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

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5 HONORABLE PAUL J. McCORMICK, JUDGE PRESIDING

- - -

7 GONZALO MENDEZ, et al.,)

8 Plaintiffs,)

9 vs.)

No. 4292-M-Civil.

10 WESTMINSTER SCHOOL DISTRICT)
 11 OF ORANGE COUNTY, et al.,)

12 Defendants.)

- - -

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS.

15 Los Angeles, California

16 Monday, July 9, 1945

- - -

18 APPEARANCES:

19 For the Plaintiffs: DAVID C. MARCUS, Esq.

20 Amici Curiae: A. L. WIRIN, Esq., and
 J. B. TIETZ, Esq.;

21 and
 CHARLES F. CHRISTOPHER, Esq.

22 For the Defendants: JOEL E. OGLE, Esq., County Counsel;
 23 and
 GEORGE F. HOLDEN, Esq., Deputy
 24 County Counsel.

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I N D E X

WITNESSES:

DIRECT

CROSS

REDIRECT

RECROSS

Richard F. Harris

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Gonzalo Mendez

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EXHIBITS:

FOR
IDENTIFICATION

IN
EVIDENCE

Plaintiffs' No. 3

426

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- - -

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1 LOS ANGELES, CALIFORNIA, MONDAY, JULY 9, 1945. 11:00 A. M.

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THE CLERK: Mendez v. Westminster School District.

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MR. HOLDEN: The defendants are ready.

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MR. MARCUS: Ready.

6

THE COURT: Proceed.

7

MR. MARCUS: We will call the Westminster superintendent

8

of schools.

9

MR. HOLDEN: Mr. Harris.

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MR. MARCUS: Mr. Harris.

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RICHARD F. HARRIS,

12

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

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Procedure, having been first duly sworn, was examined and

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testified as follows:

15

THE CLERK: State your name, please.

16

THE WITNESS: Richard F. Harris.

17

DIRECT EXAMINATION

18

BY MR. MARCUS:

19

Q Mr. Harris, what is your business or occupation,

20

please?

21

A I am the school superintendent of Westminster.

22

Q How long have you been such superintendent?

23

A Two years.

24

MR. HOLDEN: At this time, if counsel is offering the

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witness on any issue as to the Westminster District, I object

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43-B

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1 on the ground that the pre-trial shows that it was agreed
2 that the evidence would be confined to the El Modeno and
3 the Garden Grove School Districts.

4 THE COURT: I don't believe that was specifically the
5 agreement. There was a statement made by yourself, I believe,
6 with respect to the Westminster District.

7 MR. HOLDEN: But I think your Honor in your order said
8 it.

9 THE COURT: Let me see. We have the order, and we don't
10 have to depend upon recollection in this case. On page 113,
11 commencing with line 22, the following appears:

12 "THE COURT: It will be so ordered and counsel
13 for the plaintiff will notify counsel for the defendant
14 of the situation on or prior to Saturday, June 30,
15 1945, at 5:00 o'clock.

16 "Now, there is one other district in the rural
17 area that has been chosen, I believe, or are you going
18 to rest on this one district as far as the rural areas
19 are concerned?

20 "MR. HOLDEN: I think, your Honor, that these two
21 rural districts ought to settle this question forever
22 because on the Westminster case they are not going to
23 segregate this year.

24 "THE COURT: Do you think that is correct, Mr.
25 Marcus?

1 "MR. MARCUS: If counsel assures me in that par-
2 ticular district there is no segregation, I am willing
3 to accept his statement.

4 "MR. HOLDEN: In this Westminster District, I
5 think the segregation was not proper, as far as that is
6 concerned.

7 "MR. MARCUS: When was that determined upon, counsel,
8 that there wasn't going to be any segregation?

9 "MR. HOLDEN: It was determined upon last year, but
10 they couldn't raise the money to build the school
11 house, so this year they are moving the school house
12 already built.

13 "MR. MARCUS: One of the petitioners here assures
14 me that that petitioner is residing in the district.

15 "MR. HOLDEN: Well, you better get some more
16 assurance.

17 "MR. MARCUS: You are the one that is casting the
18 doubt.

19 "MR. HOLDEN: I am telling you for your information
20 the Superintendent down there says he does not live
21 in the Garden Grove School District and has never attend-
22 ed the Garden Grove School.

23 "MR. MARCUS: Well, we have got a stipulation on
24 that, so we won't have to go into it."

25 MR. HOLDEN: Your Honor, if I might interrupt, on

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1 page 115 --

2 THE COURT: I want it all in the record.

3 MR. HOLDEN: Yes, your Honor.

4 THE COURT: (Continuing reading) :

5 "MR. HOLDEN: Yes.

6 "THE COURT: What about the Westminster situation?

7 "MR. MARCUS: We probably don't have to go into
8 that district if, as counsel has suggested, the segre-
9 gation has been obviated and that next year in the
10 Westminster School District, both schools will be united.

11 "MR. HOLDEN: That's right.

12 "MR. MARCUS: All right. That disposes of that."

13 That seems to be all on that point. That would indicate
14 that there was an admission by the respondents that there had
15 been segregation to the extent as indicated by the pre-trial
16 proceedings, so that we will not explore that any further.

17 MR. MARCUS: Your Honor, it would dispose of the matter,
18 and it would be moot so far as this particular district is
19 concerned, but that is not the purpose of calling this wit-
20 ness.

21 THE COURT: Yes.

22 MR. MARCUS: Your Honor, I have been seriously handicapped
23 here. Over the week-end I had my automobile stolen, and my
24 brief case including all of the papers in this case, the
25 entire file, was in it, along with a suit case of clothes.

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1 So if your Honor will bear with me --

2 THE COURT: Yes. Here is the original file, if you
3 want to take it, and here is the pre-trial transcript.

4 Q BY MR. MARCUS: Mr. Harris, is it a fact that the
5 schools have been united in that district now, so that there
6 is no segregation of the Mexican children?

7 A It is not a fact to the present date.

8 Q Well, do you intend this fall to unite the two
9 schools?

10 A It has been the plan of the Board for the reason
11 of overcrowded conditions to gain a certain amount of hous-
12 ing, additional housing, by the moving of buildings from the
13 Hoover School.

14 Q Well, you have two schools in the district, do you
15 not, sir?

16 A We do.

17 Q And one is the Hoover School?

18 A It is.

19 Q And what is the name of the other?

20 A We call it the Westminster School.

21 Q The Hoover School is attended solely by Mexican
22 children, is it not?

23 A It is.

24 Q And the other school is attended by children other
25 than of Mexican descent?

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1 A Other than Mexican descent, and of Mexican descent.

2 Q That is after the sixth grade?

3 A No.

4 Q Prior to the sixth grade?

2 5 A Prior and beyond the sixth grade. ✓

6 Q Well, is it a fact, then, that you do intend to put
7 these two schools together so that there is no segregation of
8 Mexican children in that district or not? We had understood
9 from the statement of counsel, at least I had, that there was
10 to be no segregation of Mexican children beginning in September.

11 A Well, on January 16, 1945, at a regular Board meet-
12 ing, our Board of Trustees made the statement, and it is a
13 part of the minutes thereof, that the two schools would be
14 united, subject to the construction limitations which we are
15 involved in in the present war conflict.

16 Q Well, now, I don't quite gather that. Do you in-
17 tend to house the children together in one school beginning
18 in the September term or not?

19 A I have answered the question.

20 Q Could you answer it by giving a yes or no answer?

21 A Yes, if you will ask me.

22 Q I see. Well, do you intend to house the children
23 together, without segregation of Mexican children, beginning
24 with the September term? Could that be answered yes or no?

25 A I don't believe it can be answered yes or no, because

1 I do not believe a school can be housed together without
2 segregation.

3 Q That would be up to the court to determine, I
4 believe. But do you intend to put the children under one
5 system, without segregating the Mexican children in a
6 separate school, beginning with September?

7 A I have answered you, Mr. Marcus; in so far as
8 construction limitations are concerned.

9 Q Well, sir, it is now July. Are you under the process
10 of constructing any building out there now or moving any
11 building over there now?

12 A Two weeks prior to July 6th advertisements were
13 called, advertisements calling for bids for construction
14 work concerning unification were so printed. The bids were
15 opened January 6th -- or, I mean July 6th -- correction --
16 and it appears the costs are prohibitive. That, of course,
17 is the decision of my Board.

18 MR. MARCUS: Well, your ^{that} Honor, would indicate that they
19 intend to segregate, and that the stipulation of counsel was
20 not in line with the opinion or the action of the superin-
21 tendent or the Board.

22 How do you understand that, counsel?

23 MR. HOLDEN: At the time I made that stipulation, your
24 Honor, that was before July 6th, and I understood, and I know
25 I prepared the notice calling for the bids, and I understood

1 that it was their intention at that time.

2 Now, the witness says, and I have never heard of this
3 before, this is the first time I have heard it, that when the
4 bids were received it was found that the cost was exorbitant.

5 Now, I am perfectly willing to withdraw any objection
6 to going into the Westminster School, if that is the attitude
7 they have taken down there now.

8 MR. MARCUS: We are in this position, that having
9 stipulated that there was to be no segregation, I don't be-
10 lieve that all the witnesses are here from that particular
11 district, although I do have two or three witnesses.

12 THE WITNESS: Your Honor, may I speak?

13 THE COURT: Yes, sir.

14 THE WITNESS: I have made a statement in behalf of my
15 Board, which I cannot do. That was my opinion, that the costs
16 were prohibitive. It is not the opinion of the Board.

17 THE COURT: Is there any member of the Board here to-
18 day?

19 THE WITNESS: There is not.

20 MR. MARCUS: Were you in attendance at the time that
21 the Board passed the resolution that the schools be united
22 and that there be no segregation of Mexican children?

23 A I was. It was not put that way, however.

24 Q Do you have such resolution with you?

25 A I do.

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MR. MARCUS: May I see it?

MR. HOLDEN: And may I see it?

(The document referred to was handed to counsel.)

Q BY MR. MARCUS: Mr. Harris, is this a copy of the minutes?

A It is.

Q You have examined the original, have you?

A That is the original.

Q That is the original?

A Yes.

MR. MARCUS: Your Honor, may we present these minutes and offer them in evidence at this time?

THE COURT: This being the original, I don't think we should keep this here. You can read it into the record, Mr. Marcus, and then return it to Mr. Harris.

MR. MARCUS: Very well.

"The regular meeting of the Westminster Governing Board was held on January 16, 1945, 7:30 P. M., in the school office.

"Those present were Mr. Houlihan, Mr. Conrady, Mr. Schmitt and Mr. Harris.

"The minutes of the previous meeting were read and approved.

"Discussion was held relative to community sentiment concerning the unification of the Hoover and

1 Main School.

2 "Mr. Gonzalo Mendez accompanied by Mr. Youngyoung
3 came to the meeting at approximately 8:00 p. m. Mr.
4 Gonzalo Mendez expressed the thought to the Governing
5 Board that he and his committee who had visited the
6 School Board September 19, 1944, had not received a
7 definite understanding concerning plans of the School
8 Board for unifying the Hoover and Main School. It was
9 pointed out again quite clearly to Mr. Mendez that the
10 segregation of the Mexican children from other children
11 was inherited by the present School Board and that
12 they had definite plans to change this situation as soon
13 as the housing problem for such a move could be ade-
14 quately solved.

15 "They again pointed out as on September 19, 1944,
16 that had the school bonds passed, on August 25, 1944,
17 the unifying of the two schools would have been made
18 possible sooner due to adequate housing facilities for
19 such a move.

20 "Mr. Mendez was informed that the idea of placing
21 all children in one school was not a new topic of the
22 Board and that they had given it serious consideration
23 in October, 1943.

24 "They, also, informed him that at the beginning
25 of the next school term the unification would take place

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1 subject, of course, to construction limitations beyond
2 the control of the School Board.

3 "Mr. Youngyoung spoke in behalf of the Mexican--
4 speaking pupils, but voiced the opinion that he under-
5 stood thoroughly the difficult problem of uniting the
6 two schools with relation to the moving of the Hoover
7 school building, etc.

8 "It was pointed out in the meeting that no action
9 concerning the moving of the Hoover school building
10 could take place during this school term, because of
11 insufficient funds for such an action. This fact
12 was, also, brought out that the Westminster School
13 District was a low assessed valuation area and that the
14 financing for a unification move requires a great deal
15 of planning.

16 "The meeting was adjourned by the President, Mr.
17 Houlihan."

18 (Signed) "Louis Conrady, Clerk."

19 Q BY MR. MARCUS: How long have you been a member of
20 the School Board or the superintendent of schools?

21 A I answered that question. Two years as superintend-
22 ent; not as member of the School Board.

23 Q Have you been attending the meetings during which
24 these discussions were taking place concerning the uniting
25 of the schools as mentioned in those minutes?

1 A I have.

2 Q Now, it had been ascertained, I presume, in January
3 of this year, that the schools were to be united?

4 A It still is ascertained, so far as I am able to
5 tell.

6 Q There was no difficulty in January of this year, was
7 there, with respect to the unification of the two schools, as
8 applied to the ability of the children to do the work?

9 A There was, from an educational standpoint.

10 Q But that difficulty had been overcome, had it?

11 A It will be overcome from the standpoint of an edu-
12 cational program and planning.

13 Q Now, is it a fact that all children that have re-
14 sided in that district, the Hoover School district, or all
15 the children that move to the Hoover School, are unable to
16 speak the English language?

17 A Would you repeat that, please?

18 MR. MARCUS: Will you read the question, Miss Reporter?

19 (Question read by the reporter.)

20 THE WITNESS: All the children?

21 Q By MR. MARCUS: That is correct, all the children.

22 A It is not a fact that all the children are unable
23 to speak the English language.

24 Q Well, is it a fact that a large number of children
25 from said families, who reach the age for compulsory school

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1 attendance, are unfamiliar with and unable to speak the
2 English language?

3 A It is true.

4 Q What percentage are unable to understand or speak
5 the English language?

6 A I would say about 40 per cent of the first grade.

7 Q Did you keep a record of that? Did you make a
8 record?

9 A No.

10 Q Did you have any special requirements or any
11 examination given to the children at the time of the entrance
12 to the school to determine whether or not they were able to
13 speak the English language?

14 A Yes, that was done through their teacher.

15 Q Well, do you have a record of that being done?

16 THE COURT: You mean a written record?

17 Q BY MR. MARCUS: A written record?

18 A We have no written record, no.

19 Q Was there any special test given to the children at
20 the time of their entrance into the first grade?

21 A Special, in so far as their ability to carry on a
22 conversation in English was concerned.

23 Q Were you present at the time this took place or has
24 taken place in the past two years?

25 A I have been present at the initial openings of the

1 first grade.

2 Q When the children presented themselves to attend
3 school?

4 A When the children were presented to attend the first
5 grade.

6 Q Now, how did you determine, sir, that there were
7 40 per cent unable to speak the English language in the first
8 grade? Was that information given to you by some of the
9 school teachers?

10 A I suspect I determined it in the same manner any
11 other person would determine it.

12 Q Was that information given to you, sir, by the
13 school teachers?

14 A No, it was not.

15 Q How did you determine that?

16 A By a matter of questioning.

17 Q Did you question all the children that made applica-
18 tion to attend the school?

19 A I did not. question all of them.

20 Q Approximately how many did you question?

21 A I would say that in the presence of a classroom
22 visitation, seeing and hearing their expression to a question
23 which the teacher had directed them to on the board, the
24 association with a symbol, and their ability to recognize it
25 in English as an English word, in the process of indirect

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1 questioning probably as many as 80 per cent of the class,
2 or maybe 90.

