

**PART TWO**

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IN THE  
**United States Court of Appeals**  
FOR THE FIFTH CIRCUIT

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NO. 23982

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UNITED STATES OF AMERICA, ET AL,  
Appellants,

versus

WILCOX COUNTY BOARD OF EDUCATION, ET AL,  
Appellees.

-----  
Appeals from the United States District Court for the  
Southern District of Alabama.

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RECORD ON APPEAL  
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U.S. COURT OF APPEALS  
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U.S. DISTRICT COURT  
SOU. DIST. ALA.  
FILED IN CLERK'S OFFICE  
FEB 27 1967  
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(Caption Omitted)

\* \* \* \* \*

This cause coming on to be heard before the Honorable Daniel H. Thomas, United States District Judge, on the 23rd, 24th, 27th and 28th days of June, 1966, the same being four of the trial days of the said Court, beginning at approximately 10:00 o'clock A.M., without a jury, the following testimony was offered and proceedings had:

(1) \* \* \* \* \*

## APPEARANCES

## For Plaintiff:

Mr. Charles M. Quaintance,  
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Civil Rights Division

Mr. Alexander C. Ross,  
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Civil Rights Division

## For Defendants:

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Mr. Gordon Madison, Assistant Attorney  
General of the State of Alabama, appear-  
ing on behalf of A. R. Meadows and the  
State Board of Education of Alabama.

Mr. Leon Sadler,  
Camden, Alabama

## For Plaintiff-Intervenors:

Mr. Orzell Billingsley and  
Mr. Peter A. Hall  
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(6-A) \* \* \* \* \*

THE COURT: Civil Action 3934, United States versus Wilcox County Board of Education and others. What says the Plaintiffs?

MR. QUAINANCE: The Plaintiff is ready, your Honor.

MR. BILLINGSLEY: Ready, your Honor.

MR. HALL: Ready, your Honor.

MR. PITTS: Ready, your Honor.

MR. MADISON: We are ready, your Honor.

THE COURT: You may proceed. Take up all outstanding motions first.

MR. PITTS: Judge, we have, I believe if I am correct, a motion. The motion we have pending is a motion to quash the service of a subpoena Duces Tecum to Mr. Guy S. Kelly, to bring certain records. Then we have another subpoena that was served on Mr. Kelly yesterday morning

which I have not had an opportunity to prepare a motion to quash the service of that subpoena, but it will be the same as the one we have on file here now. Also, we didn't have adequate time to get this material together. However, there is one item in there that he asked for which was a letter written by Mr. Kelly to the Mobile Press Register and we do have a copy of that letter, and, of course, we will be willing to furnish a copy of that letter.

(7) Now, your order of April 7, 1966, on the motion to produce, granted certain things and then they denied certain of ours. We contend, in this subpoena Duces Tecum, that the Government has asked for the same material that you denied in your motion to produce or in your order on the motion to produce and we say it is incompetent, irrelevant and immaterial and we should not be required to produce that material. One of which is the minutes of the Wilcox County Board of Education which we have argued in the United States Supreme Court.

THE COURT: My thought on this is the motion to produce was argued and I ruled on it. I'm going to stand on my ruling. Whatever was produced and photostated, the authenticity of it should not be questioned, and the photostats should be sufficient, but the matters that I ruled on, when I heard the motion—what is it, Rule 37, isn't it, to produce? My ruling on that motion—I considered it then and I thought my ruling was right. I am going to stick by that and I think those matters should be produced, but in the alternative, the photostats or the pictures which the F.B.I. took should be sufficient.

MR. PITTS: Now, we have, Judge, here in Court, the material that you granted on the motion to produce.

THE COURT: Well, if you have it here.

MR. PITTS: We have the original, period.

(8) THE COURT: All right.

MR. PITTS: We have a—except we do not have the minutes and the stuff which you denied.

THE COURT: Well, I'm going to affirm the same ruling. You do have that material here?

MR. PITTS: Yes, sir.

THE COURT: All right.

MR. PITTS: Now, according to my records, and I would like to ask the Court, we have no other pending motions. The other pleadings in the case, as far as the Intervenor are concerned, were such as a matter of defense and an answer.

THE COURT: Now, on this matter of the subpoena Duces Tecum served yesterday, I am of the opinion, that items one, two, three and five should be produced if the Defendants have had sufficient time to produce them. If you haven't, the subpoena was entirely too late and I would give you certainly sufficient time to produce them. I don't think item four—it seems to me item four would be quite voluminous and burdensome and I am not going to require that they produce it.

Mr. Pitts, there was a motion to dismiss the matter sometime back, and if it has not been ruled on, that motion should be denied.

MR. PITTS: I was under the impression that we had already (9) argued that motion to dismiss down in Court in Mobile.

THE COURT: I think it should be denied if it has not been formally done so. As yet—Well, I will so rule now.

MR. PITTS: Well, in view of the Henderson case tried before the Court of Appeals, it looks like the motion to dismiss is not good except for jurisdiction.

THE COURT: All right. Are there any other motions?

MR. PITTS: Would you mind telling me again . . .

THE COURT: I think under the subpoena Duces Tecum that was served yesterday, I think I said one, two, three and five should be produced and if you haven't had sufficient time, I will give you sufficient time. If you don't have any of them, you don't have them. That is it, but if you do then produce them.

MR. PITTS: Judge, we want to be fair with the Court in every way. I think we can produce those. It will take us just a few minutes to go through some files.

THE COURT: I mean, you can produce them next week, if you want to.

All right. Any other motions?

MR. QUAINANCE: Your Honor, I would like for the record to show that on items numbered eight on our Rule 34 motion, we asked for an inventory. Your Honor had denied our Rule 34 motion to produce and the only ob-

(10) jecton defense  
had—I can represent to the Court that the Defendants do have such an inventory.

THE COURT: I have already ruled.

MR. HALL: May it please the Court—I believe we are going to enter into some stipulations. Should we deal with those matters now? Should I inform the Court of these or other matters at this time.

MR. PITTS: Judge, he spoke to me about that. When we took the deposition, it was stipulated that either party could . . .

THE COURT: I would much prefer the deposition, if you don't mind.

MR. PITTS: Either party could introduce the deposition.

THE COURT: Mr. Hall, I think that is premature.

MR. PITTS: One thing, I understand all of those are more than a hundred miles from the place of trial.

MR. HALL: Right. One other thing since this school case was filed, we had a general assembly meeting and one of the parties that has been intervened—should I deal with this at this time on the replacement?

THE COURT: My thought on that is that the parties were brought in by virtue of offices which they held. If the personnel of those offices has changed since the suit

(11) was

filed, I think the substitutions of the personnel who now hold that office should be substituted and I think it is a matter of right.

MR. HALL: Thank you. Should we do that by amendment or how should we do it?

THE COURT: Oh, I think just dictate it into the record.

MR. HALL: All right.

THE COURT: Dictate it now.

MR. HALL: All right, sir. We would like to substitute the Reverend Kanse Little for the name of William P. Thompson as Moderator of the general assembly of the United Presbyterian Church of the United States of America. The others remain the same.

THE COURT: All right. Any other motions now?

MR. PITTS: No, sir.

MR. HALL: No, sir.

THE COURT: All right. The Government can proceed—wait, first, all witnesses who have been subpoenaed in this case, please stand where you are, raise your right hands and be sworn.

(Whereupon, all witnesses were duly sworn.)

THE COURT: Does either side ask for the rule?



(12) MR. PITTS: We invoke the rule, and Judge, remember the Wilcox County Board of Education, each one of them are Defendants.

THE COURT: All right.

MR. PITTS: Mr. Jones, Judge, I would like to have him excused from the rule. He is on retirement from the Wilcox County Board of Education and he is past superintendent ahead of Mr. Kelly.

THE COURT: All right. Do you wish Mr. Kelly here?

MR. PITTS: Mr. Kelly is the Defendant. I think I am correct in that.

THE COURT: All right.

MR. QUAINANCE: We have no objection.

THE COURT: Now, each party has a right to have at least one exemption from the rule. Mr. Billingsley, do you wish anybody exempted?

MR. BILLINGSLEY: Yes, sir. I would like to have Mr. Gordon stay in.

THE COURT: The litigants have a right to stay in.

MR. BILLINGSLEY: No, sir. We don't have anybody to stay in, other than Mr. Gayraud Willmore.

THE COURT: All right. All witnesses with the exception of the parties themselves who are litigants in this case. I will have

to ask you to please go out in the corridor and remain  
(13) there until we send for you. We will get to you as quickly as we possibly can and we will excuse you as quickly as we can.

Mr. Quaintance and Mr. Ross represent the Government?

MR. QUAINANCE: Yes, your Honor.

THE COURT: Mr. Hall?

MR. HALL: Yes, sir.

THE COURT: You represent the intervenors who?

MR. HALL: The United Presbyterian Church . . .

THE COURT: Wait a minute.

MR. HALL: Dr. Eugene Carson Blake, the stated Clerk of said Church.

THE COURT: Doctor who?

MR. HALL: Eugene Carson Blake.

THE COURT: And his title?

MR. HALL: Stated Clerk of the General Assembly of the United Presbyterian Church.

THE COURT: All right. Anyone else?



MR. HALL: Dr. William B. Thompson who has been substituted by Dr. Kanse Little as Moderator of the General Assembly.

THE COURT: All right.

MR. HALL: Dr. Marshall L. Scott, Chairman, and Dr. Gayraud S. Willmore, Executive Director of the Commission (14) on Religion and Race of the United Presbyterian Church.

THE COURT: All right. Mr. Billingsley?

MR. BILLINGSLEY: Mr. Hall and I represent the same clients except he did not add that we also represent Mr. Albert James Gordon and others and also Patsie Prim and Bobby Lewis Knight and others.

THE COURT: Give me the last names.

MR. BILLINGSLEY: Prim and others.

THE COURT: All right. Mr. Pitts, you represent the Defendant who?

MR. PITTS: Judge, we represent—we don't represent A. R. Meadows and the State Superintendent of Education. We represent all of the Wilcox County Board of Education and each member of that Board. The Superintendent of Education of Wilcox County and others we represent too.

THE COURT: And Mr. Sadler is with you?

MR. PITTS: Mr. Sadler is a party Defendant.

THE COURT: Well, he is a lawyer too?

MR. PITTS: Yes, sir.

THE COURT: Now, Mr. Madison?

MR. MADISON: Your Honor, Dr. Meadows, State Superintendent of Education, is a Defendant. I would like to mention to your Honor now that we have a motion to dismiss and Your Honor reserved your ruling on that in (15) the way of carrying it along with the case, and you said I didn't have to come back.

THE COURT: Well, I will deny your motion and that will work it out.

All right. Mr. Quaintance?

MR. PITTS: Judge, there is one thing I want to say. I have Mr. Earl McNeese, the Clerk of the Circuit Court of Wilcox County here with certain files. The only thing I want to prove by them is that these cases are pending in this Court.

THE COURT: That is the cases you mentioned in chambers?

MR. PITTS: Yes, sir.

THE COURT: I would like to convenience this gentleman.

MR. PITTS: The only thing I mention is that he is subject to the rule and that is all. I am talking about whether you want him to go out of the Courtroom or not.

THE COURT: If that is all you want him for, no. I don't think he ought to be put under the rule. Does he have the files?

MR. PITTS: Yes, sir.

THE COURT: If he hands those to Mr. O'Connor and tells (16) them that is what they are. I don't see any need that he should be required to wait around here and he is exempt from the rule.

MR. HALL: Mr. Pitts, are these the—I don't see any point of proving this. We can stipulate that they have been filed and they are pending in that Court.

THE COURT: Well, he has them here. Are those documents files that are pending in the Circuit Court of Wilcox County?

MR. McNEESE: Yes, sir.

THE COURT: And you are the Clerk of the Circuit Court of Wilcox County?

MR. McNEESE: Yes, sir.

THE COURT: It will not be necessary to remain and prove the authenticity of these.

MR. McNEESE: Yes, sir.

(Whereupon, four separate files were received and marked in evidence, Defendant's Exhibit 1.)

MR. PITTS: He is chargeable with these files, Judge.

THE COURT: Mr. McNeese, photostats will be substituted for these if they are introduced and the original will be returned to you.

MR. McNEESE: Fine, sir.

(17) THE COURT: All right. Mr. Quaintance?

MR. QUAINANCE: Your Honor, first the Government would like to introduce some records we have obtained from Dr. Meadows. He has sent a certificate that these documents are the documents in his office or are authentic copies thereof, and if we could have that certificate marked as Plaintiff's Exhibit 1-D.

MR. PITTS: Judge, we have no objection to those, their coming in, we don't object to the authenticity of these, but that they are otherwise inadmissible.

THE COURT: Sure.

MR. QUAINANCE: Your Honor, Plaintiff's Exhibit 1-A consist of annual attendance reports from 19—marked 1-A is the attendance reports for three years. 1-B is the finance statements for three years, and 1-C is transportation reports for three years. These are marked for identification and I will offer them now.

THE COURT: Catalogue them into the record for identification only and then we will take it up.

(Whereupon, said Annual Attendance Reports for three years were received and marked for identification, Plaintiff's Exhibit 1-A.)

(Whereupon, said Finance Statements for three years were received and marked for identification, Plaintiff's Exhibit 1-B.)

(Whereupon, said Transportation Reports for three years were received and marked for identification, Plaintiff's Exhibit 1-C.)

(Whereupon, said Certificate of Authenticity was received and marked for identification, Plaintiff's Exhibit 1-D.)

MR. QUAINANCE: Plaintiff's Exhibit marked for identification as 2-A is an educational directory for 1964-65. I should mention first, 1-A, 1-B and 1-C are all records from the Wilcox County Board. Number two, these others are statewide records. They reflect what schools exist in each county and which are accredited. Plaintiff's Exhibit No. 3, I should mention—these documents numbered 2 and numbered 3 are not on Dr. Meadows' certificates. These are actual published documents. Number 3 is the annual report of the State Board of Education for 1955 through 1965.

THE COURT: These are not in evidence yet?

MR. QUAINANCE: Plaintiff's Exhibits marked for identification number 4 is a report of a partial survey of the Wilcox County School System in '63 and '64, and num-

ber 5, is the regulations of the State Board pertaining to the minimum program funds.

Your Honor, the Government would offer exhibits  
(19) 1 through 5 into evidence.

THE COURT: I think they are admissible.

(Whereupon, said Annual Attendance Reports for three years were received and marked in evidence, Plaintiff's Exhibit 1-A.)

(Whereupon, said Finance Statements for three years were received and marked in evidence, Plaintiff's Exhibit 1-B.)

(Whereupon, said Transportation Reports for three years were received and marked in evidence, Plaintiff's Exhibit 1-C.)

