of the students.[11]

As the Greensboro sit-ins gained strength, the opposition mobilized. On the fifth day of the sit-ins, with protesters numbering in the hundreds, the local Ku Klux Klan arrived in downtown Greensboro, joining forces with what one reporter described as "young white toughs with ducktail haircuts." "There were loud rebel yells, catcalls and clapping by white teen-agers along with shouts of 'tear him to pieces' and loud profanity." When these "toughs" paraded around waving Confederate flags, black students responded by waving American flags. As the ten-

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sion rose, student spokespersons emphasized the need to maintain the decorum that they felt was integral to the protest. "We don't expect violence," one explained, "but if it comes we will meet it with passive resistance. This is a Christian movement." The police were there in force, with over thirty plainclothes and uniformed officers on the scene. Officers escorted a number of white men and women who were verbally abusing the protesters out of the store and arrested three white men—one for drunkenness, one particularly vocal person for disorderly conduct, and one who tried to set fire to a protester's coat for assault.[12]

That night, student leaders found themselves in a two-and-a-half-hour meeting with representatives from the local Woolworth and Kress stores and administrators from the area colleges (who were generally sympathetic toward the students' cause but not their tactics). The store managers agreed to a two-week study period to investigate whether local custom would allow for an integrated seating policy, but only if the students halted their sit-ins. When the student leaders shared their proposal at a meeting of about fourteen hundred students (which they did "without conviction," complained the chancellor of the Greensboro branch of the University of North Carolina, who was leading the negotiations), it was unanimously rejected. The sit-ins continued.[13]

The next day was Saturday, and the sit-in protesters were waiting outside the Woolworth when it opened. Soon some six hundred people—integrationists, segregationists, newspaper reporters, and curious onlookers—crammed into the eating area. Around midday someone called the store to say there was a bomb in the basement. The police emptied the store, but they found no bomb. "The Negro students set up a wild round of cheering as the announcement of closing was made and carried their leaders out on their shoulders," reported the local newspaper. They moved on to the nearby Kress store, which promptly shut down. Then they marched back to campus, chanting, "It's all over" and "We whipped Woolworth." Police blockaded the street behind them to prevent the white counter-protesters from following. The mayor issued a statement that praised the students for being "orderly and courteous," asserted that "peace and good order will be preserved throughout our city," and called on students and business operators to find a "just and honorable resolution of this problem." That night the students held another mass meeting. This time, they agreed to a two-week sit-in moratorium, for the purpose of "negotiation and study." When the Woolworth and Kress stores reopened on Monday, they kept their lunch counters closed. The first stage of the Greensboro sit-ins had come to a close.[14]

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The Spark Catches

By this point, just a week after the Greensboro Four made their fateful decision to sit at the Woolworth lunch counter, the protests, which had gained the attention of the local and national press, inspired college students in other North Carolina cities to start their own sit-ins. On February 8, students in Durham and Winston-Salem started protests at their local lunch counters. In the following days, students in Charlotte, Raleigh, Fayetteville, Elizabeth City, High Point, and Concord joined what quickly became a statewide movement.

This first wave of North Carolina sit-ins followed the Greensboro model. They often started with a bold, spontaneous act. The Winston-Salem sit-ins began when Carl Matthews, an African American graduate of the Winston-Salem Teachers College who worked at a local factory, sat down at the lunch counter of the Kress store in the middle of the lunch rush. He asked for service and was refused. A waitress eventually gave him a glass of water. Matthews sat and smoked. In the middle of the afternoon, six other African Americans, several of whom were students at the Teachers College, joined him. In Raleigh, protests were sparked by a local radio announcer who confidently predicted that area college students would not follow Greensboro's lead. Intent on proving him wrong, the following morning a group of students went downtown and the Raleigh movement began.[15]

As in Greensboro, white counter-protesters flocked to the sit-ins, and with them came sporadic acts of violence and threats of more serious retribution. White youths threw eggs at black students seated at the Woolworth lunch counter in Raleigh. The protesters "gave no reaction either to this or to jeers and catcalls thrown at them," a reporter noted. Bomb threats became a common tactic for disrupting sit-ins. After a bomb threat shut down a Durham Woolworth store where some forty students (including four white students from Duke University) were engaged in a sit-in, protesters turned their attention to other segregated lunch counters in the downtown area, closing them down too.[16]

These early North Carolina protests also displayed important variations from the Greensboro template. In High Point, high school rather than college students initiated the sit-ins, and they received close guidance from adult civil rights leaders. Before their first sit-in, they had reached out to a supportive local NAACP official. For their first day of sit-ins, the students had impressive leadership: Fred Shuttlesworth, the firebrand Birmingham-based civil rights activist who happened to be

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visiting North Carolina when the sit-ins broke out, and Douglas Moore, a North Carolina civil rights leader. (After participating in the first High Point sit-in, Shuttlesworth called Ella Baker, executive director of the Southern Christian Leadership Conference (SCLC), in Atlanta and asked her to pass on a message to his close friend Martin Luther King Jr. "You must tell Martin that we must get with this," he said. The sit-ins "can shake up the world.") The High Point protests also ran into some new obstacles. The day after sit-in protests led to a shutdown of two variety store lunch counters, a local merchant paid off a group of white high school students to arrive early and occupy all the lunch counter stools at the Woolworth so the black protesters had nowhere to sit. When they came back the next day, the store had converted its lunch counter into a display counter and each stool was adorned with a box of Valentine chocolates. The students converted their sit-in to a stand-in and stood vigil over the chocolates through the morning. When large numbers of whites and black adults arrived, curious to see this unusual demonstration, the manager took police advice and shut down the entire store.[17]

On February 10, Hampton, Virginia, became the first city outside North Carolina to become a target of sit-in protests. The next day, sit-ins spread to two more Virginia cities, Norfolk and Portsmouth. Meanwhile, sit-ins broke out in new cities in North Carolina: Salisbury on February 16; Shelby on the eighteenth; Henderson on the twenty-fifth; Chapel Hill on the twenty-eighth.[18]

The first student arrests of the movement occurred on February 12. For several days, students had been targeting a Woolworth store at a shopping center outside Raleigh. After they once again forced the manager to shut down his lunch counter, the protesters gathered on a sidewalk outside the store to decide their next move. The manager of the shopping center informed police, who were already on the scene, that he wanted to bring trespassing charges against the students, and forty-one students were arrested. The students secured a lawyer, who promptly denounced the sidewalk arrests as a violation of the students' First Amendment rights and vowed to take the case to the U.S. Supreme Court if necessary. The students took their lawyer's advice to put a hold on protests at the shopping center pending the outcome of their court cases. They were convicted and fined $10 each, but state courts quickly overturned their convictions.[19]

