

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.

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REPORTER'S TRANSCRIPT OF PROCEEDINGS.

Los Angeles, California

Friday, July 6, 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

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Felicitas Fuentes (resumed)		160		
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<u>EXHIBITS:</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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Zv160 1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 6, 1945. 10:00 A. M.

2 - - -

3 THE COURT: Proceed, gentlemen.

4 FELICITAS FUENTES,

5 called as a witness by and on behalf of the plaintiffs, having  
6 been previously duly sworn, resumed the stand and testified  
7 further as follows:

8 THE COURT: Had you finished, Mr. Marcus?

9 MR. MARCUS: Yes, I think we had finished with this  
10 witness.

11 MR. HOLDEN: You had finished?

12 MR. MARCUS: I think so. We had finished.

13 CROSS EXAMINATION

14 BY MR. HOLDEN:

15 Q Now, Mrs. Fuentes, there are some Mexican people  
16 living right in there that are permitted to go to the Franklin  
17 School, too, aren't there?

18 A Certainly.

19 Q And where do they live with reference to where you  
20 live?

21 A Well, they live, some live right close to my place  
22 and some live on Third Street, some on Second Street, some  
23 live on First Street.

24 Q And have you been over to the Franklin School?

25 A I have been there. I was two or three times there

Zv161

1 when I took my child. The first time I was there was when I  
2 took him to have him in the kindergarten. He was there one  
3 week.

4 Q You know that the Franklin School is a very much  
5 smaller school than the Fremont School, isn't it?

6 A Yes, maybe it is, but if it is big enough for some  
7 other children to go there, I think it is big enough for my  
8 child, and for the children that are claiming their rights.

9 Q You think they could take all the children of Mexican  
10 descent that are living in your vicinity?

11 A It all depends.

12 Q It all depends on what?

13 A On the circumstances. And why don't they divide  
14 and have all the children, the Mexican descent and the American  
15 citizens, have the same rights and teach them just the same,  
16 and mingle with the Americans right along with the citizens  
17 of the United States, as I am.

18 Q That is a little beside the question. Just answer  
19 the questions, please. Now, in that vicinity where you live,  
20 there are mostly Mexican people that live there?

21 A Where? Where I live?

22 Q Yes.

23 A There are Mexican people and American people.

24 Q Well, they are all American people?

25 A Well, they are what you call white, and they are

1 American citizens, and I am a citizen too.

2 Q You never heard me call them anything but American  
3 people of Mexican descent, did you?

4 A I didn't, but some others have. Not you, maybe not.

5 Q Now, you have this one child that is 8 years old?

6 A He is 8 years old now.

7 Q And you entered him at the Fremont School?

8 A I didn't enter -- I entered him at the Franklin  
9 School for one week.

10 Q Where is he now?

11 A He is at the Fremont School, because I was not able  
12 to leave him at the Franklin School, and the teacher brought  
13 him home and told me he could not go to the Franklin School.  
14 And I asked, "Why?" And she said because he did not belong  
15 to the district. So I told her if my child didn't belong to  
16 the district, why some of the other children that didn't be-  
17 long to the district were permitted there, which are American  
18 people, white people. So she told me that she was satisfied,  
19 and she would like to have my child, and some more of the  
20 children there, but then she sent me to Mr. Smith of the  
21 Board of Education, and told me to go and talk to him per-  
22 sonally.

23 Q And did you go up on Main Street, to the office of  
24 the Board?

25 A I went to the office of the Board, and talked to

Zv163

1 him personally.

2 Q And you talked to --

3 A If he is called Mr. Reinhard, that is what he was  
4 introduced to me, and a lot of the other mothers that went  
5 there, they talked to him.

6 Q Well, I think probably you did talk to Mr. Smith.

7 A I talked to the man that is here.

8 Q Are you sure of that?

9 A I am sure, unless there is somebody else that looks  
10 exactly like him.

11 Q Are you quite positive you talked to Mr. Reinhard?

12 A I talked to him.

13 Q You would say you did talk to that gentleman?

14 A I talked to that gentleman.

15 Q Now, the Board of Education over there meets every  
16 two weeks, does it not?

17 A What is that?

18 Q The Board of Education?

19 A I don't know how long it was, but I talked to him,  
20 and he told me he was not able to do anything. And I didn't  
21 go there but one time, I went three times.

22 Q And you talked to the same man?

23 A And I talked to the same man.

24 Q And he told you that you didn't live in the Franklin  
25 district?

Zvl64

1           A     And he was the person that they sent me to, and  
2     that was the man, and he said that he couldn't do anything.

3           Q     I haven't asked you for the conversation, Mrs.  
4     Fuentes. I just asked whom you talked to, and whether you  
5     appeared at a meeting of the Board of Education.

6           A     I did.

7           Q     You appeared before the Board of Education?

8           A     I went to the Board of Education.

9           Q     When was that?

10          A     That was in '42 and '43, and '44, last year. And  
11     I had to send my boy. He missed kindergarten. He was 8 years  
12     old, and missed the first grade and second.

13          Q     Those classes were conducted at the Fremont School,  
14     weren't they?

15          A     But I told him as long as Bobbie was not of age, that  
16     I was not going to send him to the other school. I sent him  
17     to the school, the Franklin School, and on account I was not  
18     able to send him to that school, I told him I would keep him  
19     at home; that I wanted him to go to school, but because they  
20     have the discrimination of the children, so I kept my boy  
21     home, and I told him no one could make me send Bobbie to  
22     school until he was of age, if he wasn't able to go to the  
23     school I wanted him to, until they make me send him.

24          Q     And when he was 8 years old, you sent him to school?

25          A     I sent him to the Fremont School because I was not

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1 able to send him to the Franklin School.

2 Q But the only reason given to you by anybody you  
3 talked to was that you were not living in the Benjamin Franklin  
4 School District?

5 A No. And the teacher, when I went and I took him  
6 the second year, and the first year, I do not remember the  
7 name of the teacher that had Bobbie in the Franklin School.  
8 She was a kindergarten teacher, and when I went the second  
9 time I talked to the principal, and I asked her why was it  
10 they had admitted these colored children there, and a lot of  
11 children they had there, and she said she couldn't do anything,  
12 and for her part she was very much satisfied and would like  
13 to have a lot of the Mexican children with her, because they  
14 were just as smart and as intelligent, and they could mingle  
15 with them just the same as the other children could.

16 Q Did she tell you that there had been quite a lot of  
17 Mexican children in the Franklin School?

18 A Yes, they did, but they are going to put them out.

19 Q That is your conclusion?

20 A That is not my conclusion. That is what she said,  
21 that this year they weren't going to go to the Franklin  
22 School.

23 Q They weren't going to the Franklin School this year?

24 A No, they were trying to get rid of the Mexican  
25 children.



1 Q Who was it said that?

2 A The principal there.

3 Q What is her name?

4 A I do not know her name.

5 Q When was that conversation?

6 A Last year.

7 Q Last year. And what month?

8 A It was when school started.

9 Q In September of 1944?

10 A In September of '44, and September of '43.

11 Q The principal of the Franklin School told you that?

12 A She did, and we had a conversation there together.

13 Q And that principal told you that all of the Mexicans  
14 were going to be excluded from the Franklin School?

15 A She said they were going to do that, even if the  
16 children had been in the Franklin School for four or five  
17 years.

18 Q Or, did she tell you that all the people who lived  
19 in the Fremont School District were going to have to attend  
20 that school?

21 A No, she didn't tell me that.

22 Q She said, "All the Mexicans"?

23 A They were going to take all Mexicans, even if they  
24 were there four or five years.

25 Q That was about the same time you had this conversation

Zv167

1 with Mr. Smith?

2 A Yes, because she sent me over there.

3 MR. HOLDEN: That is all.

4 THE COURT: That is all.

5 Call your next witness.

6 MR. MARCUS: Mr. Guzman.

7 WILLIAM GUZMAN,

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 THE CLERK: State your name, please.

11 THE WITNESS: William Guzman, G-u-z-m-a-n.

12 THE CLERK: Be seated, please.

13 DIRECT EXAMINATION

14 BY MR. MARCUS:

15 Q Where do you live, Mr. Guzman?

16 A I live 208 South Artesia, Santa Ana, California.

17 Q How long have you lived there?

18 A For about eight years.

19 Q Are you married?

20 A Yes.

21 Q How many children do you have?

22 A I got three.

23 Q Within what school district do you reside?

24 A Well, they told me it is the Fremont School.

25 Q Within the Fremont School District?

Zv168

1 A That is what they tell me.

2 Q How many children do you have attending school?

3 A One.

4 Q How old is that child?

5 A He is eight.

6 Q What school does that child attend?

7 A He used to attend Fremont.

8 Q When? What year?

9 A '43, 1943.

10 Q 1943. Does your child speak the English language?

11 A Yes, sir.

12 Q Did the child speak the English language before he  
13 commenced going to school?

14 A He did.

15 Q Are you acquainted with your neighbors in that  
16 district?

17 A Yes.

18 Q The people of Mexican descent?

19 A Yes.

20 Q And what school did your child start in?

21 A Well, we wanted to get him into the Franklin School.

22 Q In what school did your child start?

23 A He started in Fremont.

24 Q He started in Fremont. When did he begin at the  
25 Fremont School?

Zvl69

1 A I think it was 1942.

2 Q Did you at that time have any conversation with  
3 any official of either the Fremont or Franklin School?

4 A I guess my wife was the one that interviewed some  
5 of them at the Franklin School.

6 Q Did you have any personal conversation with any of  
7 them?

8 A Well, it was 1944.

9 Q All right. Whom did you have a conversation with  
10 in 1944?

11 A The principal, Miss Dudley.

12 Q The principal of what school?

13 A Franklin.

14 Q Do you remember in what month?

15 A I think it was September 14th.

16 Q About September 14th?

17 A Yes.

18 Q And where did that conversation take place?

19 A In the school.

20 Q At the Franklin School?

21 A At the Franklin School.

22 Q Relate the conversation that you had at that time,  
23 please?

24 A Well, I went over and I told Miss Dudley I would  
25 like to have my kid go to that school, and she told me in what

Zvl70

1 district did I live. And so I told her. So she says, "That  
2 is the Fremont District." And I told her, "How come the  
3 other kids that live around there go to Franklin School while  
4 they are in the other district?" She told me, "I can't do  
5 nothing about it. You got to go see Mr. Henderson about that.  
6 I like to have your kid here, but there is nothing I can do  
7 about it."

8 So then I went and got myself a lawyer, Mr. Martin, who  
9 was over there at the School Board.

10 Q Who what?

11 A At the School Board.

12 Q You went to the School Board?

13 A Yes, and they had quite a talk there.

14 Q Who was present at the School Board?

15 A Well, there was quite a bunch there.

16 Q Were the members of the School Board present?

17 A Yes.

18 Q And were you there?

19 A I was there.

20 Q And who else was there with you?

21 A My wife.

22 Q Were any members of the School Board present who are  
23 here in court today?

24 A Yes, they are right here.

25 Q Can you point them out, please?

37

Zv171

1 A Those two fellows right there in front.

2 Q Mr. Reinhard and Mr. Henderson?

3 A And Mrs. -- I forget her name now.

4 Q The lady?

5 A Yes.

6 MR. MARCUS: Could we have her name, please?

7 MR. HOLDEN: Mrs. Gilbert.

8 THE WITNESS: Yes, Mrs. Gilbert.

9 MR. HOLDEN: Would you like to have them stand up?

10 MR. MARCUS: I just wanted their names for the purpose of  
11 the record.

12 Q BY MR. MARCUS: Was there a discussion had at that  
13 meeting with reference to your child attending the Franklin  
14 School?

15 A Why, yes, they had quite a talk there, and Mr.  
16 Martin couldn't convince this gentleman here to have my kid  
17 go to that school.

18 Q Well, was there a discussion about the children of  
19 Mexican descent, who lived within the Fremont School District,  
20 attending the Franklin School? Just yes or no?

21 A I don't think I remember that.

22 Q Well, do you remember a conversation at that school  
23 Board meeting respecting children who were not children of  
24 Mexican descent, who lived in your district, the Fremont  
25 District, going to the Franklin School?

Zv172

1 A Yes.

2 Q Now, just tell that part of the conversation to  
3 the court, please.

4 THE COURT: Pardon me just a moment, please.

5 Proceed. Read the question, Miss Reporter.

6 (Question read by the reporter.)

7 MR. HOLDEN: I object to that on the ground that it is  
8 incompetent, irrelevant and immaterial. It doesn't say the  
9 conversation between whom, or who spoke, and is asking for a  
10 conclusion of the witness.

11 THE COURT: Where was this conversation held?

12 THE WITNESS: At the School Board.

13 THE COURT: At a meeting of the Board?

14 THE WITNESS: At a meeting, yes.

15 THE COURT: Who was present at that time?

16 THE WITNESS: Well, those three persons over there.

17 THE COURT: The three persons on the first bench of the  
18 court room here?

19 THE WITNESS: Yes.

20 THE COURT: Who are they, please?

21 THE WITNESS: I understand -- they told me one is Mr.  
22 Smith --

23 THE COURT: We can identify them, can't we?

24 MR. HOLDEN: Do you want me to?

25 THE COURT: Yes.

1 MR. HOLDEN: This is Mr. Reinhard.

2 THE COURT: Yes, I remember Mr. Reinhard.

3 THE WITNESS: And Mr. Henderson.

4 MR. HOLDEN: And Mr. Henderson, and Mrs. Gilbert.

5 THE COURT: All right. Now, those three persons were  
6 present?

7 THE WITNESS: Yes.

8 THE COURT: You were present, were you?

9 THE WITNESS: I was present.

10 THE COURT: And your attorney, Mr. Martin, was present?

11 THE WITNESS: Mr. Martin.

12 THE COURT: Was this a regular meeting of the School  
13 Board?

14 THE WITNESS: Yes, it was a meeting there.

15 THE COURT: Now, state the conversation.

16 THE WITNESS: Let's see. I don't remember where we left  
17 off.

18 THE COURT: You haven't begun yet. There was an objec-  
19 tion interposed. Tell what was said and who said it.

20 THE WITNESS: Well, it is a long story. I don't know if  
21 I remember all of it.

22 MR. HOLDEN: I object to it on the ground that it is too  
23 indefinite, because the only question here would be the con-  
24 versation relative to the attendance of his child at the  
25 Franklin School.



Zv174

1 THE COURT: Overruled. State the conversation, and  
2 tell who the speakers were at that time.

3 THE WITNESS: You mean, the School Board Trustees, or --

4 Q BY MR. MARCUS: Look, the question is directed  
5 to the fact -- listen carefully, now -- of the children who  
6 were not of Mexican descent, who lived in your district,  
7 going out of your district to the other school. Now, is that  
8 clear?

9 A Yes.

10 Q Now, just give that part of the conversation.

11 THE COURT: And tell who said it, who were the speakers?

12 THE WITNESS: Well, there was Mr. Martin. He told them  
13 that how come the other kids, the Anglo-Saxon kids, were  
14 attending that school while they were in the Fremont District,  
15 and how come they couldn't take my kid to go to that school.

16 And, well, then he says that -- he says something about  
17 some majority and some minority.

18 Q BY MR. MARCUS: Now, was anything said to this  
19 effect, --

20 THE COURT: Just a moment. Have you finished the con-  
21 versation, Mr. Guzman?

22 THE WITNESS: Well, I can't -- I just can't remember  
23 everything now, and maybe I am too excited or -- it has been  
24 quite a while when they had that meeting, so probably some of  
25 it, I have just forgot about it.

Zv175

1 Q BY MR. MARCUS: We will come back to that conversa-  
2 tion later. Now, do you know at the Fremont School that it  
3 is only attended by children of Mexican descent?

4 A Yes.

5 Q Do you know that?

6 A Yes, that's right.

7 Q How long has that been going on, to your personal  
8 knowledge?

9 A Well, I have been living in Santa Ana for the last  
10 9 years. That is as far as I know.

11 Q Now, was anything said by you or the members of the  
12 Board at that meeting about the fact that children only of  
13 Mexican descent attended the Fremont School?

14 A Well, they told me that they couldn't take my kid  
15 there, it was in the other Fremont District, and that if we  
16 wanted to get our kid in that school, we had to move, move  
17 into the Franklin District.

18 Q All right. Now, was anything said to the effect  
19 that the Fremont School was exclusively for Mexicans?

20 A Yes, that is what they said, that it was exclusively  
21 for Mexicans.

22 Q Now, who said that?

23 A Well, the School Board.

24 Q Well, which member there, as you remember, stated  
25 that Fremont School was solely for Mexicans?

Zv176

1 A Well, I don't -- it is pretty hard for me to  
2 remember that.

3 Q But was such said by the members of the Board?

4 A Maybe somebody else did say that, and I just --

5 Q What was that?

6 A Maybe somebody else did say that, and I just don't  
7 remember who it was.

8 Q Well, did some members of the Board out there make  
9 that statement, some members of the School Board?

10 A I don't think so.

11 Q That the Fremont School was solely for Mexican  
12 children?

13 A I don't think they did say that.

14 Q Well, in any event, your child was not permitted to  
15 go to the Franklin School; is that correct?

16 A He wasn't.

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

18 A Oh, about, let's see, about five blocks.

19 Q How far do you live from the Franklin School?

20 A About nine blocks.

21 Q The Fremont School is closer to your home?

22 A No, no, no.

23 Q Now, look, Guaman, don't get excited, and just think  
24 of these things before you answer. Don't become confused.

25 What school is closest to your home?

1 A The Franklin.

2 Q And that is the other school you wanted your child  
3 to attend; is that correct?

4 A That's right. That's right.

5 Q Now, how far is the Franklin School from your home?

6 A About five blocks.

7 Q Are you sure about that?

8 A Well, let me see. Yes, five.

9 Q Now, the Fremont School where your child actually  
10 attends is how far from your home?

11 A About nine blocks.

12 Q Now, in going to the Fremont School does your child  
13 cross the Franklin School?

14 A Yes. Well, he goes about, I will say, about two  
15 blocks away from that school.

16 Q He comes within two blocks --

17 A Yes.

18 Q -- of the Franklin School?

19 A Yes.

20 Q Then he goes beyond the Franklin School to the  
21 Fremont School?

22 A The Fremont, yes.

23 Q Is that correct, sir?

24 A Yes.

25 MR. MARCUS: You may cross-examine.

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## CROSS EXAMINATION

BY MR. HOLDEN:

Q Your boy's name is Billie?

A Billie.

Q And Billie completed two years in the Franklin School, or, not the Franklin, but the Fremont?

A Yes. Let's see. He started going in 1942 up until 1943.

Q You did not send him to school this year?

A I didn't.

Q You kept him home?

A Sure, I did.

Q Now, he was perfectly happy at the Fremont School, was he not?

A He wasn't.

Q Did he pass the second year in his studies at Fremont?

A I guess he did.

Q Isn't it a fact that he missed 21 days in the second year that he was at Fremont, 21 days of school?

A I don't know.

Q What is that?

A I don't know.

Q Isn't it a fact that they didn't promote him because he didn't make his grades at the Fremont School in the second grade?

Zv179

1 A I don't know that.

2 Q That didn't have anything to do with your wanting  
3 to get him into Franklin? In other words, you didn't ask  
4 to have him go to Franklin because he didn't make the grade  
5 at Fremont?

6 A I didn't.

7 Q And you don't know whether he made the grade at  
8 Fremont or not?

9 A No.

10 Q So, so far as you know, he may have or he may not  
11 have completed or made his grade at Fremont?

12 THE COURT: Will you answer that question, Mr. Guzman?

13 THE WITNESS: What was that?

14 THE COURT: Read the question, Miss Reporter.

15 (Question read by the reporter.)

16 THE WITNESS: Well, I think he did.

17 Q BY MR. HOLDEN: Do you know whether or not he  
18 missed 21 days?

19 THE COURT: He has answered that already.

20 THE WITNESS: I said no, I didn't know.

21 Q BY MR. HOLDEN: You didn't know. Now, the Fremont  
22 School is about twice as large as the Franklin School, is it  
23 not?

24 A Well, I haven't measured the buildings there.

25 Q You haven't been to either school? Have you been to

1 either of the schools?

2 A Yes, I have been on the outside, yes, but I didn't  
3 have the time to measure the place.

4 Q Do you know how many teachers they have at Fremont?

5 A I don't.

6 Q Do you know how many teachers they have at Franklin?

7 A I don't.

8 Q Did you try to find out about that?

9 A I never did try to find out about that.

10 Q There are some Mexican children that go to the  
11 Franklin School, who live in your district, are there not?

12 A There is, but they got letters --

13 Q Answer my question.

14 THE COURT: No, don't interrupt the witness that way.

15 If you are not satisfied with his answer, you can move to  
16 strike it out, but don't interrupt the witness that way.

17 Read the question, please.

18 (Question read by the reporter.)

19 THE WITNESS: There is, but they got notices at the  
20 beginning of school that they got to attend Fremont.

21 MR. HOLDEN: I move that the last part of the answer be  
22 stricken as not responsive.

23 THE COURT: No, it is not responsive. It may go out.  
24 But don't interrupt witnesses, counsel. I do not permit that  
25 in this court.

Zv181

1 Q BY MR. HOLDEN: You referred to Anglo-Saxon  
2 children that were transferred out of Fremont --

3 A Out of Fremont?

4 Q -- that were permitted to go to the Franklin  
5 School, Anglo-Saxons living in your district.

6 THE COURT: I don't know that he used that term "Anglo-  
7 Saxon" though.

8 MR. HOLDEN: I am pretty sure he did, because I have it  
9 here in my notes. However, I will withdraw that.

10 THE WITNESS: You refer to that --

11 THE COURT: Well, it is a nebulous term.

12 MR. HOLDEN: I withdraw it, because it doesn't matter in  
13 this case.

14 Q BY MR. HOLDEN: You didn't talk to the principal  
15 of the Fremont School about transferring your child, did you?

16 A I did.

17 Q To Mrs. Gilbert?

18 A No.

19 Q -- who is the principal of the Fremont School?

20 A That lady over there (indicating).

21 Q Her name is Mrs. Gilbert. Did you talk to her?

22 A Yes. Oh, I didn't talk to her.

23 Q My question was, did you talk to the principal at  
24 the Fremont School.

25 A I said I didn't. I said I didn't.



Zv182

1 Q Oh, you didn't. Pardon me. I thought you said you  
2 did.

3 Now, at this meeting that you referred to before the  
4 Board of Education, most of the talking there was done by  
5 Mr. Martin, was it not?

6 A At that time, well, there was some of the -- some  
7 families there in that Fremont District that went over there  
8 that done a little talking over there.

9 Q You mean the families that lived in the Fremont  
10 District?

11 A Yes, that went to that meeting.

12 Q Whose children are going to the Franklin School?

13 A To Fremont.

14 Q Now, the members of the Board didn't talk, did they?

15 A They talked.

16 Q Which one of them back there said something?

17 A Well, I believe both of them did, and Mrs. Gilbert  
18 did, too, I guess.

19 Q At that hearing Mr. Martin was representing these  
20 people who were attending Franklin School, was he not?

21 A He was representing me.

22 Q A great deal of the conversation pertained to these  
23 people who were being permitted to leave Fremont to attend  
24 Franklin, did it not?

25 A I didn't quite get that.

1 Q Most of the conversation was pertaining to those  
2 Mexican people who were attending Franklin School, but who  
3 lived in the Fremont District, was it not?

