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IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
CENTRAL DIVISION

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HONORABLE PAUL J. McCORMICK, JUDGE PRESIDING

- - -

GONZALO MENDEZ, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4292-M-Civil.
	)	
WESTMINSTER SCHOOL DISTRICT	)	
OF ORANGE COUNTY, et al.,	)	
	)	
Defendants.	)	

- - -

REPORTER'S TRANSCRIPT OF PROCEEDINGS.

Los Angeles, California

Thursday, July 5, 1945

- - -

APPEARANCES:

For the Plaintiffs:	DAVID C. MARCUS, Esq.
Amici Curiae:	A. L. WIRIN, Esq., and
	J. B. TIETZ, Esq.;
	and
	CHARLES F. CHRISTOPHER, Esq.
For the Defendants:	JOEL E. OGLE, Esq., County Counsel;
	and
	GEORGE F. HOLDEN, Esq., Deputy
	County Counsel.

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I N D E X

WITNESSES:

DIRECT   CROSS   REDIRECT   RECROSS

Manuela Ochoa	8	36	37	38
Frank Palomino	39	49	52	
Jane Sianez	54	59		
Juan Munoz	63	69	71	72
James L. Kent	78	97	105	139
Felicitas Fuentes	140			

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1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 5, 1945. 10:00 A. M.

2 - - -

3 THE COURT: Call the case.

4 THE CLERK: No. 4292-M, Gonzalo Mendez, et al. v.

5 Westminster School District of Orange County, et al.

6 MR. HOLDEN: Ready.

7 MR. MARCUS: Ready.

8 THE COURT: Proceed.

9 MR. WIRIN: May I address the court, your Honor, with  
10 respect to the amici curiae appearance?

11 THE COURT: Yes.

12 MR. WIRIN: As your Honor knows, Mr. Tietz and I have  
13 formerly filed an appearance as amici curiae, and Mr. Tietz  
14 was present during previous proceedings. In addition to the  
15 American Civil Liberties League, the Los Angeles Chapter of  
16 the National Lawyers Guild is interested in this case, since  
17 it is a race discrimination question. Mr. Christopher, who  
18 is a member of the bar of this court, Charles F. Christopher,  
19 and other members of the National Lawyers Guild, would like  
20 also to appear amici curiae, and I have here an application  
21 for presentation to the court.

22 THE COURT: Hand the papers to the clerk of the court.  
23 Have you had any knowledge of this application, Mr. Holden?

24 MR. HOLDEN: We have not, your Honor, but we have no  
25 objection. If the court desires to permit the appearance, why,

Zv3 1 we have no objection.

2 THE COURT: I think any light from creditable sources  
3 is advisable in a cause of this type. For that reason, I  
4 shall permit it. I do want some help, however, from you.  
5 If you are going to sit here just as observers, as your associ-  
6 ate did, why, of course, it doesn't give us any help. They  
7 can observe from the body of the court room just as well as  
8 they can at the bar. If they are going to be active partici-  
9 pants, we will welcome them here, but otherwise we would pre-  
10 fer that they remain in the body of the court room in the  
11 role of citizens.

12 MR. WIRIN: I would like to address the court on that  
13 subject, as to how amici curiae, who are now four or five in  
14 number, may best aid the court.

15 THE COURT: Very well.

16 MR. WIRIN: In the first place, our thought was that the  
17 primary responsibility for the presentation of evidence should  
18 be upon the parties litigant, and that the participation of  
19 the amici should not be strictly limited to, but directed  
20 primarily towards a consideration of what we think are some  
21 rather important and some rather novel questions of law.

22 We thought we would follow this procedure, if it is  
23 agreeable to the court. We thought that of the four or five  
24 lawyers who have now entered their appearance as amici curiae,  
25 that not all of us would sit in here through all the sessions,

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2  
1 but that Mr. Christopher will sit in throughout the entire  
2 proceeding for the purpose of knowing what is going on and  
3 for the purpose of aiding in whatever respect he can.

4 Then we thought with respect to these novel and important  
5 questions of law, the court might limit us to the filing of  
6 memoranda upon very short notice. I don't mean the filing  
7 of extended briefs upon extended time. Then we would like  
8 very much, both the American Civil Liberties League, on the  
9 one hand, and the Lawyers Guild, to aid the court in present-  
10 ing such memoranda in which we will incorporate our points of  
11 view in respect to some of the questions of law involved.

12 We also thought that this is a matter which the court  
13 may well decide later on after the filing of memoranda, and  
14 that the court might again set the matter down for very brief  
15 oral argument. That, however, is a matter which can be de-  
16 termined after the evidence is in. But primarily I should  
17 like to have the court's reaction and approval toward one  
18 member of this group being present throughout the proceedings,  
19 so that the rest of us will not be required by the court or  
20 expected to sit through the entire proceedings, and that our  
21 participation will be primarily in the presentation of points  
22 of law. That is our program, if it is agreeable to the court.

23 THE COURT: Mr. Christopher will be available throughout  
24 all of the sessions of the case?

25 MR. WIRIN: That is right.

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1 MR. CHRISTOPHER: That is right.

2 THE COURT: I think, perhaps with some limitations which  
3 may be imposed later, that will be agreeable, provided Mr.  
4 Christopher is here at all sessions of the court in this case.  
5 I think probably the matter of the presentation of evidence  
6 is quite important. We must not lose sight of the jurisdic-  
7 tional feature in this case, and it is an evidential matter  
8 primarily, and that is the reason that the court directed a  
9 pre-trial conference. It got very little aid from the amicus  
10 curiae in the pre-trial. I did interrogate Mr. Tietz once or  
11 twice, and he responded very courteously, but the line of  
12 proof is a very important feature in this case and the burden  
13 of proof is an essential element in the case. So that I shall  
14 expect that Mr. Christopher, or whatever associate participates  
15 with him, shall undertake to assist in the presentation of  
16 the evidentiary features of the case, as well as the legal  
17 questions that are involved, because those legal questions,  
18 while of paramount importance and perhaps of supreme conse-  
19 quence in the case, are dependent upon what the evidence shows.  
20 This is a law suit, after all, and there must be a record  
21 made, and ex parte or gratuitous or voluntary statements as  
22 to constitutional rights may have no support whatsoever; on  
23 the other hand, they may have abundant support, and if they  
24 have, the evidence of course is available. With that under-  
25 standing, the court is agreeable.

1 MR. WIRIN: We shall accept that responsibility, and we  
2 realize that the case shall not be tried in a constitutional  
3 vacuum but to be based upon the presentation of evidence which  
4 will appear in the record.

5 MR. MARCUS: May I make inquiry of the court on a matter  
6 of guidance in the presentation of the evidence: As the court  
7 suggested at the pre-trial, it would be in the interests of  
8 orderly procedure, at least, to limit the number of witnesses  
9 in the case. I have accordingly selected a few witnesses  
10 from each of the respective districts involved. Would it be  
11 agreeable to the court to proceed with each separate district  
12 and present a representative witness from each such district?

13 THE COURT: Without limiting the other side to any  
14 acquiescence which they may not desire to assume, I think that  
15 would be an expeditious arrangement.

16 MR. MARCUS: Now, as a matter of personal privilege, I  
17 have present in the court room the consul of Mexico represent-  
18 ing the Consulate General at Los Angeles, and the consul of  
19 Mexico representing the Consulate General of Orange County,  
20 and with the court's kind permission, I would ask that they  
21 be permitted within the bar of this court, as a matter of  
22 courtesy to the Mexican government.

23 THE COURT: That is perfectly agreeable.

24 MR. MARCUS: If your Honor please, this is Mr. Campbell,  
25 Santiago Campbell. Mr. Campbell is from the consulate of

1 Los Angeles, and Mr. Alcozar is the consul of Mexico in Santa  
2 Ana, Orange County.

3 THE COURT: I am very glad to see you, gentlemen, and you  
4 may be seated.

5 MR. HOLDEN: If the court please, there is just one little  
6 error that I noticed in the pre-trial.

7 THE COURT: I did not get my copy of the pre-trial  
8 transcript. You have received yours?

9 MR. HOLDEN: Yes.

10 THE COURT: Do you have a copy, counsel?

11 MR. MARCUS: No.

12 MR. HOLDEN: Then I am fortunate in being the only one  
13 to have received one. However, I made the statement that the  
14 Santa Ana District had meandered the Fremont line, the line  
15 of the Fremont zone. I was mistaken in that, and I want to  
16 correct it to show that the Santa Ana District did not  
17 meander the line so far as the Fremont School is concerned,  
18 and that I was mistaken in the school there, and I want the  
19 privilege of explaining that when we come to the school where  
20 that condition may exist

21 THE COURT: In other words, as I understand you, Mr.  
22 Holden, you think that you misspoke yourself?

23 MR. HOLDEN: That is right, your Honor.

24 THE COURT: But not that the reporter did not get what  
25 you said?



1 MR. HOLDEN: No, the reporter got what I said correctly,  
2 but it was my error.

3 THE COURT: The record will show the statements of  
4 counsel.

5 Proceed.

6 MR. MARCUS: I will call Mrs. Ochoa.

7 MANUELA OCHOA,  
8 called as a witness by and on behalf of the plaintiffs, having  
9 been first duly sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 THE CLERK: State your name, please.

12 THE WITNESS: Manuela Ochoa.

13 BY MR. MARCUS:

14 Q Mrs. Ochoa, where do you reside?

15 A 201 Taft Street, Garden Grove, California.

16 Q Within what school district is that located?

17 A That is located within the Lincoln School in Garden  
18 Grove.

19 Q You are a resident of the Garden Grove District in  
20 Orange County?

21 A Yes.

22 Q How long have you resided within that district?

23 A For the past 20 years.

24 Q Are you an American citizen?

25 A Yes.

1 Q Are you married?

2 A Yes.

3 Q And what is your husband's name?

4 A Juan Ochoa.

5 Q Do you have any children?

6 A Four children.

7 Q Will you give their names and ages, please?

8 A Hector Ochoa, 14 years, --

9 MR. HOLDEN: How do you spell that?

10 THE WITNESS: Hector, H-e-c-t-o-r. Rogelio Ochoa, 9  
11 years; Oscar Rene Ochoa, 7 years; and Rosalva Mariza Ochoa,  
12 who is 8 months.

13 Q BY MR. MARCUS: Did you attend school in Orange  
14 County?

15 A No, I did not.

16 Q What schooling have you had?

17 A I went to Riverside, California, to the grammar  
18 school, and I attended four years in commercial school in  
19 Mexico.

20 Q You speak both the English and the Spanish language?

21 A Yes, I do.

22 Q Now, you know where the Lincoln School is located  
23 in the Garden Grove District?

24 A Yes, I do.

25 Q How far is the Lincoln School located from your home?

Zv10

1 A Approximately five blocks.

2 Q Do you know where the Hoover School is located?

3 A Yes, it is located in the Mexican colony on 17th  
4 Street, 17th Boulevard, and I do not know exactly where the --  
5 what the name of the street is, but it is located about a  
6 mile, or over a mile from Garden Grove, where we live.

7 Q In other words, the Hoover School is a considerably  
8 further distance from your home than the Lincoln School; is  
9 that right?

10 A Yes, they have to ride the bus to go to the Hoover  
11 School.

12 Q Now, in the district or area where you reside, are  
13 there people of Mexican ancestry located there?

14 A Yes.

15 MR. HOLDEN: Now, if the court please, at this time we  
16 object to this question on the ground that there is no founda-  
17 tion laid for this type of evidence. The petition does not  
18 allege that this petitioner was injured in any way by any  
19 ruling of the Board. This is not the main petitioner in the  
20 Garden Grove case, and we, therefore, object on the ground that  
21 it is incompetent, irrelevant and immaterial at this time.

22 THE COURT: I believe that matter was suggested at the  
23 pre-trial conference, and that counsel indicated upon your  
24 objection, Mr. Holden, that there might be some merit to your  
25 statement, and that he desired to supply an additional person

1 whom he thought would be unquestionably a resident within the  
2 district named and to have children that were required to  
3 attend one or the other of these schools.

4 MR. HOLDEN: If counsel is admitting that this is the  
5 plaintiff rather than Palomino, then he hasn't said anything  
6 to me about it. If that is the case, of course, we wouldn't  
7 have any objection.

8 MR. MARCUS: This is the case, your Honor: With respect  
9 to Palomino, we are not changing our position, he is one of  
10 the plaintiffs, but this is just one of the witnesses in the  
11 district. But we suggested that if there was any reason why  
12 we should substitute another plaintiff, why, we did have  
13 another plaintiff.

14 THE COURT: And this witness is the one whom you expected  
15 to so substitute?

16 MR. MARCUS: We did, but upon inquiry of Mr. Palomino  
17 I find he is a resident of that district, too.

18 MR. HOLDEN: Then counsel has not joined this witness as  
19 a plaintiff in this action?

20 MR. MARCUS: Well, I feel, your Honor, we should not be  
21 and ought not be limited as witnesses to the parties who have  
22 petitioned in this case, but that the matter of evidence can  
23 be brought out through or by any witness in the case.

24 THE COURT: The issue of a conspiracy or a concerted  
25 effort by the school authorities is something, of course, that

Zv12 1 might be explored not only by the individuals who are named  
2 as plaintiffs in the case, but by others whom it is claimed  
3 may be similarly situated. In other words, the case is not  
4 one exclusively for those who are named as plaintiffs but is  
5 in the nature of an action that is based primarily upon the  
6 class segregation which it is claimed amounts to a discrimina-  
7 tory activity with respect to persons of certain lineage  
8 or descent. Objection overruled.

5 9 MR. MARCUS: I wonder if we may have the last question  
10 read, please.

11 (Question and answer were read by the reporter.)

12 Q BY MR. MARCUS: Can you give us an idea of how many  
13 persons of Mexican ancestry live and reside within the immedi-  
14 ate neighborhood of where you live and reside?

15 A About 50 or 60.

16 Q Now, do each of these families have children?

17 A Yes.

18 Q Do you know, of your own knowledge, that the children  
19 who reside in the immediate neighborhood where you reside  
20 attend the Hoover School?

21 A Yes, some do, and some have the privilege to go to  
22 the Lincoln School, though they are of Mexican ancestry.

23 Q Well, do the children, that you know of, go to the  
24 Hoover School?

25 A Yes.

Zv13

1 Q Is that Hoover School located at a considerable  
2 distance from your home and the homes of these other people?

3 A Yes.

4 Q Further from your home than the Lincoln School?

5 A Yes.

6 Q Now, Mrs. Ochoa, can you tell us if you are of  
7 Mexican descent?

8 A I am of Mexican descent, although I was born here,  
9 and I am an American citizen.

10 Q And your children were born in the United States?

11 A In Garden Grove, California, United States of  
12 America.

13 Q Now, how many of your children are attending school  
14 at the present time?

15 A Two -- three.

16 Q Will you give us their names, please?

17 A Hector Ochoa, Rogelio Ochoa, and Oscar Rene Ochoa.

18 Q To what school do they go, or attend?

19 A The two, Rogelio and Oscar, go to Hoover School.

20 Hector goes to Washington School in Garden Grove, because he  
21 is in the sixth grade.

22 MR. MARCUS: I see. I think this is the district, if I  
23 may make this observation, where the segregation is up to the  
24 sixth grade, all up to and including the sixth grade. Is that  
25 right, counsel?

Zv14

1 MR. HOLDEN: Yes. The sixth, seventh and eighth grades  
2 are in the Fitz School. She said the Washington School.

3 THE COURT: Where does Hector attend school?

4 THE WITNESS: It used to be the Washington School, but  
5 it is called Fitz now.

6 THE COURT: Where does he go?

7 THE WITNESS: Hector goes to the Fitz School.

8 THE COURT: That is the same as the Washington School?

9 THE WITNESS: The same as the Washington, the same school.

10 Q BY MR. MARCUS: Mrs. Ochoa, do you speak English --

11 A Yes --

12 Q -- in your family conversation at home?

13 A Yes, I do.

14 Q With your husband?

15 A With my husband, my children.

16 Q Prior to the attendance, the commencement of the  
17 attendance of your children at these schools, particularly  
18 their attendance at the Hoover School, did you speak the  
19 English language in your home?

20 A Yes.

21 Q Did your children prior to their attendance at the  
22 Hoover School speak English?

23 A Yes.

24 Q Did they speak the Spanish language, too?

25 A They speak the Spanish language sometimes at home.

Zv15

1 Q But do they speak and understand the English  
2 language?

3 A They speak and understand the English language, as  
4 well as they speak and understand the Spanish language.

5 Q Was that prior to their commencement of attendance  
6 at the Hoover School?

7 A No, they --

8 Q I mean, did they speak the English language?

9 A Before they went to school to the Hoover School?

10 Q That is correct.

11 A Yes, they spoke it.

12 Q Now, your oldest child is named what?

13 A Hector Ochoa.

14 Q Now, where did Hector commence to go to school?

15 A He started to go to school at Hoover School for his  
16 first year, but during the second year we talked to Mrs. Evans,  
17 the principal from the Lincoln School in Garden Grove --

18 MR. HOLDEN: I object to this, your Honor, on the ground  
19 that it is a voluntary statement. If she is going to relate  
20 conversations with members of the school district, the time  
21 and place should be fixed.

22 THE COURT: Yes. It is not responsive to the question.  
23 Just listen to the question, Mrs. Ochoa, and answer the  
24 question, and do not volunteer anything further. Proceed.

25 Q BY MR. MARCUS: In what year did Oscar commence his



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1 schooling?

2 A 1944.

3 Q And were you living at the same address --

4 A Yes.

5 Q -- at that time, as you are now?

6 A Yes.

7 Q Now, did you have any conversation with any repre-  
8 sentative of the school or school district?

9 A Yes.

10 MR. HOLDEN: I object to that.

11 MR. MARCUS: Wait just a moment. I haven't finished  
12 the question.

13 MR. HOLDEN: I am sorry.

14 Q BY MR. MARCUS: (Continuing) -- at the time your  
15 child commenced to go to the Hoover School?

16 A Yes, with Mr. Emley.

17 MR. HOLDEN: I object to that.

18 Q BY MR. MARCUS: Just answer yes or no.

19 THE COURT: The trouble is she adds to the answer. I  
20 tried to tell her to just answer the question. Mrs. Ochoa,  
21 I realize that lay witnesses probably do not understand the  
22 technical form of these matters, but if you will just answer  
23 counsel's question and not say anything that is not an answer  
24 to his question, we will get along better.

25 Read the question, Miss Reporter.

2v17

1 (Question read by the reporter.)

2 THE WITNESS: Yes.

3 Q BY MR. MARCUS: Did you have such a conversation?

4 That just calls for a yes or no answer.

5 THE COURT: She said "Yes" twice.

6 THE WITNESS: Yes.

7 Q BY MR. MARCUS: With whom did you have that conver-  
8 sation?

9 A Mr. Emley.

10 Q Who was Mr. Emley at that time?

11 A The principal, the superintendent of the Garden  
12 Grove School District.

13 Q Mr. Emley was the superintendent of the Garden Grove  
14 School District at that time?

15 A At that time.

16 Q Where did this conversation take place?

17 A At the Fitz School, and at his home.

18 Q The first conversation that you had with him?

19 A At the Fitz School.

20 Q Will you please relate the conversation at this time?

21 MR. HOLDEN: I would object to that on the ground that  
22 there is no foundation laid as to Mr. Emley. He is not a  
23 defendant in this action, and no time has been fixed as to  
24 when this conversation occurred.

25 THE COURT: It doesn't appear from my recollection of the

Zv18

1 pre-trial proceedings, and I haven't the transcript here,  
2 but I have no recollection of Mr. Emley being included as  
3 one of the school authorities during the applicable time as  
4 to which this case pertains.

5 MR. MARCUS: There was nothing stated at the time, your  
6 Honor. However, the Garden Grove District is a party defend-  
7 ant, and Mr. Emley at that time was the superintendent of that  
8 district.

9 Now, is my statement correct, counsel?

10 MR. HOLDEN: I don't know. At what time?

11 MR. MARCUS: In 1941.

12 THE COURT: There has been no time fixed as to the period  
13 when this alleged conversation took place or as to the persons  
14 who were present at that conversation.