On the same day of the mass arrest in Raleigh, lunch counter protests spread deeper into the South. Students in Deland organized the movement's first Florida sit-in. In a widely reported event, about a hun-

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dred demonstrators sat in at two lunch counters in Rock Hill, South Carolina. The Rock Hill protest attracted the attention of white youths, "mostly teen-aged boys with duck-tail haircuts," according to the *New York Times* reporter on the scene. Some of these "angry whites," the reporter added, "appeared to be juvenile delinquents." One of the delinquents knocked a black protester from his stool; another threw an egg at a demonstrator. Someone threw a bottle of ammonia into a store, setting off fumes that stung the eyes of the demonstrators inside. Bomb threats then cleared everyone out of both the targeted stores. The *New York Times* put the Rock Hill protest on its front page—another first for the sit-in movement.[20]

On February 13, students in Nashville joined the sit-in movement. In fact, Nashville students had been planning a protest campaign targeting downtown lunch counters for months. ("In an orderly and logical world," wrote one historian, "the great wave of student sit-ins that washed across the South early in 1960 should have flowed outward from Nashville.") Reverend James Lawson, an African American divinity student at Vanderbilt University, led preparations. Lawson was the project's director for the Nashville Christian Leadership Council, an affiliate of Martin Luther King Jr.'s Southern Christian Leadership Conference. A devoted follower of the nonviolent principles espoused by Mahatma Gandhi, Lawson had served a prison sentence for his refusal to report for the draft during the Korean War and then spent three years in India as a Christian missionary. In 1958 he began leading workshops in Nashville on nonviolent protest techniques, and in late 1959 he helped organize small-scale test sit-ins of local lunch counters, with the goal of confirming targets for sit-in protests that would begin after the holidays.[21]

When the Greensboro protests began on February 1, students in Nashville had yet to follow through on their plans. Lawson called a meeting to discuss whether the students in Nashville were ready to act. Older blacks who attended the meeting urged the students to delay, concerned that they needed time to line up a lawyer and raise money to have on hand for bail if the students were arrested. Another week passed before the Nashville protests began.[22]

Over a hundred students, including about ten whites, joined the first Nashville sit-ins. The protests were carefully organized, orderly, and relatively uneventful. Five days later, the next round of sit-ins brought out some two hundred students. Two days later, an estimated 350 students targeted four downtown variety stores. Each of the stores closed when the demonstrators appeared. Police were present throughout but made

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no arrests. Then another week passed before the next round of protests. This time students targeted five downtown stores. A young reporter named David Halberstam (who would go on to become one of the most prominent journalists of his generation) wrote the following account:

> The scene was Woolworth's, and it was an almost unbelievable study in hate. The police were outside the store at the request of the management. Inside were almost 350 people, all watching the counter like spectators at a boxing match. To the side of the counter, on the stairs leading to the mezzanine, was a press gallery of reporters and photographers. At the counter were the Negroes, not talking to each other, just sitting quietly and looking straight ahead. Behind them were the punks.

According to Antoinette Brown, a student from New York who took part in the Nashville sit-ins, it felt "inevitable" that the situation would explode. "There is going to be bloodshed. I can feel it everywhere." "The slow build up of hate was somehow worse than the actual violence," Halberstam wrote. "The violence came quickly enough, however." For more than an hour, the assaults against the demonstrators escalated—taunting, spitting, hitting, first slaps, then blows; then banging the demonstrators' heads against the counter and dropping hot cigarette butts down the backs of their shirts. White boys dragged three of the black male protesters from their stools and started beating them. "The three Negroes did not fight back, but stumbled and ran out of the store; the whites, their faces red with anger, screamed at them to stop and fight, to please goddam stop and fight. None of the other Negroes at the counter ever looked around. It was over in a minute." At this point, the police stepped in, arresting eighty-one sit-in protesters (but no whites) on charges of disorderly conduct.[23]

By the end of March, just two months after the first sit-ins in Greensboro, the student protest movement had spread to eleven states and sixty-five cities in the South. Students from over forty colleges and universities had taken part in the movement. In the words of a writer for the *Chicago Defender*, the sit-ins "ripped through Dixie with the speed of a rocket and the contagion of the old plague."[24]

What Moved the Students?

What explains this remarkable explosion of protest activity? To answer this question requires first considering why this generation of young African Americans was so ready to act. Although moved by the raw

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indignities of life in a segregated society, students who took part in the sit-in movement were also inspired by recent breakthroughs in the long struggle for racial justice. Events of the 1950s had created within the ranks of African American college students a combustible blend of heightened expectation for racial progress and continued frustration with the intransigent reality of life in the Jim Crow South.

"Plain Optimistic"

Reasons for optimism were not hard to find. The students who took part in the sit-ins were born at a time when major strides were being made to break down some of the harshest inequities of white supremacy. World War II marked a turning point in American racial politics. As the nation mobilized against Nazi Germany, calls for the nation to live up to its own egalitarian ideals gained new resonance. African American soldiers returned from the battlefields of Europe and Asia less willing to accept second-class citizenship. The war also accelerated the demographic transformation of the Great Migration, and the growing population of African Americans in the urban North created a powerful voting bloc courted by both major political parties. In 1944 the Supreme Court struck down all-white party primaries. Since the Democratic Party dominated southern politics, the Democratic primary was often the only election that mattered. The demise of the white primary thus led to significant growth in the black vote in the South.[25]

In the years after WWII, American segregation became a geopolitical liability as the United States vied with the Soviet Union for the loyalties of peoples in Africa and Asia. Jackie Robinson broke Major League Baseball's color line in 1947. The following year, President Harry S. Truman ordered the desegregation of the military, and the Supreme Court ruled that courts could no longer enforce racially restrictive covenants in property deeds. The Court followed with 1950 rulings striking down segregation in graduate and professional schools and then, in 1954, came the Court's historic ruling in *Brown v. Board of Education*, declaring state-mandated segregation of public education unconstitutional. Three years later, Congress, for the first time since Reconstruction, passed a civil rights law. Although compromises and concessions watered it down to the point where everyone knew the law would accomplish little, it was a start. At the time of the sit-ins, Congress was considering another civil rights bill.[26]

Although much of the progress on civil rights issues in the 1950s came in the form of federal institutions that imposed their will on re-

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sistant southern states and localities, this was not always the case, particularly in the states of the Upper South. In the years preceding the sit-ins, in response to growing African American political influence, the Greensboro city council desegregated the city's police force, bus station, airport, and public libraries (although the council also shut down a municipal golf course rather than integrating under court order and sold a public swimming pool to a private party to avoid integrating it). Winston-Salem had desegregated most public facilities, and there were African Americans in its police and fire departments. Nashville adopted a gradual school desegregation plan and integrated its buses. At the time of the sit-ins, African Americans served on the Nashville police force, city council, and board of education.[27]

These breakthroughs signaled promising fissures in the historical acceptance of white supremacy by white-controlled institutions. The students who joined the sit-ins, observed one journalist, were "the first generation of American Negroes to grow up with the assumption, 'Segregation is dead.'" They grew up in a world in which expectations had been raised, in which new possibilities for a more equal and just society seemed within reach.[28]

Alongside these legal developments, recent displays of African American activism loomed large in the consciousness of the sit-in protesters. Knowing that whites in positions of power were condemning racial discrimination generated a sense that change was possible, even imminent; knowing that fellow blacks were standing up against racial injustice inspired them to do the same. The students who took part in the sit-ins often spoke of being inspired by acts of heroism by African Americans whom they had read and heard about.