3 Q And did you ascertain that 40 per cent of the
4 children did not speak the English language?

5 A I would say that 40 per cent of the first grade
6 spoke it so -- or, understood it to such an extent that that
7 would be the case.

8 Q How about the second grade? Did they speak the
9 English language, then?

10 A It was spoken, but not on the same par as classes
11 at the other school.

12 Q What did you do with the other children, the other
13 60 per cent? Did they still attend the Hoover School because
14 of their inability to speak the English language?

15 A They still attended the first grade at the Hoover
16 School.

17 Q But that wasn't the excuse for keeping them there,
18 was it, that they didn't understand the English language?

19 A They were below the par of the first grade group
20 at the Westminster School.

21 Q The whole 60 per cent?

22 A The whole 60 per cent were below a par.

23 Q Even though they spoke the English language, they
24 were still below the par of the other children that attended
25 the Westminster School?

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1 A The other children of the first grade.

2 Q Yes, the other children of the first grade. That
3 would apply to the second, third, fourth, fifth and sixth
4 grades, too, would it not?

5 A I believe that there was about a year retardation.

6 Q Now, you have a prescribed course of study, do you
7 not, Mr. Harris, in that district?

8 A We do.

9 Q And the school curriculum and the courses taught
10 are the same in the first grade, whether it be in the West-
11 minster School or at the Hoover School; is that true?

12 A I missed a word in that question. May I have it
13 repeated?

14 Q The course of study, sir, is the same whether it
15 be in the Hoover School or whether it be in the Westminster
16 School? You have the same books, is that correct, sir?

17 THE COURT: You are making this question compound now.
18 You had it originally in one way, and you added something
19 which doubles the question.

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

21 Q BY MR. MARCUS: The same course of study is pre-
22 scribed in both schools for the respective grades?

23 A The same course of study is prescribed. I would not
24 say that it was the same in the first grades. It necessarily
25 cannot be. In the latter part of the first grade it is similar,

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1 with the exception that it is probably on a lower level.
2 The level of the first grade near the end is probably the
3 level of the first grade at the Main School near the
4 beginning of the school term, due to the fact that the chil-
5 dren of the first grade at the Hoover School must necessarily
6 be taught the English language, or the English words, so that
7 they can go on to further levels of learnings in that pre-
8 scribed course of study.

9 Q Once having acquired that knowledge of the language
10 that you speak of, those who are unable to understand the
11 English language, then they proceed along as the other stu-
12 dents who do understand the English language; is that cor-
13 rect?

14 A I would say that they do not progress along as the
15 others do, due to the fact perhaps of their cultural back-
16 ground or language handicap.

17 Q How long, in your opinion, does that language
18 handicap, we will say, afflict these pupils that attend the
19 Hoover School, of which you are the superintendent?

20 THE COURT: He didn't say that it afflicted them.

21 MR. MARCUS: Well, retards them.

22 THE WITNESS: Well, I am not sure but what a language
23 handicap retards any person.

24 Q BY MR. MARCUS: Then it is your opinion, is it,
25 Mr. Harris, that that retardation continues with the pupil

1 during his entire attendance at this Hoover School?

2 A Perhaps it does. May I illustrate, Judge?

3 THE COURT: Yes, certainly.

4 THE WITNESS: I think perhaps any child, which has been
5 brought up in a home and has heard one language up until the
6 time it enters a school which is taught in a different lan-
7 guage, the initial handicap undoubtedly is the greatest. The
8 handicap lessens as the child progresses, due to the special
9 work given the child.

10 You put your question: Do you, Mr. Harris, agree that
11 they are at a language handicap during their entire period
12 at Hoover School?

13 I am not so sure but what a child brought up in an
14 of environment, that sort probably has some handicap during his
15 entire life, in spite of the fact that through our education-
16 al programs we have endeavored to bring about what is best
17 for those children in that situation.

18 Q In other words, it is your opinion that you are
19 doing the child a benefit by keeping all these Mexican children
20 segregated; is that correct?

21 A I would not say all of them as a classification of
22 -- as you put it, of all Mexican children.

23 Q Well, do you have any other children of any other
24 nationality or race in that particular school?

25 A You mean, Hoover School?

1 Q Yes, sir.

2 A We probably have two or three children which are
3 probably half French.

4 Q Half French and half what?

5 A Half of Mexican descent.

6 Q That would be of Latin descent, in your opinion?

7 A I suspect it would.

8 Q Mr. Harris, why is it necessary, then, to keep
9 segregated all of the children of Mexican descent, including
10 those who speak the English language, with those who are
11 unfamiliar with the English language?

12 MR. HOLDEN: I object to that, that it is stating a
13 fact not in evidence. It shows in the evidence that there
14 are some Spanish-speaking pupils in the Westminster School.

5 15 MR. MARCUS: I am speaking about the Hoover School.

16 THE COURT: If I understood the question, it related to
17 the Hoover School.

18 MR. MARCUS: That is correct.

19 THE COURT: He was examining about the Hoover School, and
20 the witness will so understand the question. Now, will you
21 repeat the question?

22 (Question read by the reporter.)

23 THE WITNESS: I do not think it is necessary.

24 Q BY MR. MARCUS: Don't you think or believe that a
25 child who has a limited knowledge of the English language when

1 he begins to attend school, if he associates with other
2 children who do not speak the English language, that his
3 progress is thereby retarded?

4 A It is very possible that there may be some retarda-
5 tion.

6 Q Would it not then be to the benefit of these
7 children who are unable to speak the English language to per-
8 mit them to attend the school where other children, other
9 than of Mexican descent and who have a fluent knowledge of
10 the English language can associate with them, so that they
11 may acquire more fluency in the English language?

12 A There would necessarily have to be a segregation
13 on an ability basis.

14 Q I am not speaking, sir, about ability basis. Well,
15 we may proceed on that line of thought. Are all of the pupils
16 that attend the Westminster School District and the West-
17 minster School above the children in the matter of ability,
18 over those of the children who attend the Hoover School?

19 A Would you repeat the question, please?

20 THE COURT: I think you put in a district there which
21 included the two schools. If you will take the two schools,
22 per se, and ask him to make the comparison, I think it will
23 make the question clear. As I remember it, you put in the
24 Westminster District.

25 Read it, Mrs. Zellner.

1 (Question read by the reporter.)

2 Q BY MR. MARCUS: (Continuing) Unless there may be
3 more than two schools. There are only two schools?

4 A There are two schools.

5 Q Then we will limit it just to the Westminster
6 School. Are the children of that particular school above
7 the ability of the children who attend the Hoover School?

8 A I would say that they are.

9 Q Every one of them?

10 A Not every one, no.

11 Q Are there some children that attend the Westminster
12 School who are below the ability of the average child who
13 attends the Hoover School?

14 A Yes, there are.

15 Q Approximately what percentage would you say?

16 A About a half of one, possibly three-fourths of a
17 per cent.

18 May I illustrate?

19 THE COURT: Certainly.

20 THE WITNESS: The high school had had cause to execute
21 or to determine an intelligence quotient test of our graduates
22 at the school last year. There were 53 candidates for gradu-
23 ation at the Westminster School. There were 14 candidates
24 for graduation at the Hoover School. The tests were de-
25 livered by the high school. They were administered by the

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1 teachers of the classrooms, the individual classrooms. The
2 teachers undoubtedly were trying to get the best scores they
3 could for the children of their own class.

4 Of the 53 candidates for graduation at the Westminster
5 School it was determined that out of the group in the I.Q.
6 test there were two below 85. Of the Hoover School, one was
7 absent on the day of the test, but the scores indicated that
8 of the 13 tested they were all below 85, with the exception
9 of one girl, who undoubtedly ^{had} a greater, a more sufficient
10 conception of the use of the English language. She probably
11 had had it from her early days of childhood.

12 Q Well, you are not segregating the children at the
13 Westminster School upon the question of their ability to
14 perform work, are you?

15 A It has been the policy and it is a policy in many
16 schools to segregate classes on an ability basis. For instance,
17 you undoubtedly have heard of this caption, --

18 Q Well, sir, I am just asking the question with re-
19 spect to the Hoover School District. Were you segregating the
20 children there on the basis of ability?

21 A We are.

22 Q In what particular are you segregating them?

23 A Ability.

24 Q Well, how? Do you have a separate group for two
25 or three children that are above 85, and a group separate and

1 apart for the children that are below the 85 degree?

2 A I was endeavoring to explain to you the procedure
3 when you stopped me.

4 Q What is the procedure you follow in the school
5 of Westminster.

6 A We have segregated on an ability basis in our pri-
7 mary groups.

8 Q Are you segregating now on an ability basis?

9 A We are.

10 Q Will you explain to the court how you are segregat-
11 ing the children in the Westminster School?

12 A May I explain?

13 THE COURT: Yes, certainly. That is what he is asking
14 for now.

15 THE WITNESS: Many schools segregate on an ability
16 basis. It is also a good educational program which will place
17 those children of greater need in a position in a classroom
18 under a teacher who is specially trained to make up and com-
19 pensate for that need which they have. It is also a good
20 way of budgeting the teacher's time, and you are getting more
21 out of your teacher, and the children are learning more.
22 You undoubtedly have heard of X-Y-Z groups in education. I
23 think every one has.

24 Let me explain by telling you how our ability groups were
25 segregated at the Westminster School. This last year we had

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1 three classes. We had an average group, we had a fast and
2 we had a slow group. In each classroom we had a slightly
3 different procedure for bringing those children the needs
4 which they had.

5 Q BY MR. MARCUS: What was this procedure? You said
6 you had a fast group, and a middle group and a slow group.
7 But in the same grade, for instance, the sixth grade, at the
8 Westminster School, didn't you teach them all the same course?

9 A We did.

10 Q Well, what was the method of segregation then?

11 A We did not have an ability grouping in the sixth
12 grade, however. But had we had it, it would have been of
13 the same nature as in the other grades.

14 Q In the fifth grade did you have an ability grouping?

15 A No, we did not.

16 Q Did you have one in the fourth grade?

17 A Yes, we did.

18 Q All right. What procedure did you adopt, and
19 what was the segregation plan in the fourth grade of the
20 Westminster School?

21 A It was based, for the most part, on the child's
22 problems, based upon his needs, brought about by the individ-
23 ual child's problems based on his ability to read, his ability
24 to understand, his ability to grasp symbols and words, -

25 Q In the fourth grade?

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1 A -- and to understand them.

2 Q In the fourth grade?

3 A In the fourth grade.

4 Q Did you have separate groups in the fourth grade?

5 Did you have separate classes in the fourth grade for the ad-
6 vanced pupils?

7 A There were two classes.

8 THE COURT: How do you mean that, Mr. Marcus?

9 MR. MARCUS: He says they were segregated. I wanted to
10 know if they had a separate group that was the advanced group
11 and that took separate courses in the fourth grade.

12 THE WITNESS: We had an advanced group of fourth-graders,
13 and we had a, I would say, probably a low average, and a low;
14 or I should put it this way, an average and a slow group.
15 They were given the same course of study that had been given
16 to them, but it was given to them in a slightly different
17 manner, or perhaps a more gradual incline basis.

18 Q BY MR. MARCUS: Did they use the same room, sir?

19 A Definitely, sir. Two classes can occupy one room.

20 Q Was that a high fourth and a low fourth, for in-
21 stance?

22 A They were never designated as that.

23 Q You had an advanced fourth grade and a slow fourth
24 grade; is that correct?

25 A We had a slow fourth, and I wouldn't say advanced.

1 We had a slow fourth and perhaps, let us say, a more progres-
2 sive fourth, or a more rapidly learning fourth.

3 THE COURT: That was at the Westminster School?

4 THE WITNESS: That was at the Westminster School.

5 THE COURT: That is the school where the group of
6 children is mixed regardless of their descent?

7 THE WITNESS: That is true, yes.

8 Q BY MR. MARCUS: Now, did you have such a group at
9 the Hoover School?

10 A Yes, we did.

11 Q You had an advanced group?

12 A I wouldn't say advanced group. We had the same
13 group, but we necessarily had to advance at a different degree
14 of rapidity, or a different degree of speed.

15 Q You had the same procedure, then, in the Hoover
16 School as you had at the Westminster School?

17 A We had the same procedure, but I would say this,
18 that our problem there was a problem of entirely different --
19 it was even different as to our slow group, due to the fact
20 that we had to make the children understand things in English.

21 Q In the fourth grade?

22 A Yes.

23 Q You had to make them understand in the fourth grade?

24 A Certain words and symbols they are not familiar with
25 in the English language. They have spoken Spanish in their

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1 homes to such an extent that those words are meaningless to
2 them when they are put in English.

3 Q That is the 40 per cent you spoke of, when they
4 didn't begin school with a knowledge of the English language?

5 A Mr. Marcus, you are talking about the 40 per cent.
6 I was talking about the question in regard to the fourth
7 grade.

8 Q When they reach the fourth grade there would not
9 be 40 per cent that do not understand the English, that are
10 unable to speak the English language and are unfamiliar with
11 it?

12 A There would not.

13 Q What percentage would you say there was in the
14 fourth grade?

15 A Mr. Marcus, it is a degree of efficiency. I don't
16 think we can draw a set line. It is a degree. We progress,
17 children progress along lines of learning to certain degrees
18 of efficiency, so far as the English language is concerned.
19 We never reach a goal.

20 Q All right. Well, let's get back to this ability
21 segregation that you say you practiced. If a child who was
22 attending the Hoover School is in the advanced group in
23 this fourth grade, for example, do you ever send that child
24 over to the Westminster School?

25 A None have been sent to date.

1 Q In the past two years you haven't sent any children,
2 have you, from the Hoover School to the Westminster School
3 in any grade?

4 A Yes.

5 Q How many?

6 A As I recall, three.

7 Q When was that?

8 A September, 1944.

9 Q Do you remember the names of the children?

10 A I do not remember their names.

11 Q Well, were they sent upon an ability basis?

12 A An ability basis, plus the fact that they had made
13 a request.

14 Q Have you ever advised the children that they had a
15 right to go to the Westminster School, or their parents?

16 A No, I have not.

17 Q If they make a request, then they can attend; is
18 that it?

19 A If they make the request, their request will be
20 considered.

21 Q Do you remember Mr. Mendez making a request of you
22 that his children attend the other school?

23 A I do.

24 Q And do you remember rejecting the request?

25 A His request was never rejected.

1 Q Well, did you grant him permission for his children
2 to attend the other school?

3 A Yes, in so far as when conditions of housing were
4 available.

5 Q Now, I presume you have read your answer, haven't
6 you, sir?

7 A That is, our district's answer?

8 Q That is right.

9 A Yes, sir.

10 Q Isn't it a fact that these children were separated
11 because of the fact that they were of Mexican descent, and
12 for no other reason?

13 A I am unable to answer that question, Mr. Marcus.

14 Q Why, sir?

15 A Because of the historical background, I cannot
16 answer it.

17 Q Well, you say you can't answer whether or not the
18 children are being separated or segregated in your district
19 solely because or for the reason that they are of Mexican
20 descent?