15 MR. MARCUS: Your Honor, I believe she stated it was in  
16 1941.

17 THE WITNESS: In 1939.

18 Q BY MR. MARCUS: In 1939. Now, who was present at  
19 the time you had that conversation?

20 A My husband.

21 Q And who else?

22 A That's all.

23 Q Relate the conversation.

24 MR. HOLDEN: I object to it on the ground it is too  
25 remote and cannot have any bearing upon the issues of this case,

Zv19

1 certainly, being six years ago. A demand upon a school board  
2 of six years ago cannot have any bearing upon the management  
3 of this board or superintendent at this time, who are accused  
4 of denying the children admission to the school. Certainly,  
5 you don't want --

6 THE COURT: Gentlemen, I don't want any argument either  
7 from counsel or from amici curiae on objections. If the court  
8 desires argument, the court will state that he wants an ampli-  
9 fication of the objection. All the court wants you to do is  
10 to state your objection, and then if the court desires argu-  
11 ment, it will so indicate, and otherwise it will hear no  
12 argument. The objection is sustained. You cannot bind the  
13 present school authorities by any activity which may have  
14 been engaged in by their predecessors, unless there is a con-  
15 tinuity of the practice, and you should show that by the  
16 present school authorities and not by those who were school  
17 authorities in some other period.

18 MR. MARCUS: The only way, your Honor, I can show that  
19 is by a continuity of the practice, and in an attempt to show  
20 that this witness will so testify, the offer of proof is that  
21 she has testified --

22 THE COURT: Never mind what she has testified. Let us  
23 see what she will testify to. That question is objectionable  
24 and the objection is sustained.

25 MR. MARCUS: Very well.

1 Q BY MR. MARCUS: Did you, subsequent to this conver-  
2 sation that you had with Mr. Emley, place your child in any  
3 school?

4 A In the Hoover School.

5 Q Did you at that time make a request of any of the  
6 school authorities to permit your child to go to the Lincoln  
7 School?

8 MR. HOLDEN: I object to that on the same ground, that  
9 it is too remote, referring to 1939.

10 THE COURT: Sustained. Let us bring the time down to the  
11 present date and get right at the issues here. We are not  
12 concerned as to what authorities there did for some period  
13 that is not applicable to the present time. What we are  
14 concerned with, and what you have alleged to have occurred,  
15 is that the present existing custom is discriminatory against  
16 these people. We are not going to try the question as to  
17 whether others were discriminating against others in Orange  
18 County. That isn't in issue here at all. The only issue  
19 here is the present situation which now exists in these schools.

20 MR. MARCUS: Well, your Honor, we are trying to trace  
21 the history of this one child. We are trying to show that  
22 this practice began when he began to attend school, and bring  
23 it down to the present time, and show that he still is attend-  
24 ing the Hoover School, and our offer of proof at this time goes  
25 to show and will show that he still is attending the Hoover

Zv21

1 School upon a practice that was commenced by that board in  
2 1939 with reference to this particular witness, and still  
3 continues down <sup>to</sup> this date.

4 THE COURT: I have ruled on the objection.

5 MR. MARCUS: Very well.

6 Q BY MR. MARCUS: You say your child is still attend-  
7 ing the Hoover School?

8 A He is not.

9 Q Now, what about your second child, -- what is his  
10 name?

11 A Rogelio Ochoa.

12 Q When did he commence going to school?

13 A 1942.

14 Q Now, did you at that time have a conversation with  
15 any representative of the school board of the district within  
16 the Garden Grove area?

17 A No.

18 Q Did you at a later date have a conversation with  
19 any person --

20 A Yes.

21 Q -- with respect to the attendance of your child at  
22 any other school besides the Hoover School?

23 A Yes.

24 Q With whom did that conversation take place?

25 A Mr. Ranney in Santa Ana.

Zv22

1 Q And who is Mr. Ranney?

2 A The Child Welfare Coordinator in Santa Ana.

3 Q Is he connected, to your knowledge, with the county  
4 schools?

5 A Yes.

6 MR. HOLDEN: Well, I object.

7 MR. MARCUS: I will skip that for the time being.

8 Q BY MR. MARCUS: Did you have a conversation with Mr.  
9 Kent at any time?

10 A Yes.

11 Q And who is Mr. Kent?

12 A The principal, the superintendent of the Garden  
13 Grove School District.

14 Q James L. Kent is his name?

15 A Yes.

16 Q Where did that conversation take place?

17 A At the Fitz School. At my home, too.

18 Q Where did the first conversation take place?

19 A At the Fitz School.

20 Q Now, will you tell us who was present?

21 THE COURT: And fix the time, counsel.

22 MR. MARCUS: Yes.

23 THE WITNESS: My husband.

24 Q BY MR. MARCUS: And the time, please? When was it?

25 A The time, about 1:00 o'clock, in 1944.

Zv23

1 Q What month was that in?

2 A In September.

3 Q And the day, if you remember it?

4 A It was two or three days, I don't remember exactly,  
5 before commencing school last season.

6 Q Relate the conversation that you had with him at  
7 that time.

8 A Yes. I told Mr. Emley that I wanted Oscar Rene --

9 Q Just a moment. You said "Mr. Emley." You mean  
10 Mr. Kent?

11 A Mr. Kent. -- to go to the Lincoln School, because  
12 it was closer, and as far as I was concerned, they knew better  
13 how to teach the children, because when my boy, Hector, had  
14 attended there for a period of one year, he had been very much  
15 more advanced than when he was attending the Hoover School.  
16 And I also told him that I wanted my boy there because he was  
17 not very old, to -- well, to be over there, because he did not  
18 have a lot of practice to go around with the children, that it  
19 was his first year.

....  
20 And Mr. Kent said that children of Mexican ancestry  
21 were not admitted there, that they had a school just as good,  
22 the Hoover School.

23 Q Were not admitted to where?

24 A To the Lincoln School. He said he would have a  
25 meeting with the board there in Garden Grove, and if he had



1 something favorable, he would come over to my home and let me  
2 know. He went to my home and told me that they had said,  
3 "No."

4 Q That who had said, "No"?

5 A The board had said, no, they would not admit children  
6 of Mexican ancestry ~~over there.~~

7 I said that from 17th Street, the Mexican colony, there  
8 was some children of Mexican ancestry that attended the  
9 Lincoln School, although living close to the Hoover School.  
10 And he said they were probably from Spanish ancestry.

11 Then I said, could he do something in my favor, that I  
12 could have my little boy there in the Lincoln School. And he  
13 said that it was his bread and butter, that it was his first  
14 year there in Garden Grove, and he couldn't fight against the  
15 board.

16 Q Now, you have a third child attending school?

17 A Yes.

18 Q And what is that child's name?

19 A Oscar Rene.

20 Q What school does he attend?

21 A Hoover School.

22 Q That is, three children of yours are all in attendance  
23 at school in the Garden Grove area?

24 A Yes.

25 Q Now, your child, Hector, the oldest, attended the

Zv25

1 Hoover School?

2 A Yes.

3 Q For how many years?

4 A From the second grade until the sixth grade.

5 Q For how many years?

6 A Or, until the fifth grade.

7 Q What is that?

8 A For four years.

9 Q And during that period of four years did your child  
10 have to go this distance of over a mile --

11 A Yes.

12 Q -- to this other school?

13 A Yes.

14 Q That is, to the Hoover School?

15 A Yes.

16 Q And during that period of four years could the child  
17 have gone to the Lincoln School, a distance of a few blocks?

18 A Yes.

19 Q Now, did you have any conversations or did you at  
20 any time request of the Garden Grove School District that your  
21 oldest child be permitted to go to the Lincoln School?

22 A No.

23 Q Oscar?

24 A Yes. Oscar is the youngest.

25 Q But the oldest child, what is his name?

v26  
1 A Hector.

2 THE COURT: We have it on the record now both ways. You  
3 had better be careful, to keep your record straight.

4 Q BY MR. MARCUS: Your oldest child is Hector?

5 A Yes.

6 THE COURT: I mean, as to whether she had any conversa-  
7 tion about her children. We want to be careful about which  
8 one she is referring to.

9 Which is the oldest boy?

10 THE WITNESS: Hector.

11 THE COURT: Hector. Does he attend school now?

12 THE WITNESS: Yes.

13 THE COURT: One of the boys you said was not attending  
14 school now, did you not?

15 THE WITNESS: No.

16 THE COURT: Are they all attending school?

17 THE WITNESS: They are all attending school.

18 THE COURT: Very well.

19 Q BY MR. MARCUS: Now, you say you did have a conversa-  
20 tion with the school authorities in Garden Grove with respect  
21 to Hector, did you?

22 A Yes.

23 Q When did that take place?

24 A In 1939.

25

Zv27 1 Q And since 1939 he has been attending the Hoover  
2 School?

3 A Yes.

4 Q Now, do you know what children attend the Hoover  
5 School?

6 A Well, the American children.

7 Q They are American citizens?

8 A American citizens from Mexican ancestry.

9 Q Is the entire school attended solely by children of  
10 Mexican ancestry?

11 A Yes.

12 Q Are you acquainted with the Lincoln School?

13 A No.

14 Q Have you been over there?

15 A Yes.

16 Q Do you know who attends that school?

17 A The white American children, and the Filipinos, and  
18 the Japanese and the Negroes.

19 Q Do any children of Mexican ancestry, although  
20 American citizens attend the Lincoln School, to your knowledge?

21 A Yes.

22 Q Do they attend?

23 A Yes.

24 Q Who, in the Lincoln School?

25 A One boy that is my neighbor.

Ev28

1 Q How do you know that he attends there?

2 A Because he is my neighbor, and I see him go there  
3 every morning.

4 Q Do you know how he happens to be attending that  
5 school?

6 MR. HOLDEN: I object to that as calling for a conclu-  
7 sion of the witness.

8 THE COURT: Yes. What is his name?

9 THE WITNESS: Manuel Gonzales. He is in the Army now.

10 Q BY MR. MARCUS: He is in the Army now. He is not  
11 attending now?

12 A He is not attending now. He is in the Army now.

13 Q Well, I mean, at the present time do you know of any  
14 children of Mexican ancestry, although American citizens,  
15 who are now attending the Lincoln School?

16 A I know those that live on 17th Street, the Martinez.  
17 But I don't know if they are registered as Spanish or Mexicans.  
18 That is where the difference comes.

19 Q Have you ever been advised by any representative of  
20 the school that if you desired your child to attend that  
21 school, you would have to register as Spanish?

22 A Yes.

23 Q Who told you that?

24 A Mr. Kent.

25 Q When did he tell you that?

Zv29

1 A Mr. Kent, in my home in 1944.

2 Q Relate that conversation, please.

3 A Mr. Kent said, "On the other hand, if your children  
4 were registered as Spanish, they could attend the Lincoln  
5 School."

6 I said, "My children cannot be registered as Spanish,  
7 because their father is Mexican."

8 Q Was anything else said?

9 A No.

10 Q Did he make any reply to that?

11 A Well, he said that he could not do anything for me,  
12 as I said before, because that was his first year there as a  
13 representative in Garden Grove, and that was his bread and  
14 butter, like every other one of us.

15 MR. MARCUS: Now, I would like to ask the court's guidance  
16 on the matter now with reference to the conversation had with  
17 the prior superintendent of schools, Mr. Emley.

18 Well, I will try to lay a further foundation, if the  
19 court please.

20 Q BY MR. MARCUS: Do you know how long Mr. Kent has  
21 been the superintendent of the Garden Grove District?

22 A I do not know.

23 Q When did you first come in contact with him?

24 A In 1939.

25 Q With Mr. Kent?

Zv30

1           A       With Mr. Kent, in 1944.

2           MR. MARCUS: Counsel, can we stipulate to the time that  
3 he has been the superintendent of schools of the Garden  
4 Grove District?

5           MR. HOLDEN: Since September, 1944.

6           MR. MARCUS: And prior to that time, that Mr. Emley was  
7 the superintendent of schools?

8           MR. HOLDEN: That is a fact.

9           MR. MARCUS: And that Mr. Emley was the superintendent  
10 of schools at least from the year 1939 to the year 1944?

11          MR. HOLDEN: So stipulated.

12          MR. MARCUS: With that stipulation in the record, and  
13 we accept such stipulation, I would like at this time to in-  
14 quire of the witness with respect to the conversation, as to  
15 which an objection was sustained, in 1939.

16          MR. HOLDEN: I would object on the same ground.

17          THE COURT: The court would sustain the objection on the  
18 same ground.

19          Q       BY MR. MARCUS: Mrs. Ochoa, to your knowledge, how  
20 long has the practice of segregating the Mexican children in  
21 the Hoover School been going on in that particular district?

22          MR. HOLDEN: I will object to that on the ground that  
23 that is asking for the conclusion of the witness and assuming  
24 that there is segregation, and that is the issue which the  
25 court is going to have to determine.

Zv31 1 THE COURT: She has already testified as to certain  
2 activities which she states exist in this school district.  
3 I don't see how, gentlemen -- and I am speaking to all of  
4 you now, the amici curiae as well as counsel for the peti-  
5 tioner -- I don't see how there is any relevancy to the issue  
6 here as to either alleged or proven discriminatory practices  
7 in the school district, unless it is shown that the present  
8 authorities are continuing that discrimination.

9 Do you agree with that, gentlemen?

9 10 MR. WIRIN: We accept that as clearly a correct statement  
11 of the situation, your Honor.

12 THE COURT: Otherwise we would be exploring prematurely  
13 in this case claimed discriminatory activities which may not  
14 exist at this time, and I am not going to turn this case into  
15 any such proceeding.

16 MR. WIRIN: May I address your Honor in connection with  
17 that matter?

18 THE COURT: Yes.

19 MR. WIRIN: We accept the court's statement as correct,  
20 but we say this, however, that upon a showing of a presently  
21 existing practice of discrimination, evidence as to when the  
22 practice began may be material as showing more or less the  
23 complete picture as to the discrimination.

24 THE COURT: It will not be necessary to show that com-  
25 plete picture. If you show an existing discrimination, an



Zv32

1 infringement of constitutional rights as of the present time,  
2 you may rest your case, so far as this court is concerned.  
3 But you must show that by satisfactory evidence.

4 MR. MARCUS: Your Honor, we might refer the court at this  
5 time to the certificate that was filed by the Garden Grove  
6 School District.

7 THE COURT: I have the certificate.

8 MR. MARCUS: The certificate recites, your Honor, that at  
9 the Lincoln School there were a total number of 349 students,  
10 and that there were 349 English-speaking pupils.

11 THE COURT: As of date, June 13, 1945.

12 MR. MARCUS: That is correct. And that on that date at  
13 the Hoover School there were 292 students, that there were no  
14 English-speaking pupils, but there were 292 Spanish-speaking  
15 pupils.

16 I think on the basis of that admission, for the purpose  
17 of this record, and your Honor has the statement of counsel  
18 as to what he determined in making this certificate were  
19 Spanish-speaking pupils and who were English-speaking pupils,  
20 that that in itself indicates the segregation, and upon that  
21 basis this witness would be able to testify how long that  
22 practice has continued.

23 THE COURT: There does not seem to be any question about  
24 these documents showing segregation per se. There is no  
25 inhibition to segregation, provided it is not discriminatory

Zv33

1 within the meaning of constitutional rights. As stated to  
2 counsel at the pre-trial hearing, this court cannot attempt  
3 to set itself up to fix standards for the school authorities,  
4 so far as mental and other qualifications of pupils are con-  
5 cerned. We are not concerned with that so long as it is done  
6 upon a basis that is not an unreasonable infringement of con-  
7 stitutional rights.

8       There is no doubt but what there has been segregation.  
9 That seems to be conceded, that there was segregation in all  
10 districts except one, and I think counsel stated that there  
11 had been segregation in that one, but the authorities had  
12 concluded to depart from such a practice in that district in  
13 the future. There is segregation, of course. That isn't the  
14 case. The case is discrimination, and segregation, in and  
15 of itself, doesn't indicate discrimination. It may, if it  
16 is so extensive as to weed out of the picture everything  
17 except prejudice, or bias, or opinion. But the question here  
18 is whether or not the constitutional rights of the parties  
19 have been infringed by the public school authorities.

20       MR. MARCUS: It is with that thought in mind that I  
21 propose to show from this witness that in her conversations  
22 with the previous superintendent, who was superintendent prior  
23 to 1944, there was bias and prejudice in the segregation,  
24 and that is the purpose for which I am asking the question.

25       THE COURT: I have ruled on that twice now, and I am not

1 going to continue ruling on the same thing.

2 MR. MARCUS: Very well.

3 Q BY MR. MARCUS: Now, Mrs. Ochoa, are you acquainted  
4 with the manner of the promotion of students in the Hoover  
5 School?

6 A Yes.

7 Q Will you explain to the court how long these  
8 Mexican children are held in the first grade?

9 MR. HOLDEN: I object to that on the ground that this  
10 witness is not an expert witness on education, and would be  
11 unable to explain any of the reasons for promotion or lack of  
12 promotion.

13 THE COURT: The lady has not been qualified. She may be.  
14 I don't know. She has not been qualified up to this time.

15 MR. MARCUS: I am not asking her on the basis of an ex-  
16 pert. I am asking as to whether or not she knows as to how  
17 the pupils are promoted.

18 THE COURT: That would be a matter that would come, I  
19 think, definitely within the authority of the school functions.

20 MR. MARCUS: Your Honor, this is the thought I have in  
21 mind. I propose to show that in that particular school dis-  
22 trict they keep a child in the 1-A grade for a year, and in  
23 the 1-B grade for a year, and the 2-A for a year, and the 2-B  
24 for a year.

25 THE COURT: Suppose they do. If the school authorities

Zv35

1 think the child has not progressed, it is the duty of the  
2 school authorities to so indicate.

3 MR. MARCUS: That is just a preliminary question, and I  
4 will tie it up.

5 THE COURT: Let us get along. I will sustain the objec-  
6 tion.

7 MR. MARCUS: Very well.

8 Q BY MR. MARCUS: Your child is going to attend school  
9 in the coming year; is that correct?

10 A Yes.

11 Q Is it your desire at this time that this child attend  
12 the Lincoln School?

13 A Yes.

14 Q Do you know the manner of feeding the children in  
15 that particular district at the Hoover School?

16 A They start with Monday and they cook the bone for  
17 the soup, or the meat, and they start from Monday until Friday  
18 with the same meat, and they just add vegetables and water  
19 to the same meat, and they boil it every day.

20 Q Now, do you know what the practice is in the Lincoln  
21 School?

22 A Yes.

23 Q Is the food any different or any better at the  
24 Lincoln School?

25 A Yes. When my boy attended --

1 MR. HOLDEN: I object to this as a conclusion of the  
2 witness, whether it is any better.

3 THE COURT: Yes. She should be asked what it is, and  
4 what investigation, if any, she made.

5 Q BY MR. MARCUS: At the time you made the investiga-  
6 tion, what was the food?

7 THE COURT: Did she make any investigation? That is what  
8 we want to know.

9 Q BY MR. MARCUS: Did you make any investigation con-  
10 cerning the food at the Lincoln School?

11 A No.

12 MR. MARCUS: That is all. You may cross-examine.

13 CROSS EXAMINATION

14 BY MR. HOLDEN:

15 Q As to this conversation that you had with Mr. Kent,  
16 at that time did you have your child with you?

17 A Yes.

18 Q And did Mr. Kent interview the child?

19 A No.

20 Q He didn't say a word to the child?

21 A No.

22 Q Did he inform you that your child would accomplish  
23 better results if he attended a school where they taught, had  
24 special facilities for treating children who did not talk  
25 English?

Zv37

1 A No.

2 Q He never said anything to that effect at all?

3 A No.

4 Q No word was mentioned about the ability to speak  
5 English?

6 A No.

7 Q Did your son, Hector, attend the Lincoln School?

8 A Yes.

9 Q How long did he attend the Lincoln School?

10 A For one season.

11 MR. HOLDEN: That is all.

edir.

12 REDIRECT EXAMINATION

13 BY MR. MARCUS:

14 Q What season did he attend the Lincoln School?

15 A 1939, the school season from 1939, in the second  
16 grade.

17 Q In the second grade. Now, how did he happen to  
18 attend the second season there?

19 A Because they admitted him there.

20 Q Did you have a conversation at that time with anybody  
21 concerning his admission?

22 A My husband did.

23 Q Did you have any conversation?

24 A No.

25 Q You had no conversation at that time?

v38  
1 A No.

2 Q Did you have a conversation with anybody at the  
3 time that he left the Lincoln School?

4 A Yes.

5 Q How did he happen to leave the Lincoln School?

6 A Because they expelled him. They told me that I  
7 had to take him to the Hoover School because the Hoover School  
8 was for the Mexican children.