The Montgomery bus boycott, which had taken place a few years earlier, was an inspiration for many of the students who were involved in the sit-ins. John Lewis, who would become one of the student leaders of the Nashville movement (and who would eventually have a long career as a member of Congress), was fifteen years old and living in a sharecropping community outside of Montgomery when the bus boycott began. "We didn't have television, but I kept up with what was going on, on radio, in newspaper, everything," he recalled. "In the papers that we got in the public school system in the library, I read *everything* about what was happening there, and it was really one of the most exciting, one of the most moving things to me to see just a few miles away the black folks of Montgomery stickin' together, refusing to ride segregated buses, walking the streets. It was a moving movement." When Martin Luther King Jr.—who as a young minister rose

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to national prominence because of his leadership of the bus boycott—came to Greensboro in 1958, he gave a sermon that "brought tears to my eyes," recalled one of the Greensboro Four. King "is a genuine hero for Negro students," noted one contemporary observer.[29]

Students in the sit-in movement also spoke of being inspired by school integration efforts in Little Rock, Arkansas, in 1957, which became a national drama when President Dwight D. Eisenhower deployed federal troops to enforce a school desegregation order. In the shadow of armed soldiers, nine black boys and girls walked into the newly integrated school while surrounded by taunting, threatening crowds of whites. The events in Little Rock made a powerful impression on the generation of black students who, three years later, would join the sit-in movement. About the same age as the Little Rock Nine, these students saw in Little Rock a demonstration of the power of young people taking a leading role in the struggle for racial justice. The Greensboro Four spoke of being inspired by the scenes of young people shaking the nation's conscience by the simple act of walking through a schoolhouse door.[30]

Students also cited anti-colonial campaigns in Africa as a source of inspiration. "Even the most unintellectual of these students are conscious of the African independence movement and at least vaguely moved by it," one reporter found. "Their heroes tend to be African," noted another. When student protest leaders wrote an open letter to President Eisenhower in April 1960, they described "the Africa struggle" as "a concern of all mankind." More established civil rights leaders encouraged the students to recognize their connection to freedom struggles elsewhere. King declared to a gathering of student leaders: "All peoples deprived of dignity and freedom are on the march on every continent throughout the world. The student sit-in movement represents just such an offensive in the history of the Negro peoples' struggle for freedom."[31]

For many students who in early 1960 were opening their eyes to the world around them, struggling to come to terms with their place in society, real change seemed possible. When reporters and social scientists talked to the students involved in the sit-ins, they were often struck by their sense of confidence in racial progress. "Optimistic, that's what I was, plain optimistic," recalled one young African American when describing how he felt upon first joining the sit-in movement. "I thought we'd demonstrate and then they'd fold up before us." The sit-in movement's early strongholds were in Greensboro, Nashville, and Tampa, relatively progressive southern cities in terms of racial politics, cities

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in which young blacks could believe old barriers were crumbling. This sense of optimism was a critical component in giving the students the confidence to act.[32]

Alongside this sense of hopefulness, however, was a sense of frustration, even disillusionment, with the state of race relations. This, too, was critical in moving the students. Of all the many ways of life in the Jim Crow South that frustrated the hopes of young blacks, none was more relevant and more personally felt than the lack of progress in the area of school desegregation.

Brown *and the Sit-Ins*

For the students who took part in the sit-in movement, the Supreme Court's 1954 school desegregation decision in *Brown v. Board of Education* embodied the mixture of hope and frustration that moved them to act.

Although the ordeal of actually desegregating public schools that followed would forever complicate *Brown*'s legacy, in 1954, when the Supreme Court first announced its decision, it appeared in the eyes of many Americans that the Court's ruling inaugurated a new day in American race relations. "The entire South will meet the test of the Supreme Court decision in the spirit of loyal, law-abiding citizens," Channing H. Tobias, chairman of the NAACP board of directors, confidently told a meeting of black leaders. There was a moment of opportunity in the year or so after the first *Brown* ruling—a moment that has largely been forgotten, swept away and overwhelmed by the defiant campaign to resist school desegregation that would soon take over the South. When the Court announced its ruling, and for a brief period following, white leaders across the South, while often expressing disapproval of the decision, mostly accepted it as the law of the land and resigned themselves to compliance. The first southern city to announce it would comply with the Court's ruling was the birthplace of the 1960 sit-in movement, Greensboro, North Carolina.[33]

Because of these heightened hopes, the minimal desegregation that resulted was all that much more disappointing, especially among younger African Americans. In the months and years that followed, as the courts approved limited, gradual—often so gradual as to be imperceptible—desegregation plans, and as President Eisenhower, himself a skeptic of legally mandated racial integration, refused to publicly endorse the Court's ruling, white opposition to *Brown* solidified and expanded. Early expressions of acceptance of *Brown*, in Greensboro and

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elsewhere, became embarrassments for southern political leaders, forgotten, repudiated, and replaced by various forms of resistance to desegregation. These ranged from open defiance of the Supreme Court, the "massive resistance" campaign waged by many southern states, to more subtle forms of resistance, such as the "middle-of-the-road" path embraced by North Carolina, where leaders determinedly searched for the minimal amount of desegregation that federal courts would accept. The result was stunning in its effectiveness. In the five states of the Deep South, there were 1.4 million black schoolchildren. Not one attended a racially mixed school in the years between 1954 and 1960. In the Upper South, the numbers were only marginally better, representing nothing more than token efforts at compliance. In three North Carolina cities where some of the first sit-ins took place—Charlotte, Greensboro, and Winston-Salem—only thirteen African American students were enrolled in previously all-white schools.[34]

When asked why they took part in the sit-ins, students often expressed frustration with the minimal progress that southern states had made toward desegregating their schools in the years since the Supreme Court issued *Brown*. The school desegregation decision was a topic of discussion in the Greensboro Four bull sessions that led up to their historical protest. "We are simply expressing what people everywhere believe, that the pace of desegregation and the securing of civil rights is ridiculously too slow," explained one student leader. "Not one Negro student in over a hundred interviewed had any vivid personal recollection of the day" *Brown* was decided, one journalist reported. "They all regard it as a failure." The generation of African American students who took part in the sit-ins had been told that racially segregated schools violated the Constitution, yet they continued to attend the same all-black schools. Students across the South felt "a profound impatience with the rate of change," noted Leslie Dunbar, executive director of the Southern Regional Council, which provided detailed reports on the sit-in movement. The primary reason for this impatience was "disillusion and disgust over the progress of school desegregation."[35]