21 A No, I would not agree to that. May I speak, Judge?

22 THE COURT: Yes.

23 THE WITNESS: Our report indicates that we have a number
24 going to the Westminster School.

25 Q BY MR. MARCUS: I am not talking about those at the

1 Westminster School, sir. I am talking about the ones at the
2 Hoover School.

3 THE COURT: Now, what is your question?

4 Q BY MR. MARCUS: The question is, is it not a fact
5 that the children who are attending the Hoover School are
6 being segregated there solely and for the reason that they are
7 of Mexican descent?

8 A Definitely not.

9 Q Now, may I read that portion of your answer, sir:

10 "That for the purpose and for the benefit of said
11 pupils, and to give them instruction in the aforesaid
12 subject separate and apart from the English-speaking
13 pupils, the Board of Trustees of said District have
14 determined that it is for the best interests of said
15 pupils of Mexican descent and for the best interests
16 of the English-speaking pupils, that said groups be
17 educated separately during the period they are in the
18 lower grades."

19 Now, is that a fact and is that the policy of your Board?

20 MR. HOLDEN: I suggest that counsel read on to the end
21 of that.

22 MR. MARCUS: I will come to that.

23 THE COURT: If you haven't read all of the paragraph, --

24 MR. MARCUS: I have read the entire paragraph, your Honor.

25 THE COURT: -- that relates to that subject?

1 MR. MARCUS: That relates to that subject.

2 THE COURT: Very well. Now, what is the question?

3 Will you read the question, please?

4 (Question read by the reporter.)

5 THE COURT: You have doubled the question again. You
6 have made it a compound question.

7 Q BY MR. MARCUS: Well, is that the policy of your
8 Board?

9 A That included a great deal, Mr. Marcus. Would you
10 clarify it, please?

11 THE COURT: There are a good many connotations in that
12 statement.

13 MR. MARCUS: There are, your Honor.

14 THE COURT: That is what the witness has in mind.

15 MR. MARCUS: But it is his answer.

16 THE COURT: If he verified it, I suppose it is his answer,
17 but that still doesn't explain all that may be inferred from
18 that statement.

19 MR. MARCUS: I will try to reframe it, if your Honor
20 please.

21 Q BY MR. MARCUS: Is it a policy of your Board that
22 it is for the best interests of the pupils of the Hoover
23 School that, being of Mexican descent, they be educated
24 separate and apart from the English-speaking pupils?

25 THE COURT: In the lower grades?

1 Q BY MR. MARCUS: -- in the lower grades?

2 A In the lower grades. It undoubtedly is an educa-
3 tional policy which has been broadly interpreted.

4 Q By broadly interpreted, you mean that they have
5 applied that segregation to all children of Mexican descent
6 attending the Hoover School?

7 A I have indicated by my testimony that there are
8 certain problems involved in the education of those children,
9 which would make for a good educational policy of a Board of
10 Trustees.

11 Q Do you have any Filipino children attending the
12 Hoover School?

13 A No, we do not.

14 Q Do you have any Filipino children attending the
15 Westminster School?

16 A We do not.

17 Q Do you have any other children besides children of
18 Mexican descent attending the Hoover School?

19 A I have answered that question once.

20 Q Do you have any children other than of Mexican
21 descent attending the Westminster School?

22 A We do.

23 THE COURT: He also answered that question before.

24 MR. MARCUS: I think he did, your Honor.

25 Q BY MR. MARCUS: Now, has the Board, in the furtherance

1 of their policy of separating the children of Mexican descent,
2 established a rule requiring that persons of Mexican descent
3 who are unfamiliar with the English language be required to
4 attend a school set apart by the Board for said purpose?

5 A May I have the verb in that, please?

6 Q Is it the policy --

7 THE COURT: You can have it read, if you wish it.

8 THE WITNESS: Yes.

9 THE COURT: All right. Read the question, please.

10 (Question read by the reporter.)

11 THE WITNESS: I take it from the word furtherance in
12 that, it means the continuation thereof. As indicated by the
13 Board minutes of January 16th, my Board have definitely
14 indicated that due to the fact of housing facilities, of
15 which they would need more room by such a construction move,
16 and due to the fact that we were a low assessed valuation
17 district, and unable to build school housing out of current
18 funds, and that a bond issue was turned down on August 25,
19 1944, perhaps that is self-evident or prima facie evidence
20 that there is not a furtherance.

21 However, as I have indicated, so far as an educational
22 program is concerned, there will undoubtedly be segregation.
23 There cannot be otherwise due to the problem of the need of
24 these primary children, as they come to us.

25 Q BY MR. MARCUS: Now, I will ask you to read this

1 particular paragraph, sir, Mr. Harris?

2 A That is the last?

3 Q And I will ask you whether or not that refreshes
4 your memory with respect to the policy of the Board, that
5 next to the last paragraph. Read it out loud, please.

6 THE COURT: That is in the answer?

7 MR. MARCUS: That is in the answer.

8 THE WITNESS: "Thus to carry out said policy, the Board
9 of Trustees established a rule requiring that persons
10 of Mexican descent who were unfamiliar with the English
11 language be required to attend a school set apart by
12 said Board for said purpose."

13 May I answer this?

14 Q BY MR. MARCUS: Let me ask a question first, please,
15 and then if there is any explanation with respect to that,
16 you may have the privilege of giving it. Now, isn't it a fact
17 that that is not the truth, in the particular that regardless
18 of whether the child speaks or understands the English language
19 he is still required to attend that school because he is of
20 Mexican descent?

21 A You have asked that, is that not untrue?

22 Q That is right.

23 A It is true. It is the policy of the Board for this
24 reason, regardless of what school, you may call a school a
25 school if it represents one faction or one section of one room

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1 of any building, and you can say that you will have a school.
2 These expressions are quite common in the English language.
3 A school of science is a school, a school of philosophy is a
4 school, and this or that is a school, so that regardless of
5 where these children attend, there will be a school set apart
6 on an ability basis to meet their needs, due to the fact that
7 they come to us with an entirely different cultural background,
8 with an entirely different attack and understanding of the
9 English language, such that we necessarily must have a spe-
10 cially trained teacher and we must necessarily have different
11 word learning facilities, - word learning facilities, mind
12 you, which these children have not heretofore been exposed to.

13 Q Well, Mr. Harris, do you advocate and do you prac-
14 tice the segregation of Mexican children because of their
15 cultural background?

16 A Not necessarily.

17 Q You have just stated that because of their cultural
18 background --

19 A I have put that in as one element.

20 MR. HOLDEN: I object to that as argumentative.

21 MR. MARCUS: I will refer to the record.

22 THE COURT: Yes; do not start arguing with each other
23 or I shall have to interpose, if you do. What is the ques-
24 tion now before the witness? I think he was interrupted.
25 Read the question and the answer, please.

1 (The question and answer referred to were read as
2 follows:

3 "Q Well, Mr. Harris, do you advocate and
4 do you practice the segregation of Mexican children
5 because of their cultural background?

6 "A Not necessarily."

7 THE COURT: Now, if you want to finish the answer, you
8 may.

9 THE WITNESS: I have put that in as one handicap of a
10 child as compared to other children with an American, oh, a
11 concept of American culture as interpreted in the English
12 language.

13 Q BY MR. MARCUS: A concept of American culture as
14 put in the English language?

15 A American culture as seen through English words.

16 Q What distinction do you find amongst these children
17 in their cultural development, whether they speak the English
18 language or they don't speak the English language?

19 A In an English-speaking home, English language,
20 there are certain cultural backgrounds which undoubtedly
21 were formed, many of them, and came in earlier days from
22 England. Out of those come Mother Goose rhymes. Out of those
23 come stories. Out of those come stories of our American
24 heroes, stories of our American frontier, rhymes, rhythms.
25 Now, let us compare the cultural background which the child

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1 of Mexican-speaking families come to us with. He apparently
2 has not had these stories read to him in the English language.
3 He has no conception of them, and the fact of the matter is
4 that as to certain objects, he doesn't know their meaning
5 in English. He knows them in Spanish. He has no conception
6 of them when you put the word in English. Therefore, there
7 is a need for that training in those groups which must be
8 met with a specially trained teacher, and in a class where
9 a teacher can best use all her time for such training as is
10 necessary.

11 THE COURT: It is now 12:15, gentlemen. We will recess
12 until 2:00 o'clock.

13 You haven't any other engagements this afternoon, Mr.
14 Marcus, before any other judge, have you?

15 MR. MARCUS: No, your Honor.

16 THE COURT: You will be here, then, at 2:00 o'clock.

17 Well, before we leave now, and before we get away from
18 this subject, Mr. Harris, there is just one question that
19 occurs to the court, and I will propound it now because other-
20 wise I may forget it.

21 In that classification that you just described, aren't
22 there some of the parents down in the Westminster District
23 whose children have been attending the Hoover School, who have
24 themselves acquired this Americanization culture that you have
25 just described?

1 THE WITNESS: Yes, there are.

2 THE COURT: Now, isn't it a practical educational prac-
3 tice to attempt to segregate those children who have had that
4 advantage, and I think it is an advantage, from those who
5 have not had that advantage, instead of commingling them all
6 in one structure? I am not using the term "school" now
7 advisedly, but one housing facility for educational purposes?

8 THE WITNESS: I would say that it is a distinct advan-
9 tage.

10 THE COURT: Has that been done in the district hereto-
11 fore.

12 THE WITNESS: The housing?

13 THE COURT: No, the placing of them with other children
14 who are not as retarded as that group of Mexican children.

15 THE WITNESS: Oh, I misinterpreted your question.

16 THE COURT: Do you desire me to restate the question?

17 THE WITNESS: Please.

18 THE COURT: On the assumption that there are families
19 there who have children that have been attending the Hoover
20 School, who are of Mexican-speaking families, but where the
21 parents of the children have either been born and educated
22 or just educated in the United States, and had the advantages
23 of the Americanized culture that you have described, isn't it
24 a practical educational problem to treat those children
25 differently than you would the children who have not had that

1 advantage, of Mexican parents?

2 THE WITNESS: It is a problem, and it is a problem that
3 is more readily solved --

4 THE COURT: A little louder, please.

5 THE WITNESS: It is a problem and it is more readily
6 solved or better solved, I believe, by a situation which
7 incorporates a grouping.

8 THE COURT: Now, wouldn't that grouping, and I am speak-
9 ing now from a practical educational standpoint, as well as
10 other features that are involved in this case, wouldn't it
11 satisfy the educational demand better by placing those chil-
12 dren in the Westminster School with the other children of
13 other origin than Mexican ancestry?

14 THE WITNESS: It would -- well, as far as educationally,
15 I believe one should group on an ability grouping and place
16 those in groups, and that will probably be their ability,
17 and by their lack of ability and by the fact of their back-
18 ground, if they are in the Westminster School, the grouping
19 will probably fall practically as it is at the present time.
20 That is not a set rule. My Board of Trustees have indicated
21 that they are doing something to alleviate other problems
22 which will naturally solve this one, but still the groups
23 will probably fall about as they are, in my estimation. They
24 will be in separate rooms.

25 THE COURT: They will be in separate rooms?

1 THE WITNESS: In so far as their ability places them
2 there, I should have added.

3 THE COURT: We will hear the rest at 2:00 o'clock,
4 gentlemen.

5 (Whereupon, at 12:25 o'clock p. m. a recess was taken
6 until 2:00 o'clock p. m.)

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1 LOS ANGELES, CALIFORNIA, MONDAY, JULY 9, 1945. 2:00 P. M.

2 - - -

3 THE COURT: Proceed, Mr. Marcus.

4 RICHARD F. HARRIS,

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 DIRECT EXAMINATION (Continued)

9 BY MR. MARCUS:

10 Q Mr. Harris, you gave us some opinions respecting
11 the cultural background of children of Mexican descent and
12 children of other descents, particularly those who come here
13 that have English background from England. Now, is it your
14 opinion, Mr. Harris, that children of Mexican descent are in-
15 ferior because of their lack of English cultural background?

16 A Definitely not. They are inferior only in so far
17 as their ability to grasp English words and meanings and
18 conceptions are concerned.

19 Q Once that is grasped, then it is your feeling that
20 they are not inferior from a cultural background; is that
21 correct?

22 A They are definitely not.

23 Q Is there any other basis besides the cultural back-
24 ground that makes you, in your opinion, as the superintendent
25 of schools there, feel that the children should be segregated?

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1 A I think there is not.

2 Q Then once this English language has been grasped
3 by the children, then you feel that they are equal and not
4 inferior to other children?

5 A I would say so, providing it was --

6 Q Well, would you say so?

7 A The answer is yes.

8 Q All right. Now, we will speak of this 40 per cent
9 of children that you spoke of who have no knowledge of the
10 English language when they enter the school. Is it a fact
11 that they have acquired a sufficient understanding of the
12 English language after they reach the second grade?

13 A They have not acquired a sufficient knowledge of
14 the English language to be placed in a group which has.

15 Q Now, with respect to the other 60 per cent of the
16 children who do speak the English language, you say that
17 they are not inferior in any respect. Then why are those
18 children not afforded the same opportunities or the same priv-
19 ileges as the other children in that district, in their right
20 to attend a school of their choosing?

21 A I have answered that once before. I will again.
22 It is the degree of sufficiency which they have acquired in
23 the understanding and use and conception of symbols and
24 words of the English language, which is still not up to the
25 children of Anglo-Saxon descent, and others which are placed

1 in a different class.

2 Q Those children of Anglo-Saxon descent you say have
3 a greater ability to comprehend the course of study given to
4 them in the Westminster School than those children of, we
5 will say, Mexican descent?

6 A From these test scores which I have related to you,
7 I would say that that is the case.

8 Q And that is true with respect to every child, then,
9 of Mexican descent who is attending the Hoover School?

10 A No, I would say not.

11 Q But you haven't afforded those whom you say are
12 not, or as to whom you say that is not true, the privilege
13 of attending the Westminster School?

14 A Those who have applied, their application has been
15 given consideration.

16 Q Now, I understood you to say this morning that this
17 language difficulty has retarded the children of Mexican
18 descent at least through the sixth grade, that attend at the
19 Hoover School; is that correct?

20 A I have to an extent answered that question also.

21 Q Could you give us a yes or no answer to that, and
22 then give your explanation?

23 THE WITNESS: May I answer it my own way?

24 THE COURT: Yes, certainly.

25 THE WITNESS: Thank you.

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1 THE COURT: So long as you answer the question, you do
2 not have to answer it in any special way.

3 THE WITNESS: Now, may I ask what the question was?

4 (The question referred to was read.)

5 THE WITNESS: How did I start out to answer that ques-
6 tion?

7 (The answer referred to was read.)

8 THE WITNESS: I pointed out to this court, Mr. Marcus,
9 that the greatest retardation naturally comes when the child
10 enters school for the first time. However, I think this
11 retardation of children who enter from homes who speak the
12 Spanish language in their homes, well, I think that the
13 retardation continues. I would say that there is a degree
14 to which it handicaps the child. Some have a greater degree
15 of handicap, and some have less, depending of course upon
16 their individual abilities, and depending of course upon the
17 extent of their home conditions.

18 Q BY MR. MARCUS: Do I understand, then, that that
19 handicap that affects these children of Mexican descent re-
20 tards their ability to acquire or learn the courses that you
21 prescribe in the schools for the period between the first and
22 sixth grades?

11 23 A We have gone over that.

24 MR. HOLDEN: I object to this on the ground, your Honor,
25 that it has been asked and answered three or four different

1 times.

2 THE COURT: There is repetition here, and a good deal of
3 it.

4 MR. MARCUS: I didn't know there was repetition on this
5 particular question. There may have been some, and in going
6 through this subject there is bound to be some, but I don't
7 intend that there should be.

