

MR. BARRETT: I have no further questions.

JUDGE RIVES: That all the questions for the plaintiffs? No further questions for the plaintiffs?

MR. ARONSON: If the court will indulge us for one moment, your honor.

JUDGE RIVES: All right.

MR. GRAY: (Shook head to indicate negative reply)

MR. ARONSON: No further questions, your honor.

JUDGE RIVES: Gentlemen, before we proceed with the defendants, it is now twenty minutes to one; the court will take a recess for lunch for one hour, twenty minutes to two.

(At which time, 12:40 p.m., a recess was had until 1:40 p.m., at which time the trial continued)

JUDGE RIVES: Gentlemen, the defendants may proceed to examine Dr. Meadows.

MR. SMITH: If the court please, in connection with the further examination of the witness, the defendants would respectfully request the court to take judicial notice of Title 52, Section 209, Code of Alabama, 1940; this is the minimum program fund statute. And additionally, we call to the court's attention Act number 243, approved May 4, 1965, Special Session of the Alabama Legislature, which is the Alabama Public School and College Authority Act. If it will be of any assistance to the court, I have pamphlet forms of this later Act.

JUDGE RIVES: We would like to have them; of course,

the court does take judicial notice of all Alabama laws.

MR. SMITH: Yes, sir.

CROSS EXAMINATION:

BY MR. SMITH:

Q Dr. Meadows, since July 13, 1964, or the date of the previous order of this court in the Macon County case --

A (Nodded to indicate affirmative reply)

Q -- have you done anything to interfere with the orders of this court in regard to the Macon County Board of Education?

A No.

Q To your knowledge, has any member of the State Board of Education taken any action which would be tantamount to or would constitute interference with the Macon County Board of Education?

A No.

Q Since this order dated July 13, 1964, to your knowledge, has the Governor of Alabama taken any action that would interfere with the orders of this court relative to the Macon County Board of Education?

A Not that I know of.

Q Have you or any member of the State Board of Education interfered with the order of any United States Court pertaining to any school system in Alabama?

A No.

Q As I understand your previous testimony, on September 7, March 9, and June 6, it could be March 31 of this year --

- A (Nodded to indicate affirmative reply)
- Q --- meetings have been conducted involving the State Superintendent of Education --
- A (Nodded to indicate affirmative reply)
- Q -- the Governor of the State of Alabama, and the local Superintendents of Education that responded to the invitation?
- A Yes.
- Q Were you present at each of these meetings?
- A Yes.
- Q Were other members of the State Board of Education, to your knowledge, present at these meetings?
- A I don't remember, other than the Governor.
- Q Did you or, to your knowledge, the Governor, at any one of these enumerated statewide meetings advocate interference with any order of a United States Court relative to the desegregation of the public schools?
- A No.
- Q You have previously stated, Dr. Meadows, that you did not recall statements made by the Governor at these three meetings; can you give the court the benefit of your recollection as to whether or not Governor Wallace at any one of these meetings made any statement in regard to any order of this or any other United States District Court pertaining to school desegregation?
- A No. No such statement was ever made in my presence.
- Q Did you or, to your knowledge, anyone else present at these

meetings advocate the interference with the orders of this court relative to any local School Board's desegregation?

A No.

Q Did the Governor make statements in regard to the 1966 guidelines?

A Yes.

Q Do you recall the substance of what he said?

A The substance of what the Governor says was that the 1966 guidelines goes beyond the law in Title Six and in Title Four; they extend beyond that law, and goes beyond what the courts have already decided in a decision with reference to any employment practice or with reference to quota or percentage ratio assignment of students.

Q Dr. Meadows, was Mr. John Satterfield present at any one of these meetings?

A Yes.

Q Was he introduced to the group of local Superintendents?

A Yes, sir.

Q Was he identified as a past President of the American Bar Association?

A Yes, sir.

Q And as counsel advising with you and the Governor in the matter of the guidelines?

A Yes, sir.

Q Was or not it explained at the meeting that a suit in the Northern



District of Alabama had been filed which questioned judicially the validity of the 1966 guidelines?

A Yes, I understood that.

Q Now, as State School Superintendent, or as Superintendent of Education, you are a constitutional officer created by the 1901 Constitution of Alabama; is this correct?

A Yes.

Q When does your term of office expire?

A January 15, 1967.

Q In the November elections just past, who was elected to fill the position which you now hold?

A Earnest Stone.

Q And he will assume the duties of this office in January of 1967?

A If he is alive; yes.

Q All right, sir. Dr. Meadows, do you, in your capacity as State Superintendent of Education, from time to time receive inquiries pertaining to the matters of hiring and firing teachers, transportation of pupils, assignment and retransfer of teachers, assignment of pupils, and generally questions relating to various school systems throughout the State?

A Yes.

Q And from time to time, are you directed by the office of the Governor of Alabama to respond to certain inquiries which are made directly to that office in the matters of education?

A I am requested; let's put it that way.

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Q Have you maintained in your office a file of this correspondence?

A For the past two years; yes.

THE CLERK: Defendants' Exhibit number 1 marked for identification.

Q I hand you Defendants' Exhibit 1, which purports to be replies to inquiries commencing in January of 1965 and continuing through the month of November, 1966; for the court can you identify these as your official files?

A They are; yes, sir.

MR. SMITH: We offer Defendants' Exhibit 1.

JUDGE RIVES: They may be received in evidence and so marked.

MR. ARONSON: You got copies?

(Mr. Smith presented Exhibit to Mr. Gray)

Q Is the previous letter that was offered in evidence from the lady, I believe in Tuscaloosa --

A County?

Q -- of the same category that these letters contained in Defendants' Exhibit 1? Some inquiry was made this morning from --

A Yes.

Q -- from a letter that you had responded to?

A That's right.

Q Is this letter contained in this file?

A Yes, sir.

Q All right, sir --

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- A That's right.
- Q -- that is my question?
- A Yes.
- Q So only to that extent would it be a duplication of the evidence that has previously been offered?
- A That's right.
- Q Now, are you aware, Dr. Meadows, that the Lowndes County Board of Education has been under a desegregation order of this court?
- A Yes, sir.
- Q Are you aware that the Bullock County Board of Education is under a desegregation order from this court?
- A Yes, sir.
- Q Can you state to the court the number of school systems which are under court orders in Alabama?
- A I will name some that I think I am sure of.
- Q Well, I really just want your estimate as to the number, if you know?
- A Well, it was Montgomery, of course, and Bullock and Macon County and Lowndes County, and then in Mobile, Alabama, Mobile County and City combined is under a court order, and that is seven, and I understand that -- it is my memory that Huntsville and Madison County are under court orders, but I know that these others that I have named are; now, some have applied for court orders; Jefferson County is under a court order, Birmingham is under a court order, Bessemer is under a court order, and I think

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- A Yes, sir.
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- A Yes, sir.
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- A I will name some that I think I am sure of.
- Q Well, I really just want your estimate as to the number, if you know?
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Fairfield is under a court order.

Q Would the number of fourteen be approximately correct?

A There is that many at least; yes, sir.

Q Have you or, to your knowledge, any member of the State Board of Education interfered in any wise with any order of the United States District Court regarding the desegregation of these school systems that you just mentioned?

A No.

Q Now, Dr. Meadows, did you make a public statement on March 10, 1965, which you transmitted to the United States Office of Education -- I believe at that time a Mr. Francis Kepple was the Commissioner --

MR. SMITH: -- let me have this marked; would you mark this?

THE CLERK: Defendants' Exhibit number 2 for identification.

MR. SMITH: You want to see it?

(Mr. Smith presented Exhibit to Mr. Aronson)

Q I hand you Defendants' Exhibit 2, and ask, first, if you can identify this Exhibit?

A Yes.

Q Is this a transmittal from you in your official capacity as Superintendent of Education of Alabama to Mr. Francis Kepple, United States Commissioner of Education, dated March 12, 1965?

A Yes.

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Q Did you enclose in this transmittal a copy of a press release or actually a printed form from the Alabama Journal dated March 10, 1965?

A Yes.

Q Would you read that to the court, please, sir?

A Which, please, sir?

Q This part starting here, "Meadows tells Board of their responsibility"?

A "According to State School Superintendent Austin R. Meadows, a local School Board can't get by with merely agreeing to abide by the federal anti-discrimination laws; it must make good the pledge. Meadows made that comment in effect to a group of local School Board officials at a meeting here Tuesday. He warned the educators that they must apply the State pupil placement law without discrimination, even if they have signed the anti-discrimination pledge required by the U. S. Department of Health, Education, and Welfare."

Q All right, sir. Did you make this statement to a group of school officials in -- in Montgomery?

A Yes.

MR. SMITH: If I haven't, I offer Defendants' Exhibit

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MR. GRAY: Your honor, we have no objection to the letter; we do object to the newspaper attachment, clippings.