9 Q Who told you that?

10 A Mr. Emley.

11 Q And who is Mr. Emley?

12 A The principal of schools of the Garden Grove Dis-  
13 trict.

14 MR. MARCUS: That is all.

15 RECROSS EXAMINATION

16 BY MR. HOLDEN:

17 Q That conversation was back in 1939?

18 A 1944.

19 Q When you talked with Mr. Emley?

20 A With Mr. Emley in 1939.

21 Q In 1939. You never had any conversation with any  
22 school authorities from 1939 until --

23 A 1944.

24 MR. HOLDEN: 1944. That is all.

25 THE COURT: That is all.

Zv39

1 MR. MARCUS: Does your Honor take a recess in the  
2 morning?

3 THE COURT: Not generally, but if you think it is neces-  
4 sary, I will do so, of course. As a practice, I do not make  
5 a practice of taking a recess in the morning.

6 We will take a recess for about five minutes.

7 (A 50-minute recess was taken.)

8 THE COURT: That 5-minute recess dragged out to about  
9 50 minutes.

10 MR. MARCUS: Your Honor, I begged to be excused over in  
11 Judge O'Connor's court, but the court advised me that he had  
12 talked to you on the telephone, and he said that he did not  
13 think I would be in contempt for taking up the matter over  
14 there. I advised the court there of the trial here and the  
15 circumstances.

16 THE COURT: Well, we are not going to make a practice of  
17 taking morning recesses except when it is imperative. Proceed.

18 MR. MARCUS: I will call Mr. Palomino, one of the plain-  
19 tiffs herein.

it

20 FRANK PALOMINO,  
21 called as a witness by and on behalf of the plaintiffs, having  
22 been first duly sworn, was examined and testified as follows:

23 THE CLERK: State your name, please.

24 THE WITNESS: Frank Palomino.

25 THE CLERK: Will you spell that?



1 THE WITNESS: P-a-l-o-m-i-n-o.

2 THE COURT: Be seated.

3 DIRECT EXAMINATION

4 BY MR. MARCUS:

5 Q Where do you reside, Mr. Palomino?

6 A West Fifth and Jackson, Santa Ana.

7 Q In what school district do you reside?

8 A Garden Grove District.

9 Q How long have you lived in that district?

10 A Since 1941.

11 Q How many children do you have?

12 A Three.

13 Q Give me their names and ages, please.

14 A Arthur, the oldest one, is 11 years old.

15 Q What is the next one?

16 A And Sally is 8 years old.

17 Q Have you got another one?

18 A Frankie David is 4 years old.

19 THE COURT: Frankie does not go to school?

20 THE WITNESS: No.

21 THE COURT: Let's take only the school children.

22 Q BY MR. MARCUS: Arthur and Sally attend school, do  
23 they? Arthur and Sally?

24 A Yes, they both attend school.

25 Q What language do you speak at home?

Zv41

1 A English and Spanish.

2 Q How long have you lived in that district, did you  
3 say?

4 A Since 1941. That will be four years.

5 Q What school do your children attend at the present  
6 time?

7 A At the present time one of them is in St. Joseph's  
8 private school. Arthur is in Fremont, Santa Ana.

9 Q Now, did you at any time request of any official of  
10 the Garden Grove School District that your children, Arthur  
11 and Sally, be permitted to attend the Lincoln School?

12 MR. HOLDEN: We object on the ground that there is no  
13 foundation laid as to what official, or what time he is re-  
14 ferring to.

15 MR. MARCUS: I am going to lay the foundation.

16 THE COURT: That is just a preliminary question, and he  
17 can answer that yes or no.

18 THE WITNESS: Yes.

19 Q BY MR. MARCUS: With whom did you have the conversa-  
20 tion?

21 A The superintendent of that school.

22 Q When was that?

23 A In 1941, in November.

24 Q Where was that?

25 A At the school.

Zv42

1 Q And who was present at that conversation?

2 A Just myself and the superintendent.

3 Q Relate the conversation.

4 MR. HOLDEN: I object to that on the ground that it is  
5 too remote, in 1941, and that it does not state any of the  
6 defendants in this action.

7 THE COURT: Let us identify the individual, not by de-  
8 scription, but by personality, by name.

9 Q BY MR. MARCUS: What is his name, sir?

10 A Emley.

11 Q The superintendent of the school?

12 A The superintendent of the school.

13 THE COURT: Is Mr. Emley still in the school department,  
14 in the County Board of Education?

15 MR. HOLDEN: He is not, your Honor. Now he is teaching  
16 in Santa Ana, but he hasn't anything to do with the Garden  
17 Grove District.

18 THE COURT: He is still one of the school teachers or  
19 school officials of one of the districts?

20 MR. HOLDEN: I understand that he is employed as a teacher  
21 in the Santa Ana district but that he is not connected with  
22 the Garden Grove district.

23 THE COURT: I think I will hear the evidence, if that is  
24 the case. I assumed that he was no longer in the school de-  
25 partment of the school authorities, or of any of these school

Zv43

1 districts within the County of Orange, State of California.

2 MR. HOLDEN: He is not any official, strictly.

3 THE COURT: Well, I assume that a school teacher is a  
4 school official.

5 MR. HOLDEN: He is teaching, I understand, in the Santa  
6 Ana District, but he has not been associated with the Garden  
7 Grove District.

8 THE COURT: I think I will hear the evidence. He is  
9 still one of the public school officials in Orange County,  
10 California.

11 MR. HOLDEN: Well, if a teacher is, he is a teacher.

12 THE COURT: A teacher is, by all means.

13 MR. HOLDEN: But he is not with this district.

14 THE COURT: The teacher is perhaps the most potent instru-  
15 mentality in the instruction of youth. The others are more  
16 administrative functions. Overruled.

17 Now, read the last question, please.

18 (The record was read.)

19 Q BY MR. MARCUS: Will you relate the conversation  
20 that you had with Mr. Emley?

21 A I just asked him if my kids, my children, could be  
22 admitted at that school, and he said, "No."

23 Q What school do you have reference to?

24 A The Garden Grove School.

25 Q What is the name of the school?

1 A I could not tell you the name, because that was the  
2 first time I walked in that office, where he was.

3 Q Well, do you know the name of the school at the  
4 present time?

5 A No, I don't. That was the first and last time I  
6 ever been in there in my life.

7 Q What did he tell you at that time?

8 A He said my children was of Mexican descent and  
9 wasn't allowed there ~~until~~ they were in the sixth grade, that  
10 I had to send them to Hoover School. And I told him if I had  
11 to send them to Hoover School, where nothing but Mexican  
12 descent, I would send them to a private school, and what I did.

13 THE COURT: Read the answer, please, Miss Reporter.

14 (Answer read by the reporter.)

15 Q BY MR. MARCUS: Now, did you at that time advise Mr.  
16 Emley --

17 MR. MARCUS: Is that his name, counsel?

18 MR. HOLDEN: I don't know the name of the person he is  
19 referring to.

20 Q BY MR. MARCUS: What is his name?

21 A The superintendent?

22 Q Yes.

23 A Emley.

24 Q Did you at that time advise Mr. Emley where you  
25 lived?

Zv45

1 A Yes.

2 Q Tell us what you said with respect to that, and the  
3 distance that you had to travel.

4 A Well, where I live is West Fifth and Jackson, and  
5 from there you had to ride the bus.

6 Q How far is that from the Hoover School?

7 A From the Hoover School, it is, I will say, about  
8 three miles.

9 Q And how far is the Lincoln School from where you  
10 live?

11 A Oh, it is farther yet. It is about four miles.

12 Q And how far is the Bolsa School?

13 A Oh, I don't think it is as far as these others.  
14 It might be about four, I think.

15 Q And where did you want to send your child to school?

16 A Well, where the -- how would I say -- the Anglo-  
17 Saxon kids go to. I want them to go together, because my kids  
18 just speak English

19 THE COURT: What do the Anglo-Saxons speak?

20 THE WITNESS: Well, English, of course, but the other way  
21 they are segregating them, or discriminating, I will say.

22 That is why I even pay tuition for my kids, for their educa-  
23 tion.

24 Q BY MR. MARCUS: You know where the Hoover School is,  
25 don't you?

Zv46

1 A Yes, I do.

2 Q Now, what is the closest school to your home?

3 A Well, the Bolsa might be the closest, or it might  
4 be the same.

5 Q Well, did you request the superintendent of schools  
6 to permit you to send your child to this other school?

7 A Not to the Bolsa School.

8 Q Well, to which one?

9 A Well, to Garden Grove.

10 Q To the Garden Grove School?

11 A Yes.

12 THE COURT: We haven't identified any Garden Grove  
13 School now. We have in the pre-trial hearing identified four  
14 schools in the Garden Grove District, namely, Fitz, Lincoln,  
15 Bolsa, and Hoover.

16 Q BY MR. MARCUS: Where is this school that you call  
17 the Garden Grove School located, which you are referring to  
18 now?

19 A I guess you got me there.

20 Q Do you know where it is?

21 A It is somewhere in Garden Grove, yes.

22 Q Is that the one you refer to, which is known as the  
23 Lincoln School?

24 A Yes, where they all -- all the Anglo-Saxons go. That  
25 is what I meant.

1 Q Is that the Lincoln School?

2 A I couldn't say yes or no, but it is around the  
3 vicinity -- the closest to the Garden Grove town.

4 Q The town of Garden Grove?

5 A Yes.

6 MR. MARCUS: Will you stipulate with me, counsel, that  
7 that is called the Lincoln School?

8 MR. HOLDEN: The one closest to the Garden Grove town is  
9 the Lincoln School.

10 MR. MARCUS: Very well.

11 MR. HOLDEN: I gather that is the one he means. I don't  
12 know.

13 THE WITNESS: I have spent my whole life in there, in the  
14 vicinity, and I don't know that. That was the first time I  
15 have ever been in the superintendent's office.

16 Q BY MR. MARCUS: That is the one you refer to, the  
17 one closest to the city of Garden Grove?

18 A Yes, sir.

19 Q Very well. Did you have any further conversations --

20 A No, sir.

21 Q -- with any principal of any schools?

22 A Why, at first, before I went to Garden Grove, I went  
23 to the administration building, the County School Superintendent,  
24 I don't know his name, and I asked him which --

25 Q When was that?



Zv48

1 A The same year, 1941, in November. I just wanted  
2 to be sure where my district was, and he told me to go see  
3 Mr. Emley in Garden Grove, so I did.

4 Q And that is the result of your conversation?

5 A That is the result of my conversation.

6 Q Did you at any time put your children in the Hoover  
7 School?

8 A No.

9 Q Now you are sending them to a private school, at  
10 the present time?

11 A At the present time -- he was there about, I will  
12 say, two or three years, that Arthur was there. But now  
13 just the little girl is there in the private school, and my  
14 little boy, as I said before, is in the Fremont School.

15 Q Is it your desire at the present time to send your  
16 children to the Lincoln School?

17 A Yes, sir.

18 Q That is the school where the Anglo-Saxons go?

19 A Yes, sir. Being in this country, as I am, I want to  
20 live and I want to raise them as a good American, if they give  
21 us a chance.

22 Q Now, prior to the time that your children attended  
23 the school, what language did they speak?

24 A Just speak English.

25 Q Did they give your children any tests at all, before

1 they told you they would have to go to the Hoover School?

2 A No, sir.

3 Q Except the statement that the Mexican children had  
4 to go to the Hoover School?

5 A That's all.

6 MR. HOLDEN: I object to that as having been asked and  
7 answered.

8 THE COURT: Yes.

9 Q BY MR. MARCUS: Was there any test given with re-  
10 spect to any mental qualifications or linguistic qualifica-  
11 tions before they told you your children had to go to the  
12 Hoover School?

13 A No test at all.

14 MR. MARCUS: You may cross-examine.

15 CROSS EXAMINATION

16 BY MR. HOLDEN:

17 Q You live on Fifth and Jackson?

18 A West Fifth and Jackson.

19 Q And the closest school to that address is the Hoover  
20 School, is it not?

21 A Yes.

22 Q And Mr. Emley told you that is where your children  
23 should go to school?

24 A Where I should send my children to school.

25 Q Because that was the closest school to where you

v50  
1 lived?

2 A Yes.

3 Q Now, you say the Bolsa School is the next closest  
4 one to where you live?

5 A Well, about the closest one, I will say.

6 Q Which side of the river do you live on?

7 A The west side of the river.

8 Q How do you happen to be sending your child to the  
9 Santa Ana school?

10 A Well, the first one, he was going to the Catholic  
11 School in Santa Ana, and then they said he had to have special  
12 attention because he didn't hear very well. I have been tak-  
13 ing him to a doctor as often as the doctor says so, an ear  
14 specialist. The sisters at the Catholic School said he had  
15 to have special attention, that I had to send him to some  
16 school on East Fourth, and my wife was over at the superinten-  
17 dent's office and asked if she was permitted to send her boy  
18 over there, and he said that was out of the district, that  
19 she couldn't send her kid, her child, there, so I thought I  
20 would send him to Fremont while I buy me a place on East  
21 Fourth, or rent a place. That is how it happened.

22 Q You are sending him to the Fremont School in Santa  
23 Ana?

24 A Yes, sir.

25 Q And you are living in the Garden Grove School

Zv51

1 District?

2 A Yes, sir.

3 Q And no official of the Garden Grove School District  
4 told you to send him to the Fremont School?

5 A No official of the Garden Grove District.

6 Q And the Fremont School in Santa Ana is attended by  
7 Mexican children, is it not?

8 A Yes.

9 Q How long has he been going to school there?

10 A Just this season.

11 Q During the year 1944?

12 A Yes, sir.

13 Q And since you talked to this man, Emley, in November,  
14 1941 --

15 A Yes.

16 Q -- have you talked to anybody in the Garden Grove  
17 District about your children going to the school in Garden  
18 Grove?

19 A No.

20 Q That is all. Oh, just a moment. Your daughter,  
21 Sally, is going to St. Joseph's?

22 A Yes, she is.

23 Q Have you talked to anybody in the Garden Grove  
24 School about sending her to the Garden Grove School, - any  
25 official?

A No.

Zv52

Redi.

1 MR. HOLDEN: That is all.

2 REDIRECT EXAMINATION

3 BY MR. MARCUS:

4 Q Since you were refused to send her to school where  
5 the Anglo-Saxon children attended, --

6 A No.

7 Q -- you haven't asked anybody else since that time,  
8 have you?

9 A No.

10 MR. HOLDEN: I object to that. It is assuming something  
11 not in evidence, and it is argumentative and speculative.

12 THE COURT: That is right. He is your witness and you  
13 should not ask him a question of that kind on direct examina-  
14 tion.

15 How did you happen to choose the Fremont School to send  
16 your boy to?

17 THE WITNESS: Well, because he has got two little cousins  
18 there, two or three that goes there, and I thought it would  
19 be -- because they were going there, he would have some friends  
20 starting with him. That's why.

21 THE COURT: In other words, it was your choice to send  
22 the boy to that school?

23 THE WITNESS: Yes.

24 THE COURT: Proceed.

25 Q BY MR. MARCUS: Well, in the first instance, was it

Zv53

1 your choice to send the child to the Lincoln School? Is that  
2 correct?

3 A Yes.

4 MR. HOLDEN: I object to that on the ground that the  
5 witness has gone into that.

6 THE COURT: You have been over that pretty thoroughly.  
7 Sustained.

8 MR. MARCUS: That is all.

9 MR. HOLDEN: That is all.

10 THE COURT: We will take a recess now until --

11 MR. HOLDEN: I didn't get the hour, your Honor.

12 THE COURT: I haven't given the hour yet. -- until 2:00  
13 o'clock this afternoon. We will have to make better time from  
14 now on. Until 2:00 o'clock, gentlemen.

15 (Whereupon, at 12:05 o'clock p. m., a recess was taken  
16 until 2:00 o'clock p. m.)

17 - - -

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1 LOS ANGELES, CALIFORNIA, THURSDAY, JULY 5, 1945. 2:00 P. M.

2

- - -

3

THE COURT: Call the case.

4

THE CLERK: No. 4292-M, Mendez v. Westminster School

5

District.

6

MR. MARCUS: Ready.

7

MR. HOLDEN: Ready.

8

THE COURT: Proceed.

9

MR. MARCUS: Mrs. Sianez.

10

JANE SIANEZ,

11

called as a witness by and on behalf of the plaintiff, having

12

been first duly sworn, was examined and testified as follows:

13

THE CLERK: Be seated, please. State your name, please.

14

THE WITNESS: Jane Sianez, S-i-a-n-e-z.

15

DIRECT EXAMINATION

16

BY MR. MARCUS:

17

Q Mrs. Sianez, you are married?

18

A Yes.

19

Q You have how many children?

20

A Five.

21

Q Where do you reside?

22

A Bolsa.

23

Q In what school district?

24

A Bolsa.

25

Q Is that the Garden Grove School District?

Zv55

1 A Yes.

2 Q Give the names and ages of your children, please?

3 A John A. Sianez, 11; Mike Sianez, 8; Emily Sianez,  
4 7; Junior, 3.

5 THE COURT: Don't give those under school age, please.

6 Q BY MR. MARCUS: How long have you lived in the  
7 Garden Grove School District?

8 A A year and a half.

9 Q Before coming to the Garden Grove School District,  
10 where did you reside?

11 A Huntington Beach.

12 Q Did your child attend school there?

13 A Yes, sir.

14 Q In what grade was Johnnie?

15 A He started in kindergarten there.

16 Q In what grade was he?

17 A He was in the fourth grade when he left there.

18 Q He is attending school in the Garden Grove District  
19 now, isn't he?

20 A He goes to the Hoover School.

21 Q In what grade is he?

22 A He passed to the sixth grade.

23 Q He was in the Hoover School this last season?

24 A Yes.

25 Q And Mike, what school does he go to?



Zv56

1 A Hoover.

2 Q Now, what is your exact address?

3 A Eleventh and Wright, Bolsa.

4 MR. HOLDEN: May I have that answer, please?

5 (Answer read by the reporter.)

6 THE COURT: I want to understand that political subdi-  
7 vision. Is Bolsa a political subdivision in the town of  
8 Garden Grove?

9 MR. HOLDEN: No, your Honor.

10 THE COURT: It is a school district?

11 MR. HOLDEN: It is a village. I would say there are one  
12 or two business houses there, and Bolsa is one of the schools  
13 in the Garden Grove School District.

14 Q BY MR. MARCUS: How far do you live from the Bolsa  
15 School?

16 A A half a mile.

17 Q How far do you live from the Hoover School?

18 A Three miles.

19 Q When your children were attending the Huntington  
20 Beach School, were they attending there with other children?

21 A All together, yes.

22 Q Did your children, when you came to live in the Garden  
23 Grove School District, speak English?

24 A Yes.

25 Q And they spoke English before they attended school

Zv57

1 at all?

2 A Yes, they did.

3 Q Did you have a conversation with any school prin-  
4 cipal or superintendent of schools --

5 A Yes.

6 Q -- before they started to school?

7 A When I went to have them start school at Bolsa, I  
8 did.

9 Q And whom did you talk to?

10 A Mrs. Cuzner.

11 Q Who is Mrs. Cuzner?

12 A The principal of the Bolsa School.

13 Q When did that conversation take place?

14 A Last year, in February.

15 Q Who was present there at that time?

16 A Just her and I, and my children.

17 Q You had taken them to school, had you?

18 A Yes.

19 Q Were you going to enroll them at that time?

20 A Yes.

21 Q Relate the conversation, please.

22 A I told her I was taking my children there to start  
23 school. She said that she couldn't take them because they were  
24 Mexican ancestry, that they were American-Mexicans, and she  
25 said it was a rule of the Board of Education in Santa Ana to

Zv58

- 1 take them to the Hoover School. She wouldn't take them there.
- 2 Q Did you ask her the reason?
- 3 A Yes. She said because they were Mexicans.
- 4 Q Then what did you do?
- 5 A Well, I went home with them and kept them home for
- 6 about a week, and then they had to go to the other school.
- 7 Q What is the other school?
- 8 A Hoover.
- 9 Q Now, the Bolsa School, when you went there, did you
- 10 see any children of Mexican descent there?
- 11 A No, there is no Mexicans, but there is niggers.
- 12 Q Negroes?
- 13 A Negroes.
- 14 Q Any others?
- 15 A No.
- 16 Q Did you have any conversation with this principal
- 17 about that fact, that there were other children there?
- 18 A No, I didn't tell her anything.
- 19 Q I beg pardon?
- 20 A I didn't tell her anything about that.
- 21 Q Then you took your children to the Hoover School?
- 22 A Yes, sir.
- 23 Q And that is a distance of three miles?
- 24 A Three miles.
- 25 Q Did they give your children any test whatsoever when

1 you went to see this principal?