4 A Yes.

5 Q And when you refer to the Board of Education, so  
6 far as you are concerned you mean these gentlemen and this  
7 lady that is seated back here, Mr. Henderson, Mr. Reinhard,  
8 and Mrs. Gilbert?

9 A Yes, they were present there. Yes, they were there.

10 Q Are they the members of the Board of Education?

11 A I just can't tell you who was a member or who wasn't,  
12 but they were there.

13 Q As a matter of fact, do you know that they are  
14 members of the Board of Education?

15 A I know Mr. Henderson is the superintendent.

16 Q And Mr. Reinhard is the assistant superintendent?

17 A He must be something. I don't know.

18 Q And Mrs. Gilbert is the principal of the Fremont  
19 School?

20 A That's right.

21 MR. HOLDEN: That is all.

22 MR. MARCUS: That is all.

23 Mrs. Mendez.  
24  
25

1 MABEL MENDEZ,  
2 called as a witness by and on behalf of the plaintiffs, having  
3 been first duly sworn, was examined and testified as follows:

4 THE CLERK: Will you state your name, please?

5 THE WITNESS: Mabel Mendez, M-e-n-d-e-z.

6 DIRECT EXAMINATION

7 BY MR. MARCUS:

8 Q Mrs. Mendez, where do you live?

9 A 1821 West First.

10 Q In Santa Ana?

11 A Yes.

12 Q How long have you lived there?

13 A 22 years.

14 Q Are you married and have several children?

15 A Yes, I have.

16 Q How many children do you have?

17 A I have five all together.

18 Q How many children are in school at the present time?

19 A Two.

20 Q Give me their names.

21 A Richard Mendez, is 13, and Paul Eugene, is 10.

22 Q You know where the Fremont School is located, do you  
23 not?

24 A Yes.

25 Q And you know where the Franklin School is located?

v185

1 A Yes.

2 Q Which of the two schools is closer to your home?

3 A Well, I believe that the Franklin is.

4 Q The Franklin School?

5 A The Franklin School, yes.

6 Q How much closer is it?

7 A It is just about five blocks from where I live.

8 Q Five blocks closer --

9 A Yes.

10 Q -- than the Fremont School?

11 A Yes.

12 THE COURT: Well, is that what you mean, Mrs. Mendez?

13 THE WITNESS: Yes, it is five blocks, because I live in  
14 the 1900 block, and Franklin is in the 1400.

15 THE COURT: You mean the school is five blocks from your  
16 home?

17 THE WITNESS: Yes, that is what I mean exactly.

18 Q BY MR. MARCUS: And how far is the Fremont School?

19 A Well, the Fremont is on Ninth Street and Artesia,  
20 and I live on First.

21 Q Now, how much further is the Franklin School from  
22 your home?

23 A It is about nine blocks or ten.

24 Q It is about nine blocks --

25 A Yes.

1 Q -- further from your home --

2 A From my home.

3 Q -- than the Franklin School?

4 A Yes.

5 Q Do you understand my question?

6 A Yes, Fremont is farther from where I live than

7 Franklin. Is that it?

8 Q All right. And is it nine blocks further away from  
9 your home than the Franklin School?

10 A The Fremont, yes.

11 THE COURT: Now, I don't know whether she understands  
12 you or whether you understand her. The Franklin School is  
13 about five blocks from your home?

14 THE WITNESS: Yes, that's right.

15 THE COURT: How far from your home is the Fremont School?

16 THE WITNESS: The Fremont is farther from my house than  
17 the Franklin.

18 THE COURT: Do you know how much farther it is than the  
19 Franklin School?

20 THE WITNESS: Well, yes, it would be five, six, seven,  
21 eight blocks; it would be about three or four blocks more.

22 Q BY MR. MARCUS: Now, you say your children are  
23 attending the Fremont School?

24 A No, the Franklin.

25 Q They are attending the Franklin School?

Zv187

1 A The Franklin, yes.

2 Q Now, how do they happen to be attending the Franklin  
3 School?

4 A They haven't as yet been transferred, but I re-  
5 ceived a letter that Eugene --

6 MR. HOLDEN: I object to this as incompetent, irrelevant  
7 and immaterial, and not a proper issue in this case,

8 MR. MARCUS: This is a party that received the letter,  
9 counsel.

10 MR. HOLDEN: I don't see the letter.

11 MR. MARCUS: This is Mabel Mendez, and it is marked as  
12 an exhibit in this case already.

13 THE COURT: As to how they happened to be anticipating  
14 attending is another matter that is shown by the letter, I  
15 think, isn't it?

16 MR. MARCUS: That is correct, your Honor.

17 THE COURT: Which school have the children been attend-  
18 ing in the last year?

19 THE WITNESS: The Franklin.

20 THE COURT: Both of them?

21 THE WITNESS: Yes, all of them.

22 THE COURT: How long have the two children been attend-  
23 ing the Franklin School?

24 THE WITNESS: Well, since the kindergarten, since they  
25 started; ever since the kindergarten.

Zv188

1 THE COURT: In what grade are they now?

2 THE WITNESS: Well, Richard graduated to Willard.

3 THE COURT: Richard did what?

4 THE WITNESS: Graduated to Willard from the Franklin.

5 He is going to Willard this next September.

6 THE COURT: You say Willard?

7 THE WITNESS: Yes, he is going to Willard, this next  
8 September.

9 THE COURT: Is Willard a school there in Santa Ana?

10 THE WITNESS: Yes, it is. That is the Junior High.

11 THE COURT: Proceed.

12 Q BY MR. MARCUS: Now, do you know about how many --  
13 strike that. You know there are children of Mexican descent  
14 who have attended the Franklin School during the past three  
15 or four years?

16 A Mexican children attending the Franklin?

17 Q The Franklin School, some of whom were yours?

18 THE COURT: Why don't you put a question to her instead  
19 of making a statement. She can answer the questions. She  
20 is very intelligent. If you put questions to her instead of  
21 declaring something and then asking her to assent or disagree  
22 with it, it is confusing.

23 Q BY MR. MARCUS: Is it a fact that other children of Mexican  
24 descent have attended the Franklin School, besides yours?

25 A Yes, sir.

Zv189

1 Q Now, did you receive this letter on or about October  
2 20th of last year, 1944 (handing document to witness).

3 A Yes, I did.

4 MR. HOLDEN: It hasn't been offered.

5 MR. MARCUS: It is already in evidence, counsel.

6 MR. HOLDEN: No, it is not.

7 THE COURT: It was marked for identification.

8 MR. MARCUS: Yes, I see it is marked for identification.

9 Q BY MR. MARCUS: Is your name Mabel Mendez?

10 A Yes, that is my name.

11 Q Did you on or about October 20, 1944, receive this  
12 letter, addressed to Mrs. Mabel Mendez, 1821 West First Street,  
13 Santa Ana?

14 A That's right. Yes, I did.

15 MR. MARCUS: We offer this letter in evidence at this  
16 time.

17 MR. HOLDEN: To which we object on the ground it is  
18 incompetent, irrelevant and immaterial, and doesn't tend to  
19 prove any issue in this case.

20 THE COURT: Overruled. It will be received.

21 THE CLERK: Plaintiffs' No. 1.

22 Q BY MR. MARCUS: Now, did you attend a meeting of  
23 the Board of Education --

24 A Yes, I did.

25 Q -- at Santa Ana, after you received this letter?

1 1  
ec.



Zv190

1 A Yes, I did.

2 Q Do you know how many other people of Mexican descent  
3 received such a letter and attended that particular meeting?

4 A There was quite a few of us all together.

5 Q Now, how many, Mrs. Mendez? About how many?

6 A Oh, say about 25, probably.

7 Q Approximately 25 people?

8 A Yes.

9 Q Attended that meeting. Did they in your presence  
10 have a letter similar to this one?

11 A Exactly like that one, yes.

12 Q Now, where did that meeting take place?

13 A At the Board of Education.

14 Q Do you remember who was present at that besides the  
15 Mexican people that came with you and the members of the  
16 Board of Education?

17 A Well, there was Mrs. Gilbert, Mr. Henderson, and I  
18 believe it was Mr. Mitchell that was there. Those are the  
19 ones that I really know.

20 Q All right. Now, was there a discussion at that  
21 meeting concerning these letters?

22 A Yes, we did have quite a talk about those letters.

23 Q Now, what was said, if you remember, in particular  
24 about the children who were attending the Franklin School, of  
25 Mexican descent, having to go to the Fremont School?

2v191

1           A     Well, we wanted to find out why they were supposed  
2 to go to the Fremont School, and they said they were going to  
3 fix it that all the children from the district were supposed  
4 to go there. We asked them why just the Mexican children  
5 received those -- we received those letters; there was a lot  
6 of them that are not Mexican children, and they didn't get  
7 no letters like the ones we got. So they said further on that  
8 they would discuss the matter, and they would think it over.  
9 The Board of Education said that. So far we haven't heard  
10 anything about it until today.

11           Q     You haven't heard anything yet today, have you?

12           A     No.

13           Q     Now, approximately how many children who are not of  
14 Mexican descent reside in your neighborhood that attend the  
15 Franklin School?

16           A     Well, there is the Jones, they are colored, and there  
17 is some that live down in front of our house, the Harts, and  
18 the --

19           Q     Without naming them, can you give us an approximate  
20 number?

21           A     I would say about 15.

22           THE COURT: 15, you say?

23           THE WITNESS: Yes.

24           Q     BY MR. MARCUS: Now, to your knowledge, do you know  
25 whether those people who were not of Mexican descent received

Zv192

1 such a letter?

2 MR. HOLDEN: I object. Well, I withdraw that.

3 THE WITNESS: Yes, they didn't receive those letters.

4 Q BY MR. MARCUS: They did not?

5 A They did not.

6 Q Was anything said at that particular meeting about  
7 the Fremont School being established for Mexicans, and give  
8 us that conversation, please.

9 THE COURT: She hasn't said that there was anything said  
10 about that. You are assuming that there was. That is the  
11 trouble with your questions.

12 Q BY MR. MARCUS: Was there such a conversation, as I  
13 have related, that the Fremont School was built for Mexicans?

14 A Yes, that is what I believe the school was built for.

15 Q Yes.

16 A That is what we was there at the Board of Education  
17 for, to discuss about the Mexican children going.

18 THE COURT: What was the conversation, Mrs. Mendez, about  
19 that, and who said it? Who was the speaker, and who said  
20 what, if anything?

21 THE WITNESS: Well, we all did.

22 THE COURT: What was said?

23 THE WITNESS: We just wanted to find out why we all re-  
24 ceived these letters, and why our children was supposed to be  
25 transferred to these schools after they had gone so many years

Zv193

1 to the Franklin.

2 THE COURT: What reply was made, if anything, and who  
3 made the reply?

4 THE WITNESS: Well, I don't know exactly who got up of  
5 the Board of Education and talked, but anyway they said they  
6 would take this as a further investigation, and they would let  
7 us know later.

8 THE COURT: That is what you testified to a few minutes  
9 ago?

10 THE WITNESS: Yes.

11 THE COURT: Is that all?

12 THE WITNESS: That is all that was said.

13 MR. MARCUS: You may cross-examine.

XX

14 CROSS EXAMINATION

15 BY MR. HOLDEN:

16 Q Your children continued to go to the Franklin School,  
17 did they not?

18 A Yes, up to this year.

19 Q And so far as you are concerned, Paul Eugene will  
20 go to the Franklin School next year, will he not?

21 A According to the letter, it says no.

22 Q The Board of Education told you they were going to  
23 further consider this matter, didn't they?

24 A Yes, they did.

25 Q And that they would let you know their decision?

Zv194

1 A Yes.

2 Q They haven't notified you yet?

3 A No, they haven't.

4 Q As to their decision?

5 A No, they haven't.

6 Q So, so far as you knew, their decision may be favor-  
7 able to you?

8 A It may, yes, and still it may not.

9 Q Your family has attended the Franklin School for  
10 20 years, have they not?

11 A Yes, that is right.

12 Q And before the Fremont line was established, your  
13 children attended the Franklin School?

14 A That's right.

15 Q And the Board, when they established the line, per-  
16 mitted all children who were attending Franklin to continue  
17 to attend, did they not?

18 A Yes.

19 Q They never transferred any one from the Franklin  
20 to the Fremont, did they?

21 A I don't know, because mine were not transferred.

22 Q And you don't know of any that were, do you?

23 A No, I don't.

24 Q When they established the line, that didn't affect  
25 those families that had been going there at all, did it?

v195

1 A What was that?

2 Q I will withdraw that question. I think it is un-  
3 intelligible, and has been answered.

4 Most of the talking up there was done by Mr. Martin, was  
5 it not, at that meeting?

6 A Well, he did represent Mr. Guzman, but we all had  
7 some things to say, according to the letters that we received.  
8 So far he was the one --

9 Q Practically all this disturbance occurred down there  
10 after Mr. Guzman complained, did it not?

11 A No, we all objected to the letters that we received.

12 Q But Mr. Guzman, did he tell you that he had appeared  
13 at the Board on September 1st?

14 A No, he didn't.

15 Q He didn't tell you that he objected on the ground  
16 that other people were permitted to go there?

17 A No.

18 Q In all these years that letter is the only communi-  
19 cation that you have ever had from the Board of Education?

20 A That's right.

21 MR. HOLDEN: Has that been introduced?

22 THE COURT: Yes, it was offered just a moment ago. The  
23 letter to Mrs. Mendez was offered.

24 MR. HOLDEN: Has it been numbered, your Honor?

25 THE COURT: I think so. Mr. Frankenberger, is that right?

Zv196

1 THE CLERK: No. 1.

2 MR. HOLDEN: It is in evidence?

3 THE CLERK: Yes.

4 THE COURT: Yes, it was marked for identification at the  
5 pre-trial hearing, and offered this morning and received.

6 MR. HOLDEN: That is Plaintiffs' Exhibit 1?

7 THE CLERK: No. 1.

8 Q BY MR. HOLDEN: Your child, Richard, is now going  
9 to the Willard School?

10 A Yes, he will attend next September.

11 Q And the Willard School is the junior high school, is  
12 it not?

13 A Yes, that's right.

14 MR. HOLDEN: That is all.

15 THE COURT: Just a moment, Mrs. Mendez. I want to ask  
16 you a question or two.

17 Q BY THE COURT: Did the children, your children that  
18 went to the Franklin School, did they begin in Franklin School  
19 and go there right along?

20 A Yes, they did; always had.

21 Q They continued right on until they got into Junior  
22 High, did they?

23 A Yes, that's right. The two older ones graduated  
24 from high school.

25 Q How long has Fremont School been located where it is

Zvl97

1 now located?

2 A Well, I really don't know, but it has been there  
3 for, as far as I can remember, for 22 years, because when I  
4 moved there it was already located at the same place.

5 Q And have you been living at the same place during  
6 all of these 22 years?

7 A Yes, that's right.

8 Q How has that locality changed in the folk who live  
9 in the locality?

10 A I really don't know.

11 Q Well, you have been there for 22 years?

12 A I never had time to look around or see anything.

13 Q You don't have to have time to look around. You  
14 know without looking around how the community changes. Perhaps  
15 there hasn't been any change in it.

16 A No, when I lived there, went to live there, there  
17 wasn't as many houses as there is now. Of course, that is  
18 about the only thing I can say.

19 Q How about the Mexican folk that live there? Are  
20 there more than there were originally? I mean so far as  
21 percentage is concerned.

22 A Yes, there is.

23 Q There are more there now?

24 A Yes.

25 Q How does it compare with, say, 10 years ago?



Zv198

1 A Well, I don't know how I could answer that.

2 Q What I mean is, is the population now in your  
3 neighborhood largely Mexican folk?

4 A Well, it is partly, where I live, yes, but on the  
5 front from where I live, on First, there is American people  
6 living there.

7 Q How far would they be from your home?

8 A Well, just across the street.

9 Q And those families have children?

10 A Yes, they have.

11 Q Where do those children go to school?

12 A Well, they go to Franklin.

13 Q How many of the Mexican folk there in your neigh-  
14 borhood, who have children, send their children to a school  
15 other than Franklin? Are there many of them?

16 A I don't know. Not that I know, around there.

17 Q Most of them go to the Franklin School?

18 A Yes.

19 Q Most of the Mexican children?

20 A No, not the Mexican children. They go to Fremont.

21 Q I was asking you about that. Did you understand I  
22 was asking you about that?

23 A No, I didn't. I just thought you meant that went to  
24 Franklin School.

25 Q I am not making any declaration about where they are

1 going, but I am asking you about that. Do any of your  
2 neighbors' children of Mexican descent go to Franklin School?

3 A Yes, they do.

4 Q And others go to the Fremont School?

5 A Yes.

6 Q Those that attend the Franklin School, of your  
7 neighbors, have they been living there for some time, or are  
8 they just newcomers?

9 A No, they have lived there about as long as I have.

10 Q Now, those whose children attend the Fremont School,  
11 are they newcomers largely, or the older families?

12 A Yes, they are renters, mostly. There are just  
13 houses they moved into there, and they move out, mostly. Well,  
14 it all depends on how long they stay.

15 Q Are they more or less transients?

16 A Yes, some of them; some of them. Not all of them.

17 Q What is Mr. Martin's name? Do you know his first  
18 name, or his initials?

19 A Mr. Martin?

20 Q Yes, the lawyer who appeared at the Board represent-  
21 ing Mr. Guzman.

22 A No, I don't.

23 Q He is an attorney there in Santa Ana?

24 A Yes. I don't know him.

25 Q Did you have any complaint yourself in this matter,

1 Mrs. Mendez?

2 A No, I didn't.

3 Q You were satisfied as to the way in which your  
4 children were attending schools there?

5 A Yes, that is true. I never had any trouble at all.

6 Q How did you happen to come with these folks?

7 A On account of that letter that I received, and I  
8 didn't want my little boy to go over to the Fremont.

9 Q That letter you are referring to, Exhibit No. 1, I  
10 want to show it to you. Is that the letter that you are re-  
11 ferring to? You are referring to Exhibit No. 1?

12 A Yes, that's the letter that I received.

13 Q How did you get that letter?

14 A Well, that just happened to come in through the mail,  
15 and I don't know how it would happen, or whoever told them to  
16 send it to me, or anything. I don't know.

17 Q Had you had any disagreement with the school people?

18 A Never did.

19 Q I don't mean the Board of Education. I mean the  
20 principal.

21 A No, I never did. I have always gone and attended  
22 the P.T.A.-Teachers' Association at the Franklin, and we al-  
23 ways have gotten along real nicely at the Franklin.

24 Q Do you have a Parent-Teachers Association?

25 A Yes.

Zv201

1 Q And you are a member?

2 A Yes.

3 Q Did you go to those meetings?

4 A Yes, I always did.

5 Q Weren't these matters discussed at those meetings?

6 A Never have; not at the Franklin, they haven't.

7 Q I am speaking now of the Parent-Teachers Association  
8 that meets in the community in which you live. That is what  
9 I am talking about. You understand that?

10 A Well, yes. What I mean is that we never have dis-  
11 cussed anything about the Mexican children, or anything. We  
12 just go to the meetings and discuss about matters going on,  
13 but we never talked about it because I had never had any  
14 letters or had any trouble about or know anything about this  
15 going on.

16 Q Do any of the other mothers there of Mexican children  
17 attend those Parent-Teachers Association meetings?

18 A Not very many of them.

19 Q So that it has never been brought up before the  
20 Parent-Teachers meetings?

21 A No.

22 Q Not any of these questions that are before the court  
23 here?

24 A No, they haven't.

25 Q And the matter that interested you in the situation

1 was the receipt of this letter?

2 A Yes.

3 Q What was there about that letter that caused you  
4 to be concerned?

5 A I didn't want my little boy to go to the Fremont.

6 Q Why didn't you want him to go there?

7 A Because he is well-advanced at the Franklin, and he  
8 has always attended that, and knowing they don't progress very  
9 much at the Fremont, I didn't want him to go back on his  
10 grades.

11 THE COURT: Read the answer, please.

12 (Answer read by the reporter.)

13 THE COURT: How do you know that they don't progress  
14 very well at the Fremont?

15 THE WITNESS: Because I had neighbors there that lived  
16 for quite a while there, and their children were just as old  
17 as mine, and they seemed like they didn't get anywhere, and  
18 quite a few of them that I have known, they haven't been  
19 very far ahead, at the Fremont, like they have at the Franklin.

20 THE COURT: You are not referring to your children, your  
21 own children altogether?

22 THE WITNESS: Yes, my children are advanced at the  
23 Franklin.

24 THE COURT: How about the other children that may not be  
25 as advanced?

Zv203

1 THE WITNESS: Well, I have one boy that is 16 years,  
2 and he graduated from Willard at the age of 16, and my little  
3 neighbor was 16 years of age and was still at the Fremont  
4 School, and at the same age he hadn't graduated from the fifth  
5 grade, or the sixth grade.

6 THE COURT: Did they play together there, your children  
7 and the others?

8 THE WITNESS: Yes, they always did.

9 THE COURT: They seemed to be companionable there to-  
10 gether, did they?

11 THE WITNESS: Yes.

12 MR. HOLDEN: I would like to ask one question, your  
13 Honor.

14 Q BY MR. HOLDEN: You just stated that one of your  
15 neighbors' children was 16 when he got out of the fifth grade?

16 A The fifth, yes. He is still going at the Fremont,  
17 so far as I know.

18 Q And the Fremont only instructs to the sixth grade.  
19 What is that boy's name?

20 A Phillip Obiedo.

21 Q How do you spell that last name?

22 A I don't know.

23 THE COURT: What is the last name?

24 THE WITNESS: Obiedo.

25 THE COURT: O-b-i-e-d-o, I suppose.

Zv204

1 MR. HOLDEN: That is all.

2 THE COURT: That is all.

43 3 MR. MARCUS: Mrs. Guzman, will you take the stand,  
4 please?

5 VIRGINIA GUZMAN,  
6 called as a witness by and on behalf of the plaintiffs, having  
7 been first duly sworn, was examined and testified as follows:

8 THE CLERK: State your name, please.

9 THE WITNESS: Virginia Guzman.

10 DIRECT EXAMINATION

11 BY MR. MARCUS:

12 Q What is your name?

13 A Virginia Guzman.

14 Q Mrs. Guzman, your husband testified here before on  
15 the stand today?

16 A Yes.

17 Q Now, you have one child?

18 A Attending school, yes.

19 Q <sup>old</sup>  
How <sup>^</sup>is the child?

20 A He is 8 years old.

21 Q Did you attend a meeting where this lady who just  
22 testified was present?

23 A I did.

24 Q And some 25 or 30 other people?

25 A Yes.

1 Q At the Board of Education?

2 A Yes.

3 Q These three people seated in the front row of the  
4 Board of Education were present?

5 A Yes, they were present.

6 Q Do you remember the conversation that was held  
7 there at that time regarding the letters that were sent out --

8 A Yes.

9 Q -- to the Mexican parents?

10 A Yes.

11 Q Relate that conversation to the court, and state who  
12 talked and who made the statements for the School Board.

13 A Well, Mr. Martin, he did all the talking there.

14 Q For you people?

15 A Yes.

16 Q All right.

17 A And he told them that we want to send Billie to the  
18 Franklin School. And they said that we lived in the Fremont  
19 District, and that he had to go there. And we said why didn't  
20 the others, our neighbors right next door and across the  
21 street, that were going to the Franklin School, why they didn't  
22 get any letters. And they said that those kids got a special  
23 permit, the white kids, as they call them.