JUDGE RIVES: Is the newspaper attached to the letter?



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MR. SMITH: Yes, sir; it was in the transmittal.

JUDGE RIVES: Objection will be overruled.

Q Dr. Meadows, isn't it a fact that subsequent to the passage of the 1964 Civil Rights Act and its approval on July 2, 1964, that you in your official capacity have encouraged the local Boards of Education within this State to initiate voluntary desegregation plans for their school systems?

A No, sir; I have never encouraged anybody to initiate desegregation plans. I have urged and asked that they not discriminate against any individuals, and if that required desegregation, then they would have to follow desegregation, but only to prevent discrimination has been my recommendation, prior to the Civil Rights Act and the U. S. Office of Education guidelines.

Q Do you know how many school systems in Alabama have in fact initiated voluntary desegregation plans?

A With students, no; I can't give you the exact number; I don't keep up with the exact number.

Q Would the estimate of ninety-four be correct, or incorrect, in your --

A That would be correct; some school systems -- one school system can't have any segregation, Maintain Brook has only one race, so I am informed, so there would be no occasion due to that.

THE CLERK: Defendants' Exhibit number 3 for identification.

Q Dr. Meadows, in January of this year -- excuse me; January of

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1965, did you encourage local Boards of Education to sign compliance form 441?

MR. ARONSON: Object to the form of the question, your honor.

JUDGE RIVES: What is your ground of objection?

MR. ARONSON: Leading the witness; this is a defendant; we called him as an adverse witness, your honor.

JUDGE RIVES: That is correct.

MR. SMITH: Yes, sir.

JUDGE RIVES: He was called as an adverse witness.

MR. SMITH: I don't mean to be leading.

Q Did you or not, in January of 1965, encourage local Boards of Education to sign 441 compliance forms?

A Yes.

Q Where did you make this statement; was it in a meeting of some type?

A Yes, with County and City Superintendents of Education.

Q What is form 441; can you tell me for my information?

A Form 4 -- 441 agrees to -- not to have any discrimination against the pupils because of race, creed, or nationality.

Q Were these the forms promulgated by the U. S. Office of Education immediately after the passage of the 1964 Civil Rights Act?

A Yes.

Q And were they promulgated when Mr. Francis Kepple was United States Commissioner?

- A Yes.
- Q Did you, as State Superintendent of Education, sign compliance form 441 in behalf of the State of Alabama?
- A The equivalent of that; yes.
- Q Did you forward this compliance form to the United States Office of Education?
- A Yes. And I have abided by it a hundred per cent.
- Q Did you present the matter of your signing this compliance form to the State Board of Education?
- A They knew I signed it.
- Q Did you apprise them of the fact before you signed it?
- A Yes, that I would sign it.
- Q Did the Board take any action authorizing you, whether or not it be necessary, that you sign 441?
- A No.
- Q You signed this form, then, in your sole capacity as State Superintendent of Education?
- A Yes, constitutional officer and --
- Q Dr. Meadows, did you encourage the local Boards of Education in Alabama to sign compliance form 441?
- A Yes, if they wanted to.

MR. ARONSON: I object to that.

JUDGE RIVES: Again leading the witness.

MR. SMITH: Judge, I apologize.

- Q Well, let me ask this general question; prior to the promulgation

of 441-B by Mr. Harold Howe, what if anything did you do as State Superintendent of Education in regard to the local Boards of Education signing this form? 441 is the form I have reference to.

A I encouraged them to sign it if they wanted federal funds and forward a copy on to Commissioner Francis Kepple, but it was up to them; if they didn't want federal funds, why, there was no point to them signing it.

Q Dr. Meadows, are you familiar with the Elementary and Secondary Education Act?

A To some extent; yes, sir.

Q And I believe that is referred to more accurately as Public Law 89-10?

A Right.

Q In your opinion, what amounts of money are appropriated to the State of Alabama under Public Law 88 -- excuse me -- 89-10 for the school year 1965?

MR. ARONSON: I object to the form of the question; if he has knowledge, it should so be asked, but not an opinion, your honor.

Q Well, I really want to know, first of all, if you know, and if you know, then I would like for you to state to the court the amount, or the approximate amount?

JUDGE RIVES: Of course, the law will show for itself, but we will overrule the objection.

WITNESS: It is all right.

MR. SMITH: Well, Judge, the law, itself, I think, would be somewhat difficult to --

JUDGE RIVES: Yes, sir; that is correct.

MR. SMITH: -- to determine.

JUDGE RIVES: Just as a matter of convenience, well, if he knows.

A Now, what is the question?

Q Question is, how much money under the Elementary-Secondary Education Act is appropriated to Alabama?

A Under Public Law 89-10, which includes Part One, that goes to elementary and secondary schools, and Part Two for libraries, and then Part Three for special projects, approximately thirty-four million dollars.

Q All right. Since the guidelines were revised, have you, as State Superintendent of Education, encouraged the local Boards of Education to sign compliance form 441-B?

A No, sir; not without a condition on it.

Q What is 441-B?

A 441-B sets forth the -- as I remember it, the whole matter of desegregation of faculty, which is -- the employees, and to a degree to the guidelines which set up percentage and quota assignment of students, which is contrary to the freedom of choice phase that I had approval with with the U. S. Commissioner, Francis Kepple.

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Q Now, let me see if I follow you; you said that in regard to 441-B, you proposed an amendment to that form?

A Two amendments.

Q Were these amendments approved by the U. S. Office of Education?

A I don't know whether they ever approved the school systems that had those amendments in there or not, but I was told by long distance telephone call that a -- a consultant of U. S. Office of Education said that these two amendments in approximately the language would be approved by the U. S. Office of Education; now, whether they spoke with authority or not, nobody knows.

Q To your knowledge, have some of the local Boards of Education signed 441-B with the amendment which you have made reference to?

A Yes; yes.

Q As State school officer, and, of course, your title is State Superintendent of Education, do you receive correspondence from the U. S. Office of Education in the matter of the 1966 guidelines?

A Some; yes.

THE CLERK: Defendants' Exhibit number 4 marked for identification.

MISS FRANKLIN: Your honor, are not all the plaintiffs entitled to see these, the Exhibits which are marked?

JUDGE RIVES: I can't hear you.

MISS FRANKLIN: Are not all the plaintiffs entitled to see the Exhibits which are marked for identification?



JUDGE RIVES: Yes, ma'am; you may step up and see any of them that you like.

Q Dr. Meadows, I show you Defendants' Exhibit 4, which purports to be a letter from the U. S. Office of Education dated May 3, 1965, showing a copy to you; can you identify this letter? I think I can help you (pointed). Does it show that a copy went to you, Dr. Meadows, as State school officer?

A This does; yes.

Q Will you state to the court very quickly the number of states that received copies of this official communication?

A The release says that seventeen southern states received it.

Q All right, sir; and are these states enumerated --

A Yes.

Q -- in this Exhibit?

A Yes.

MR. SMITH: We offer Defendants' Exhibit 4.

JUDGE RIVES: All Exhibits offered may be received in evidence unless there is some objection.

Q Now, Dr. Meadows, I want to direct your attention to the -- to the minimum program fund --

A Yes, sir.

Q -- statute; does your Department have within it a Division of Administration and Finance?

A Yes.

Q Who is the head of this Department?

- A Dr. George Layton, as of today; he resigns effective today.
- Q Is this Division charged with the responsibility of administering minimum program funds to the local schools in Alabama?
- A No; State Superintendent is charged with that responsibility.
- Q Well, then, does this Division assist you in your official capacity --
- A Yes.
- Q -- in administering the funds?
- A Yes.
- Q Is there any discretion in the allocation of funds under this law?
- A No discretion in the calculation of funds that go to the public schools in the minimum program on teacher units or otherwise. There is discretion in the -- in the State program for exceptional classes based on applications of local Superintendents, and upon allocation by the State Superintendent of Education --
- Q All right, sir.
- A -- but not as a regular part of the minimum program for the regular operation of elementary and high schools.
- Q Are there any capital outlay funds under the minimum program statute?
- A Yes, sir.
- Q Are these of major significance, or would you consider them negligible?
- A Only about a million, nine hundred thousand dollars out of a budget last year of a hundred forty-four million dollars.

Q Where does the State Department of Education get its capital outlay funds?

A It gets it from the minimum program, from the educational -- Alabama special educational trust funds, the whole program.

Q I mean where do you get your capital outlay funds?

A The capital outlay funds is a part of the minimum program which you referred to, as a million, nine hundred thousand dollars; the other State capital outlay comes out of bond issue --

Q All right, sir.

A -- or issues.

