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Ross v. Eckels

In July 1967, the Department of Justice intervened in a federal court suit involving the desegregation of the Houston public schools, Ross v. Eckels. The parties then submitted proposed decrees for the court to enter, the attorneys had a conference with the judge and on September 5, 1967, the judge entered an order to bring the school district into accord with United States v. Jefferson County Board of Education.

In the course of the conferences with the judge much of the discussion centered on the school transportation system established by the school board. The Houston Independent School District has about 260,000 children. It occupies an area of some 300 square miles and the public transportation system is, in many respects, inadequate. Accordingly, the school bus transportation system is of particular importance for secondary school children, in determining what schools they will attend. In the order of September 5, the judge laid down some very general principles regarding the operation of the school bus transportation system; the order requires that the bus transportation system be organized to serve a unitary, nonracial method of student assignment.

The attorney for the school board has represented the school transportation system, following certain modifications made shortly before entry of the order, satisfied the standard established in

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Trial File (Western Sec.)

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the court order for school transportation. We have very grave doubts as to the permissibility of the bus routes and that we would like to analyze the system at more length and on the basis of more information than we had available prior to the entry of the order. At the conclusion of the conferences with the judge, I stated that the Department would study the bus transportation system in order to determine whether the system contributed towards the perpetuation of the dual school system. I also said that we would initially present the results of such a study to the defendants in order to have them take voluntary action, but that if the defendants failed to make changes in accordance with those recommendations then we would have to present the matter to the court for the entry of a further order.

In light of these developments, it is my plan to undertake a very extensive and detailed study of the Houston bus transportation system and to ascertain the extent to which it contributes towards the perpetuation of the dual school system based on race. This would be the first study of this type involving a large urban school system, and hopefully it could be used as a model in other urban school cases. The plan is to submit a report to the school board within a month's time and thereafter to present the matter to the court, if necessary.

In approaching this task, it seemed necessary to me to obtain the assistance of some outside experts on designing and analyzing transportation systems. Such an expert could guide us in making analyses of a system; make recommendations on how a nonracial school bus transportation system would look in Houston, and if a further court hearing were necessary, testify on behalf of the Government. I, therefore, contacted the office of Mr. Charles Hear, Assistant Secretary for Metropolitan Development and Transportation, of

the Department of Housing and Urban Development, and there spoke to a Mr. John McCausland, inquiring as to whether such experts were available at HUD. He said that they were not but he gave me the names of several outside consulting firms that do projects similar to this. I also spoke to Mrs. Ruby Martin in the Office of Civil Rights in the Department of Health, Education and Welfare, and inquired as to what experts might be available there. She said that there was no one at HEW that could provide the type of assistance we wanted.

On Monday, September 11, 1967, I spoke with representatives of firms that HUD said were experienced in this area -- Wilbur Smith and Associates and Harlan Bartholomew and Associates. These meetings were of a preliminary nature. I wanted to find out exactly what kind of assistance they could give us in this litigation and at the same time make some estimate of the feasibility of engaging them. I inquired about their usual fees in this matter and they spoke of several ways of computing it. One way was to establish a fixed fee for the entire project which, in this instance, might be difficult in light of the great uncertainty as to the amount of work involved. Another method which they described was to use the salary of the employees involved as a base and establish some multiplier to take care of overhead and profit. They said this is the method they usually use in their contracts with the Department of Commerce and the Department of Housing and Urban Development. A third method also discussed was to establish a per diem rate, depending on the level of the person used. In each instance, it appeared that it would be necessary to engage the firm itself rather than some specific individual and that the individual we wanted would be assigned by the firm to work on this case. For your information, I am attaching a brochure for one of the firms.

We are interested in the services that might be available by the Wilbur Smith and Associates firm and accordingly, on Wednesday at 2:30pm, I plan to have another meeting with them to discuss the project and the problems of establishing forms of compensation. It is extremely important that if we get this expert assistance, we do so at the very outset of the project which must, if it is going to be of any use in the litigation, be commenced during the week of September 18th.