At the time of the sit-ins, *Brown* was (as it remains today) a resonant if deeply conflicted symbol. The most significant Supreme Court decision of the twentieth century represented at once the power and the powerlessness of legal change to advance the cause of social justice. *Brown* "seemed so important" when it first came down, one sit-in leader explained. "It said to me that this democracy works and that things I knew were really wrong really were wrong. And so I waited for them to change. But then there was all this dodging and skuldugging and

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hiding and then the young Negroes got the idea that it wasn't going to happen—or at least it wasn't going to be done for us." *Brown* symbolized the possibility of change from the apex of the American legal order, which was no small thing, to be sure. But it also made painfully clear the frustrating reality that real change required more than proclamations from on high.[36]

The complicated attitude the students of the sit-in movement held toward *Brown,* equal parts inspiration and frustration, offers additional insights into a debate that has occupied historians and legal scholars in recent years over the relationship between *Brown* and the direct-action protests of the civil rights era. The long-held assumption—forcefully expressed in press accounts, popular histories, and legal scholarship—was that *Brown* catalyzed a wave of social protest. By declaring state-mandated segregated schools unconstitutional, the Supreme Court redefined the terms of the game, placing the law of the land behind the cause of racial equality and providing the crucial spark that would ignite the civil rights movement. *Brown* "fathered a social upheaval"; it "sired" the movement; it "initiated a social revolution." For advocates of this account, *Brown* served as a powerful example of the critical role of the courts in promoting social change.[37]

A recent generation of scholars has challenged this account. In his provocative 1991 book *The Hollow Hope*, political scientist Gerald Rosenberg argues that the social impact of *Brown* was minimal. Not only was there minimal desegregation of southern schools in the decade after the Court ruled, but the decision, he concludes, had little effect on the black protests of the late 1950s and 1960s. In a series of articles published in the 1990s and then in a major 2004 book, *From Jim Crow to Civil Rights*, legal historian Michael Klarman also sought to debunk the traditional, celebratory account of *Brown*, although his revisionist account recognizes that *Brown* was in fact deeply consequential. It was just that its consequences were found mostly in the actions of its opponents. *Brown*'s greatest effect on the course of the civil rights movement, Klarman argues, was indirect: it mobilized the white South to resist desegregation at all costs. The threat of integration, which *Brown* thrust into the consciousness of the white South, radicalized southern politics. This led to the bloody and highly publicized confrontations in Birmingham, Selma, and elsewhere, which in turn led to increased support in the North for civil rights and transformative national legislation such as the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Klarman has labeled this the "backlash thesis."[38]

With regard to the possible linkage between *Brown* and the student

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sit-in movement, Rosenberg rejects any relevant connection. Klarman gives more sustained attention to the question and comes to a more qualified conclusion. He recognizes that "over the long term, *Brown* may have encouraged direct action by raising hopes and expectations, which litigation then proved incapable of fulfilling," but then he emphasizes the difficulties of "precisely measur[ing]" this connection. The six-year gap between *Brown* and the sit-ins "suggests that any such connection must be indirect and convoluted." "The outbreak of direct-action protest," he concludes, "can be explained independently of *Brown*."[39]

A closer look at the students who took part in the first wave of sit-ins in early 1960, however, shows that *Brown* and its aftermath were significant. The connection between the Supreme Court's proclamation and the student protests may have been "indirect and convoluted," as Klarman puts it, but this does not mean that *Brown* had no effects. To appreciate the influence of "top-down" law, we need to move beyond a model of judicial declarations either being followed or defied and recognize activists mobilizing around their own conceptions of their legal rights, which are influenced but not dictated by what judges have to say. Innovative recent work on the history of law and social movement mobilization has focused less on whether formal legal change produces social change and more on the ways in which law operates within different institutional and social settings.[40]

Thus, with regard to the sit-ins, the evidence suggests that the traditional claims that *Brown* served as some kind of unambiguous inspiration for the students is very much overblown. On this point, the revisionists are basically right. African Americans "did not need the Court's moral instruction to convince them that racial segregation was evil," Klarman notes. When discussing what moved them to take action, the students did not credit the Supreme Court or even Thurgood Marshall and the NAACP's litigation efforts.[41]

Yet *Brown* and other Supreme Court decisions nonetheless played a central role in the development of the sit-in movement. What *Brown* did was raise expectations for change that failed to materialize. This, in turn, fueled skepticism, even antagonism, toward litigation as a pathway to racial justice among the students who were on the front lines of the lunch counter sit-ins in the winter and spring of 1960. They distanced themselves from the NAACP's civil rights legal reform efforts, portraying civil rights lawyers as out of touch with their own concerns. One student complained that when someone asks the NAACP, "'What can I do personally, right now?' they have no answer." "Many students

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regard the N.A.A.C.P. as stodgy and slow," a reporter found. "We are all dissatisfied with this slow legal maneuvering," explained one of the first wave of sit-in leaders. The anger and frustration that moved the students in early 1960 was aimed at not only the white defenders of Jim Crow, but also those who insisted the freedom struggle was best fought through formal channels of legal reform.[42]

No one captured this sentiment more powerfully than James Lawson. In his speech at the April meeting of student leaders in Raleigh, North Carolina, Lawson attacked the civil rights establishment. "Already many well-meaning and notable voices are seeking to define the problem in purely legal terms," he warned. "But if the students wanted a legal case, they had only to initiate a suit. But not a single city began in this fashion. . . . [T]he sit-in movement is not trying to create a legal battle." It is trying to address "that which is more than law"—"the habits of mind and emotion of both Negro and white." A failure to properly attend to these "inner attitudes and fears" had undermined efforts to desegregate schools, Lawson noted. He praised the sit-in movement as "a judgment upon middle-class conventional, half-way efforts to deal with radical social evil" and derided the NAACP as too focused on "fund-raising and court action rather than developing our greatest resource, a people no longer the victims of racial evil who can act in a disciplined manner to implement the [C]onstitution." "The legal redress, the civil-rights redress, are far too slow for the demands of our time," he explained. "The sit-in is a break with the accepted tradition of change, of legislation and the courts. It is the use of a dramatic act to gain redress."[43]

"None of the leaders I spoke to were interested in test cases," Michael Walzer (a Harvard graduate student who would go on to become one of the most prominent political theorists of his day) reported in an influential article covering the first weeks of the sit-ins. "That the legal work of the NAACP was important, everyone agreed; but this, I was told over and over again, was more important." The very identity of the first wave of sit-in protesters was shaped, in large part, by their opposition to court-focused approaches to civil rights.[44]

For the students, the courts were something to be avoided—not because they might lose in court, but because even if they won, they were skeptical that real change would follow. This was the ironic lesson that the great legal victory in *Brown*, which six years later had yet to produce significant results in southern schools, had taught the sit-in generation.