Q All right, sir; would the bond issue that I have called to the court's attention in Act number 243, entitled the Alabama Public School and College Authority Act, be an example of capital outlay funds in Alabama appropriated by the Legislature?

A Yes.

Q I believe under this particular act --

MR. SMITH: -- Judge, I know I am leading --

Q -- but am I correct that this particular act appropriated a hundred and sixteen million dollars in capital outlay?

A Yes.

Q Now, are these funds distributed to the local Boards of Education?

A Approximately --

Q Wait a minute; excuse me; under any discretion from you or the State Department of Education?

A No.

MR. ARONSON: Again, your honor, objecting to the form of the question.

JUDGE RIVES: Well, I think the objection will probably be overruled; have to move on with it. This is a matter of records; I don't see where they need to that extent to be introduced.

Q How are the capital outlay funds allocated to the local Boards of Education?

A With -- except for some exceptions that are in the bill, the remainder of it is allocated on a teacher unit basis calculated as the other regular teacher units in the minimum program.

Q All right, let me ask this, Doctor; is the exception which you have just made reference to -- I am speaking of Act number 243 --

A Yes.

Q -- the fact that every county in Alabama receives an equal amount of money as a first appropriation from this act?

A Yes.

Q Does that mean, in your opinion, that Montgomery County and Lowndes County receive the same amounts of money for capital outlay funds under this act?

A No.

Q I mean as to the first exception?

A The first flat appropriation; yes.

Q Then the remaining funds are appropriated on what basis?

A Teacher unit basis calculated as a part of the State minimum program.

Q And are the funds apportioned between the City and County Boards of Education on the teacher unit basis?

A Yes.

Q And is that specified in the act?

A Yes.

Q Now, I want to direct your attention to the minimum program fund, that is, Title 52, Section 209; under the minimum program fund administration, do you, as State Superintendent, have any discretion in the allocation of these funds?

A None except that I have specified to you with reference to exceptional teachers and/or because of some unusual attendance situation.

Q Are funds allocated under this statute in Alabama on teacher unit basis?

A Part of them are; teacher salaries are allocated on a teacher unit basis, capital outlay is on a teacher unit basis, other current expenses are on a current teacher unit basis, but school transportation is allocated on a separate formula which takes into consideration the density of population by density groups and the cost of transportation within those density groups.

Q Dr. Meadows, is there any distinction of race --

A No.

Q -- in the appropriation or allocation of these funds?

A No; no.

Q Would the -- would the teacher unit basis of a county that has a

predominantly Negro population receive the same allocation of funds as a county in Alabama that had a predominantly white population?

A If the sizes of schools were the same, it would, but it is calculated on the basis of the size of schools, with a smaller school calculated for eighteen pupils per teacher units and the largest one, now -- now twenty-nine for elementary and twenty-eight for high schools; it might get more if it had more small schools.

Q How does a local Board of Education get its money under the minimum program?

A The money is distributed monthly to the County and City Boards of Education based on their prorata share of the total minimum program money for the whole school system; the State first either borrows from itself or borrows money, and this time -- and last year it borrowed from itself to advance this money out there, but that is all equalized back out, and it is advanced out there based on their needs to meet pay rolls, all the pay rolls for the month ending first September 30 and then through October.

Q Do you have any discretion, Dr. Meadows?

A No, sir.

Q Does the State Department of Education or personnel under your direction audit the local Boards of Education?

A The State Department of Education in local school accounting does



some administrative auditing, but the State Department of Education of Alabama does not do direct auditing of County and City Boards of Education; under the law it could be done, but we have depended upon the examiners of the accounts, of those audits.

Q All right, sir.

A And for the cities, for their own public accountants that they employ to -- to give an audit, and we ask for a report of it.

Q Am I correct that the teacher units are based on average daily pupil attendance?

A Yes, sir; by size of school.

Q Is there any discretion in the allocation of the average daily pupil attendance?

A No, sir. The only -- the only thing that isn't completely set to start off with is the growth of attendance during a current year, and that is equated back as nearly as we can on the basis of the attendance by size of school.

Q Now, Dr. Meadows, if Montgomery County completed its accounting requisition and filed its requisition in your office, would you or anyone under your direction and supervision have any discretion in withholding these minimum program funds?

A No, sir; they don't even have to file a requisition; we don't have any discretion about sending it out; as the money is available up at the State Capitol, it is sent out automatically at near the end of every month, except for this loan situation.

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Q Does a local Board of Education receive a State warrant?

A Yes, sir; custodian of school fund, made out to him.

Q Does the receipt of that warrant depend upon your approval?

A Well, I would have to send it; yes.

Q Would you as State Superintendent of Education have authority or have you ever exercised the authority of withholding funds to a local Board of Education --

A Yes.

Q -- under the -- that program?

A I have the authority -- I have that authority if that local Board of Education does not submit the reports required.

Q Assuming that they submitted all of the accounting requisitions and reporting data, would you, as State Superintendent, have authority to defer the payment of those funds?

A No.

Q Would this same procedure be true in regard to the allocation of capital outlay funds under any statewide bond issue?

A Capital -- no, it would be following the same plan.

Q As a matter of fact, under Act number 243, the allocation of funds, I believe, is a -- is a matter that addresses itself to the Alabama Public School and College Authority; is this correct?

A Yes, but we don't have any choice, either; we have to allocate based on that formula.

Q Now, let me ask you this, Dr. Meadows; suppose Lowndes County desired to build a school building under the funds appropriated

under Act number 243; do you, as State Superintendent of Education, have any discretion or control in the matter of where that building will be located?

A Yes.

Q Would you explain this to the court?

A The State Superintendent certifies to the authority that the proposed school building is located in a school center that is approved by a survey, and that means that it has a chance to remain a permanent center for school children.

Q Suppose --

A It is just a matter of certifying that to the school authority is what I do.

Q Suppose a local Board of Education elected to build a new school in an area of the county that was occupied predominantly by Negro citizens; could you refuse the allocation of these funds, as State Superintendent?

A No, not because they are Negroes; the only way I could refuse to recommend it as a top priority to the Public School and College Authority would be that it -- the proposal is not at a center that is approved by our school survey, which I approve; that is the only control there is.

Q All right; suppose --

A If it is in --

Q -- it is in --

A -- if it is in an approved center, I have got no discretion in it.

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Q Does your Department make the survey of the local school systems in regard to school centers?

A We do from time to time, yes; to the extent the personnel is available to help do it.

Q Have you, as State Superintendent, on the term that you are presently serving, and previous to this term, advocated a consolidation program of the public schools?

A We have been advocating a consolidation of public schools since 1928 through school surveys, and recommended to start with then that no school be less than a three teacher school for six grades, if it was possible to transport the pupils to a school center. Then about, oh -- that was '28, that is nearly forty years ago; about twenty years ago I have directed school surveys, which moved up to a teacher per grade, our minimum recommendation was to have a teacher per grade as the desirable, but we would approve less than that if local justification showed that it could be approved, we would approve one teacher school if it wasn't possible to transport them out of there.

Q Well, then, you are saying that you do have discretion in the matter of the allocation of capital outlay funds --

A No, sir.

Q -- that are not --

A No, sir; we don't have --

Q Wait a minute; wait a minute, Doctor; excuse me a minute --

A Yes.

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- Q Does your Department make the survey of the local school systems in regard to school centers?
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- Q Well, then, you are saying that you do have discretion in the matter of the allocation of capital outlay funds --
- A No, sir.
- Q -- that are not --
- A No, sir; we don't have --
- Q Wait a minute; wait a minute, Doctor; excuse me a minute --
- A Yes.



Q -- let me -- I am slow to ask the question.

A Yeah.

Q In the matter -- in the matter of the appropriation of capital outlay funds for a building that -- that is not an approved center; is this correct?

A We have discretion as to the center, but not as to the allocation of the money.

Q What about the type of building; does the State school architect have any discretion in the approval or disapproval of the plans?

A Not if you have reference to whether it is a frame structure or type of material that is in it, but the State -- the Chief State School Architect makes recommendations with reference to arrangement of rooms, but the local Board do not have to follow that recommendation.

Q Dr. Meadows, have you, as Superintendent, ever told a local Board of Education that they could or could not use capital outlay funds for a particular purpose? You ever disapproved the use of capital outlay funds for a local Board of Education?

A Yes.

Q Would you give some example of this?

A Well, we had -- I had the recent example over in Tuscaloosa County of constructing a school which our survey did not recommend as a permanent center, so I recommended that that not be given a top priority, that they give the others a top priority and withheld it; now, since that time, the local School



Board has questioned our survey findings and cited another survey by the University of Alabama, which I told them wasn't binding on us. I have sent a survey staff into that school and to review that school, and I have that review, but I have taken no further action on it.

Q Well, does the authority have any discretion under this act?