(Whereupon, said Certificate of authenticity was received and marked in evidence, Plaintiff's Exhibit 1-D.)

(Whereupon, said Document of accredited Schools was received and marked in evidence, Plaintiff's Exhibit 2.)

(Whereupon, said Document of Annual Report of the State Board of Education was received and marked in evidence, Plaintiff's Exhibit No. 3.)

(Whereupon, said Survey of the Wilcox County Schools was received and marked in evidence, Plaintiff's Exhibit No. 4.)

(Whereupon, said Regulations of the State Board were received and marked in evidence, Plaintiff's Exhibit No. 5.)

MR. QUAINANCE: The Government would now like  
(20) to  
have Mr. Kelly for a return on the subpoena, please.

MR. PITTS: Well, Judge...

THE COURT: I see no need of him taking the stand if they  
hand you the documents.

MR. PITTS: If you will call them off, I will try to deliver  
them.

MR. QUAINANCE: All right. Your Honor, the documents  
we have copies of—I presume we can put the copies in.  
We have marked copies of them.

THE COURT: That is going to take a few minutes. I'll just  
take a few minutes recess until you all get all of those  
marked for identification.

MR. PITTS: I understand that he offered those into evidence  
a minute ago.

THE COURT: Yes, sir.

MR. PITTS: Well, I wanted to object to them as incompetent,  
irrelevant and immaterial and not pertinent to any issues  
involved in this case and not proven to be true and correct  
documents.

THE COURT: I'm going to overrule. I'm going to let them in.

MR. PITTS: It only serves to clutter up the record by putting  
the entire book in evidence. It only serves to clutter up

(21) the record to make it impossible for a transcript  
on appeal. My point is they ought to offer certain pages of  
that thing in evidence and not the whole book.

THE COURT: I expect in the final outcome your objection  
is meritorious and it does clutter up the record, but I  
think the thing to do is let them in. Overruled.

MR. MADISON: Now, the other Defendant objects to the  
evidence. I would like to ask the Plaintiff in what respect  
they are material to this case.

THE COURT: All right. I'm going to do it this way. I'm  
going to reserve my ruling on all of these things until I  
hear the testimony. Then I will know whether they are  
admissible or whether they are not.

MR. PITTS: The point I am making is he could pick out  
the pertinent pages of these books and that would cut down  
on it.

THE COURT: I realize that I think the best thing to do,  
rather than just rule now that they are admissible—I  
don't know whether they are or not. I will reserve my  
ruling on them now.

MR. QUAINANCE: Your Honor, the Government can  
amend its offer on Plaintiff's Exhibit No. 3 to be only  
such part of the annual reports as relates to Wilcox County.

THE COURT: I think that should be done.

(22) MR. QUAINANCE: All right.

THE COURT: All right. Now, Mr. Pitts, while you all are producing those, I will take a few minutes recess.

(Whereupon, a short recess was taken, after which the following occurred:)

THE COURT: Proceed, please.

*ANNIE JOHNSON*

The witness, called on behalf of the Government, and after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. QUAINANCE*

Q Would you please state your name?

A Annie Johnson.

Q Where do you live?

A Lower Peach Tree, Alabama.

Q Your age?

A Seventeen.

Q Are you a student?

A Yes, sir.

Q What grade and what school?

A Senior; Lower Peachtree High.

(23) Q Miss Johnson, I'm showing you pages 45 through 54 a notebook of pictures marked for identification as Plaintiff's Exhibit No. 6, and I would ask you if you could identify those pictures; page No. 45? Could you identify that picture and state what it is?

A Yes, sir.

Q Speak up so everyone can hear you?

A This is Lower Peachtree High School Elementary Building.

Q Page 46?

A This is Lower Peachtree High School Elementary Building.

Q Number 47?

A Lower Peachtree High School Elementary Building.

Q Is that a class room?

A Yes, sir.

Q 48 is a class room in that building?

A Yes, sir.

MR PITTS: Don't lead her, please, sir.

MR. QUAINANCE: All right. Page 49?

A This is Lower Peachtree High School high school department.

Q The High School Department. Page No. 50?

A That is Lower Peachtree High School tenth grade (24) classroom.

Q That is also the Science Room?

A Yes, sir.

Q 51 through 53?

A These are . . .

MR. PITTS: We object to him showing pictures 51 through 53 and ask him to have her examine each individual picture.

MR. QUAINANCE: All right. Page 51?

A This is the tenth grade classroom, Science Room.

Q 52?

A Science Equipment.

Q 53?

A Yes, sir, science equipment.

Q Have you seen any other science equipment in that room?

A No, sir.

Q Or in the school?

A No, sir.

Q In 54?

A This is out on Lower Peachtree High School playground area.

Q The Plaintiff' offers pages 45 through 54 of Exhibit 6. We will get the rest of them with the shorter witnesses.

MR. PITTS: We object to them as not being true (25) and correct pictures.

MR. QUAINANCE: Are these true and correct pictures as what you have stated them to be?

A Yes, sir.

MR. PITTS: We object to them, your Honor, on the grounds they are not true and correct pictures and don't truly portray the school building.

THE COURT: Are those pictures—can you tell when those pictures were made, please?

A No, sir.

THE COURT: Well, do they show the buildings as they are now presently?

A Yes, sir.

THE COURT: Overrule the objection.

MR. PITTS: We except. He offered in pages 45, 46, 47, 49 and 50. Is that all he offered?

MR. QUAINANCE: 45 through 54, Mr. Pitts.

MR. PITTS: All right.

(Whereupon, said Book of photographs, Pages 45 through 54 were received and marked in evidence, Plaintiff's Exhibit No. 6.)

THE COURT: Anything else of this witness?

MR. QUAINANCE: Yes, sir, your Honor. Miss (26) Johnson, in the Elementary Building, are there classrooms with partitions between them?

A Yes, sir.

Q How many?

A Two.

Q Which grades are conducted in classrooms with partitions?

A Three, four, five and six.

Q The stoves in those—that are used in those rooms as portrayed in the pictures you have identified, do those stoves always work?

MR. PITTS: We object to that. That is a leading question.

THE COURT: Sustained.

MR. QUAINANCE: All right. Would you describe whether you have ever had any trouble with the stoves in those rooms?

A Yes, sir. When I was over in the Elementary Department, the heaters would smoke and that is what caused that was the pipe would get full of soot and cause it to smoke and we would have to move out of our classroom.

Q Has that happened during the last school year you have observed?

(27) A Yes, sir.

Q In the High School program, where you are now attending, is there any physics course?

A No, sir.

Q Any home economics course?

A No, sir.



Q Agriculture?

A No, sir.

Q Shop?

A No, sir.

Q Could you describe the library facilities?

A We don't have a library facility.

Q Do you have a book department in classrooms or anything like that?

A Yes, sir.

Q Would you describe what that consists of?

A We have three sets of encyclopedias.

Q Any dictionaries or anything like that?

A We have nine dictionaries.

Q Have you taken biology at Lower Peachtree?

A Yes, sir.

Q Do you conduct any experiments with any animals?

A Yes, sir.

Q Which ones?

(28) A The frog.

Q Any others?

A No, sir.

Q How did you obtain the frog?

A We go out into a puddle of water and catch them.

Q Could you describe the athletic facilities at the school?

A Well, we play basketball. We have a cement platform where we play. And where we play baseball, we play on the playground.

Q Is there a gymnasium?

A No, sir.

Q Is there a place to change clothes?

A We change our clothes in our restroom or either on the bus or either in the storeroom.

Q Is the restroom inside?

A No, sir.

Q Do you have any showers?

A No, sir.



Q Is there a janitor?

A No, sir.

Q Who repairs windows when they are broken?

MR. PITTS: We object to that.

MR. QUAINANCE: Are there ever any windows broken  
(29) at your school?

A Yes, sir.

Q Are they repaired promptly?

MR. PITTS: We object to that question, whether they are  
repaired promptly. It is a leading question.

MR. QUAINANCE: All right.

THE COURT: I'm going to overrule the question.

Q How long does it take for them to be repaired?

A Repeat your question, please.

Q Are those windows that are broken repaired promptly?

A No, sir.

Q How do you keep the school clean?

A Each class have to clean their own room.

Q And the outside?

A The Elementary Department cleans in the morning and  
the High School Department cleans in the evening.

Q Have you brought with you a letter that you have read  
that your parents received from the School Board?

A Yes, sir.

Q Could you hand the Clerk that letter, please? That is  
Number 9.

(Whereupon, said Letter was received and marked for identi-  
fication, Plaintiff's Exhibit No. 9.)

MR. QUAINANCE: I will hand you what has been  
(30) marked  
as Plaintiffs' Exhibit No. 9, a letter, and ask you if it is  
a correct copy of that letter?

A Yes, sir.

MR. QUAINANCE: The Plaintiff offers Exhibit 9.

MR. PITTS: We object to that, your Honor. There is not  
a signature on it. It is not shown that she received it. It  
is hearsay that her parents received it and not shown  
where she got the letter from. It is all hearsay on her part.  
She said the parent received it.

THE COURT: I'm going to sustain the objection at this time.

MR. BILLINGSLEY: If your Honor please, the Plaintiff-Intervenor has attached to the Complaint, Plaintiff's Exhibit 1, which is the same letter that the Government is seeking to put into evidence at this time.

MR. QUAINANCE: The Government has no further questions.

THE COURT: I don't think the letter has been sufficiently identified by this witness. However, the Plaintiff-Intervenor has a letter in as a part of the Pleadings. It is in the case, but I don't think the letter, this particular letter, is admissible from the testimony of this witness at this time.

MR. QUAINANCE: That is all right, your Honor.

(31) We  
will have other witnesses that can get it in.

THE COURT: All right. Any cross?

MR. HALL: May we have a minute?

THE COURT: Sure.

#### CROSS EXAMINATION

BY MR. HALL:

Q Miss Johnson, who is principal of the Elementary School of Lower Peachtree?

A We don't have a principal for the Elementary Department. The principal is over the whole first through twelve.

Q Who is he?

A Mr. F. S. Irvin.

Q Irvin. Is he colored or white?

A Colored.

Q And your teachers there, are they all colored or white?

A All colored.

Q Any white teachers at all?

A No, sir.

Q Do you have any white students at that school?

A No, sir.

Q All Negro students?

A Yes, sir.

(32) Q Now, I believe you told Mr. Quaintance, just a moment ago, that the students have to clean up the building?

A Yes, sir.

Q That the Elementary students clean it up in the morning and the High School students clean it in the evening?

A He asked me about the cleaning of the yard.

Q How about the building itself? Do you have to clean up the building?

A Yes, sir.

Q Do you clean up your own classrooms?

A Yes, sir.

Q How long does it take you usually to clean up a classroom?

A About five minutes?

Q About five minutes you sweep and scrub it?

A We don't scrub it.

Q About what time of the day do you do this; during the school time?

A Yes, sir.

Q And lessons are suspended while you do this, is that right?

A Yes, sir.

Q Now, do you also have to go out and take care of the campus?

(33) A Yes, sir.

Q Do you do that?

A During school hours.

Q During school hours?

A Yes, sir.

Q And that is the entire campus?

A Yes, sir.

Q Do you have to repair the building, also, and do the students repair the buildings, paint it and so forth?

A No, sir.

MR. PITTS: Don't lead her.

MR. HALL: I am asking a question. You make no repairs to the buildings?

A No, sir.

Q Are all of your books furnished down there for the students?

A They was furnished this year.

Q This year?

A Yes, sir.

Q Do you know approximately how many students—how many students do you have at Lower Peachtree School?

A Well, this is just a guess.

Q Well, don't guess. You can give me your best judgement. In your best judgment, how many students are there?

(34) A About three hundred.

Q About three hundred?

A Yes, sir.

THE COURT: Does that include both Elementary and High School?

A Yes, sir.

THE COURT: Thank you.

MR. HALL: Tell me how many classrooms you have there?

A We have 12 classrooms.

Q You have 12 classrooms?

A Yes, sir.

Q And each class—now, does this include the rooms that you told Mr. Quaintance that had a divider in them? Are you counting the rooms with the divider as one room or two rooms?

A Two rooms.

Q When you have a room with a divider, what is the nature of that? What sort of divider is that?

A It is just some pasteboard put up in between the room.

Q Pasteboard?

A It could be sheetrock, but it is something like pasteboard or cardboard or something.

(35) Q Can one class hear what the other class is doing?

A Yes, sir.

Q The sound carries through there and you hear it very easily?

A Yes, sir.

Q So when you said 12 classrooms, how many classrooms did you say had dividers?

A We have two in the Elementary Department and one over in the High School Department.

Q That is three dividers?

A Yes, sir.

Q Actually then, you have only 9 rooms, is that right?

A Yes, sir.

Q Now, is there an assembly hall, a large room where classes assemble at one time?

A No, sir. We do that in the 8th and 9th grad where we have a division with a partition in between them.

Q You go into this classroom. You don't have one large room?

A No, sir.

Q Is there any cafeteria or lunchroom in the building?

A Yes, sir.

Q And it services the whole school?

A Yes, sir.

(36) Q All the teachers and all the workers in the lunch room, are they all one race or the other? What race are they?

A Colored.

Q All colored?

A Yes, sir.

MR. HALL: That's all.

THE COURT: Mr. Billingsley?

MR. BILLINGSLEY: I have no questions to ask her at this time.

THE COURT: Mr. Pitts?

# *CROSS EXAMINATION*

BY MR. PITTS:

Q Where do you live in reference—how far do you live from the school?

A About a half mile or a little more.

Q Towards Lower Peachtree or back towards Pine Hill?

A Towards Lower Peachtree.

Q Towards Lower Peachtree?

A Yes, sir.

Q That school you are talking about is the building—the Elementary building there is a real old building, isn't it?

A Yes, sir.

Q And the building where the High School is over there is a rather modern new building, isn't it?

(37) A Yes, sir.

Q It is built of block, isn't it?

A Cement.

Q Cement blocks, isn't it?

A Yes, sir.

Q Do you know when it was built?

A No, sir.

Q Now, you say you live back towards Lower Peachtree?

A Yes, sir.

Q How far is it from Lower Peachtree, the community of Lower Peachtree, down to this school?

A I really wouldn't know.

Q Do you live between Lower Peachtree and this school or on the other side?

A I live between them.

Q You live between them?

A Yes, sir.

Q How do you go to school every morning?

A I catch the bus.

Q A school bus?

A Yes, sir.

Q And a school bus comes by and picks you up every morning, is that right?

A Yes, sir.

Q All right. Now, how far is it from your school  
(38) down—  
well, I will withdraw that question. Do you know where the Pine Hill Junior High School is for Negroes?

A Yes, sir.

Q How far is it from Lower Peachtree School, the school you are talking about, down to that Junior High School?

A I don't know.

Q Well, in your best judgment, how far is it?