2 A No.

3 Q Did she give you any other reason besides the fact  
4 that it was because they were Mexicans?

5 A No. She said it was a rule of the Board of Educa-  
6 tion, that she couldn't take any Mexicans there.

7 Q Now, you have been to Hoover School?

8 A Oh, yes. I went to take them there.

9 Q Now, is it a fact that only children of Mexican  
10 descent attend that school?

11 A Yes.

12 MR. MARCUS: That is all.

13 CROSS EXAMINATION

14 BY MR. HOLDEN:

15 Q You had this conversation with Mrs. -- what was the  
16 name?

17 A Cuzner.

18 Q Did she tell you that you should be assigned by the  
19 superintendent of schools to the school that your children  
20 should go to?

21 A I don't understand what you say.

22 Q Didn't she say that the superintendent handled the  
23 assignment of pupils in the several schools there?

24 A No, she didn't tell me anything about that.

25 Q And that you would have to see him to see which

lv60

1 school your children had to attend?

2 A No, she didn't tell me that just right out.

3 Q You have never had any conversation with any one  
4 except what you have related?

5 A No.

6 Q You never went to see Mr. Kent?

7 A No.

8 Q And you never saw any members of the Board of  
9 Trustees?

10 A No.

11 Q You never appeared before any school board meeting?

12 A No.

13 Q Or, you never wrote any letter to the school board?

14 A I wrote a card to Santa Ana, to Mr. Smith.

15 Q I am talking about the Garden Grove School District.

16 A No, not at Garden Grove.

17 Q Mr. Smith is not connected with the Garden Grove  
18 School District, is he?

19 A I don't know.

20 Q But you never made any application to the school  
21 board?

22 A No.

23 Q Or, to Mr. Kent, --

24 A No.

25 Q -- the superintendent of schools?

Zv61

- 1 A No.
- 2 Q And you enrolled your children in the Hoover School?
- 3 A Yes.
- 4 MR. HOLDEN: That is all.
- 5 THE COURT: I want to ask one or two questions.
- 6 Q BY THE COURT: Mrs. Sianez, John is 11 years old, you
- 7 say?
- 8 A Yes.
- 9 Q And he is in the sixth grade now?
- 10 A Yes.
- 11 Q And Mike is 8 years old?
- 12 A Yes.
- 13 Q What grade is he in?
- 14 A He passed to the second grade.
- 15 Q Just this last term?
- 16 A Yes.
- 17 Q And Emily is 7?
- 18 A Yes.
- 19 Q Is Emily going to school?
- 20 A Yes.
- 21 Q What grade is she in?
- 22 A She passed to the second grade.
- 23 Q What language do you speak in your home?
- 24 A English and Spanish both.
- 25 Q Does your husband speak English?

1 A Yes, English.

2 Q And he is the father of these children?

3 A Yes, he is.

4 THE COURT: That is all.

5 Q BY MR. HOLDEN: Just one more question. John will  
6 go to the Fitz School this year?

7 A He will start going to the Fitz School. He is in  
8 the sixth grade.

9 Q You know that is where they receive the sixth grade  
10 pupils in that district?

11 A Yes.

12 Q And John attended the primary grades in the  
13 Huntington Beach district?

14 A Yes, he got a good start there.

15 Q He attended that school. Did he go through the first  
16 and second grade there?

17 A Kindergarten, first and second, up to the fourth  
18 grade.

19 Q And Mike attended the first and second grades, did  
20 he, in Huntington Beach?

21 A First grade, -- no, kindergarten.

22 Q He has only been going to the Hoover School for one  
23 year?

24 A One year.

25 Q And he attended one year in Huntington Beach?

1 A Yes.

2 Q How old was he when he was enrolled in Huntington  
3 Beach?

4 A Six years old.

5 MR. HOLDEN: That is all.

6 MR. MARCUS: That is all, Mrs. Sianez.

7 Juan Munoz.

8 JUAN MUNOZ,

9 called as a witness by and on behalf of the plaintiff, having  
10 been first duly sworn, was examined and testified as follows:

11 THE CLERK: Be seated, please. State your name, please.

12 THE WITNESS: Juan Munoz.

13 THE CLERK: How do you spell your last name?

14 THE WITNESS: M-u-n-o-z.

15 DIRECT EXAMINATION

16 BY MR. MARCUS:

17 Q Now, speak up loud, Mr. Munoz, so that we can all  
18 hear you. Where do you live?

19 A Garden Grove.

20 Q How long have you lived there?

21 A Approximately for the past 20 years.

22 Q Are you married?

23 A Yes.

24 Q How many children do you have?

25 A Four.



Zv64

1 Q Have you got any children attending school now? I  
2 don't mean this summer, but during the past semester?

3 A One.

4 Q Did you have any conversation with any superinten-  
5 dent of schools in the Garden Grove District respecting your  
6 children's attendance at school?

7 A Yes.

8 Q When?

9 A In 1941.

10 Q In what part of 1941? What month was it in in 1941?

11 A About in September.

12 Q Whom did you talk to?

13 A Mr. Emley.

14 Q Is that the superintendent, or who was the super-  
15 intendent at that time prior --

16 A That's right.

17 Q -- to Mr. James L. Kent being superintendent? Was  
18 that before?

19 A That was before Mr. Kent was superintendent.

20 Q All right. Where did that conversation take place?

21 A It was Washington School. It is Fitz School now.

22 Q Fitz School now. Relate the conversation, please.

23 MR. HOLDEN: To which we object on the ground it is too  
24 remote, that Mr. Emley is not connected with the Garden Grove  
25 School District, that he is not one of the defendants in this

Zv65

1 action, that the school officials are named in this complaint,  
2 and Mr. Kent is now the superintendent of schools; that it  
3 is too remote and cannot have any possible bearing upon the  
4 issues in this case.

5 THE COURT: We will hear it. Overruled. I think that  
6 is correct, but I will hear the evidence.

7 THE WITNESS: I went to Mr. Emley's office, and the first  
8 thing I told him if my children couldn't attend to the Fitz  
9 School. I says that the Japanese boys and the Filipino boys  
10 attended to that school, and why was there a segregation to  
11 my children.

12 And he said the Mexicans were too dirty to go to that  
13 school. He said they had to go to the Hoover School.

14 Naturally, well, I had an answer to him. I said, "Mr.  
15 Emley, do you judge everybody alike?"

16 He says, "For one Mexican the whole town has to take it."

17 I says, "But that is not right." I says, "I am fighting  
18 for my children's rights." I says, "If my children come  
19 dirty to school, that is all right."

20 He says, "But do you object to water?"

21 I says, "No, how can I object to water."

22 "Because," he said, "we had to take the children, the  
23 Mexican pupils, and bathe them, while the others," he says,  
24 the Japanese and Filipino race was classified higher, a higher  
25 race than the Mexican race. He says they was more loyal to

Zv66

1 this country than the Mexican race. He says, "They are better  
2 qualified citizens than you Mexicans."

3 I says, "Mr. Emley," I says, "maybe you are wrong."

4 He says, "No," he says, "I know what I am talking about."

5 He says, "The minute the children goes out to the playground,  
6 they begin to speak Spanish." He says, "Why?"

7 I says, "For the simple reason, in the first place, you  
8 have discrimination for the Mexican people in segregation,  
9 which is one cause to make them believe that their language  
10 is Spanish." And I says, "But, Mr. Emley, I have taught my  
11 girls already to speak English in the playgrounds while they  
12 are in school." I says, "Naturally, I am trying to do all I  
13 can."

14 Then he says, "Well," he says, "the Mexican people come  
15 too dirty to school, and they must always have an inspection  
16 when we got them, and they must have inspection for tuberculosis  
17 in the nurse's room."

18 "But," I says, "Mr. Emley, that is embarrassing Mexican  
19 peoples very much."

20 Then I told him, "For instance, when you go in front of a  
21 class, what do you do?" I says, "Don't you go out there,  
22 according to the report of my girl, my oldest girl, and go in  
23 front of all of the school, and you say, 'All Mexican pupils  
24 report to the nurse's room.' You don't say so-and-so and  
25 so-and-so. You just say, 'All Mexican pupils,' and right

Zv67

1 away there is segregation, right there."

2 MR. HOLDEN: If the court please, I am wondering, did Mr.  
3 Emley say that or did you say that?

4 THE WITNESS: He said. I said that he asked, or I said,  
5 I asked, "How do you call the pupils when you address them  
6 in front of the class?" He had to admit that he called them,  
7 "All Mexicans report to the nurse's room for inspection of  
8 tuberculosis."

9 I says, "Couldn't you make it a little change?" And I  
10 says, "So that don't embarrass us so much? The Japanese people  
11 come here, and they laugh at us, and the other pupils go by  
12 and they stare at them." I says, "My gosh, not all Mexicans  
13 are dirty."

14 Of course, then he told me that they speak Spanish.  
15 Well, should I say it?

16 THE COURT: No, don't say any more. Wait for a question.  
17 You ask him questions now. Ask him any further questions you  
18 want to.

19 Q BY MR. MARCUS: All right. Now, which one of your  
20 children was attending the school?

21 A Elena.

22 Q Did you ever request any of the officials of the  
23 district to permit your child to go to the other school?

24 A Yes, sir.

25 Q Whom did you ask that?

Av68

1 A Mr. Emley.

2 Q When did you ask him?

3 A In 1939.

4 Q And where did that conversation take place?

5 A At his house.

6 Q Relate that conversation.

7 MR. HOLDEN: To which we object upon the ground it is  
8 incompetent, irrelevant and immaterial, too remote, and does  
9 not throw any light upon any of the issues in this case.

10 THE COURT: I think that is true. The objection is over-  
11 ruled. Proceed.

12 MR. MARCUS: Did your Honor state the objection is over-  
13 ruled?

14 THE COURT: Yes. I am going to hear the evidence.

15 Q BY MR. MARCUS: Relate the conversation?

16 A I went in good words, and I told him, "Mr. Emley,"  
17 I says, "Mr. Emley, I am five blocks away from the school."

18 Q What school?

19 A Lincoln. "I am five blocks away," I says, "can my  
20 children attend to that school?"

21 He says, "No, they have to go to Hoover School."

22 Well, I says, "Why?"

23 "Well," he said, --

24 Q Give his answer, please.

25 A "Mexicans are too dirty to go to the school." He

Zv69

1 says, "They got to go to the Hoover School, which all the  
2 Mexicans is supposed to go there."

3 Q All right. You took your child to the Hoover School,  
4 did you?

5 A That's right.

6 Q And is she still attending that school?

7 A No. She promoted to the sixth.

8 Q I see. Well, she has been attending there until  
9 this last semester; is that correct?

10 A That's right.

11 Q Did your other children attend the Hoover School?

12 A Yes.

13 Q How close are you to the Lincoln School?

14 A About five blocks.

15 Q How far are you from the Hoover School?

16 A About a mile and a quarter.

17 Q Did they give your children any test of any kind  
18 with respect to linguistic qualifications --

19 A No.

20 Q -- before they permitted them to enter any school?

21 A No.

22 MR. MARCUS: You may cross-examine.

23 CROSS EXAMINATION

24 BY MR. HOLDEN:

25 Q Do you have only one child now of school age?

Zv70

1 A Yes.

2 Q And she is going into the sixth grade?

3 A That's right.

4 Q Naturally, she will attend at the Fitz School?

5 A Yes.

6 Q And the Mexican pupils and others are mixed in that  
7 school?

8 A Yes.

9 Q That is what you want, isn't it?

10 A Yes.

11 Q Then that is what is going to happen, isn't it, so  
12 far as your family is concerned?

13 A She promoted from the sixth, yes.

14 Q From the fifth, isn't it?

15 A She promoted to the sixth, and went there to the  
16 Garden Grove School.

17 Q But at the present time you haven't any child that  
18 is eligible to go to the Hoover School or to the Lincoln  
19 School, have you?

20 THE COURT: You say "eligible"?

21 MR. HOLDEN: Eligible.

22 THE COURT: Do you know what that means?

23 THE WITNESS: Yes; yes, of course.

24 Q BY MR. HOLDEN: Do you have a child now that is below  
25 the sixth grade?

Zv71

1 Q No.

2 Q And your child will go to the Fitz School next fall?

3 A Yes.

4 Q Now, since 1941 have you asked the superintendent of  
5 schools, requested the superintendent of schools in Garden  
6 Grove to transfer your child, or any of them?

7 A No.

8 Q You have never talked to Mr. Kent about it at all?

9 A No.

10 MR. HOLDEN: That is all.

11 MR. MARCUS: Just one more question.

edir

12 REDIRECT EXAMINATION

13 BY MR. MARCUS:

14 Q Are you acquainted with the children that are attend-  
15 ing this Hoover School?

16 A Yes.

17 Q They reside in your district, do they?

18 A Yes.

19 Q And you say you have lived there 20 years?

20 A Yes, sir.

21 Q Can you tell us whether or not the children of  
22 Mexican descent who reside in that school district spoke the  
23 English or Spanish language prior to their attendance at this  
24 Hoover School?

25 A They spoke English.



Zv72

1 MR. MARCUS: That is all.

2 RECROSS EXAMINATION

3 BY MR. HOLDEN:

4 Q You know all the children that attend the Hoover  
5 School?

6 A In my district, yes. But that is in my neighbor-  
7 hood, which is small.

8 Q How many Mexican people live in your district?

9 A I would say about 50.

10 Q And you would say that is about five blocks from  
11 the Lincoln School?

12 A Yes.

13 Q And you visit with all these people?

14 A They are neighbors.

15 Q With the 50 of them?

16 A Yes.

17 Q Do you talk Spanish with them?

18 A Yes.

19 Q Do you talk Spanish among yourselves there?

20 A At my home?

21 Q Yes.

22 A Yes.

23 Q And among your neighbors?

24 A Some of the times, and some of the people, they

25 don't understand English, so I have to speak Spanish.

Zv73

1 Q How many of them don't understand English?

2 A Well, my neighbor, one of my neighbors there, I  
3 have to speak Spanish to him.

4 Q And he has children, doesn't he?

5 A He adopted one. He has adopted a daughter.

6 Q Then he has a child?

7 A That's right.

8 Q And he speaks Spanish?

9 A I have to speak Spanish to him.

10 Q How about the child?

11 A The child, she speaks English.

12 Q Does she speak Spanish, too?

13 A Yes.

14 Q You say that they can talk English, or that they all  
15 speak English among themselves more than they speak Spanish?

16 A When they are going to school, they speak English.

17 Q At school?

18 A That's right.

19 Q I am talking about at home.

20 A At my home I speak Spanish. My wife doesn't under-  
21 stand very good English.

22 Q Now, you don't have credentials to teach school, I  
23 take it?

24 A No.

25 Q And you haven't made any study of the education of

1 children?

2 A No.

3 MR. HOLDEN: That is all.

4 BY THE COURT: Q What is your business, Mr. Munoz?

5 A I am a picking foreman in the Garden Grove Citrus  
6 Association, orange industry.

7 Q Now, your little girl is now in the sixth grade, or  
8 she will be when the fall season starts?

9 A Yes. Well, she will be in the seventh, the eighth.

10 Q Which one is that?

11 A The youngest.

12 Q Which grade will she be in?

13 A The eighth.

14 Q Where has she been going to school this past year?

15 A In the Garden Grove, right in town.

16 Q What is the name of the school?

17 A The Fitz.

18 Q That is the same one that had another name,  
19 Washington, - was that it previously?

20 A Yes.

21 MR. MARCUS: I think it was the Washington.

22 THE COURT: It had another name?

23 MR. HOLDEN: The name has been referred to in the evi-  
24 dence as Washington, but the sign says, "Garden Grove Ele-  
25 mentary School," and we call it the Fitz School.

1 Q BY THE COURT: That little girl has been going to  
2 the Fitz School for two years, has she, in the sixth and  
3 seventh grades?

4 A Yes.

5 Q How old is she now?

6 A She will be -- she was born in 1931 -- 14.

7 Q She will be entering the eighth grade in the fall  
8 term?

9 A That's right.

10 Q Did she ever go to the Hoover School?

11 A Yes.

12 Q When did she go there?

13 A Up to the fifth grade.

14 Q Up to the fifth or the sixth grade? She finished  
15 the fifth grade there?

16 A That's right, and she was transferred to the school  
17 where I live pretty close.

18 Q It was while she was in the Hoover School, was it,  
19 that you had this talk with --

20 A Mr. Emley, yes.

21 Q What was the reason for having that talk with him at  
22 that time?

23 A The reason why was that I really wanted to know why  
24 my children couldn't go where they could walk, pretty close,  
25 to the school. Instead they had to ride the bus. I went over

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1 and asked him the question, if my children could attend to  
2 the Garden Grove School, and he says, "No."

3 I says, "Can you give me a reason?" And he says, "Yes."

4 Q Well, you have repeated that and there is no use  
5 in going over that again. I just wanted to know why you  
6 went over there. How many children did you have then in the  
7 school at Garden Grove?

8 A Three.

9 Q Two of them have finished since then or left school  
10 since then?

11 A Yes.

12 Q Did they finish, or did they leave?

13 A One got finished in the grammar, and the other went  
14 two years to high school.

15 Q How old was the child when she finished? Was it a  
16 little girl?

17 A Yes. I have three girls and a boy. The little boy  
18 is just three years.

19 Q Then it was a girl who finished?

20 A Yes.

21 Q How old was she when she finished the eighth grade  
22 in the public school system?

23 A Sixteen.

24 Q And the other was a boy or a girl, the one who went  
25 to high school?

1 A A girl.

2 Q How old was she when she entered the high school?  
3 By that I mean the ninth grade. That is what I am calling  
4 the high school.

5 A She was around seventeen.

6 Q Did the children make their grades every year, or  
7 were there years in which they did not make the grade which  
8 they should have providing they were competent students?

9 A My oldest went right through.

10 Q How about this boy that was in the Hoover School?

11 A It was a little girl.

12 Q A little girl. How about her? Did she make her  
13 grades right along?

14 A Yes, because she is going to the eighth next year,  
15 and she is only fourteen.

16 Q So that, as far as knowledge of the language is  
17 concerned, and I mean the English language, she had no diffi-  
18 culty in making her grades regularly in the school, did she?

19 A Two of them, no.

20 Q What do you mean by that?

21 A Well, maybe they studied harder than one of them.

22 Q Which one was it that had some difficulty with the  
23 language in school?

24 A The middle one.

25 Q That was the one that finished the grammar school

1 but didn't continue on in the high school?

2 A That's right.

3 Q Have you related everything that Mr. Emley -- I  
4 believe that was his name -- said to you at that time?

5 A No.

6 Q -- about the children going to school? I don't mean  
7 anything disrespectful to the children, but I mean as far as  
8 reasons why they had to go to the Hoover School? Have you  
9 told everything that he said was a reason?

10 A Well, yes.

11 THE COURT: That is all.

12 MR. MARCUS: That is all.

13 MR. HOLDEN: That is all.

14 MR. MARCUS: We will call Mr. Kent, James L. Kent, as an  
15 adverse witness, your Honor.

16 JAMES L. KENT,

17 called as an adverse witness under Section 43-B of the Rules  
18 of Civil Procedure, having been first duly sworn, testified  
19 as follows:

20 THE CLERK: State your name, please.

21 THE WITNESS: James L. Kent.

22 DIRECT EXAMINATION

23 BY MR. MARCUS:

24 Q Mr. Kent, what is your business or occupation?

25 A Superintendent of schools, Garden Grove.

1 Q How long have you been such superintendent?

2 A Since September 1, last year, '44.

3 Q 1944?

4 A Yes, sir.

5 Q Who was the superintendent of schools immediately  
6 prior?

7 A Harvey Emley.

8 Q You have four schools under your jurisdiction, do  
9 you?

10 A Yes, sir.

11 Q The Fitz School, Lincoln School, Bolsa School, and  
12 Hoover School?

13 A Right.

14 Q By whom are you employed?

15 A By the trustees of the Garden Grove District.

16 Q Is that the Board of Education?

17 A That is the Board of Trustees, yes, sir.

18 Q The Board of Trustees. And who are they?

19 A Robert B. Smith, Mr. William Noble, and Mr. Paul  
20 Applebury.

21 Q You have made some study and research of the ques-  
22 tion of segregation, haven't you?

23 A Yes, sir.

24 Q In that research you prepared a thesis on that sub-  
25 ject, didn't you?



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1 A Yes, sir.