A No, sir; they don't have any discretion to give the priority, as I see it, except to where I have approved it through these surveys.

Q All right. In regard to the trade schools, which inquiry has been made; is there any difference in the operation of one trade school distinguished from another?

A There would be this difference; one trade school might justify trade in an area that another one couldn't, but that would be the only difference.

Q Well, my question is this; would the trade school in Gadsden offer the same course of instruction as, say, the trade school in Montgomery?

A Not necessarily so; one might offer barbering, but there might not be any demand for barbering in the other area.

Q Are the trade schools segregated?

A The trade schools are not by any direction segregated; they operate as schools, and they can accept whatever pupils that they can justify to enter there; there is no restrictions been placed on them.

- Q All right, sir. Dr. Meadows, is it also one of the duties of your office and the State Department of Education, under your direction, to certificate teachers?
- A Yes.
- Q Do you have any discretion in the matter of certificating a teacher?
- A None except for defensive emergency certificates, and then only if the local Superintendent of Education requests that a person be certificated and states that that School Board is not able to get a qualified teacher; that is all I have.
- Q Assume that a teacher applicant is a graduate of Alabama State College in Montgomery, and that another teacher applicant is a graduate of Auburn or the University of Alabama, each holding the same degree; would you or your Department have any discretion as to the type certificate that that particular teacher received?
- A The teacher with a Bachelor's degree would rank a rank two certificate, provided that teacher had followed the educational courses required at each institution for certification, and they are the same; no difference between them whatsoever. Must have twenty-four hours in educational courses, including psychology, which is very valuable, of course.
- Q Is the pay scale of teachers based on the degree that they hold?
- A The State allotment to the local school system is based on the rank of certificate, rank one being a Master's degree, rank two being a Bachelor's degree, and on down the line; no difference in

them whatsoever.

Q What authority do you, as State Superintendent, have in the matter of employing a teacher?

A None.

Q Who has this authority?

A County and City Boards of Education.

Q You mentioned previously this morning --

A Mentioned what?

Q You mentioned this morning, if I remember correctly, that you may have some authority in the matter of firing a teacher, for example, on a morals charge?

A That's right.

Q If that teacher had tenure status, would you have authority to fire the teacher?

A Yes, sir.

Q Who would have the authority as such to fire the teacher?

A The County and City Boards of Education would have the authority to fire the teacher, but they cannot employ a teacher who is not certificated.

Q So then, to this extent, there is some discretion by you in certificating teachers; is that right?

A Except on the -- these defense certificates, and that is by request of the local Superintendents, which I have honored without going back to them, but I don't have any with reference to the Bachelor's degree and Master's degree from any institution if

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they have had the twenty-four hours of regular educational work.

Q Now, I want to direct your attention to Act number 252; it has been referred to as House Bill 446 and been further referred to as the anti-guidelines bill.

A Yes.

Q Are you familiar generally with this Act of the Legislature?

A Yes; to some extent.

Q And I believe you previously said, Dr. Meadows, that you advocated its passage?

A I advocated the passage of this bill as it is, but not of the original bill; I advocated and sent a message to the Senate and to the Governor that the original bill would need to be amended to even be applicable, and it was amended to fit in pretty well with what I recommended, and the Governor approved it.

Q Does this bill apply to elementary and secondary education funds?

A It applies to -- this bill applies to a County Board of Education as to what it does with reference to the commission that is involved in there.

Q Well, if --

A And --

Q -- do you know whether or not --

A -- the only thing it applies to on elementary and high school is that no school system would receive less from federal funds than it received in the fiscal year ending September 30, 1964, which would be primarily federal vocational mon--- money and some Title Three money under the National Defense Act, which is a very small

amount.

- Q Do you know whether or not Act number 252 specifically excludes elementary and education -- elementary and secondary education funds?
- A It excludes everything except what was received prior to 1964 from the federal fund. And, of course, there was no Act 89-10 prior to that time.
- Q Dr. Meadows, does it exclude Title One funds under the 1965 Elementary and Secondary Education Act?
- A Yes.
- Q That is my question?
- A Not included in there.
- Q You answered previously that the functions of your office have changed relatively none, with the exception of administering finances of federal funds; is this correct?
- A Yes, and personnel to do that.
- Q Do you have within the Division of Administration and Finance a person in charge of Title One funds?
- A Primarily, subject to approval of the State Superintendent of Education.
- Q Well, do you have a man that works particularly with Title One funds?
- A Yes.
- Q Is he delegated by you authority to work with the local Boards of Education?



A Well, yes, consult with them; yes.

Q What is his name?

A Boockholdt.

Q To your personal knowledge, has he worked with the local Boards of Education --

A Yes.

Q -- in qualifying them for Title One funds?

A Yes; yes.

Q Has he disseminated information received by your Department from the U. S. Office of Education for the local Boards?

A Yes.

Q And has he been instrumental, in your opinion, in receiving the approval of the U. S. Office of several of the Boards, local Boards, for receipt of Title One funds?

A That is a difficult question. He is a consultant, consults with these local Boards as to how to follow the plan that would meet approval, and to that extent he would be instrumental; but those plans all come to me for approval and signature. He doesn't -- he doesn't have authority to approve any of them; nobody has except the State Superintendent.

Q Dr. Meadows, have any federal funds been deferred by action of the U. S. Commissioner or Office of Education?

A Yes.

Q Have they been deferred in Alabama?

A Yes.



- Q Do you know how many systems have had federal funds deferred by action of the U. S. Office?
- A I couldn't give you the exact number today, because that changes from day to day, and I don't try to memorize them, but no federal funds were ever given to Tarrant City, they didn't apply; to -- none to Mountain Brook, Mountain Brook never did apply for any; and no federal funds were given to Bibb County last year, because Bibb never did, in my judgment, meet the requirements.
- Q All right.
- A And we withheld Wilcox County until right there at the last, and then John Gardner, HEW, overruled the U. S. Commissioner of Education and ruled that Wil--- that Barbour County -- I said Wilcox -- didn't -- he ruled that Barbour County had met enough of the requirements to qualify for funds, so that is why it is not easy to determine what is deferred and what isn't. So I have to constantly study that all the time to make sure that I do comply with the regulation.
- Q Has this division of your office conducted workshops in the matter --
- A Yes.
- Q -- of receiving --
- A Oh, yes.
- Q -- and being eligible --
- A That's right.

Q -- for Title One funds?

A That's right.

Q Now, you were asked previously, Dr. Meadows, if you or the State Department of Education conducted separate institute meetings of teachers for whites and Negro?

A No, I don't.

Q Did you -- does the State Department of Education or you, as Superintendent, have anything to do with institute meetings?

A Oh, yes; we can attend, but we don't direct how they are to be held, and we have got no say-so over it.

Q Who does direct it?

A County and City Superintendents and Boards of Education. Well, let me say this to the court; since your -- your ruling of the 13th, I have never had a segregated meeting of any personnel in our office or whole set up; I have abided by your ruling on that.

MR. SMITH: We have no further questions at this time, if the court please.

MR. SATTERFIELD: May it please the court, we have no questions at this time.

JUDGE RIVES: Any of the other defendants have any questions of Dr. Meadows?

MR. MADISON: Your honor, I would like to present to the court at this time my son-in-law, Martin Ray, from Tuscaloosa, who represents the Tuscaloosa City and County Boards of Education.

JUDGE RIVES: Happy to have you with us.

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JUDGE RIVES: Happy to have you with us.

MR. RAY: I would have two or three questions of this witness, if the court please.

JUDGE RIVES: All right, sir.

BY MR. RAY:

Q Dr. Meadows, do you recall having some telephone conversations with Dr. W. W. Elliott, the County Superintendent in Tuscaloosa County?

A Oh, yes.

Q And do you recall having some of these telephone conversations in September of this year relative to the assignment of some new personnel? By the County Board?

A I don't remember when it was.

Q Do you recall, sir, discussing with Dr. Elliott the possibility of the reassignment of two new teachers, two Negro teachers, that were assigned to white schools by the Board?

A Yes, I discussed that with them as not being required under Title Six of the Civil Rights Act.

Q All right, sir; I will ask you if you recall on one occasion recommending that they be transferred, and then on a subsequent occasion advising that they be reassigned in your conversations with Dr. Elliott?

A That has been my requisition -- recommendation on that in accordance with Title Six of the Civil Rights Act of 1964.

Q And, Dr. Meadows --

A Well, let me say this to the court; that is because of these

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petitions that were coming in from over three thousand or six thousand people asking that something be done about it.

Q Did you have a petition in September, Dr. Meadows, that you relied on?

A What is your question?

Q When did you receive a petition?

A I did not receive a petition; the Superintendent received one, and he told me he did, and the Governor's office received two.

Q Do you recall what month?

A I don't remember what months now they were, but they were near the opening of school when those teachers were assigned, according to my memory.