8 THE COURT: There is always repetition, I think, when we
9 take recesses, and in developing a line of thought there some-
10 times is repetition, but let's avoid it as much as we can,
11 because otherwise we would be here indefinitely, and we are
12 not going to do that. The objection is sustained.

13 Q BY MR. MARCUS: Is it the policy of the school to
14 keep the children separated or segregated definitely between
15 the first and sixth grades?

16 A No.

17 Q But you do have the segregation between the first
18 and sixth grades at the Hoover School?

19 MR. HOLDEN: I object to that, your Honor, on the ground
20 it has been admitted and has been testified to several times.

21 THE COURT: I think I will let him answer that one.
22 Overruled.

23 THE WITNESS: The answer is, no, not up to the sixth
24 grade.

25 Q BY MR. MARCUS: To what grade, sir?

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1 A From the first through the third grades, through
2 the fourth grade.

3 Q And what grades do you have at the Hoover School?

4 A Grades 1 through 8.

5 Q The first through the eighth grade?

6 A Yes.

7 Q And that is the school that you have told us is
8 solely attended by children of Mexican descent or Latin
9 descent?

10 A That is true. May I --

11 THE COURT: Sir?

12 THE WITNESS: May I speak for just a moment?

13 THE COURT: Certainly.

14 THE WITNESS: We have segregation, Mr. Marcus, in so far
15 as ability is concerned, in the Hoover School, exactly the
16 same as we have segregation in so far as ability is concerned
17 at the Westminster School.

18 Q BY MR. MARCUS: Yes, I understand that. But you
19 don't have any segregation for colored children there, have
20 you?

21 A No.

22 Q You have no segregation for any other race or
23 nationality at the Westminster School, have you?

24 A No.

25 Q Now, isn't it the policy of the Board, Mr. Harris,

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1 that the pupils should attend the Hoover School until they
2 have acquired some efficiency in the English language?

3 A It is.

4 Q What do you mean, sir, by some efficiency in the
5 English language?

6 A At least to the extent of being able to carry on
7 a conversation in the English language, to be responsive to
8 certain questions in a clearer and in a larger answer than
9 "Yes" or "No."

10 Q All right. Do the children in the second grade at
11 the Hoover School meet that requirement?

12 A They do not.

13 Q Do the children in the third grade meet that re-
14 quirement?

15 A They do not.

16 Q You mean to say a child in the third ^{grade} at the Hoover
17 School is not able to carry on a conversation in the English
18 language?

19 A Not in the manner which I have indicated.

20 Q Do the children in the fourth grade meet that re-
21 quirement?

22 A There are some that have that ability.

23 Q How many? What percentage?

24 A I would not know. I would suspect probably 5 per
25 cent.

1 Q And 95 per cent of the children at the Hoover
2 School in the fourth grade are unable to understand or carry
3 on a conversation in the English language?

4 A Not in the manner which I have related to you.

5 Q All right. How about the fifth grade? Do they
6 meet those requirements?

7 A They are in practically the same category as the
8 fourth grade.

9 Q How about the children in the sixth grade?

10 A The ratio is about the same. The scale probably
11 increases somewhat with the grades.

12 Q Well, what is the ratio then in the fifth or sixth
13 grades?

14 A About 5 per cent.

15 Q 5 per cent of the children only are able to under-
16 stand or carry on a conversation in the English language?

17 A Such as I have pictured. You have not completed
18 my requisition there.

19 Q How about the children in the seventh grade? Do
20 they meet those requirements?

21 A I would say that they meet it in practically the
22 same manner.

23 Q Only 5 per cent of them?

24 A Possibly more. They have become adapted better at
25 that age.

1 Q And the same would be true for children in the
2 eighth grade?

3 A The skill would probably increase.

4 Q Approximately how much?

5 A It may go as high as 10 or 12 per cent.

6 Q Mr. Harris, not all children continue between the
7 first and eighth grades at the Hoover School. You have
8 instances where they have transferred out of your school,
9 have you not?

10 A I have.

11 Q And gone to other schools in other districts of
12 this State?

13 A Yes.

14 Q When you give a child a transfer and his card
15 stating that he has completed the second grade, third grade,
16 or fourth grade, on up to the eighth grade, what does that
17 card state?

18 A The card states that the child is being transferred
19 from the Westminster School District to the district in which
20 he is anticipating enrollment, and it also states that during
21 his period in the Westminster School District he was placed
22 in such-and-such a grade.

23 Q Does it state that he has satisfactorily completed
24 that particular grade that he has attended, assuming that he
25 has?

1 A It does not, due to the fact that a transfer only
2 comes during the year, and we do not have mid-promotions.

3 Q Well, at the end of the school year, assuming a
4 child's graduation card, or his card states that he has
5 completed that particular grade, that would entitle him, would
6 it not, to attend any school in this State for the following
7 grade?

8 A It would, yes.

9 Q Now, upon that premise, sir, and upon your state-
10 ment that that child in the fifth grade would not be able to
11 carry on a conversation in the English language, would that
12 representation that you have made on that card, that transfer
13 card, be true?

14 MR. HOLDEN: Object to that as argumentative, and asking
15 for the conclusion of the witness.

16 THE COURT: I think it is. I think you are leaving
17 out of the question the differentiation which the witness gave
18 as to a comparable situation with other children. He wasn't
19 making, at least the court didn't so understand him, a design-
20 nation specifically relative to the Mexican children, but
21 it was with relation to other children of like age and like
22 school experience.

23 MR. MARCUS: I understood that specific designation,
24 your Honor, was given to the children at the Hoover School
25 solely attended by children of Mexican descent.

Zv391

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THE COURT: That is right.

MR. MARCUS: So that designation, to my memory, would apply to the Mexican children .

THE COURT: Yes, but the basis of the estimate was a matter that you eliminate from your question. There must be some comparable basis upon which that estimate was made. Now, what is that comparable basis? It is the children of the other school, or in other schools, who are not of Mexican origin.

MR. MARCUS: With that addition to the question, your Honor --

THE COURT: You had better frame your own question.

Q BY MR. MARCUS: Would a child who has completed, for instance, the fifth or sixth grades, or the seventh grade, or any grade in your district, and you gave him his graduation card, or his card that he had completed that course in your fifth, sixth or seventh grade, in your opinion, would that child be able to carry on the work if he attended in any other school in the State of California?

THE COURT: Carry on the work of what?

Q BY MR. MARCUS: -- in the following grade?

A He would be able to carry it on, but he would necessarily fall in the group which his ability and which his conception and understanding and knowledge of the English language would cause him to fall.

1 Q Would you enlarge upon that a bit, sir? I don't
2 quite understand your answer.

3 MR. HOLDEN: I think that the question is unintelligible,
4 to enlarge upon that. If counsel didn't understand the answer,
5 the court reporter can read it.

6 THE COURT: I don't think he should be called upon to
7 answer a question with that omnibus characterization. He has
8 given his views, and if you want to interrogate him more
9 closely on those you should propound a question.

10 Q BY MR. MARCUS: Mr. Harris, you mean that a child
11 graduating from the Hoover School, or who, for instance, was
12 transferred to a Los Angeles school, and he had completed the
13 course that you prescribed in the fifth grade in the Hoover
14 School, would not be able to carry on the work in the sixth
15 grade in the city schools of Los Angeles?

16 A He most certainly would. The city schools of Los
17 Angeles have an educational program which fills the needs of
18 the people with certain handicaps.

19 Q Do you happen to know that there is no segregation
20 of the Mexican children in the city schools of Los Angeles?

21 MR. HOLDEN: I object to that as calling for a conclusion
22 of the witness, and immaterial.

23 THE COURT: I didn't understand that his differentiation
24 was respecting the segregation of Mexican children from other
25 children. My understanding of his testimony is that the public

Zv393

1 school system of the State of California, and as it is
2 administered in Orange County, California, has set up a
3 specialized course of instruction and has designated teachers
4 in that course who are particularly ^{and} specially qualified for
5 the instruction of children who fall in that category. That
6 may be true in the City of Los Angeles also. I don't know
7 whether it is true or not. Not that it makes any difference
8 whether it is true or not in this case.

13

9 MR. MARCUS: I don't think it would, your Honor, but he
10 has attempted to make the explanation --

11 THE COURT: No, you asked him a question and he gave you
12 an answer. The objection is sustained.

13 MR. MARCUS: Very well.

14 Q BY MR. MARCUS: Now, Mr. Harris, do you have
15 specially qualified teachers in that district to teach these
16 children at the Hoover School?

17 A Most definitely, yes.

18 Q What special qualifications does your Board require,
19 or do you require for teachers to work at the Hoover School,
20 other than those required of any other teacher in that dis-
21 trict?

22 Q Those qualifications can best be explained by the
23 fact that they have had experience in that line of work, and
24 that they are thoroughly cognizant of the fact that many more
25 symbols and pictures and a continual repetition of English

Zv394

1 words is necessary, and a connection is made between objects
2 that they are thoroughly familiar with, with the fact that
3 there must be a gradual process of language understanding,
4 and also that they must stress a great deal of phonetic
5 drill.

6 Q Now, sir, what special training do they have be-
7 sides the experience they have acquired over years of work
8 in this particular school? What particular training do they
9 have to qualify them for that work?

10 A That particular training consists of definite
11 instruction by their supervisor concerning the use of certain
12 methods, concerning the use of certain materials, and the
13 manner in which that is presented in order for the child to
14 gain confidence in himself in learning the English language,
15 in order for him to begin to a certain degree to think in the
16 English language, which is one of the difficulties that we
17 must face, if we could put our fingers on it. The thinking
18 heretofore has always been in the Spanish language at home.
19 With a different group of words, a different vocabulary, it
20 is a different situation.

21 Q That is the extent of their special training?

22 A That is a considerable extent.

23 Q Who is it that gives them those special instruc-
24 tions?

25 A I have answered that.

Zv395

1 Q Who is their superior? Who do you mean by that?

2 A Their supervisor.

3 Q Their supervisor?

4 A Or their superintendent.

5 Q That is you?

6 A In our particular district, it is myself.

7 Q All right, sir. Now, what special training have you
8 had, as applied to Mexican children, so that you would be in
9 a position to give the instructors there that special train-
10 ing or instruction at the Hoover School?

11 A The training, as I have indicated, is based upon
12 experience, it is based upon the lack, and the need, and,
13 naturally, the returning to your material and methods which
14 you have to use in these instances to bring about an under-
15 standing of the English language.

16 Q Mr. Harris, you have only been employed in that dis-
17 trict for two years, have you not?

18 A That is true.

19 Q Now, where did you teach before you went to this
20 Hoover School, or superintendent of schools in the Westminster
21 District?

22 A I taught at Olive, California.

23 Q Olive, California. How long?

24 A Six years.

25 Q And what grade did you teach there?

1 A The seventh and eighth grades, and was supervisor
2 of all the grades.

3 THE COURT: Is that in Riverside County or in Orange
4 County?

5 THE WITNESS: In Orange County, your Honor.

6 Q BY MR. MARCUS: Where else did you teach prior to
7 that?

8 A I was at El Toro for two years.

9 Q Did you teach at El Toro?

10 A I did.

11 Q What grade did you teach there?

12 A The fourth grades through the eighth grade.

13 Q Were you supervisor there?

14 A I was.

15 Q Or superintendent of schools there?

16 A I was.

17 Q Prior to El Toro, where did you teach?

18 A Prior to that I took my training at the University.

19 Q Of what?

20 THE WITNESS: Your Honor, is this relevant?

21 THE COURT: Oh, I think so. He would like to have a
22 little biographical history, Mr. Harris.

23 THE WITNESS: If it bears on the case, all right.

24 THE COURT: It shows your experience and training,
25 which is an element in the case.

Zv397

1 Q BY MR. MARCUS: What school did you graduate from,
2 sir?

3 THE COURT: The University.

4 THE WITNESS: I attended the summer sessions at the
5 University of Southern California.

6 Q BY MR. MARCUS: Did you ever take any special
7 courses yourself with respect to the training of children of
8 Mexican descent?

9 A Yes, I took a course which made relation to the
10 problems in the training and in the educational program, in
11 which relation was made to it.

12 Q What was the name of the course?

13 A It was, "Materials and Methods."

14 Q How long ago did you take that course, sir?

15 A It has been several years ago; perhaps 10.

16 Q Now, isn't it a fact, Mr. Harris, that it was an
17 established policy of your Board in the Westminster District,
18 long before you came there, to segregate the children of
19 Mexican descent?

20 MR. HOLDEN: I object to that as calling for a conclusion
21 of the witness.

22 THE COURT: If he knows, he may answer.

23 THE WITNESS: I do not know.

24 Q BY MR. MARCUS: How long, do you know, of your own
25 knowledge, from an examination of the records of the Hoover

1 School, that that school was in existence?

2 MR. HOLDEN: Meaning? If the court please, I think the
3 question is unintelligible.

4 THE COURT: There are two school houses in the West-
5 minster School District.

6 MR. HOLDEN: What school?

7 MR. MARCUS: The Hoover School.

8 THE COURT: Now, what is the answer?

9 THE WITNESS: To my knowledge, I do not know.

10 Q BY MR. MARCUS: You haven't examined the records
11 over there to determine how long that school has been in
12 existence? Has it been more than 10 years? Will you tell
13 us that?

14 A It would be my guess.

15 Q You knew the policy of the School Board in the
16 matter of segregation before you came there, did you not, or
17 at least when you began teaching out there?

18 MR. HOLDEN: I think that is immaterial, your Honor.

19 THE COURT: There is no doubt but what there has been
20 segregation there, Mr. Marcus. I don't see the point of
21 these inquiries.

22 Q BY MR. MARCUS: Well, Mr. Harris, is it your opinion
23 that the children should be segregated, that is, children of
24 Mexican descent should be segregated in the Hoover School?

25 A In so far as ability, and their ability to command

Zv399

1 the English language, their understanding of words and con-
2 cepts, I would say yes.

3 Q And that segregation should be between the first
4 and the eighth grades?

5 A It naturally falls that way in nearly any school,
6 so far as ability is concerned. Not so far as color is
7 concerned, or other things.

8 Q Not in so far as color is concerned?

9 A Not in so far as any other thing. Ability.

10 Q How do you determine, Mr. Harris, what children
11 are to be segregated, for instance, in the fourth grade or
12 in the fifth grade?

13 A We have gone into that, Judge.

14 THE COURT: I thought we had.

15 MR. MARCUS: We have gone into the third grade. He
16 stated, your Honor, that they have given them some cards and
17 some tests.

18 MR. HOLDEN: My understanding of the evidence is that
19 he went from the fourth grade to the eighth grade. All right.

20 MR. MARCUS: Not on the question of the ability of the
21 students, your Honor.

22 THE COURT: He seemed to draw a line of demarcation at
23 the end of the fourth grade.

24 MR. MARCUS: The third grade.

25 THE COURT: And I don't know whether he has taken up

1 seriatim the fourth, fifth, sixth, seventh and eighth grades.
2 I can't see the benefit to be derived from any such continued
3 exploration of each specific grade. What is the purpose?

4 MR. MARCUS: The purpose of the examination is this,
5 to determine upon what basis the segregation is practiced
6 from the fourth grade on up to the eighth grade, what tests
7 are given to the students out there, how they determine that
8 they should be segregated.

9 THE COURT: Maybe we haven't gone into each of those
10 grades. If you desire to, I think we should not foreclose
11 that. Overruled.