A I wouldn't know.

Q You don't know?

A No, sir.

Q Do you know that the parents in the community where this Lower Peachtree School is partitioned that school not to be closed?

A I don't know that.

Q Do you know that at one time the Wilcox County Board of Education was transferring students out of Lower Peachtree to the Pine Hill School?

A No, sir. I don't know that.

Q You don't know that?

A No, sir.

Q You never heard of that?

A No, sir.

Q All right. Well, who is the—would you know where the  
(39) Pine Hill School is?

A Yes, sir.

Q Is that a modern building?

A One of them are.

Q You don't know how far that is?

A No, sir.

Q Do you want to attend the Pine Hill School?

MR. HALL: We object, your Honor. That is incompetent, irrelevant and immaterial as to what she wants to do.

THE COURT: All right. I will sustain the objection.

MR. PITTS: Well, do you desire to attend the Pine Hill School?

MR. HALL: That is the same thing, your Honor.

THE COURT: Sustained. You need not answer that.

MR. PITTS: All right, sir. Now, you say F. S. Irvin is the principal, is that right?

A Yes, sir.

Q How long has he been the principal?

A I don't know, but as long as I have been going there.

Q Ever since you have been going there, is that right?

A Yes, sir.

Q Now, where does he live?

A He live on the campus.

Q His house is right by the school there, isn't it?

(40) A Yes, sir.

Q Is he living there now?

A Yes, sir.

Q Does he stay there the year around; live there the year around?

A He might take a vacation sometime.

Q Is he the one that has charge of the school when it is closed and so forth?

A I don't know that.

Q In charge of the buildings?

A I still don't know that.

Q Do you know whether or not he sees to the repairs being made on that building?

A Some of them.

Q Some of the repairs?

A Yes, sir.

Q Now, what time does your school open up every morning?

A 8:00 o'clock.

Q What time does it close?

A 3:00 o'clock.

Q 3:00 o'clock?

A Yes, sir.

Q What grade are you in?

(41) A I am a Senior this year.

Q Well, now, you were a Junior last year, is that correct?

A Yes, sir.

Q What courses did you take last year?

A I took English, History, Spanish, Second Course in Algebra, General Physical Science and Typing.

Q Do they have typewriters and typing there?

A Yes, sir.

Q And you took typing?

A Yes, sir.

Q Did you take any shorthand?

A No, sir.

Q All right. You have Spanish there, is that correct?

A Yes, sir.

Q Who teaches the Spanish class?

A Miss Cunningham, Miss Juanita Cunningham.

Q Does F. S. Irvin teach any classes?

A Yes, sir.

Q How many classes does he teach?

A He teach only one. See, we change class and therefore, he has to teach. He has his own homeroom class as the ninth grade, but other classes have to go in there for other subjects.



(42) Q What subjects does he teach?

A Math and that is all I know, Math.

Q That is all you know?

A Yes, sir.

Q You say there is about 300 students at that school, is that correct?

A Yes, sir.

Q You say there are 12 classrooms?

A Yes, sir.

Q Now, are those 12 classrooms you are talking about, are those in the High School—that is the both schools, Elementary and High School, is that correct?

A Yes, sir.

Q How many children in the Elementary School?

A I don't know.

Q Do you know how many in the High School?

A No, sir.

Q All right. You say they have a cafeteria there?

A Yes, sir.

Q All right. Now, do you know where Yellow Bluff is?

A Yes, sir.

Q Have you ever been over there?

A No, sir.

Q Do you know where the school is over there?

(43) A No, sir.

MR. PITTS: That's all.

THE COURT: Any re-direct?

### CROSS EXAMINATION

BY MR. MADISON:

Q How long have you been going to this particular school that you testified about?

A First through the eleventh.

Q Where did you go to school before that?

A I just started the first grade.

Q Started in the fifth grade?

THE COURT: The first.

MR. MADISON: Oh, excuse me. When you went to school—when you started to school, could you read and write?

A Yes, sir.

Q Where did you learn that?

A At home. I lived there.

Q What time—what age did you start working on that?

A Six.

Q Six years old?

A Yes, sir.

Q Were your parents able to read and write and did they teach you?

(44) MR. HALL: If your Honor please, I am going to object for the record. I can't see the relevancy of these questions to the issues involved here.

THE COURT: What is it, Mr. Madison?

MR. MADISON: Your Honor, if I will be permitted to do so, I want to show that this is a fairly intelligent girl here and she has gone through this school and has been able to make an excellent witness and it seems to me the education she is getting is a pretty good education.

THE COURT: I sustain the objection.

MR. MADISON: You testified a while ago something about science?

A Yes, sir.

Q Did you take science at the school?

A Yes, sir.

Q Did you have anything to do with the frog that you testified about a while ago?

A No, sir.

Q You didn't work on a frog in that phase of it?

A No, sir.

Q But they did have that in the school?

A Yes, sir.

Q What age—generally, what age teachers would they have at the school?

(45) A Young and old and middleaged too.

Q Now, the ones that have been teaching you since you have been—you are in High School, aren't you?

A Yes, sir.

Q And the ones that have been teaching you in High School, what age teachers do they run generally?

- A Some of them are young and some of them are old.
- Q All right. Now, let's see if we can get at it a little bit better than that. Have you seen the same teacher in the same school during the time you have been in High School?
- A Will you repeat your question?
- Q Have you seen the same teacher in the same school generally since you have been going to High School?
- A Yes, sir.
- Q Who is the first attorney for the Government that talked to you about testifying in this case?
- A I don't know.
- Q Did this gentlemen sitting in the middle right there—have you ever talked with him about being a witness in this case?
- A He came and asked me some questions about my school; that's all.
- Q All right. Do you know whether he asked anyone else in (46) your class about the school?
- A No, sir.
- Q Do you know how he happened to pick out you?
- A No, sir.

- Q He didn't explain any of that to you at all?
- A No, sir.
- Q Had anyone else come to see you and talk to you about the school, like the F.B.I. or anybody like that?
- A No, sir.
- Q When did you first see the pictures that they took of the school?
- A In here.
- Q Here in Court?
- A Yes, sir.
- Q All right. Did you know that they had taken pictures of the school?
- A No, sir.
- Q Did he show you the pictures of the school in the hallway today, at anytime?
- A No, sir.
- Q And you state you are 17 years old?
- A Yes, sir.
- Q Now, do you have—did you graduate this year or do you have another year?

(47) A I have another year.

Q Another year. Are you a Senior now?

A Yes, sir.

Q Have you lived in Wilcox County all of your life?

A Yes, sir.

MR. MADISON: All right.

MR. PITTS: Judge, I would like to ask her one more question.

THE COURT: All right.

#### *FURTHER CROSS EXAMINATION*

*BY MR. PITTS:*

Q Now, where is the White School at Lower Peachtree?

A We don't have a white school down at Lower Peachtree.

Q You don't have one, do you?

A No, sir.

MR. PITTS: All right. That's all.

THE COURT: All right. Any re-direct?

#### *RE-DIRECT EXAMINATION*

*BY MR. QUAINANCE:*

Q Just to clear this up for Mr. Madison's sake. I didn't throw any pictures to you in the hall, but I showed you them in the office, didn't I, this morning?

A Yes, sir.

(48) Q The basketball you testified about; do the teams at Lower Peachtree play any white schools?

A No, sir.

MR. PITTS: We object to that.

THE COURT: Sustained.

MR. HALL: I don't have what grounds.

THE COURT: I don't have to give grounds.

MR. QUAINANCE: Did any of the athletic teams play with white teams?

MR. PITTS: Object to that.

THE COURT: Sustain the objection.

MR. QUAINANCE: Who works in the lunchroom?

A We have one cook.

Q Pardon?

A We have one cook.

Q Who does the rest of the work?

A The teacher has some other students to help her.

Q Have you ever done that?

A Yes, sir.

Q You testified about riding on the bus. Could you describe the conditions on the bus that you ride?

A Yes, sir.

Q All right.

A They are very quiet.

(49) Q Does anyone ever have to stand up?

A Yes, sir.

Q Have you had to do that?

A Yes, sir.

MR. QUAINANCE: The Government has no further questions.

*FURTHER RE-CROSS EXAMINATION*

*BY MR. HALL:*

Q Miss Johnson, I believe you told Mr. Madison that you did not participate in experimenting on the frog. Is that what you said?

A Yes, sir.

Q Do you have a laboratory down there?

A No, sir.

Q Did anyone dissect a frog that you now about in your class; in your Biology class?

A No, sir.

Q When I mean dissect, I mean cut him up, look at him and experiment?

A No, sir.

Q What did you do with the frog after you caught him?

A They looked at him and discussed some of the parts on him, some of the children in my classroom.

Q Did you do it in the classroom or where you caught the  
(50) frog?

A In the classroom.

Q You didn't cut the frog up or anything of the sort?

A No, sir.

Q Is this the course you have had at the school?

A No, sir.

Q Have you had chemistry?

A No, sir. They started it last year.

Q Do they have a chemistry laboratory?

A No, sir.

Q Will you have any physics this year or did you have any last year that you know of?

A No, sir.

MR. PITTS: We object to that.

THE COURT: All right.

MR. HALL: I will withdraw it. Do you know whether or not the Seniors this year took physics or chemistry?

A They did.

Q Do you know whether or not they have—who has ever gone to that high school that has?

A They have took some chemistry one year, I know, one class did.

Q Do you know if any has ever had any physics?

A Not any physics.

(51) MR. HALL: I believe that's all.

### CROSS EXAMINATION

BY MR. BILLINGSLEY:

Q Miss Johnson, do white students reside in the Lower Peach-tree community where you reside, pupils?

A You mean below me or up above me or what?

Q In that area where you are?

A Yes, sir.

Q Where do they go to school?

A Pine Hill and Thomasville.

Q Thomasville and Pine Hill?

A Yes, sir.

MR. BILLINGSLEY: That's all.

*FURTHER CROSS EXAMINATION*

BY MR. PITTS:

Q Were you in the class that examined the frog?

A Yes, sir.

Q You were in that class this last year?

A It didn't happen this year.

Q What year was that?

A I disremember.

Q You disremember that?

A The year, anyway.

Q I understand you didn't have no chemistry facilities down (52) there, but this picture the Government put in—this shows some equipment here in the way of bottles and so forth that you have here, doesn't it? Are those whiskey bottles or chemical bottles or what?

MR. HALL: We object to that particular question, your Honor, on the grounds the witness may not know what a whiskey bottle is.

MR. PITTS: It's cross examination.

THE COURT: What does that picture show, please?

A It shows some of the equipment we have in the science room.

MR. PITTS: It shows some of the equipment you have in your science room, is that right?

A Yes, sir.

Q What is this big thing here?

A All I know it is a jar.

Q A big jar?

A Yes, sir.

THE COURT: I think the picture will speak for itself.

MR. PITTS: Well, Judge, the point is—do you know when these pictures were taken?

A No, sir.

Q Do you know whether that stuff was put up for the (53) summer?

A No, sir.

Q You don't know where it is stored for the summer, do you?

A No, sir.

Q This picture here the Government has is picture number 53. Are those drawers there in the science room?

A Yes, sir.

Q And this picture number—do you know what that is in those drawers? Have you had enough science to know what equipment is in there?

A It is science equipment.

Q Yes. Do you know what it is?

A No, sir.

Q Do you know what it is used for?

A It is used for our science class.

Q You don't know what these particular things are used for?

A No, sir.

Q Are these trays over here in this drawer, glass trays?

A I don't know, sir.

Q And what is this picture here? Now, that is Government's numbered page 52. Do you know what that is?

(54) A Science equipment.

Q In other words, the pages 51, 52 and 53, all of that stuff is open drawers and the equipment is in there too, is that right?

A These are the same drawers. All of this is the same thing.

Q It is showing different drawers, isn't it?

A No, sir. All of these is the same drawers on one shelf.

Q All right. You say the drawers in picture number 53 is the same drawer in picture 52 and the same drawer in picture 51, is that right?

A I mean, this is all in the same drawer—not in the same drawer. All of this is the same thing, but a different drawer where they have more than one drawer.

Q What you are trying to say is that all of this is in one compartment of a wooden thing and these are various drawers in that compartment; this is what you are trying to say, isn't it?

A Yes, sir.

Q All of this is in the science department?

A Yes, sir.

Q You don't know when the pictures were made or you don't know whether this picture was made after the stuff was (55) stored for the summer or not, do you?

A No, sir.

MR. PITTS: That's all.

THE COURT: Anything else?

MR. QUAINANCE: No, sir.



THE COURT: Step down. You may go, if you like. Call your next witness.

*MR. JEANIE MASON*

The witness, called on behalf of the Government, and after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. QUAINANCE:*

Q Would you state your name?

A Jeanie Mason.

Q Would you speak up so everyone in the Courtroom can hear you and the Reporter will be sure to take down everything you say. Where do you live?

A At Pine Hill.

Q What is your age?

A Nineteen.

Q Are you still in school?

(56) A Yes, I am.

Q What school have you attended in Wilcox County?

A The Lutheran School and the Anniemanie High School.

Q What grades did you attend at Anniemanie High School?

A The grades eight through the twelfth.

Q Have you graduated from that high school?

A Yes, I have.

Q I will show you a group of three pictures that have been marked for identification as Plaintiff's Exhibit No. 8, and ask you if you could identify those pictures?

A This is Anniemanie High School, the front entrance.

Q The second picture?

A Our lab in the high school.

Q And the third picture?

A That is our ball field.

Q Are these pictures fair and accurate representations of what you said they are?

A Yes, they are.

Q The Government offers Exhibit 8.

MR. PITTS: We have no objection.

(Whereupon, said photographs were received and marked in Evidence, Government's Exhibit No. 8.

MR. QUAINANCE: Mr. Mason, have you ever driven a  
(57) bus for the school system?

A Yes, I have.

Q When did you do that?

A This school term.

Q Could you describe that bus?

A It is an old model bus, 1946 Chevrolet, a yellow bus.

Q Which bus number was it?

A Bus number 3.

Q Did you ever have any mechanical problems with the bus?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

THE COURT: I think this, I think this case is involved with the entire school system and I think some of my rulings have been—maybe should have been different, but I think it is admissible. I overrule the objection.

MR. QUAINANCE: Did you ever have any mechanical difficulties with that bus?

A Yes, I have.

Q Could you describe those?

THE COURT: I am not going to go into fixing generators and changing tires and so forth.

MR. PITTS: I object to that, because he is not qualified to  
(58) answer that question.

THE COURT: Well, the question asked, can be answered briefly. Overruled. Go ahead.

MR. QUAINANCE: Excuse me, your Honor. Did you sustain the objection?

THE COURT: Yes.

MR. QUAINANCE: All right. Have you ever taken any foreign language courses?