Q All right, sir; did you have an occasion or recall a conversation with Dr. Elliott around October 17 concerning the possible granting of additional teacher units in Tuscaloosa County System?

A Yes.

Q At that time did you also have a conversation, or during the same day, with Dr. Paul -- Mr. Paul Singleton?

A Yes; it was with reference to that and with reference to meeting with them if they wanted to meet.

Q And did you meet with them?

A Yes.

Q And was that meeting held in Tuscaloosa?

A Yes.

Q And was it held at the County Board office at your request?

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A Yes -- well, I don't necessarily say at my request; I told them I would be glad to meet with them if they wanted to meet.

Q All right; Doctor, did you call Dr. Elliott, or did he call you?

A I called Dr. Elliott.

Q Did you --

A And I called Paul Sterling, both.

Q Paul Singleton?

A Yes, that's right.

Q And was the meeting arranged?

A What did you say?

Q Was the meeting held?

A Yes, I was called back by the secretary and told the meeting would be held and when it was held.

Q All right; I --

A And would be glad for them -- to meet with them.

Q All right; Doctor, I would ask you, Doctor, if you were aware at that time there were actually six instances in the -- in the Tuscaloosa County School System where the teachers who had been assigned were teaching in schools where their race was the minority?

A I don't understand your question.

Q Were you aware that there were four teachers teaching in predominantly Negro schools who were white teachers?

A I was told that there were some there; yes. But I had no petition and no request with reference to those teachers whatsoever from



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A I was told that there were some there; yes. But I had no petition and no request with reference to those teachers whatsoever from

anybody.

Q At the meeting that was held, were you asked if the State would grant not two additional teacher units, but six total teacher units?

A I don't remember being asked that question.

Q All right, sir. Would it be a portion or a part of a policy of nondiscrimination that if students attend -- students attending predominantly white schools who were being taught by a Negro teacher was given the choice of choosing between a Negro teacher and a white teacher, would it not also be a part of nondiscrimination to offer the same choice to Negro students who were attending a school and being taught by a white teacher?

A It was, and that was offered in a general letter to the Superintendent, Woodrow Elliott, and to all Superintendents in the State.

Q That all students --

A Yes, sir.

Q -- would be given that choice, whether they be in predominantly Negro or predominantly white schools?

A That is spelled out in the release that is -- a copy of which is before the court.

MR. RAY: All right, sir. If I may have the court's indulgence for a moment, see if I can find it.

Q Doctor, are you aware how many cross-overs of staff we have in the Tuscaloosa City System?

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A I have not made any special study of the Tuscaloosa City System as such with reference to the total picture.

Q All right, sir. Would it be within your general knowledge that perhaps there are two Negro teachers in predominantly white schools and four white teachers in predominantly Negro schools in Tuscaloosa City?

A No, sir; I am not aware of that, because the Superintendent has certified to me that he has only one in regular classroom work, with a white teacher -- a Negro teacher in a white school recently.

Q All right, sir; and for what did he certify, with regard to number three of your request on -- of October 27?

A Certified that there were three white teachers in -- teaching in Negro schools, but there again, I have not had any report of any petition of anybody with reference to the City assignment of teachers anywhere.

Q All right, sir; you have made no calls to the Superintendent of the Tuscaloosa City System at all?

A I sent a questionnaire to him; yes, sir.

Q That is the only contact you have had with him; is that correct?

A Yes, sir.

Q Dr. Meadows, with regard to the questions concerning the meeting with the Tuscaloosa County Board of Education, I would like to show you a letter dated October 24, and see if you can recognize it, please?

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A Yes.

MR. RAY: All right, sir. Let's -- excuse me -- have this marked for identification.

THE CLERK: Defendants' Exhibit number 5 for identification.

MR. RAY: Thank you.

Q Now, Doctor, on the identified Exhibit number 5, I will ask you if it notes the fact that two additional white teacher units were offered?

A Yes, it says so.

Q And this was the letter directed to the Tuscaloosa County Board of Education?

A Yes. And Superintendent.

Q All right, sir; and do you recall what the date of the release was whereby any student body who was taught by a teacher whose race was in the minority might have a right to choose in that school?

A I do not have that release in my file here.

Q All right.

A It was immediately thereafter.

MR. RAY: May I have this marked, please?

THE CLERK: Defendants' Exhibit number 6.

Q Doctor, I show you Defendants' Exhibit 6 that has been marked for identification, and ask you if you will note what date it bears?

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A October 25.

Q And what date does Exhibit number 5 that has been marked for identification bear?

A October 24.

Q All right, sir; does the release which is the marked Exhibit number 6 countermand the letter directed to the Board?

A No.

MR. SMITH: Excuse me; I won't hold you up.

Q Well, I ask you, is that -- I then ask, as a matter of fact, all that the Tuscaloosa County System has been offered then, factually then, is two additional white teacher units; is that correct, sir?

A They were offered that specifically as a result of the petition, but the general letter states that they could qualify on the others if they requested it.

Q All right, sir. Doctor --

A And provided in carrying out the examples there.

Q Doctor, is -- does your records reflect whether or not the Tuscaloosa City School System is eligible for new projects of federal funds?

A I don't remember it.

Q What about the County?

A I don't remember them just off hand about it.

Q Insofar as you are aware now, Doctor, what is the status of the staff in the Tuscaloosa County System; do they still have the six

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teacher cross-overs?

A Do they have -- still have what?

Q The six teachers who have crossed over, insofar as you know?

A The latest report from Tuscaloosa County shows that they have four whites and two Negroes, six.

Q And what is the date of that report, if you have it there, Doctor?

A Well, that is recently; I don't have the date put down here, but it is a recent questionnaire.

Q Would it be within the last thirty days, in your opinion?

A Yes, sir; definitely within the last thirty days.

Q And would that be some several days after your meeting with the Tuscaloosa County Board?

A Yes.

MR. RAY: I would like to introduce Exhibits 5 and 6.

MR. SMITH: No objection.

MR. SATTERFIELD: No objection.

Q Doctor, insofar as you are aware, has the Tuscaloosa County Board, Dr. Elliott, the Tuscaloosa City Board of Education, or Dr. Nelson changed its plans or taken any action as a result of your suggestions or urgings with regard to the implementation of their desegregation plans?

A I have no notice of any change.

MR. RAY: I believe that's all of this witness.

MR. GRAY: Redirect, your honor?

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JUDGE RIVES: All right, sir.

REDIRECT EXAMINATION:

BY MR. GRAY:

Q Dr. Meadows, I think you testified that you have done nothing at all to interfere with court ordered desegregation of schools --

A That's right.

Q -- in Alabama?

A That's right.

Q Did you understand, sir, this court's order of July 13, 1966, to only be negative?

A I don't know what you mean by negative.

Q I mean do you understand the order as placing no affirmative duties on you, but only the negative duty of not interfering with court integrated or court desegregation?

A The order is that there be no interference with any plan to eliminate nondiscrimination; the order doesn't use the word, "Desegregation" or "Integration," anywhere, and I have followed that order.

Q Now, did you understand that order to be only applicable to court -- schools under court order?

A No, I understood it would be not to interfere with any plan, to not have nondiscrimination anywhere, and I have followed that.

Q Do you understand that order to have placed any affirmative duties upon you as State Superintendent of Education to do any act toward eliminating segregation in the school systems of this

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JUDGE RIVES: All right, sir.

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State?

- A No, not except as it involved discrimination; if it involved discrimination, yes, and that is what I have done.
- Q Now, I think you testified that you encouraged the various local Superintendents to sign the 1955 -- '65 guidelines?
- A If they wanted federal funds only.
- Q Now, did you encourage those same Boards that if they wanted federal funds in 1966, to sign the 1966 guidelines?
- A No, because of the two factors in there of having to do with the placement of teachers, which is in violence to Title Six, in my opinion, and with reference to --

JUDGE RIVES: That is repetitious, Counselor; he has already gone over that.

WITNESS: That's right.

- Q Now, I think you have testified, sir, that with respect to certain funds, State funds, that in some instances you have some discretion and other instances you have no discretion?
- A That's right.

THE CLERK: Plaintiffs' Exhibit number 11 for identification.

- Q Now, earlier I think I asked you about some telegrams that you had sent to various School Boards in which you told those School Boards if they did not respond to your letter of May 24, that it would be necessary to cut off further distribution of their funds; will you look at the copy of what purport to be those

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telegrams with the names of the school systems, and tell us whether or not you sent those telegrams or ordered them sent?

A It doesn't say, "Cut off any further distributions of any funds to your school system."

Q Did you send or have sent these telegrams?

A Yes, because they had not made the reports required by the State Board of Education. And we have always done that; they have to turn in the reports.