24 Q They said the white kids got a special permit?

25 A Yes.



Zv206

1 Q To do what?

2 A To be transferred to the Franklin, that live in the  
3 Fremont District, to go out of the Fremont District to the  
4 Franklin District.

5 Q All right. What else was said, as far as you  
6 remember?

7 A Well, let's see.

8 Q To your knowledge, do only children of Mexican de-  
9 scent attend this Fremont School?

10 A Yes.

11 Q Was anything said by Mr. Martin about children of  
12 Mexican descent, or by the School Board, attending this school?

13 A Yes, he did a lot of talking, but they wouldn't  
14 pay any attention to him.

15 Q No, no. What was said?

16 A He said why couldn't my boy be permitted to attend  
17 that school. They said that he couldn't.

18 Q Did he give the reason for it?

19 A He said, Mr. Henderson said, that we live in the  
20 Fremont District and that they couldn't change the district.

21 Q How long has your child been attending the Fremont  
22 School?

23 A He hasn't attended this last year.

24 Q He hasn't attended this last year?

25 A No.

Zv207

1 Q How long has he been going to the Fremont, do you  
2 know?

3 A Two years.

4 Q In your immediate neighborhood, will you tell us  
5 how many children other than of Mexican descent there are?

6 A 30, 35.

7 Q Wait a minute. (Continuing) -- that go to the  
8 other school, that is, the Franklin School?

9 A To the Franklin, 30 or 35.

10 Q About 30 or 35 in your district?

11 A Yes.

12 MR. MARCUS: I think that is all. You may cross-examine.

XX CROSS EXAMINATION

14 BY MR. HOLDEN:

15 Q Billie didn't pass the last year he was in Fremont,  
16 did he?

17 A Last year? He didn't go last year.

18 Q The last year he went to Fremont he didn't pass, he  
19 didn't make the grade, did he?

20 A No, I guess not.

21 Q Now, there are Mexican children that attend the  
22 Franklin School, who live in the Fremont District?

23 A They did.

24 Q What is that?

25 A They did this past year.

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1 Q Well, they did every year that they have had school  
2 at the Franklin School. There have been Mexican children  
3 from the Fremont District attending there, have there not?

4 A Yes.

5 Q Give us the names of some of those people, other  
6 than Mexicans, who attend the Franklin School.

7 A Well, I don't know whether I can remember the names,  
8 but right next door there is Taylor. On Franklin Street  
9 there is the Harts.

10 Q How many children do the Taylors have?

11 A Two -- no, one. One little girl. Then the Frisbys,  
12 I believe two. And Sweeney, I don't know if that is the first  
13 name or last, but she has got about three or four.

14 Q Where does she live?

15 A She lives right down on Pine, right below where I  
16 live.

17 THE COURT: How far from your home does she live?

18 THE WITNESS: About two blocks or three. And Taylors  
19 just next door, and the Harts, you know, just back of my house.

20 THE COURT: Next door to your home?

21 THE WITNESS: Yes. And the other kids, I don't know  
22 their last names.

23 THE COURT: The one name is Sweeney, and one is Taylor,  
24 and what?

25 THE WITNESS: And Hart.

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1 THE COURT: And Hart?

2 THE WITNESS: And the other kids, I know their first  
3 names, but not their last. There is Ronnie, and there are a  
4 lot of them I know their first name.

5 THE COURT: This exhibit, which has been introduced at  
6 the pre-trial as Exhibit No. 4, shows the school population  
7 on June 11, 1945 at the Franklin School as 237 pupils, of  
8 which there were 161 so-called English-speaking pupils, and  
9 76 so-called Spanish-speaking pupils. The enrollment  
10 figures in that tabulation are as of March 22nd, 1945.

11 Proceed.

12 Q BY MR. HOLDEN: Is that all the people you know,  
13 the ones you mentioned?

14 A No, there are more, but I don't know their names.

15 Q Have you checked out in that neighborhood and  
16 counted the children that are transferred?

17 A I know there are a lot of colored people, too.

18 Q I mean, have you actually counted them?

19 A No, but I know just about how many in the family.

20 MR. HOLDEN: That is all.

21 Q BY THE COURT: There are a lot of colored people,  
22 you say?

23 A That attend Franklin, that live in my district.

24 Q Where do they live with respect to your home?

25 A On the same street, and on the same side, about two

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1 blocks, or one block. They are all neighbors around there.

2 Q How many do you think there are in that locality  
3 of the colored people?

4 A I think there is about 30 or 35 all together, of  
5 what they call white.

6 Q They don't call the colored white, do they?

7 A That is what they are calling them.

8 Q I am speaking of those whose skin is colored, and  
9 I don't mean olive complexioned, but I mean colored. How  
10 many of those are there?

11 A Oh, there are -- you mean where I live, around there?

12 Q Yes.

13 A There are about, I guess, five families there.

14 Q What age are those children?

15 A They are school age.

16 Q Well, about what ages?

17 A Oh, around 9 or 12, 8 years, in there.

18 Q In the early grammar grades?

19 A Yes.

20 Q That is all.

21 MR. MARCUS: No further questions.

22 THE COURT: Call your next witness.

23 MR. MARCUS: I will call Mr. Henderson as an adverse wit-  
24 ness.

25

1 FRANK A. HENDERSON,  
2 called as an adverse witness under Section 43-B of the Rules  
3 of Civil Procedure, having been first duly sworn, was examined  
4 and testified as follows:

5 THE CLERK: State your name, please.

6 THE WITNESS: Frank A. Henderson.

7 DIRECT EXAMINATION

8 BY MR. MARCUS:

9 Q Mr. Henderson, you are the superintendent of schools  
10 at Santa Ana?

11 A Yes.

12 Q How long have you been such superintendent?

13 A 14 years -- 13 years. Pardon me. 13 years.

14 Q How many members do you have on the School Board?

15 A Five.

16 Q Do you know whether the School Board is elected or  
17 appointed?

18 A They are elected.

19 Q Are you appointed to your position, or elected?

20 A Appointed by the Board.

21 Q By the School Board. Is that appointment yearly,  
22 or has it been continuous for the past 13 years?

23 A It is on a four-year contract, and I have a four-  
24 year contract; from four years to four years.

25 Q Now, within your district, do you have the Fremont,

1 Delhi, and Logan Schools?

2 A Yes, sir.

3 Q And you have the Franklin School?

4 A Yes.

5 Q Now, is it a fact that in the Fremont School Dis-  
6 trict you have 325 students -- have had 325 students during  
7 the past year that attended that institution?

8 A I can't swear to that.

9 THE COURT: I thought we had agreed that these matters  
10 were explored in the pre-trial conference.

11 MR. MARCUS: That was just a preliminary question.

12 Q BY MR. MARCUS: Are there approximately 325 students?

13 THE COURT: Hand him this tabulation, and he may be able  
14 to tell you.

15 (The document referred to was handed to the witness.)

16 THE WITNESS: That's right.

17 Q BY MR. MARCUS: And at the Delhi there were approx-  
18 imately 232 students?

19 A That's right.

20 Q And Logan, 158?

21 A Yes.

22 Q And at Franklin, 237? That is down a little bit,  
23 I believe.

24 A Yes, that's right.

25 Q Now, is it a fact that the Fremont School is attended

1 solely by children of Mexican descent or ancestry?

2 A It is so.

3 Q And the same applies to Delhi?

4 A Not 100 per cent.

5 Q This says there were 232 children at the Delhi  
6 School and 232 students of Spanish-speaking people?

7 A Yes. I suppose one-half of one per cent is not a  
8 Spaniard or a Mexican.

9 Q At the Logan School the same is true, is it not?

10 A That's right.

11 Q 158 students?

12 A That's right.

13 Q And 158 Spanish-speaking pupils. You mean by  
14 Spanish-speaking pupils, those are --

15 A Of Mexican descent.

16 Q Of Mexican descent. Is that correct, sir?

17 A That's right.

18 Q Now, Mr. Henderson, you have other children, other  
19 than those of Mexican descent, residing in the Fremont  
20 District, do you not?

21 A Yes.

22 Q It has been testified here that in one district  
23 there were 25 or 30, and in another, 35, another neighborhood,  
24 I should say, within the Fremont District. Could you tell  
25 us approximately how many children other than those of Mexican



1 descent reside in the Fremont District?

2 A Approximately, I should say, 35, not 60, as your  
3 figures would total, but approximately 35.

4 Q Those children, are they granted a special permis-  
5 sion to transfer to the Franklin School?

6 A On their request, yes.

7 Q On their request. Now, in the Delhi District, Mr.  
8 Henderson, will you tell us approximately how many children  
9 other than those of Mexican descent reside in that district?

10 A I think only about 5.

11 Q Are they granted special permission to attend  
12 another school?

13 A They are.

14 Q And in the Logan District, can you tell us approx-  
15 imately how many students, other than Spanish-speaking students  
16 who are of Mexican descent, attend that school?

17 A Attend that school, you say?

18 Q The Logan. Do not attend that school, I mean.  
19 Pardon me.

20 A I don't know of any, Mr. Marcus. I don't know of  
21 any. I don't know, of my own knowledge, of any.

22 Q Are there such records available to you?

23 A Yes.

24 Q Would it be possible for you to ascertain that?

25 A I think so. I think I have the records with me.

1 Q You have, sir?

2 A I think so.

3 Q Would you be able to gather them for us?

4 A Yes.

5 MR. MARCUS: With the court's permission, your Honor.

6 THE COURT: Yes.

7 THE WITNESS: I am sorry. I don't have that data. I  
8 don't have it here, and I can't answer without it.

9 Q BY MR. MARCUS: But you do know that there are some  
10 children not of Mexican descent that attend other schools,  
11 who reside within the Logan District?

12 A No, I do not.

13 Q You don't know that?

14 A I don't know that. On the witness stand, I  
15 couldn't swear to that. I don't know.

16 Q Mr. Henderson, who sets the boundaries of that  
17 Fremont School, or how?

18 THE COURT: I think your question is a compound ques-  
19 tion.

20 Q BY MR. MARCUS: Who sets the boundaries of the  
21 Fremont School?

22 A The Board of Education.

23 Q And when was that done?

24 A I understand about 1920.

25 Q Is it a fact, to your knowledge, that the boundaries

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1 of that school district were so placed as to take in prac-  
2 tically all of the Mexican children in that district?

3 A I don't know that, to my knowledge.

4 Q Well, is it a fact that the boundaries are so placed  
5 and designated that they come closer to the Franklin School  
6 than they do to the Fremont School?

7 A In some parts, yes.

8 Q Now, is it a fact that within that district those  
9 children who are not of Mexican descent are given special  
10 permission to go to a school outside of that district?

11 A Yes.

12 Q Now, is that for the purpose of having the Fremont  
13 School wholly Mexican?

14 A No, they may go to the Fremont School, if they wish.

15 Q Are there any students other than those of Mexican  
16 descent attending the Fremont School?

17 A I think not.

18 Q Then the result is that the Fremont School is wholly  
19 Mexican.

20 A Is that a question?

21 Q I beg your pardon?

22 A Is that a question or a statement?

23 Q It is, sir.

24 A Yes.

25 Q Is the same fact true of the Delhi School?

1 A Yes.

2 Q And the same is true of the Logan School?

3 A Yes.

4 Q Are you acquainted with Mr. Yost?

5 A Yes. Well, what Mr. Yost?

6 Q Harold Yost, --

7 A Yes.

8 Q -- secretary of the Board of Education.

9 A Yes.

10 Q Are you acquainted with his signature?

11 A Yes.

12 Q On October 20th of last year, were you acquainted  
13 with the fact that letters were sent out to the Mexican parents  
14 of children residing in that district, and that is the Fremont  
15 District, who were attending the Franklin School?

16 A I am not sure of the date, but I know that letters  
17 were sent out. You say it is the 20th?

18 Q Yes. Now, do you know whether letters were sent  
19 to all of the parents of Mexican children who resided within  
20 the Fremont District and were attending the Franklin School?

21 A I understand so.

22 Q Do you know approximately how many in number there  
23 were?

24 A I think about seven or eight families. That would  
25 be, oh, 15 or 20 children.

1 Q Now, is it a fact that there were approximately  
2 25 or 30 letters sent out at that time?

3 A I don't know. I don't know how many.

4 Q Now, is it a fact that at that time there were no  
5 letters sent to the parents of children who were not of  
6 Mexican descent, who resided within the Fremont District?

7 A That is true, yes. That 's true.

8 Q Now, why was it, Mr. Henderson, that you sent the  
9 letters requesting the transfer of the children who resided  
10 in the Fremont District and attended the Franklin School in  
11 the form as indicated by the form letters, and you did not  
12 send the letters to the other children that resided, or the  
13 parents of the other children that resided in that district?

14 A Because it has been the custom of these other  
15 children to get oral permission to transfer. It is their  
16 custom to get oral permission. Mrs. Mendez illustrates the  
17 fact that these Mexican families, a few of them, have con-  
18 stantly transferred, in their opinion, as a right.

19 Now, may I illustrate?

20 Q Sure.

21 A There are south of the Franklin District a number  
22 of children of Mexican descent who request and are granted  
23 permission to attend the Fremont School. They request that  
24 permission and are granted it. But we did not notify them of  
25 the practice of the Board, of the policy of the Board. All

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1 right, we didn't send out these other letters.

2 Q Now, it is your intention, is it not, to compel all  
3 of the Mexican children that have been attending the Franklin  
4 School and who reside in the Fremont School District --

5 A No.

6 Q Wait. I haven't finished the question. It is your  
7 intention to compel the children who reside in the Fremont  
8 School District and have been attending the Franklin School,  
9 of Mexican descent, to attend the coming year at the Fremont  
10 School?

11 A No. It is our intent to have them follow the pro-  
12 cedure that the Board sets up, get permission, with reasons,  
13 if they attend Franklin or other schools.

14 Q Do you remember the form letter that was sent out,  
15 Mr. Henderson?

16 A I think I do, yes.

17 Q I wonder if you would be kind enough to read this  
18 (handing document to witness).

19 A That's right.

20 Q You had a meeting of the Board of Education on Friday,  
21 October 13, 1944, did you, sir, as pointed out in this letter?

22 A Why, yes, I suppose. I don't remember dates like  
23 that.

24 Q Well, do you remember attending that meeting?

25 A Oh, yes.

46

1 Q Do you remember a discussion had at that time  
2 about the sending of these letters?

3 A No, I don't recall it. It must have taken place,  
4 but I don't recall it.

5 Q Now, as you have stated before, these letters were  
6 only sent to children of Mexican descent, or to parents of  
7 Mexican descent?

8 A Yes.

9 Q There was a discussion regarding that point in the  
10 Board, was there not?

11 A Yes.

12 Q Will you relate to the court the discussion that  
13 was had at the Board meeting respecting the sending of these  
14 letters to only children or parents of Mexican descent?

15 A There wasn't any such discussion, as I recall it.  
16 I don't remember. That's a good deal to ask one to remember.  
17 I can't remember that.

18 Q Well, I had understood you to say, Mr. Henderson,  
19 that there was such a discussion there.

20 A That's right.

21 Q Isn't it a fact that there was such a discussion,  
22 but you do not remember it now?

23 A Well, yes. I don't remember the details.

24 Q Do you remember that the discussion was to the  
25 effect that the letters were to be sent only to parents of

1 Mexican children?

2 A Only?

3 Q That's right.

4 A No, I don't remember that.

5 Q Is it a fact that the letters were only sent,  
6 though, to parents of Mexican children?

7 A I think that is a fact.

8 Q But were the instructions given at that time with  
9 respect to the sending of the letters to only parents of  
10 Mexican children?

11 A No, I think not.

12 Q Well, who determined to whom the letters should be  
13 sent, at that Board meeting?

14 A You are asking me to remember a good deal. I pre-  
15 sume that I did by going through the records of attendance.

16 Q Did you receive that instruction from the Board at  
17 that time?

18 A I would say that I suppose I did. I should have  
19 those Board minutes. It would record that in the minutes.

20 Q Do you have the minutes here?

21 A No.

22 MR. HOLDEN: No, I don't.

23 MR. MARCUS: I had understood at the pre-trial that all  
24 of the minutes of the Board with respect to this matter were  
25 to be introduced.



1 MR. HOLDEN: Well, at the pre-trial hearing we produced,  
2 or, I think, on the order of the court we were to produce  
3 any minutes that pertained to this subject, and I introduced  
4 a letter, I think from Mr. Henderson, that there were no  
5 minutes of the Board pertaining to segregation of the Mexican  
6 children.

7 THE WITNESS: That's right.

8 THE COURT: The pre-trial order was definite. Have you  
9 got it there?

10 MR. HOLDEN: We produced all the minutes we had pertain-  
11 ing to segregation.

12 THE COURT: The pre-trial order made in the cause on  
13 June 4, 1945 recites:

14 "It is further ordered that counsel produce at  
15 such hearing all documents, official resolutions of  
16 public bodies, ordinances of municipal or public  
17 corporations or school districts, and any statistical  
18 data responsive to the issues made by the pleadings,  
19 and, particularly, responsive to the issues in the  
20 answers as to the percentages of English-speaking  
21 and foreign-language pupils attending the respective  
22 schools described in the pleadings in this action."

23 MR. HOLDEN: I didn't get the answer of the witness as  
24 to this particular order, or as to the minutes.

25 THE COURT: He stated that he thought there would be a

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1 minute of the Board of Education that would disclose the  
2 proceedings at that meeting. That is what he stated sub-  
3 stantially, which presumably would be correct.

4 Let's get along now and not waste time.

5 Q BY MR. MARCUS: Mr. Henderson, do you remember, then,  
6 that that subject was discussed at that meeting, that is, the  
7 selection of different children to whom these letters were to  
8 be sent?

9 A The selection of the children, I do not, no.

10 Q Well, do you remember that there was a discussion  
11 with respect to the Mexican children or children of Mexican  
12 descent, to whom these letters were to be sent?

13 A Yes.

14 Q Would that be reflected in the minutes?

15 A I don't know. It should be. If there was much  
16 discussion about it, it should be.

17 Q Are those records within your control?

18 A Yes. Well, control; they are in my keeping.

19 Q Do you have them here?

20 A No.

21 Q Could you produce them in court?

22 A Yes.

23 MR. MARCUS: Your Honor, may they be brought into court?

24 THE COURT: The minutes of what meeting?

25 MR. MARCUS: Of October 13th.

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1 THE COURT: Of what year?

2 MR. MARCUS: Of 1944.

3 THE COURT: If you will produce, then, the minutes of  
4 the Board of Education of the City of Santa Ana.

5 THE WITNESS: They are in Santa Ana.

6 THE COURT: Well, you can produce them?

7 THE WITNESS: Yes, we can produce them. The date is  
8 October?

9 MR. MARCUS: October 13th, sir.

10 THE WITNESS: 1944, yes.

11 Q BY MR. MARCUS: Now, with respect to all of the  
12 Mexican children attending the Fremont School, you intend to  
13 require that they remain at that Fremont School, do you not?

14 A I intend that they shall follow the same procedure  
15 that all the children who are transferred follow, which is  
16 that they get permission in the office.

17 Q These letters that you sent out, --

18 A Yes.

19 Q -- I presume reflect your mind and your intention  
20 at that time, and the intention of the Board?

21 A That is your presumption.

22 Q Well, is that true, sir?

23 A Not wholly so. We want these folks, who have on  
24 their own assumed a right, to follow the same procedure that  
25 other children who transfer all over town follow, which is to

1 get permission.

2 Q Well, do I understand you, then, sir, to mean that  
3 irrespective of this letter you intend to grant these children  
4 of Mexican descent special permission to attend the --

5 A We intend --

6 Q Pardon me. -- to attend the Franklin School, even  
7 though they reside in the Fremont District?

8 A We intend to have them follow the procedure of  
9 making requests, which, if reasonable, will be granted.

10 Q Now, is it not a fact that those requests had been  
11 made of you at the meeting attended by Mrs. Guzman, and Mrs.  
12 Garcia, and Mr. Guzman, and Attorney Martin, and some other  
13 people in that district? Hasn't that request been made?

14 A Repeat that, please.

15 Q Is it not a fact that that request has already been  
16 made of your Board by Mr. and Mrs. Guzman?

17 A Yes, that's right.

18 Q And Mrs. Garcia, and some 25 or 30 other Mexican  
19 people represented by Attorney Martin?

20 A The Guzmans I remember well. I don't remember  
21 Mrs. Garcia. And the request was not granted.

22 Q I see. Now, is it not a fact, sir, that you granted  
23 these people who were residing in the Fremont District and  
24 attending the other school permission to complete the school  
25 year of 1944 at the Franklin School?

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1 A That's right, yes.

2 Q And that beginning, and I am quoting from this  
3 letter of October 20th, "beginning September, 1945 the permit  
4 will be withdrawn and they will be required to attend the  
5 school serving the district in which you live at that time"?

6 A Yes.

7 Q And that applied to all of those people within that  
8 district?

9 A Yes.

10 Q And it did not apply, nor was any letter sent to  
11 other children other than those of Mexican descent?

12 A Yes.

13 Q That would make the entire Fremont School solely  
14 attended by children of Mexican descent?

15 A Not unless these permits were not granted to the  
16 others next fall.

17 THE COURT: Read that answer, Miss Reporter.

18 (The answer was read by the reporter.)

19 THE COURT: Could you clarify that a little, Mr. Henderson?

20 THE WITNESS: Well, the attorney said that will make  
21 approximately this Mexican -- this Fremont School exclusively  
22 Mexican. That was your statement?

23 THE COURT: That was it, substantially.

24 MR. MARCUS: Substantially.

25 THE WITNESS: That would be true if this permit applied

1 only to Mexicans. If it applies to others, and they are not  
2 granted permission to go to Franklin School, they will go to  
3 Fremont School, which does not make Fremont School exclusively  
4 Mexican. The transfer permit will still be in the power of  
5 the Board of Education.

6 Q BY MR. MARCUS: But you intend to continue to grant  
7 the transfers of children not of Mexican descent, do you not?

8 A You say we intend to. I don't know whether I do  
9 or not.

10 Q But you do not intend at the present time to grant  
11 the transfer to the children of Mexican descent?

12 A No, you are mistaken about that.

13 THE COURT: Let me see if I can't straighten it out and  
14 see whether the court understands what you mean. The eventu-  
15 ality of constituting the Fremont School other than an entirely  
16 Mexican children attended school will depend upon the proba-  
17 bility or possibility of persons other than those of Mexican  
18 descent making application to have their children transferred  
19 into Fremont School?

20 THE WITNESS: Into the Fremont School?

21 THE COURT: That is right. If you will read the ques-  
22 tion, Miss Reporter, please.

23 (Question read by the reporter.)

24 THE WITNESS: Into Fremont?

25 THE COURT: Yes, sir. In other words, Fremont School

1 is now --

2 THE WITNESS: Mexican.

3 THE COURT: -- a wholly Mexican attended school?

4 THE WITNESS: That's right.

5 THE COURT: In order that you change its aspect and  
6 complexion from that to some other type of school, the  
7 eventuality will be that persons other than Mexican or persons  
8 other than those having Mexican children --

9 THE WITNESS: Yes.

10 THE COURT: -- will request permission to send those  
11 children to Fremont School?

12 THE WITNESS: No, your Honor. If they do not request  
13 permission to transfer from the Fremont District to other  
14 schools, they will attend the Fremont School. They wouldn't  
15 need any permission to attend the Fremont School. They live  
16 in that district.