A No, I haven't.

Q Do you know whether any are offered at the school?

A No, there is not.

Q Physics?

A No, sir.

Q Is there a chemistry course?

MR. PITTS: Now, I'm objecting to these questions. I asked to exclude it on this ground. He is not clear as to what school he is talking about and this man is attending the Lutheran School now and he has been to Anniemanie and

has also been to one other school. It is not clear what school he is talking about.

THE COURT: I think it is admissible if you limit it to the part of the Wilcox County School system.

MR. QUAINANCE: Mr. Mason, all of these questions I am directing to you now concern the Anniemanie School.

(59) MR. PITTS: Your Honor, if that is concerning the Anniemanie School, it is a Presbyterian Church School.

THE COURT: Well, that is in it too. Overruled. I am glad you brought that out.

MR. QUAINANCE: You do have a chemistry course there, do you, Mr. Mason?

A Yes, we have.

Q Could you describe the facilities that you have, particularly, for conducting experiments?

A Well, we have four spots for conducting experiments. Two students at each spot.

Q How many students in the chemistry class?

A Forty-eight.

Q What do the other forty do?

A They take the results from the experiment.

Q Could you describe the lab facilities, their use and who controls them?

A What do you mean?

Q I meant the library facilities there.

A Oh, in the library we have the World Book Encyclopedias and we have the Reader's Digest.

Q Are there any fiction books that you know of?

A No, sir, there is not.

Q Is the library open all the time?

(60) A No, it is not.

Q How do you get into the library?

A Only if we have a class that holds a period in the library.

Q As an individual pupil, could you obtain permission to use the books in the library?

A You could, but you have to get permission from the principal.

Q Is there a library?

A No, there is not.

Q I withdraw—the Government has no further questions.

THE COURT: Mr. Hall.

## DIRECT EXAMINATION

BY MR. HALL:

Q Mr. Mason, did I understand you to say that you went to the Anniemanie School in grades 8 through 12?

A Yes.

Q Is that where you spent all of your Junior High and High School years at Anniemanie High School?

A Yes, sir.

Q You are now out of High School. You graduated last year?

A Yes, sir.

Q Now, in your best judgement, tell us how many students you (61) have at this high school? Do you have a judgement as to

A Yes, sir, approximately 300 or something like that.

Q Do you have an elementary school there connected with this high school?

A Yes, we do.

Q You do?

A Yes.

Q Are they all together in the same building?

A No, sir. The high school building is by itself.

Q When you told me you had 300 students, do you mean they were in the high school or do you have some more?

A The full number of all of them.

Q All right. Do you have a judgement as to approximately how many students you had in the high school department? Incidentally, before you answer that, would the high school department include the grades 8 through 12?

A Grades 6 through 12.

Q Grades 6 through 12?

A Yes, sir.

Q That is the high school department?

A Yes, sir.

Q That is a separate building?

A Yes, sir.

Q In your judgement, how many pupils were there last (62) year?

A Approximately 300 something. I am not sure.

THE COURT: Approximately what?

A 300 and something. I am not sure.

THE COURT: That is in grades 6 through 12?

A Yes, sir.

MR. HALL: Now, in this department, I want you to concentrate on this. You are all in a separate building. How many rooms in that building?

THE COURT: Classrooms?

MR. HALL: Yes, sir, classrooms.

A There is 9 classrooms.

Q Nine classroom.

MR. PITTS: How many did he say?

THE COURT: Nine.

Q Did you move from room to room as you changed class?

A We moved from room to room.

Q Moved from room to room?

A Yes, sir.

Q Do you have a separate room for your chemistry lab?

A Yes, sir, we have.

Q You did?

A Yes, sir.

Q And I believe you said you had four spots, is that right?

A Yes, sir, four full spots.

Q Do you have a separate place for your lunchroom out of the nine classrooms?

A I didn't get your question.

Q Do you have lunchroom at that school?

A No, sir.

Q You didn't have any lunchroom?

A A lunchroom—yes, sir, we did.

Q Where did you eat?

A We had a lunchroom.

Q You had a lunchroom in the school?

A Yes, sir.

Q And you didn't teach any classes in the lunchroom, did you?

A No, sir.

Q Did you have an assembly room in that school?

A Yes, sir.

Q Where the students generally assembled?

A Yes, sir.

Q Did they teach any classes in that room?

A No, sir, they didn't.

Q Did you have any gymnasium at that school?

A Yes, sir.

(64) Q Classes were taught in that, is that correct?

A No, sir, no classes in the gymnasium.

Q You had no physical education program?

A Yes, sir.

Q Did you have a teacher for physical education?

A Yes, sir.

Q Did they teach any classes?

A We didn't have any classes on nothing like that.

Q Your physical education program then would be confined to games, basketball and that sort of thing?

A Yes, sir.

Q And you played that outside, is that correct?

A At sometimes.

Q What did you do?

A For basketball games, we played sometimes inside and sometimes outside.

Q I see. So, I believe you said that you had no foreign language at all?

A No, sir.

Q I don't know what you told Mr. Quaintance about Biology. I don't remember—was there any Biology taught at that school?

A Yes, sir. There was.

Q You did have Biology?

(65) A Yes, sir.

Q And you had Chemistry?

A Yes, sir.

Q Any Physics?

A No, sir.

Q No Physics?

A No, sir.

Q What Math did you have?

A Algebra and plain Geometry.

Q Albegra and Plain Geometry?

A Yes, sir.

Q No Solid Geometry?

A No, sir.

Q No Analytical Geometry?

A No, sir.

Q No Calcilus?

A No, sir.

Q How many teachers were there in your last year in high school?

A I think it was approximately 13, I think.

Q This is your best judgement?

A Yes.

Q Thirteen teachers?

A Yes.

(66) Q Does this include the Bible teacher?

A Yes, sir. We did have one.

Q Were all of these teachers colored or were some white and some colored?

A All colored.

Q That includes the principal?

A Yes, sir.

Q Did you have persons working in the lunchroom?

A Pardon me?

Q Did anybody work in the lunchroom, lunchroom work there?

A Yes, sir. We did.

Q Were these white or colored?

A They was colored.

Q Any of the students work in the lunchroom?

A No, sir.

Q Did you have a janitor at the school?

A Yes, sir. We did.

Q You did have a janitor?

A Yes, sir.

Q Was he white or colored?

A He was colored.

Q Did you have a maid at the school?

A No, sir.

(67) Q And the students, all of your classmates, some of them colored and some white?

A All colored.

Q All colored?

A Yes, sir.

Q You yourself are colored, are you not?

A Yes, sir, I am.

MR. HALL: I believe that is about all.

#### *DIRECT EXAMINATION*

*BY MR. BILLINGSLEY:*

Q How long did you drive a bus for the Wilcox County Board of Education?

A Nine months.

Q Were there any busses assigned to the Pine Hill School?

A No, sir.

Q Do you know whether or not any new busses were assigned to the Pine Hill School during the four years in which you attended?

A Yes, sir, there was.

Q When was the last one?

A Last year, in '65.

Q Do you recall whether or not a new bus was assigned to your school prior to that time?

A Yes, sir. We did have one which was one assigned  
(68) to  
our school.

Q And that was in what?

A '65.

Q That is the only time you had a new bus?

A Yes, sir.

Q Now, were there any white students living in the Pine Hill community where you resided or where you attended school?



A Yes, sir.

Q Where did they attend school?

A At Pine Hill.

Q What is the name of that school, do you know?

A No, sir, I don't.

Q But your school is . . .

A Anniemanie High School.

MR. BILLINGSLEY: I see. That's all.

THE COURT: All right. Mr. Pitts.

### CROSS EXAMINATION

BY MR. PITTS:

Q Now, you say you attended Anniemanie, is that right?

A Yes, sir.

Q And to get to Anniemanie from Pine Hill, do you have to drive back towards Selma?

(69) A From Anniemanie to Pine Hill?

Q Yes.

A No, sir.

Q If you were at Pine Hill and wanted to go to Anniemanie, which way would you go?

A I would go straight from Pine Hill to Anniemanie.

Q Don't you have to drive down the Highway towards Selma and turn off to the right to go on a road to get there?

A Yes, sir, turn off Highway 5 to a little old road.

Q You have to travel 5 to some distance out of Pine Hill?

A Yes.

Q Is that direction the direction of Selma?

A Yes, sir.

Q How far do you have to travel on number 5?

A Yes, sir.

Q How far?

A From Pine Hill?

Q Yes, before you turn off?

A Approximately about six miles.

Q About six miles on number 5?

A Yes, sir.

Q Then after you turn off number 5, if you were coming toward Selma, you would turn off to your right, wouldn't you, if you were driving towards Selma?

A Yes, sir.

Q And you would cross the Southern Railroad tracks wouldn't you?

A Yes, sir.

Q How far is it now from the point you turn off over to Anniemanie School, that is from number 5 over to Annie-manie School?

A About a mile and a half.

Q You mean just a mile and a half from number 5 to Annie-manie School?

A Yes, sir.

Q Is that your best judgement?

A That is my best judgement.

Q All right. Now, is there any white students, any white schools around Anniemanie?

A Pine Hill School.

Q Pine Hill is the closest school, isn't it?

A Yes, sir.

Q Where do you live?

A I live at Kimbroughs.

Q At Kimbroughs?

A I am on the route of Pine Hill.

Q You are on Pine Hill route?

(71) A Yes, sir.

Q But you live down at Kimbrough?

A Betwix Pine Hill and Kimbrough.

Q How far is that from Pine Hill?

A About four miles.

Q In other words, you live about four miles. You live between where you turn off to go to Anniemanie and Pine Hill?

A Not exactly the way you go to Pine Hill.

Q Are you on this side where you turn off?

A Yes, sir.

Q So you are about ten miles from Pine Hill, aren't you?

A No, sir.

Q From where you live?

A No, sir, not ten miles.

Q How far is it from Kimbrough to Pine Hill?

A From Kimbrough to Pine Hill is approximately seven miles.

Q Seven miles?

A Yes, sir.

Q All right. Now, you said you went to school—I'm not straight on this now. You went to Anniemanie school how long; how many grades?

(72) A From grade 8 through grade 12.

Q From 8 to 12. Then where did you go?

A I just got out and hadn't gone anywhere yet.

Q Didn't you say something about the Lutheran School?

A I went to the Lutheran School from grade 1 through grade 7.

Q You attended there for grades 1 through 7?

A Yes, sir.

Q Where is the Lutheran School?

A It is located near Kimbrough.

Q Near Kimbrough?

A Yes, sir.

Q Now, the Lutheran School, is that a colored school or a white school?

A It is a colored school.

Q Are there any white students there?

A No, sir.

Q Are there any white teachers?

A No, sir.

Q That is a colored school?

A Yes, sir.

Q So you went there from 1 to 6?

A One through seven.

Q One through seven. Then you moved to Anniemanie, is that right?

A Yes, sir.

Q What year was it you drove a school bus?

A This year, beginning in 1965.

Q Beginning in '65?

A Yes, sir.

Q All right. Now, where did you drive that school bus from?

A From Anniemanie High School through Arlington Beach and back to the school.

Q You drove from Anniemanie?

A Through Arlington Beach.

Q What route did you take?

A The route through Arlington.

Q Tell me the roads you took?

A From Anniemanie across number 5 and I don't know the name of this highway—and turned on the gravel road and turned around and come back to the school.

Q You went to Arlington?

A Yes, sir.

Q What size bus—how many people were seated? How many people could that bus seat?

A It could seat 40 students.

Q You could seat 40 students. Did you get any pay for the driving that bus?  
(74)

A Yes, sir.

Q How much were you paid?

A I was paid \$46.74 a month.

Q To drive that school bus?

A Yes, sir.

Q When you started out in the morning, did you start out at the school or where?

A I started at the school. I left the bus at the school.

Q Did you go home every night or did you stay up there at the high school?

A I went home every night.

Q How did you get home?

A I drove my car home.

Q You drove your car home?

A Yes, sir.

Q All right. Now, these pictures here, this picture here that the Government showed you, which is Plaintiff's Exhibit No. 8, that is a picture of the main building, is that right?

A Yes, sir. The high school building.

Q The high school building?

A Yes, sir.

Q Do you know whether or not the Presbyterian  
(75) Church  
operates that school there?

A Yes, sir.

Q Do they have a minister living on the grounds there?

A Yes, sir. They have.

Q And this is a very old building, isn't it?

A Yes, sir.

Q And do they teach the Presbyterian—does this Minister  
teach in the school there?

A No sir, he don't.

Q Does he ever hold any devotionals there?

A Yes, sir, he do.

Q Does he hold prayers there?

A Yes, sir, sometimes.

Q Sometimes. Do they require all of you to go in the school  
when they have prayers?

A Yes, sir.

Q And require you to attend devotionals?

A Yes, sir.

Q What denomination are you?

A I am a Lutheran.

Q A Lutheran?

A Yes, sir.

Q Do they teach Presbyterianism there?

(76) A At the Lutheran School?

Q No, Anniemanie.

MR. HALL: We object to that, your Honor.

MR. PITTS: Do they teach the principles of the Presbyterian-  
ism faith at that school?

A I think they do. I'm not sure.

Q Now, this picture here you have, this science room here.  
That picture there, that building, that picture of the science  
room is that room in this building here, the first picture  
here?

A Yes, sir.

Q And we are talking about Government's Exhibit No. 8  
Now, is that a chemistry room?

A Yes, sir.

Q And you say you have four spots and two students work  
on each spot, is that right?

A Yes, sir.

Q Now, how often—Does the chemistry teacher stay all day?

A Until lunchtime.

Q How many classes does he teach a day?

A I don't know exactly if he have a vacant period or not,  
but I know he have one.

Q How many classes would that make him teach from the  
(77) time school opens in the morning until lunchtime?

A Three classes.

Q Three classes?

A Yes, sir.

Q He would have 48 pupils?

A Sometimes more, in the Sophomore class.

Q This 48 pupils you are talking about, is that the Senior  
class or Sophmores or what?

A The Senior Class.

Q And he would have 8 pupils up there and then he would  
have 40 back there in the class watching what was going  
on?

A Yes, sir.

Q The next day would the same 8 pupils be up front at the  
spots?

A We didn't do an experiment, except one a week, every  
Friday.

Q And he lectured to you or asked you what you were learn-  
ing during the other times?

A Yes, sir.

Q Now, this picture here, this is the third picture in this  
folder here, what is this?

A This is our ball diamond down here on our playground.

Q This playground you are looking at right here, that is up  
(78) on a hill, isn't it?

A It is a hill around it. It is down under the hill.

Q Now, actually the playground you all have there, it has  
been dug out and graded for a football field, hasn't it?

A Yes, sir.

Q And the only part this picture shows is a corner of it here?

A Yes, sir. That is all you can see.