MR. GRAY: We offer --

A School Board has to turn in a budget before we allocate money.

MR. GRAY: -- Plaintiffs' Exhibit.

Q Now, the report you are referring to there is what action they had taken with respect to HEW guidelines?

A Well, that's right.

Q The execution of 441-B?

A Yes, sir; that is right.

MR. GRAY: We have no further questions.

JUDGE RIVES: Any further -- any further questions?

Mr. Barrett?

MR. BARRETT: Yes, your honor; a few.

BY MR. BARRETT:

Q Dr. Meadows, you referred to the signing of 441 forms, 441 for the 1965-66 school year, I believe --

A Yes.

Q -- and you testified that you encouraged local Boards to execute

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those forms; is that correct?

A If they wanted to receive federal funds only.

Q I understand.

A Yes.

Q Is it true that a -- a district executing a form 441 for that last school year did so as an alternate to a desegregation plan; is that correct?

A I don't know.

Q Well, are you familiar with the general requirements of the Office of Education for that school year --

A Sixty---

Q -- under Title Six?

A Yes; generally.

Q Are you aware that the ways in which a school district could qualify for continued federal financial assistance was to file a form 441, which was an assurance that there was no discrimination in their programs --

A Yes.

Q -- or, if they could not do that, because they had a dual school system, file a voluntary desegregation plan, or, third, submit a final court order in which -- under which they were operating; are you familiar with that?

A What I worked out with Commissioner Kepple was to allow them to follow the freedom of choice of students basis, and that is the way we operated.



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- Q Dr. Meadows, were you aware that there were those three ways of qualifying for continued federal financial assistance?
- A I was aware that those were stated, but it was not definite as to how much of that would be required or would not be required, and my agreement with Commissioner Kepple in his own office was to allow freedom of choice of students into these schools within reasonable travel distance; that is the basis that I operated.
- Q Dr. Meadows, did you not understand that the execution of a form 441 was an alternate or a substitute for filing a voluntary desegregation plan?
- A My understanding was that when they signed that and said that they would go on freedom of choice basis, that that would be acceptable.
- Q It was not accepted by the Office of Education; is that correct?
- A It was acceptable by the U. S. Office of Education, and Francis Kepple, U. S. Commissioner of Education, agreed to it in his own office in a conference.
- Q Do you know how many school districts in Alabama submitted form 441 for that year and had it accepted by the Office of Education?
- A Most of them did; I don't remember the exact number.
- Q You know -- you say most of them submitted it?
- A Yes.
- Q Do you know how many of them had 4 -- 441 accepted by the office?
- A I don't remember the number off hand now.
- Q Well, isn't it a fact that Cullman City, which had no Negro

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- Q You know -- you say most of them submitted it?
- A Yes.
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- A I don't remember the number off hand now.
- Q Well, isn't it a fact that Cullman City, which had no Negro

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students, was the only one that had a form 441 accepted?

- A No, I wouldn't know that; I told you that we submitted 441, and with the agreement to go on a freedom of choice basis; that was the basis that I operated in 1965.
- Q Well, let me ask you this, Dr. Meadows; was it your recommendation at that time that school districts submit if they wished a form 441 if they wanted federal funds?
- A On the basis of freedom of choice of the students, if they wanted federal funds, unless they were under court order; if they were under court order, abide by the court order.
- Q And it was your suggestion at that time, if they wanted federal money, they file a form 441; is that correct?
- A Yes, on the basis that they would have a freedom of choice for students on it, that would combine together; my recommendation was combined together; and if you ask me a hundred times, the answer is going to be the same.
- Q Was it a part of your suggestion or recommendation at that time that the school districts, in filing a form 441, file with it a voluntary plan for desegregation?
- A My recommendation was as I have repeated, that and nothing more; that if they wanted federal funds, to sign the 441 and state that their plan would be a freedom of choice basis; state the grades they wanted to, but I thought it was better to state the full twelve grades on nondiscrimination basis than it was to pick out some grades, but they, as local school people, would have to

determine whether they could do that or not; they might not have room to do it, and so it would be up to them to make that decision, and that is my recommendation to them.

MR. BARRETT: If the court please, it might be convenient to both the court and counsel to refer to further notebooks we have prepared. These contain what we regard as the pertinent federal statutes, Title Six will recite only one; certain of the State statutes; certain regulations and guidelines of the Department of Health, Education, and Welfare; and certain forms used by that Department in implementing Title Six. With the court's permission, I will --

JUDGE RIVES: All right, sir.

MR. BARRETT: -- distribute it.

JUDGE RIVES: I suppose we take judicial notice, and it is for the convenience of the court, I presume.

MR. BARRETT: Yes, sir; I don't offer these as an Exhibit, but merely for the convenience of the court and counsel. If the court please, I have, also, a tabulation of the status of the various Alabama school districts with respect to compliance with Title Six as shown by the records of the Department of Health, Education, and Welfare; I have handed a copy to at least some of the counsel, and if there is no objection, and for the convenience of both the court and counsel, I will distribute those, also.

JUDGE RIVES: All right, sir. Well, let's go ahead and conclude with the witness.

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JUDGE RIVES: All right, sir. Well, let's go ahead and conclude with the witness.



MR. BARRETT: I will. May I see Defendants' Exhibit number 1, please?

Q Dr. Meadows, calling your attention to Defendants' Exhibit number 1, can you tell me approximately what period of time does this correspondence cover?

A What correspondence are we discussing, please, sir?

Q I am discussing Defendants' Exhibit number 1, which consists of a number of copies of letters which you have identified under questioning by your own counsel as letters from your files?

A Approximately the last year and a half; similar type letters were submitted before to the court.

Q Does it include all of the correspondence for that period?

A Oh, no.

Q Dr. Meadows --

A It does include all the correspondence with reference to this matter of placement of teachers or bus routes that -- that we have for that period.

Q Dr. Meadows, you have testified regarding the computation of the districts' funds under the minimum program fund, or the minimum fund program, whichever it is called; is it correct that the amount due a particular school is computed by dividing the average daily attendance for the preceding year by a divisor; is that correct?

A For a different size school; yes.

Q Is that divisor fixed by statute?



A Fixed by the State Board of Education.

Q And from time to time the divisor has been changed; isn't that correct?

A Not much; the last change was reducing elementary school, for the larger school of average daily attendance of a hundred ninety-five, above, from thirty-one down to twenty-nine, because additional appropriation was made available to make that possible.

Q So the divisor is changed from time to time if necessary?

A If additional funds are provided so they can reduce their teacher units, but that has been the major change over a period of years.

Q And if the divisor is reduced, the number of teacher units increases, and the amount of money going to the school system increases; is that correct?

A Obviously.

Q Is it also a fact that under certain situations the divisor is different for different schools?

A No, sir; they are all uniform for the same size school.

Q But for a different size school, the divisor is different; is that correct?

A That's right.

Q And the State Board determines whether such a difference shall be established and what the difference shall be; is that correct?

A That is already determined; yes, sir; down through the years.

Q Is it one of the purposes in having a larger divisor for

unapproved schools that are of the small size to encourage mergers, consolidation of schools?

A Yes, sir; that is the only purpose.

Q Has the Board on any occasion determined that teacher units should be denied to a particular school for any particular reason; I just don't mean a school, I mean a school system?

A No, sir.

Q Do you recall, Dr. Meadows, a resolution of fairly recent date by which school systems having a school or a class in which absenteeism resulted in less than sixty-six per cent attendance would be denied teacher units?

A There was such a resolution, but it has never been applied.

Q That was adopted by the Board?

A Yeah, but it has never been applied; we have never had a case reported to us to apply it.

Q And that was in exercise of its statutory authority to fix the divisor in the computation of teacher units; is that correct?

A That had nothing to do with the divisor; that dealt with attendance.

Q I stand corrected; I stand corrected. I believe you testified that the amount to which a school system was entitled for transportation of students was also computed under the minimum program fund; is that correct?

A It is computed; yes.

Q On the basis of teacher units; is that correct?

would still be eligible to get the money so they could get satisfactory busses.

Q Doesn't the regulation --

A We have never had a case of refusing any for an unsafe bus that I know of.

MR. BARRETT: May I have Government's Exhibit 127, please? I beg your pardon; we have it.

Q Dr. Meadows, I will hand you Government's Exhibit number 127, which is a copy of certain regulations of the State Board of Education dated in July, 1965, and I will call your attention to Section II of those regulations -- it is Roman II -- titled, "Allotment for School Transportation," and on page four of the regulations, I will ask you to read paragraph two and ask if that refreshes your recollection?

A Section two of page four?

Q Yes, sir?

A "State Superintendent of Education shall have the authority to exclude the attendance of children transported to school centers, which centers are unapproved by surveys conducted by the State Department of Education." But that only gives the authority; I have never exercised that authority.

