IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

UNITED STATES OF AMERICA,	•
Plaintiff,	
v.	CIVIL ACTION
MONTGOMERY COUNTY BOARD OF EDUCATION;) HARCLD M. HARRIS, Chairman, and FRED	
BEAR, H. P. DAWSON, GEORGE A. DOZIER, M. E. GOODWIN, ZAC PERRY and T. O.	
WALKER, Members of the Montgomery County Board of Education; and WALTER T. McKEE, Superintendent of Education	
of Montgomery County,	Management of the state of the
Defendants.))

The United States, as a claim against the Montgomery County Board of Education, Harold M. Harris, Fred Bear, H. P. Dawson, George A. Dozier, W. E. Goodwin, Zac Perry, T. O. Walker and Walter T. McKee, alleges:

1. This is an action to protect the interest of the United States that members and civilian employees of its Armed Forces and its Veterans Administration and their dependents be not unconstitutionally discriminated

against on account of race or color in the use and enjoyment of educational facilities which have been built or are being maintained and operated with the use of funds of the United States under the provisions of P.L. 815 and P.L. 874, 81st Congress (Chapters 13 and 19 of Title 20, U.S.C.), with the resultant detriment to their service and morale.

- 2. This Court has jurisdiction of this action under Sections 1343 and 1345 of Title 28, United States Code.
- 3. The State of Alabama maintains a statewide system of free public schools.
- 4. The Montgomery County Board of Education (hereafter referred to as the Board) is vested under Alabama law with the general administration and supervision of the public schools of Montgomery County. The Board is composed of seven members. Its principal office is in the City of Montgomery.
- 5. Harold M. Harris is Chairman of the Board and Fred Bear, H. P. Dawson, George A. Dozier, W. E. Goodwin, Zac Perry and T. O. Walker are members of the Board. Each resides in Montgomery County, Alabama.
- 6. Walter T. McKee is the Superintendent of Education of Montgomery County and as such is the chief executive officer of the Board. He resides in Montgomery County.
- 7. The plaintiff maintains Maxwell Air Force
 Base and Gunter Air Force Base in Montgomery County,
 Alabama, as parts of its national defense establishment,

and also maintains a Veterans Administration Hospital in Montgomery County, Alabama, for the treatment of veterans of its Armed Services.

8. Maxwell Air Force Base is the home of the Air University, which is the professional education center of the Air Force and is responsible for formulating Air Force doctrine and for conducting research to keep the Air Force abreast of scientific developments and world events, and to apply these developments to airpower. Also, based at Maxwell Air Force Base are the 3800th Air Base Wing, 2047th Airways and Air Communications Services Squadron, Detachment 9 of the 15th Weather Group, Detachment 8 of the Office of Special Investigations, United States Air Force Personnel Development Center, Auditor General, Alabama National Guard Officer Candidate School, Maxwell Squadron Civil Air Patrol and the Headquarters of the 3851st Support Group. Gunter Air Force Base is the home of the 1070th Medical Service Group, the Air University Field Printing Plant, the (Deputy for Gunter) 3800th Air Base Wing, the Extensions Course Institute of the Air University, the Montgomery Air Defense Sector - Air Defense Command, and the United States Air Force Medical Service School Air Training Command. The Veterans Administration Hospital provides general medical and surgical services for veterans of plaintiff's Armed Services and contains facilities for 185 in-patients.

9. Maxwell Air Force Base and Gunter Air Base are located on property owned by the plaintiff adjacent to the City of Montgomery. The Veterans Administration Hospital is located on Perry Hill Road east of the City of Montgomery. Montgomery, located in Montgomery County, has a population of more than 125,000 persons.

personnel stationed at Maxwell Air Force Base and approximately 378 military personnel stationed at Gunter Air Force Base. There are approximately 323 civilians employed by the plaintiff at the Veterans Administration Hospital in Montgomery.

in the construction of 758 family housing units located on Maxwell Air Force Base and Gunter Air Force Base.

These units, which are owned and maintained by the plaintiff, have been constructed so that servicemen who are stationed at these bases may live together with their families. These housing units have been constructed from funds appropriated by Congress for the Department of Defense.

12. There are no educational facilities on Maxwell Air Force Base, Gunter Air Force Base or at the Veterans Administration Hospital available to the school-age dependents of members and civilian employees of the plaintiff's Armed Services and Veterans Administration.