Q And around up here, in here, is an area around the football field and this picture here doesn't truly portray that, does it?

A It show about a portion of half of it.

Q You mean that is a half of it in this corner here?

A Yes, from here down to there.

Q Well, you point to the Judge where the athletic field is on this picture. He didn't get the whole picture and this is down in the bowl here?

A That's right.

Q And this is just a very small portion of the area, is it not?

A Yes, sir.

Q And it is big enough to play football games on too, isn't it?

A Yes, sir.

(79) Q It did—did Anniemanie have a football team?

A No, sir.

Q You didn't play football out there?

A No, sir.

Q Did they have basketball games and a basketball team?

A No, sir. They played basketball in the gymnasium.

Q They have a gym?

A Gym, yes, sir.

Q Did they play there?

A They played there.

Q Did you have outside basketball too?

A No, sir. Only during our physical education period we would play outside down in the bowl.

Q When?

A During physical education.

Q Oh, I couldn't understand that. During the physical education period, you would play outside, is that right?

A Yes, sir.

Q Did they have a physical education teacher?

A Yes, sir.

Q Did he supervise the play out there?

A Yes, sir.

Q Did you play basketball the year around or would you change to softball?

(80) A They would change to softball in the Springtime.

Q What would they play in the fall of the year?

A Football.

Q Nothing but bootball, basketball and softball?

A Yes, sir.

Q Did they have any other type of games there?

A No, sir.

Q Physical education teacher was in charge of all of that?

A Yes, sir.

Q Girls and boys?

A Girls and boys.

Q Now, you know where the Pine Hill Junior High School is for negros, don't you?

A For negros?

Q Yes.

A Yes, sir, I do.

Q Have you been to that building?

A Yes, sir, I have.

Q Do you remember when it was built?

A Yes, sir.

Q How long ago was that?

A Well, I'm not sure of the definite date, but it has been close to a year, I would say.

(81) Q That is at Pine Hill?

A Yes, the new building that they have down there.

Q All right. Now, you say all of these teachers down there were colored teachers?

A Yes, sir.

Q Did any white teachers ever come there and lecture to you?

A No, sir.

Q Don't you remember a Mathematics teacher that came down there and talked to you, a Catholic Priest?

A At Anniemanie School?



Q Yes.

A Not at my remembrance.

Q At no time that you were there?

A No, sir.

Q And did you all have what you call a science fair down there last year?

A Yes, sir, we had a science fair.

Q When was that?

A I'm not definitely sure what month it was.

Q What kind of fair was that? I mean, what did it show?

A It showed each class had made items of things and told what they did about them.

(82) Q Say that over?

A Each class had a project which they were working on and they would explain to the instructors that was there at the fair.

Q That was what was called a science fair, is that right?

A Yes, sir. We had peoples come from all around.

Q Now, going back to the buses, how many buses went to Anniemanie School?

A About six buses.

Q Six school buses?

A Yes, sir.

Q Six school buses served Anniemanie School?

A Yes, sir.

Q And you just drove one of those buses?

A Only one.

Q You say they got a bus in 1965 and that was last year?

A Yes, sir.

Q What kind of bus was that?

A A Chevrolet bus.

Q How many passengers?

A I'm not sure.

Q Was it new or second hand or what?

(83) A A new bus.

Q What about the other five buses?

A Some of them was old buses.

Q Were there any other good buses in them new ones?

A There was one '58 was the latest.

Q Didn't you say you got one in '64 too?

A No, sir.

Q All of these buses you had down there came to school every day, didn't they?

A They broke down, some of them.

Q How many days were they broke down?

A Bus No. 27, it's motor stayed out of fix all the time.

Q Other than bus No. 27, they all got there, didn't they?

A Yes, sir.

Q When bus No. 27 broke down, some other bus duplicated for it, didn't it?

A No, sir.

Q Was No. 27 your bus?

A No, sir.

Q What was the number of your bus?

A No. 3.

Q No. 3?

(84) A Yes, sir.

MR. PITTS: That's all.

THE COURT: Mr. Madison.

MR. PITTS: Wait just a minute. I want to ask him one question.

THE COURT: All right.

MR. PITTS: Who furnished your books down there?

A Who furnished what?

Q Who furnished the books at the school?

A They were furnished by the School Board.

Q By the School Board?

A I think.

Q Is that the only—you say the library down there—how big a room is the library?

A I am not sure what the length is, but it is a pretty good size room.

Q Do you know how many volumes in that library?

A No, sir. I don't.

Q You got your books down there too, is that right?

A Yes, sir, I did.

MR. PITTS: All right, That's all.

### CROSS EXAMINATION

BY MR. MADISON:

Q I believe you testified that you drove the bus nine months (85) last year?

A That's right.

Q Did the school operate—was it a nine month school you attended?

A Yes, sir, it was.

Q Was it a nine month school that you attended before, the year before that?

A Yes, sir.

Q As long as you have been going to that school, they have been operating a nine month school?

A Yes, sir.

MR. MADISON: That's all.

### RE-DIRECT EXAMINATION

BY MR. HALL:

Q Mr. Mason, I believe you were asked on direct examination if you knew the Presbyterian Church operated this school, and I think you answered in the affirmative. I will direct your attention to that question again. Do you know who operates the school at Anniemanie?

A No, sir. I am not sure.

Q Did you have any dealings with anyone when you went to this school?

A No.

Q Do you know if the School Board of Wilcox County or (36) anyone else operates that school?

MR. PITTS: Your Honor, I object to that question.

MR. HALL: We withdraw all the questions.

MR. PITTS: All right.

MR. HALL: Who furnishes your books, do you know?

A I am not sure. I think they are furnished by the School Board.

MR. HALL: That's all.

*RE-DIRECT EXAMINATION**BY MR. BILLINGSLEY:*

Q Were the books furnished you during the four years of your stay at Pine Hill? Were these always new books?

A This school term was the only year they was furnished by the School Board.

Q They have not been furnished by the Board in previous years?

A No, sir. We had to buy them.

Q You stated you earned \$46.74 per month for driving the bus?

A Yes, sir.

Q Do you know what the other bus drivers were paid?

A There was another student driving besides myself. He received the same salary I received.

Q Do you know how much white bus drivers received?

(87) A No, sir.

Q Do you know whether or not they received \$80.00 per month?

A No, sir. I don't.

MR. BILLINGSLEY: That's all.

THE COURT: All right.

*RE-DIRECT EXAMINATION**BY MR. QUAINANCE:*

Q Your Honor, we just have two questions on re-direct. In your chemistry class, how many chemistry books would you say your class had this last year?

A About approximately 25.

Q In your basketball games, did the teams at Anniemanie play any white schools?

A No, they didn't.

MR. QUAINANCE: No further questions.

THE COURT: Thank you very much and you may be excused. You may go if you like.  
Take a recess until 1:30.

(Whereupon, a recess was taken for lunch, after which the following occurred:)

THE COURT: All right. Proceed, please.

*MRS. FREDDIE CHARLEY*

(88) The witness, called on behalf of the Government, and after having first been duly sworn to tell the truth, the

whole truth and nothing but the truth, took the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. QUAINANCE:*

Q Would you please state your name?

A Freddie Charley.

Q Mrs. Charley, speak right up so everybody in the Courtroom can hear you.

A Yes, sir.

Q Your address, Mrs. Charley?

A Post Office, Coy, Alabama.

Q Mrs. Charley, how many children do you have?

A Ten.

Q What schools do they attend?

A Coy Public Junior High.

Q That is a negro school?

A Yes.

Q Did there ever come a time when you attempted to have them go to a white school in Wilcox County?

A Yes, sir. I applied in the Spring of the year last year before the school term. I applied for an application for them to attend the white schools.

(89) Q Could you describe what you did?

A Well, I went into the Superintendent's office and he asked me what was it he could do for me.

Q Who did you go with?

A I went with Mrs. Mary Kelsoe and two of my children. She had one child to go.

Q Did anyone else go with you?

A Well, Reverend Hare went with us, but he didn't stay.

Q What was the conversation? Who was there in the office, in the Superintendent's office?

A Superintendent Jones was there.

Q What was the conversation between you and Mr. Jones?

A Well, he asked what could he do for us and I told him that we came to apply for an application in order to transfer our children to Coy Public Junior High—to Camden High and he asked for my name and I gave him my name. He asked for the children's name and then he asked for an address and what school were they attending. Then he asked what grade did they last attend and got our address and then he told us that he would write that down, but

that was all he could do, because his time would be out in June and he couldn't do no more but write that down.

Q Later, did you receive a letter from Mr. Jones?

(90) A No—I got the application blank from him with some instructions along with them, with the blanks.

Q Then what did you do with the blanks?

A I filled them out and turned them in.

Q You mailed them to the Superintendent or what?

A I mailed them to the Superintendent. I didn't—not Superintendent Jones. I mailed them to Mr. Kelly.

Q When did you do that?

A Well, let me see, I don't know whether it was in May, June or July. I just remember—I don't remember the month.

Q Did you bring with you the letter that you received from Superintendent Jones?

A I did.

MR. QUAINANCE: Mrs. Cox, is this Plaintiff's Exhibit 10? Could we have this marked as Plaintiff's Exhibit 10? You want to see it, Mr. Pitts?

(Whereupon, letter was handed to counsel for the Defendants.)

MR. PITTS: Are you offering it in evidence?

MR. QUAINANCE: The Plaintiff offers the Exhibit No. 10.

MR. PITTS: I object to it, your Honor, because—the grounds I am objecting to it on is that the letter shows on its fact (91) that it does not include the forms that was enclosed and there is no other transmitting forms and it does not include forms but has another form that has not been identified.

MR. QUAINANCE: It has been identified in the letter.

THE COURT: Overruled.

MR. PITTS: We except.

(Whereupon, said Letter was received and marked in evidence, Government's Exhibit No. 10.)

MR. QUAINANCE: Mrs. Charley, did you receive any communication on the board or the Superintendent concerning the application of your children?

A No, I didn't.

Q Did you learn what disposition was made of them, or where your children were to be assigned?

A Well, I got a letter stating that they had been assigned to go to Coy Junior Public High.

THE COURT: Let's go ahead along.

MR. QUAINANCE: The Plaintiff asks that a form received from Mr. Kelly in the return on the subpoena be marked as Exhibit 10-B.

(Whereupon, said Form was received and marked for identification, Government's Exhibit No. 10-B.)

MR. QUAINANCE: Mrs. Charley, I hand you a sheet of paper marked for identification as Plaintiff's Exhibit 10-B and ask you if this is the type of form you received in the mail?

MR. PITTS: I object to that as to whether it was the type form if it is the form.

A No, it is not.

THE COURT: Sustain the objection.

MR. QUAINANCE: No further questions.

THE COURT: Any cross?

MR. BILLINGSLEY: No, sir, your Honor.

THE COURT: Mr. Pitts?

### CROSS EXAMINATION

BY MR. PITTS:

Q How many children did you say you have?

A Ten.

Q You made all ten of those children—an application for all ten of those children to go to High School in Camden?

A Just Samuel C. Charley and Alberta Charley.

Q When did you decide to make applications to transfer those children?

A Let me see, it was in the Spring of the year. I don't know what month. I filed that application in—it was in the (93) Spring of the year.

Q And had you given any thought to it before you went to the Superintendent's office?

A Well, not altogether.

Q Had you talked with anyone about it?

A Well, I had talked, yes.

Q Who did you talk to?

MR. BILLINGSLEY: Your Honor, we object to that. It doesn't make any difference whether she talked to anyone or not.

MR. PITTS: It does too.

THE COURT: I'm not going to sustain the objection. I don't think that is material though.

MR. PITTS: I will ask you specifically, did you talk to anybody from the Government before you went down there?

A Well, not exactly? Did you talk to any lawyer?

MR. BILLINGSLEY: Your Honor, we object to that, if she talked to a lawyer.

THE COURT: Sustain the objection.

MR. PITTS: I want to find out, your Honor, who told her to go down there.

THE COURT: I don't think it is material.

MR. PITTS: I think it is.

THE COURT: I don't.

(94) MR. PITTS: We except to it. Do you know Orzell Billingsley and Peter Hall here?

MR. BILLINGSLEY: We object to that as to whether she knows that or not.

THE COURT: Overruled.

MR. PITTS: Do you know them?

A I don't.

Q Do you know Jack Greenberg and Norman A. Amaker?

A No, sir, I don't.

Q Have you ever communicated with them?

A No, sir, I haven't.

Q Did you authorize them to file this suit in your behalf?

A No, I didn't.

Q What?

A Well, I had the letter to show them.

Q Well, did you authorize any suit to be filed in Court in your behalf?

A No, sir, I didn't do that. No, sir, I didn't.

MR. PITTS: That's all.

THE COURT: Anything else? Thank you very much. You may step down.

Call your next witness.

MR. LINDON M. HOWARD

(95) The witness, called on behalf of the Government, and after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. QUAINANCE

Q Would you state your name?

A Lindon M. Howard.



Q Your occupation?

A I am a special agent with the Federal Bureau of Investigation?

Q Mr. Howard, I show you a notebook of photographs, marked for identification as Plaintiff's Exhibit No. 6, and ask you if you have had an opportunity earlier today to examine the photographs and the table of contents in this notebook?

A Yes, I have.

Q Did you take the photographs that appear in the notebook?

A Yes, sir. I did.

Q Are they fair and accurate representations of what the table of contents represent them to be?

A Yes, they are.

MR. QUAINANCE: Your Honor, the Plaintiff offers Exhibit No. 6.

(96) MR. PITTS: Judge, we would like to look over this notebook. It is the first time we have seen it. Just one minute, your Honor.

THE COURT: Surely.  
(Off the record.)

MR. MADISON: While they are doing that, would your Honor permit me to make another motion?

THE COURT: Surely.

MR. MADISON: The Defendant, State Board of Education and the Defendant, Dr. Meadows, moves that the Court dismiss the case as to them on condition. The condition being if at the conclusion of the trial the Court feels it necessary, in order to grant relief, to have them parties defendant to be reinstated.

THE COURT: Do you wish to make any further statement?

MR. MADISON: Your Honor, I think the primary duty and responsibility of anybody that might be found to have any responsibility and duty rests on the local Board of Education. If that point is ever reached in the trial of this case, and it would be a very unusual set of circumstances that would call for any type of decree from the Defendants, the attorney General's office represents. One other case, I think the Loundes County case, we reached some sort of stipulation in it and they were dismissed. I would ask further, not as a part of my motion, but separately, that (97) the attorney for the Plaintiffs wouldn't agree to that, I think it is a reasonable request.

THE COURT: You want to make any statement?

MR. PITTS: We have no objection, Judge, to this, provided they prove the time these pictures were made.

THE COURT: All right.