12 Q BY MR. MARCUS: How do you determine whether a
13 student should be segregated in the Hoover School, for in-
14 stance, in the fifth grade?

15 A I have indicated in so far as segregation is con-
16 cerned, there is an ability segregation, which is comparable
17 to the ability segregation in any classroom.

18 Q Does that concern itself only with the English
19 language and their ability to understand it?

20 A That depends upon the school.

21 Q I am talking about the Hoover School, sir?

22 A That is part of their ability. Naturally, it would
23 bear upon the segregation.

24 Q Well, is there anything besides their understanding
25 of the English language or their lack of understanding of the

1 English language that you base the segregation on in the
2 Hoover School?

3 A We have no segregation in the Hoover School. May
4 I clarify that?

5 THE COURT: Did you hear what he said, Mr. Marcus?

6 MR. MARCUS: I heard what he said, your Honor, that they
7 have no segregation.

8 THE COURT: He said they had no segregation in the Hoover
9 School. Would you clarify that?

10 THE WITNESS: Just in so far as ability segregation is
11 concerned.

12 Q BY MR. MARCUS: You have no segregation in the Hoover
13 School. Then how does it happen that only pupils of Mexican
14 descent attend the Hoover School?

15 A I have answered that once. We have segregation
16 in so far as ability is concerned. May I explain, Judge?

17 THE COURT: Yes.

18 THE WITNESS: I have gone into this before.

19 Q BY MR. MARCUS: That is what I am asking you to do,
20 Mr. Harris, to tell us upon what basis you require or you
21 determine that children of Mexican descent shall attend the
22 Hoover School.

23 A This makes the fourth time.

24 Q Outside of the language difficulty, why are they
25 required to attend the Hoover School?

1 A I have answered this question three times. I
2 will do it again. You asked me, what is the basis of the
3 segregation at the Hoover School? It is as follows: The
4 same basis of ability segregation that is comparable to any
5 educational school room. Those of most ability to learn
6 are placed in one group, and in the Hoover School it happens
15 7 because of the ability to understand the concepts or symbols
8 and the understanding of the English language that the group
9 happens to fall within that category. And then there is
10 the middle group and there is the lower group. It is entirely
11 upon an ability basis.

12 Q That doesn't apply, the symbols and other quali-
13 fications which you just gave, to children of the fifth and sixth
14 grade, does it? You don't teach them symbols in the fifth,
15 sixth or seventh grades, do you?

16 A Has any one developed an efficiency of vocabulary
17 and understanding so that he doesn't have to learn more?

18 Q Well, now, sir, do you teach them symbols in the
19 sixth, or seventh, or eighth grades?

20 A We must necessarily increase their language under-
21 standing, their English language understanding.

22 Q Do you teach them by symbols in the sixth, seventh,
23 and eighth grades?

24 A In instances the low ability group in the sixth
25 grade may necessarily have to have phonetical drills, which

1 is the symbols.

2 Q A phonetical drill would simply increase or aid
3 in their pronunciation, would it not?

4 A It would, and at the same time they would have a
5 concept of the wholeness of the word, and its meaning, and
6 of the object which it represented.

7 Q Besides this phonetic practice which you give there
8 between the fifth, sixth, seventh and eighth grades, what
9 other tests, if any, do you give to those children of Mexican
10 descent to determine whether or not they should attend the
11 Hoover School?

12 A I have gone over this once before, your Honor.

13 MR. HOLDEN: I object upon the ground it is repetition,
14 argumentative, and has been asked and answered.

15 MR. MARCUS: I submit, your Honor, this question has not
16 been answered and has never been asked.

17 THE COURT: The objection is overruled. Read the
18 question, please.

19 (Question read by the reporter.)

20 THE COURT: Answer the question.

21 THE WITNESS: I may answer it?

22 THE COURT: Yes.

23 THE WITNESS: I answered that once. I will again. Your
24 question is, what tests are given to children at the Hoover
25 School which will place them in a certain group?

1 Q BY MR. MARCUS: No, no, that is not my question.

2 Will you read the question again, Miss Reporter?

3 THE WITNESS: Yes, will you read the question?

4 (Question reread by the reporter.)

5 THE WITNESS: By conversation with the children, asking
6 for a response in other than yes or no, their ability to
7 carry on a conversation in the English language in an intelli-
8 gible manner.

9 Q BY MR. MARCUS: Is that the test?

10 A That, along with the ability testing of their
11 standard achievement.

12 Q What test is that?

13 A It is a progressive achievement test.

14 Q When do you give that?

15 A We give it twice a year.

16 Q Is that when they pass from one grade to another?

17 THE COURT: If they do pass. I assume some of them do not
18 pass.

19 THE WITNESS: That is right.

20 Q BY MR. MARCUS: Well, when they do or don't pass,
21 is that the common test that is given to the students at the
22 end of each semester?

23 A It is a common test used in the County of Orange.

24 Q Is there any other test that you give them?

25 A No, I think not.

1 Q Now, if a child does not understand the English
2 language, is not able to carry on a conversation in the English
3 language except for a yes or no answer, between the sixth,
4 seventh and eighth grade, you keep him in the Hoover School;
5 is that correct?

6 A Not necessarily, no.

7 Q Well, that is what happens out there, is it not, --

8 A I can't say that --

9 Q -- unless they ask to be transferred?

10 A I cannot say that that is the policy.

11 Q Well, that is the practical result, though, is it
12 not?

13 A It may seem that way.

14 Q Yes. Is it your personal opinion, Mr. Harris, that
15 the children in the Hoover School should be segregated from
16 the children in the other school in that district?

17 A Only in so far as an educational policy is concerned,
18 for the betterment and to fulfil the need of those pupils
19 which necessarily need the extra training, the additional
20 training of which they have a lack, in their ability to con-
21 ceive and understand words, and the meaning of objects, and
22 so forth.

23 Q Well, in so far as the children of that school are
24 concerned, you believe that that is necessary and beneficial
25 to them?

Zv406

1 A I believe that they fall within a certain ability
2 group.

3 Q Now, Mr. Harris, in your opinion, does not that
4 segregation of the Mexican children, or children of Mexican
5 descent, foster prejudice?

6 A I am not able to answer that.

7 Q Haven't you found that out, or haven't you deter-
8 mined that in your studies there?

9 A I have no information leading to the proof of that
10 statement, nor disproof.

11 Q Wouldn't that, in your opinion, tend to have the
12 children congregate in one group, go about in one group,
13 and play in one group?

14 A I am not able to answer that question.

15 Q Well, what is your personal opinion in the matter?

16 A My personal opinion does not enter in my job as
17 Westminster superintendent of schools.

18 Q Well, isn't your personal opinion followed, or,
19 isn't your personal opinion practiced in that school district?

20 A I suspect it is difficult to carry out an office
21 without letting some of your personality enter into it.

22 Q Do you believe that the segregation then is bene-
23 ficial to the pupils?

24 A It is, in so far as -- if an ability grouping is
25 necessary for the taking care of the lack, taking care of the

1 need of a certain group, which must necessarily have that
2 lack fulfilled before they can progress along the lines of
3 certain educational programs and certain understandings in
4 America.

5 Q In America?

6 A Yes.

7 Q Now, your School Board determined to abolish that
8 segregation, did it not, in January of this year?

9 A They did.

10 Q Now, did you believe that that would be beneficial
11 to the children of the Hoover School, to abolish that and
12 permit them to all attend one school, or permit them to attend
13 any school without segregation in that district?

14 A My Board has at no time indicated that they would
15 eliminate ability grouping or ability segregation.

16 Q I am not discussing it on the basis of ability segre-
17 gation now. Is it your opinion that it is beneficial now to
18 the children of the Hoover School to permit them to associate
19 with, and attend at other schools in the district, without
20 segregation?

21 A Since that hasn't been done, I have no information
22 leading to that belief either way.

23 Q Well, you, as an educator and superintendent of
24 schools, can give us your opinion, could you not?

25 A One's opinion oftentimes is of such a small consequence.

1 Q Well, you believe, do you not, in the American
2 principle of democracy?

3 A I certainly do.

4 Q Do you believe that all are entitled to the same
5 advantages and privileges in the different schools?

6 A I certainly do.

7 Q Then is it your opinion that the children should not
8 be segregated on democratic principles?

9 A Will you put that question in the affirmative and
10 leave the "not" out of it?

11 Q Do you believe that the children should not be
12 segregated on the basis of the democratic administration of
13 the school laws of your district?

14 A I believe that for an educational advantage in the
15 mechanism and the economical use of the teacher's time, and
16 for the progress of a class which happens to have a retarda-
17 tion or happens to have a handicap, I think it is definitely
18 democratic to segregate.

19 Q Now, why haven't you segregated the children in
20 the Westminster School upon that basis and set them out in a
21 separate school district?

22 A We have --

23 Q In the Westminster School, I should say.

24 A Our Westminster School is segregated on an ability
25 basis.

Zv409

1 Q You haven't got a separate school for it, have you?

2 A We have a separate school. In so far as terminol-
3 ogy is concerned, we can call an individual classroom, re-
4 gardless of what it is joined on to, a school.

5 Q But you haven't segregated any other child or any
6 other children on the basis of their origin or nationality or
7 heredity; is that correct?

8 A We have segregated no children on the basis of
9 their origin or heredity, in no instance, in no section of
10 the district.

11 Q And the basis of the segregation of the children of
12 Mexican descent at the Hoover School is not from the fact
13 that they are children of Mexican descent; is that it?

14 A Absolutely not.

15 Q But the practical result has been, has it not,
16 that all children that attend the Hoover School are of Mexican
17 descent?

18 MR. HOLDEN: I object to that as argumentative. It is
19 a fact admitted in evidence and has been gone over several
20 times.

21 MR. MARCUS: I will withdraw the question. That is true.

22 Q BY MR. MARCUS: Now, Mr. Harris, isn't it a fact
23 that the segregation of children by minority groups on the
24 basis -- I will reframe the question.

25 Is it not true that the segregation of children on the

Zv410

1 basis of their descent, and in particular the children of
2 Mexican descent, at the Hoover School, tends to foster
3 a minority group?

4 MR. HOLDEN: I think, your Honor, that he has asked that
5 very same question before and it has been answered.

6 MR. MARCUS: I have never asked that question, your
7 Honor.

8 THE COURT: Very well. Overruled.

9 THE WITNESS: I answered it in this manner, --

10 Q BY MR. MARCUS: You are assuming that I have asked
11 that question before?

12 A I know you have. I told you --

13 Q I asked the question, Mr. Harris, before if it didn't
14 foster prejudice, not foster a minority group.

15 A I told you I had no information leading to any con-
16 viction either for an approval or a disapproval.

17 Q And in following this segregation, you are following
18 the rules of your School Board; is that correct?

19 A As far as our ability segregation is concerned, yes.

20 Q That is all. Oh, pardon me. Just one more ques-
21 tion. Have you attended the meetings of the County School
22 Boards? Have you attended any meeting of the School Boards of
23 Orange County?

24 A No.

25 Q At no time?

1 A No.

2 Q During the past two years?

3 A Not that I recall of.

4 Q Wouldn't you recall if you attended one meeting
5 in the past two years?

6 A I don't recall having attended any meeting of
7 that nature.

8 MR. MARCUS: That is all.

9 CROSS EXAMINATION

10 BY MR. HOLDEN:

11 Q Now, going down to Mr. Mendez, one of the plaintiffs
12 in this action, when did you first see him with reference
13 to enrolling his children in the school?

14 A It was in October, 1944.

15 Q And where did you see him?

16 A He came to the school office.

17 Q That is at the Westminster School?

18 A Yes.

19 Q At that time where were his children?

20 A His children were enrolled at the Hoover School.

21 Q When had the Hoover School opened that year?

22 Approximately what date?

23 A It was about the 11th of September.

24 Q At that time did he request admission to the
25 Westminster School for his children?

1 A He requested admission for his children.

2 Q At that time what was the condition as to the number
3 of pupils in the Westminster School?

4 A It was extremely overcrowded.

5 Q How long has that Westminster School been extremely
6 overcrowded?

7 A It has been overcrowded ever since -- since the
8 war was declared, due to the fact that people have come in
9 to do war plant work.

10 Q There has been a large increase in the population of
11 Westminster during the war?

12 A Most definitely.

13 Q And what is the financial condition of the Westminster
14 School District?

15 A In view of the fact that there are far less than
16 800 pupils in the district, the condition, the financial
17 condition, of the Westminster School District is at the lower
18 end of the scale. There is an assessed valuation of
19 2,215,000 to justify an educational program of 800 children.

20 Q During the year just past has the Board made any
21 effort to raise money for building schools there?

22 A Yes, they have endeavored, to the best of their
23 ability, and have directed me to do so to the best of my
24 ability, to further promote a school bond election for the
25 erection of additional classrooms.

Zv413

1 Q Have you tried a bond election down there?

2 A We have tried a bond election on August 25, 1944.

3 Q What was the result of that election?

4 A The result was --

5 Q Well, I meant, did it carry?

6 A It did not carry.

7 Q And your Board has determined to unify both school-
8 houses, is that not the fact? That is, unify the plant,
9 so far as plant is concerned?

10 A They have. They have been talking about it since
11 October, 1943.

12 Q What I mean now is, have they definitely decided
13 to educate all the pupils in that district in one plant or
14 one school building?

15 A They have definitely decided that way, as of the
16 meeting of January 16, 1945.

17 Q Did you inform Mr. Mendez that the school district
18 had taken such action?

19 A Mr. Mendez was sent a copy of the Board minutes
20 of January 16, 1945.

21 Q And when was he sent those minutes?

22 A He was sent those minutes approximately three days
23 after the meeting, which would have been the 19th.

24 Q Did you have any conversation with him after that
25 about unifying the school plant?

Zv414

1 A Yes, there was conversation with Mr. Mendez when
2 he filed, or, served a summons.

3 Q I mean, prior to the time that the summons was
4 served, did you have any conversation with him?

5 A I do not recall any conversation. I think there
6 was none.

7 Q Now, at the meeting that you spoke of in January,
8 1945, was Mr. Mendez present at that Board meeting?

9 A Mr. Mendez was present at that Board meeting.

10 Q And the Board discussed the matter with him, did
11 he?

12 A Quite clearly and in detail.

13 Q At that meeting were there other people than Mr.
14 Mendez?

15 A Mr. Youngyoung was present at the meeting, as I
16 recall.

17 Q Did Mr. Mendez or any of the people with him make
18 any statement as to the problem that the School District
19 was confronted with?

20 A Mr. Youngyoung stated, as a citizen of the West-
21 minster School District, he was thoroughly familiar with the
22 financial problem and the overcrowded conditions of the school,
23 and that he could sympathize most heartily with the Board of
24 Trustees in the problem that they had to deal with.

25 Q At that meeting did the Board inform Mr. Mendez

Zv415

1 that he would hear of their action within a few days?

2 A Mr. Mendez was so informed.

3 Q And he later got a copy of the minutes of that
4 meeting?

5 A Yes, he did.

6 Q Can you recall, in substance the conversation you
7 had with him when he made application to enroll his children
8 at the Westminster School? I mean just answer yes or no
9 whether you can recall that conversation, or in substance?

10 A I can't recall that.

11 Q Now, you told me, the same as you have told the
12 court, that the Westminster School District intends to unify
13 the two buildings in the Westminster District, did you not?