The Board maintains and operates 81 public schools for the education of children residing within the county, including dependents of members and civilian employees of the plaintiff's Armed Services and Veterans Administration. These schools are Bear, Bellinger Hill, Capitol Heights, Catoma, Chilton, Chisholm, Dalraida, Davis, Flowers, Forest Avenue, Goode Street, Harrison, Highland Avenue, Highland Gardens, Johnson, Ledbetter, MacMillan, Maxwell, Morningview, Pine Level, Rives, Spastic Children's School, Billingslea, Booker Washington, Carver, Daisy Lawrence, Fews, Hale, Lomax, McDavid, McIntyre, McLean, Madison Park and Paterson elementary schools: Bellingrath, Cloverdale, Pike Road, Pintlala and Loveless elementary-junior high schools; Baldwin, Capitol Heights, Floyd, Goodwyn, Booker Washington, Carver and Houston Hills junior high schools; Lanier, Lee, Booker Washington and Carver senior high schools; and Montgomery County, Alabama State College Laboratory, Dunbar and Georgia Washington elementary-senior high schools. In addition, the Board maintains 27 small rural schools, as follows: Abraham's Vineyard, Alice White, Arrington, Arthur Cook, Battle, Big Zion, Cecil, Chappell Gray, Dozier, Dutch Gray, G. W. Trenholm, Hill's Chapel, Katie Bowen, Lillian Dabney, Lillian Dungee, McCants, McLemore, Margaret Beard, Mt. Zion Road, Phillips, Pine Grove, Strata, Tankersley, Taylors, Waugh, Woodley and Zion Hill.

- 14. Under the provisions of Chapter 13 of
 Title 20 of the United States Code, the Commissioner
 of Education has approved and the plaintiff has paid to
 the Board during the period from 1951 to the present
 time a total of \$3,576,629 for the maintenance and operation of its schools. These grants were approved and
 the payments made on account of the Board providing
 public education for the dependents of the military
 personnel and civilian employees of the plaintiff, and
 the proceeds have been used by the Board to defray the
 general cost of maintaining and operating its public
 schools. A tabulation of the grants paid and the
 number of dependents on whose account they were paid,
 for each year since 1951, is set forth in Appendix A to
 this complaint.
- Title 20, United States Code, the United States
 Commissioner of Education has approved and the plaintiff
 has paid grants in the total amount of \$3,160,050.00
 during the period from 1950 to the present time for the
 construction and improvement of the schools under the
 operating jurisdiction of the Board. A tabulation of
 the funds paid by the plaintiff to the Board on individual construction projects appears as Appendix B to
 this complaint.
- 16. Lee High School is located at 225 Ann

 Street in Montgomery and had an average daily attendance of approximately 1,374 students during the 1961-62
 school year. Of these students, approximately 284 were

children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.

17. The construction of Lee High School, consisting of twenty-one classrooms, three laboratory rooms, library and workroom, visual education room, kitchen, auditorium-lunchroom, office suite and lobby, storage rooms, toilet and boiler room, was completed on November 15, 1954, at a total cost of \$518,374.97. Of this total cost of construction, the plaintiff has paid \$261,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. An addition to Lee High School, consisting of fifteen classrooms, art room, two commercial rooms, two homemaking laboratories, two industrial art rooms, glee club room, orchestra room, band room, photo room, three music practice rooms, auditorium-gymnasium, locker rooms, office, teachers rooms, auxiliary facilities and equipment, was completed on October 12, 1955, at a total cost of \$546,067.00. Of this total cost of construction, the plaintiff has paid \$546,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

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- 18. Capitol Heights Junior High School is located at 116 Federal Drive in Montgomery and had an average daily attendance of approximately 1,100 students during the 1961-62 school year. Of these students, approximately 229 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.
- High School, consisting of eight classrooms, cooking laboratory, sewing laboratory, two science laboratories, combination library and lunchroom, kitchen facilities, storerooms, stairs and locker rooms, and toilets, was completed on December 21, 1953, at a total cost of \$234,726.84. Of this total cost of construction, the plaintiff has paid \$182,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.
- 20. Morningview Elementary School is located at 2849 Pelzer Avenue in Montgomery and had an average daily attendance of approximately 670 students during the 1961-62 school year. Of these students, approximately 219 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.