2 Q Who prescribed the rules and regulations for the  
3 school attendance in your district?

4 A The Board of Trustees.

5 Q And who prescribes what children shall attend the  
6 different schools?

7 A The Board of Trustees tells me to take charge of  
8 that part.

9 Q Is the discretion left with you, Mr. Kent, as to  
10 where the children shall attend?

11 A After the Board has adopted a policy, I interpret  
12 that, yes.

13 Q And has the Board of Trustees of the Garden Grove  
14 District adopted a policy with reference to the attendance of  
15 these children at school in that district?

16 A Yes, sir.

17 Q Now, is it a fact, sir, that that policy is that  
18 children of Mexican parentage shall attend the Hoover School, --

19 A No, sir.

20 Q -- between the first and sixth grades?

21 A No.

22 Q That is not the policy?

23 A No, sir.

24 Q Well, are you practicing that in your district,  
25 that is, the Hoover School District?

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1 A Practicing what?

2 Q Sending children of Mexican descent to the Hoover  
3 School District?

4 A No, sir.

5 Q You are not doing that?

6 A We are doing that. That is not the practice we are  
7 following.

8 MR. MARCUS: I didn't get that answer. Will you read  
9 the answer, please?

10 (Answer read by the reporter.)

11 Q BY MR. MARCUS: What do you mean by that, sir?

12 A Repeat your question, and maybe I can explain it.

13 Q You say you are doing that, but that is not the  
14 practice that you follow. What does that mean?

15 A Our policy is not as you stated, to send the Mexicans  
16 to the Hoover School. However, the policy does read that for  
17 non-English-speaking students and students who need help, we  
18 have set up the Hoover School for the Spanish-speaking stu-  
19 dents. That is what we are following.

20 Q That is what you are following?

21 A Yes, sir.

22 Q What do you mean by "Spanish-speaking students"?

23 A Those children who come to school with a language  
24 handicap. Not necessarily that they speak Spanish all the  
25 time, but that they have a bilingual handicap.

Zv82

1 Q That applies just to the Mexican children, doesn't  
2 it?

3 A So far, yes.

4 Q It doesn't apply to the Japanese children?

5 THE COURT: I don't know if there are any. Are there?

6 THE WITNESS: We have one.

7 Q BY MR. MARCUS: And does that apply to the Fili-  
8 pinos?

9 A No.

10 Q Only to the Mexican children?

11 A Only to the Spanish-speaking children.

12 Q The Spanish-speaking children. Between the first  
13 and sixth grades, only children of Mexican descent attend the  
14 Hoover School, don't they?

15 A Yes.

16 Q What children attend the Bolsa School?

17 A What children?

18 Q Yes.

19 A You mean with reference to their parentage?

20 Q That is right.

21 A Well, there would be Portuguese, there would be  
22 Negroes, --

23 Q All children other than children of Mexican an-  
24 cestry; is that correct?

25 A Yes.

1 Q Then with respect to the Bolsa School and the  
2 Hoover School, there is absolute segregation in that Hoover  
3 School, isn't there?

4 A Yes.

5 Q From whom did you receive the instructions to ab-  
6 solutely segregate the Mexican children in the Hoover School?

7 A No one. I have no instructions --

8 Q Didn't you receive that from the Board of Educa-  
9 tion?

10 A No, sir.

11 Q You are doing that of your own volition?

12 A No, sir, I am not doing that. Our policy is if it  
13 would be for the benefit of those children to have them en-  
14 roll in the Hoover School, we have them enroll there.

15 Q Do you give the children any linguistic test before  
16 you send them over there, or do you just select them because  
17 they are of Mexican descent?

18 A We give them a test by orally talking to them.

19 Q By orally talking to them?

20 A Yes.

21 Q And who gives that test?

22 A Either the principal or myself.

23 Q The principal of the school is who?

24 A Mrs. Thompson, retired this year.

25 Q Now, is it not a fact, then, that all children of

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1 Mexican descent have linguistic difficulties when they begin  
2 to attend the Hoover School?

3 A No.

4 Q They do not?

5 A They have linguistic difficulties.

6 Q Amongst the 292 pupils that started at Hoover  
7 School, or attended Hoover School last semester, is it a fact  
8 that all of them had linguistic difficulty, or language dif-  
9 ficulty?

10 A No. Some of them lived right next to the Hoover  
11 School.

12 Q Well, is it a fact that they did have language  
13 difficulty -- yes or no?

14 A No.

15 Q But you still keep them in the Hoover School; is  
16 that correct?

17 A Yes.

18 Q Is that because of their Mexican ancestry?

19 A Not necessarily.

20 Q Well, what is the other reason?

21 A Because of their location with respect to the Hoover  
22 School.

23 Q What other reason is there besides the location?

24 A That it would be silly to transport them to any other  
25 school.

Zv85

1 Q Because of the nearness of the Hoover School and  
2 because of the Mexican ancestry, -- are those the two reasons  
3 that you give?

4 A No, I would say --

5 Q What other reasons?

6 A The social behavior. We check into that.

7 Q Let us take -- the social behavior, you say?

8 A That's right.

9 Q What do you mean by that, sir?

10 A We mean that Mexican children have to be Americanized  
11 much more highly than our so-called American children.

12 Q What do you mean by that?

13 A They must be taught manners. They must be taught  
14 cleanliness, and they must be taught manners, which ordinarily  
15 do not come out of the home.

16 Q Which ordinarily do not come out of the home?

17 A No, sir.

18 Q Well, is that a policy you adopt with respect to  
19 Mexican children?

20 A Yes.

21 Q Is that correct, sir?

22 A Yes.

23 Q Have you adopted that with respect to any other  
24 persons of any other descent?

25 A Yes.

1 Q Which others? Who?

2 A Why, any of our classes.

3 Q For instance?

4 A We had a special class for white children in the  
5 Lincoln School this year.

6 Q That is a special class at the Lincoln School?

7 A Yes.

8 Q Within the Lincoln School, attended only by persons  
9 of the Anglo-Saxon race, or English-speaking; is that correct,  
10 sir?

11 A Yes.

12 Q But there is no segregation there in that school, is  
13 there, with respect to pupils of Anglo-Saxon descent, is there?

14 A No.

15 Q And there are no Mexicans at all attending that  
16 school, or persons of Mexican descent, are there?

17 A The Lincoln School?

18 Q At the Lincoln School.

19 A Yes.

20 Q Now, what was the other qualification that you said  
21 besides the cleanliness and Americanization?

22 A Social habits.

23 Q For instance, what?

24 A Well, the cleanliness of mind, mannerisms, dress,  
25 ability to get along with other people.

zv87

1 Q And you find that Mexican children that attend  
2 school between the first and sixth grades require all that?

3 A Yes.

4 Q That is, without any special tests or examinations,  
5 that applies to the entire Mexican children of Mexican descent;  
6 is that correct?

7 A Oh, no. We give tests.

8 Q But you are giving these special classes or courses  
9 in this Hoover School, are you?

10 A All schools.

11 Q All schools?

12 A Yes, sir.

13 Q But why are you segregating, then, the Mexican  
14 children, if you are giving them to all of them?

15 A Because we feel we can do a better job with our  
16 Mexican children where we have trained teachers to care for  
17 them.

18 Q For what other reasons are you segregating them?

19 A That is our main reason.

20 Q Now, this Americanization program, that is simply a  
21 class that you give in Americanization, isn't it? That is no  
22 special program?

23 A Oh, yes.

24 Q For the Mexican children alone?

25 A Yes, sir.



1 Q Is that for the Mexican children alone?

2 A Yes, sir.

3 Q It isn't given to any other group?

4 A To any other group?

5 Q To any other group in any other school?

6 A It isn't needed in other schools.

7 Q Is it given?

8 A No.

9 Q And it only applies to children of Mexican descent.

10 A That's right.

11 Q And for that reason you have segregated them; is  
12 that correct?

13 A Yes.

14 Q And on account of cleanliness you have segregated  
15 them?

16 A That's right.

17 Q What kind of a test do you give them with respect  
18 to Americanization, when a child four or five years of age  
19 begins attendance at the Hoover School?

20 A We have a talk with the parent and with the child,  
21 too, to see what their attitudes are, whether they can speak  
22 the English language, and whether they are adapted to going to  
23 school.

24 Q Is that done with respect to every parent that  
25 brings a child to the Hoover School?

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1 A No, some parents don't come to school with their  
2 children.

3 Q Is it given to every child?

4 A The new children, we check on them for the purpose  
5 of knowing what they will do, before they come in.

6 Q If a child speaks English, and is clean, and lives  
7 near the other school besides the Hoover School, does that  
8 make any difference?

9 A It would make a difference, then.

10 Q Would you expect him to go to the Lincoln School?

11 A All things being equal, we would.

12 Q Do you permit them, then, to go to the Hoover  
13 School?

14 THE COURT: The Hoover School?

15 MR. MARCUS: I mean the Lincoln School.

16 THE WITNESS: If they meet all qualifications, yes.

17 Q BY MR. MARCUS: Do you have now at least one Mexican  
18 child attending the Lincoln School?

19 A No, sir.

20 Q That is correct? You don't have any Mexican child?

21 A That's right.

22 Q So, among all of the 292 children at the Hoover  
23 School, there wasn't one child there that you found, after  
24 giving these supposed tests, or that you say was able to  
25 qualify to go to the Lincoln School; is that correct?

1 A Oh, yes.

2 Q Is that correct?

3 A No, that is wrong.

4 Q What is wrong about it?

5 A Because we have many children qualified, but they

6 are not within the district of this other school up there.

7 They live around the Hoover School, all around Fifth and

8 Jackson, and around in that neighborhood, many of them.

9 Q And that is one of the reasons?

10 A Transportation difficulty is one of them.

11 Q Do you know Mrs. Sianez who testified here?

12 A No, I don't.

13 Q You don't know her?

14 A No, sir.

15 Q Do you know Mr. Munoz, who testified here?

16 A No, sir.

17 Q Do you know Mrs. Ochoa, who testified here?

18 A Yes, sir.

19 Q Did you talk to her?

20 A Yes, sir.

21 Q Do you remember the conversations?

22 A Not as she gave them. I remember talking to her.

23 Q Did you tell her she would have to send her children

24 to the Hoover School, --

25 A No, sir.

Zv91

1 Q -- that it was the policy of your Board to send  
2 children of Mexican descent to the Hoover School?

3 A I told her on the record we have on Hector, it would  
4 be advisable to put them in the Hoover School, until they  
5 got further along, and at a later date we would try to put  
6 them in the other schools.

7 Q Now, this is your thesis, sir, is it not?

8 A I don't know.

9 Q Or, is this a copy of the thesis which you wrote  
10 (handing document to witness)?

11 A Well, I don't know whether it is or not.

12 Q Well, look at it, sir, please.

13 A I would have to read the whole thing, I suppose, to  
14 be sure.

15 Q You don't have to read it. Just look at the first  
16 couple of pages.

17 A I suppose it is. It is similar to my thesis.

18 Q Is there any doubt, after reading the first page or  
19 glancing through this, that this is your thesis?

20 A There would be some doubt, yes. Do you want me to  
21 read the whole thing?

22 Q If necessary, yes.

23 A I have the pages. Shall I compare it?

24 MR. HOLDEN: I think we can economize on our time here.

25 If there is any doubt about it, let us check this over during

v92  
1 the adjournment, and if there are any errors, which I doubt, --

2 MR. MARCUS: Well, this is a photostatic copy.

3 THE COURT: It appears to be a photostat of something.

4 Whether it is a photostat of the original, I don't know.

5 MR. HOLDEN: Before he definitely says yes or no, he  
6 might compare it, but let's not take up the time now.

7 THE WITNESS: I would say it was similar.

8 THE COURT: Let us take the original there, if you want to  
9 examine him on it.

10 MR. HOLDEN: And then we can compare the copy, and if it  
11 is a copy, then we can ask to have the copy substituted.

12 THE COURT: That is right. Then you may substitute it  
13 and he may withdraw the original.

14 MR. MARCUS: Very well.

15 Q BY MR. MARCUS: Is this your thesis, Mr. Kent?

16 (Handing document to witness.)

17 A Yes, sir.

18 Q Are the opinions expressed in your thesis your own  
19 opinions?

20 A The summarizations are, yes.

21 Q But wherever the opinions are given, --

22 MR. HOLDEN: I object, your Honor, that it is immaterial  
23 what Mr. Kent's opinions are. That doesn't tend to prove or  
24 disprove any of the issues in this case.

25 THE COURT: Excepting to throw some light on his state

1 of mind. In other words, if a man writes something on an  
2 anthropological or ethnological problem, and he is charged  
3 with discriminating against certain people in a case, it is  
4 illuminating to see what he has written. It throws some light  
5 on what his state of mind was. Overruled.

6 Q BY MR. MARCUS: Wherever the opinions are given  
7 with respect to segregation of Mexican children in your thesis,  
8 are those your own opinions, sir?

9 A Not all, no. They are a compilation of facts and  
10 figures gathered for thesis purposes. They don't necessarily  
11 hold true today.

12 Q I am simply asking you if these are your opinions  
13 contained in this book?

14 A Yes.

15 MR. MARCUS: May we at this time substitute the copy, your  
16 Honor?

17 THE COURT: After you have compared them and if you find  
18 they are facsimiles, why, you can introduce the photostat.

19 MR. HOLDEN: Let's keep this for comparison. You want  
20 this in evidence, and let us check it. This is introduced in  
21 evidence?

22 THE COURT: There is no use in keeping an individual's  
23 original thesis. However, if the photostat is not a photostat,  
24 then the original must be retained in evidence. If the photo-  
25 state is a facsimile of the original, and you can ascertain it

Zv94 1 by a comparison, then the photostat may be received in evidence  
2 and the original returned to the witness.

3 MR. MARCUS: I think that is all at this time, your  
4 Honor. Just a moment.

5 Your Honor, may I, with the court's permission, ask a  
6 few more questions?

7 THE COURT: Yes.

8 Q BY MR. MARCUS: Mr. Kent, between the first and  
9 sixth grades do you at any time give the children any tests  
10 to determine whether or not they, to your mind, meet the  
11 requirements so that they could go to the other school, the  
12 Lincoln School?

13 A Yes, sir.

14 Q How often do you do that?

15 A Once a year.

16 Q Have you at any time during the past year sent any  
17 of the children of any grade from the Hoover School to the  
18 other school?

19 A No, sir.

20 Q Now, Mr. Kent, isn't it a fact that there is abso-  
21 lute and complete segregation -- look at me, please --

22 THE COURT: Now, don't instruct the witness. I don't  
23 permit that at all.

24 MR. MARCUS: Well, I understood that there was some --

25 THE COURT: Don't instruct any witnesses. I don't want

Zv95

1 either of you to do that.

2 Q BY MR. MARCUS: Isn't it a fact, Mr. Kent, that  
3 there is complete and absolute segregation between the children  
4 of Mexican descent from the first to the sixth grades at the  
5 Hoover School?

6 A Yes, sir.

7 Q And that regardless of any linguistic qualifications?

8 A Regardless of?

9 Q Regardless of that?

10 A Oh, no.

11 Q To your mind, then, there are no children between  
12 the first and sixth grades that are eligible to or able to  
13 speak the English language sufficiently to enable them to  
14 attend the other school?

15 A Yes, there are.

16 Q But they do not attend?

17 A No.

18 MR. MARCUS: That is all. Pardon me. With the court's  
19 permission, amicus curiae would like to examine the witness.

20 THE COURT: Oh, I am not going to permit two of you to  
21 examine the witness. Either of you may take up the examina-  
22 tion, but whoever does so will finish it.

23 MR. MARCUS: Very well.

24 Q BY MR. MARCUS: Mr. Kent, do you keep any records  
25 of any kind of these tests that you give the children?



- v96
- 1 A Yes, sir.
- 2 Q Where are those tests?
- 3 A In my office.
- 4 Q What are they, outside of the usual grading of the
- 5 children?
- 6 A They are reading, language, and arithmetic, usually.
- 7 Q That is the usual grading, is it not?
- 8 A Yes.
- 9 Q That is no special examination or test that you
- 10 give?
- 11 A You mean in the way of language testing?
- 12 Q Well, in a way that would permit them at any time
- 13 to attend the other school between the first and sixth grades.
- 14 A We have the teacher's records and her reports as
- 15 she goes along with the children.
- 16 Q Outside of the usual grading, is there any special
- 17 test or record that you keep?
- 18 A Health records.
- 19 Q Outside of the health records, are there any special
- 20 tests that you keep or give?
- 21 A No.
- 22 Q That is the same course of tests that is given in
- 23 every school, is it not?
- 24 A That's right.
- 25 Q And it is the usual course that is given in every

Av97

1 school?

2 A That's right.

3 MR. MARCUS: That is all.

4 THE COURT: Have you finished, Mr. Marcus?

5 MR. MARCUS: Yes, your Honor.

6 Is there -- well, I am not going to ask that question.

7 I am through at this time, your Honor.

8 CROSS EXAMINATION

9 BY MR. HOLDEN:

10 Q Mr. Kent, how many Mexican descendants are there in  
11 the vicinity of the Lincoln School?

12 A Well, I don't know exactly. I wouldn't say there  
13 were over 25.

14 Q Now, have you had any of the children in that  
15 vicinity ask you, or the parents of any of them, to be trans-  
16 ferred to the Lincoln School?

17 A I have had one parent.

18 Q And who was that?

19 A Mrs. Ochoa.

20 Q Other than Mrs. Ochoa, has any one of the Mexican  
21 descendants in that vicinity asked to be transferred to the  
22 Lincoln School?

23 A No, sir.

24 Q Now, in this conference with Mrs. Ochoa, will you  
25 tell what that conversation was?

Zv98

1           A     Mrs. Ochoa came to my office shortly before school  
2 opened in '44, in September. I don't remember whether she  
3 had one child or two with her, but I talked with Mrs. Ochoa.  
4 She asked about entering her child in the Lincoln School, and  
5 I talked with her and told her I was new there, I didn't know  
6 the policies in the district any too well, that I had just  
7 come in, but I would find out and would talk to her.

8           In the meantime, I tried to talk to the child, and I  
9 didn't get a word out of the child, and didn't know whether  
10 the child could speak English or not. Later I came out after  
11 a meeting with the Board, after they set out the policy for me,  
12 and talked with Mrs. Ochoa. She did say she was trying to get  
13 them into the parochial school, and she couldn't afford it,  
14 and she wanted them to go to the Lincoln School. And I had  
15 talked to Mrs. Thompson, and Hector had been tried in the  
16 Lincoln School. I suggested she enter the children in the  
17 Hoover School until we could see how they would get along.

18           Q     And what did she say to that?

19           A     In the end she agreed to that.

20           Q     What did she say?

21           A     I don't remember the exact conversation, but she  
22 agreed to do that.

23           Q     Thereafter she enrolled them in the Hoover School?

24           A     She did, and I have never seen them since.

25           Q     And has she since that time said anything to you

Zv99

1 about wanting her children --

2 A No, sir.

3 Q -- transferred to the Lincoln School?

4 A Never.

5 Q Now, as to the Hoover School, what are the qualifica-  
6 tions of the teachers down there?

7 A They are the best teachers we have, we feel.

8 Q How are they selected for that school?

9 A The same as the other schools, on their merits.

10 Q Do they give different treatment or have a different  
11 manner of teaching the pupils who are unfamiliar with the  
12 English language there?

13 A We have to do that, yes.

14 Q Do you have any new teachers in that system?

15 A We have one new teacher.

16 Q How many teachers do you have at that school?

17 A Eight.

18 Q How long have they, the eight of them, or seven of  
19 them, how long have they been there?

20 A They have been there an average -- I think the  
21 youngest one is eight years. The rest of them have been there  
22 10 or 12 years.

23 Q And the pupils who attend the Hoover School, other  
24 than these that are transported from Garden Grove, where do  
25 they live with reference to the Hoover School?