14 A I certainly did, as of the action of January 16,
15 1945.

16 Q That is what they intend to do, is it, so far as
17 you know?

18 A As far as I know, they are definite in those plans.

19 Q When you have talked about segregation here, I
20 think you were asked that question by Mr. Marcus, as to
21 whether or not there was going to be segregation in the
22 Westminster District hereafter, and I think you stated that
23 there would be segregation. Now, will you tell the court what
24 you meant by that, by the segregation in the future?

25 A There is a segregation at the Westminster School

18

Zv416

1 at the present time. There will continue to be ability
2 segregation. I emphasize the word "ability", because I think
3 it is only a good economic procedure, in the use of a teacher's
4 time, in the use of a trained teacher, to place those pupils
5 which have a certain need and a certain lack. In this par-
6 ticular instance of the children of Mexican descent, it happens
7 to be a lack of their understanding of the English language.

8 Q But by the term "segregation" as it is to be prac-
9 ticed in the future, you mean that is the type of segregation
10 you referred to?

11 A It will be ability only, as it is now.

12 Q And there won't be separate buildings?

13 A There will be no separate buildings.

14 Q Now, you stated that you taught school at Olive
15 for some time prior to going to the Westminster School District?

16 A I did.

17 Q Do they have some Mexican pupils in that school?

18 A They have.

19 Q And there you had experience in teaching Mexican
20 pupils?

21 A Most definitely.

22 Q How about El Toro, were there pupils of Mexican
23 descent there?

24 A Even more, yes.

25 Q And how many years did you teach there?

1 A A total of three years, with two years experience
2 in administration.

3 MR. HOLDEN: That is all.

4 MR. MARCUS: Just a moment, please. May I ask another
5 question?

6 THE COURT: Yes. Don't cover the same ground now that
7 you have heretofore. As to anything which was developed on
8 the examination by counsel for the other side, you may go
9 into, but not anything which you did go into before. We don't
10 want to have you reiterating here.

11 MR. MARCUS: Yes.

12 REDIRECT EXAMINATION

13 BY MR. MARCUS:

14 Q In your teaching at the El Toro School was there
15 any segregation of the Mexican children in a separate school
16 in that district?

17 A There was no segregation in a separate school.

18 Q All right. Where you taught in this other school
19 that you spoke about, the Olive School, was there any segre-
20 gation of the Mexican children in a separate school in that
21 district?

22 A Would you repeat that again?

23 (Question read by the reporter.)

24 A Only in so far as they fell within an ability
25 segregatory group.

Zv418

1 Q Did you, or have you determined from your experience
2 that children of Mexican descent are inferior mentally to
3 children of any other descent?

4 MR. HOLDEN: I object to that on the ground it has been
5 answered twice before.

6 THE COURT: I think that has been answered. Objection
7 sustained.

8 MR. MARCUS: Very well. That is all I want to ask.

9 Q BY THE COURT: I want to clear up one matter, Mr.
10 Harris, so as to be sure that the court got the same impres-
11 sions which you intended to convey. I take it that you have
12 two classifications of segregation in the schools there in
13 the Westminster School District, one which you characterize
14 as the ability test segregation, and the other which I might
15 describe as the physical segregation. Would that be a proper
16 designation of the segregation of the school children which
17 do not fall in the category of the ability test segregation?

18 A Which would you think would fall in the physical?

19 Q I would say those that were in the Hoover School
20 would be physically excluded from attending the Westminster
21 School.

22 A They necessarily fall within that ability grouping.

23 Q All of the children in the Hoover School fall in the
24 deficient ability level that obtains in the Westminster School;
25 is that correct?

Zv419

1 A In nearly all instances, yes, as I have indicated
2 by my record reports.

3 Q Would you say in nearly all instances, or in all
4 instances?

5 A For the most part, in all instances.

6 Q Wouldn't you classify, or, if they are not all in
7 the same low level, all of the students in the Hoover School,
8 wouldn't it be practicable and wouldn't it be advisable from
9 an educational standpoint to try to cull out from those who
10 were not in that lower level and transfer them to the West-
11 minster School?

12 A From the standpoint of the development of leadership,
13 there are leaders in all groups, and they are leaders in the
14 low groups. And there are leaders in a high group. From the
15 standpoint of leadership training, and that is a part of an
16 educational program, those who are apparently satisfied and
17 have not made requests for a change, it seems, from an educa-
18 tional standpoint, a good thing to develop leadership along
19 those lines.

20 Q You think that the better policy, from the educa-
21 tional standpoint, would be to not disclose affirmatively a
22 policy that would bring about the request rather than to say
23 nothing about it?

24 A I am unable to answer that, due to the fact that
25 none has ever been brought.

Zv 150
420

1 THE COURT: That is all.

2 MR. MARCUS: If your Honor will take the afternoon re-
3 cess, --

4 THE COURT: Yes, for about 5 or 10 minutes.

5 (A short recess was taken.)

6 THE COURT: Proceed, Mr. Marcus.

7 MR. MARCUS: Take the stand, Mr. Mendez.

8 GONZALO MENDEZ,

9 one of the plaintiffs herein, called as a witness on behalf of
10 the plaintiffs, having been first duly sworn, was examined
11 and testified as follows:

12 THE CLERK: State your name, please.

13 THE WITNESS: Gonzalo Mendez.

14 DIRECT EXAMINATION

15 BY MR. MARCUS:

16 Q Mr. Mendez, you are one of the plaintiffs in this
17 action?

18 A Yes, sir.

19 Q And you have two children, have you?

20 A Three children.

21 Q Three children, What are their names and ages,
22 please?

23 A The oldest one, Sylvia Mendez, 9 years old.

24 Q And the other ones?

25 A Gonzalo, Jr., 8; and Geronimo, 7.

v421

1 Q Where were your children born?

2 A They were born in Orange County, the three of them.
3 One of them was born in Santa Ana, one in West -- am I supposed
4 to give the name of the town where they were born?

5 THE COURT: If you can.

6 THE WITNESS: One was born in Santa Ana, the other in
7 Orange County Hospital, and the other was born in Westminster.

8 Q BY MR. MARCUS: Now, beginning with the school
9 semester in September of 1944, what school did your oldest
10 child attend?

11 A The Hoover School.

12 Q Now, at that time did your group in Orange County
13 form an association?

14 A In our district of Westminster, we did. ✓

15 Q At that time did you go to see the superintendent of
16 schools of Orange County?

17 A I was advised to go to Mr. Ray Atkinson, superin-
18 tendent of county schools.

19 Q And did you go and see Mr. Atkinson?

20 A Yes, not only me, but there was about four or five
21 ✓ persons with me that day.

22 Q Now, at that time did you present Mr. Atkinson with
23 this letter or communication (handing document to witness)?

24 A Yes, sir.

25 Q I will show you a communication dated September 6,

1 1944, addressed to Mr. Richard Harris, District Superintendent,
2 and Mr. Ray Atkinson, County Superintendent of Schools, Court
3 House Annex, Santa Ana, California.

4 A Yes.

5 MR. HOLDEN: What was -- oh, go ahead.

6 Q BY MR. MARCUS: I will ask you whether or not on
7 or about September 6, 1944 you did not present the County
8 Superintendent of Schools, you together with the other members
9 of your group, this communication dated September 6th, 1944.

10 MR. HOLDEN: I will object to it on the ground that it
11 is incompetent, irrelevant and immaterial, that the County
12 Superintendent has no jurisdiction whatsoever over the ques-
13 tion here involved, and the County Superintendent of Schools
14 of Orange County is not a defendant in this action and has
15 no jurisdiction over the questions involved; that each dis-
16 trict is a separate entity governed by its own governing board
17 and not under the control, so far as the rules covering the
18 schools are concerned, of the County Superintendent.

19 THE COURT: I think it goes to another issue in the case,
20 however. Regardless of whether or not the County Superintendent
21 is named as a party, there is an allegation as to a general
22 plan or concerted action by the school authorities of Orange
23 County. They wouldn't necessarily have to be made parties in
24 order to --

25 MR. HOLDEN: Well, your Honor --

1 THE COURT: Will you wait until I finish?

2 MR. HOLDEN: I thought you had.

3 THE COURT: They would not necessarily have to be parties
4 to the case in order to justify the reception of evidence
5 looking to the proof of that allegation.

6 MR. HOLDEN: Except, your Honor, that there is no allega-
7 tion, -- I think your Honor has misconstrued the allegation
8 as to the school authorities of Orange County. They allege
9 there are four school districts and they conspired among them-
10 selves, the four school districts, while Orange County has at
11 least 23 elementary schools and 52 school districts altogether.

12 THE COURT: Let us see what it says. Paragraph VI says,
13 after enumerating these respective districts:

14 "The said School Districts and Systems and
15 facilities are being maintained, operated, managed
16 and controlled by and through their said Boards of
17 Education; Boards of Trustees; Superintendents and
18 Secretaries as before named.

19 "VII. That respondents and each of them acting
20 with a common plan, design and purpose by aiding,
21 ~~abetting, advising and assisting each other in their~~
22 respective Districts and Systems, have adopted and
23 do practice by regulation, custom and usage, rules,
24 regulations and orders in the operation, management
25 and control of their said Districts, Systems and

1 facilities as hereinafter stated.

2 "VIII. That for several years last past re-
3 spondents have and do now in furtherance and in execu-
4 tion of their common plan, design and purpose within
5 their respective Systems and Districts, have by their
6 regulation, custom and usage and in execution thereof
7 adopted and declared: That all children or persons
8 of Mexican or Latin descent or extraction, though
9 Citizens of the United States of America, shall be,
10 have been and are now excluded from attending, using,
11 enjoying and receiving the benefits of the education,
12 health and recreation facilities of certain Schools
13 within their respective Districts and Systems but
14 that said children are now and have been segregated
15 and required to and must attend and use certain
16 Schools in said Districts and Systems, reserved for
17 and attended solely and exclusively by children and
18 persons of Mexican and Latin descent, while such other
19 Schools are maintained, attended and used exclusively
20 by and for persons and children purportedly known as
21 White or Anglo-Saxon children.

22 * * *

23 "XV. That in execution of said rules and regula-
24 tions, each, every and all the foregoing children are
25 compelled and required to and must attend and use the

1 Schools in said respective Districts reserved for
2 and attended solely and exclusively by children of
3 Mexican and Latin descent and are forbidden, barred
4 and excluded from attending any other School in said
5 District or System solely for the reason that said
6 children or child are of Mexican or Latin descent.

7 * * *

8 "XVIII. Respondents and each of them through
9 their agents and employees acting with common plan,
10 design and purpose by aiding, abetting, advising and
11 assisting each other within their respective Districts
12 and Systems have by such regulation, custom and usage
13 and in execution thereof, at all times mentioned have
14 barred, precluded and denied petitioners and all others
15 of Mexican or Latin descent from attending and using
16 and receiving the benefits and education furnished to
17 other children residing in said School District and
18 System and have segregated said children in Schools
19 attended solely by children of Mexican and Latin
20 descent and have denied them the use and right of atten-
21 dance in other Schools solely for the reason that
22 petitioners are of Mexican or Latin descent.

23 "XVIII. Petitioners and others of Mexican and
24 Latin extraction citizens of the United States at
25 various times have sought admission and the right to

the use and attendance of other Schools within their respective Districts, which they otherwise would attend and use, but respondents have by their said regulation, custom and usage denied them such right and privilege based solely upon the fact that petitioners were of Mexican and/or Latin descent. That by reason thereof the injury to petitioners is continuous, great and irreparable is calculated to affect and does affect their health, rights and privileges as citizens of the United States.

* * *

"XXIII. This action is brought on behalf of petitioners and some 5,000 other persons of Mexican and Latin descent and extraction all citizens of the United States of America, residing within said Districts. That the questions involved by these proceedings are one of a common and general interest and the parties are numerous and it is impracticable to bring all of them before the Court. Therefore, these petitioners sue for the benefit of all."

I think, on reflection, you are correct, Mr. Holden. The objection is sustained. It may be marked for identification in the record as Plaintiffs' Exhibit No. 3.

MR. MARCUS: Well, I haven't completed the foundation yet for this matter, your Honor.

Zv427

1 Q BY MR. MARCUS: Are you acquainted with the County
2 Superintendent of Schools?

3 A Yes.

4 Q Did you and a group of other persons residing in the
5 Westminster District go to see Mr. Atkinson on or about
6 September 6th, 1944?

7 A Yes, we did go.

8 Q And did you at that time have a conference with him
9 with respect to the segregation of the children in the
10 Westminster School District?

11 MR. HOLDEN: I object to that upon the ground it is
12 incompetent, irrelevant and immaterial, and not within the
13 jurisdiction of this case.

14 THE COURT: I am assuming that counsel is correct in his
15 statement of the law of the State of California. I will be
16 frank to say I haven't as yet had time to acquaint the court
17 with the California State law on the matter. Assuming he is
18 correct, and unless you can point out he is not correct, your
19 objection is well taken.

20 MR. MARCUS: I have the Code, your Honor, the School
21 Code.

22 THE COURT: So have I. I have the School Code also.
23 I assume that the County Superintendent of Schools had some
24 authority, administrative and directive, over all schools,
25 all public schools within the county in which he was function-

1 ing. That apparently is the situation.

2 MR. MARCUS: That was my understanding of the law, that
3 they had an administrative authority within the county in
4 which they were the superintendent.

5 MR. HOLDEN: No. The County Superintendent, the extent
6 of his supervision is on the obtaining of supplies and the
7 courses to be taught in the various schools.

8 MR. MARCUS: Well, that is the basis of it, your Honor.

9 MR. HOLDEN: The courses, not the rules governing.

10 THE COURT: Don't talk at the same time, please.

11 Well, you probably have some other line of proof, and
12 you can look it up and present the authorities later.

13 MR. MARCUS: I have them right here, your Honor.

14 THE COURT: What section is it?

15 MR. MARCUS: Well, it begins with Section 16,700 and
16 continues through for some four or five pages.

17 THE COURT: Read what you have. Or, if this is still the
18 law of the State, and I am not saying that it is, because you,
19 gentlemen, ought to be familiar with the various amendments,
20 this Section 2.1190 of the School Code of the State of
21 California reads as follows. Let's take the next one. The
22 first one doesn't seem to be the one we want.

23 "2.1191. Duties specified.

24 "It is the duty of the superintendent of schools
25 of each county:

zv429

1 "To superintend the schools of his county;

2 "To visit and examine each school in his county
3 at least once in each year. For every school not so
4 visited the board of supervisors must, on proof thereof,
5 deduct \$10.00 from his salary;

6 "To distribute all laws, reports, circulars,
7 instructions and blanks which he may receive for
8 the use of the school officers;

9 "To keep in his office the reports of the
10 superintendent of public instruction;

11 "To keep a record of his official acts and of
12 all the proceedings of the County Board of Education,
13 including a record of the standing in each study, of
14 all applicants examined, which shall be open to the
15 inspection of any applicant or his authorized agent.

16 "To appoint trustees in new elementary school
17 districts, to hold office until the first day of
18 July next succeeding their appointment. ✓

19 "To appoint a member of the board of school
20 trustees clerk of the district in case of the failure
21 of the board of school trustees to appoint a clerk
22 of the district on the proper date, or in case of a
23 vacancy in the position of clerk of the district;

24 "To appoint a janitor, who shall be paid out
25 of the school fund of the district, in case of a

Zv430

1 failure of the trustees to employ a janitor as
2 provided elsewhere in this Code;

3 "To issue, if the board of school trustees of
4 any district fail or refuse to issue, an order for
5 the compensation for services provided for in the
6 preceding section, without such order, his requisition upon the county fund apportioned to the district;

22

8 "To make reports, when directed by the superintendent of public instruction, showing such matters
9 relating to the public schools in his county as may
10 be required of him.