- 21. An addition to Morningview Elementary School, consisting of five classrooms and storage room, was completed on August 27, 1953, at a total cost of \$57,091.93. Of this total cost of construction, the plaintiff has paid \$39,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.
- 22. Paterson Elementary School is located at 1015 East Jefferson Street in Montgomery and had an average daily attendance of approximately 768 students during the 1961-62 school year. Of these students, approximately 50 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.
- School, consisting of twelve classrooms, multi-purpose room with stage and kitchen, offices, clinic, teachers' lounge, storage rooms, boiler room and toilet facilities, was completed on December 21, 1953, at a total cost of \$227,527.63. Of this total cost of construction, the plaintiff has paid \$182,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

- 24. Harrison Elementary School is located at 164 South Boulevard, East, in Montgomery and had an average daily attendance of approximately 730 students during the 1961-62 school year. Of these students, approximately 301 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.
- School, consisting of twenty classrooms, two book rooms, clinic, lobby and office suite, kitchen, combination lunchroom-auditorium, toilets, teachers' lounge and boiler room, was completed on March 9, 1954, at a total cost of \$331,828.88. Of this total cost of construction, the plaintiff has paid \$296,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.
- 26. Bellingrath Elementary-Junior High
 School is located at 3488 South Court Street in
 Montgomery and had an average daily attendance of
 approximately 1,296 students during the 1961-62 school
 year. Of these students, approximately 436 were
 children of military and civilian personnel stationed
 or employeed at Maxwell Air Force Base, Gunter Air
 Force Base, the Veterans Administration Hospital or
 other installations of the plaintiff.

Junior High School, consisting of fifteen classrooms, library and workroom, clothing laboratory, food laboratory, industrial arts shop and storage room, science laboratory and storage room, four general storage rooms, boiler room, enlargement of existing lunchroom-auditorium and auxiliary facilities, was completed on September 14, 1955, at a total cost of \$309,199.47.

Of this total cost of construction, the plaintiff has paid \$241,050,00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

28. McDavid Elementary School is located at 1324 Hardaway Street in Montgomery and had an average daily attendance of approximately 720 students during the 1961-62 school year. Of these students, approximately 57 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.

29. The construction of McDavid Elementary School, consisting of twenty-one classrooms, administrative suite, multi-purpose room with stage, kitchen, teachers room, boiler room and auxiliary facilities, was completed on July 23, 1956, at a total cost of \$310,311.00. Of this total cost of construction, the

plaintiff has paid \$276,300.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

- at 201 Pendar Street in Montgomery, at the southeast corner of Maxwell Air Force Base, and had an
 average daily attendance of approximately 682 students during the 1961-62 school year. Of these students, approximately 649 were children of military
 and civilian personnel stationed or employed at
 Maxwell Air Force Base, Gunter Air Force Base, the
 Veterans Administration Hospital or other installations of the plaintiff.
- School, consisting of twenty regular classrooms, lunchroom-auditorium with stage, kitchen with service rooms, office suite including vault and clinic, general storage room and teachers room, boiler room and auxiliary rooms, was completed on August 17, 1956, at a total cost of \$310,896.00. Of this total cost of construction, the plaintiff has paid \$276,300.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

- 2525 Churchill Drive in Montgomery and had an average daily attendance of approximately 494 students during the 1961-62 school year. Of these students, approximately 97 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.
- School, consisting of sixteen classrooms, book room (classroom size), book storage, teachers room, office suite, clinic, multi-purpose room with stage, kitchen, boiler room and auxiliary facilities, was completed on August 29, 1956, at a total cost of \$283,311.00. Of this total cost of construction, the plaintiff has paid \$225,450.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.
- 34. Goodwyn Junior High School is located on Perry Hill Road in Montgomery and had an average daily attendance of approximately 901 students during the 1961-62 school year. Of these students, approximately 246 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.

35. The construction of Goodwyn Junior High School, consisting of eleven classrooms, separate boys and girls physical education classrooms. including storage areas, band classroom and instrument storage room, two science classrooms with adjoining storage room, industrial arts room and storage room, library with workroom, food laboratory room, home economics clothing room, administrative suite including clinic, teachers 1 lounge, office areas, cafetorium with stage and including kitchen and service areas, boys and girls toilets, boiler room, site improvements and auxiliary facilities, was completed on June 25, 1958, at a total cost of \$392,535.85. Of this total cost of construction, the plaintiff has paid \$350,000.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

at 1210 Hugh Street in Montgomery and had an average daily attendance of approximately 802 students during the 1961-62 school year. Of these students, approximately 50 were children of military and civilian personnel stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital or other installations of the plaintiff.