1 A The bulk of them live right around the Hoover School.

2 Q Now, Mr. Kent, it might simplify the issues if we  
3 go into this now, instead of later on.

4 THE COURT: Do you want to make him your witness now?

5 MR. HOLDEN: No. It is still cross examination.

6 THE COURT: Yes. He is their witness, called as an ad-  
7 verse witness under the Rules of Civil Procedure.

8 MR. HOLDEN: Now, Mr. Kent, in your opinion, can you  
9 better instruct the people who are deficient in the English  
10 language in the Hoover School than you can in any other school?

11 A Yes, sir.

12 Q Why is that?

13 A Because those teachers are trained in that, and we  
14 can accelerate our program to the speed of the Mexican children,  
15 whereas if we put them in with our white children, they  
16 naturally cannot go at the same rate of speed. Therefore, they  
17 are lost.

18 MR. MARCUS: Will you read that answer, please, Miss  
19 Reporter?

20 (Answer read by the reporter.)

21 Q BY MR. HOLDEN: Now, the purpose of transporting  
22 these pupils to the Hoover School is solely for the purpose of  
23 better educating them, is it not?

24 A That's right.

25 Q You do not do that on account of the fact that they

1 are of Mexican descent, do you?

2 MR. MARCUS: Oh, just a moment. I object to that as  
3 leading and suggestive, and calling for the witness' conclu-  
4 sion at this time, and irrelevant.

5 THE COURT: It is overruled. Answer the question.

6 THE WITNESS: Will you repeat the question?

7 (Question read by the reporter.)

8 THE WITNESS: No.

9 MR. MARCUS: Will you read the entire question?

10 (Question reread by the reporter.)

11 THE COURT: Proceed.

12 Q BY MR. HOLDEN: What has been your experience in  
13 the Garden Grove School District in regard to Mexican  
14 descendants, as to their ability at the time of entering school  
15 to understand the English language?

16 A We usually find them retarded.

17 Q And what do you do about that?

18 A We put them in a pre-primer class, which we set up  
19 primarily to teach them reading readily. It usually puts them  
20 a year behind.

21 Q Will you explain to the court how they are treated  
22 from the time they enter school until they get to the second  
23 or third grade?

24 A In our first grades they are primarily taught the  
25 English language and basic fundamentals of reading, and

Zv102

.....

1 repetition, of course, and when that readiness comes to them,  
2 they are progressed either into the higher first grade, or if  
3 they have the ability they go to the second; but usually the  
4 bulk of the children have to go from one grade to the other  
5 in the first grade.

6 Q Well, will you explain to the court just how they  
7 are handled? You do have some that come to the Hoover School  
8 who talk perfectly good English when they come there, do you  
9 not?

10 A Yes.

11 Q How are the classes handled?

12 A We classify those that have the ability when they  
13 enter school, and they may enter a 1-D group or a 1-C group,  
14 but dependent upon their ability to speak and to understand  
15 English. We do that by pictures, and the teacher has flash  
16 card tests that she gives the children to find out their basic  
17 background.

18 Q Then after you find out the background, what do you  
19 do?

20 A We place them where we feel they can do the best  
21 work, and give them an opportunity to do it.

22 Q In that school what percentage of the pupils who are  
23 admitted into the Hoover School are able to speak and under-  
24 stand to some degree the English language?

25 A Well, the large percentage of them can speak the

1 English language, or they can understand it, but that does not  
2 necessarily mean that they can progress in school.

3 Q What have you found as to the ability of those pupils  
4 to advance?

5 A They are about a year retarded.

6 Q What do you mean by "a year retarded"?

7 A I mean that by our tests we find they are a year  
8 retarded in comparison with the white children.

9 Q Let's not refer to the children as white.

10 A I am sorry.

11 Q Let's say Mexican descent, and others.

12 MR. MARCUS: That is the very point we are here for in  
13 this court.

14 THE COURT: Well, the court has heard what he said.  
15 I have told you, gentlemen, you should not instruct these  
16 witnesses. That does not cure the effect of what is stated  
17 from the witness stand.

18 MR. HOLDEN: I thought, your Honor, we had agreed on the  
19 terms that were to be used here, to simplify the issues. I  
20 am not trying to instruct the witness. I am trying to stay  
21 in line with what we agreed we should use as terms.

22 THE COURT: I am not speaking of you and counsel for the  
23 other side right now. I am speaking of the witness' descrip-  
24 tion of matters in evidentiary narrative.

25 MR. HOLDEN: May we have the last questions and answers



Zv104

1 of the witness read?

2 THE COURT: It is illustrative of the witness' state of  
3 mind, and that is what we are going into, the psychology of  
4 it. That is precisely what the court is interested in.

5 You may read the last questions and answers.

6 (Record read by the reporter.)

7 Q BY MR. HOLDEN: What do you mean by "retarded"?

8 A I mean they are not able to do the work.

9 Q Well, assuming that you had pupils who were unfamiliar  
10 with the English language and pupils who were familiar  
11 with the English language, and they were entered in the same  
12 school, what would be the effect of that on the advancement  
13 of the pupils? How would they advance?

14 A Oh, naturally, it would retard the English-speaking  
15 pupils. They would have to decelerate, to bring up the non-  
16 English-speaking students to their rate of learning.

17 Q What would you do in the event they were mixed?

18 A There isn't much you could do, except the teacher  
19 would have to have special groups, special reading groups,  
20 she would work with.

21 Q Would that be an advantage to the Mexican-speaking  
22 pupils, the Spanish-speaking pupils?

23 A It would be no advantage. It would be a disadvan-  
24 tage, because the teacher would not be able to give her whole  
25 time to them because she would still have her English-speaking

Zv105

1 students to attend to, who would be progressing all the time.

2 MR. HOLDEN: That is all for this time.

3 THE COURT: Proceed.

4 MR. MARCUS: Would your Honor wish to take a recess?

5 THE COURT: I will when you finish.

6 MR. MARCUS: Very well.

edir

7 REDIRECT EXAMINATION

8 BY MR. MARCUS:

9 Q Did I understand you to say, Mr. Kent, that it was  
10 for the benefit of the Mexican children that they were being  
11 segregated?

12 A That's right.

13 Q And that was because they were retarded about one  
14 year in their knowledge of the courses they were given in the  
15 respective grades, is that right?

16 A That is not the only reason.

17 Q Is that one of the reasons?

18 A That is one of the reasons, yes, sir.

19 Q Now, is it a fact, then, that all children of  
20 Mexican extraction, to your mind, are retarded?

21 A No.

22 Q Are there some that are not retarded?

23 A Yes.

24 Q Are any of those "some" that you referred to per-  
25 mitted to go to the other school?

- Zv106
- 1 Q No.
- 2 Q They are still in that same school?
- 3 A Yes, but they are not placed in the beginning group.
- 4 Q Now, after you have once established the proper
- 5 grouping for these children, then they are no longer re-
- 6 tarded, are they?
- 7 A Oh, yes; yes, that is possible.
- 8 Q You mean they keep retarding each year?
- 9 A No; no.
- 10 Q But once you have established their proper quali-
- 11 fications and their proper grading, and by that I mean the
- 12 grade that they are to attend after you have given them these
- 13 tests, then you say they no longer retard that particular
- 14 class, do they?
- 15 A They don't retard the class, no.
- 16 Q Now, couldn't that be accomplished as well at all
- 17 the schools, the Lincoln School, the Hoover School and the
- 18 Bolsa School?
- 19 A No.
- 20 Q That could not be accomplished. Why?
- 21 A Because you would not have a sufficient number of
- 22 your retarded students. You would have a small number where
- 23 the teacher would have to spend her time, and thus retard
- 24 the whole class.
- 25 Q Then the retarded students would be a very small

Zv107

1 number?

2 A No, I didn't say that. I said they would be in  
3 the Bolsa or Lincoln School.

4 Q Have you taken the number of retarded students at  
5 the Hoover School? Do you know what the number is at the  
6 Hoover School?

7 A Yes, I know.

8 Q The Hoover School has 292 students; isn't that  
9 right?

10 A That's right.

11 Q And the Bolsa School has only 173 students; isn't  
12 that correct?

13 A That's right.

14 Q The number of students that are retarded are very  
15 small; is that what you stated?

16 A In the Hoover School?

17 Q Yes.

18 A No, no, I didn't say they were very small. I said  
19 that the ones that you could mix were very small.

20 Q I understood you to say the number was small.

21 A They would be if they were mixed in the Bolsa or  
22 Lincoln School, yes.

23 Q Now, if you added the Lincoln School and the Bolsa  
24 School, you would have about 465 students; is that correct?

25 A Approximately so, yes.

Zv108

1 Q 173 and 292. Out of those 465 you say there would  
2 be a few retarded students?

3 A No, I didn't say that.

4 Q What did you say, sir?

5 A I said that if you mixed those pupils who were near  
6 the Bolsa School into the Bolsa School, there would be a few  
7 of them, thus retarding the classes at the Bolsa. I didn't  
8 say there were just a few at the Hoover School that were re-  
9 tardated.

10 Q Do you have any children other than those of Mexican  
11 descent that retard the school?

12 A Yes.

13 Q What do you do with them?

14 A We work specially with them.

15 Q I beg your pardon?

16 A We have special work with them.

17 Q In what way? What special work have you?

18 A Sometimes we keep them after hours and the teachers  
19 work with them, or she has small reading groups and works with  
20 them.

21 Q Couldn't that be done as well with the Mexican  
22 children?

23 A No.

24 Q It couldn't?

25 A No, it couldn't, because our teachers would not be

1 trained to work with the Mexican children.

2 Q Your teachers are not trained to work with the  
3 Mexican children, are they?

4 A Not at the other schools.

5 Q If the same teachers who taught at the Hoover  
6 School were dispersed at the Bolsa and Lincoln Schools, you  
7 still would have some teachers that would be able to do that  
8 work, wouldn't you?

9 A If they would, yes.

10 Q If they would?

11 A They wouldn't.

12 Q They wouldn't do that?

13 A No, sir. They are trained in their choice, and  
14 want to work in the Hoover School.

15 Q What particular training do they have?

16 A Experience over a period of years.

17 Q Experience over a period of years at the Hoover  
18 School?

19 A Yes, sir.

20 Q That is because of the fact that the Hoover School  
21 has been in existence over a period of years; isn't that a  
22 fact?

23 A That is where they got their experience.

24 Q That is where, because of the segregation, they got  
25 their experience?

Zv110

1 A That's right.

2 Q How long has that segregation being going on there  
3 at the Hoover School?

4 A Fifteen years.

5 Q How long has it been going on in the Lincoln School?

6 A I couldn't tell you.

7 Q Do you have any idea from the records there?

8 A No, I haven't.

9 Q Could you give us any estimate?

10 A I have no idea.

11 Q But you know, as a matter of fact, that the segrega-  
12 tion has been going on at the Hoover School for 15 years?

13 A I know the Hoover School has been built for 15 years.  
14 I don't know what the policy --

15 Q Well, that was built for the Mexican children?

16 A Yes.

17 Q Let's get right down to brass tacks. This school  
18 was built for the Mexican children; is that correct?

19 A Yes, sir.

20 Q And it was built there for them regardless of their  
21 ability to speak the English language?

22 A It was built to help them.

23 Q Regardless of their ability to speak the English  
24 language; is that right?

25 A That's right.

1 Q And all Mexican children are sent there, and have  
2 been through the past 15 years?

3 A I don't know.

4 Q Have you examined the records?

5 A No, sir.

6 Q To your knowledge, how long has that been going on?

7 A This year.

8 Q And that is because you have been the superintendent  
9 there this year?

10 A That's right.

11 Q Have you ever been advised by the Board of Trustees  
12 of the Garden Grove School that the Bolsa School was built for  
13 Mexican -- I mean, built for the other children, other than  
14 Mexican?

15 A That the Bolsa School?

16 Q Yes.

17 A We didn't build the Bolsa School. We took that in  
18 as a separate issue.

19 Q Well, I don't mean built, I mean intended for chil-  
20 dren other than children of Mexican descent.

21 A No, they have to be in that district.

22 Q Do you have any students other than -- do you have  
23 any Mexican students at that school?

24 A No, sir.

25 Q At the Lincoln School do you have any Mexican



Zv112

1 children attending?

2 A No.

3 Q To your knowledge, how long has that been going on?

4 A This year.

5 Q Now, between the first and sixth grades, as I  
6 understand it, you have complete and absolute segregation?

7 MR. HOLDEN: Your Honor, I object. This has been ad-  
8 mitted and has been gone into about six times with this wit-  
9 ness.

10 THE COURT: Yes, we have gone into that. There doesn't  
11 seem to be any question about it factually.

12 Q BY MR. MARCUS: Now, Mr. Kent, as I understand, you  
13 stated on cross examination by your attorney, your counsel,  
14 that there were some children in the Hoover School that speak  
15 perfect English; is that correct?

16 A Yes.

17 Q And a large percentage of the children at the Hoover  
18 School and at the Lincoln School speak -- I mean, at the  
19 Hoover School, speak the English language?

20 A They can speak it, yes.

21 Q What do you do with those children that do speak the  
22 English language, the some that speak it perfectly, and the  
23 others that are able to speak it?

24 A Place them at their grade ability.

25 Q At the Hoover School?

Zv113

1 A At the Hoover School.

2 Q There is no way or means that you have of sending  
3 those children to the other school? You personally have no  
4 way of sending them to the other school?

5 A If I felt that they could do the work, yes, I would  
6 send them to the other school.

7 Q Do you have the discretion of doing that?

8 A Yes.

9 Q Did you last year send any one student to the other  
10 school?

11 A I have sent several of them to the Fitz School.

12 Q Well, that is after the sixth grade?

13 A No, that is during the sixth, when I felt that they  
14 could do the work and where we had held them back, I sent them  
15 on into the Fitz School.

16 Q Now, in your grading process over there, you keep  
17 the Mexican children in 1-A for a year, don't you?

18 A Depending on their ability.

19 Q Yes. And you keep them in 1-B for a year?

20 A Depending upon their ability.

21 Q Well, you keep them there regardless of their abil-  
22 ity, do you not?

23 A No, we don't.

24 Q Are there any students at the Hoover School that you  
25 only keep one-half of a school year, one semester in 1-A?

v114

1 A Oh, yes.

2 Q How many?

3 A About 25 per cent.

4 Q Just 25 per cent. Isn't it a policy of the Garden  
5 Grove School District to keep the children retarded as much as  
6 possible?

7 A No, sir.

8 Q So that they will not reach the sixth grade?

9 A No.

10 Q That is not the fact?

11 A No, sir.

12 Q Now, you know this answer, do you not? You are  
13 acquainted with the answer that was filed by the Garden Grove  
14 Elementary School District? Your name appears here as one of  
15 the answering defendants, and did you have an opportunity to  
16 examine this answer?

17 A I read it at one time, yes.

18 Q You did read it?

19 A Yes.

20 Q In one of the affirmative defenses set forth by your  
21 counsel, it is stated:

22 "That said persons speak the Spanish language  
23 among themselves," --

24 MR. MARCUS: Your Honor, this is on page 3.

25 THE COURT: Of the Garden Grove School District's answer,

Zv115 1 is it?

2 MR. MARCUS: Yes, your Honor.

3 Q BY MR. MARCUS: "-- in their homes, and that  
4 a large number of children from said families who  
5 reach the age for compulsory school attendance are  
6 unfamiliar with and unable to speak the English  
7 language."

8 Did you read that matter at the time that you signed your  
25 9 name to this complaint?

10 A Yes, I believe I read that.

11 Q Now, as a matter of fact, most of the children speak  
12 the English language, and some perfectly?

13 A Very few perfectly.

14 Q Well, a few?

15 A Well, I couldn't name any. They can all speak  
16 English.

17 Q They all can speak English?

18 A No, not all; not all. Some cannot speak any  
19 English.

20 Q Well, it says, "a large number of children \* \* \*  
21 are unable to speak the English language." That isn't a fact,  
22 is it, sir?

23 A A large number, yes.

24 Q I understood that a large number could speak the  
25 English language.

Zv116

1           A     A large number could be either way. There are a  
2 large number of Mexican children who cannot speak the English  
3 language when they enter school.

4           Q     All right. We will pass that.

5           "That a large percentage of said persons residing in  
6 said communities have not been instructed in or are  
7 familiar with the proper rules of personal hygiene."

8           A     That is correct.

9           Q     You read that?

10          A     Yes, sir.

11          Q     Is that one of your reasons for this segregation at  
12 the Hoover School?

13          A     Yes, sir.

14          Q     Please tell the court in what particular of personal  
15 hygiene, that you have knowledge of, these children are not  
16 acquainted?

17          A     In the care of their heads, lice, impetigo, tubercu-  
18 losis; generally dirty hands, face, neck, ears.

19          Q     Are all the children dirty?

20          A     No, sir.

21          Q     Or affected with lice, impetigo and tuberculosis?

22          A     No.

23          Q     How many of them?

24          A     I don't know. I would have to get our health figures  
25 to give you that. A large portion.

Zv117

- 1 Q Afflicted with tuberculosis?
- 2 A I don't know.
- 3 Q You don't know?
- 4 A Some of them are.
- 5 Q Or afflicted with impetigo?
- 6 A Quite a few.
- 7 Q How many?
- 8 A Out of our 292, I would say we have about 50.
- 9 Q What do you do with impetigo?
- 10 A We treat them.
- 11 Q Do you send them home?
- 12 A We send them home with instructions.
- 13 Q You don't let them attend school?
- 14 A We treat them and let them attend.
- 15 Q You let them attend there?
- 16 A Yes.
- 17 Q Do you let them attend the other school, where the
- 18 other children who are not Mexican attend?
- 19 A If it is properly treated, yes.
- 20 Q Do you let them attend, sir?
- 21 A Yes.
- 22 Q What else do you find wrong in the way of personal
- 23 hygiene?
- 24 A I have told you of the general dirtiness, sores.
- 25 Q Isn't that true with respect to all other children

1 in that Garden Grove district?

2 A No.

3 Q You find that particularly true and only true with  
4 respect to Mexicans; is that right?

5 A That's right.

6 Q And is that why you segregate them?

7 A That is one of the reasons, yes, sir.

8 Q What figures do you have to substantiate this alle-  
9 gation of impetigo and tuberculosis, and dirty hands? Do you  
10 keep a record of dirty hands and face?

11 A No, we don't keep a record.

12 Q Do you keep a record as to tuberculosis?

13 A The county health office does.

14 Q Do you permit children with tuberculosis to attend  
15 school?

16 A No.

17 Q That didn't have any effect on the other students,  
18 did it?

19 A Yes, it did.

20 Q When they do not attend, it would have no effect on  
21 the other students, would it?

22 A No. We have nothing to say about that matter any-  
23 way. It is handled by the county.

24 Q That matter of tuberculosis would not be of any  
25 import, then, or concern of your school district, would it?

v119

1 A Only that we have to trace the symptoms and see  
2 they are checked.

3 Q You mean you give the children a physical examina-  
4 tion every so often?

5 A Yes.

6 Q And they are subjected to the tuberculin tests, are  
7 they not?

8 A That's right.

9 Q And you give the same tests at the other school?

10 A That's right.

11 Q And when you find a child there with tuberculosis,  
12 you take him out?

13 A Yes.

14 Q And you do the same at the other school?

15 A We have to, by law.

16 Q The same tests are administered and the same examina-  
17 tions are given in both schools?

18 A That's right.

19 Q And when a child is found to be afflicted with t.b.  
20 at the other school, you take him out?

21 A That's right.

22 Q Now, isn't it a fact, Mr. Kent, that you believe  
23 that the Mexican is not of the white race?

24 A What was that?

25 Q Is it not a fact that you believe that the Mexican



1 is not of the white race?

2 A I believe he is an American. I don't believe he is  
3 of the white race, no.

4 Q You do not believe he is of the white race, do you?

5 A No, sir.

6 Q How many races are there in this world?

7 A Oh, I have no idea.

8 Q When you refer to whites, you do that in contra-  
9 distinction to the Negroid or Mongolian race, do you?

10 A That's right.

11 Q And you understand that there is such a thing as  
12 the Mexican race?

13 A Yes, sir.

14 Q You do?

15 A Yes.

16 Q And is that your belief, sir, that there is other  
17 than three races in this world?

18 A Oh, yes.

19 Q You believe that there are more than three races in  
20 this world?

21 A Yes, sir.

22 Q How many races are there?

23 A I don't know.

24 Q How do you happen to qualify or classify the Mexicans  
25 as a race?

Zv121

1 A Because he has a national background.

2 Q Is that a part of your research in your thesis?

3 A At the time, yes.

4 Q And you determined there were other races besides  
5 the Mongolian, the Negroid and the Caucasian?

6 A I didn't go into the other races. I went into the  
7 Mexican race.

8 Q Didn't you determine from your investigation there  
9 was no such thing as a Mexican race, but only a Mexican  
10 nationality?