17 THE COURT: I am speaking of a change in the composition  
18 of the Fremont School, assuming it is now a wholly Mexican  
19 attended school.

20 THE WITNESS: Yes.

21 THE COURT: In order to change it from a wholly Mexican  
22 attended school to one of a different classification, it will be  
23 necessary, will it not, for parents of children who are not  
24 classified as Mexican-speaking children to request their  
25 children to be transferred to the Fremont School?

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1 THE WITNESS: I would have to say, "No" to that, your  
2 Honor. Why would they have to have permission of the Board  
3 to attend the school of their district?

4 THE COURT: Well, that brings up another question which  
5 I will ask now. Are there any children of school population  
6 resident within the district of the Fremont School that are  
7 not in the classification of Mexican children?

8 THE WITNESS: Yes. Oh, yes.

9 THE COURT: Which school do they attend?

10 THE WITNESS: They attend in two or three directions.  
11 Wilson School, some of them. The Franklin School, some of  
12 them, and I think possibly there are some of them who go a  
13 little further across and attend McKinley School.

14 THE COURT: Why are those children permitted to attend  
15 any school within their grades -- I am speaking of a grade  
16 school, and I am not speaking of a school that isn't of the  
17 same grade --

18 THE WITNESS: Yes.

19 THE COURT: Why are they not permitted to attend the  
20 school of the district in which they reside?

21 THE WITNESS: The policy of the Board is this, and let us  
22 illustrate with little colored children. The little colored  
23 children who reside in the Fremont District are very few. I  
24 think somebody said here four in one neighborhood. They are  
25 permitted to transfer to the school -- as they are in a very



Zv230

1 small minority, they are permitted to transfer to the school  
2 where they will find the most of their own people.

3 Now, to illustrate that further with that one illustra-  
4 tion, nearly one hundred per cent of our colored children are  
5 in the Franklin School, and the few colored children who are  
6 in the Fremont District are permitted to transfer to the  
7 Franklin School on the ground that they would be in a very  
8 small minority in the Fremont School.

9 THE COURT: Is that done by virtue of a directive of the  
10 school authorities, or otherwise?

11 THE WITNESS: There has never been anything in the Board  
12 minutes to that effect. They know our policy and practice.

13 THE COURT: Whom do you mean?

14 THE WITNESS: The Board of Education.

15 THE COURT: Well, does that mean that the transfer in  
16 such cases is made automatically, without a request coming  
17 from the parents or guardians of those children?

18 THE WITNESS: Practically so, I think, your Honor. The  
19 request would come, if they knew it had to come, of course.

20 THE COURT: That is all.

21 THE WITNESS: Now, may I say in addition to that, your  
22 Honor, there are some Mexican children who live south of the  
23 line in the Franklin District, who prefer to go to the Fremont  
24 School, which is wholly Mexican, and we allow them to transfer  
25 on the same basis, that they would be in a small minority in

Zv231

1 the other school, if they attended that. We use the same  
2 practice with all classes of people and all nationalities,  
3 Mexican or otherwise.

4 MR. MARCUS: Would you read that back to me, please?

5 (Answer read by the reporter.)

6 Q BY MR. MARCUS: What other nationalities do you have  
7 there, in which you use the same practice?

8 A Well, we use that with, I may call them, other than  
9 Mexican. We have negroes, and then other than the Mexican  
10 nationality.

11 Q Mr. Henderson, do you follow the policy enunciated  
12 by the Board, as superintendent of schools, of the City of  
13 Santa Ana?

14 A I do.

15 Q And those policies are given to you by the Board?

16 A They are.

17 Q Either tacitly or by resolution, in writing or  
18 orally?

19 A That's right.

20 Q And as an employee of the School Board, you have  
21 followed such rules and regulations and orders of the School  
22 Board since your incumbency some 12 or 13 years ago; is that  
23 correct, sir?

24 A Yes.

25 Q In your statement to the court a few moments ago

Zv232

1 that some of these rules or regulations are in the minutes,  
2 and others with respect to the policy of minority groups  
3 are not in the minutes or in writing -- is that true, sir?

4 A That's true.

5 Q Now, is it the policy of the Board to foster the  
6 segregation of minority groups in the schools of the City of  
7 Santa Ana?

8 MR. HOLDEN: I object to that on the ground it is call-  
9 ing for a conclusion of the witness.

10 THE COURT: I think so. The term "minority groups" may  
11 have a very wide significance, and it may depend on the locale,  
12 the area considered, and the attitude of the people who live  
13 within the area.

14 MR. MARCUS: I think your Honor is right.

15 Q BY MR. MARCUS: What has been the understanding,  
16 or your understanding or your meaning of the words "minority  
17 groups", as you have related it in answer to the court's  
18 question, with respect to the children in the Santa Ana  
19 School District?

20 A What is my understanding of what? A minority  
21 group?

22 Q What is your definition or understanding of  
23 "minority groups"?

24 THE COURT: Has he used it? Did he use it?

25 MR. MARCUS: He has used the term here.

Zv233

1 THE WITNESS: Well, I should say that a minority might  
2 be one less than 50 per cent, might it not? It might be  
3 10 per cent. It might be 5 per cent. And that is a ques-  
4 tion that is -- well, my understanding of a minority group  
5 is a smaller group than anything like 50 per cent.

6 Q BY MR. MARCUS: Well, Mr. Henderson, you have  
7 applied it to the Mexican population and the Mexican children,  
8 or children of Mexican descent within the Santa Ana School  
9 Districts. Do you, and is it the policy of the Board, to  
10 classify them as a minority group?

11 A The Mexican children?

12 Q That is right.

13 A In some schools they are very<sup>much</sup> a minority group,  
14 in some districts. In some districts they are a very heavy  
15 majority group. They are not classified as Mexicans by  
16 minority or majority. They are classified like everybody  
17 else, as minority or majority.

18 Q Well, whom do you then classify as a minority group?

19 A Colored children, Mexican children, and others.

20 Q All right. Now, getting back to the minority group  
21 of Mexican children, is it the policy of the Board, whose  
22 orders and directions you follow, to segregate the Mexican  
23 children of the minority group in the schools of Orange  
24 County?

25 THE COURT: The Mexican children of the minority group?

2234

1 MR. MARCUS: The Mexican children, that you have desig-  
2 nated?

3 THE COURT: I understood you to use the terms synonymously,  
4 minority group and Mexican.

5 MR. MARCUS: That is right.

6 THE COURT: Now, you have changed it.

7 THE WITNESS: <sup>didn't</sup> I understand your question.

8 MR. MARCUS: Will you read that question again?

9 (Question read by the reporter.)

10 Q BY MR. MARCUS: Make it: The Mexican children as  
11 a minority group in the schools of Santa Ana.

12 A To segregate as a minority group, no. Now, may I  
13 explain that? I don't know what you mean. Here is the  
14 Edison School, which has nine Mexican children in it. That  
15 is because they live within the district. Now, they are a  
16 very small minority group. They are not segregated. We don't  
17 segregate the children in any of the schools.

18 Q I don't mean that you segregate the children in the  
19 particular school that they attend, but is it not the policy  
20 of the Board to segregate all the Mexican children in one  
21 school or another school?

22 A No.

23 Q Well, isn't that true with reference to the Fremont  
24 School?

25 A It happens to be so, but it isn't --

Av235

1 Q Isn't that true with reference to the Delhi School?

2 MR. HOLDEN: I object, your Honor. Let the witness  
3 finish the answer.

4 MR. MARCUS: I beg your pardon. I didn't know that you  
5 had not finished.

6 MR. HOLDEN: He was in the middle of an answer.

7 MR. MARCUS: I will go back, sir.

8 THE COURT: You must not interrupt the witnesses,  
9 gentlemen. I have been cautioning you about that. The  
10 witness is entitled to complete his answers fairly, and we  
11 must presume that the effort in putting questions is for the  
12 purpose of eliciting from the witness his knowledge and  
13 information and not the lawyers' idea about it.

14 Q BY MR. MARCUS: Mr. Henderson, is that not true  
15 with reference to the Fremont School?

16 A Repeat your question. Is what true?

17 MR. MARCUS: Will you read the previous question, please.

18 (The question referred to was read by the reporter as  
19 follows:

20 "Q I don't mean that you segregate the children in  
21 the particular school that they attend, but is it not  
22 the policy of the Board to segregate all the Mexican  
23 children in one school or another school?")

24 THE WITNESS: No.

25 THE COURT: Now, you proceeded to enlarge on that answer.

1 THE WITNESS: Well, any one who lives in the Fremont  
2 District may attend the Fremont School. Any one who lives  
3 in the Delhi School District may attend the Delhi School,  
4 and any one who lives in the Logan School District may attend  
5 the Logan School, Mexican or otherwise, and it is not the  
6 policy and we do not say, "Nobody but Mexicans may go to this  
7 school, this school or this."

8 Q BY MR. MARCUS: Now, is it not a fact, however, Mr.  
9 Henderson, that the entire attendance at the Fremont School  
10 is all Mexican children?

11 A It happens to be so. It is not true at Delhi.  
12 It happens to be so.

13 Q Well, the records that have been introduced here  
14 in evidence show that there is in attendance 232 pupils, of  
15 which 232 are Spanish-speaking pupils.

16 A That was as of the date, as of March 22nd.

17 Q On the 11th of June, 1945?

18 THE COURT: I think there is a legend at the bottom  
19 about that.

20 MR. MARCUS: Oh, yes. "Enrollment Figures are as of  
21 March 22, 1945." And it is dated June 11, 1945.

22 THE COURT: It is a compilation as of March 22nd.

23 THE WITNESS: And there was a little colored boy at the  
24 Delhi School after that date.

25 Q BY MR. MARCUS: And in the Logan School?

Zv237

1 A None that I know of.

2 Q All Mexican?

3 A That is as far as I know, yes.

4 THE COURT: Before we leave those schools, Mr. Henderson,  
5 just a question for the information of the court.

6 I believe there is in evidence by some one of the  
7 witnesses -- Let me have that exhibit, Mr. Clerk, that  
8 compilation of the Santa Ana City Schools.

9 THE CLERK: I thought your Honor handed it to the wit-  
10 ness.

11 THE COURT: I thought counsel had it back there.

12 MR. MARCUS: I have my copy here. You may use this one.

13 THE COURT: I have it here myself. I will restate the  
14 question:

15 There was some evidence that the Franklin District, as  
16 it existed on March 22, 1945, in area has been the same for  
17 the last 20 years. Is that your understanding?

18 THE WITNESS: That is my understanding, Judge.

19 THE COURT: And how is that situation with respect to  
20 the Fremont District?

21 THE WITNESS: It has been the same with one exception,  
22 in my time at least, and I understand all of the time previ-  
23 ously. There was a Board minute of October 28, 1935, which  
24 sets the district limits. There was another minute of  
25 September 20, 1937, which adds a small section to the Fremont

50



1 District, running the line down to the city boundaries instead  
2 of stopping at Myrtle Street, and that district which was  
3 added was added merely for convenience. There are no resi-  
4 dences in there, and those lines have not been changed, as  
5 far as the records seem to indicate, and I have gone back  
6 to longer than I have been there. They have not been changed  
7 in the years. The districts have been the same.

8 THE COURT: The Fremont District and the Franklin Dis-  
9 trict adjoin, do they not?

10 THE WITNESS: Yes.

11 THE COURT: Do they adjoin each other on all sides, or  
12 are they rectangular in shape?

13 THE WITNESS: No, they are not, and they do not adjoin  
14 each other on all sides. On two sides they do.

15 MR. HOLDEN: If the court will pardon me, if this witness  
16 could refer to the map, I think he could inform the court.

17 THE COURT: Very well, gentlemen, if you can agree on  
18 the map.

19 MR. HOLDEN: Mr. Henderson could testify to it, and it  
20 correctly represents the boundaries.

21 THE COURT: We will proceed on that this afternoon.  
22 There are one or two other questions I have, Mr. Henderson.  
23 I believe you have been superintendent there for about 11  
24 years?

25 THE WITNESS: 13.

Zv239

1 THE COURT: 13 years. Of course, as the superintendent  
2 of schools you have kept in touch with the changed character  
3 of the population that has inhabited the school districts,  
4 have you not?

5 THE WITNESS: Yes.

6 THE COURT: What has been the change in the character  
7 of the Fremont District in the last, well, since you have  
8 been superintendent, if any?

9 THE WITNESS: Not very much. It has been largely a  
10 population of the Mexican extraction, and on the north end  
11 of the district there are a few houses that have been built  
12 up in that district, which was on the unimproved, very large-  
13 ly, of other than Mexican families who have built there.  
14 Some are war construction. Some are good construction; a  
15 few, not very many. Now, that is the Fremont District. Do  
16 you want to know about the other?

17 THE COURT: Yes.

18 THE WITNESS: In the Franklin District, I think perhaps  
19 90 per cent or more of our colored population, Negro popula-  
20 tion, are in the Franklin District. They have settled in  
21 on Second Street, and that has been a very large change in  
22 percentage, at least, in the years, because there are still  
23 only a few colored children in Santa Ana, and colored people.  
24 But when I came there probably there weren't over two or  
25 three colored children in school. I may be wrong about the

1 figures, but the number was small, and now it has become  
2 rather a goodly number of colored children, nearly all of them  
3 in the Franklin District.

4 THE COURT: Of these English-speaking pupils in the  
5 Franklin District, 161 on March 22, 1945, are you able to  
6 state how many of those were not of the white race? And by  
7 that I mean differentiating the white from the Negro.

8 THE WITNESS: I would say, your Honor, about 25 Negro  
9 children. Now, that may be wrong; up a little or down a  
10 little. Not very many.

11 THE COURT: That is all.

12 Q BY MR. MARCUS: Do you have any minutes of the Board  
13 here with you?

14 A Only those about district changes, your Honor, or  
15 Mr. Attorney.

16 Q Would it be possible for you to communicate with  
17 the office during the noon hour?

18 A Yes.

19 Q And do you think it would be possible to get that  
20 minute --

21 A Concerning October 13th?

22 Q -- of October 13, 1944?

23 A Yes.

24 Q This afternoon?

25 A I can do that. I can do it between 1:00 and 2:00.

Zv241

1 They close up at 12:00. October 13, 1944?

2 MR. MARCUS: If you please.

3 THE COURT: If Mr. Henderson gets the statement and  
4 writes it down, will you accept that?

5 MR. MARCUS: Yes, your Honor, certainly.

6 THE WITNESS: Well, may I ask, you don't want all of the  
7 minutes of that Board meeting? There may be five or six  
8 pages. You want only that which pertains to this subject?

9 MR. MARCUS: Well, I would like to have the entire  
10 minutes, if it would be possible.

11 THE COURT: Well, that would be, I should think, phy-  
12 sically impossible from 12:00 to 2:00 from the City of Santa  
13 Ana, which is approximately 35 miles distant from this court  
14 where this hearing is being held.

15 MR. MARCUS: Would it be possible, then, your Honor, to  
16 just get the portion pertaining to this particular subject,  
17 and the rest of it to come in later?

18 THE WITNESS: Yes, I can do that.

19 THE COURT: Mr. Henderson says "Yes."

20 MR. HOLDEN: That will simply mean that he will telephone  
21 down there, and the party then will telephone back to him.

22 THE COURT: Yes. I don't think Mr. Henderson will be  
23 able to get it any other way. That is the understanding, I  
24 believe.

25 MR. MARCUS: Yes, your Honor.

Zv242

1 THE COURT: 2:00 o'clock, gentlemen.

2 (Whereupon, at 12:00 o'clock noon, a recess was taken  
3 until 2:00 o'clock p. m. of the same day.)

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v243

1 LOS ANGELES, CALIFORNIA, FRIDAY, JULY 6, 1945. 2:00 P. M.

2

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3

THE COURT: Proceed.

4

FRANK A. HENDERSON,

5

called as a witness under Section 43-B of the Rules of Civil

6

Procedure, having been previously duly sworn, resumed the

7

stand and testified further as follows:

8

DIRECT EXAMINATION (Continued)

9

BY MR. MARCUS:

10

Q Mr. Henderson, during the noon hour, were you able

11

to secure the minutes of the Board of October 20, 1944 per-

12

taining to the matter now under discussion?

13

A Yes.

14

Q You have handed me a sheet of paper entitled,

15

"Santa Ana Board of Education, Meeting of October 13, 1944.

16

School Attendance of Mexican Children."

17

MR. MARCUS: Your Honor, should I read it into the evi-

18

dence, or should this be introduced as it is?

19

THE COURT: I don't care, if you have shown it to Mr.

20

Holden.

21

MR. HOLDEN: It may be admitted.

22

MR. MARCUS: Now, Mr. Henderson, --

23

THE COURT: You had better read it into the record.

24

MR. MARCUS: Very well.

25

"The Superintendent reported that Mr. and Mrs.

Zv244

1 Garcia had been in his office protesting that  
2 their children are compelled to attend Fremont  
3 School while other children living in the same  
4 District attend Franklin School.

5 "Mr. Smith, Attendance Supervisor, was present,  
6 and stated that Mexican children now attending  
7 Franklin from Fremont District are remnants of  
8 the forty-five children who were going to Franklin  
9 five years ago, at which time children of these  
10 particular families were authorized to attend  
11 there until ready for Junior High School. All  
12 other children of families moving in since the  
13 discussion five years go, when the exceptions were  
14 made, have been placed in Fremont School.

15 "After considerable discussion, it was the  
16 consensus that all Mexican children now attending  
17 Franklin School may continue to do so for the bal-  
18 ance of the current school year, but that in the  
19 future, beginning September, 1945, all Mexican  
20 children in Fremont District should return to  
21 Fremont School. Mr. Smith was instructed to in-  
22 form parents of the Board's decision."

23 Q BY MR. MARCUS: Mr. Henderson, when you secured  
24 these minutes, or this portion of the minutes of October 13th,  
25 was there anything else in those minutes of that date pertain-

Zv245

1 ing to the attendance of the Mexican children at the Fremont  
2 or Franklin School?

3 A No.

4 Q Now, Mr. Henderson, as the superintendent, you have  
5 been instructed by the Board, have you, to follow out this  
6 policy of removing the Mexican children from that Franklin  
7 School?

8 A That is what the action here shows, and which wasn't  
9 an action, it was the consensus. You see, there is no action  
10 taken by the Board. It was the consensus of the Board that  
11 we do that. We are still in the same position, with those  
12 people as we are with all other people transferring, that they  
13 have to be granted permission for reasonable reasons to attend  
14 elsewhere.

15 Q Well, it was the consensus at that time, and is it  
16 now the consensus of the School Board, that in the future,  
17 beginning with September, 1945, that all Mexican children --

18 A They have taken no other --

19 Q Pardon me just a moment. I haven't finished.

20 (Continuing) -- in the Fremont District should return to  
21 the Fremont School?

22 MR. HOLDEN: We object to that as asking for a conclusion  
23 of the witness as to the mental state of the Board of Educa-  
24 tion.

25 THE COURT: I think that would be true with respect to



Zv246

1 the Board. You can interrogate the superintendent as to  
2 his prospective attitude.

3 Q BY MR. MARCUS: Mr. Henderson, you follow the  
4 orders of the Board, do you, sir?

5 A Yes, sir.

6 Q And those are evidenced by these minutes of October  
7 13th?

8 A That is essentially so. It wasn't an action taken  
9 by motion, but it was the consensus, and I shall consider it  
10 and follow it unless we make a change.

11 Q Up to the present moment there has been no change?

12 A There has been no change since October, 1944,

13 Q Was any discussion had at that meeting with respect  
14 to the children other than of the Mexican race or of Mexican  
15 descent?

16 MR. HOLDEN: We object to that on the ground he has  
17 gone into that several times, and it is repetition.

18 THE COURT: I don't know as that particular question has  
19 been asked heretofore. Overruled.

20 THE WITNESS: I don't recall. If this was the meeting  
21 at which Attorney Martin was present, he talked a great deal  
22 about the transfer of Negroes, which <sup>he</sup> mentioned not in a com-  
23 plimentary way, and some others, but I don't remember whether  
24 it was at this meeting. If it was, there was considerable  
25 discussion, mostly by Attorney Martin.

v247  
1 Q BY MR. MARCUS: Well, besides the children of the  
2 colored race, was there any discussion about the other children?

3 A Not that I recall. Japanese were mentioned, but  
4 we have no Japanese.

5 Q What of the Caucasian children?

6 A You say, what of them?

7 Q Was there any discussion with respect to them?

8 A Not that I recall.

9 Q Those children that reside in the Fremont District?

10 A Not that I recall.

11 Q Mr. Henderson, you have testified that it is the  
12 settled policy of the Santa Ana School Board, and yourself,  
13 that whenever any group, such as those of Mexican descent,  
14 are in the minority in a school district, that you permit  
15 those of that group to transfer to a school in another dis-  
16 trict wherein they would constitute a majority. Am I correct  
17 in that assumption?

18 A You are right; Mexicans and others, too.

19 Q That is right. If those who were not of Mexican  
20 descent were in a minority in a school district, would you  
21 permit them to transfer out to a school where they would be  
22 in the majority?

23 A Yes, we do so.

24 Q All right, sir. Then the policy is to keep  
25 together, to constitute a majority, all members of a certain

Zv248

1 group of persons, such as Mexicans, or others; is that  
2 correct?

3 A That it is the policy to attain a majority? I  
4 would say no, if I understood your question.

5 Q Well, let me state it again. The policy then is to keep  
6 together, to constitute a majority, all members of a certain  
7 group, and in particular, those persons of Mexican descent?

8 A Particularly those persons of the Mexican descent?

9 Q Yes.

10 A No, it isn't. May I explain, Judge?

11 THE COURT: Yes, sir.

12 THE WITNESS: It isn't a policy. You say it is a policy  
13 that we transfer those children into schools where most of  
14 their nationality or kind are. It is not a policy. But it  
15 is a policy of the Board to grant it, if they wish it. It  
16 is not the rule of the Board that they shall be there. It  
17 is a permissive.

18 Q BY MR. MARCUS: Then, Mr. Henderson, is it not a  
19 fact that in this meeting of October 13th that was the very  
20 purpose sought to be accomplished?

21 A No, no.

22 MR. HOLDEN: I object to that on the ground the minutes  
23 speak for themselves.

24 THE COURT: The minutes show what they do show, but that  
25 does not necessarily incorporate in it all of the attitudes

1 of those whose action is purported to be recorded by the  
2 minutes.

3 MR. HOLDEN: I withdraw that objection.

4 THE COURT: I don't quite understand, Mr. Henderson,  
5 the theory of the policy of the Board of Education in attempt-  
6 ing to classify the student body in public schools according  
7 to a majority or minority basis.

8 THE WITNESS: Well, may I again explain concerning the  
9 colored children. Here are four colored children who were  
10 in the Fremont District and entered the Fremont School where  
11 they lived. The principal, who is here, said to them, "Now,  
12 you may stay here, if you like, but the majority of your kind,  
13 of the Negroes, are in the Franklin School. Therefore, you  
14 may transfer to the Franklin School where you will not be the  
15 only colored children, if you wish." Is that an explanation?