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Generational Differences

When the Greensboro Four sat down at the Woolworth lunch counter on that fateful winter afternoon, the first person to respond was a black woman who worked in the kitchen. "You boys are getting yourselves into a lot of trouble," she told them. "You know you can't be served here." When they refused to leave, she called them "ignorant" and a "disgrace" to their race.[45]

The four young black men had little idea what to expect as they sat nervously on their stools. But the angry reception they received from this older black woman hardly surprised them. One of the themes of the bull sessions the Greensboro Four had as they talked themselves into walking downtown to the Woolworth was their frustration with the older generation of African Americans. Too many older blacks "have been complacent and fearful," Blair explained to a local reporter on the second day of their sit-ins. "It is time for someone to wake up and change the situation and we decided to start here." When two social scientists interviewed the Greensboro Four, they were struck by the frustration with, even animosity toward, what they saw as an apathetic or cowed older generation. One of the four, they noted, "was contemptuous of his grandmother's generation and their fearfulness. 'I began to see what those people were made of deep-down.' His tone of voice was bitter when making this statement."[46]

Much of the motivation for the protests emerged from frustration toward leaders within the African American community—with what the students saw as a too easy acceptance of Jim Crow by their parents and grandparents, and too strong a faith in painfully slow courtroom battles by established civil rights figures. Many participants saw the sit-ins as a way to send a message of impatience, even defiance, to their elders. "There can be no progress without struggle, and every struggle bears casualties," Blair declared, in reference to blacks who refused to support the student protests. The *Amsterdam News*, a New York–based black newspaper, reported that "where Negroes have stood or got in the way of the mushrooming movement, the Negro students and their leaders have not hesitated to lash out at them as they lashed out at whites who have barred their way."[47]

"Our adults are too worried about security to do anything," complained a student at North Carolina College. "They are too afraid of their jobs. We've got to do it. And we're not afraid." Some went so far as to describe Jim Crow as having "brainwashed" their parents into a

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state of "complacency" and fearfulness. They have had "subordination instilled" into their minds. "Mamma, I love you," an arrested protester told her mother when she came to bail her daughter out of jail. "But I am not free. And I'm not free because your generation didn't act. But I want my children to be free. That's why I'll stay in jail." The sit-in tactic captured the students' sense of frustration with their parents' generation and their approach to civil rights.[48]

These harsh judgments were, as student activists acknowledged in their more reflective moments, quite unfair. Their parents grew up in a world in which this kind of defiant protest could very well result in being lynched. "The elder Negro of the South learned all his life that he had a particular place in his society and that the white man had absolute control over him," explained student leader Edward B. King Jr. "Today's young Negro student has never had a chance to learn this fear. We have been raised in larger towns and cities, we have traveled more, and we have had more contact with the world. We Negro students have been so well educated that we cannot adjust to a Southern way of life that is wrong." Some recognized that their parents' hesitancy to embrace this kind of reform had much to do with their vulnerability to economic retaliation.[49]

On occasion, students offered a more sympathetic perspective on their relationship to their parents and their parents' generation, something approaching a sense of duty or responsibility. "My parents learned to live with segregation, to wait, to go to the back of the bus," explained a student involved in the Tallahassee sit-ins. "They saved and sacrificed on a little farm so as to send me here. In times of deep despair I would imagine I could feel the sweat of my father's and mother's hands on the coins in my pocket. I'd like to live long enough and be a part of whatever it takes to see them have a little dignity in their lives."[50]

Some of the students' criticism of their parents' generation was also simply inaccurate. Many older African Americans were dedicated to the struggle that these young men and women felt they had just discovered. Ezell Blair Sr., whose son so passionately criticized his parents' generation, was himself a bold and dedicated civil rights activist who supported his son's actions. And once the sit-in movement was under way, older blacks largely came out in support of the students. Indeed, the extent of their support—which ranged from moral encouragement to financial support to joining boycotts to sometimes even joining sit-in protests—repeatedly surprised the students and observers.[51]

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But for all its unfairness and inaccuracies, this bluster and hyperbole about the conservatism and complacency of their parents served as an effective organizing tool for the students. Frustration with the perceived timidity, the acceptance of second-class citizenship, on the part of their parents' generation was a powerful tool for mobilizing the Greensboro Four and the thousands of students who followed in their footsteps.

"Tragic Inconveniences"—Why Lunch Counters?

In retrospect, lunch counter sit-ins seem such an obvious next step in the black freedom struggle. Yet before February 1960, lunch counters were hardly an obvious target. Why, then, did the students focus so much energy on this particular facet of Jim Crow America?

An African American student who wished to protest racial injustice in 1960 had plenty of targets to choose from. Through law and custom, in ways both oppressively comprehensive and capricious, white Americans had constructed a system of racial inequality that pervaded the nation. There were countless areas of racial oppression that the students might have targeted: Southern schools and public transportation were still largely segregated; African Americans still faced systematic disfranchisement throughout the South; the criminal justice system was notoriously biased against blacks. Practically any of these options would have given the students stronger, clearer legal justifications than an assault on privately owned lunch counters. These options would also have had the benefit of joining ongoing campaigns by established civil rights organizations. If the students had asked lawyers and civil rights leaders for guidance prior to initiating their protests, they would not have been advised to challenge segregation in privately owned lunch counters.[52]

Yet chain store lunch counters that refused to seat black customers were a particularly attractive target. Commentators have long emphasized the symbolic value of the protests. Here were students demanding equal service in this most American of institutions: the variety store lunch counter. They were seeking to join what historian Lizabeth Cohen has called the "Consumers' Republic," a republic that exploded in size and influence in the middle decades of the twentieth century and revolved around a conception of citizenship that included equal participation in the economic sphere. By 1960 Americans increasingly recognized participation in the consumer marketplace as on near-equal

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footing with participation in the political system and other basic legal rights. Activists of all sorts were focusing on the marketplace as a locus for social change activism.[53]