MR. QUAINANCE: Will you state the dates on which you took these pictures?

A If I may refer to my notes?

Q You may refer to your notes, sir.

A The 16th and 17th days of this month.

Q Mr. Howard, I show you a notebook of photographs that have been marked for identification as Plaintiff's Exhibit No. 7, and ask you if you have had an opportunity to examine the photographs that appeared therein and the table of contents?

A Yes, I have.

Q Did you take the photographs that appear in there?

A Yes, I did.

Q Are they fair and accurate representations of what the table of contents represents them to be?

A Yes, they are.

Q Did you take them on the same days?

A Yes, sir.

(98) MR. QUAINANCE: The Plaintiff offers Exhibit 7.

MR. PITTS: We object to it and would like to look it over, your Honor. We haven't seen any of these.

THE COURT: Surely.

(Off the record.)

MR. QUAINANCE: We offer Plaintiff's Exhibits 6 and 7.

MR. PITTS: I have no objection to these.

(Whereupon, said Photographs were received and marked in evidence, Government's Exhibit No. 6.)

(Whereupon, said Photographs were received and marked in evidence, Government's Exhibit No. 7.)

MR. QUAINANCE: No further questions.

### CROSS EXAMINATION

BY MR. PITTS:

Q Sir, I understand you—do you have any other pictures that you took?

A Not with me at the time, no.

Q Were those all the pictures you took?

A I don't know if that is every picture I took or not; no, sir.

Q Well, I will tell you what you do, you take these two exhibits, if you don't mind, and tell me if these are all the pictures that you took or not? You look at each one of these carefully and tell me if these were all the pictures you took on that occasion?

A Yes, sir.

(Exhibits 6 and 7 handed to the witness.)

MR. QUAINANCE: Mr. Pitts, perhaps we can save time. I can represent to you that those are not all the pictures Mr. Howard took.

THE COURT: Mr. Pitts, counsel has stated those were not all the pictures.

MR. PITTS: Yes, sir. I want to know how many he took, Judge, how many pictures he took and how many there is here. I have some other questions I want to ask him too.

THE COURT: All right.

A No, sir. All the photographs I took are not here.

MR. PITTS: How many pictures did you take all together?

A Altogether, I believe a total of 125.

Q How many pictures are there?

A I haven't counted them.

Q Count them for me, please, sir.

MR. QUAINANCE: Your Honor, the pages are numbered in both of the exhibits.

(100) THE COURT: Consecutively?

MR. QUAINANCE: Yes, sir.

THE COURT: All right. Look at the last page.

MR. PITTS: Well, am I correct in stating that Government's Exhibit No. 7, that there are 11 pictures, is that correct?

A Yes, sir.

Q Assuming that what Mr. Quaintance says is correct, is that correct?

A That is correct.

Q And in Exhibit No. 6, there is 53 pictures, is that right?

A No, sir.

Q 54 pictures, is that correct?

A Yes, sir.

Q That would mean 65 pictures in these two exhibits, is that correct, 11 and 54?

A Let me look at the last page here. Yes.

Q All right, sir. What did you do with these pictures when you took these pictures? What did you do with the negatives of these pictures?

A They went back to Mobile to the F.B.I. office there where it was developed.

Q Where they were developed?

(101) A And printed.

Q And the prints, were they sent back to you?

A Sent back to me.

Q Yes. Did the F.B.I. office in Mobile send the prints to you?

A No, I am stationed in the F.B.I. office in Mobile.

Q You took them and you are not a resident agent here in Selma?

A That is correct.

Q You are stationed in Mobile, is that correct?

A Yes, sir.

Q All right. When you turned those pictures in and they were developed there in Mobile, did you transmit those pictures to anybody?

A No, sir. I helped in the developing process and in the printing process.

Q Did you develop them in the office?

A Yes, sir.

Q How did they get into the hands of Mr. Quaintance?

A They were sent by registered mail back to Selma.

Q Were all 150 pictures sent back?

A All 125 pictures were sent to him.

Q On that occasion?

A Yes, sir.

(102) MR. PITTS: That's all.

THE COURT: Anything else?

MR. PITTS: Wait just a minute, Judge.

I want to ask him one more question about those pictures. What kind of camera did you use?

A Beseler Topcon, 35 milimeter.

Q That picture that is in here is a blown up picture, isn't it?

A That is correct.

Q Did you blow it up?

A Yes, I did, part of them.

Q The blowing up of a picture of a 35 milimeter camera will greatly distort certain things in it, isn't that correct?

A I have no knowledge of that.

Q You have no knowledge of that?

A I don't know that much about photograph to state whether it does or does not.

Q Are you familiar with a speed graphic camera?

A No, sir.

Q The Bureau doesn't have a speed graphic?

A I have operated one.

Q Isn't the speed graphic camera—does that take a more accurate picture than a 35 millimeter camera does?

(103) A I don't know.

MR. PITTS: That's all.

THE COURT: All right. Step down. Thank you very much.

*MR. GUY S. KELLY*

The witness, called on behalf of the Government, after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. QUAINANCE:*

Q Would you state your name, please?

A Guy Kelly.

Q Your address?

A Camden, Alabama.

Q What is your position, Mr. Kelly?

A Superintendent of Education in Wilcox County.

Q How long have you held that position?

A Since July 1, 1965.

Q Since that time your job was what?

A Superintendent of Education in Conecuh County.

Q Your Honor, the Plaintiff would examine this witness under 43-B.

THE COURT: All right. Go ahead.

MR. QUAINANCE: Mr. Kelly, could you state the

(104) procedure for deciding what school a child will attend?

A In Wilcox County you are talking about?

Q That is correct.

A There are no procedures that I know of for children attending school.

Q Have you ever told an F.B.I. agent, Richard Tamaro that the normal procedure was for the child to go to the nearest school of his race?

A Yes—no. I told Mr. Tamaro the parent took the child and carried him to the school and enrolled him generally.

Q At the nearest school of his race?

A No, sir.

Q Mr. Kelly, are there geographical zones within the county, for example, if a student lives at Oak Hill and wants to attend the Camden white school rather than the Pine Apple white school, what is the procedure for his doing that?

A He can carry him to the Camden school and put him in.

Q If he wants to ride the bus routes, what happens?

A If the bus goes by there, his home, he can ride it.

Q If the Camden buses don't go to Oak Hill, does he have to transport himself to the end of the Camden bus route?

A I believe that is correct.

Q Do you have Exhibit 9 there, Mrs. Cox?

(105) Mr. Kelly, I show you a letter that is marked for identification as Plaintiff's Exhibit 9, and ask you if your office sent those letters to any persons in Wilcox County?

A Yes, sir.

Q Could you state to whom you sent those letters?

A I sent them to the parents of and guardians of negro children.

Q Throughout the county?

A Yes, sir.

MR. QUAINANCE: The Plaintiff offers Exhibit 9.

MR. PITTS: We have no objection to it.

(Whereupon, said Form Letter was received and marked in evidence, Government's Exhibit No. 9.)

MR. QUAINANCE: Mr. Kelly, directing your attention now to Applications filed with your office to transfer from one school to another or to be assigned from one school to another, I will ask you to describe what your office did with those applications which it received during the Spring and Summer of 1965? Let me withdraw that question. Did the Board of Education receive, to your knowledge, any applications from negro students to transfer to white schools?

A Yes, sir.

Q How many applications were there?

(106) A I don't know exactly.

Q Let me refresh your recollection. Were there in the neighborhood of ten?

A There probably was.

Q Could you describe what the Board did with those applications? What you did with them?

A Well, those applications were in the office when I came there. We discussed them after I came in office and we sent them a form letter stating that—well, I don't remember exactly what was in that form letter. You have a copy of it.

Q I will show you a sheet of paper that has been marked for identification as Plaintiff's Exhibit 10-B, and ask you if that is the sort of form you sent to the parents?

A I believe that is correct.

MR. QUAINANCE: The Plaintiff offers Exhibit 10-B.

THE COURT: Mark it in evidence.

(Whereupon, said Form Letter was received and marked in evidence, Government's Exhibit 10-B.)

MR. QUAINANCE: Mr. Kelly, did you state to Agent Tamero that you had rejected eight of those ten applications, approximately?

A No. I didn't.

Q Did you state to him that some of the applicants, approximately five or six in number, had applied to transfer to the Camden High School and that there was, in your words, no such school and you denied those applications?

A I did not.

Q Did you state to him that two of those applications, approximately, were for transfer from Coy Public School to Coy Public School so that you couldn't figure out what they meant and you denied those applications?

A No, sir. I did not.

Q Did you make any determination to determine what those applications meant?

A No, sir.

Q Did you state you had considered two of the applications valid, those from the children of Frank Smith?

A I did.

Q And the others you considered invalid?

A I believe so.

Q What was the reason besides those two, the two Coy Public School to Coy Public School the reason you considered them invalid, that they asked to transfer to Camden High School?

MR. PITTS: We object to that question as not being an intelligent question and doesn't even make any sense. He hasn't testified to anything like that.

MR. QUAINANCE: Mr. Kelly, did the reason that  
(108) you—



what reason did you give to Mr. Tamero for considering the other applications invalid besides the two concerning the Coy Public Schools?

A I don't recall discussing it with Mr. Tamero.

Q Let me refresh your recollection, if I might. Did you tell him they were applications for Camden High School and told him there was no such school?

A I probably did say that.

Q Mr. Kelly, I show you Plaintiff's Exhibit 7, page one, and ask you what school that purports to be?

A That is Camden School.

Q Is that a High School?

A That is a high school, Wilcox County High School.

Q Mr. Kelly, did you receive also some applications from white students to attend the Moore Academy in Pine Apple?

A I did.

Q Where were those students residing?

A I believe they resided in Dallas County in the edge of Dallas County.

Q To where did you assign those students?

A They asked—their school was being moved and they asked to transfer to the Wilcox County—I mean, Moore Academy in Pine Apple.

(109) Q Were they assigned to that school?

A Yes. We assigned them to that school.

Q Does the bussing—does the Wilcox School bus pick them up at the Dallas County-Wilcox County line to take them to school?

A I presume so.

THE COURT: I was looking at this exhibit. Go back a little bit, the bus picked who up where?

MR. QUAINANCE: Mr. Kelly, is it correct that the Wilcox County school bus goes to the county line to pick up those students who now attend the Moore Academy?

A I am not sure, but I believe the Wilcox County School System has always gone up there. I am not familiar with that area.

Q Does it now?

A To the approximate area.

Q Does it now go to the line?

A I presume it does; yes, sir.



Q In the Spring of 1966, were there negro students that came to your office and requested to transfer to white schools?

A Yes.

Q Could you describe what happened at that time? What did you tell them?

(110) A What specific . . .

Q All right. Did you tell them that their applications were acceptable or what reason did you give for not accepting the applications or what?

A No. I told them that we were not accepting applications. We were not accepting applications for the coming year at that time.

Q Did you tell them what time you would be receiving applications?

A We haven't set any date for receiving applications.

Q Mr. Kelly, are there any white persons working in the negro schools in Wilcox County? Of course, you have general control over the whole county and I guess I should ask for the record; your race is white, is that correct?

A Yes.

Q All right.

A Not on a permanent basis, I don't believe. So far as I know, they are not on a permanent basis; part time.

Q What do you mean?

A Well, we have consultants that do probably go into these schools and work.

Q The staff, entire staff at each negro school is negro?

A That is right.

(111) Q Is the staff of white schools white?

A Yes, sir.

Q They may accept janitors, I suppose, in school?

A No, they are not. They are some negro janitors, that is correct.

Q Are the athletic programs in your county conducted on a segregated basis?

MR. PITTS: We object to that.

A Yes.

THE COURT: Overruled.

A Yes.

MR. QUAINANCE: Are there extracurricular activities conducted on a segregated basis?

MR. PITTS: We object to that. He is only the Superintendent of Education.

THE COURT: Sustained.

MR. QUAINANCE: Are there any activities conducted by the schools in which persons of both races work together?

A Would you . . .

Q Activities in which the students participate?

A I don't believe so.

Q Mr. Kelly, has the Board ever filed any sort of desegregation plan?

A No.

(112) Q All right. Have you ever applied for the over \$600,000 in Federal money that was available to Wilcox County during the school year of '65-66?

A No, sir. We don't have \$600,000 available.

Q Do you know of the amount available to you under the Elementary and Secondary Act how much would be allocated to Wilcox County?

A Something over \$300,000.

Q Have you ever applied for that?

A No, we haven't.

Q Do you have No. 15?

Mr. Kelly, I show you a letter marked for identification as Plaintiff's Exhibit No. 15, and ask you if you can identify that letter?

A Yes, sir.

Q Is it a letter from John Doar to the School Board?

A Yes, sir.

MR. QUAINANCE: The Plaintiff offers Exhibit 15.

THE COURT: Mark it in evidence.

(Whereupon, said letter was received and marked in evidence, Government's Exhibit No. 15.)

MR. QUAINANCE: Mr. Kelly, how many schools were or have you and the Board ceased to operate during the school year in which you have been employed in Wilcox  
(113) County?

MR. PITTS: We object to that question; assuming that they have ceased to operate.

MR. QUAINANCE: All right. Have you ceased to operate any schools during your tenure? Are there any schools that were in operation last year that are not in operation this year?

A Well, I wasn't here last year. So far as I know right at this time, only one school we have ceased to operate. There is only one school that was operating last year and that was . . .

Q Was that the Catherine School?

A Yes, sir, but I am not sure about that.

Q Was that a white school?

A Yes.

Q All right. Did you participate in the plans for closing that school?

A No, sir. Now, I mean, I was not Superintendent at that time. Of course, I probably moved some equipment out of that school after I got there or something like that. Now, I don't recall.

Q All right.

A But I did not participate in the decision. I wasn't there when that was done. I believe I am correct in that.

Q Do you have any plans that have been formulated  
(114) to  
close other schools in the system?

A We have discussed it.

Q Are those plans to be put in operation during the coming school year?

A We hope to.

Q Could you tell the court what those plans are?

A We will consolidate Yellow Bluff with Pine Hill and we will consolidate Berson—now, I don't know where exactly we will put Berson. We are exploring the possibility of an enlargement of the Pine Hill Junior High School and some buildings there. We are securing additional property and we hope to eventually consolidate Lower Peachtree and Anniemanie into Pine Hill.

Q How long do you foresee that that operation will take?

A Well, I...

Q Those plans are not definite at this time?

A Well, the Board is definitely working on those plans and we have had the architect to work on some plans. The Board has not approved them. We have been delayed in processes of doing that.

Q Has the final decision been made on Yellow Bluff and Berson?

A Well, I would say so. Now, I have moved the books from  
(115) Yellow Bluff to Pine Hill already. I did that before school was out. I don't know that the Board has officially passed on that, but we have discussed it and I think that is definite, yes, sir.