12 "If he fails to make full and correct report
13 as required under the provisions of this section at
14 the time fixed by the superintendent of public instruction, he forfeits" a certain amount of his salary.

16 "To enforce the course of study; ✓

17 "To enforce the use of state textbooks and of
18 high school textbooks regularly adopted by the proper
19 authority;

20 "To enforce the rules and regulations for the
21 examination of teachers, prescribed by the proper
22 authority;

23 "To preserve carefully all reports of school
24 officers and teachers;

25 "To deliver to his successor, at the close of his

Zv431

1 official term, all records, books, documents, and
2 papers belonging to the office, taking a receipt for
3 the same, which will be filed in the office of the
4 county clerk."

5 And, finally, "To grade each school in the month
6 of July of each year, unless otherwise provided by
7 law, and to make a record thereof in a book to be
8 kept by the county superintendent in his office for
9 that purpose."

10 I believe that that classification of duties reposes in
11 the county superintendent a good deal of authority in refer-
12 ence to general school management in the county, and perhaps
13 would make relevant and material in this case whatever action
14 the evidence may show he took in the premises.

15 While it is true he isn't a party, and while it is true
16 the allegations of the complaint are pinned to these specific
17 school districts, and, what they call in the complaint,
18 systems, it now appears by the School Code that superintendents
19 of schools in a county, unless Orange County has a charter,
20 and I don't know whether Orange County has a charter or not,--

21 MR. HOLDEN: No.

22 THE COURT: -- I would think he has some authority there,
23 gentlemen, over the general curricula of schools and of the
24 courses of instruction which are to be pursued, and probably
25 wouldn't have the final say because of the democratic theory

Zv432

1 of localizing the school authority in the people of that dis-
2 trict, which is of course one of the essential features of
3 the public school system in the State of California, I am
4 inclined to think that the court's first belief is the correct
5 one, that the county superintendent of schools does have
6 certain supervisory and managerial direction over all of
7 the school districts within its county.

8 I think, therefore, that the court should reverse itself,
9 and vacate the previous ruling, and overrule the objection.

10 THE CLERK: Plaintiffs' Exhibit 3 in evidence.

11 Q BY MR. MARCUS: Now, Mr. Mendez, do you remember
12 the names of the people who went with you to converse with
13 or confer with the county superintendent of schools at Santa
14 Ana?

15 A Yes, sir.

16 Q Will you name them, please?

17 A One of them here is Mrs. Bermudez, Mr. and Mrs.
18 Pena, and Mrs. Mendez, my wife. I think that was all that
19 went.

20 Q Now, did you at that time, on or about September
21 6, 1944, have a conversation with Mr. Ray Atkinson respecting
22 the segregation of children in the respective districts of
23 the school districts of Orange County? That would call for a
24 yes or no answer.

25 A Yes.

Zv433

1 Q Now, what was said, in particular, with reference
2 to the segregation of the Mexican children in the different
3 school districts of Orange County by Mr. Atkinson?

4 MR. HOLDEN: Objected to on the ground that it is in-
5 competent, irrelevant and immaterial, and doesn't tend to
6 prove or disprove any issue in this case.

7 MR. MARCUS: It goes to the general plan.

8 THE COURT: I don't care for any argument. It is the
9 same matter. Overruled.

10 THE WITNESS: May I relate the story, to make it --

11 THE COURT: No, you just answer counsel's question.
12 Don't relate anything that isn't an answer to his question.

13 THE WITNESS: We first presented that statement there
14 to him.

15 Q BY MR. MARCUS: All right. Now, just give the
16 conversation after you presented it.

17 A After I presented that statement to him?

18 Q Yes.

19 A He said that -- after we had the conversation with
20 him, he said that it was the policy of the School Board of
21 Education to keep the children of Mexican descent segregated,
22 and that he couldn't do anything, and the only thing he would
23 advise me to do was to see Mr. Richard Harris, Superintendent
24 of Schools of Westminster.

25 Q All right. Now, at that time you presented this

Zv434

1 statement to him, did you?

2 A Yes.

3 MR. MARCUS: Would your Honor care to have it read into
4 the record? I introduced it.

5 THE COURT: It is the original?

6 MR. MARCUS: Yes.

7 THE COURT: You might have it marked, and you can read it
8 if you desire.

9 THE CLERK: That is Exhibit 3.

10 MR. HOLDEN: To which we make the same objection.

11 THE COURT: The same ruling.

23 12 MR. HOLDEN: I don't like to be interrupting, and if we
13 can stipulate that any conversation with Mr. Atkinson can be
14 considered objected to, I will refrain from objecting.

15 THE COURT: I think so. I think it is the same line of
16 evidence. If the ruling is correct in one instance, it would
17 be true in all, and the opposite would be true.

18 MR. MARCUS: With the court's permission, I will read
19 this into the evidence:

20 "Mr. Richard Harris, District Superintendent, and
21 Mr. Ray Atkinson, County Superintendent of Schools,
22 Court House Annex,
Santa Ana, Calif.

23 "Dear Sir:

24 "We, the undersigned, parents, of whom about
25 one-half are American born, respectfully call your

Zv435

1 attention to the fact that of the segregation of
2 American children of Mexican descent is being made
3 at Westminster, in that the American children of non-
4 Mexican descent are made to attend Westminster
5 grammar school on W. Seventeenth Street at Westminster,
6 and the American children of Mexican extraction are
7 made to attend Hoover School on Olive and Maple
8 Streets. Children from one district are made to attend
9 the school in the other district and we believe that
10 this situation is not conducive to the best interests
11 of the children nor friendliness either among the
12 children or their parents involved. It would appear
13 that there is racial discrimination and we do not
14 believe that there is any necessity for it and would
15 respectfully request that you make an investigation
16 of this matter and bring about an adjustment, doing
17 away with the segregation above referred to. Some
18 of our children are soldiers in the war, all are
19 American born and it does not appear fair nor just
20 that our children should be segregated as a class.

21 "Respectfully submitted".

22 The signatures are attached, and I shall not read them
23 at this time, your Honor.

24 Q BY MR. MARCUS: Did you have a conversation with
25 Mr. Atkinson, the county superintendent of schools, with

v436

1 respect to the segregation of the children in the Westminster
2 District?

3 A Yes, sir.

4 Q Will you relate that conversation, please?

5 A It wasn't only I who talked among the different
6 parties that went with me. Some of them did some questioning.
7 But I was the one who done the most talking. Naturally, I
8 wasn't only talking for myself, as I was -- as us four were
9 sent as representatives or delegated from our group that we
10 had formed there in Westminster, to see if we could by means
11 of exchanging expressions with the officials of the Board of
12 Education, -- that is why four of us families were sent, and
13 I was chosen head of it.

14 Mr. Ray Atkinson, the first thing, he said that he knew
15 more or less that this thing was going to happen sooner or
16 later, that we were right, and we were asking for something
17 that was justice, and he did not disapprove of what we asked
18 for; in fact, he did not think but simple justice, but that he
19 couldn't do anything because it was a policy of the school
20 Board of Education, and that is why he sent me to Mr. Richard
21 Harris, superintendent of the schools of Westminster.

22 Q Now, what other subject was discussed either by you
23 or by any other representative with you, with Mr. Atkinson,
24 respecting the segregation? Now, this does not have to be
25 limited to your own conversation.

Zv437

1 MR. HOLDEN: I think, your Honor, that some party should
2 be designated as the speaker.

3 THE COURT: Yes. There ought to be some definiteness,
4 so that the other side will be apprised of the matter, if
5 they should want to contravert it.

6 THE WITNESS: Mrs. Pena related her story, she saying
7 she had two sons in the army and saying she thought it wasn't
8 a very democratic way, on the basis of being that her sons
9 were out there fighting for all of us, and therest of her
10 other brothers or cousins were out here being segregated as
11 a class.

12 Mr. Ray Atkinson, on that question, really didn't answer
13 a definite question to either side. He said that he knew and
14 that he could read both stories, but that it was impossible
15 for him to do anything, that the School Board was the only one
16 to decide that question.

17 Q BY MR. MARCUS: And in reply to that did he make
18 any statement with respect to the policy of the School Board
19 on the question of segregation?

20 A He only mentioned that he didn't --

21 MR. HOLDEN: Your Honor, I object.

22 THE COURT: That is a leading question.

23 MR. HOLDEN: And, your Honor, it is hearsay. He is
24 asking what Mr. Atkinson said with respect to the policy of
25 the School Board, and it would be hearsay.

Zv438

1 THE COURT: Have you told us all the conversation, Mr.
2 Mendez?

3 THE WITNESS: Well, the rest of the conversation was one
4 by Mrs. Bermudez, saying that she had lived in San Pedro or
5 Wilmington, either one of those neighboring towns, and that
6 she was not segregated there, and that she wanted her son to
7 have equal rights now that she lived in Westminster; and
8 that she was born here, her husband too, and most all of her
9 children -- I mean, of her relatives, were all fighting out
10 in the European theatre during that time, and that she thought
11 that it was not fair nor just to continue on with that segre-
12 gation there in Westminster, and that is why we went there,
13 to see what advice he would give us.

14 I do not exactly know the words that he answered Mrs.
15 Bermudez, but it all came to the same, and he was the super-
16 intendent of the county schools, but that he himself could not
17 do anything, that we were supposed to interview Mr. Richard
18 Harris, superintendent of schools, and that he would give us
19 some advice as to what to do.

20 Q BY MR. MARCUS: Now, after that meeting did you go
21 to interview Mr. Harris?

22 A We went direct from there to another lawyer. We
23 had already interviewed a lawyer as to what to do, and he was
24 the one who sent us to Mr. Ray Atkinson. And from there we
25 want to his office, and he said, "Well, if Mr. Ray Atkinson

1 advised you that you go to Mr. Harris and explain him your
2 situation, that is all you can do."

3 So that from there we left the same day, in the evening,
4 and we went to the school, and this was still during school
5 hours, and we waited until -- I think it was his secretary
6 that told us to wait, and Mr. Harris, he came in, and he
7 interviewed me and Mrs. Pena, and Mrs. Bermudez, and my wife,
8 and we all more or less told him the same story that we had
9 told Mr. Ray Atkinson.

10 So Mr. Harris said that he, too, couldn't do anything,
11 that he had done enough there in that Hoover School, that he
12 had spent more money in the Hoover School than in the Main
13 School of Westminster, and, furthermore, that a short time
14 ago that they had put up a bond election to build the Main
15 School bigger, in order to make a nice big health room and a
16 big cafeteria, and that by insufficient votes that they had
17 lost. In other words, he was trying to tell us that we all
18 did not vote in favor of that, and that is why they had lost.

19 I said, "Yes, Mr. Harris, but that wouldn't benefit us
20 at all, as to your having a nice cafeteria for you here in
21 the Main School, and a health room, while we over there in
22 our Hoover School have nothing but a small building, and with-
23 out any trees, or benches for my children to come and have
24 their lunch at noon. To the contrary, at noon, when they
25 go out to eat their lunch, they have to sit down on the ground

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1 or on the stairs, and the teachers do not even ask our
2 children to go in the room and eat their lunches, but they
3 stay in the rooms and eat their lunches there. They do not
4 care about our children."

5 MR. HOLDEN: If the court please, I do not like to be
6 objecting here, but I have to find some place here to make a
7 motion. I move that all this testimony be stricken as not
8 responsive. The question was whether he had a conversation
9 with Mr. Harris, and he has been talking along here for some
10 time. The answer could be yes or no.

11 THE COURT: That is true.

12 MR. HOLDEN: And he is talking about a dozen different
13 people. I don't like to keep objecting, but I don't like to
14 have a witness go on the stand and in response to a question
15 that can be answered yes or no make a speech covering the
16 whole Mexican problem. I object, and I move the answer be
17 stricken.

18 THE COURT: Of course, there isn't any jury here to be
19 prejudiced by anything of that kind.

20 MR. HOLDEN: That is right.

21 THE COURT: And it just takes up time, because I think
22 we all know exactly what the next question would be: as to
23 whether or not he did not tell that to Mr. Harris. Appar-
24 ently there would be an affirmative answer. So it simply
25 avoids the two questions by incorporating it in one.

Zv441

1 I think you had better interrogate him, if counsel wants
2 you to do it seriatim. Probably that is his right. I really
3 do not see the efficacy of an objection of that kind where
4 there is no jury to be prejudiced by any such statements.

5 MR. HOLDEN: I wouldn't object to one or two statements,
6 but when he takes in the whole country.

7 THE COURT: I don't think he has done that. He has
8 mentioned four of these Mexican folk who went there together
9 with himself to see Mr. Harris, and Mr. Harris.

10 MR. HOLDEN: Oh, yes. He had a conversation with his
11 attorney in Santa Ana, who advised him.

12 THE COURT: Of course, that doesn't either help or harm
13 the case. He said he went to see a lawyer, and then he went
14 to see Mr. Harris.

15 MR. HOLDEN: My only purpose was to see if it would
16 speed the thing along.

17 THE COURT: It will not speed it at all. It will work
18 the other way, but if you desire it we will have it done
19 that way.

20 MR. HOLDEN: It doesn't make any difference.

21 THE COURT: All right.

22 Q BY MR. MARCUS: Go ahead with the conversation which
23 you had with Mr. Harris at that time. Mr. Harris is the
24 gentleman who testified here prior to you today?

25 A Yes. I know him well.

Zv442

1 Q All right. Go ahead with that conversation.

2 A So I continued --

3 THE COURT: Now, tell what you told Mr. Harris, and what
4 he said to you.

5 THE WITNESS: That is what I told him, yes. And the
6 only thing that he told me before I finished that story was
7 of the bond issues. But after that I done most of the talk-
8 ing. The company that was with me did a little talking, but
9 I was the one that done the most talking.

10 Q BY MR. MARCUS: All right. Now, give the talking.

11 A More than Mr. Harris did. In fact, his answers
12 were only protests.

13 Q Well, give us the answers.

14 THE COURT: What were the answers? What did he say?

15 THE WITNESS: One of the main protests that he put was
16 that most all the Mexican people lived in nothing but shacks,
17 and unsanitary, and that was not sufficient hygienic as to go
18 to the Main School. "How could we send our children, when
19 they were so dirty?" That we should elevate our standard of
20 living up to the standard of living of their race, meaning
21 the Anglo-Saxon race.

22 I told him that that was impossible for all of us to do
23 so, that I lived on a ranch where Japanese people lived, and
24 houses, we all know they compared to the houses where we live,
25 were equal, and they were admitted to go to the Westminster

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1 School. When I came to the part of the Japanese people, he
2 changed the subject.

3 THE COURT: What did he say? You say he changed the
4 subject. What did he say?

5 THE WITNESS: Well, he said that that was an entirely
6 different story, about the Japanese people, that the Mexican
7 people from Westminster could not, in other words, compete
8 in cleanliness with the American or the Anglo-Saxon people.

9 Then one of my -- one of the ladies that went with me
10 interrupted and asked another question to Mr. Harris, saying
11 that --

12 THE COURT: Which one was that, and what did she say?

13 THE WITNESS: Mrs. Pena.

14 THE COURT: Very well.

15 THE WITNESS: She brought again the same story that she
16 told Mr. Atkinson, about her sons being in the United States
17 Army. So Mr. Harris did not pay very much attention to that.