16 THE COURT: I understand that. Now, suppose instead  
17 of being the Negro children, it was the Mexican children.  
18 Would the same privilege be extended to them?

19 THE WITNESS: That's right. It is. It is extended to  
20 them.

21 THE COURT: But I mean, would the overture come from  
22 the school authorities, as you stated it would to the Negroes?

23 THE WITNESS: No.

24 THE COURT: Why would there be any difference?

25 THE WITNESS: Well, partly through ignorance. Now, these

Zv250

1 Negroes didn't know anything about that privilege partly, I  
2 think, through ignorance. As I explained this morning, there  
3 are a good many Mexican children who live and could attend  
4 school in the Franklin District, where they are in a minority,  
5 who prefer to go to the Fremont School, which is purely  
6 Mexican, and they are privileged to do so because they would  
7 be a minority, and they go into the school where it is 100  
8 per cent Mexican. They are given the same privilege. It  
9 happens in nearly all the districts in the town.

10 THE COURT: Are you able to state, Mr. Henderson, how  
11 many Negro children, on a percentage basis, there are in the  
12 Fremont School, or were in the last few terms?

13 THE WITNESS: I would say, and I am not sure about this,  
14 -- you said the Franklin School?

15 THE COURT: No, the Fremont School.

16 THE WITNESS: Oh, if they went there, -- there are none  
17 of them go there.

18 THE COURT: Will you read my question, Miss Reporter?  
19 (Question referred to was read.)

20 THE WITNESS: None.

21 THE COURT: How many were there in the last school term  
22 at the Franklin School, if you know?

23 THE WITNESS: I would say, and this is a conjecture and  
24 I am sorry I don't have the figures, other than the total  
25 enrollment of 237, I am quite sure that there were not more

1     than 29.     There is a small Negro population.

2             THE COURT:   Then it is a fact, is it not, regardless of  
3     the motive or purpose, if any, under which the situation has  
4     been created, that all of the children in the Fremont School  
5     are so-called Mexican children?

6             THE WITNESS:   Yes.

7             THE COURT:   Is there any school in the school district  
8     of Santa Ana, the city school district, where the school  
9     population consists, and I am speaking of those schools up  
10    to the sixth grade, the grammar grades, of the Caucasian race,  
11    -- wherein all of the pupils are of the Caucasian race?

12            THE WITNESS:   There are, I think, three.   I am not sure  
13    about the third.   There is a school, the Spurgeon School,  
14    which is almost 100 per cent.   This indicates that they had  
15    one child of Mexican descent.   The Lowell School and the  
16    Wilson School has, so far as I know, no Mexican children, and  
17    the Hoover School has no Mexican children.   It is a school  
18    of about 150 or so;   a small school.

19            THE COURT:   It is shown as 175 here.

20            THE WITNESS:   The Hoover?

21            THE COURT:   As of March 22, 1945.

22            THE WITNESS:   I see.   I don't have those figures.   So  
23    there are, I think, only two that don't have any Mexican  
24    children.   The Spurgeon, it indicates, has one.

25            THE COURT:   In that classification you have employed the

Zv252

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1 term "Caucasian" in what manner?

2 THE WITNESS: Other than Mexican.

3 THE COURT: I didn't mean it that way. I meant "Caucasian"  
4 as all of those pupils who are not Mongolian or African.

5 THE WITNESS: Well, of course, Mexicans are Caucasians,  
6 aren't they?

7 THE COURT: I think so. I have always considered them so.

8 THE WITNESS: Yes.

9 THE COURT: Of course, I don't pretend to be an ethnolo-  
10 gist or anthropologist.

11 THE WITNESS: Now, your question is, are all of the  
12 children in those three schools Caucasians?

13 THE COURT: Yes.

14 THE WITNESS: Yes. There are no Negroes and no Mongolians.

15 THE COURT: There is one Japanese child, or I believe at  
16 the close of the school session there was. The schools are  
17 closed now, I presume?

18 THE WITNESS: I didn't know there was one.

19 MR. HOLDEN: I think that is at Garden Grove.

20 THE COURT: Is that Garden Grove?

21 MR. HOLDEN: Yes.

22 THE COURT: That is all I have.

23 Q BY MR. MARCUS: Mr. Henderson, you say that it is  
24 not the policy of the school to segregate the majority or  
25 minority in a certain school district so that they would

Zv253

1 constitute a majority in that particular district. Is that  
2 true, sir?

3 A They would never constitute a majority.

4 Q Well, now, tell me what is the purpose then of  
5 your school district?

6 A In doing what?

7 Q In taking the children of Mexican descent and put-  
8 ting them all in the Fremont School.

9 MR. HOLDEN: I object to that on the ground that it is  
10 assuming a fact not in evidence.

11 THE COURT: He doesn't agree with that statement.

12 THE WITNESS: It isn't done.

13 THE COURT: He says it is not done. He says it just  
14 so happens that in the area in which the school district is  
15 located the majority or almost all of the school children in  
16 that area are children of Mexican parentage, and for that  
17 reason they go to that school. That is what I understood  
18 to be the situation.

19 THE WITNESS: That is right.

20 Q BY MR. MARCUS: Isn't it a fact that there are  
21 children, as you have testified to, Mr. Henderson, that there  
22 are children, and I believe that you gave some 29 in number,  
23 who reside in that district and that are not of Mexican  
24 descent?

25 MR. HOLDEN: I think, your Honor, this has been covered.



Zv254

1 MR. MARCUS: I am laying the basis for the purpose of  
2 impeachment.

3 THE COURT: It is already in the record. You can ask  
4 him again. What is the question? Will you read it, please?

5 (Question read by the reporter.)

6 Q BY MR. MARCUS: (Continuing) -- who are attending  
7 schools outside of the Fremont District?

8 A You said 29?

9 Q Well, I believe you said 29. We said possibly 50.

10 A I have the figures right here as of March 9th, and  
11 there are 12 children, other than Mexican, or Negro, attending  
12 the Franklin School who live in the Fremont District. That  
13 is 12.

14 Q Now, go ahead.

15 A There are 9, and two whose addresses are not given  
16 here, that would be 11 Negro children attending Franklin  
17 School.

18 Q Now, how do you determine that those children are  
19 not of Mexican descent?

20 A Are not?

21 Q Yes. How do you determine that classification?

22 A Whether a Negro is or is not?

23 Q No, I don't mean a Negro. I mean those 11 or 12,  
24 or whatever figure you gave, outside of those of the Negro  
25 race. How do you determine that they are of Mexican descent?

Zv255

1           A     That they are not of Mexican descent, you mean,  
2     don't you?

3           Q     That they are not of Mexican descent.

4           A     Well, we can determine that by their birth certi-  
5     ficates, their birth background, and their family history.  
6     I don't know how you determine whether a man you meet on the  
7     street is a Mexican or not; or one of your neighbors, how  
8     you determine it. You have to take their word for it.

9           Q     Well, Mr. Henderson, you made this classification,  
10    did you not? Wasn't this prepared at your office?

11          A     Yes, I made the classification.

12          Q     Then how did you determine whether or not they were  
13    or were not of Mexican descent? How did you determine that  
14    classification?

15          A     It seems to me that it is a pretty easy matter to  
16    do.

17          Q     Did you talk to the children themselves in each  
18    instance?

19          A     No, I didn't.

20          Q     Did you talk to the parents themselves?

21          A     No.

22          Q     Isn't it a fact that you simply determined that  
23    classification as to whether or not they were of Mexican  
24    descent by looking at their names?

25          A     Very largely, certainly. Very largely, certainly.

Zv256

1 Q Is that the basis of your classification, based  
2 upon the names very largely, using your words?

3 MR. HOLDEN: I object to this on the ground that there  
4 isn't any evidence that he classifies them at all. It is  
5 assuming something not in evidence.

6 THE COURT: Overruled.

7 THE WITNESS: Now, the question was, we determined it  
8 by names?

9 Q BY MR. MARCUS: To a large extent.

10 A Yes.

11 Q That you determined whether or not they were of  
12 Mexican descent --

13 A Very largely.

14 Q -- based upon the names only?

15 A Not only. You said "largely."

16 Q Largely?

17 A All right. Yes, largely.

18 Q Well, now, did you consider whether or not they  
19 were American citizens?

20 A That doesn't matter about children who are in  
21 school.

22 Q It doesn't make any difference?

23 A No, sir. We take care of all of them.

24 Q Well, when you prepared this classification of  
25 children of Mexican descent, did you not make inquiry to

Zv257

1 determine whether or not they were born in the United States?

2 A These American children, these ones that I have  
3 tabulated for you, --

4 Q All of them?

5 A No, no. Most of the children in the Fremont School  
6 were born in the United States.

7 Q Yes?

8 A Certainly. Most of them and their parents were  
9 born in the United States, and they live in the Fremont  
10 District.

11 Q Now, isn't it a fact, Mr. Henderson, that the Board  
12 does give no consideration to whether or not they were born  
13 in the United States or were American citizens when they pre-  
14 pared or when you prepared this classification?

15 A As far as districts are concerned, they pay no  
16 attention to that.

17 MR. MARCUS: That is all.

18 MR. HOLDEN: No questions at this time.

19 MR. MARCUS: Your Honor, so that the court may have  
20 this excerpt from the minutes of the Board, --

21 THE COURT: Yes, you may have that marked as an exhibit.

22 MR. MARCUS: -- may this be marked as an exhibit in  
23 evidence?

24 THE COURT: So ordered.

25 THE CLERK: Plaintiffs' Exhibit No. 2.

1 2  
rec?

Zv258

1 MR. MARCUS: I will call Miss Torres.

2 CAROL TORRES,

3 called as a witness by and on behalf of the plaintiffs, having  
4 been first duly sworn, was examined and testified as follows:

5 THE CLERK: Please be seated. Will you state your name,  
6 please?

7 THE WITNESS: Carol Torres, T-o-r-r-e-s.

8 DIRECT EXAMINATION

9 BY MR. MARCUS:

10 Q Miss Torres, where do you live?

11 A El Modeno.

12 Q How long have you lived there?

13 A I was born there 14 years ago. 14 years.

14 THE COURT: We are going into that district now, are we?

15 MR. MARCUS: Yes, we are.

16 Q BY MR. MARCUS: What school do you attend, or did  
17 you attend?

18 A The Lincoln School.

19 Q How long have you attended that school?

20 A I attended it for 8 years, until I graduated from  
21 there.

22 Q Do you live close by, close by this Lincoln School?

23 A I live about four or five blocks away from there.

24 Q Do you know where the Roosevelt School is located?

25 A Yes, sir.

1 Q Please speak up loud.

2 A Yes, sir.

3 Q How far from the Lincoln School is the Roosevelt  
4 School?

5 A I would say about 300 yards.

6 Q Are both schools within the same block or on the  
7 same block?

8 A Yes, I think they are.

9 Q What separates the two schools?

10 A Some baseball diamonds, and I guess that is just  
11 about all.

12 Q Is there a fence there of any kind?

13 A No, there isn't.

14 Q Now, when you commenced at the school, that is, the  
15 Lincoln School, did you speak the English language?

A Yes.

16 Q Do you have any brothers or sisters?

17 A Yes.

18 Q Give their names and ages, please.

19 A Connie, 22 years old; Robert, 20; Eloise, 18;  
20 Sally, 16; David, 8; and Sylvia, 4 months.

21 Q How many of your brothers and sisters attended  
22 that school?

23 MR. HOLDEN: I object to that as immaterial. It can't  
24 have any bearing on this case.

25 THE COURT: Overruled.

Zv260

1 MR. HOLDEN: I suggest that we get down to cases. There  
2 are people that are down in the school there nowadays.

3 THE COURT: I didn't hear you, counsel.

4 MR. HOLDEN: I object to this as immaterial and it can  
5 have no bearing on this case. This girl is out of school  
6 and her brothers and sisters are out of school.

7 THE COURT: Carol, how old are you now?

8 THE WITNESS: 14.

9 THE COURT: You say you graduated from that school?

10 THE WITNESS: Yes, this June.

11 THE COURT: This June?

12 THE WITNESS: Yes.

13 THE COURT: So that you were in that school the last few  
14 years?

15 THE WITNESS: Yes, sir.

16 THE COURT: Overruled. Now, is there a question pending?  
17 (Question read by the reporter.)

18 THE WITNESS: All of them; all except the little baby.

19 Q BY MR. MARCUS: Did all of your sisters and brothers,  
20 within your knowledge, speak the English language before they  
21 attended school?

22 A Yes, they all did.

23 Q Where were you born?

24 A In El Modeno.

25 Q Do you know where your father and mother were born?

Zv261

1 A Yes. They were born in Mexico.

2 Q Now, do children only of Mexican descent attend  
3 the Lincoln School?

4 A Yes.

5 Q Are there approximately 249 students there, or were  
6 there during this last semester?

7 A Yes, I think there were.

8 Q What time of day does the Lincoln School commence?

9 A 8:20.

10 Q What time of day does the Roosevelt School commence?

11 A 9:45.

12 Q It commences at a later hour?

13 A Yes, it does.

14 Q What time do you have as your recess and for the  
15 lunch hour?

16 A 11:30.

17 Q Do you have recess at the same time as the Roosevelt  
18 School?

19 A No.

20 Q Do you children play together or have you played  
21 together between the two schools at any time during your  
22 attendance at the Lincoln School?

23 A Well, just whenever we had games against each other,  
24 but not during recess or any other time.

25 Q Only in competitive sports?



Zv262

1 A Yes, sir.

2 Q But at no time did you have any association with  
3 one another --

4 A No.

5 Q -- or any social contacts with one another?

6 A No.

7 Q Now, do you have a cafeteria at your school?

8 A No.

9 Q Where do you children have your lunch?

10 A We go home and have lunch.

11 Q All of you go home?

12 A Well, except some that bring their own lunches to  
13 school. They eat them outside.

14 Q Who is the superintendent of your school?

15 A The superintendent of both schools is Mr. Hammarsten.

16 Q And that gentleman is here in court?

17 A Yes, he is.

18 Q Who is the principal of your school?

19 A Well, he was until -- he was last year. It is Mr.  
20 Hunt.

21 Q Mr. who?

22 A Hunt, H-u-n-t.

23 Q He was the principal of the Lincoln School?

24 A Of the Lincoln School, yes, sir.

25 Q Did you at any time during the past year have a

Zv263

1 discussion with Mr. Hunt, the principal of the school?

2 A Yes.

3 Q Where did that discussion take place?

4 A At the Lincoln School, in our classroom.

5 Q With whom did you have that discussion?

6 A With Mr. Hunt, our principal.

7 Q And who was present there at the discussion?

8 A All the pupils that were present that day.

9 Q And all of those were pupils of Mexican descent?

10 A Yes, all of them.

11 Q And were those children American citizens, --

12 A Yes.

13 Q -- born in the United States?

14 A Yes, all of them born in the United States.

15 Q Will you relate that conversation, please?

16 MR. HOLDEN: I object to that on the ground that the  
17 time has not been fixed.

18 THE COURT: Can you fix it a little more definitely, the  
19 day that that occurred?

20 THE WITNESS: Well, it occurred about during the month of  
21 May. I don't recall what date, or anything, but I know it was  
22 during the month of May.

23 THE COURT: May of this year?

24 THE WITNESS: Yes.

25 THE COURT: Who was present besides the other children?

Zv264

1 THE WITNESS: Well, it could have been the earlier  
2 months of this year. All of my classmates were present that  
3 day.

4 THE COURT: Were there any adults present, except the  
5 teacher?

6 THE WITNESS: No, just the teacher.

7 Q BY MR. MARCUS: Is he the principal?

8 A Yes.

9 THE COURT: That is the principal of the school?

10 THE WITNESS: Yes, he was principal and our eighth grade  
11 teacher.

12 THE COURT: Go ahead now and tell us what was said. The  
13 objection is overruled.

14 THE WITNESS: Well, we -- some one asked him that we  
15 wanted to know why we were separated, the American people,  
16 the American children and the Mexican children, that we were  
17 all American citizens, and we didn't see why they had us  
18 separated. And he said he just didn't know, he didn't make  
19 the rules. That is just what he told us.

20 And then we asked him some more, if they had us separated,  
21 why did they still have some Mexican children over there at  
22 the American school, and he just couldn't give us an answer  
23 to that. He just said that he didn't make the rules. He  
24 repeated that again, he didn't make the rules. We told him  
25 we didn't like that, because pupils of Mexican descent that

1 went over to Roosevelt School considered themselves superior  
2 to us, and sometimes they wouldn't even talk to us because  
3 they were attending the Roosevelt School. We had a very  
4 short talk that day.

5 Q BY MR. MARCUS: Was anything said at that time about  
6 the question of rights, of constitutional rights? Do you  
7 remember any discussion as to that?

8 MR. HOLDEN: I object to that as leading and suggestive.

9 THE COURT: You have just covered something that I pre-  
10 sume would fall in that category. Don't lead her. You don't  
11 have to lead this girl. She is a very intelligent witness.

12 Q BY MR. MARCUS: Do you remember anything else that  
13 was said there by the students?

14 A No, I don't remember, except all of them got sore  
15 because they didn't think it was right.

16 Q Well, do you remember anything else that was said  
17 by Mr. Hunt?

18 A No, I don't.

19 Q All right. You attended, you say, the Lincoln  
20 School for the past eight years?

21 A Yes.

22 Q Did you ever request to go to the other school?

23 A No, we never did.

24 Q Was there any reason why you didn't request it?

25 A Well, --

Zv266

1 MR. HOLDEN: Well, I object to that as calling for a  
2 conclusion of the witness.

3 THE COURT: I believe I will let her answer the question,  
4 if she can answer it.

5 Why didn't you ask to go to the Roosevelt School?

6 THE WITNESS: Well, I guess my father knew very well that  
7 they wouldn't admit us over there anyway.

8 MR. HOLDEN: I move to strike that out.

9 THE COURT: Wait until she finishes.

10 MR. HOLDEN: All right.

11 THE WITNESS: They just wouldn't admit us over there,  
12 so he never did ask. I don't know if he had any other  
13 reasons.

14 MR. MARCUS: You may cross-examine.

15 THE COURT: I want to ask you one question along that  
16 line, Carol.

17 Q BY THE COURT: On this day that you had the talk  
18 with the principal there, that you testified to, how did it  
19 happen that that question came up that day?

20 A Well, I am not sure, and I don't remember how it did.  
21 We were just having some kind of a talk, and we started to  
22 discuss it. I don't remember what it was we were talking  
23 about.

24 MR. MARCUS: May I ask a couple of questions more, if  
25 the court please?

Zv267

1 THE COURT: Well, I want counsel to finish at one  
2 sitting, and not take it up piecemeal. Proceed.

3 Q BY MR. MARCUS: Do you have any neighbors in that  
4 same district, in the El Modeno School District, who are  
5 children of your own age that are not of Mexican descent?

6 A Yes, there are plenty of white children, Americans,  
7 as they say there.

8 Q They what?

9 A Americans, as they say they are. They don't con-  
10 sider us --

11 THE COURT: Q You are pretty white yourself, Carol.  
12 You don't mean white people, do you?

13 A No.

14 Q Why didn't you ask to go to the Roosevelt School?

15 A Why didn't I?

16 Q Yes.

17 A I don't know.

18 Q If you felt hurt about being kept away, why didn't  
19 you ask to go there?

20 A I guess that we just felt hurt because they wouldn't  
21 admit all of them, and it didn't seem right.

22 Q That is, you all wanted to go over there?

23 A Yes, we all wanted to be together.

24 Q BY MR. MARCUS: Is it your desire at the present  
25 time that all of the children, whether of Mexican descent

Zv268

1 or other children, commingle together?

2 A Yes.

3 Q Now, these other children who are your neighbors  
4 and are not of Mexican descent, where do they go to school?

5 A Roosevelt.

6 MR. MARCUS: That is all.

7 MR. HOLDEN: No cross examination.

8 MR. MARCUS: I will call Robert Perez.

9 ROBERT PEREZ,

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

12 THE CLERK: Will you state your name, please?

13 THE WITNESS: Robert Perez.

14 THE CLERK: Robert what? Will you spell it, please?

15 THE WITNESS: Perez, P-e-r-e-z.

16 DIRECT EXAMINATION

17 BY MR. MARCUS:

18 Q Robert, how old are you?

19 A 17.

20 Q Where do you live?

21 A El Modeno.

22 Q You live in the El Modeno School District?

23 A Yes.

24 Q Don't be frightened, sir. What year did you

25 commence school in the El Modeno School District?

Zv269

- 1 A 1932.
- 2 Q And were you born in the United States?
- 3 A Yes.
- 4 Q Where?
- 5 A El Modeno.
- 6 Q Did you speak English before you commenced school?
7. A Yes.
- 8 Q Do you have any brothers or sisters?
- 9 A Two; two sisters.
- 10 Q How old are they?
- 11 A 19 and 21.
- 12 Q Do you know what school they attended?
- 13 A Lincoln.
- 14 Q How many years did you attend the El Modeno School?
- 15 A Well, I think there were 9 years, because we had
- 16 to start from the kindergarten.
- 17 Q You graduated from the eighth grade, you say?
- 18 A Yes.
- 19 Q And did you attend that school during all those
- 20 years?
- 21 MR. HOLDEN: I object to this, your Honor, on the ground
- 22 it is incompetent, irrelevant and immaterial and doesn't tend
- 23 to prove any issues in this case.
- 24 THE COURT: Overruled. You may answer.
- 25 THE WITNESS: Well, I did for the -- I got to the first



Zv270

1 grade, and then my mother went to the hospital and I had to  
2 go to a boarding home with an American lady, and there I  
3 went to Villa Park School for two years. Then I came back  
4 to El Modeno and continued in the school there, and that  
5 is where I graduated in 1941.

6 Q BY MR. MARCUS: Now, tell us when did your school  
7 start, what time of day?

8 A Well, it -- when I was in the lower grades, it  
9 started at the same time, both schools started at the same  
10 time, and then they changed it and we went at 8:20, and they  
11 went at a quarter of nine..

12 Q In other words, the children didn't even go to  
13 school at the same time?

14 A No.

15 Q Is that correct?

16 A Yes, sir.

17 Q Did you get out at the same time?

18 A No, we didn't.

19 Q Did you get out for a recess at the same time?

20 A No.

21 Q You didn't play or have any social contacts or  
22 go to school together at any time, did you?

23 A Not together. The playground was the same play-  
24 ground, but the reason for that --

25 Q Well, we will leave the reason out for the time

1 being. You didn't play together?

2 A We didn't.

3 Q Now, did you ever have any discussion?

4 A With Mr. Yount.

5 Q With Mr. Yount?

6 A With Mr. Yount, yes, sir.

7 Q Who is Mr. Yount?

8 A He was the principal of the Lincoln School.

9 Q When did that discussion take place?

10 A I think it was in 1941, in February.

11 Q In February, 1941?

12 A Yes.

13 Q Where did that discussion take place?

14 A In the classroom.

15 Q With the principal of the school?

16 A Yes, with the principal.

17 Q And who took part in that discussion?

18 A Well, there were several parties, including myself,

19 and I asked him --

20 MR. HOLDEN: I object to that as not responsive.

21 THE COURT: Yes.

22 Q BY MR. MARCUS: Did you have a discussion at that  
23 time?

24 A Yes, we did.

25 Q Will you relate that discussion to the court, please, --

1 MR. HOLDEN: We object to that.

2 Q BY MR. MARCUS: -- with reference to the Mexican  
3 children in the district?

4 MR. HOLDEN: We object to that on the ground it is  
5 too remote, that it occurred back in 1941 and with a party  
6 who is not now connected with the El Modeno School.