Q Mr. Kelly, I show you a letter or a copy of a letter which has been marked for identification as Plaintiff's Exhibit 31, and ask you if that is the letter or a copy of a letter that you sent to the Mobile Press Register?

A Yes, sir.

Q Mr. Kelly, this letter, in part, deals with an article which had alleged that a person was a teacher of 84 second grade pupils in the Camden Academy and then you go on and I won't burden the record to read it in the record. Did you make an effort to determine whether there was a teacher at Camden Academy that taught 84 students?

A I determined that Camden had 26.8 students per teacher.

Q Would you answer the question? Did you determine that there was a teacher teaching 84 students?

A I determined that Camden Academy had 26.4 . . .

MR. PITTS: We object to that. He has answered the question.

MR. QUAINANCE: I asked him whether he found out.

MR. PITTS: I object to Mr. Quaintance arguing with the (116) witness.

MR. QUAINANCE: The letter states what Mr. Kelly is about to state. I asked him whether he made any effort to find out.

THE COURT: Let him finish his answer.

A I determined that Camden Academy had 26.—I don't recall—some few tenths students in average daily attendance per teacher. I was told that there were 84 students in a class over there. I could see no reason for it, but—I did not go and investigate and I figured if it was that the principal had some reason for it. I can see where there would be an occasion . . .

Q Do you see any reason for one teacher teaching 84 students?

A Yes, sir. I can see that.

Q Mr. Kelly, I direct your attention to the matter of teachers and ask you whether you ever hold any joint meetings of negro and white teachers?

A No, sir.

Q Mr. Kelly, in your motion to dismiss or the motion to dismiss to file on behalf of you in connection with the intervention of certain negro teachers, there is attached a letter from you to Mrs. Vallerie Watts and the address is Valerie Watts and the salutation is Dear Valerie and I would ask (117) you if it is your practice to address negro teachers by their first names?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

THE COURT: Sustain the objection.

MR. QUAINANCE: Your Honor, the Government believes it is relevant to show that the School Board treats negro teachers differently than it does white teachers.

MR. PITTS: We object to that.

THE COURT: Sustain the objection.

MR. QUAINANCE: Mr. Kelly, how many vacancies do you have in teaching positions for next year?

A I don't know.

Q Did you bring with you today any records indicating the number of teachers who have asked to resign?

A The ones I know of, yes, sir.

Q Mr. Pitts, do you have those? Mr. Kelly has stated that he brought them and I asked him for it. It wasn't in the motion to produce. We would ask for the record to show the number of vacancies.

MR. PITTS: No you didn't. You asked for transfers and things of that sort.

Do you have the letter here, Mr. Kelly?

A Yes, sir.

(118) MR. PITTS: Get them here. I don't know where they are.

(Off the record.)

MR. QUAINANCE: Mr. Kelly, at the same time, I would like to ask for another document that is connected with that so as to save the going down there again. Did you bring with you applications for employment by teachers for the coming school year?

A Yes, sir.

MR. QUAINANCE: All right. The Government would like to see both of those types of documents.

A I believe that's all, so far as I know. It is all I brought and here is the applications.

MR. QUAINANCE: All right. We will get them both marked at the same time. These are letters concerning resignations, Plaintiff's Exhibit 33.

(Whereupon, said Resignation letters were received and marked for identification, Governments' Exhibit No. 33.)

MR. PITTS: Your Honor, I want to object to any applications of teachers. It is not acted upon.

THE COURT: I beg your pardon?

MR. PITTS: I want to object to the offer in evidence to the applications of any teachers in which they have not acted (119) upon them. In other words, current applications for teachers.

THE COURT: That is not what he is asking for.

A He has that.

MR. PITTS: That is what he has.

MR. QUAINANCE: I would like, first, to handle the resignations and then the applications.

THE COURT: I didn't know we had gotten to the applications.

MR. PITTS: He came along and started asking questions while I was giving him the resignations.

THE COURT: Well, let's stick to the resignations for the time being.

MR. QUAINANCE: Mr. Kelly, I will ask you to identify what has been marked for identification as Plaintiff's number 33, and ask if those are letters concerning resignations that you have received from teachers in 1965-1966, at the end of that school year?

A Yes, sir.

Q I notice that the—well, Plaintiff offers number 33.

THE COURT: Are those the applications for—I mean, resignations?

A They are letters of resignations that we have (120) received.

THE COURT: Mark it in evidence.

(Whereupon, said Letters of Resignation were received and marked in evidence, Government's Exhibit No. 33.)

MR. QUAINANCE: Do you know if there have been any more teachers who have sought to resign?

A No, I don't know of any specific ones. I feel that there are some that are going to resign. I believe one or two of the principals maybe have mentioned to me that some of theirs are going to resign, but I wouldn't know who they are. I notice that the first letter of resignation, in number 33, is from John L. Rumph.

Q Could you tell me where Mr. Rumph plans to go?

A No, sir. I have heard, but I just don't recall.

Q Have you ever heard that Mr. Rumph is going to Bullock County to teach?

MR. PITTS: We object to what he heard.

THE COURT: I can't see any possible connection there.

MR. QUAINANCE: Judge Thomas, the Plaintiff has had information that Mr. Rumph plans to each part time at least to schools that contain a predominance of negroes.

MR. PITTS: Let him put him on then.

THE COURT: I can see absolutely no connection with this (121) case. Sustain the objection.

MR. QUAINANCE: Mr. Kelly, let me ask you whether you ever asked Mr. Rumph whether he would be willing to teach at a school with a predominance of negro students?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

MR. QUAINANCE: We are intending to show that the School Board has made no effort to bring about staff desegregation.

MR. PITTS: Your Honor, we object to that.

THE COURT: It is a negative approach. Sustain the objection.



MR. QUAINANCE: Maybe this is the same question, but Mr. Kelly, have you approached any white teacher to determine whether he would be willing to teach at a school with a predominance of negro teachers and students?

THE COURT: I think that is admissible.

MR. PITTS: Your Honor, there is nothing in the Civil Rights Act that requires desegregation of faculties, and the fact the Act specifically states under Title 6—specifically says you don't have to do it, and I submit to the Court that what he is going into is the Guidelines of H.E.W., and we contend that H.E.W. has absolutely exceeded every authority under the 1965 Civil Rights Act and the '66 Civil Rights Act in their guidelines and one of those is the thing he (122) is testifying about now.

THE COURT: I overrule the objection.

MR. PITTS: We except.

THE COURT: Do you remember the question?

MR. QUAINANCE: I asked whether you had inquired of any white teacher whether he had been willing to teach in a school with a predominance of negro students?

MR. PITTS: Same objection.

THE COURT: So far as I know, I never have asked one that. I might have, but it was just in talking. I never have asked that officially of anyone.

Q Have you asked him it unofficially?

A Not as I know of.

Q Have you asked any negro teachers whether they would be willing to teach at white schools?

MR. PITTS: We object to that on the same grounds.

THE COURT: Same ruling.

A Not that I know of.

MR. QUAINANCE: Couldn't you transfer a teacher like Mrs. Lelia Hill right now or Mrs. Parrish or Mrs. Gordon or someone like that to a white school, as negro teachers, in the present system?

MR. PITTS: We object to that question.

(123) MR. QUAINANCE: Aren't they qualified to teach?

THE COURT: Mr. Quaintance, when Mr. Pitts is objecting, keep quiet, and that applies both ways, I might add.

MR. QUAINANCE: I will withdraw the question, your Honor, and start over.

Well, I will withdraw that line of questioning then. Are there not in Wilcox County professional people such as lawyers, doctors, bankers and so forth that work with negro clients?

MR. PITTS We object to that.

THE COURT: Sustain the objection.

MR. QUAINANCE: Mr. Kelly . . .

THE COURT: Though I think the Court would almost judicially know the answer was yes.

MR. QUAINANCE: Mr. Kelly, I show you a folder, marked for identification as Plaintiff's 34, and ask whether that is a manila folder labeled white applications and containing teacher applications?

A That is right.

Q Did you write the words white applications on that folder?

A Yes, sir—well, no. Let's see, no, that was done in my office, however.

Q I show you a folder labeled Plaintiff's 35, and ask you if (124) that is a folder labeled negro applications, containing applications for teachers?

A That is right.

MR. QUAINANCE: Your Honor, the Plaintiffs decide not to offer these actual applications. I don't think that would help except perhaps Mr. Kelly—well, Mr. Kelly, could you count up the number?

THE COURT: If offered, the Court would rule that the particular individuals who are in there, their names are not admissible, but the names of each would be admissible.

MR. QUAINANCE: Yes, sir. That is all we are interested in.

MR. PITTS: We are going to object to those, your Honor.

THE COURT: I don't think whether a person has applied to teach—they might change their minds. As to the numbers, yes.

A Nine.

MR. QUAINANCE: That is white applications?

A Yes.

Q Could you count the negro applications, please?

A Yes, sir. I believe there are 26 in here, Judge, but you know I get a letter from a person wanting an application and many times I send them the application and some- (125) times I have both.

Q That is approximately 26 negro applications, is that correct?

A Yes, sir.

Q How many of the vacancies, Mr. Kelly, have you filled?

A I believe we have filled six.

Q Were any of those teachers of a different race than the school to which they are to be assigned?



A No, sir.

Q Have you made any attempt to determine from any of the persons who applied for teaching positions to determine whether they would be willing to teach or ask them to teach in a school of a different race?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

THE COURT: I think it is material, overruled.

A What was it?

MR. PITTS: Judge, we also object to that on the same grounds that it is not within the province of this Court.

THE COURT: All right.

MR. QUAINANCE: Mr. Kelly, I asked, in substance, whether you had attempted to determine whether the persons who had applied, any of them, were willing to teach in a school of a different race or whether you had told them  
(126) that you would assign them possibly to a school of a different race?

MR. PITTS: We object to that. There are two questions there.

THE COURT: One question at a time, Mr. Quaintance.

MR. QUAINANCE: Have you made any effort to determine whether any of the persons applied would be willing to teach at a school of a different race?

MR. PITTS: We object, your Honor.

THE COURT: Same ruling.

A No, sir, I haven't.

Q Mr. Kelly, from your experience in Conecuh County and your experience in Wilcox County, when will you expect to have your teacher positions filled?

A I don't believe I have ever had them all filled when school started.

Q Mr. Kelly, have you made any provisions for remedial programs for students who may have not received the quality of education as other students in the system?

MR. PITTS: We object to that.

THE COURT: What is your question?

MR. PITTS: It is incompetent, irrelevant and immaterial.

MR. QUAINANCE: Whether he has made any provisions for remedial programs for students who have not had  
(127) provisions for equal educational opportunity.

THE COURT: I will let him answer. Overruled.

A I don't know that we have.

MR. QUAINANCE: Mr. Kelly, I want time to go through these records and to save time, I only have those I want to

ask particular questions about. Here is number 12. Mr. Kelly, I show you what has been marked as Plaintiff's Exhibit No. 12, a teacher directory, and ask you whether this directory, to the best of your knowledge, contains the name of all of the teachers in the system?

A Yes, sir.

MR. QUAINANCE: The Plaintiff offers No. 12.

THE COURT: Mark it in evidence.

(Whereupon, said Teacher Directory was received and marked in evidence, Government's Exhibit No. 12.)

MR. QUAINANCE: Mr. Kelly, I show you a document, marked for identification as Plaintiff's Exhibit 11, summary of enrollment, and ask you whether it is your handwriting that appears thereon?

A That is right. It is.

MR. QUAINANCE: The Plaintiff offers No. 11.

(128) THE COURT: Mark it in evidence.

(Whereupon, said Summary of enrollment was received and marked in evidence, Government's Exhibit No. 11.)

MR. QUAINANCE: Mr. Kelly, I show you a folder, marked for identification as Plaintiff's 30, consisting of construction plans for Pine Hill School, and ask you if there are any other plans for construction that have progressed from this stage of being on paper?

A No, sir.

Q This Pine Hill School is the Pine Hill School?

A No, that is the present Junior High School there.

MR. QUAINANCE: All right. The Plaintiff offers No. 30.

(Whereupon, said Construction Plans were received and marked in evidence, Government's Exhibit No. 30.)

THE COURT: Well, according to his letter, that isn't 30. Are you following this same patternization or not?

MR. QUAINANCE: Your Honor, when we had the return, I will give you this new copy. When we had the return, we had to make some additions.

THE COURT: I wish you would give me the correct one to start with. All of my records are out of date. Yours are the same, but there are additions in addition to mine, (129) is that right?

MR. QUAINANCE: Yes, sir, your Honor.

THE COURT: 30 isn't the same application for teachers and don't spell out plans to make a building.

MR. QUAINANCE: That is correct. You correct this one and let me have it back.

Your Honor, the Plaintiff would not offer exhibits 11 through 14, number 11 is the summary of enrollment

as of October 1, 1965. Number 12 is already in. Number 11 we would offer. Number 13 is applications for transfer. 14 is petitions for desegregation and 16 an insurance schedule for '65 through '67. 17, insurance inspection reports, '65 and '66. We would offer 16 and 17.

(Whereupon, said Applications for Transfer were received and marked in evidence, Government's Exhibit No. 13.)

(Whereupon, said Petitions for Desegregation were received and marked in evidence, Government's Exhibit No. 14.)

(Whereupon, said Insurance Schedule for '65 through '67 was received and marked in evidence, Government's Exhibit No. 16.)

(Whereupon, said Insurance Inspection Reports were received and marked in evidence, Government's Exhibit (130) No. 17.)

MR. QUAINANCE: We have omitted No. 18. No. 19 we would offer. That is purchase orders for 1955-56. No. 20 we would offer, is the monthly attendance reports in October of 1965. No. 21 and 21-A are inventories and requisitions for State owned textbooks. We would offer that. 22, applications for accreditation. We would offer that. No. 23. Institute Reports from 1960 through '66 and we would offer that.

MR. PITTS: You offer all of those as a group?

MR. QUAINANCE: Yes, sir.

MR. PITTS: We object to them as incompetent, irrelevant and immaterial. Some of these documents don't go to prove any of the issues or disprove any of the issues in this case. For example, the applications for accreditation, the inventories of books that are purchased from the state, the state-owned books and so forth. They don't go to disprove or prove any of the issues involved in this case.

THE COURT: I will have to go through all of this again.

MR. PITTS: He has offered them as a group.

MR. QUAINANCE: I offer each as a separate exhibit at the same time.

THE COURT: All right. Which do you offer not?

Q MR. QUAINANCE: Number 11 was the first one—  
(131) no, that has been admitted. No. 13, we have offered.

THE COURT: Let's see if my record is correct.

MR. QUAINANCE: 13 is applications for transfers.

THE COURT: 13, let it go in.

MR. QUAINANCE: 14 is a petition for desegregation.