11 A I believe that was the statement, yes, sir.

12 Q That was the statement?

13 A That was an assumption.

14 Q And you believe that the Mexican race, as you have  
15 so designated them, is inferior to the white race, don't you?

16 A No, I don't.

17 Q Well, as a matter of personal hygiene, you believe  
18 that, don't you?

19 A Those that I have come in contact with in the school  
20 are, yes.

21 Q All of those in the school you have come in contact  
22 with, as to every single one of them you believe that; is  
23 that true?

24 A No, sir.

25 Q Which ones aren't, or how many aren't?

1 MR. HOLDEN: I object to this on the ground it is argu-  
2 mentative, incompetent, irrelevant and immaterial.

3 MR. MARCUS: It goes to his state of mind, your Honor.

4 THE COURT: Objection overruled. Read the question,  
5 please.

6 (Question read by the reporter.)

7 THE WITNESS: Aren't what?

8 THE COURT: I didn't hear you.

9 THE WITNESS: I didn't understand.

10 THE COURT: Read the previous question and answer, please.

11 (Record read by the reporter.)

12 THE WITNESS: Oh, you want a percentage or a number?

13 Q BY MR. MARCUS: Well, in the Hoover School, how many  
14 of these 292 children would you say were not -- were inferior?

15 A Were not inferior?

16 Q Were inferior?

17 A Were inferior?

18 Q To the, as you call them, white race?

19 THE COURT: Inferior in what respect?

20 MR. MARCUS: In the matter of personal hygiene.

21 THE WITNESS: Oh, I would say at least 75 per cent.

22 THE COURT: I think we will take our recess now for a  
23 few minutes.

24 (A short recess was taken.)

25 THE COURT: Proceed.

Zv123

1 Q BY MR. MARCUS: Mr. Kent, with respect to educa-  
2 tional ability, it is your opinion that the Mexican children  
3 are inferior to the white children?

4 A In their ability, yes.

5 Q What percentage, in your opinion, is inferior?

6 THE COURT: You are using the same term you objected to  
7 his using. I don't think that is a proper term for either of  
8 you to use.

9 MR. MARCUS: It isn't mine, your Honor, but I am using  
10 his language.

11 THE COURT: Well, you use your own when you are speaking.

12 MR. MARCUS: I will reframe the question.

13 Q BY MR. MARCUS: What percentage of children of  
14 Mexican descent are inferior to the other children?

15 A In what?

16 Q In scholastic ability.

17 A 75 per cent.

18 Q Now, in what other respects are the children of  
19 Mexican descent inferior to the other children in your dis-  
20 trict?

21 A In their economic outlook, in their clothing, their  
22 ability to take part in the activities in school.

23 Q Now, you have used the expression, "white children."  
24 Do you refer to them as children of the Caucasian race?

25 A The white children?

Zv124

1 Q Yes.

2 A Yes.

3 Q And when you refer to the Mexican children, you re-  
4 fer to them as other than those of the Caucasian race?

5 A No.

6 Q You include them in the Caucasian race?

7 A Yes. I was merely talking as to color when I said  
8 white.

9 Q Well, then, at this time you believe that a Mexican  
10 is of the Caucasian race?

11 A Yes.

12 Q And is of the white race?

13 A Yes.

14 Q When did you determine that, during the recess?

15 A No.

16 THE COURT: Now, I don't want any of that.

17 Q BY MR. MARCUS: Well, you do believe that the whites,  
18 as you so designated, are superior to the Mexicans in the  
19 respects and in the details that you have mentioned here?

20 A Yes.

21 Q And is that one of the reasons that they are being  
22 segregated?

23 A Yes.

24 MR. MARCUS: That is all.

25 MR. HOLDEN: No further questions.

Zv125

1 THE COURT: I want to ask Mr. Kent just one or two  
2 questions.

3 Q BY THE COURT: Mr. Kent, there is an exhibit in  
4 this case, entered at the pre-trial hearing, known as  
5 Defendants' Exhibit B. This purports to be statistical data  
6 as of date, June 13, 1945, and in it there are four schools  
7 listed, Fitz, Lincoln, Bolsa, and Hoover.

8 A Yes.

9 Q Under Hoover, and under the caption "Total No.  
10 Pupils" there is the figure "292," and under "English-  
11 speaking Pupils, 0" and "Spanish-speaking Pupils, 292."

12 Under "Lincoln" there is shown the total number of pupils  
13 as 349; English-speaking pupils, 349; Spanish-speaking  
14 pupils, 0. The same is true with respect to the Bolsa School,  
15 except that the figures are: "Total No. Pupils, 173; English-  
16 speaking Pupils, 173; Spanish-speaking Pupils, 0." Now, I  
17 believe you are familiar only during the last year with that  
18 district?

19 A Yes, that is right.

20 Q Were there Mexican families who had children of  
21 school age up to the sixth grade in the public school system  
22 of the State of California who moved from other school dis-  
23 tricts into your school district?

24 A Were there?

25 Q Yes.

27 1 A Yes, sir.

2 Q Did they present cards showing their scholarship  
3 status in the other districts?

4 A No, transfer cards only.

5 Q Well, under the system prevalent during the year,  
6 would the transfer card indicate the grade --

7 A Yes, sir.

8 Q --at which the student had maintained himself?

9 A Yes, it would.

10 Q Did some of those children attain a grade other than  
11 the commencing grade, we will say the first grade, or the  
12 second, third or fourth?

13 A Yes.

14 Q When those children came with those transfer cards,  
15 what investigation did you make as to their status, if any?

16 A We placed them in their regular grade in the Hoover  
17 School, if they were of Mexican descent.

18 Q Well, how would you know anything about a child?  
19 I am speaking now of a child's mental qualifications.

20 A After he was in the class, the teacher had a chance  
21 to get acquainted with him and then she gave him a test.

22 Q Take your hand down, so that the reporter can hear  
23 you.

24 A I am sorry.

25 Q There isn't anything on that card that indicates the

Zvl27

1 standing of any pupil in the school from whence it came?

2 A Only the grade. There is a grade number.

3 Q And you are able to tell the age of the child?

4 A Yes.

5 Q Well, do you investigate that, to determine the age  
6 of the child and the applicable grade that appears on the  
7 card of transfer?

8 A Yes, we investigate that.

9 Q Aren't you able from that to get some measurement  
10 as to the child's scholarship capacity?

11 A Yes, we are. However, one school may grade a  
12 child in the fourth grade, and he may not be a fourth-grade  
13 student in our school, or it could be vice versa, and we may  
14 have to accelerate or decelerate him. We have to try him in  
15 the grade they suggest.

16 Q Why can't you try him in one of the schools where  
17 you get what we might call a conglomeration of children?

18 A Usually those that have come in have moved in  
19 around the district of Hoover. These Bolsa and Lincoln  
20 families are families that have lived there a long period of  
21 time.

22 Q Is it true that the entire aggregation of children,  
23 the 292 children that are classified and allocated in the  
24 Hoover School, do not have all of the qualifications that are  
25 required of the children who are in the Lincoln School, for



Zv128

1 instance?

2 A Well, some of them do, Judge, and they are advanced  
3 in the Hoover School. However, if they are located --

4 MR. HOLDEN: Judge, we can't hear a word he is saying.

5 Q BY THE COURT: I am afraid you will have to speak  
6 up.

7 THE WITNESS: A However, if they are located next to the  
8 Hoover School, it would be impossible for them and there would  
9 be no reason to transfer them to the Lincoln School and place  
10 them in the same grade, even though they can do that work.

11 Q Do you mean by that, Mr. Kent, that those children  
12 who might be readily assimilable in the school where the  
13 generally democratic school population exists, such as in the  
14 Lincoln School, --

15 A Yes.

16 Q -- that the only reason that children who meet the  
17 qualifications are not permitted to go to the Lincoln School  
18 is because they reside within a district that the school  
19 authorities have fixed as the district of the Hoover or the  
20 Bolsa School?

21 A That is one of the reasons, but not all of them, I  
22 would say, Judge, because there is a psychology of the thing.  
23 There is one thing in putting one lone Mexican child in a  
24 group of 40 white children merely because he has come up to  
25 the level of the other white children, which is not fair to

1 him, and we haven't done that. If he has the ability, and  
2 if he has come ahead and is up in the fifth grade, and we  
3 felt he was able to go ahead, we have taken him into the  
4 Fitz School, but to put him in a whole class of white people,  
5 and put him in there by himself, would not be fair to him or  
6 to the other children.

7 Q Would it be practicable from an educational stand-  
8 point to have a room, for instance, and I am not familiar  
9 with the school system except for a good many years ago, but  
10 then there were rooms for retarded pupils, --

11 A Yes.

12 Q -- and it didn't mean anything against the pupil to be  
13 placed there.

14 A Yes, I understand.

15 Q Excepting that Providence designed that he wasn't  
16 of the standard mentally as other children, and, therefore,  
17 in order to get the benefit of public instruction he was  
18 placed in a room by himself and had a teacher who had a special  
19 line of training to conduct that room. Now, why wouldn't  
20 it be possible to have that in these schools, where the  
21 children have the opportunity of mixing socially in a demo-  
22 cratic way on the playground.

23 A That would be all right if you had the proper  
24 number of Mexican pupils to put them into such rooms. But  
25 you don't have the number to put them there, and they would

1 be outnumbered, and they would be excluded more or less. And  
2 besides that, we have a terrific school population there.  
3 Where our schools were built to accommodate 850 pupils, we  
4 are handling pretty nearly 1300 pupils. Then in our district  
5 there is the transportation problem. As a matter of fact,  
6 these Mexican pupils that live within the Lincoln District,  
7 we have set up a policy that when they do achieve that amount  
8 of intelligence or meet our standards at the Lincoln, we will  
9 let them go there, and it will only affect about 10 or 20  
10 pupils. As to the rest, it would not be practicable to trans-  
11 fer them clear from Hoover up into Garden Grove.

12 Q Do you have any advisers in the allocation of  
13 children of people of Mexican descent, Spanish-speaking  
14 American citizens?

15 A Do I have any advisers?

16 Q Yes.

17 A No.

18 Q Or, do the school authorities?

19 A No. Each school, -- we have never had any diffi-  
20 culty before.

21 Q Now, as I understand it, you mentioned three general  
22 classifications. One, mental capacity; second, social atti-  
23 tudes; and, third, -- what was the third?

24 A Health, I believe.

25 Q Health. Are those the three categories into which

Zv131

1 you classify all of the children?

2 A Well, they are basically the three. Our strongest  
3 one is their educational attitude.

4 Q Do you take into consideration, in ascertaining  
5 those features, the welfare of the so-called English-speaking  
6 children, children of English-speaking parents?

7 A Yes. We look at the welfare of both sides.

8 Q There has been testimony here about some Filipino  
9 children attending school there.

10 A Yes.

11 Q Are they permitted to attend the --

12 A The Lincoln?

13 Q -- the Lincoln School?

14 A We have two.

15 Q Two?

16 A And we have one Negro in the Lincoln School, and we  
17 have one Japanese.

18 Q You spoke about children of Portuguese descent.

19 A That is in the Bolsa School. Yes, they are farmers,  
20 agricultural people. They come, I believe, from Dutch or  
21 Portuguese stock. If you will look at those figures, the  
22 Bolsa School has four rooms, with 173 pupils, with an average  
23 of 40 pupils per teacher. We haven't any room there for  
24 assimilation. We have approximately 292 pupils at the Hoover  
25 School, with eight teachers. That gives them a better spread.

Zv132

1 We try to keep a smaller class in the Hoover School, if we  
2 can work it that way.

3 Q Is there any opportunity given at all by the school  
4 authorities for the commingling of the children, in play, for  
5 instance?

6 A In the Fitz building only.

7 Q That is for the sixth grade and beyond?

8 A Yes. They all play together, have shop together,  
9 sewing, cooking, and so on.

10 Q Is the community of Garden Grove an incorporated  
11 community?

12 A No.

13 Q Have there been any zones located there at all by  
14 the school authorities?

15 A No, sir.

16 THE COURT: That is all.

17 MR. MARCUS: Judge, I wanted to ask just a question.

18 THE COURT: Now, I want you to get through before I  
19 start to question him.

20 MR. MARCUS: I was waiting for counsel here, and then  
21 your Honor took him over. Well, let it go.

22 THE COURT: Go ahead and ask the question, but I want  
23 both of you, gentlemen, to finish with your examination before  
24 I question him.

25 MR. MARCUS: I just wanted to ask him one question

Zv133

1 because of the questions your Honor had propounded.

2 Q BY MR. MARCUS: I want to ask with respect to your  
3 use of the term, "white children." Do you refer to that as  
4 to color only?

5 A That's right.

6 Q It has nothing to do with their nationality or  
7 descent?

8 A No, I am referring to them as white.

9 Q But if they are of Mexican descent, they are still  
10 sent to the Hoover School, no matter what their color is,  
11 light or dark; is that a fact?

12 A No, I wouldn't say that.

13 Q Well, you don't have any children of Mexican descent  
14 at the other school, do you?

15 A We haven't had an opportunity of putting one there.

16 MR. MARCUS: That is all I wanted to know.

17 Q BY THE COURT: What do you mean by that?

18 A I mean we had an opportunity with Mrs. Ochoa, but  
19 we thought it wasn't the fair thing to do with her children.  
20 We had a school <sup>of</sup> 300 some-odd children, and to put her children  
21 there, well, the one boy tried it, and we had to take -- I  
22 didn't take him, but I understood he had to be taken out of  
23 Lincoln because of a social problem, and we didn't want a  
24 repetition of that same thing.

25 Q Isn't that the parental duty, to see where the

Zv134

1 child goes to school rather than the school authorities'?

2 I mean, except as to districts?

3 A We have no districts, your Honor. Our job is to  
4 see that we put that child where he can get the best educa-  
5 tion, and there is more to it than just book learning. There  
6 is an assimilation of social outlooks we must give these  
7 children.

8 Q I understand that thoroughly. What I am trying to  
9 get at is this: If Mrs. Ochoa, assuming she is the legal  
10 guardian of the children, would request that her child be  
11 placed together with the other children where he or she could  
12 commingle with those children and acquire by constant associa-  
13 tion attitudes which we feel are necessary for our children  
14 to acquire in public schools, why wouldn't she be permitted  
15 to do that?

16 A She would, your Honor. If she would come to me or  
17 had come and asked for a reason why those children had not  
18 been transferred, I would have shown her the reason they had  
19 not been transferred, and if they could have done the work,  
20 they would have been transferred. But I had a conference  
21 with the principal of the Hoover School, and because of mental  
22 ability she advised me against putting them in the Lincoln  
23 School, along with this fact of their being a minority group  
24 in with these 370-odd children.

25 Q Did that other school official see the child and

Zv135

1 make an examination before she made the determination?

2 A Yes. She knew the family. She had been the  
3 principal who had been there for 16 years. She is now re-  
4 tired, and she has known these families for all that time,  
5 around in that vicinity. She knows them from birth on.

6 Q These Mexican folk there, do they assemble there of  
7 their own volition, in this district that you mentioned?

8 A I don't know why they assemble there, but they do  
9 congregate in that district, with the exception of a few  
10 like Mr. Munoz and Mrs. Ochoa, and they live up in Garden  
11 Grove proper.

12 MR. MARCUS: Your Honor took up the question I was ask-  
13 ing him, and I wonder if I could be permitted to ask him  
14 another question.

15 THE COURT: Yes.

16 Q BY MR. MARCUS: Isn't it a fact that they have  
17 congregated around this school because of the fact that the  
18 school district requires the children's attendance at that  
19 Hoover School?

20 A I think it is the other way around, that they had  
21 congregated there and the school was built there at great  
22 expense for their benefit. That community has been there for  
23 50 or 60 years, and the school for 15 years.

24 Q At the time the school was built, all Mexican  
25 children, wherever they resided in that Garden Grove District,



v136

1 were required to go there?

2 A I don't know. I wasn't there.

3 Q They are now, though?

4 A No, sir.

5 Q Do you have another school in that district be-  
6 tween the first and fifth grades where the Mexican children  
7 can attend?

8 A If they meet the standards --

9 Q But they cannot meet the standards?

10 A That's right.

11 Q And we are going around in a circle?

12 A That's right.

13 Q And they are all going into the Hoover School, no  
14 matter where they reside?

15 MR. HOLDEN: I think, your Honor, that question has been  
16 answered several times.

17 THE COURT: Yes. It opens up the same matters we have  
18 had before.

19 Q BY MR. MARCUS: You stated to the court that if you  
20 would permit some of the children to go to the other school,  
21 it would constitute a social problem. Is that what you stated?

22 A Yes.

23 Q And that is your opinion?

24 A Yes, I have seen it happen.

25 Q Now, Mr. Kent, isn't it a fact that the segregation,

2v137

1 beginning with the kindergarten and up to the sixth grade,  
2 has created a greater social problem in Orange County than  
3 if the children had been permitted to mingle together and not  
4 been separated and parted?

5 A I wouldn't know about that, because it hasn't been  
6 tried.

7 Q Well, from your research, isn't it your opinion that  
8 if the children are permitted to play together, to exchange  
9 ideas together, and to go about in a social way together,  
10 that that would tend towards a better democracy?

11 A Oh, no.

12 Q I beg your pardon?

13 A No.

14 Q That wouldn't?

15 A No, I don't think so.

16 Q You believe that the segregation of the Mexican  
17 children apart from the other children in that district helps  
18 to promote democracy?

19 A I didn't say that.

20 Q What did you say?

21 A It gives them a better chance to learn democratic  
22 ideals than to put them in a situation where they cannot act  
23 as individuals.

24 Q By preventing them from having those social contacts?  
25 MR. HOLDEN: I object to that on the ground that this is

Zvl38

1 argument between counsel and the witness.

2 THE COURT: Yes. I am going to listen to you when you  
3 want to talk about that, but this isn't the time for it.

4 MR. MARCUS: Well, that is about all on that score.

5 THE COURT: Is that all of ~~this~~ witness?

6 MR. HOLDEN: Yes.

7 MR. MARCUS: Yes. I will reserve it for the argument.

8 Q BY THE COURT: Do you have any public playground  
9 there in the settlement, in the community, where the children  
10 of all types can assemble and play?

11 A Yes. Right now we have a softball league where we  
12 have Mexican and white children playing on the same team  
13 together. We use the high school grounds, and there is a  
14 park.

15 Q I don't mean in teams necessarily. I mean, is there  
16 any playground itself where the children mix promiscuously?

17 A No, there is none outside of the school ground.

18 Q And in the school ground, I suppose, because of the  
19 peculiar complexion of the children they segregate themselves  
20 into these groups that you speak of?

21 A Well, that is not the only reason, your Honor, that  
22 they segregate themselves. They will speak Spanish on the  
23 school grounds, and the white child simply doesn't understand,  
24 and, naturally, he isn't going to get in with them. Your  
25 Mexican child is advanced, that is, he matures physically much

Zv139

1 faster than your white child, and he is able to do more in  
2 games. Therefore, he goes more on physical prowess than he  
3 does on mental ability, and there is that feeling of inferi-  
4 ority on the part of the Mexican child, and on the part of  
5 the others.

6 Q Is that true to the extent that almost 100 per cent  
7 of segregation occurs?

8 A No, I don't think so. There are some that are  
9 Mexican children that fit right in with our other groups, just  
10 as well as the other white children.

11 RECROSS EXAMINATION

12 BY MR. HOLDEN:

13 Q Just one question, Mr. Kent: If a pupil of Mexican  
14 descent would request of you that he go to either the Bolsa  
15 or the Lincoln School, or demand of you that he go to the  
16 Lincoln or Bolsa School, and you determined that he had the  
17 ability to progress in those schools, would you permit him to  
18 go there?

19 A Yes, sir.

20 MR. MARCUS: We are making the demand and the request  
21 now on behalf of all of them.

22 MR. HOLDEN: Well, you don't represent all of them.

23 MR. MARCUS: Don't I?

24 THE COURT: Now, gentlemen, I don't want you to have any  
25 colloquy between yourselves here, or I will have to interpose

Zvl40

1 myself.