MR. BARRETT: If the court please, I will ask that this document, which is a copy of a letter from the files of the State of Alabama, Department of Education, dated May 27, 1964, addressed to Mr. C. E. Boozer, Superintendent, Cal--- Calhoun County

Board of Education, and signed by Marvin H. Killingsworth, be marked for identification as a Government Exhibit. It has heretofore been an Exhibit in connection with the deposition of Mr. Boozer and was there marked as number -- Exhibit number 25 to the deposition.

THE CLERK: Government Exhibit number 165.

WITNESS: You want this?

MR. BARRETT: Yes; thank you.

Q Dr. Meadows, I would like to show you Government Exhibit number 165 for identification, and call to your attention -- well, first, let me ask you, does that appear to be a copy of a letter that was sent from your Department?

A I don't know whether it was or not; I didn't sign it.

Q Does that appear to be the letterhead stationery of your Department?

A Yes, it is, definitely.

Q Do you know the man whose name appears as signer of that letter?

A Yes, sir; I know him.

Q Where is he employed?

A State School Architect, State Department of Education.

Q He works for you?

A Yes, sir.

Q I would like to call your attention to the listing in the first page of the letter of certain schools under a heading, "Approved Projects for Calhoun County Board of Education"; would you tell us, please, sir, the significance of approval such as is indicated

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in that document?

A I don't know of any significance; it is not signed by the State Superintendent of Education, and he has no authority to approve centers or not approve them as architect.

Q Is it your testimony, sir, that a letter such as that was without your authority?

A Yes, sir.

Q And was outside the scope of authority of the State Department of Education?

A Outside the scope of authority as delegated by the State Department of Education; yes, sir.

Q I will call your attention to other schools that are listed there under the heading, if I am not mistaken, "Disapproved" -- "Unapproved"?

A Yes.

Q Is it also your testimony that the unapproval indicated in that letter was outside the scope of your Department?

A No, sir; not outside the scope of my Department as State Superintendent, but it was outside the scope of the architect, and I am not sure that is his signature.

Q Would it have been within your authority as Superintendent to either approve or -- or leave unapproved these projects?

A Yes, sir; based on the information I would have available.

Q And what would be the significance of approval?

A The significance of approval in 19--- let's see this back here --

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the significance of approval of a school center would be that the State school funds can be spent on these centers, but not on the other centers, and -- but they could build them with the local money if they wanted to; we have never interfered with them building their school with their local money if they want to, even though -- regardless of where it is; that is --

JUDGE RIVES: Who purports to have signed that letter?

MR. BARRETT: I beg your pardon?

JUDGE RIVES: I say, who purports to have signed the letter?

MR. BARRETT: The letter is signed, "Marvin H. Killingsworth, Jr., School Architect" --

JUDGE RIVES: All right, sir.

MR. BARRETT: -- and it is on the letterhead of the State of Alabama, Department of Education, Montgomery, Alabama.

JUDGE RIVES: As I understand, Dr. Meadows somewhat questioned the signature; has the letter been introduced in evidence heretofore?

MR. BARRETT: Not heretofore; it was an Exhibit to the deposition of the local Superintendent of Schools to whom the letter is addressed.

JUDGE RIVES: That is all right.

Q Dr. Meadows, the requirement for this approval applies to construction projects under the State Bond Act; isn't that true?



- A And under State funds; yes, sir.
- Q And also under the minimum fund program; is that true?
- A Just the capital outlay under the minimum program, which is very small.
- Q Well, the capital outlay is the only portion of the minimum program that could be used for construction; isn't that correct?
- A No, sir.
- Q There are other --
- A Yes.
- Q -- parts of the minimum program?
- A Yes, sir.
- Q What parts are those?
- A Anything except teachers' salaries.
- Q You mean transportation money could be spent for construction?
- A Yes, sir.
- Q Has the Board of Education adopted any regulations in that regard?
- A What Board of Education?
- Q The State Board of Education?
- A No.

MR. BARRETT: No further questions.

WITNESS: Thank you.

JUDGE RIVES: Any of the other plaintiffs have any further questions from Dr. Meadows?

MISS FRANKLIN: No questions.

JUDGE RIVES: Any further questions from the

defendants?

MR. SATTERFIELD: Not at this time.

MR. SMITH: Judge, I have -- pardon me -- I have one question I want to ask.

RECROSS EXAMINATION:

BY MR. SMITH:

- Q Dr. Meadows, is the ratio of teachers to pupils significant, as an educator, in your opinion?
- A What is your question?
- Q Is the ratio of teachers to pupils or pupils to teachers significant, in your opinion as an educator?
- A Yes, sir.
- Q Is this the basis for the change of the divisor on the average daily attendance of pupils in regard to the allocation of minimum program funds?
- A Yes, sir; the teachers reduced from thirty-one down to twenty-eight purely and solely to help decrease that pupil-teacher load; we want to get it down to twenty-five, but we couldn't find enough money to do it; maximum, twenty-five per teacher, elementary and high school, and that is our goal out in the future.
- Q Has the change in the divisor been applied to all systems uniformly?
- A Yes, sir; no difference in it whatsoever.
- Q Now --

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- A And never has been; I have been in the Department of Education since November 18, 1929, except for two years, and there has never been any change in that from one system to another.
- Q Is it one of your duties as State Superintendent, under the statutes, to promote public education in Alabama?
- A Yes, siree.
- Q Why did you interfere with the teacher situation in Tuscaloosa?
- A To try to get a good learning situation over there for those children whose parents were greatly disturbed, and for that reason only, if the occasion arose.
- Q Were you aware of any action that the United States District Courts had taken in regard to teacher integration?
- A Oh, yes; I know that, as far as my record is concerned, that the courts have not decreed that you had to put teachers of one race in a school of another race for '66-67.
- Q Is that your understanding of what the courts had held?
- A Yes, sir; yes, sir.
- Q Were you aware of the systems in Mobile and Montgomery?
- A Yes, sir.
- Q What was your understanding of these two systems in regard to teacher integration?
- A They are not required to place teachers from one school to another of a different race in '66-67.

MR. SMITH: I believe that's all.

MR. GRAY: I just want to offer a couple of other

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documents, your honor.

JUDGE RIVES: You have any further questions for Dr. Meadows?

MR. GRAY: Yes, sir; I have some.

JUDGE RIVES: Mr. Ray wants to ask --

MR. SATTERFIELD: No, I don't want to ask -- I just want to see that.

BY MR. RAY:

Q Dr. Meadows, inasmuch as we have discussed court orders, I will ask if you recall a meeting held on March 31, 1966, in the auditorium in the Department of Education Building, whether or not in addition to discussing guidelines and federal forms that we also discussed a court decision, which was the Montgomery County decision that was in effect as of March 31, '66?

A I don't remember discussing it; it was mentioned in the -- in the hearing.

Q And do -- are you aware as -- in that discussion as to whether or not it made any mention of the desegregation of staff as being a part of the court ordered plan?

A I remember one statement being made with reference to that, but I don't remember who made it or what it was all about.

Q Do you have any opinion as to whether or not that -- the Montgomery court decision did require the desegregation of staff at that time?

A I don't have any comment on that.

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Q You don't know, sir?

A I don't have any comment on it.

MR. RAY: I believe that's all.

JUDGE RIVES: Any other questions by anyone of Dr. Meadows?

THE CLERK: Plaintiffs' Exhibits 12 and 13 for identification.

MR. SMITH: Are these already offered?

MR. GRAY: No, I am about to offer them.

REDIRECT EXAMINATION:

BY MR. GRAY:

Q I show you, sir, Plaintiffs' Exhibit number 12; will you identify it for us, please?

A Yes.

Q What is that?

A That is a letter to the Superintendent of Cleburne County, urging him to put in the condition I mentioned over and over, and it is form 441, same thing that has been repeated over and over and over.

Q Now, you had been forwarded a copy of 441-B form?

A He sent it to me, and he wanted to know what I wanted to do about it, and see, I sent it back to him with that recommendation.

Q And I show you Exhibit 13; did he --

A Yes, he replied back that the amendment had been added; yes, sir.

Q As you requested?

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A Yes, sir; that is in terms of placement of teachers in violation of Title Six and of the quota or percentage basis, in opposition to 441-B, little (b) in parentheses.

MR. GRAY: We offer Exhibits 12 and 13 in evidence.

Q Dr. Meadows, on or about April 8, 1965, did you send a telegram to Mr. KEPPNER saying in effect that the Alabama State Superintendent of Education, as chief constitutional educational officer, had signed every agreement for federal funds for education in this State -- let me just show it to you, and take a look at it?

A What are you talking about?

Q Did you send a telegram to Mr. KEPPNER on or about April 8, 1965?

MR. SMITH: Is he reading from your memorandum?