7 THE COURT: I think that is true. That is too remote,  
8 and it already appears that this principal was not there  
9 recently. We want the situation that exists in these schools  
10 at the present time.

11 MR. MARCUS: Your Honor, I was going to show the contin-  
12 uous course of conduct and the policy from 1941 up to the  
13 present time, and we have other witnesses who will testify.

14 THE COURT: I don't think you have a right to go back  
15 of a reasonable length of time. I don't think it adds any-  
16 thing to the existing conditions, which the court is inter-  
17 ested in, because this case looks prospectively into the  
18 future, as well as of the moment. The relief that is sought,  
19 if any relief is sought, is a prospective relief.

20 Q BY MR. MARCUS: At the time that you attended this  
21 school, during that period of years, did you receive any  
22 special instruction in English?

23 A In English, nothing but the same -- nothing but  
24 grammar. That's all which everybody has.

25 Q Do you know whether or not the children that go to

1 that school at the present time, and during the past five  
2 or six years, when they began their attendance at that  
3 school, spoke the English language?

4 A Most of them, yes. Well, in fact, all of them,  
5 because they make themselves understand English, make them-  
6 selves understand what they speak, to be understood.

7 Q In the English language?

8 A In the English language.

9 MR. MARCUS: That is all at this time. Wait just a  
10 moment.

11 MR. HOLDEN: No cross examination.

12 MR. MARCUS: If you are not going to cross-examine, with  
13 the court's permission, I want to ask a couple of more ques-  
14 tions.

15 Well, I think that's all.

16 Mr. Ramirez, come forward.

17 LORENZO RAMIREZ,  
18 called as a witness by and on behalf of the plaintiffs, having  
19 been first duly sworn, was examined and testified as follows:

20 THE CLERK: Be seated. Will you state your name, please?

21 THE WITNESS: Lorenzo Ramirez, R-a-m-i-r-e-z.

22 THE CLERK: Where do you live, Mr. Ramirez?

23 THE WITNESS: For the present time I live in El Modeno.  
24  
25

## DIRECT EXAMINATION

BY MR. MARCUS:

Q You are a Mexican citizen, are you?

A Yes, sir.

Q Born in the Republic of Mexico?

A Of Mexico.

Q How long have you lived in the United States?

A Since '22 or '23.

Q How long have you lived in the El Modeno District?

A I lived in the El Modeno District since '22 or '23,  
up until 1933.

Q What school did you attend?

A I attend to both schools, Lincoln and Roosevelt  
Schools, at El Modeno.

Q At the time that you commenced school there, were  
there two schools there at the time?

A No, there were not but only one. There was just  
Lincoln School, but now it is Mexican School.

Q Did all the children at that time, when you attended  
school there, go to that school?

A Yes, sir.

Q Whether of Mexican descent, or otherwise?

A Yes, sir.

Q Now, how many children do you have?

A Seven, but three attends to school.

1 Q When did your children begin school at El Modeno?

2 A That was November, between the 21st and 24th,  
3 1944.

4 Q 1944?

5 A It was last year, last season.

6 Q Before that where had your children attended school?

7 A There was two places that they attended school, the  
8 East Whittier School, and Gilroy School, Jordan School.

9 Q Now, did your children at the East Whittier School --  
10 that is in Los Angeles County, is it?

11 A Yes, sir.

12 Q -- and at the Gilroy School, which is outside of  
13 Los Angeles County, did they attend separate schools for  
14 Mexican children?

15 A Not that I know of.

16 MR. HOLDEN: I object to that as immaterial.

17 MR. MARCUS: It goes to the question of the issue raised  
18 that they didn't speak English and for that reason they are  
19 kept separate and apart.

20 THE COURT: How would the conduct of schools in other  
21 districts throw any light on the issues before the court?

22 MR. MARCUS: To show your Honor that they had no English  
23 language difficulty, that they attended and got along the  
24 same as any other child or children.

25 The defense in this particular district recites:

Zv276

1            "That to carry out said policy, the Board of  
2            Trustees established a rule requiring that persons  
3            of Mexican descent who were unfamiliar with the  
4            English language be required to attend one of the  
5            schools set apart by said Board for said purpose."

6            THE COURT: It is true that would be one of the criteria,  
7            but that would be ascertainable, it seems to me, by the  
8            progress that the child made in school rather than by the  
9            place where it attended; in other words, the efficiency of  
10          the pupil himself would determine whether or not he made the  
11          grade so far as linguistic and other qualifications were  
12          concerned. I don't believe that to go into the other school  
13          districts would be helpful.

14          MR. MARCUS: That is true, the way your Honor has framed  
15          it, but that isn't the way the defendants have framed it.  
16          Perhaps the ultimate result would be the same, since in the  
17          next paragraph preceding, it says:

18               "That for the purpose and for the benefit of  
19               said pupils, and to give them instruction in the  
20               aforesaid subject separate and apart from the  
21               English-speaking pupils, the Board of Trustees of  
22               said District have determined that it is for the  
23               best interests of said pupils of Mexican descent  
24               and for the best interests of the English-speaking  
25               pupils that said groups be educated separately."

Zv277

1           That is the only purpose we have had in asking that,  
2           but I will withdraw the question at this time, your Honor.

3           Q     BY MR. MARCUS: Did the children, when they attended  
4           the Gilroy School and the East Whittier School progress each  
5           year and pass?

6           A     There was never any -- they never did stay in the  
7           same grade in the next year. They was always promoted to the  
8           next grade.

9           Q     Well, that is in the Gilroy School and the East  
10          Whittier School?

11          A     They only stayed at the Gilroy one month, but the  
12          most of the time at Whittier, which they went to the fifth  
13          grade, the biggest boy of mine.

14          Q     Now, give me the names and ages of your children.

15          A     Ignazio Ramirez, he is the biggest one.

16          Q     How old is he?

17          A     He is 11.

18          Q     What grade is he in?

19          A     He is supposed to be in the sixth grade, I think.

20          Q     And what about the others?

21          A     Silverio.

22          Q     How old is he?

23          A     He is about 10 years old.

24          Q     And the other one?

25          A     He is 7, he is going to be 8.



1 Q And what is his name?

2 A Joe, Jose Ramirez.

3 Q Did all of your children speak the English language  
4 before they commenced school?

5 A Not the little one, but the two first ones, they  
6 did. But the little one didn't understand enough, but he  
7 also speak a few words, enough to understand the teacher.

8 Q How long did you live in the Whittier District?

9 A For last 12 years.

10 Q How long did your children attend school in the  
11 Whittier District?

12 A About five years.

13 MR. HOLDEN: I object as incompetent, irrelevant and  
14 immaterial, as to the Whittier District.

15 THE COURT: Yes, I think so.

16 MR. MARCUS: Very well.

17 THE COURT: Sustained.

18 Q BY MR. MARCUS: Now, you say your children attend  
19 the Mexican School?

20 A At the Lincoln School at El Modeno.

21 Q The Lincoln School in El Modeno?

22 A In El Modeno.

23 Q How long have they been attending there?

24 A They have been attending since November, between  
25 the 21st and 24th, up to date, up to the end of the season,

Zv279

1 the summer season.

2 Q Did you have any conversation with the principal of  
3 that school?

4 A Yes, I had a conversation with the principal.

5 Q About the segregation of the Mexican children in  
6 that district?

7 A Well, I had --

8 MR. HOLDEN: Now, we object to that on the ground there  
9 has been no time or place fixed.

10 MR. MARCUS: This calls for a yes or no answer.

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

12 A Yes, sir.

13 Q And when did that take place?

14 A It took place between the 21st and 24th, when I  
15 put my kids in school.

16 THE COURT: The 21st and 24th of what?

17 THE WITNESS: Of November, last year.

18 Q BY MR. MARCUS: And where did the conversation take  
19 place?

20 A It take place, part of it, inside the Roosevelt  
21 School, and most of it in between the school grounds, or be-  
22 tween both the schools, Lincoln and Roosevelt.

23 Q That is, the Roosevelt School, is that the school  
24 where the American School children, or children other than  
25 those of the Mexican race attend?

58

Zv280

1 A Yes, sir, Roosevelt School.

2 Q Is that correct? You took the children to that  
3 school?

4 A Yes, sir.

5 Q How many children?

6 A Three; Ignacio, Silverio and Jose.

7 Q And whom did you talk to at the Roosevelt School?

8 A The principal of both schools.

9 Q What is his name?

10 A His name, I don't know, but he is present right  
11 here.

12 Q Point him out.

13 A He is last man, second bench, next to the lady.

14 Q Is that Mr. Hammersten?

15 A I think it is. Yes, that is the one I talked to,  
16 I know.

17 Q Relate the conversation, please.

18 A I took my boys there, my youngsters, and I told him  
19 I want my boys to be put in that school, and he said he was  
20 sorry, he couldn't put them there because there was no seats  
21 for them in there.

22 I said, "Why are there no seats in there?" Because there  
23 were a few more Mexicans there, I know. And he said, "Well,  
24 I am sorry, but they have to go to the Lincoln School, because  
25 that is the school for them. That is where they have to go."

Zv281

1 And I told him, naturally, I wanted my boys to be  
2 educated at the Roosevelt School because their father had his  
3 education there, and to give them the same opportunity, the  
4 same chance to go where the rest of the boys will go, walk  
5 amongst them, be friendly, and show them their attitude,  
6 in other words.

7 Well, he says they just can't do that.

8 Well, I told him when they first go to the Roosevelt  
9 School here, we came from Mexico and my father and an uncle  
10 of mine done the finishing of it, and I expected that my boys  
11 should be taken right here where I was educated.

12 And, oh, he says, he just can't do anything about it,  
13 and they have to go to Lincoln School, and he just walked out  
14 and didn't say nothing more about it until we got to Lincoln  
15 School.

16 Q Now, you say you had a conversation on the school  
17 grounds, too?

18 A Yes, sir.

19 Q Whom did you have that conversation with?

20 A With the same principal; that is, their principal.

21 Q Go ahead with that conversation, please.

22 A I asked him, or, I says that the days would come  
23 when the Japanese and Negroes, because there was Negroes at  
24 that time amongst us, -- I told him that the days will come  
25 when the Japanese, Filipinos and Negroes would be together

Zv282

1 again.

2 He says, "Well, as a matter of fact," he says, "I don't  
3 think those days will come again." And talking about the  
4 Negroes he says, "Don't you think that the Negro has got the  
5 better rights?" But he didn't say who, whether myself, or  
6 all of us.

7 So I told him that that was just out of line, all I  
8 wanted was my boys to attend the Roosevelt School.

9 And he says, "Well, let me tell you one thing. I tell  
10 you why a Negro is supposed to have a better rights. Because  
11 he was brought here during slavery days, and that was just  
12 the truth, and that is the reason I think they should have a  
13 better rights."

14 And, of course, I just told him that I should have the  
15 rights, and thanks the Lord, we live in a country that every-  
16 body was equal, and at the same time that I wanted my kids,  
17 or my youngsters, to go among the rest of them, and march  
18 through up until the end of the war like the boys be marching  
19 right along. And he didn't say anything no more, but we just  
20 separated.

21 Q Then did you go over to the other school?

22 A Well, I went to Lincoln School, to take my youngsters  
23 over there, to the Lincoln School with him in person, which  
24 he delivered on such a rule, where they was going to stay.

25 Q Did you have a conversation with him at that time?

1 A Not inside the school.

2 Q He took you over there to the Lincoln School?

3 A He didn't took me. I just follow him with my  
4 youngsters.

5 Q Now, do you know, of your own knowledge, that the  
6 children from the Lincoln School attend classes or begin  
7 the attendance of classes in the morning at different hours?

8 A I beg your pardon. I don't understand.

9 Q Do they begin school at different hours?

10 A Yes.

11 Q You know they have no social contact during the  
12 day whatsoever?

13 A Well, I have been through the school, I have been  
14 going through Chapman Avenue, on which both schools are  
15 situated, between Alameda Street and Chapman Avenue.

16 MR. HOLDEN: I object to this. Are you inquiring about  
17 some other school at El Modeno?

18 Q BY MR. MARCUS: There are only two schools there?

19 A There is two schools, and Chapman runs from Orange,  
20 and Alameda runs north and south, and that street is beyond --  
21 is before you get to Lincoln School, but it goes still  
22 right there on Alameda Street, and Chapman runs, you see,  
23 east and west.

24 THE COURT: Regardless of that, Mr. Ramirez, you are  
25 talking about these schools in the El Modeno District?

Zv284

1 THE WITNESS: Yes, I am referring to them.

2 THE COURT: Now, ask him another question.

3 Q BY MR. MARCUS: Do you know that the children go  
4 to school at a different hour?

5 A I do, on account of my boys.

6 Q And do you know that they come out at a different  
7 hour?

8 A Yes, sir.

9 Q Do you know they have different hours of recess?

10 A Yes, sir.

11 Q And they do not play together on the same play-  
12 ground at the same time?

13 A Yes, sir, that is a fact.

14 Q Do you know, of your own knowledge, that children  
15 only of Mexican descent attend the Lincoln School?

16 A Right.

17 MR. MARCUS: That is all.

18 CROSS EXAMINATION

19 BY MR. HOLDEN:

20 Q In this conversation that you had with Mr.  
21 Hammarsten, of course, the first thing he told you was that  
22 the Roosevelt was filled, didn't he?

23 A He didn't say no such thing.

24 Q He said there were no seats for them there?

25 A Said there is no seats for them there, they have to

zv285

1 go to the Lincoln School, and said that is a Mexican school.

2 Q And then didn't you say you didn't want to put them  
3 in the Lincoln School with those dirty Mexicans?

4 A I didn't say that.

5 Q And didn't he say they were not dirty Mexicans, and  
6 they were as clean as the other children?

7 A I don't remember that.

8 Q And didn't you say that you didn't want to put  
9 your children there because, "Those dirty Mexicans, they have  
10 lice in their heads"?

11 A No, sir.

12 Q And didn't he say, "They don't have lice in their  
13 heads because we have them inspected every week"?

14 A We never had any conversation on that at all.

15 Q And didn't you say that the children took care of  
16 each other, that the older brothers and sisters took care of  
17 the younger children and they kept each other clean?

18 A No, we never did say anything about that.

19 Q And you never did say anything about the lice at  
20 all?

21 A No, sir.

22 MR. HOLDEN: That is all.

23 THE COURT: That is all.

24 MR. MARCUS: Mrs. Pena.

25



Zv286

1 MRS. NIEVES PENA,  
2 called as a witness by and on behalf of the plaintiffs, having  
3 been first duly sworn, was examined and testified as follows:

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

5 THE WITNESS: Nieves Pena, N-i-e-v-e-s P-e-n-a.

6 DIRECT EXAMINATION

7 BY MR. MARCUS:

8 Q Are you married, Mrs. Pena?

9 A Yes.

10 Q You live in the El Modeno District?

11 A Yes, sir.

12 Q How long have you lived there?

13 A I have lived there for the last nine years.

14 Q How many children do you have?

15 A I have four children.

16 Q Four children?

17 A Yes.

18 Q What are their ages, please?

19 A The oldest one is 6, the next one is 4, the other  
20 one 2, or, rather, 3, and the baby is 1.

21 Q Do you have any children attending school?

22 A One.

23 Q What school?

24 A The Lincoln School.

25 Q How long have you lived in the United States?

Zv287

1 A I have lived in the United States for about 35  
2 years.

3 Q And your husband's name is what?

4 A Miguel Pena.

5 Q Where does he live?

6 A He lives at El Modeno.

7 Q He lives with you and the children?

8 A Yes.

9 Q And what is his business or occupation?

10 A Well, lately he worked at the Alexander Glass Manu-  
11 facturing Company, a glass manufacturing company.

12 Q What is the child's name that attended school?

13 A Miguel Pena.

14 Q You call him Mike?

15 A Yes, I call him Mike.

16 Q When did Mike attend school there?

17 A In September, 1944.

18 Q Now, did you ever have a conversation with any of  
19 the officials of the school about the attendance of Mike?

20 A No, I didn't, because I knew it wouldn't be any use.

21 Q Did Mike speak English?

22 A Yes.

23 Q Did he speak English before he commenced school?

24 A Yes.

25 Q Did you ever have any difficulty with Mike's

Zv288

1 personal hygiene?

2 A No.

3 Q He was kept clean, was he?

4 MR. HOLDEN: I object to that. There isn't such issue  
5 in the El Modeno district. There is nothing said about hygiene.

6 THE COURT: I don't recall it.

7 MR. HOLDEN: And there is no use in bringing out some-  
8 thing that isn't in issue.

9 MR. MARCUS: You brought it out from this last witness.

10 MR. HOLDEN: I was bringing out the conversation.

11 THE COURT: That was for impeachment purposes, I take it?

12 MR. HOLDEN: Yes. We can stipulate that the child was  
13 clean, I think.

14 THE COURT: I don't see anything in the answer of the  
15 El Modeno District raising that issue.

16 MR. MARCUS: I don't think there is any issue on that  
17 hygiene matter, your Honor.

18 THE COURT: The objection is sustained.

19 Q BY MR. MARCUS: Do you speak English at home --

20 A Yes.

21 Q -- with your husband?

22 THE COURT: She is speaking English now. What is the  
23 purpose of this?

24 THE WITNESS: We speak both English and Spanish.

25 Q BY MR. MARCUS: Do your children speak Spanish, too?

Zv289

1 A They speak both languages.

2 Q To your knowledge, does your child have any English  
3 language handicap, or did he have at any time, - Mike?

4 A Well, at first he didn't talk much because he was  
5 shy at school. The teacher sent him home with a note, and  
6 I had a talk with him, and after that he got along perfectly.

7 MR. MARCUS: That is all.

8 MR. HOLDEN: No cross examination.

9 MR. MARCUS: I will call Mr. Hammarsten.

10 HAROLD HAMMARSTEN,  
11 called as a witness by the plaintiffs under Section 43-B of  
12 the Rules of Civil Procedure, having been first duly sworn,  
13 testified as follows:

14 THE CLERK: State your name, please.

15 THE WITNESS: Harold Hammarsten, H-a-m-m-a-r-s-t-e-n.

16 DIRECT EXAMINATION

17 BY MR. MARCUS:

18 Q Mr. Hammarsten, you are the superintendent of the  
19 El Modeno School District?

20 A Officially, the district superintendent.

21 Q And how long have you been that?

22 A Seven years.

23 Q Approximately how many school districts are there  
24 in Orange County?

25 MR. HOLDEN: We will stipulate there are twenty-three.

43-B  
rit

60

1 MR. MARCUS: Accepted.

2 MR. OGLE: Fifty-two all-told.

3 THE COURT: Fifty-two.

4 MR. MARCUS: We will accept that stipulation.

5 Q BY MR. MARCUS: How many times a year do you have a  
6 meeting of the school superintendents of the various districts?

7 A Ordinarily about once a month.

8 Q Where do these meetings take place?

9 A In various places. In Santa Ana, usually.

10 Q When did you have the last meeting?

11 A I think it possibly would have been the last month  
12 of the year.

13 Q And you have one every month in different parts of  
14 the county?

15 A Not exactly. Some months they are omitted.

16 Q When did you have the last meeting when a discus-  
17 sion was had concerning this Mexican problem and the Mexican  
18 districts?

19 A I wouldn't know. I didn't attend any of the meet-  
20 ings during the last year.

21 Q Well, prior to last year, when did you attend a  
22 meeting when there was such a discussion?

23 A It was never discussed, to my knowledge.

24 Q It was never ~~discussed~~ at any meeting?

25 A Not at any meeting that I attended.

Zv291

1 Q Do you accept the policies formulated by the Board  
2 with respect to the Mexican problem?

3 A My own Board of Trustees?

4 Q That is right.

5 A Right.

6 Q Have you read any of the answers in this case, out-  
7 side of the one that you have appeared on?

8 A Like what?

9 Q The answer to this complaint.

10 A No.

11 Q You have read your answer, have you, sir?

12 A I looked it over.

13 Q Now, is it a fact that the School Board has adopted  
14 a rule or policy that the children of Mexican descent are to  
15 be educated separate and apart from the other students in  
16 that district?

17 A How do you mean, by rule or policy? What do you  
18 mean? Do you mean a definite action by the Board, stating  
19 something specific in regard to them, or a general policy  
20 that has been observed over a long period of years?

21 Q Well, a general policy observed over a long period  
22 of years. That is better.

23 A That is true, over a long period of years that has  
24 been observed.

25 Q Where did that policy originate from, if you know?

Zv292

1 A I really don't know.

2 Q Where did you first learn of it?

3 A It was in effect when I came to that school.

4 Q How many years ago?

5 A Well, I came there as a teaching principal in 1938.

6 Q And how did you learn that, by the practice, or

7 the practice then in existence?

8 A The system that was set up at the time I came there.

9 Q Did you discuss it with anybody at the time you came  
10 there?

11 A It wasn't any part of my business the first year  
12 that I was there.

13 Q Well, did you discuss it the second year with any-  
14 body?

15 A Well, not more than casual conversation that was  
16 taking place at Board meetings and with other people in the  
17 community.

18 Q Were those notes ever recorded, regarding that  
19 practice or policy of the Board?

20 A Not to my knowledge.

21 Q Was there any particular reason why such policy or  
22 discussion was not carried forth in the minutes of the Board  
23 meetings?

24 A How is that?

25 Q Was there any reason why that discussion or policy

Zv293

1 that had been in existence --

2 A None that I know of.

3 Q -- was not reflected in the Board's minutes?

4 A None that I know of.

5 Q How often was that policy discussed?

6 A Seldom.

7 Q Was it once a year?

8 A I wouldn't say.

9 Q Can you give us any approximate idea?

10 A Really it wasn't important enough to actually fix  
11 any special attention on my mind. I don't recall whether it  
12 was discussed once a year, or twice, or three times, or ever.

13 Q Well, you know that it was discussed, though, don't  
14 you?

15 A As a casual conversation.

16 Q Well, did it ever occur to you to ask or inquire  
17 of the Board there why there was a segregation of the Mexican  
18 children in the schools?

19 A Oh, sure.

20 Q And whom did you ask?

21 A The present Board, or the Board that was there dur-  
22 ing the last seven years.

23 Q When did you discuss it on the last occasion?

24 A Oh, possibly sometime during the last year.

25 Q And with whom did you discuss it?



Zv294

1 A The Board members.

2 Q All of them?

3 A Always. They all meet together.

4 Q Did you have some discussion with respect to the  
5 segregation of the Mexican children?

6 A Not especially, no.

7 ✓ Q Now, to your knowledge, then this policy has been  
8 in existence and been carried out since you have been there?

9 ✓ A That's correct.

10 ✓ Q And that has been at least seven years?

11 A That's right.

12 Q Do you know how long it has been in existence prior  
13 to that time?

14 ✓ A I have been told that the overall program had been  
15 carried on for about 15 or more years, something like that.

16 Q Now, is that segregation in the Lincoln School  
17 100 per cent, to your knowledge?

18 A You mean if the Lincoln School, the enrollment  
19 there, is 100 per cent of Mexican descent?

20 Q Yes, children, that is right.

21 A Yes.

22 ✓ Q Regardless of where the other children reside, these  
23 children other than of Mexican descent, they are all sent to  
24 the Roosevelt School, are they?