The symbolic value of lunch counters as a target for protests also stemmed from the particularities of this discriminatory practice. In the late 1950s, when James Lawson and the Nashville group were discussing where to focus their protests, a group of middle-class black women shared their experiences shopping downtown. They talked about the humiliation of separate bathrooms (or no restrooms at all) for blacks and the lack of respect from white employees. And they also talked about how they could go to a department store and be served at all the sales counters, but not at the lunch counter. Mothers said that having their children experience all this was particularly painful. Martin Luther King Jr. gave an eloquent summary of the "tragic inconveniences" of this particular form of racial oppression. "The answer" for why the students targeted lunch counters "lies in the fact that here the Negro has suffered indignities and injustices that cannot be justified or explained," he wrote. "Almost every Negro has experienced the tragic inconveniences of lunch counter segregation. He cannot understand why he is welcomed with open arms at most counters in the store, but is denied service at a certain counter because it happens to sell food and drink. In a real sense the 'sit-ins' represent more than a demand for service; they represent a demand for respect." "Like pouring salt into an open wound" was how one of the Greensboro Four would later describe the department stores' practice of embracing black customers throughout the store, but refusing them service at their lunch counter. It was "both injury and insult," southern writer James McBride Dabbs wrote in an account of the protests titled, appropriately enough, "Dime Stores and Dignity." "Sitting at a lunch counter may seem like a small thing to some," explained one participant, "but the right to do so is so inextricably bound up with the American idea of equality for all." It was the raw, personal experience of exclusion from department store lunch counters, not any specific legal claim, that pulled the student protesters toward this particular target.[54]

Alongside the symbolic and substantive importance of discrimination in the consumer marketplace generally and lunch counters in particular, a more prosaic factor played an equally important role in steering the students to this target: availability. As African American journalist Louis Lomax explained, the protesters "wanted to get into the fight and they chose the market place, the great center of American

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egalitarianism, not because it had any overwhelming significance for them but because it was there—accessible and segregated." Both before and after the sit-ins, racial discrimination in public accommodations ranked at the bottom when African Americans—young and old, self-described conservatives and liberals—were asked to rank the importance of different areas of racial discrimination. Just as the schools had been an attractive target of opportunity for the NAACP lawyers who devised the strategy that culminated in *Brown*, lunch counters were attractive targets for the students.[55]

Why Did the Protests Spread So Quickly?

Alongside the questions of why sit-ins and why lunch counters, another closely related question fascinated observers at the time and has intrigued social scientists ever since: Why did the sit-in movement spread as quickly and as far as it did? The factors discussed above—the attractiveness of the direct, dignity-based protest to the students, the particular indignities of lunch counter discrimination, the availability of this particular protest target—all played a role in pulling new groups of students into the movement. But a fuller analysis of why the sit-ins spread across the South in the winter and spring of 1960 points to at least three additional factors: the communication networks that spread news of the protests and supported protest mobilization; the replicability and accessibility of the sit-ins as a protest tactic; and the outside support that student protesters received. I consider the first two factors below; the third is the subject of a later chapter.

Networks

Key to the spread of the sit-in movement were communication networks—what social movement scholars call "channels of diffusion." The networks that played the most significant role in the diffusion of the sit-ins can be divided into four categories: the news media, colleges, churches, and movement organizations.

News media. The way most people learned of the protests was through radio and newspapers. When asked what moved them to act, one early protester answered simply, "Well, we read the papers." The sit-ins were a major news story across the South, particularly when the protests brought out the white counter-protests and sporadic episodes

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of violence. News accounts were not only an inspiration and a challenge to African American students in cities where protests had yet to happen; they also provided sometimes quite detailed operating instructions for those planning their own protests.[560]

Colleges. Much of the dispersion of information and peer-pressure dynamics that set in motion the protest movement came through the various communication networks that linked the black colleges and universities where most protesters were to be found. "Students, faculties and college presidents testified that after the Greensboro incident a strange fever swept across the campuses of the country's 120 Negro colleges," reported a journalist. "Within a week of Greensboro there was scarcely another topic of conversation on Negro campuses." Various explanations for how this fevered conversation spread from campus to campus have been offered. There is the "basketball thesis": the first wave of sit-ins occurred at schools that were in the same basketball conference, and competitive pressures between the schools might have inspired new protests. Some have suggested that dating patterns between the colleges might provide some of the connections. One study identified a correlation between the students involved in extracurricular campus activities and those who participated in protests, hypothesizing that the two might be connected based on the students' involvement in intercollegiate networks (although it likely had as much to do with their personalities).[57]

Churches. The sit-in movement also drew on existing organizational networks within the African American community, particularly the churches. Sociologist Aldon Morris—author of an influential study of the sit-ins as an episode in social movement mobilization—has insisted that the black church, not the black college campus, was the real heart of the sit-in movement. Morris demonstrated how in various communities the southern black church provided the essential tools for protest mobilization. It was a place where students met and organized. Activist church leaders regularly played key roles in organizing sit-in protests. And relationships among church leaders provided valuable communication networks that helped spread the reports that fueled the sit-in movement.[58]

Movement organizations. Most commentators at the time of the sit-ins reported what the students themselves proclaimed over and over: The students were acting on their own; they were not following the lead of adults or "outside" civil rights organizations. There is a good deal of truth to this characterization, particularly in the early weeks of the sit-ins. Yet the point should not be pushed too far. Adult activists were

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never far from the scene. In some places they played a minimal role in spreading and supporting the protests, but in other places their contributions were essential. Particularly important were the local chapters, youth councils, and college chapters of the NAACP; activists within the SCLC orbit, such as James Lawson in Nashville, also played key roles in certain locations. Although the role of established civil rights organizations was sporadic in the early weeks of the movement, it increased in significance as the movement progressed through the spring of 1960.[59]

In April 1960, student leaders would create their own civil rights organization, although here, too, they had important assistance from established organizations. SCLC executive director Ella Baker took the lead in organizing a conference for student activists. The "Youth Leadership Meeting" was held at Shaw University in Raleigh, North Carolina, on April 15–17. Baker assured the students that this was not a ploy by older civil rights activists to take over the student movement. "Adult Freedom Fighters will be present for counsel and guidance, but the meeting will be youth centered," she wrote in the call for participation. Baker worked tirelessly throughout the meeting and afterward to ensure that the students remained in control of the movement they had started. The students, she wrote in her summary of the meeting, "were intolerant of anything that smacked of manipulation or domination."[60]

The meeting was a success. It received national press coverage and brought together 142 student leaders (including ten whites) from eleven southern states plus the District of Columbia, representing over fifty different colleges and universities. Some sixty mostly white northern students also attended.[61]

The conference led to the creation of the Student Nonviolent Coordinating Committee (SNCC, pronounced "snick"), which would be based in Atlanta. SNCC was initially conceived of as a temporary organization that would help guide the local student protest movements that were already under way around the South. Its founders, many of whom were drawn from the Nashville group, created a decentralized organization, based on consensus building among smaller groups. It quickly became one of the civil rights movement's most important organizations.[62]

Tactics

The genius of the lunch counter sit-in was its simplicity. As a protest tactic, it was straightforward and easily replicated. The message the protesters sought to communicate was clear and powerful. It could