2 That is all.

3 Call your next. We have time for one more witness.

4 MR. MARCUS: Mrs. Fuentes, will you take the stand,  
5 please?

6 FELICITAS FUENTES,  
7 called as a witness by and on behalf of the plaintiffs, having  
8 been first duly sworn, was examined and testified as follows:

9 THE CLERK: State your name, please.

10 THE WITNESS: Felicitas Fuentes, F-e-l-i-c-i-t-a-s  
11 F-u-e-n-t-e-s.

12 THE COURT: Be seated.

Dir

13 DIRECT EXAMINATION

14 BY MR. MARCUS:

15 Q Mrs. Fuentes, where do you live or reside?

16 A I live on 1707 West Fourth Street, in Santa Ana,  
17 California.

18 MR. HOLDEN: Is this the Santa Ana School District?

19 MR. MARCUS: That is right.

20 Q BY MR. MARCUS: How long have you lived there?

21 A I have lived there for over 12 years.

22 MR. HOLDEN: If the court please, if I might suggest, we  
23 have four school districts here, which we contend are not  
24 associated together at all, and we have these officials here  
25 to bring in every day, so that if we could proceed with one

Zv141

1 district at a time and finish up with it, we wouldn't have  
2 to keep carrying all of these officials back and forth.

3 THE COURT: I thought that is what you were doing. You  
4 have left the Garden Grove District now and you are taking  
5 up Santa Ana?

6 MR. MARCUS: That is right, Judge.

7 MR. HOLDEN: Well, the defense is what I am referring to.

8 THE COURT: Oh, no, we can't do that. He will have to  
9 finish his case first, and then you will take up your case.  
10 We can't direct him to put his evidence on in the way in  
11 which you desire to have it placed. We can't do that.

12 MR. HOLDEN: I thought under the rules, and, of course,  
13 your Honor knows more about them than I do, but under the  
14 rules I thought the court could direct where there are  
15 separate parties involved on both sides, to proceed with each  
16 of them in order.

17 THE COURT: We have only one law suit here, and while  
18 they have specified four or five different districts and they  
19 must present their evidence as to the separate districts  
20 separately, we can't compel them to close their case on each  
21 district, because they have alleged a general conspiracy here  
22 on the part of the school authorities. I am sorry, but this  
23 is the only way we could keep it in a sequential, intelligible  
24 manner. Otherwise it would be so confused that nobody would  
25 be able to read and understand the record.

1 Proceed.

2 Q BY MR. MARCUS: How long have you lived in the  
3 Santa Ana district?

4 A I have lived there for more than 12 years.

5 Q How many children do you have?

6 A I have two children.

7 Q Give their names and ages, please.

8 A Joe Fuentes. He is in the United States Navy,  
9 working at the post office somewhere in the Philippines.

10 Q And your other child?

11 A He is 8 years old, Roberto Fuentes.

12 Q Where do you live?

13 A 1707 West Fourth, Santa Ana, California.

14 Q What school do you live closest to?

15 A I live closest to the Franklin School.

16 Q How far do you live from the Franklin School?

17 A One block, or about a block and a half.

18 Q And your child, what school does he go to?

19 A He is going to the Fremont School now.

20 Q How do you happen to be sending him to the Fremont  
21 School?

22 A Because I could not get Mr. Smith to let Bobbie go  
23 to the Franklin School. I have tried since --

24 Q Wait. Let's not ramble. When did he begin to go to  
25 the Fremont School?

Zv143

1 A Last year, September.

2 Q Now, at the Fremont School, do you know, of your  
3 own knowledge, that there are only children of Mexican or  
4 Spanish descent attending?

5 A Yes.

6 Q And are there approximately 325 students there?

7 A Oh, yes, there is more.

8 Q Are there any other children, other than of Spanish  
9 descent attending that school?

31 10 A I do not think so.

11 Q All right. Now, did you at any time make an effort  
12 to get your child to attend the Franklin School?

13 A I did, since 1942.

14 MR. HOLDEN: I object, your Honor, on the ground that  
15 the witness is not answering the question.

16 Q BY MR. MARCUS: Just answer yes or no, please. Yes  
17 or no?

18 A Yes.

19 Q When did you do that?

20 A Since Bobbie was going to be six years old.

21 Q How many times and during what periods of time did  
22 you make an effort to get Bobbie into the Franklin School?

23 A Every time the school was going to start in  
24 September.

25 Q When was the first time?



Zv144

1 A In 1942, in September.

2 Q And the second time?

3 A In 1943.

4 Q And the next time?

5 A 1944.

6 Q Now, let's take up the last time, 1944. That is

7 with respect to your child, Bobbie?

8 A Bobbie, yes, sir.

9 Q Now, does your child speak English, and did he  
10 speak English at the time he commenced to go to school?

11 A Perfectly.

12 MR. HOLDEN: Well, in the Santa Ana district -- I will  
13 withdraw that. I was going to object, that that is not an  
14 issue in the Santa Ana case, but if counsel wants to go into  
15 it, why, all right.

16 THE COURT: The transcript of the pre-trial hearing  
17 shows --

18 MR. HOLDEN: The Santa Ana district just alleges the  
19 district lines.

20 MR. MARCUS: We are contending the discrimination is  
21 because the children are of the Mexican race, or of Mexican  
22 descent.

23 MR. HOLDEN: We admit --

24 MR. MARCUS: Do you admit it?

25 MR. HOLDEN: We don't doubt that you are claiming that.

Zv145

1 MR. MARCUS: Well, do you admit it?

2 MR. HOLDEN: No, we don't admit that. We admit there  
3 was no one but of Mexican descent in the Fremont School.

4 MR. MARCUS: Our claim is that the borders are permitted  
5 to ramble around to such an extent --

6 MR. HOLDEN: Prove it.

7 THE COURT: The pre-trial transcript shows that you have  
8 discussed the matter of having three schools designated with-  
9 in the Santa Ana limits, or I think four schools really,  
10 Delhi, Fremont and Logan, and then the Wilson School, and  
11 these statistics are on Exhibit 4, Plaintiffs' Exhibit 4 of  
12 the pre-trial, which seems to indicate the totals of the  
13 different classifications. I don't think you need to go into  
14 that.

15 MR. HOLDEN: The court requested that I bring in a map.

16 THE COURT: Yes.

17 MR. HOLDEN: And I have that map, if the court desires  
18 that at this time, of the Santa Ana District. If counsel  
19 will stipulate that is the way the lines are drawn, the court  
20 may have that now, if it is desirable.

21 THE COURT: Of course, the court has no desire in a case  
22 either way.

23 MR. HOLDEN: But the court did suggest that we might  
24 bring in a map.

25 THE COURT: I certainly did, and at the proper time, if

Zy46

1 counsel will agree with you on it, I will permit you to offer  
2 it.

3 MR. HOLDEN: I have it here.

4 THE COURT: Apparently they do not want the map, so we  
5 will go ahead.

6 Q BY MR. MARCUS: Now, Mrs. Fuentes, you stated you  
7 lived within what distance of the Franklin School?

8 A About a block and a half.

9 Q How far did your child have to go to the Fremont  
10 School?

11 A About four blocks or more.

12 Q Now, are there any children not of Mexican ancestry  
13 that live in your neighborhood, within your block?

14 A Yes, there are.

15 Q About how many?

16 A There is quite a few.

17 Q About how many?

18 MR. HOLDEN: I will object to this on the ground it is  
19 asking for a conclusion of the witness, unless she knows.

20 THE COURT: You had better qualify her on matters of  
21 that kind, Mr. Marcus, instead of assuming she is qualified.  
22 She may be. I don't know. They are objecting, so you will  
23 have to qualify her.

24 Q BY MR. MARCUS: Well, you know who the children are  
25 of Mexican descent that live in your block?

Zv147

1 A That are going to what school?

2 Q No matter what school they go to.

3 A Well, my next door neighbor, they are of Mexican  
4 descent, and they are from Mexico, and are attending the  
5 Fremont School, and there is quite a few other families that  
6 I know.

7 Q In the same block?

8 A In the same block, and they have always wanted their  
9 children --

10 Q No, not what they want. Just tell me are you ac-  
11 quainted with the children of Mexican descent --

12 A Yes.

13 Q -- who reside in that area where you live?

14 A Yes, I know some of them.

15 Q Now, are you acquainted with any of the children  
16 that are not of Mexican descent that reside in that district  
17 where you live?

18 A Yes.

19 Q Are you able to tell us and to tell this court the  
20 children that are of Mexican descent and the ones that are not  
21 of Mexican descent?

22 A Well, I think I can.

23 Q You can?

24 A Yes.

25 Q How can you tell?

1 A Well, there is a family of colored people that live  
2 about two or three houses from where I live, and they pass my  
3 house and go to Franklin School.

4 Q All right. Now, how about the other children?

5 A There are some that pass by there, and they wanted  
6 to know why Bobbie wasn't going to the Franklin School.

7 Q Not what they wanted to know, but are you able to  
8 tell that they are not people of Mexican descent?

9 A Well, I think so.

10 Q Now, did you have a conversation in 1944 in your  
11 attempt to get your child, Bobbie, into this other school?

12 A Yes.

13 Q In the Franklin School?

14 A Yes.

15 Q With whom did you have that conversation?

16 A With Mr. Smith.

17 Q Is Mr. Smith here present in court?

18 A Yes, sir.

19 Q Which gentleman is he? Is Mr. Smith here?

20 A This (indicating) is Mr. Smith. That is the gentle-  
21 man that I spoke with.

22 Q Which one?

23 A The first one over here. I don't know if that is  
24 Mr. Smith or not, but that is the gentleman I spoke with.

25 THE COURT: You mean the first one sitting in the first

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1 row, with his hand up?

2 THE WITNESS: Yes, that is the gentleman.

3 THE COURT: Who is that gentleman?

4 MR. HOLDEN: Mr. Reinhard.

5 Q BY MR. MARCUS: That is Mr. Reinhard. Is ~~that~~ the  
6 gentleman that you spoke to?

7 A That is the gentleman I spoke to. They sent me to  
8 him.

9 MR. MARCUS: What is he?

10 MR. HOLDEN: He is the assistant superintendent.

11 Q BY MR. MARCUS: Did you talk with him?

12 A Yes, I did.

13 Q That is Mr. Reinhard?

14 A Well, I guess that is it. That is what they told me,  
15 that I should go to him. He was at the Board of Education  
16 at that time.

17 MR. MARCUS: Can we stipulate the gentleman's position in  
18 the Board of Education?

19 MR. HOLDEN: We will stipulate Mr. Reinhard is assistant  
20 superintendent of schools.

21 MR. MARCUS: Of the City of Santa Ana?

22 MR. HOLDEN: Of the City of Santa Ana, yes.

23 MR. MARCUS: I will accept that stipulation.

24 THE COURT: That is Mr. Reinhard sitting there that she  
25 tried to identify? Is that right?

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1 MR. HOLDEN: Well, I don't know. Mr. Reinhard will  
2 stand up.

3 THE COURT: Is that the gentleman you spoke to?

4 THE WITNESS: Yes.

5 THE COURT: Very well.

6 Q BY MR. MARCUS: Now, relate the conversation you  
7 had in 1944 with Mr. Reinhard, the entire conversation that  
8 you had now, with relation to getting your child into this  
9 other school.

10 A I tried to get my child --

11 Q What did you say and what did he say? Give the  
12 conversation, please.

13 A I asked Mr. Smith if I could put Bobbie in the  
14 Franklin School.

15 Q You said, "Mr. Smith." You refer to Mr. Reinhard?

16 A Mr. Reinhard. And he told me that I could not. And  
17 I told him, "Why?" And he said that was because I did not  
18 live in that district. I told him that if I didn't live in  
19 that district, why was it that other children that didn't  
20 live in that district were going to Franklin School?

21 Then he changed the subject, and he told me in plain  
22 English that he wanted to know why the Mexican people were  
23 so dirty, and I answered him back.

24 Q What did you say?

25 A I told him, Mr. Reinhard, that if he knew -- that if

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1 he could tell me why some of the people, why the Oklahoma  
2 people were dirty and filthy, as I have seen them, then I  
3 could tell him why some of our Mexican people were like that.  
4 I says, "Because we are not all classified the same."

5 Q All right. Go ahead.

6 A Then we were discussing the subject which brought  
7 my big boy into the discussion, too. I told him that Joe had  
8 gone to Franklin School, and I had no trouble with him at all.  
9 And he said that he couldn't do anything about it.

10 Q Who said that?

11 A Mr. Reinhard. That he was supposed -- about Bobbie,  
12 that he was supposed to go to Fremont School, and that was all  
13 he could do. I had sent Bobbie to Franklin School for one  
14 week, when he started in the kindergarten, and they had him  
15 there for one week.

16 MR. HOLDEN: Now, I object to this. This is off the con-  
17 versation.

18 THE WITNESS: No, it is not off the conversation.

19 MR. HOLDEN: Oh, excuse me.

20 Q BY MR. MARCUS: This is the same conversation?

21 A Yes, sir. I had sent him there, and when he had  
22 been going to Franklin School one week, I took him to the  
23 Franklin School and the teacher admitted him there. He was in  
24 the kindergarten. He went one week to Franklin School, and  
25 then the teacher one evening came and brought Bobbie home, and



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1 said Bobbie could not go to Franklin School.

2 Q You told this to Reinhard?

3 A Yes, because she sent me to him, the teacher.

4 Q All right.

5 A He was in the kindergarten, and she told me she  
6 wanted Bobbie in the Franklin School and she wanted him in  
7 the kindergarten, because he was capable and was bright enough,  
8 and could talk the English language, and that it was all right  
9 with her, but he had to have Mr. Reinhard's permission; that  
10 if he would consent, that it was all right, and which he did  
11 not.

12 Q What did he say?

13 A He said he couldn't do anything at all because I  
14 wasn't in that district, and he told me about the Mexican  
15 people.

16 Q Well, tell us what he said.

17 A Then he said that they were dirty. Then I told  
18 him that if our Mexican people were dirty, and all that, why  
19 didn't they have all of our boys that are fighting overseas,  
20 and all that, why didn't they bring them back and let us have  
21 them home; that if they weren't qualified to have an educa-  
22 tion as all of the American people, as I am an American citi-  
23 zen. He said -- I told him if Joe wasn't qualified, why  
24 didn't they let me have him and not take him overseas, as he  
25 is right now.

1 And he said that he didn't want to go into more dis-  
2 cussion; because I got kind of sore, and I just told him  
3 what I thought. So we let it go at that. And he said if  
4 I could move, or something like that, why, then probably he  
5 could do something. But there are a lot of families, maybe  
6 they are not able to move, and we bought our home there.

7 MR. HOLDEN: I object to that. This is not conversation.

8 THE WITNESS: Well, I had that conversation with him  
9 because I spoke with him for about an hour or more. And  
10 that wasn't the first time. That was the second time, too,  
11 because I went three times, and I could not get Bobbie in  
12 school, in the Franklin School.

13 Q Did he tell you that he had to attend the Fremont  
14 School?

15 A He told me that he had to attend the Fremont School.

16 Q Did you say anything to him about only Mexican  
17 children attending the Fremont School, or anything of that  
18 kind?

19 MR. HOLDEN: I object to that as leading and suggestive.

20 MR. MARCUS: I am trying to get this conversation.

21 THE WITNESS: What was that?

22 Q BY MR. MARCUS: Was any part of this discussion  
23 with Mr. Reinhard pertaining to Mexican children and their  
24 attendance at the Fremont School?

25 A Yes.

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1 Q Relate that part.

2 MR. HOLDEN: I think the witness, your Honor, has related  
3 the entire conversation.

4 THE COURT: She has related some conversation. I don't  
5 know whether she has related everything. Have you told us  
6 everything about that?

7 THE WITNESS: Well, he asked me why was it that I wanted  
8 Bobbie to go to the Franklin School. I told him that in the  
9 Franklin School he had more privileges, he would learn more,  
10 and he would not be held behind, kept behind in his school.  
11 And I told him that Bobbie knew how to talk the English  
12 language, and I didn't think that they would hold him back at  
13 all, and that.

14 Q BY MR. MARCUS: What did he say to that?

15 A He said that he couldn't do anything at all, because  
16 I belonged to that district, and that he was not able to do  
17 anything. That is what he told me.

18 Q Now, did --

19 A And then --

20 Q Go ahead.

21 A Then I asked Mr. Reinhard if he had any children,  
22 and he said, "No." I asked him, "If you had a child, would  
23 you send him to Fremont School?"

24 MR. HOLDEN: I think, your Honor, in so far as it goes  
25 to other things other than getting the boy in school, this is

1 objectionable.

2 THE COURT: Yes. It is what she stated about her desire  
3 to have the child attend the specific school, and what Mr.  
4 Reinhard told her in response to that that we are interested  
5 in at the present.

6 MR. MARCUS: But this goes to the particular school and  
7 the facilities afforded at that school, your Honor.

8 THE COURT: Ask another question.

9 MR. MARCUS: All right.

10 Q BY MR. MARCUS: Now, was any part of your conversa-  
11 tion directed to the fact that other children in that same  
12 area in which you were located were going to the other school  
13 besides the Fremont School?

14 A Yes.

15 Q Relate that portion of the conversation.

16 A I told him that there were quite a few children,  
17 and he wanted to know which ones they were. I think I named  
18 a few, and he told me that some of these children that were  
19 going to Franklin School had been attending school for quite  
20 a few years, and that is why they had them there, but some  
21 of them were quite small children. And he said that this  
22 coming year all of the children that had been going to Franklin  
23 School, no matter if they were in the third or fourth, or in  
24 the kindergarten, they were all going to go to Fremont School,  
25 regardless of how long they had been going there.

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1 Q Now, was any part of your conversation directed to  
2 the fact that children other than Mexican children, who lived  
3 within the Fremont School area, were going to the Franklin  
4 School?

5 A Yes.

6 Q Did you talk about that?

7 A Yes.

8 Q Tell us that conversation.

9 A Well, that is what he said, that these children that  
10 had been going there, it was because they had been there quite  
11 a while. And I asked him why was it that they were, why was  
12 it that they didn't put -- mix American children with the  
13 Mexican children, as they have that distinction of calling us,  
14 that we are not of the white race, -- I asked him why they  
15 could not mingle together, that if my boy was going to be held  
16 behind like that, I wasn't going to send him to school, and  
17 I didn't send him until last year. But then he was eight  
18 years old, and I had to send him to school last year.

19 Q What did he say about that?

20 A He said if I could move, or do something about it,  
21 and move from that district, then probably Bobbie could go to  
22 the Franklin School. And I asked him if he was going to have  
23 all the people that have their homes move so that they could  
24 put their children in Franklin School. And he said he could  
25 not do anything at all.

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1 Q Did he tell you at that time that the Fremont School  
2 was only for Mexican children?

3 A Yes, sir. And that is when I told him if he had a  
4 child, and that child wasn't going to have the advantages, if  
5 he lived in the district where I lived, that if he would send  
6 him to the Fremont School?

7 And he told me, "No." I asked him, "Why?" And he said,  
8 "Because they didn't have any privileges, and that I would  
9 want the best for my child."

10 I said, "If you want the best for your child, I want the  
11 best for mine, too."

12 Q This conversation took place in 1944?

13 A In '42, and I went in '43, and '44. The first con-  
14 versation took place when Bobbie was going to be six years  
15 old.

16 Q Can you tell us approximately how many children,  
17 other than children of Mexican descent, live within your  
18 immediate neighborhood and who do not attend the Fremont  
19 School, but are permitted to go to the Franklin School?

20 A These colored people that live right next door.

21 Q I say, do you know about how many children there are?

22 A About 20 or 30.

23 Q About 20 or 30 within your immediate neighborhood?

24 A Yes.

25 Q And these children would ordinarily attend the same

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1 school that your child attends; is that correct?

2 A Yes.

3 Q But they are permitted to go to the other school,  
4 but live in your district?

5 A Yes.

6 MR. MARCUS: That is all at this time.

7 THE COURT: Yes. We will recess until tomorrow morning  
8 at 10:00 o'clock, gentlemen.

9 (Whereupon, at 4:40 o'clock p. m., July 5, 1945, an  
10 adjournment was taken until 10:00 o'clock a. m., Friday,  
11 July 6, 1945.)  
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