37. The construction of McIntyre Elementary School, consisting of twenty-two classrooms, lobby and administrative suite with clinic, teachers room,

boiler room, auditorium-cafeteria with stage, kitchen with serving area and service rooms, storage rooms, toilets and auxiliary facilities, was completed on August 15, 1958, at a total cost of \$334,904.00. Of this total cost of construction, the plaintiff has paid \$284,950.00 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

cations for a grant under Chapter 19 of Title 20,
United States Code, as referred to in paragraphs 15,
17, 19, 21, 23, 25, 27, 29, 31, 33, 35 and 37, the Board
gave written assurance, as required by 20 U.S.C. 636,
that the school facilities of the Board "will be
available to the children for whose education contributions are provided ... on the same terms, in
accordance with the laws of the state in which applicant is situated, as they are available to other
children in applicant's school district."

and civilian employees of the plaintiff stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital and other installations of the plaintiff, in Montgomery County, include persons of both the white and Negro races. The school-age dependents of such personnel and employees include children of both the white and Negro races.

- 40. It is the policy and practice of the defendants, in operating the public schools under their jurisdiction, to segregate Negro students in separate schools maintained and operated solely for students who are of the Negro race.
- The defendants have operated and are presently operating Bear, Bellinger Hill, Capitol Heights, Catoma, Chilton, Chisholm, Dalraida, Davis, Flowers, Forest Avenue, Goode Street, Harrison, Highland Avenue, Highland Gardens, Johnson, Ledbetter, MacMillan, Maxwell, Morningview, Pine Level, Spastic Children's School and Rives elementary schools; Bellingrath, Cloverdale, Pike Road and Pintlala elementary-junior high schools; Baldwin, Capitol Heights, Floyd and Goodwyn junior high schools; Lanier and Lee senior high schools and Montgomery County elementary-high school for the education of white children exclusively. The defendants have operated and are presently operating Billingslea, Booker Washington, Carver, Daisy Lawrence, Fews, Hale, Lomax, McDavid, McIntyre, McLean, Madison Park and Paterson elementary schools; Loveless elementary-junior high school; Booker Washington, Carver and Houston Hills junior high schools; Booker Washington and Carver senior high schools; Alabama State College Laboratory, Dunbar and Georgia Washington elementary-senior high schools, and the 27 small rural schools referred to in paragraph 13 for the education of Negro children exclusively.

- 42. By reason of the policy and practice of the defendants to assign students to schools according to their race, all Negro school-age dependents of military personnel and civilian employees of the plaintiff stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital and other installations of the plaintiff and residing within Montgomery County, are compelled to attend schools operated exclusively for members of the Negro race and are not permitted to attend schools available to white children similarly situated.
- of assigning students to schools according to their race, the defendants assign Negro school-age dependents of military personnel and civilian employees of the plaintiff, stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital and other installations of the plaintiff within Montgomery County, to schools further from their residences than other schools operated by the defendants for the education of white children exclusively.
- 44. Approximately 7,015 children of military personnel and civilians stationed or employed at Maxwell Air Force Base, Gunter Air Force Base, the Veterans Administration Hospital and other installations operated by the plaintiff, attended the public

schools operated by the Board during the 1961-62 school year and the majority of them will be returning for the 1962-63 school year. Of these children, approximately 1,078 are Negroes.

- 45. The defendants have failed and are now failing to make the public school facilities under their jurisdiction available to Negro dependents of military personnel and civilian employees of the plaintiff upon the same terms as such facilities are available to white children.
- 46. The acts and conduct of the defendants herein alleged violate the Fourteenth Amendment to the Constitution.
- 47. The defendants will, unless restrained by order of this Court, continue unconstitutionally to segregate dependents of military personnel and civilian employees of the plaintiff according to race in the public schools operated by the defendants, thereby causing irreparable injury to the plaintiff, consisting of impairment of the service and morale of its military and civilian personnel and the separation of servicemen from their families when the servicemen send their children to schools outside the area of the military installation at which they are stationed in order to avoid subjecting the children to racial discrimination in the children's education.
- 48. The plaintiff has no adequate remedy at law.

wherefore, plaintiff prays that this Court enter an order enjoining the defendants, their successors in office, agents, employees, and all persons in active concert or participation with them, from segregating or discriminating against, among or between, upon the basis of their race or color, any dependents of military personnel or civilian employees of the plaintiff in the operation of public schools, together with such additional relief as may be appropriate.