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be conveyed through nothing more than an image. A photograph of a group of well-dressed African American college students sitting unserved at a lunch counter said it all. A key strength of the movement was what sociologist Doug McAdam describes as the "accessibility" of the protest tactic. Unlike, say, a bus boycott, a sit-in could be launched by a small group; it could be used anywhere there was a segregated lunch counter.[63]

The tactic of the sit-in protests allowed for an immediate sense of accomplishment for many students. Many different outcomes could be seen as an achievement. Being part of this new defiant movement was an achievement. Simply creating student-run organizations that would strategize and coordinate sit-in protests might be cited as a "gain" for the movement. According to one observer, the sit-in "Workshop" not only trained students on the mechanism of a lunch counter protest, it also functioned as a "cohesive, morale-building mechanism which served to infuse an ideology into the Negro student participants."[64]

Joining a demonstration brought "a feeling of great release," explained Robert Moses, one of the legends of the black freedom struggle. A North Carolina student noted that in the Deep South, where "resistance to integration has only been entrenched" as a result of the sit-ins, "the best the Negroes can expect is a truce with honor, where students who've participated can hold up their heads in the knowledge they have flexed their muscles and lost no ground." For the most dedicated of freedom fighters, even enduring a beating was a victory. "This was an experience we needed," one participant said about the violence against sit-in protesters. As James Bevel, one of the leaders of the Nashville student movement, put it, "Maybe the Devil has got to come out of these people before we will have peace."[65]

Students also saw going to jail as a valuable experience, both for the individual protester and the larger movement. The students thus transformed the very response that segregationists saw as their greatest weapon against the protesters—the police officer, the paddy wagon, the jail cell—into a victory for the protesters. "These are members of a generation that talks constantly of 'the movement' and 'the struggle' and asks newcomers seriously, 'Have you been to jail?' " noted one journalist.[66]

And then there were the desegregation breakthroughs that the sit-in tactic produced. Changing a single person's mind could be a victory. When asked about what exactly they hoped to get out of their protests, a common answer was quite simple: they wanted the lunch counter operator, the person standing right in front of them, to let them sit

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down and be served. "We don't want brotherhood," one protester announced. "We just want a cup of coffee—sitting down." "All I want is to come in and place my order and be served and leave a tip if I feel like it," said another. One high school student was quite blunt in what he was after. "We don't care about eating here as such," he said. "We just want the right to come here." The "students have found something that is down to earth, has human appeal, and brings visible results," James Robinson, executive secretary of CORE, explained.[67]

Soon after the protests began, students began to see tangible results, as a growing number of restaurants desegregated in the face of the protests. At first the breakthroughs were small and uncertain. On March 7, a group of African Americans were served at what had been a whites-only lunch counter in Winston-Salem. The next morning all the stools in the lunch counter had been removed. That same day, in Salisbury, North Carolina, African American students were denied service at two drugstore lunch counters but then served at three others. The Southern Regional Council declared this "the first genuine victory of the movement." The first negotiated citywide lunch counter desegregation of the movement took place in San Antonio, Texas, on March 15, when local business leaders, working with local religious leaders, agreed to end their segregation policy before the protests actually hit their stores. Business owners in Galveston soon followed San Antonio's lead. By the end of the spring, lunch counters in eleven cities had begun to desegregate under pressure from sit-in protests.[68]

The most significant breakthrough of the spring was in Nashville. After an initial round of sit-ins, the students had called a pause to their protest to await the proposals of a committee appointed by the mayor. When the committee could do no better than propose that businesses desegregate a portion of their lunch counter for a ninety-day trial period, the students resumed their sit-ins, which were accompanied by a mass local boycott of downtown retail stores. (King praised the Nashville movement as "the best organized and most dedicated over the Southland today.") The turning point in Nashville came on April 19, when segregationists bombed the home of Z. Alexander Looby, an African American who was a member of the Nashville city council and a lawyer representing the students. (Looby and his wife escaped injury.) Later that day, nearly four thousand marched to city hall to confront Mayor Ben West about the escalating violence. When asked if he believed the lunch counters in Nashville should be desegregated, West, for the first time, publicly sided with the students, a concession that was, in the students' eyes, a crucial step toward an eventual breakthrough

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in Nashville. Following the mayor's dramatic pronouncement of support for the students, further negotiations between the store owners and protest leaders led to an agreement during the first week of May.[69]

The integration of Nashville's lunch counters was a carefully orchestrated affair. At 3 p.m. on May 10, after the lunch crowds had cleared, a group of African Americans, "carefully chosen, middle-class, well-dressed, well-mannered" and "on their best behavior," according to one news account, entered six downtown stores, sat down, and were served. "Negro patrons conducted themselves with dignity," an editorial in the *Chicago Tribune* approvingly noted. "Everything was serene." One reason for the prosaic nature of the event was that the agreement under which the lunch counters desegregated included a news blackout: local radio and television stations and newspapers did not publicize the event in advance. The other customers in the store were mostly plainclothes policemen. During the three-day interim period, the agreement was that blacks would only sit with other blacks and that no blacks would ask for service on the first Saturday of desegregated service (since this was the day "country people" tended to come into the city to shop). Although the event lacked the tense drama of the protests that had shaken the city in the previous months ("How much can you write about a mother and a child eating a hamburger?" complained one reporter), it did, for a moment at least, symbolize something of an achievement for a city whose citizens prided themselves on being better than their southern neighbors when it came to race relations. The breakthrough in Nashville made the front page of northern newspapers.[70]

The trickle of desegregation victories strengthened in the coming months. The summer of 1960 saw a number of new additions to the list of cities that had desegregated their lunch counters, as operators of targeted stores took advantage of the slowing or cessation of protests when school was not in session to make changes as inconspicuously as possible. In late June, lunch counters in several cities in northern Virginia ended their segregation policies after just two weeks of sit-in protests. On July 9, following a settlement between students and local business owners, lunch counters in Charlotte began serving blacks. Then, on July 25, "quietly and without incident," the Woolworth and Kress stores in Greensboro, the scene of the protests that six months earlier had set the sit-in movement in motion, served their first black customers at the lunch counter. The store managers made the decision, following the recommendation of the interracial committee the mayor

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had appointed. "The sky did not fall," the local paper noted. The *New York Times* found the event worthy of front-page coverage under the headline "Sit-Ins Victorious Where They Began."[71]

By midsummer, the Southern Regional Council issued a report identifying twenty-seven southern cities in which lunch counters desegregated in response to sit-ins. "No store in the South which has opened its lunch counters to Negroes has reported a loss of business," the widely publicized report noted. "Managers have reported business as usual or noted an increase. . . . Negroes have not congregated to demonstrate a victory. . . . White customers have observed the change calmly for the most part. . . ."[72]