18 So he, too, said he sympathized with her in that matter.
19 But then I interrupted them, and I said that by sympathizing
20 with her in that matter did not do us any good, that we were
21 not -- that the main point was not that we were going to dis-
22 cuss about our children in the armed forces, that the main
23 point was we wanted to see if we could not come to some
24 agreement where we could unite the two schools together. And
25 we said that that would have created -- I can't pronounce that

Zv444

1 word --

2 Q BY MR. MARCUS: Prejudice?

3 A -- prejudice between the Anglo-Saxons and the

4 Mexicans, because some of them would not want their children

5 to be seated near a Mexican boy, on account that some were a

6 little bit dirty. And I told him that we were forming that

7 club in Westminster and trying to do our best to send our

8 children clean to school, and if they were dirty during the

9 time that they would go to this Main School, then he would

10 have a sufficient reason to say so. But he did not say that

11 it was because they could not speak English at that time.

12 Q BY MR. MARCUS: Did he ever make a statement to

13 you at that conference that you had with Mr. Harris, that the

14 reason for the segregation was the inability of the children

15 to understand or speak the English language?

16 MR. HOLDEN: I object to that on the ground it is leading

17 and suggestive.

18 THE COURT: I thought that was just what he said.

19 THE WITNESS: I just finished saying he never mentioned

20 that our children did not speak English, Mr. Marcus.

21 THE COURT: Pardon me. Does it make a matter any

22 more specific or strengthen a matter to ask a question and

23 so elicit it than to have it come out otherwise?

24 MR. MARCUS: No, your Honor.

25 THE COURT: That is exactly what he said.

Zv445

1 Q BY MR. MARCUS: Did you have any further conversa-
2 tion with Mr. Harris at that time?

3 A I met Mr. Harris two years ago. In fact, he went
4 to my house on my ranch in 1943, and to see why I didn't send
5 my children to school.

6 At that time I was a little bit sore, and I didn't want
7 to send my children to the Hoover School, as where I lived
8 there lived nothing but Belgians, who spoke mostly Belgian,
9 and around on the other side of my ranch there lives about
10 50 families and most of them are from Oklahoma and from the
11 east, and my children take the bus, and they, all the rest of
12 the Anglo-Saxon race, and they are living about four or five
13 blocks to the Hoover School, can walk to the Hoover School,
14 and they could very well have gone to the Main School, my
15 children. And sometimes the bus driver would forget to leave
16 my children there at that stop and would go clear over to the
17 Main School, and from the Main School they had to walk about
18 five or six blocks to the Hoover School, whether it was
19 raining or windy, or no matter.

20 Those were the protests that I put to Mr. Harris.

21 Q Now, before you entered your children at the school
22 in the Westminster District, did you have a conference with
23 Mr. Harris respecting their attendance at the Main-Westminster
24 School?

25 A I did not have that conversation before I took my

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1 children to the Hoover School.

2 Q Did you have a conversation with him afterwards?

3 A Afterwards we did.

4 Q When did you have that conversation with him about
5 the attendance at the other school?

6 A That was when he himself went to my ranch.

7 Q Relate that conversation, please.

8 A First he asked me questions about the Mexican
9 people. He told me that he was very well acquainted with the
10 Mexican people, in fact, for many years, and after that --
11 after he talked about the Spanish-speaking people or the
12 Mexican people, he changed the subject, asking me questions
13 about farming. And from there on it seemed like we forgot
14 about the school situation. And he told me to continue send-
15 ing on my children to the Hoover School, as that was his pur-
16 pose for going to my ranch that day. And I did not, in other
17 words, make or coax him to take my children during that year.
18 That was in 1943 until here in '44.

19 That is when we decided to see if we could by some way
20 of talking with each other, that we could unite the schools.
21 That is why we formed this Fathers' Association, and before
22 forming this we interviewed a lawyer, and told him if it would
23 be right.

24 THE COURT: Never mind about the lawyer now. We just
25 want the conversation with Mr. Harris, and that is all.

1 Q BY MR. MARCUS: Now, did you have a conversation
2 in September, 1944, with Mr. Harris respecting your children's
3 attendance at the other school?

4 A More or less, in August. It was more or less be-
5 tween, before the opening of the school season.

6 Q Where did that conversation take place?

7 A At the school building, at the Main School Building.

8 Q Who was present at the time you had this conversa-
9 tion?

10 A That day that we had that conversation there was
11 three other persons from Santa Ana, from the Latin-American
12 League of Voters, Mr. Barrios and Mr. Vega, and Mr. and Mrs.
13 Pena, and Mrs. Mendez, and me, and Mrs. Vidaurri.

14 Q Relate the conversation you had with Mr. Harris now.

15 A That day I asked Mr. Harris, that we were going --
16 that day it was with the School Board of Education; that was
17 the meeting. It was a meeting of the School Board of Educa-
18 tion.

19 Q Was Mr. Harris present at that meeting?

20 A He was present at that meeting.

21 Q Relate the conversation that you had there and tell
22 us with whom you had that conversation.

23 THE COURT: Let's identify who else was there.

24 THE WITNESS: From the School Board of Education?

25 THE COURT: Who was there besides Mr. Harris?

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1 THE WITNESS: Mr. Houlihan, and Mr. Lewis Conrady, just
2 the three of them, and Mr. Harris. Those three.

3 THE COURT: Very well. Proceed with the conversation.

4 THE WITNESS: I asked Mr. Harris, that we were sent from
5 our group that we had formed, and that me, and Mrs. Vidaurri,
6 and Mr. and Mrs. Pena were chosen as representatives or dele-
7 gates to go and interview the School Board of Education, and
8 that our meeting had decided to ask Mr. Barrios and Mr. Vega
9 to come and be present at the School Board of Education from
10 Santa Ana. So they were present there. And the first one to
11 talk, I think, was Mr. Barrios. He thought that it would be
12 a very good idea to have the schools united, that that would
13 create a better democratic way of living among those districts,
14 as being segregated up to that certain extent. And he did
15 not discuss very much about that. Then he changed his subject,
16 that that is why they had formed this Latin-American League
17 of Voters, to see if they could by means of making -- of
18 societies or groups, or farming groups among the Mexican
19 quarters, as we may say, and having interviews with the
20 superintendents, that perhaps that we could come to some under-
21 standing.

22 And I think that Mr. Houlihan was the one who answered
23 Mr. Barrios, and he said that he was very much in sympathy with
24 the way he thought; that he thought that it was a very nice
25 or good way to get at it.

Zv449

1 And Mr. Vega talked after that, and he told Mr. Richard
2 Harris that he thought that the Mexican people were not as,
3 in other words, he put it as he named it, as dumb as lots of
4 people thought they were. He said, "In fact, I have very
5 many friends that I went to high school with who outsmarted
6 the Anglo-Saxon races, and I, myself," he said, "I am of
7 Mexican and Spaniard descent, but I still think that I am not
8 -- I am average," he said, "among any one, and I cannot say
9 it is because I am a Spaniard alone. I also am of Mexican
10 descent, too."

11 THE COURT: Who said that?

12 THE WITNESS: Mr. Vega. So Mr. Richard Harris said that
13 he knew some person or some young boy, too, that he could --
14 that he knew him very well, that was a very smart Mexican
15 boy, and that he thought that Mr. Vega was right in that way.
16 And Mr. Conrady did not have much to say on that meeting.
17 He favored that all of the Mexican children and the Americans
18 should be united.

19 But Mr. Houlihan said that, to the contrary, that perhaps
20 it would have been better if they would start all of the
21 children from the kindergarten in the Main School, and leave
22 all the rest to finish their schooling in the Hoover School,
23 and that is where I objected.

24 I said that in my children, the youngest one had just
25 started school, he would have been segregated for eight years

Zv450

1 until he would be graduated from the eighth grade, and that
2 was what we were fighting for, and we thought that that wasn't
3 right. So that he said that that was just his opinion.

4 Q BY MR. MARCUS: Did you have a conversation about
5 the admission of your children to the other school at that
6 time?

7 A Yes.

8 Q With whom did you talk?

9 A With Mr. Harris. I talked with him by myself one
10 time before we had this meeting, before we had the School
11 Board meeting.

12 Q Relate that conversation, please.

13 A He told me he couldn't do anything, that I was
14 supposed to talk that out with the School Board of Education.

15 Q Tell us what you said, though, first, about your
16 children going to the other school.

17 A To Mr. Harris?

18 Q That is right.

19 A He told me that -- I asked him this question, "Sup-
20 pose I bring my children here at the starting of the school,
21 to enroll my children here in this school. Will that be
22 accepted?"

23 He said, "No, that will not be accepted, not until you
24 have -- until you interview the School Board of Education."

25 Q All right. Now, did you then subsequently interview

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1 the School Board of Education for the purpose of getting your
2 children into the Westminster School?

3 A Yes.

4 Q When did you have that meeting with them?

5 A That same -- no, on this -- I think it was on --

6 THE COURT: Was it the meeting that you just narrated?

7 THE WITNESS: No. That is on another -- that was on the
8 day that they read these minutes here some time ago. On
9 January 16th, was it?

10 THE COURT: Of this year?

11 MR. MARCUS: Is that the time you meant?

12 THE COURT: Was that in this year?

13 THE WITNESS: Yes, of this year. The minutes were read
14 here some time ago. It was during that time. Mr. Youngyoung
15 that was present there, he asked me a question.

16 "Well," he said, "you have your children here on this
17 school now, haven't you?"

18 I said, "No, that is why I come here for. They do not
19 want to accept them here."

20 And at that time I got a little mad, and I was going to
21 leave the meeting there, because I had tried so hard to get
22 my children there, and they wouldn't accept them.

23 Q BY MR. MARCUS: Then what was said?

24 A They said that they couldn't do anything, that the
25 school was overcrowded and couldn't accept my children there.

1 Q How many times had you made an effort to get your
2 children into the other school prior to this occasion?

3 A Before that, none. But after that I continued
4 seeing Mr. Harris. I saw him, I think, approximately two
5 times after that.

6 Q After this occasion in January?

7 A Yes. I came -- I went and asked him why was it that
8 he had admitted other Mexican children there sometime. And
9 he said that he did not know that there was any other Mexicans
10 going in that school.

11 And I asked him, "Well, I know very well," I said,
12 because I have the name here, that she is coming to your
13 school."

14 "Well," he said, "I do not know anything about that,
15 of this." It was Mrs. Alarcon. Her name is written on that
16 paper, where she made the petition.

17 Q Now, when your children first attended the school,
18 the Hoover School, were they able to speak the English language?

19 A Not perfect. They talked both. They talked Spanish
20 and English. But they know, when they ask them their name,
21 they answer their name, their ages, who their father is,
22 where they live.

23 Q Do they carry on a conversation in the English
24 language?

25 A They do.

Zv453

1 Q Now, do they speak the English language since attend-
2 ing school?

3 A Well, more better every time, as they keep on grow-
4 ing a little more.

5 Q And they do understand the English language?

6 A They do understand it.

7 Q And carry on a conversation in the English language?

8 A Up to their -- well, if you ask them questions of
9 government, and things like that, naturally they wouldn't
10 answer questions like that, but any question you ask them
11 about, well, who is your school teacher and things like that,
12 they will answer in English.

13 Q They speak Spanish, too?

14 A Both. They talk both languages about the same, I
15 think.

16 Q Now, did Mr. Harris give your children any tests
17 of any kind at this time that they were admitted into the
18 Hoover School?

19 A No, not that I know of.

20 Q You took them there, did you?

21 A To the Hoover School?

22 Q Yes.

23 A My wife took them to the Hoover School.

24 Q She is here?

25 A She is here.

2v454

1 Q Now, what other conferences or conversations did
2 you have with Mr. Harris or with the School Board with refer-
3 ence to the segregation of the Mexican children in that
4 district?

5 A I went again myself one time after the school
6 season, and asked him that most all of the Mexican people
7 from Westminster there were anxious to know the definite
8 answer about the uniting of the schools.

9 Q Did you get a definite answer?

10 A Not exactly a definite answer. They always said
11 that they were trying to do all they could.

12 Q They were trying to do all they could what?

13 A To work out a way as to uniting the schools, but that
14 they had to go very slow because they would create a race
15 prejudice.

16 Q Who said that?

17 A Mr. Houlihan.

18 Q Did he say anything else about that?

19 A Well, he said that it was because most of the resi-
20 dents there from Westminster were pioneers from Westminster,
21 and lived there a long time, and most of the school trustees
22 that had been there had adopted this policy there, and they
23 were the ones that were against it.

24 Q Was there any further conversation?

25 A One. Mr. Harris, in one of the conversations, he said

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v455

1 that we did not vote on that -- that we did not vote on
2 that school bond election, "and now you come crying to me
3 and want us to accept your children here at the American
4 school." He said, "That is what gets my goat," he said.

5 THE COURT: What did you say to him when he said that?

6 THE WITNESS: I told him that there were a lot of us
7 Spanish boys knew of that voting there, but there had been
8 so many protests during this 15 years that that school was
9 separate there, that a lot of us knew that this was in vain
10 to go and vote to have the Main School be built better, and
11 that that wasn't going to benefit us, we would still be
12 segregated at the Hoover School. Nothing was mentioned that
13 if this bond had gone through that they would have united
14 the two schools.

15 THE COURT: So you didn't vote in the bond election?

16 THE WITNESS: I didn't vote.

17 THE COURT: I mean, the group?

18 THE WITNESS: The group did not vote.

19 THE COURT: And the bond election failed --

20 THE WITNESS: Failed --

21 THE COURT: -- because you didn't have enough votes.

22 Proceed.

23 THE WITNESS: Then I told him that still, regardless of
24 everything, that we were going to insist, either by keep
25 going to the School Board meetings, or if we wouldn't get no

Zv456

1 where by that, that the only thing that was left for us to
2 do would be sue the School Board of Education. In one of
3 those School Board meetings that we had, Mr. Smith was present
4 there, and he said, "I think that will not do any good, if
5 you sue the School Board of Education."

6 Q BY MR. MARCUS: Who is Mr. Smith?

7 A He is a member of the School Board of Education in
8 Westminster. While Mr. Houlihan said, "Well, perhaps that
9 will encourage all the people, meaning the Anglo-Saxon race,
10 to speed this school uniting, to unite the schools." And
11 Mr. Youngyoung, being present at that time, said, "I wouldn't
12 sue the School Board of Education, if I was you."

13 I said, "If you was me, you wouldn't do it? Would you
14 be satisfied to have your children segregated in a different
15 school?"

16 "Well," he said, "I don't think so," he said.

17 "Well," I said, "that is all there is left for us to
18 do."

19 And after that meeting I haven't gone to another School
20 Board of Education meeting.

21 MR. MARCUS: I think that is all at this time.

22 THE COURT: You can cross-examine in the morning, can't
23 you?

24 MR. HOLDEN: I have just one question now.

25 THE COURT: Very well.

Zv457

CROSS EXAMINATION

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BY MR. HOLDEN:

Q Did you know that that bond issue failed by just
36 votes?

A No, I did not.

MR. HOLDEN: That is all. I mean, that is all for
tonight. I may have a couple of questions in the morning.

THE COURT: Tomorrow morning, gentlemen, at 10:00
o'clock.

(Whereupon, at 4:25 o'clock p. m., Monday, July 9,
1945, an adjournment was taken until 10:00 o'clock a. m.,
July 10, 1945.)

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