UNITED STATES OF AMERICA, Plaintiff,

By:

ROBERT F. KENNEDY Attorney General

BURKE MARSHALL
Assistant Attorney General

BEN HARDEMAN United States Attorney

ST. JOHN BARRETT, Attorney Department of Justice

DAVID H. MARLIN, Attorney Department of Justice

- - Appendix A -

FEDERAL PAYMENTS MADE TO MONTGOMERY COUNTY BOARD OF EDUCATION, MONTGOMERY, ALABAMA FOR CURRENT OPERATING EXPENSES OF SCHOOLS UNDER PUBLIC LAW 874 AND THE NUMBER OF FEDERALLY CONNECTED CHILDREN BY CATEGORY COUNTED FOR PAYMENT FOR FISCAL YEARS 1951 THROUGH 1962

iscal ear	No. of Children Counted for Payment "A" Category 1/	"B" Category 2/	"E" Category <u>3</u> /	Federal Payment
(1)	(2)	(3)	(4)	(5)
1951		1,726	164	\$ 20,521 <u>4</u> /
1952		2,000	274	83,868
195 3	and the resp. 466	2,505	505	120,807
1954	~ ~ ~ ~	3,178	6 73	161,260
1955		3,178	The last page	105,709 5/
1956	5 43	3,398		154,115
1957	ert was but Will	5,540	·	377,994
1958		5,296		401,039
.959	737	4,537	No. of	455,182
1960	730	4,720	MD may to	504,380
.961	89 <u>4</u>	4,887	s a mer ann	566,674
.962	987	4,931	a an e	625,080
Tot	tal 3,891	45,946	1,616	3,576,629

^{1/} Children who live on Federal property with a parent employed on Federal property (or in the Uniformed Services)

^{2/} Children who live on Federal property or with a parent employed on Federal property, but not both.

3/ Children for whom 3(A) or 3 (b) entitlement was increased by the amount of State aid for which the school district was not yet eligible (state aid lag). This provision was eliminated by Public Law 248, effective July 1, 1954.

^{2/} Prorated at 96 percent.

^{5/} Prorated at 99.5 percent.

- Appendix B -

School Construction Projects Approved under Public Law 815 for Montgomery County Board of Education, Alabama, Including Application Periods, Project Numbers, Dates of Project Approval, Federal and Local Funds Expended and Total Project Costs for the Period Fiscal 1951 Through 1961

Application	Froject	Date Project	Federal	Local	Total
Period	Number	Approved	Funds	Funds	Cost
(1)	(2)	(3)	(4)	(5)	(6)
1950-52	51-C-2A	November 24, 1952	\$261,000.00	\$257,374.97	\$513,374.97
1950-52	51-C-2B	November 24, 1952	182,000.00	5 2,72 6.84	234,726.84
1950-52	51-C-2C	October 30, 1952	39,000.00	18,091.93	57,091.93
1950-52	51-C-2D	December 2, 1952	182,000.00	45,527.63	227,527.63
1950-52	52-C-2E	November 13, 1952	296,000.00	35,828.88	331,823.88
1952-54	54-C-2AA	August 11, 1954	546,000.00	67.00	546,067.00
1952-54	54-C-2BB	August 11, 1954	241,050.00	63,149.47	309,199.47
1954-56	56- C-2A 6	June 15, 1955	276,300.00	34,011.00	310,311.00
1954-56	56 - C - 2B5	August 3, 1955	276,300.00	34,596.00	310,896.00
1954-56	56-C-2C6	August 26, 1955	225,450.00	57,861.00	283,311.00
1956-58	53-C-2A8	April 25, 1957	350,000.00	42,535,35	392,535.85
1956-58	58-C-2B8	July 5, 1957	284,950.00	49,954.00	334,904.00
Totals	3	The second secon	\$3,160,050.00	\$696,724.57	\$3,856,774.57