Although these victories were more a steady trickle than the wave of reform the students were hoping for, and although they did not penetrate into the Deep South, they were generally understood to be an incredible achievement for a movement that seemingly sprang out of nowhere. "Buried in the reams of copy about the southern sit-ins," noted a CORE newsletter in April 1960, "is the fact that since the protest movement started, over 100 lunch counters and eating places in various parts of the south have started to serve everybody regardless of color." Victories over racial discrimination attracted attention, gave the protests an air of achievement, and pulled more and more people into the movement. After the Nashville breakthrough, Marion Barry, a leader of that city's student movement who had been appointed temporary chair of the newly formed SNCC, declared that the sit-in movement "demonstrates the rapidity which mass non-violent action can bring about social change." The movement offered students what Leslie Dunbar of the Southern Regional Council described as "the sweet experience of success." "You could put your hands on some changes," explained David Richmond, one of the Greensboro Four.[73]

Defining their goals in ways that could be actually realized in the near term empowered the students. Although restaurant operators generally resisted students' demands to desegregate, the most common response was to shut down the lunch counters temporarily in the face of the protests, an act that showed the students the power of their concerted actions. When the Greensboro protests led to the first lunch counter closing of the movement, cheers erupted from the students and, in a premature burst of enthusiasm, they started shouting, "It's all over." In the early weeks of the sit-in movement, a Woolworth in Hampton, Virginia, converted its lunch counter into a sales counter, and a McClellan dime store in Nashville removed all the stools from

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its lunch counter. When Nashville city officials and business leaders agreed to create an interracial committee to discuss the protesters' demands, students saw this as a significant victory—this was what they had been demanding. Merchants sometimes felt that students were too eager to declare success. In Raleigh, students announced they were calling off their protests at the local Kress store after they had been served coffee and donuts "indiscriminately" while standing at a lunch counter. The Kress store official explained that the store had not changed its policy, however. "They would just like to claim a victory," he explained. The possibility of these small-scale, tangible moments of accomplishment energized the sit-in movement in those critical opening months in the spring of 1960.[74]

Summer of 1960 and Beyond

When the spring term came to an end and many of the college students who were the leaders and the rank and file of the sit-in movement left campus, the lunch counter sit-in campaign, at least as a region-wide phenomenon, dissipated. Even before the end of the school year, there had been signs that the movement was slowing. The feverish excitement of those opening months was impossible to sustain. Much of the early energy had been channeled into more organized forms, such as coordinated boycotts and negotiations. As early as April, the *New York Times* was reporting that sit-in demonstrations had become "sporadic"; "more and more the conflict appears to have entered a cold war phase" in which "court and propaganda battles" took center stage. Leaders increasingly complained about students' declining interest in joining protests. When the term ended, support for demonstrations was increasingly difficult to maintain.[75]

With most college students scattered to hometowns and summer jobs, the work of the sit-ins was left to others. High school students took over the protests in some cities. In Rock Hill, South Carolina, a college student activist led a sit-in with a group of black children between the ages of ten and fourteen. In Knoxville, where a student movement had never really taken off, a group of black and white professionals (some of whom had opposed the student protest movement) formed a group they called the Associated Council for Full Citizenship and launched their own sit-ins. Their carefully orchestrated campaign was far more effective than the halting student protests that had preceded it, and in

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a matter of just over a month, they convinced Knoxville's merchants to provide service on a nondiscriminatory basis.[76]

By the summer of 1960, the sit-in movement had run its course, but the lunch counter sit-in, as a protest tactic, had not. It would remain one of the most powerful weapons of the larger civil rights movement for years to come.

The very success of the sit-in movement created new challenges for the students. Desegregating a lunch counter was a significant achievement. But everyone, integrationists and segregationists, recognized that this was but a step toward larger, more ambitious goals. The struggle for first-class citizenship was, as Ella Baker famously put it, "bigger than a hamburger." Some student activists turned their attention from lunch counters to other public accommodations and public facilities. In the Upper South, students turned their attention to suburban shopping centers and movie theaters. The Howard University students who had led successful sit-ins in northern Virginia targeted a segregated Maryland amusement park. NAACP Youth Councils began a summer "wade-in" campaign to desegregate public beaches along the East Coast. None of these efforts caught on in quite the way the lunch counter sit-ins had. According to one account, "A dwindling number of Negro students were sufficiently enthusiastic about these less immediate and electrifying actions."[77]

The students who organized and participated in the sit-in protests that spread across the South in the winter and spring of 1960 set in motion a cascade of events that would transform the civil rights movement and, eventually, remake civil rights law across the nation. They believed their actions were justified not only based on principles of morality and basic human decency, but also on the nation's foundational legal commitments. "As I sat," one student explained, "I could be speaking to the world and saying, in effect, 'I believe in the Declaration of Independence and the Constitution of the United States. Do you?' " The movement, according to student leaders who spoke to the Democratic Platform Committee at the party's national convention in July 1960, was intended to "affirm equality and brotherhood of all men, the tenets of American democracy as set forth in the Constitution, and the traditions of social justice which permeate our Judaic-Christian heritage." Their demonstrations were at once an effort at moral suasion—pleas to the hearts and minds of the white southerners, and beyond

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them to the nation at large—and a claim of their fundamental rights grounded in the United States Constitution.[78]

Theirs was what we might label an aspirational constitutional claim. It was a claim that drew upon one of the most foundational of constitutional principles—the right to equal protection of the law. But it was a claim that, at the time of the sit-ins, had never been squarely recognized in a court of law.

The key to understanding the students as constitutional claimmakers is to recognize that it did not matter that the courts had never recognized this kind of constitutional claim before. When the Greensboro Four launched their protests, and when thousands of young men and women across the South joined the sit-in movement, they did not even see themselves as making a formal "constitutional" claim—at least not one that required judicial recognition. In fact, the motivations for the first generation of sit-in protesters in the spring of 1960 pointed in the exact opposite direction: they wanted to make a case for equal treatment and respect, for first-class citizenship, that would not have to be settled in the courtroom. They did not see constitutional lawyers and judges as the arbiters of their claim. If their protests were turned into a formal legal issue, they feared they would lose control over them. Their claim would become a lawyers' cause. It would no longer be theirs. The very point of the protest was to create opportunities to *enact* their claim. By resisting the reduction of their efforts into a formal legal claim and by putting their faith into protest and negotiation, they might lose the leverage of a claim based on federal law, but they gained something that was, to them, considerably more valuable: they were able to maintain control over the course of their challenge.

To now turn the sit-ins into a formal legal claim—or worse, a legal claim whose legitimacy would depend on recognition in the courts—would seem to go against what the students and their supporters saw as the most innovative and valuable aspect of the protest. Yet this was precisely what the NAACP lawyers hoped to do.

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