25 A Yes, other than of Mexican descent.

v295

1 Q Did it ever occur to you to be, or was it ever  
2 reflected in your conversation to be discriminatory?

3 A No.

4 Q It did not?

5 A No.

6 Q You believed that this is a fair and equitable  
7 practice?

8 A It is the best thing that can be worked out at the  
9 present time in our system in our district.

10 Q You believe, then, in the segregation of the  
11 Mexican children?

12 A Not on the basis of what you would want me to be-  
13 lieve, no.

14 Q Just tell me whether you believe in the segregation  
15 of the Mexican children in the school district of El Modeno.

16 A The way you put it, it makes it impossible to answer  
17 it.

18 Q Well, haven't you set up in the answer that it is  
19 for the efficient instruction of the English-speaking pupils  
20 in the El Modeno District?

21 A Yes, if you will include that it is for the best  
22 interests of the Mexican pupils.

23 Q For the best interests of the Mexican pupils. You  
24 believe then they should be ~~segregated~~?

25 A The way they are at the present time.

Zv296

1 Q What do you understand to be a democracy, Mr.  
2 Hammarsten?

3 MR. HOLDEN: That is objected to. This is not a class  
4 in political science, your Honor. I object to that.

5 THE COURT: The objection is sustained.

6 ✓ Q BY MR. MARCUS: How far are these schools apart?

7 ✓ A About 120 yards, on the same grounds.

8 Q Do the children go into the school at the same  
9 time, the respective schools?

10 A They use the same sidewalk.

11 Q I said, do they enter the school. Does the school  
12 commence at the same time every day?

13 A Oh, well, that is different. The Lincoln School  
14 at the present time starts at 8:30 in the morning, and the  
15 Roosevelt School at 8:45.

16 Q At what time do you have the recess at the respec-  
17 tive schools?

18 A The recesses are staggered in such a way as to allow  
19 the full use of the playground for each school.

20 Q What time do they get out of school?

21 A What do you mean?

22 ✓ Q The noon hour. What time does the Lincoln School  
23 get out?

24 ✓ A The Lincoln School from 11:30 to 12:15, whereas the  
25 Roosevelt School has it from 12:00 to 12:45.

Zv297

1 Q Now, in so far as entering school in the morning,  
2 the recess, the noon recess, and the afternoon exit from the  
3 school, the hours are different in both schools, are they  
4 not?

5 ✓ A The lower grades in both schools in some cases go  
6 home together, they get out at the same time.

7 ✓ Q What lower grades?

8 ✓ A The first to the third grades.

9 Q The first to the third grades. But the other grades  
10 go out at different hours?

11 A At different hours.

12 ✓ Q Now, except in so far as going out of school for  
13 the first to the third grades, there is absolute and complete  
14 segregation of at least part of the two schools in every  
15 particular, is there not?

16 ✓ A The first three grades play on the playground at  
17 the same time. Their recesses are at the same time during  
18 the day.

19 Q When did that practice begin?

20 A It has been in effect for some time. So far as I  
21 know, it has been in effect for the seven years I have been  
22 there.

23 Q The first to the third grades play together?

24 A They have the use of the playground at the same  
25 time.

v298

1 ✓ Q But isn't it a fact that the children are not per-  
2 mitted to play together?

3 ✓ A No, if they want to play together in their play  
4 periods, they may do so.

5 ✓ Q But is it not a fact that they play separately?

6 ✓ A By their own choice.

7 Q As a matter of fact, they do play separately, and  
8 the Mexican children do not play with the children from the  
9 other school?

10 A Well, they have games together on the playground.

11 Q You mean in competitive sports?

12 A Right.

13 Q In the first grade?

14 A No, not in the first grade.

15 Q In the second grade?

16 A No.

17 Q In the third grade?

18 A Well, the third and fourth grades do.

19 Q But that is not what you are referring to?

20 ✓ A In the Roosevelt School we have two grades in each  
21 room. The third and fourth grades are in the same room.

22 Many times one room in the Roosevelt School will play a combina-  
23 tion of the third and fourth grades in the Lincoln School.

24 For that reason competitive games would be included in the  
25 third grade.

Zv299

1 Q But when they go out in the recess --

2 A They play on the same grounds.

3 Q But they don't play together?

4 A Well, the grounds are very small. As a result,  
5 there is a lot of intermingling, and in the first period in  
6 the morning, before school takes up, a lot of the Mexican  
7 children come over with the other students from Roosevelt and  
8 play, and they will walk up in the morning, and have other  
9 games there in the morning.

10 Q What grades are those?

11 A The upper grades, from, say, the fifth grades on up.

12 Q All of the children in this district, the El Modeno  
13 District, were born there, were they not, before they attended  
14 school?

15 A I don't know whether you could include all of them;  
16 the majority.

17 Q Well, all of them were American citizens?

18 A No, I couldn't say that, because I think there are  
19 a few that were born in Mexico, and as far as I know, I  
20 wouldn't say there are more than, oh, two or three, but I  
21 know there have been some of them. But I would say on the  
22 whole most of them are American-born citizens.

23 Q And they speak the English language, do they not?

24 A Well, when the youngsters start school, well, the  
25 children of American-born parents that have attended schools

Zv300

1 here show a definite, a better ability to speak the English  
2 language when they come into school, but most of them do not  
3 have their basic understanding of the English language when  
4 they start the first grade.

5 Q How about the second grade? Do they have a basic  
6 understanding, then?

7 A Naturally, they are progressing. They all progress.

8 Q Do they have a basic understanding of the English  
9 language?

10 A I wouldn't say that you could get the complete  
11 basic understanding in one year.

12 Q When do they get a basic understanding of the  
13 English language?

14 A Well, I don't know that any of us have it.

15 Q You mean to say that you haven't?

16 A I wouldn't say that I have everything that is  
17 possible to get.

18 Q Well, I mean the average child?

19 A The average, never.

20 Q -- in that district. Do they have a basic under-  
21 standing of the English language in the first or second grade,  
22 or the third grade?

23 A Closer to it in the third grade.

24 Q In the third grade. Now, do you keep them separate  
25 and apart because of the fact that they do not have a basic

Zv301

1 understanding of the English language?

2 A We keep them separate and apart because during the  
3 first two or three years the teachers that have those children  
4 that come into the first grade are better able to get those  
5 children to progress more rapidly, when they are with their  
6 own group. If I could explain that a little further, a child  
7 of Mexican descent who has entered the Roosevelt School, well,  
8 on the whole he has a better understanding of the English  
9 language when they start with the first-graders in the  
10 Roosevelt School.

11 A lot of the children start at the Lincoln School in the  
12 first grade, they can speak English to the extent of saying  
13 yes or no in the English language, but that is about the  
14 extent for a lot of them. Some of them can still speak  
15 English better than that, but even then they still aren't  
16 qualified enough or they don't have the background that would  
17 make it possible for those children to go in with the  
18 Roosevelt children and progress as rapidly, under normal  
19 conditions.

20 Q Well, do you give these children any tests of any  
21 kind when they come to the ~~Lincoln School~~?

22 A It is highly impossible to test a child that can't  
23 speak the English language.

24 Q Well, do you mean to say that none of them speak  
25 the English language?



Zv302

1 A They can answer a few questions yes or no, they  
2 can talk a little bit like that, but so far as giving a child  
3 a test in the first grade, that is ridiculous.

4 Q Do you talk to them at all?

5 A Surely.

6 Q Do you give them any examination of any kind?

7 A We enroll them.

8 Q Is that the extent of the test, the enrollment?

9 A Not exactly.

10 Q What else is there?

11 A There is no reason to give them a test. They  
12 enroll there, and there is no reason to test the children that  
13 enroll in the first grade in the Lincoln School.

14 Q Then you don't give them any test, and if they are  
15 of Mexican descent they go to the Lincoln School, and that  
16 is generally known?

17 A They all go there.

18 Q Well, is that generally known, and is that the  
19 policy of your Board?

20 A It is the policy of the Mexican people to go there.

21 Q And it is the policy of your Board, isn't it?

22 A We maintain the schools for them.

23 Q And you maintain the policy, too, don't you?

24 A Well, I couldn't say whether the policy was  
25 established by them, or whether the Board, that is, the present

1 Board, established the policy.

2 Q You don't mean to say that the children in that  
3 district established the policy of the Board?

4 A The parents send the children to that school.

5 Q And they follow the policy of the Board, do they  
6 not?

7 A They probably do.

8 Q Is there any probability, or possibility, or doubt  
9 in your mind about that?

10 A How do you mean?

11 Q That it is the policy of the Board that they are  
12 following?

13 A Well, the Board maintains the school, and the  
14 children go there.

15 Q Aren't we quibbling, sir?

16 A I don't know. Maybe you are. I am not. I am tell-  
17 ing you facts.

18 Q Now, isn't it a fact, Mr. Hammarsten, that it makes  
19 no difference so far as the School Board, or you, as the  
20 superintendent of the schools, are concerned that if a child  
21 is of Mexican descent you presume, without an examination,  
22 that that child is unfamiliar with the English language?

23 A No.

24 Q And, therefore, he is required to attend the school  
25 set apart for those Mexican children?

Zv304

1       ✓ A       No.

2           Q       And what test do you give them, outside of enroll-  
3       ing them, to determine whether they are unfamiliar with the  
4       English language?

5       ✓ A       The children that enroll in the Lincoln School  
6       are not given any test. Those who make application to go  
7       to the Roosevelt School, we try to determine whether we  
8       think they can get along with those children and progress as  
9       rapidly, as normally, as a child in the first grade can.  
10       Those children I tell you about, that have enrolled in the  
11       Roosevelt School, are children that have much more of a  
12       basic understanding of the English language, and for that  
13       reason we think they can get along better.

14       ✓ Now, the applications that we have had at Roosevelt  
15       School, - during the last year we have had 11 children in the  
16       first and second grade of Mexican descent.

17       ✓ Q       11 children out of how many?

18           A       22.

19           Q       Out of how many, total in attendance?

20           THE COURT: No.

21       ✓ THE WITNESS: No. No, I am talking about the first and  
22       second grades.

23           THE COURT: 25 as against 83.

24           Q       BY MR. MARCUS: Does that policy of being unable  
25       to have a basic knowledge of the English language continue

Zv305

1 until the eighth grade in that particular district?

2 A Most of the children that enroll in the Lincoln  
3 School find it to their own benefit to continue there until  
4 the eighth grade, and they have made no application to trans-  
5 fer to the Roosevelt School.

6 Q You say the children have determined it is for their  
7 own benefit?

8 A The children or their parents. I am speaking of  
9 the children and the parents both there, because if the  
10 children were not getting along as well as they wanted to  
11 and were expected to by their parents, they would probably  
12 have made application to go to the Roosevelt School.

13 Q Doesn't the School Board determine what is best  
14 for the children?

15 A They attempt to.

16 Q And is it not a fact that your School Board has  
17 determined that it is for the best interests that the children  
18 be separated between the first and the eighth grades?

19 MR. HOLDEN: I object to that as repetition.

20 THE COURT: Yes, it is repetition. Objection sustained.

21 Q BY MR. MARCUS: Now, you have heard this young lady,  
22 Miss Torres, testify from the witness stand, have you not?

23 A Yes, sir.

24 Q Did you understand her to have a lack of basic knowl-  
25 edge of the English language?

v306

1 A This girl, Miss Torres, is one of our best students.

2 Q She is?

3 A She has an I.Q. that is very high, and as a result,  
4 if she had made application to attend the Roosevelt School  
5 it would have been granted.

6 Q Did you hear the other boy testify on the witness  
7 stand?

8 A Robert Perez?

9 Q Yes.

10 A Yes.

11 Q Did he lack a basic understanding of the English  
12 language?

13 A I don't know whether he did or not. That is a  
14 long time ago. I don't know that he even started school when  
15 I was there. I think he was enrolled already.

16 Q That little girl, Miss Torres, didn't have any  
17 lack of the basic understanding during her attendance?

18 A I don't think she did, particularly.

19 Q Did you, or any member of the faculty of that  
20 school, ever advise those children of their opportunity of  
21 going to the other school?

22 A I don't think it was necessary.

23 Q The question is not whether or not it was necessary,  
24 but did you ever advise the children at any time that they  
25 had the opportunity of attending the other school, if they

Zv307

1 desired?

2 A Not officially.

3 Q Well, now, sir, can you answer that question just  
4 yes or no?

5 A I answered it.

6 Q Is that the best answer you can give us?

7 A We have never advised them officially.

8 Q Have you ever determined by any set of examinations  
9 or tests at any time during the first to the eighth grades  
10 whether or not any of the Mexican children, or children of  
11 Mexican descent, were able to attend the Roosevelt School?

12 A We give standardized tests twice a year.

13 Q Isn't that the tests that you give to determine  
14 whether or not the children shall advance in their grades?

15 A Yes.

16 Q I asked you whether or not you gave them any special  
17 tests at any time to determine whether or not they could  
18 attend the Roosevelt School?

19 A Those tests could be considered special tests to  
20 determine their grade placements and their mental ability.

21 Q Outside of these tests you give twice a year to  
22 determine whether a child should pass from one grade to  
23 another grade, did you give any of the children any special  
24 tests in the English language, or otherwise, to determine  
25 whether or not they were eligible to attend the Roosevelt

Zv308

1 School?

2 A You mean in the first grade?

3 Q In any grade, at any time.

4 A We do, yes.

5 Q When was the last test that you gave?

6 A On the opening -- well, when we opened school last  
7 year.

8 Q In 1944?

9 A That's right.

10 Q And what test was that?

11 A It is a test given orally to the Mexican students  
12 that apply for admission to the Roosevelt School. If that  
13 child can carry on an ordinary --

14 Q Wait just a moment. Before you go on, there was a  
15 special test given to a child that applied to the other school?

16 THE COURT: You should not interrupt him, Mr. Marcus.  
17 Let him finish his answer, and then you can either move to  
18 strike or ask another question.

19 MR. MARCUS: Very well.

20 THE WITNESS: The Mexican child who makes application  
21 to come into the Roosevelt School, we take that child on  
22 enrolling and we try to see if that child has a knowledge of  
23 the English language, to see if they can carry on a conversa-  
24 tion with you, and then, for instance, do they know any  
25 standard nursery rhymes, can they talk to you in the English

v309

1 language, or is their English language limited to "Yes" and  
2 "No."

3 Now, most of the children that we have in the Roosevelt  
4 School at the present time are youngsters that come in there  
5 from American-born mothers and fathers, that can talk to you  
6 just as my child or any one else's child can, and they are  
7 fully capable to go right in with the first grade.

8 We can't, by all means, take all of them in. We have  
9 only one room and two grades in one room.

10 Q Well, sir, I am not talking about whether you can  
11 take them in in that one school, but you understand what we  
12 are trying to accomplish here.

13 A And we are trying to do what is best for them.

14 Q We are not attempting to have all the children go  
15 to the same school, you understand, but that there shall be  
16 no distinction or discrimination or segregation between the  
17 Mexican children and the other children. Is that possible  
18 to accomplish in your school district?

19 A Is it possible?

20 Q Yes, sir.

21 A Under the present set-up, if we put all the  
22 Mexican children and the children of the Roosevelt School  
23 together and classified them according to ability in the  
24 first grade, it would naturally throw all of the Mexican  
25 students into one group.



1 Q All the Mexican students into one group?

2 A All the Mexican students into one group.

3 Q Why is that, sir?

4 A Because even those Mexican students that haven't  
5 made application to come into that school are still, after a  
6 year, in the lower group of the Roosevelt School.

7 Q After he has adjusted himself, Mr. Hammarsten, if  
8 he is in the lower group, he would be in the lower group in  
9 any school, wouldn't he?

10 A No.

11 Q After he has adjusted himself to his proper grad-  
12 ing in the particular school, wouldn't he progress the same  
13 as any other student?

14 A Well, there is a lot more to this than just your  
15 normal progression. It depends upon the ability of the child.  
16 You can't throw them all into one category and say they will  
17 all progress normally, because of the difference in the  
18 mental ability of the children.

19 Q Mr. Hammarsten, you don't understand that I mean  
20 that the children will advance exactly the same in each grade,  
21 do you?

22 A Do you mean to put all the children in Roosevelt  
23 School, the Mexican and the other children together, --

24 Q Supposing the children --

25 A -- and after a year's time they would progress

Zv311

1 normally together?

2 Q That is right.

3 A Well, our tests show that in spite of the fact that  
4 these so-called Mexican children have the better opportunity  
5 because of their American parentage, and everything, they  
6 still are in the lower groups. They are still in the lower  
7 groups, and they are in the lower percentage.

8 Q Lower percentage as to what?

9 A In grade placement, and mental ability, and every-  
10 thing.

11 Q How long does that continue? I mean, he doesn't  
12 stay in the first grade or the second grade all the time,  
13 does he?

14 A Oh, no.

15 Q After he has adjusted himself to his proper grading,  
16 he progresses normally, doesn't he?

17 A Normally. Sure, he goes from one grade to the  
18 other, through the first, second, third, to the eighth grade.  
19 Some of them will. Some of them won't. We have had the  
20 same situation with Mexican students in the Roosevelt School.  
21 They were up in the eighth grade and did not graduate, failed  
22 to graduate because they failed to grasp the thing as rapidly  
23 as they should have, and for that reason were dropped back.

24 Q Couldn't that possibly be accomplished if all the  
25 children in the El Modeno district went together to the same

Zv312

1 school, or if the district was not divided, if they attended  
2 the different schools together?

3 A Well, it just won't work in the situation that we  
4 have. I don't see how we could work it.

5 THE COURT: We will take a recess for five minutes, Mr.  
6 Marcus.

7 (A short recess was taken.)

8 THE COURT: Proceed.

9 Q BY MR. MARCUS: Mr. Hammarsten, give us the course  
10 of instruction in the first grade in the Lincoln School.

11 A Well, to start out with, in the beginning of the  
12 year as they are enrolled, we start there with what we have  
13 called the basic background of American heritage, and nursery  
14 rhymes, and teaching them to act out and learn what most of  
15 our children learned before they come to school.

16 Q Is that in the Roosevelt School?

17 A That is in the Lincoln School.

18 Q What course of instruction do you have in the first  
19 grade in the Roosevelt School?

20 A We follow the same procedure for approximately a  
21 semester, in what we call reading readiness. That is the  
22 basic background for teaching a child the beginning of read-  
23 ing, getting them ready to read.

24 Q Is there any difference in the course of instruc-  
25 tion given in the first grade at the Roosevelt School and

Zv313

1 in the Lincoln School?

2 A The Lincoln School has to be guided a little bit  
3 differently, yes.

4 Q Give us the differences, if you have them.

5 A Well, as I said, we start out entirely different.  
6 We start with things that are new to these little Mexican  
7 children, and create an interest and a desire for them to  
8 learn the things that most of our children in the Roosevelt  
9 School already know. We give them the days of the week, for  
10 example. We teach them those words. We give them the  
11 months of the year. We teach them the alphabet, for one  
12 thing. We teach them a whole background of a series of  
13 experiences that amount to a readiness to begin to learn to  
14 read.

15 Q That is in the Lincoln School?

16 A That's right.

17 Q Now, do you teach the days of the week at the  
18 Roosevelt School?

19 A Oh, naturally. Most of the children know that, and  
20 as a result they go much faster.

21 Q But do you teach it there?

22 A Yes, sir.

23 Q Do you teach the nursery rhymes at the Roosevelt  
24 School?

25 A We don't spend very much time on it. That is the

Zv314

1 introduction to it.

2 Q Do you teach it, though, in the Roosevelt School?

3 A Not in the sense of teaching it. They already  
4 know it.

5 Q What else do you teach them there besides the  
6 nursery rhymes, the days of the week, the numbers and the  
7 alphabet?

8 A That is only the beginning. That is the introduc-  
9 tory, that is the orientation to school work and the begin-  
10 ning of it, and then we go into a program of association with  
11 words and pictures and the processes of their readiness  
12 program, getting them to the point where they are ready to  
13 read.

14 Q Is that in the Lincoln School?

15 A That is in the Lincoln School.

16 Q And is that not true of the Roosevelt School?

17 A Yes, it is true to a certain extent, but it is much  
18 more rapid at the Roosevelt School.

19 Q But it takes the same period of time, doesn't it?

20 A No.

21 Q What else do you teach them then in the first  
22 grade besides the subjects you mentioned?

23 A In which school?

24 Q In the Roosevelt School.

25 A We actually go to the point where we have them

Zv315

1 reading stories.

2 Q In the first grade, sir?

3 A Right.

4 Q They are actually reading in the first grade?

5 A Right.

6 Q Do they read in the first grade of the Lincoln  
7 School?

8 A Towards the end of the year they have come to the  
9 point where they are reading simple sentences, and associat-  
10 ing the sentences and stories with word pictures.

11 Q Now, to that extent, are you able to determine  
12 whether or not there are any children of Mexican descent in  
13 the Lincoln School that have advanced any further than the  
14 other children?

15 A At the Roosevelt School?

16 Q No, no, in the Lincoln School.

17 A In the Lincoln School, any children in their own  
18 group that have advanced?

19 Q Yes.

20 A Yes, there are.

21 Q Then there are children that advanced?

22 A Much more rapidly than some others.

23 Q What do you do with the children that have advanced  
24 more rapidly?

25 A We gear the program to take care of these pupils

Zv316

1 in the first group.

65

2 Q In the Roosevelt School isn't it true that some of  
3 the children advance faster than the other children?

4 A Oh, yes.

5 Q What do you do with them?

6 A The same thing is true. The program is geared to  
7 take care of their rapidity in learning.

8 Q That same policy applies to the children in both  
9 schools, does it not?

10 A Right.

11 Q And the same course of procedure and the same in-  
12 struction is followed in both schools?

13 A Not exactly.

14 Q Now, in the second grade is the same procedure  
15 followed, the same course of instruction given in both schools?

16 A Approximately; on a different level.

17 Q Well, what is the difference in the level?

18 A Well, it is --

19 Q For instance, let me ask this: Are the children in  
20 the Roosevelt School in the second grade more advanced than  
21 the children in the Lincoln School in the second grade?

22 A Slightly.

23 Q Or does it depend, Mr. Hammarsten, upon the child  
24 itself?

25 A A great deal of it does depend upon the child itself.

1 naturally.

2 Q There are many children of Mexican descent in the  
3 Lincoln School who have advanced faster than others; isn't  
4 that true?

5 A Yes; yes.

6 Q And they are in the second grade?

7 A Right.

8 Q And the same is true in the Roosevelt School.

9 A That's right.

10 Q Now, what process or what procedure do you have for  
11 helping or assisting the children in the Mexican School, or  
12 the Lincoln School, who have advanced more rapidly than the  
13 other children?

14 A Well, their experiences are broadened, much more so  
15 than some of the others that are in the extremely low groups.  
16 The teacher spends much more of her time with the children  
17 in the low groups. You must realize that the teacher's time  
18 is limited, and as a result the children in the low groups  
19 always have much more time given to them by the teacher, and  
20 the children in the upper groups are somewhat neglected and  
21 left to advance by themselves because of the limited time and  
22 the ability of the teacher, and how much work can be accom-  
23 plished by them. The teacher, of course, can't spend all of  
24 her time with the upper group because they can advance  
25 rapidly. She spends most of it in the lower groups.