MR. GRAY: Yes; I am not going to offer it; I am just asking him whether he recalled sending such telegram.

A Yes, it is my memory that I did.

Q Will you read to the court what -- or tell the court in essence what you said in your telegram to him on that day?

JUDGE RIVES: What date is this, now?

MR. GRAY: April 8, 1965.

A April 8, 1965. This is urging Commissioner Kepple to accept my signing of the compliance agreement as a constitutional officer, which he did later accept in the May meeting. "The Alabama State Superintendent of Education as chief constitutional educational



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officer has signed every agreement for federal funds for education in this State without any countersigning or approval of any board, body, or agent since 1917" -- the beginning of your vocational education, you know -- "Your suggestion not to accept my signing Title Six Civil Rights Act State agreement is a complete violation of forty-eight years of practice in Alabama." And he agreed with me in the conference and went on and approved it.

MR. GRAY: We have no further questions.

WITNESS: Thank you.

JUDGE RIVES: Any further questions of Dr. Meadows?

If not, Dr. Meadows, you may come down.

WITNESS: Thank you, Judge.

JUDGE RIVES: Call your next witness.

MR. GRAY: Mrs. Strang, please.

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FLORENCE FOY (MRS. CARL) STRANG, a Defendant, called as witness by the Plaintiffs, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. GRAY:

Q State your name, please, ma'am?

A Florence Foy Strang.

JUDGE RIVES: I didn't get Mrs. --

WITNESS: Florence Foy Strang -- oh, you want Mrs.

Carl Strang; is that what you have?

A Mrs. Carl Strang.

Q And what position, if any, do you have with the Alabama State Board of Education?

A Just a member from the Third Congressional District.

Q Mrs. Strang, are you familiar with the -- this court's order of July 13, 1964, a portion of which enjoins the State Board of Education from failing in the exercise of its control and supervision over the public schools of this State to use such control and supervision in such a manner as to promote and encourage the elimination of racial discrimination in public schools; are you generally familiar with that order?

A Yes, I am.

Q Will you tell the court exactly what you, as a Board member, have done toward eliminating discrimination in the public schools of this State?

MR. SATTERFIELD: If it please the court, we object to questioning members of the Board what members of the Board have done; proof may be made and has been made of what the Board may have done or the executive officer, but if we have evidence from every member of the Board as to what individual members may or may not have done, it will clutter up the record with wholly immaterial matters.

JUDGE RIVES: I think the Board acts as a body; I don't believe you could inquire as to what each individual member of the Board has done.

Q Can you tell us what the Board has done toward eliminating

discrimination in public schools?

MR. SATTERFIELD: May it please the court, the Board acts through its minutes, its official acts.

JUDGE RIVES: Overrule your objection.

MR. SATTERFIELD: Except.

A We feel that the Board has done much in trying to overcome this in that we have tried to raise the standards of education for all children throughout the State without any -- in any way discriminating against them. And our standards -- we have come up enormously, and by that very way, I think we have eliminated discrimination. It is hard to pick one act or one certain thing; it has been the general purpose of the Board working toward that end.

Q Can you tell the court anything other than what you have just said what the Board has done toward eliminating discrimination in public schools in this State?

A That covers everything.

Q Do you know --

A In my estimation, that covers the entire thing.

Q Do you know whether or not the State Board has done anything at all toward eliminating a dual system of education in the State?

A As a Board, no; no separate acts that I can think of; some individual systems have, on their own, done it.

MR. GRAY: I have no further questions.

A With which we have not interfered.

MR. GRAY: No further questions.

JUDGE RIVES: Any other questions by the plaintiffs to Mrs. Strang?

MISS FRANKLIN: No, sir.

MR. REEVES: No, sir.

JUDGE RIVES: Any questions by the defendants? You may come down, Mrs. Strang. Call your next witness.

MR. GRAY: If it please the court, your honors, I think the court has previously entered an order that all of these depositions may be offered in evidence. At this time, the plaintiffs offer in evidence all of the depositions which have been taken in this cause.

MR. SATTERFIELD: May it please the court, the court has entered an order with reference to those taken within one hundred miles of this courthouse. We would like, if we may, in order to expedite the matter, we have been reviewing some that have come in from night to night, has been difficult to take a day in the last few days, have the privilege of filing and bringing and presenting to the court, if desired, objections to the contents of the depositions and any matter which might be of assistance to the court, perfecting the record.

JUDGE RIVES: That will be all right; the depositions will be received subject to such objections as may be filed.

MR. SMITH: Your honor, I wonder if counsel is referring, also, to the depositions taken by the Government?

MR. GRAY: I am referring to all the depositions, the Government's --

MR. SMITH: All; we will assume you join with him in the offer?

MR. BARRETT: We certainly will; we are willing to join now, or will make an offer when we proceed with our case.

JUDGE RIVES: You mean all the depositions taken at the instance of any of the plaintiffs?

MR. GRAY: Yes, sir.

JUDGE RIVES: You offering the depositions taken at the instance of the defendants, also, or are there any depositions taken at the instance of the defendants?

MR. SMITH: Yes, sir.

MR. GRAY: I am not offering any at the instance of the defendants, only the plaintiffs' depositions.

JUDGE RIVES: You are offering all the depositions taken at the instance of the plaintiffs?

MR. GRAY: Of the plaintiffs, and the Government, as well as the --

JUDGE RIVES: Are there any defendants'?

MR. GRAY: -- all the plaintiffs.

JUDGE RIVES: All right, sir; subject to such objections as may be filed, they will be received in evidence.

MR. SMITH: Judge, I believe this may include some depositions that have not yet been transcribed; am I correct in this?



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MR. GRAY: We have one --

MR. REEVES: I might say, speaking for the plaintiffs in 2457, there are two depositions, and I do not know whether they have yet been received by the court, but they were taken of two Commissioners; we have our copies, but I assume the Clerk has filed -- the other copies have been filed, but if not, they are on the way, and we would offer them as well as any other depositions.

MR. SMITH: What are the names of the witnesses?

MR. REEVES: Mr. Adams has that information, two Commissioners.

MR. SMITH: Hugh Lock and Rankin Fite?

MR. GRAY: I think they are here, aren't they?

MR. REEVES: They were deposed over the last three days.

JUDGE RIVES: Are there any objections to the depositions which have not yet been transcribed and filed with the Clerk? I understand there are no objections to the admissibility of the depositions which have been transcribed and filed with the Clerk, but the objections will go to the content of those depositions.

MR. SATTERFIELD: May it please --

JUDGE RIVES: Now, these depositions which have not been transcribed, I don't think the court would admit those unless there are no objections to them. If there are no objections to them, why, we will admit those. It may be it would save time to let them

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go on in; we haven't seen some of them.

MR. SATTERFIELD: May it please the court, we do not object on the ground they have not been transcribed, with the understanding --

JUDGE RIVES: You do not object on that ground?

MR. SATTERFIELD: On that ground, with the understanding they will be transcribed expeditiously and we will receive copies.

JUDGE RIVES: All right, sir.

MR. SATTERFIELD: However, may it please the court, we did intend, in our reservation, in the preparation of written objections, to be privileged to include in the objections any which might go to admissibility of portions thereof or the depositions, themselves, if we find that such objection does exist, we would like to have the privilege of filing that at the proper time and of presenting it if necessary.

JUDGE RIVES: How long do you want to file those objections, Mr. Satterfield?

MR. SATTERFIELD: I would say, may it please the court, certainly in such a way as not to delay the presentation of evidence or to delay the court; if the court should recess within one or two days, we certainly would do it in ample time prior to that time. If this should go over for a longer period of time, which we cannot, of course, tell, we would like to have the time to review these voluminous matters over the week end. We certainly

will not do anything, however, to in any way delay the court.

JUDGE RIVES: Well, I understood they would be filed before the court recessed.

MR. SATTERFIELD: Yes, certainly before the court recesses at this hearing, by all means.

MR. GRAY: Plaintiffs rest.

JUDGE RIVES: Plaintiffs rest?

MR. GRAY: Yes, sir.

MR. REEVES: Your honors, on behalf of the plaintiffs in number 2457-N --

JUDGE RIVES: Can't quite hear you.

MR. REEVES: On behalf of the plaintiffs in number 2457-N, we would like to adopt and incorporate by reference the evidence and Exhibits that have thus far been introduced in this case.

JUDGE RIVES: All right, sir. Anything further from any of the plaintiffs?

MR. BARRETT: Yes, your honor; the Government would like to call Dr. George Layton.

MR. SMITH: Judge, could we confer with counsel one minute in regard to two witnesses whose depositions have been offered and possibly could be excused?

JUDGE RIVES: Yes, sir. You ready to proceed, Mr. Barrett?

MR. BARRETT: Yes, your honor.