Zv318

1 Q And that is true in the Roosevelt School?

2 A That is true in any school.

3 Q All right. What course of instruction do you give  
4 in the Lincoln School in the second grade?

5 A We follow pretty much a prescribed course of study  
6 that is given to us by the County Schools.

7 Q Isn't the same true in the Lincoln School?

8 A That is what you asked?

9 Q In the Roosevelt School.

10 A Yes.

11 Q The same prescribed study is given for the second  
12 grade, whether it is in the Lincoln or the Roosevelt School?

13 A That's right. However, in the Roosevelt School the  
14 experiences are broadened, and, of course, it includes much  
15 more in the curriculum that is given to them.

16 Q You give them more curricula in the Roosevelt  
17 School than in the Lincoln School?

18 A We give them all they can handle.

19 Q Do you give them more?

20 A I would say they are capable of covering more ground.

21 Q Can you answer that yes or no?

22 A I don't think it is possible to answer it yes or  
23 no.

24 Q Then let's get down to facts. What course of study  
25 do you give them in the third grade at the Roosevelt School?

Zv319

1 A Normally prescribed courses of study that we follow,  
2 which are given out in the County Schools.

3 Q And what course do you give them in the Lincoln  
4 School?

5 A We follow the same thing, on a basis that is pro-  
6 bably not as broad and comprehensive as that which is given  
7 at the Roosevelt School.

8 Q Now, Mr. Hammarsten, you teach them out of books?

9 A Not everything.

10 Q For instance, what don't you teach them out of books?  
11 Your arithmetic comes out of a book, doesn't it?

12 A Right.

13 Q And your English comes out of a book?

14 A The basic part of it.

15 Q And geography comes out of a book?

16 A Well, I don't know if you call it geography in the  
17 second or third grade.

18 Q Well, whatever you call it. Isn't that prescribed  
19 course of study given under the rules of the County Board of  
20 Education, as prescribed by that County Board of Education,  
21 in both schools alike?

22 A That program is suggested, and we follow it as closely  
23 as we possibly can.

24 Q Don't you cover the same curriculum, the same subjects  
25 in both schools?

1 A Oh, definitely, but on a different level.

2 Q BY THE COURT: I want to ask a question here be-  
3 cause I think probably we do not understand one another. We  
4 want our minds to be together. Maybe we will not agree on  
5 the factual situation, but we certainly want our minds to-  
6 gether when we are asking and answering questions. Otherwise  
7 we do not reach any intelligent conclusion.

8 Is it true, Mr. Hammarsten, that what you call the level  
9 of the Lincoln School, as a school, you consider to be dif-  
10 ferent than the level of the Roosevelt School, as a school?

11 A Well, I can answer that this way: According to  
12 standardized tests that we give, the children in the Lincoln  
13 School do not come up to the same level that the children in  
14 the Roosevelt School do, with one exception. We have a  
15 seventh grade in the Lincoln School that is comprised of  
16 students that have a higher mental ability, and as a result  
17 they are above the standard norm. This is the first year we  
18 have had a group that is outstanding in that school, but they  
19 definitely are outstanding, and their work is superior to any  
20 group in the seventh grade that we have had in the past.  
21 But the level generally is lower. That is, rather than their  
22 whole group, say, reaching a fifth grade standard norm, they  
23 would come closer to about a 4.5 or 4.6, if you understand  
24 what I mean, in the level. You see, we base that level on  
25 standardized tests that are given to thousands of children,

Zv321

1 and we arrive at a level of what they call a standard norm;  
2 that is, the average child should maintain that standard  
3 norm.

4 Now, in the Lincoln School, because of their language  
5 handicap and their background, they never do attain the top  
6 of that norm, but they are still fully capable of what the  
7 average would consider as doing fifth grade work or sixth  
8 grade work.

9 Now, this year we have a seventh grade that is above the  
10 standard norm. Do you understand what I mean?

11 Q Have you finished now? I am hearing what you say.

12 A Just so we understand each other.

13 Q But when you finish, I want you to stop, because  
14 then I want to ask you a question.

15 A That is about it.

16 Q Well, let us take that seventh grade class in the  
17 Lincoln School last year. You say that was an unusually  
18 efficient class?

19 A Yes.

20 Q You mean as a whole?

21 A As a whole group.

22 Q I suppose, notwithstanding that fine degree of  
23 efficiency that the class maintained, that there were in that  
24 class certain pupils who were outstanding in the class?

25 A Oh, surely.

Zv322

1 Q Why couldn't they be transferred into the Roosevelt  
2 School?

3 A Well, they could, if we had room to accept them in  
4 there, for one thing, and on the other hand, the children  
5 themselves or their parents have never made application to  
6 come there, and most of the children, from my being with them  
7 all the time there, I gather they are completely satisfied  
8 with their present status.

9 Q Well, I understood that the schools, however, were  
10 segregated because of the level of scholarship?

11 A Originally that was the idea. Now, as I say, that  
12 group this year is outstanding for its group. It is an out-  
13 standing seventh grade. Sure, I wouldn't say but what they  
14 would be able to be transferred right in there and possibly  
15 get along all right, but they are still, in spite of the fact  
16 they are high, are still lower than the children in the  
17 Roosevelt School.

18 Q You mean as a whole?

19 A As a whole.

20 Q There are some in that class in the seventh grade  
21 in the Lincoln School --

22 A That surpass --

23 Q -- that are equal to the lower grade students in the  
24 seventh grade at the Roosevelt School?

25 A Yes, definitely.

1 Q Why aren't they put into that other school, whether  
2 they want to go or not?

3 A Well, because it would not --

4 Q Well, let's not talk at the same time, and I don't  
5 want to argue with you. I just want to get your idea, because  
6 it is your methods that are under surveillance here. Is it  
7 practical or is it not practical to do that in school manage-  
8 ment in your district?

9 A It would not be practical in our school management,  
10 and educationally I don't think it would be practical.

11 Q Why not?

12 A Well, you are getting right into this business of  
13 segregating the Mexicans, and then you are selecting out of  
14 that group of Mexicans to send over to the Roosevelt School.

15 Q But you are not selecting them on a Mexican basis,  
16 you are selecting them on an intellectual basis.

17 A The trouble is they don't look at it from the  
18 educational standpoint, but from the Mexican standpoint.

19 Q Well, never mind. You have never tried it?

20 A We have transferred one child that made the request  
21 last year. In this case here, the parents had a youngster  
22 coming into the first grade, and they asked to put her into  
23 the first grade in the Roosevelt School, which we did. She  
24 also had a sister in the third grade at that time in the  
25 Lincoln School, or in the fourth grade, and she asked to be

Zv324

1 transferred to the Roosevelt with her sister, which we did.  
2 And while she isn't superior, by any means, she is getting  
3 along.

4 Q Is she measuring up to the standards of the school  
5 in that grade?

6 A She is in the low group.

7 Q But there are others in the school who are not  
8 Mexicans who are in that group?

9 A There are other Mexicans in that group in that grade.

10 Q Doesn't that eliminate that question of discrimina-  
11 tion on account of being Mexican?

12 A We don't discriminate.

13 Q But doesn't that eliminate it?

14 A Yes, that eliminates it.

15 Q Why don't you try it, generally?

16 A Suppose we did allow them to make applications, -

17 Q I am not speaking about applications. Why isn't  
18 it practicable for the teachers, where they have one common  
19 head --

20 A Yes.

21 Q -- as you have in schools, and you have supervision  
22 over the teachers, why isn't it practicable for the school  
23 authorities to assign children without regard to their ancestry,  
24 but with respect to their intellectual attainment and scholar-  
25 ship classification?

1           A     Well, if we did that, we would be right back to  
2 all the Mexican children in the lower group of it. It still  
3 wouldn't work out, I don't see. In a district that had a  
4 little different situation, I think it probably would work,  
5 but I can't see how it could work in ours.

6           Q     Has it been your experience, Mr. Hammarsten, that  
7 the Mexican children, as such, are inferior mentally and  
8 intellectually to other children?

9           A     We have some very nice Mexicans in our district,  
10 and a lot of them are not, by any means, inferior. I wouldn't  
11 say, and I don't think they are inferior in any way.

12          Q     I am speaking intellectually.

13          A     Intellectually, there are some that are superior,  
14 and some that are average, and then we have some that average,  
15 I think, well, a little bit lower.

16          Q     Then isn't it possible and practicable, from a  
17 school standpoint, and that is what I am talking about, --

18          A     Yes.

19          Q     -- and not from a visionary dreamy standpoint,  
20 isn't it possible to segregate the children according to their  
21 mental and intellectual ability?

22          A     It is possible, certainly.

23          Q     But that hasn't been done, has it?

24          A     It has only been done to this extent, where the  
25 children have wanted to come to that school and have insisted



Lv326

1 that they go there, if they have the basic knowledge of the  
2 language. Most of them, or, like I say, in only one case  
3 have they ever wanted to transfer in the fifth grade. All of  
4 them want to start their children there. As a result we had  
5 11 out of the 22 that are Mexican children in the first and  
6 second grade, where they have the basic knowledge, and so it  
7 is possible to do it, certainly.

8 I am only wondering this: If it came right down to the  
9 business of segregation on the educational basis, and they  
10 maintained different classes on that level entirely, then  
11 one class would probably constitute almost all of the other  
12 children and some of the higher in the Mexican group. But  
13 the advantage to this system is that the children that are  
14 high mentally amongst the Mexican group become the leaders  
15 in that group and form the nucleus, from the whole educational  
16 standpoint. They are the leaders. They are the ones that  
17 push the program in that classroom, and it is a distinct ad-  
18 vantage to have those children in the Mexican school. And  
19 it is better for them, because it gives them the opportunity  
20 to display leadership. In that way we have that grouping,  
21 and the higher I.Q. and the better students are always  
22 selected as class representatives, to Student Body Councils,  
23 and they are the ones that are given the opportunity to speak  
24 at their grade exercises. They are the leaders throughout.  
25 They are the captains in their ballgames. And we must have

1 those to push the interest of the whole group. There are  
2 leaders always in every group, and you need leadership and  
3 you need it badly.

4 If you took those out of the Mexican school, it would  
5 leave the lower class again by themselves, and there would  
6 be no initiative for those that are left, and I don't think  
7 that would be a benefit to them. They need the aggressive-  
8 ness of those of the higher type to push the activity in the  
9 classroom and in school activities.

10 Q Would you be missing in the challenge to a boy or  
11 girl of that type to put him in competition with the non-  
12 Mexican group? You want group leaders, but you don't want  
13 individual leaders, do you?

14 A You want individual leadership, and you want it in  
15 your groups.

16 Q And you want it democratically?

17 A I don't know just how it would affect them.

18 THE COURT: You may proceed, and let's finish with this  
19 witness.

20 MR. MARCUS: Do you want to ask him some questions?  
21 As I understand it, you don't want him to come back?

22 MR. HOLDEN: I want to get rid of him today.

23 MR. MARCUS: I will stop at this time and let counsel  
24 cross-examine because I understand Mr. Hammarsten wants to do  
25 a little fishing and will not be able to come back.

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1 THE COURT: Proceed.

2 CROSS EXAMINATION

3 BY MR. HOLDEN:

4 Q How many teachers do you have in the Roosevelt  
5 School?

6 A Four.

7 Q And in that school you have 108 pupils?

8 A Approximately.

9 Q How many teachers do you have in the Lincoln School,  
10 and how many classrooms?

11 A Eight teachers and there are eight classrooms.

12 Q Would it be possible to put those two groups to-  
13 gether in those buildings, in either one of the buildings?

14 A Not with the present facilities.

15 Q You have in that district, other than those of  
16 Mexican descent, you have 83 pupils?

17 A Right.

18 Q And the majority of the American citizens in that  
19 community are of Mexican descent?

20 A That's right.

21 Q And they are the people that you are working for  
22 in that district?

23 A That's right.

24 Q Now, Mr. -- what was that name -- Ramirez, did you  
25 have a conversation with him?

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1 A Right.

2 Q And was that about November the 21st to the 24th,  
3 of 1944?

4 A I imagine it was somewhere in there.

5 Q At any rate, that was the day that he brought his  
6 children to school to be enrolled?

7 A That's right.

58 8 Q In that conversation did Mr. Ramirez say that he  
9 didn't want his children to go to the Mexican School to be  
10 associated with those dirty Mexicans?

11 A Right.

12 Q And did he say that they had lice?

13 A That's right.

14 MR. MARCUS: Wait just a minute. Wait just a minute.  
15 I never asked him any questions about that, and I assume this  
16 would be improper cross examination. If he wants to make him  
17 his own witness, that is one thing, but I think the questions  
18 are leading and suggestive.

19 THE COURT: No, I think he laid a foundation to impeach  
20 the other witness, and the reason why the impeachment would  
21 be relevant would be because Mr. Ramirez asserted that he  
22 would prefer to have his children in this other school. Now,  
23 if they can show that he himself had made statements that  
24 the children in that other school were such that he didn't  
25 care to have his children associate with them, that would have

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1 a tendency to go to his credibility in ascertaining whether  
2 he is really speaking from the heart out, or whether it is  
3 something else. Overruled.

4 MR. HOLDEN: Will you read the question?

5 (Question and answer read by the reporter.)

6 THE COURT: Now, let's get along here and not waste time  
7 looking at each other and not doing anything.

8 MR. HOLDEN: I think I am about through with this.

9 Q BY MR. HOLDEN: What was the conversation that you  
10 had with reference to enrolling his children?

11 A Mr. Ramirez brought his children to school and asked  
12 to enroll them in the Roosevelt School. I asked him why he  
13 had any particular request for that building, and he told me  
14 then that he didn't want his children to go to the Mexican  
15 School because they were dirty and had lice. I took some  
16 exception to that, because I don't think that he is right.

17 Q What did you tell him?

18 A Then I told him that it would be impossible for me  
19 to enroll them in the Roosevelt School at the present time  
20 because I didn't have enough desks available to accept any  
21 children there, and so long as they were enrolling them in the  
22 school, that they would naturally be enrolled in the Lincoln  
23 School.

24 Q Do you have a cafeteria in those two schools?

25 A No, we don't.

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1 Q In either of them?

2 A No.

3 Q You don't serve lunches in either school?

4 A No.

5 MR. HOLDEN: That is all.

6 REDIRECT EXAMINATION

7 BY MR. MARCUS:

8 Q You say you had desks available in the Lincoln  
9 School for Mr. Ramirez' children?

10 A Yes.

11 Q As a matter of fact, you can always make room for  
12 another Mexican child in that district if he comes as a  
13 transfer to the Lincoln School, can't you?

14 A Not the way you put it. That is --

15 Q You have never rejected any Mexican child that has  
16 come transferred from another district to enroll in the  
17 Lincoln School, have you?

18 A We never reject any students when they live in our  
19 district. We insist that they go to school.

20 Q The question is --

21 A No.

22 Q -- do you reject the children at the Lincoln  
23 School?

24 A No.

25 Q You have room for them at the Lincoln School, the

1 Mexican children?

2 A It is a much larger school.

3 MR. MARCUS: Will you answer the question, sir?

4 MR. HOLDEN: I think he has, your Honor.

5 THE WITNESS: We have room for them, sure.

6 Q BY MR. MARCUS: Do you have room for them at the  
7 Roosevelt School?

8 A Not at the time they asked to be enrolled.

9 Q And was that not because he was of Mexican descent?

10 A Had nothing to do with it.

11 Q Did you give the child any test at that time?

12 A It wasn't necessary.

13 Q How were you able to determine the child's mental  
14 ability without a test, if it wasn't necessary?

15 A We don't have to -- there <sup>was</sup> no percentage in giving  
16 him a test at that time, when he came to enroll in the Lincoln  
17 School.

18 Q Didn't he come to enroll in the Roosevelt School?

19 A He came to enroll in the Roosevelt School, but it  
20 was impossible to put him in that group.

21 Q And that was because you didn't have any facilities  
22 at that present time?

23 A That is correct.

24 Q You haven't any facilities?

25 A We haven't increased our facilities in the past

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1 three years because of war restrictions.

2 Q Have you increased the facilities at the Lincoln  
3 School?

4 A No.

5 Q There is just one more question I want to ask you,  
6 Mr. Hammarsten, and that is this: Where a child shows that  
7 he has special aptitude and is grounded in the English  
8 language sufficiently to be understood and to grasp the course  
9 of study offered, have you at any time transferred that  
10 Mexican child or children of Mexican descent of your own  
11 volition from the Lincoln School to the Roosevelt School?

12 A At one time I had a request to transfer a child  
13 and we transferred her.

14 Q No, sir, I am asking you whether you, of your own  
15 volition, transferred a child; not if you had a request from  
16 some one else.

17 A Not unless the request was made.

18 Q I am going to ask you that question again.

19 A All right.

20 Q And kindly listen. Did you, of your own volition,  
21 at any time where a child has shown an ability to comprehend  
22 the English language and had a basic training in it, trans-  
23 fer that child to the other school?

24 A No.

25 MR. MARCUS: I think that's all.



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1 MR. HOLDEN: That is all.

2 Q BY THE COURT: There is just one question which I  
3 forgot to ask you, Mr. Hammarsten. I believe you testified  
4 that the recesses in these two schools were staggered to allow  
5 full use of the playground for each school?

6 A Yes.

7 Q What was the reason for that?

8 A The schools are about 120 yards apart, on the same  
9 grounds, and the playground area is about, I would say, 100  
10 yards square.

11 Now, with approximately 200 students in one building,  
12 and 100 and some students in the other building, it would be  
13 impossible to use that small a space on the same grounds at  
14 the same time. We did that at the request of the teachers,  
15 and a lot of the students, too. It was just so cramped and  
16 crowded they didn't get along on the grounds. However, the  
17 lower grades do have full access at the same time, because  
18 they have the same noon hour and recess, and they can very  
19 easily use the whole playground at one time.

20 Of course, with the upper grades, with the baseball and  
21 other games, it takes a much larger area, and as a result of  
22 the overlapping it wasn't advisable to put them there at the  
23 same time, and having them run into each others games all the  
24 time. They usually square off at the four corners, the fifth  
25 and sixth grades together, and seventh and eighth together,

1 in each school.

2 Q That is generally true of all children, isn't it?

3 A Oh, yes, sir.

4 Q That would not be true only of the Mexicans?

5 A There are a lot of Mexicans, as far as that goes,  
6 in the Roosevelt School, and it isn't.

7 Q How many of these 25 non-English-speaking pupils  
8 are Mexican children?

9 A They are all Mexicans.

10 Q All of them?

11 A Yes.

12 Q Well, are they up on a level with all of these  
13 other children in the classes in which they are found in the  
14 Roosevelt School?

15 A No, they aren't.

16 Q Then there is some differentiation?

17 A There is.

18 Q That isn't based on anthropological deduction?

19 A They are capable, yes, but in spite of the fact that  
20 they have a high I. Q., if you want to call it that, or their  
21 aptitude shows the capacity of doing it, there are one or  
22 two in that group -- there are always one or two that are  
23 superior to a lot of them, but, generally speaking of the  
24 whole group, they are lower. But even so they still do the  
25 work in the grade and they get along swell with the kids, and

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1 everything.

2 Q What is the reason that the hours for calling the  
3 children into the school are different?

4 A Well, it is a matter of either holding the group  
5 over later in the evening, in order to stagger our recesses  
6 successfully, and because all the Mexican children live in the  
7 neighborhood and walk to school, whereas the others are all  
8 transported there by bus; well, as a result the Mexicans are  
9 all there earlier. Of course, in the winter months we start  
10 the schools at the same time, but in the early fall or the  
11 summer when the sun is up early, they are all there by 8:00  
12 o'clock anyway, so it isn't creating a handicap to have them  
13 come in earlier. That isn't so in the winter months, but  
14 we changed that time twice in the year, to make it convenient  
15 for all of them.

16 Q How about the commencement exercises? Are they  
17 held jointly?

18 A Separately, and that means we spend a lot of time  
19 -- we spend a lot of time in making the graduating exercises  
20 much more of a success over there at the Lincoln School than  
21 at the Roosevelt School. It means a great deal to them and  
22 we spend more time on that.

23 MR. MARCUS: Your Honor, may I have the last answer  
24 read?

25 THE COURT: You may have it read later.

1 Q BY THE COURT: What is the purpose of holding them  
2 with any preferential status with reference to their commence-  
3 ment exercises?

4 A It is a matter of custom. It has always meant much  
5 more to the girls and boys to graduate there from that school,  
6 and I think it has built up more or less of a custom, in that  
7 the girls wear formals and the boys wear suits, whereas at  
8 the Roosevelt they are in sport clothes, and it hasn't taken  
9 on the aspect that it has at the Lincoln School.

10 THE COURT: Now, if you want to you may have the answer  
11 you referred to read.

12 (The record referred to was read by the reporter.)

13 Q BY MR. MARCUS: Did you say the buses come to the  
14 Roosevelt School?

15 A The bus transports the students. Well, there are  
16 Mexican children that live in the outlying districts that  
17 ride the buses along with the other children.

18 Q Do you have any buses for the Lincoln School?

19 A Oh, no. They all live right in the neighborhood,  
20 right in town, and our bus route --

21 Q Just a minute. Do you have any buses for the  
22 Lincoln School?

23 A No.

24 Q Do you have any buses for the Roosevelt School?

25 A We have one bus in the district that is available to

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1 both schools, if necessary.

2 Q The simple question is: Do you have any buses for  
3 the Roosevelt School?

4 A One.

5 Q And no buses for the Lincoln School?

6 A No.

7 MR. MARCUS: That is all.

8 RECROSS EXAMINATION

9 BY MR. HOLDEN:

10 Q Why don't you have any buses for the Lincoln School?

11 A They all live right in the town within a few blocks  
12 or so of the school, and as a result all of them walk, whereas  
13 our regulations in regard to bus transportation is that no  
14 child is picked up within a half a mile of the school.

15 Q Now, any students that attend the Lincoln School  
16 that live beyond that limit, are they transported in the  
17 bus?

18 A If they want to ride the bus, they may. Some of them  
19 do.

20 Q And that is the same bus that serves the Roosevelt  
21 School?

22 A Right.

23 MR. HOLDEN: That is all.

24 THE COURT: That is all.

25 Mr. Marcus, can you give the court any estimate as to how

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1 much longer you will consume in presenting your case?

2 MR. MARCUS: Your Honor, I think we may be able to con-  
3 clude in another hour, or hour and a half.

4 THE COURT: I believe we can resume this case on Monday  
5 at about 11:00 o'clock, instead of its going over until  
6 Tuesday.

7 How much<sup>time</sup> do you think you, gentlemen, will consume in  
8 presenting your side of the case, just to give the court a  
9 rough estimate so that we can arrange our calendar on other  
10 matters?

11 MR. HOLDEN: I think one day will do it, your Honor. I  
12 am quite sure we can get through in one day.

13 THE COURT: Then 11:00 o'clock on Monday morning,  
14 gentlemen, and we will recess until that time.

15 (Whereupon, at 4:30 o'clock p. m. July 6, 1945, an  
16 adjournment was taken until 11:00 o'clock a. m., Monday,  
17 July 9, 1945.)

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C E R T I F I C A T E

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this *1st* day of  
*August* A.D., 1945

*Maria P. Jelner*  
\_\_\_\_\_  
Official Reporter