THE COURT: Admitted.

MR. QUAINANCE: 16 is the insurance schedule.

THE COURT: What about 15?

MR. QUAINANCE: 15, your Honor, has been offered.

THE COURT: All right.

MR. QUAINANCE: 16 is the insurance schedule.

MR. PITTS: Now, I object to that.

THE COURT: I thought . . .

MR. PITTS: Incompetent, irrelevant and immaterial.

THE COURT: I thought I marked it out anyway, didn't I?

MR. QUAINANCE: No, sir, your Honor. The insurance schedule shows the valuation of the schools from which we can obtain a per pupil valuation. They show the number of classrooms, whether there is a gym and so forth, for example.

MR. PITTS: Well, your Honor, those insurance records don't show that.

THE COURT: Wait just a minute. Do those records show the composition of each separate facility?

MR. QUAINANCE: Your Honor, number 17, the  
(132) insurance

inspection reports, do show the items about the individual schools, including the type of construction. Number 16 contains the valuation of each building that has been insured by the School Board.

MR. PITTS: There it is, Judge. That is number 16.

THE COURT: Does this show the valuation or show the amount of insurance or what?

MR. QUAINANCE: It shows both, your Honor, in one column, the valuation of the building and in another column the valuation of the contents and then it shows the amount of insurance.

THE COURT: Who places the value of the facility in here?

MR. QUAINANCE: Mr. Kelly, could you answer that question?

A It is placed in there by an inspector. He comes around and when you add on a building and so forth and inspects it.

THE COURT: Is he a State employee?

A Yes, sir.

THE COURT: With the State Department of Education?

A It is the Insurance Department of the State, not the Department of Education only, I believe, but he arrives at a valuation alone. He more or less goes by what he gets  
(133) from  
the Superintendent, I believe.

THE COURT: Superintendent of Education?

MR. MADISON: We object to that, if your Honor please. We object unless he knows for a fact.

MR. PITTS: We do too.

THE COURT: Does he get this information from you?

A Well, of course, when I went to Wilcox County, it was already done there, but—and unless—now, I changed one or two of those, the valuations on them. I told him when his recommendation I wrote them a letter and asked him to change the valuation on there.

THE COURT: He goes over these valuations with you?

A Yes, sir.

THE COURT: I'm going to let it in.

MR. PITTS: We except.

THE COURT: He told me that 17 set out what the facilities consist of.

MR. PITTS: That is an inspection report of each school.

THE COURT: I think it is admissible.

MR. PITTS: We except.

THE COURT: What else now?

MR. QUAINANCE: No. 19 is the purchase orders for (134) 1965 and '66.

THE COURT: Purchase orders for what?

MR. QUAINANCE: For the Wilcox County School System for 1965 and '66, and the typical order would list the item to be obtained and the cost of it and the School to which it is to be sent. For example, if a tape recorder is to be bought and sent to a certain school, that would be listed and the school to which it is sent.

THE COURT: I am going to reserve my ruling on that. That is number what?

MR. QUAINANCE: 19.

MR. PITTS: We object to it, Judge.

THE COURT: All right.

MR. QUAINANCE: No. 20 is the monthly attendance report for October, 1965. It shows the number of students in each classroom and the number of teachers in the whole school. The purpose is to obtain . . .

THE COURT: Let it in.

(Whereupon, said Monthly Attendance Report for October, 1965, was received and marked in evidence, Government's Exhibit No. 20.)

MR. QUAINANCE: 21 is a requisition for textbooks—excuse me. Let me make sure that is correct. 21 is labeled but it is also or appears to give the number of books on (135) hand in each classroom in each school of certain books. Number 21-A is an inventory of all state-owned textbooks by school and by grade.

THE COURT: All right. Let them in.  
(Whereupon, said Requisition for Textbooks was received and marked in evidence, Government's Exhibit No. 21.)

(Whereupon, said Inventory of all State-Owned Textbooks was received and marked in evidence, Government's Exhibit No. 21-A.)

MR. PITTS: Judge, we don't think that is relevant, because the State furnishes all the textbooks, but that thing always includes the number of textbooks that was bought from the School System for the individual student. It came in when the individual student was selling textbooks.

THE COURT: I think it ought to go in. Overruled.

MR. QUAINANCE: No. 22 is applications for accreditation during the immediate past school year.

THE COURT: Let me see that. It lists the courses taught at this school which is applying for accreditation and gives the number of books in the library and other similar information. Mr. Kelly, is that right?

A Yes, sir.

THE COURT: What is an application for  
(136) accreditation?

A The State is an accrediting agency, Judge, and then they have a Southern Association which is also an accrediting agency. Now, the State requires schools to have certain—well, certain schools must meet certain requirements to get accreditation such as having teacher loads in line and

they must—there are certain courses that are required for accreditation.

THE COURT: I see this application—the top one is signed by you. Do you make the application?

A No, sir. They make the applications and they bring it in there, the principals make the applications and they bring it in there and I sign it.

THE COURT: I think it is admissible.

MR. PITTS: We except.

(Whereupon, said Application for Accreditation was received and marked in evidence, Government's Exhibit No. 22.)

MR. QUAINANCE: No. 23 is the institute reports from 1965 through '66 institute records show that teachers employed during each school year and the classification of teachers would be possible to determine the right of turnover and it also would show how many teachers at a certain level of training.

MR. PITTS: We object to it, incompetent, irrelevant and im-  
(137) material, has no bearing on any of the issues in this case.

THE COURT: I think it is admissible. Overruled.

(Whereupon, said Institute Records were received and marked in evidence, Government's Exhibit No. 23.)

THE COURT: Now, is that all?



MR. QUAINANCE: We just have these maps, your Honor. Mr. Kelly brought some school bus route maps and some showing the locations of the schools and the recommendation of the State Survey and the F.B.I. had previously made up copies of them. Now, we can either introduce the originals or the copies, depending on which Mr. Pitts would prefer to do.

THE COURT: Have the original marked and substitute copies. Let's get on with it.

All right. Let me get them in order.

MR. QUAINANCE: 24 is a map of White Schools and 25, Negro schools, and 26 is the white bus school map and 27 is the Negro school bus map.

THE COURT: All right.

MR. PITTS: Judge, we object to these on the grounds that these maps with some marks and stuff placed on these maps that could materially change these by somebody after they were turned over to the Government.

(138) MR. QUAINANCE: We will offer the originals.

MR. PITTS: We don't know what happened after they were turned over to you.

MR. QUAINANCE: Nothing has happened.

MR. PITTS: There is a red mark on everyone of those things that we don't know anything about.

MR. QUAINANCE: Where is that, Mr. Pitts?

MR. PITTS: That.

MR. QUAINANCE: These were on there.

A It is not in the legend now. I don't recall it, but I don't know, though.

MR. QUAINANCE: Mr. Kelly, I can refresh your recollection that these red marks—let me ask if they aren't the recommendations of the State on whether a center is an approved center for use in obtaining the teacher units?

A Well, I haven't examined the map except that I did notice that there is no legend there for the red mark.

MR. QUAINANCE: That is correct. I can show you the State survey report reflects certain things.

A Well, yes. I could be wrong about that.

THE COURT: Overruled. Let the copies go in.

(Whereupon, said Map of the White Schools was received and marked in evidence, Government's Exhibit No. 24.)

(139) (Whereupon, said Map of the Negro Schools was received and marked in evidence, Government's Exhibit No. 25.)

(Whereupon, said Map of the White School Bus Routes was received and marked in evidence, Government's Exhibit No. 26.)

(Whereupon, said Map of the Negro School Bus Routes was received and marked in evidence, Government's Exhibit No. 27.)

MR. QUAINANCE: No. 28, your Honor, is the annual reports from Mr. Kelly—that Mr. Kelly brought in this morning consisting of transportation, attendance reports and financing statements.

THE COURT: All right. Let them in.

(Whereupon, said Transportation and Attendance Reports and Financial Statements were received and marked in evidence, Government's Exhibit No. 28.)

THE COURT: What is the finance statement?

MR. PITTS: We object to that. I don't know, Judge, I think we will let that in because that don't show—well, I don't have any objection to it.

THE COURT: All right. We will let it in.  
I am at a loss to know what the materiality is, but I will let it in.

MR. QUAINANCE: Your Honor, that concludes  
(140) the  
Plaintiff's case.

THE COURT: All right. Are you through with Mr. Kelly?

MR. QUAINANCE: Yes, we are.

THE COURT: Mr. Hall.

# CROSS EXAMINATION

MR. HALL:

I'm going to put some questions to him. May I have a minute, your Honor?

THE COURT: Well, let's take a 15 minute recess.

(Whereupon, a short recess was taken, after which the following occurred:)

THE COURT: All right. Mr. Hall.

MR. HALL: Judge, may we have just a little time to finish marking here?

MR. QUAINANCE: Judge Thomas, I may have been a little premature. The one item here about keeping the record open, I don't know that I need to do anything more about that. The No. 32 is the only exhibit we would like to have available, the available teacher unit on the supplemental subpoena. Now, No. 31, I did not actually offer that in the confusion there at the end, the letter to the Press Register.

THE COURT: Do you wish to offer it?

(141) MR. QUAINANCE: Yes, sir.

(Whereupon, said Letter was received and marked in evidence, Government's Exhibit No. 31.)

MR. QUAINANCE: I through 5 I had offered.



THE COURT: They are in. What is No. 32?

MR. QUAINANCE: 32 is the records of available teacher units and that is on the supplemental subpoena. I would ask for the record to be kept open for them to be received.

THE COURT: Mr. Kelly, will you furnish that when you can conveniently do so?

MR. PITTS: What is that?

THE COURT: No. 5 on the supplemental Duces Tecum.

MR. PITTS: All right, sir.

THE COURT: Well, if he has it, furnish it. If he doesn't he can't.

MR. PITTS: No. 5, Judge, that is as available to him as it is to us from the State Department of Education. That is according to a document from the State Department of Education.

MR. QUAINANCE: Your Honor, my information is that the State sends to the County each year at different times during the year letters indicating the number of teacher available units. We will be glad to attempt to obtain those (142) from the State.

THE COURT: All right. I'll have the record open. Step down, Mr. Kelly.

MR. HALL: I wanted to give him some questions on the Government's case.

THE COURT: Excuse me. Mr. Kelly, I was premature. Please have a seat.

### CROSS EXAMINATION

BY MR. HALL:

Q Mr. Kelly, will you tell us if there are any negro and white students going to school together anywhere in Wilcox County at the present time?

A No, so far as I know, they are not.

Q Were there any schools during the last school year where negro and white school students attended schools together?

A No.

Q Do you know of any negro and white school students that will attend schools together during the next year?

A I couldn't answer that.

MR. PITTS: We object to that question, if it please the Court.

MR. HALL: May it please your Honor, I will withdraw and rephrase the question, and ask the witness if he knows of any transfers of negroes to white schools or white to (143) negro schools?

A There hasn't been, at this time.

Q Has the School Board of Wilcox County, Alabama, made any arrangements for such transfers—made any announcements, public or private?

A No.

Q Mr. Kelly, I show you what purports to be Plaintiff-Inventor Thompson and others Exhibit No. 1, and ask you if you can identify it?

A Yes, sir.

Q Will you tell us what it is, please, sir?

A I didn't get that.

Q Will you tell us what it is, please, sir?

A It is a letter to a parent or guardian assigning Jessie James Smith to the Lower Peachtree School pending action of the Board and that is Larry Whiting Smith.

Q That is two letters, isn't it?

A Yes.

Q Will you give us the dates on those two letters, please, sir?

A 8/31/1965.

Q And are these letters from your office, sir?

A Yes.

Q Are they signed by you?

(144) A Yes.

Q Will you tell us what they say? I will withdraw that. Were the applications for transfer of these students before these letters were written?

A Had the students . . .

Q Had the parents of these students, Jessie James Smith and Larry Whiting Smith, had the parent, Frank Smith, made an application to have these students transferred?

A I believe so.

Q Do you recall this?

A I believe that letter is in that file over there, isn't it?

Q I don't know, sir, but this letter is from your office and signed by you?

A That is right.

Q On August 31, 1965?

A That's right.

Q Will you tell us what those letters say? They are form letters, aren't they?

A Yes.

Q In effect, what do they say?

MR. PITTS: We object to that. The letters are the best evidence.

THE COURT: All right. Sustain the objection.

MR. HALL: All right, sir. Mr. Kelly, was any (145) action ever taken on these transfers?

A Nothing subsequent to that letter.

Q That was August of last year?

A Yes.

Q And you informed this parent—by the way, do you know the parent, Frank Smith, Reverend Frank Smith?

A Yes.

Q Is he white or colored?

A Colored.

Q Was he formerly employed by your School Board?

A Yes.

Q Is he now employed?

A No.

Q Did he resign?

A No. The Board cancelled his contract.

Q Was he reinstated?

A Not yet.

Q Was he ordered reinstated by any higher authority than the Board?

A Well, he was ordered—no, I don't know that he was. I don't know.

Q The Tenure Board of the Board of Alabama which reviews the Action of the Board of Education nullified the ruling (146) of the Board of Wilcox County, did it not?

MR. PITTS: We object to that question. The order of the Tenure Board of the State of Alabama would be the best evidence.

MR. BILLINGSLEY: Your Honor, I believe this is admitted in the pleadings filed by Mr. Pitts that they did.

THE COURT: Is that correct? Is it admitted in the answer?

MR. PITTS: In the answer we filed to the Intervenor.

MR. HALL: In opposition to the Intervenor, Mr. Pitts did admit that.

MR. PITTS: Wait just a minute, your Honor. Frank Smith is not an Intervenor according to my records.

MR. HALL: He is not, no, sir.

THE COURT: All right. The document itself would be the best evidence, but do you know of your own knowledge whether they did or didn't?

A What was the question now?

THE COURT: Whether some State Board counteracted the action of your Board?

A The tenure Board said they would not uphold us in the decision in the Wilcox County Board in its decision.

MR. PITTS: We move to exclude that, because it is not the best evidence.

(147) THE COURT: I realize that, but let's get on with the case.

MR. HALL: Up to this time, your Board has not reinstated Frank Smith?

A No.

Q You have not transferred his children from the negro school to the white school?

A No.

Q You re-assigned them to the negro schools as of August of last year?

A That's right.

Q And they are there as of now?

A That is right.

Q I believe when Mr. Quaintance was examining you some little while ago, with reference to these applications for transfer, that you made a statement that Frank Smith—you thought were the only applications that were properly filled out, is that correct, or did you make statements to that effect?

A I don't believe I said that.

Q You don't?

A No.

Q I will ask you now, sir, were the applications for transfers filed by the parent, Frank Smith, properly filled out and  
(148) filed with your Board?

A As far as I know, it was.

Q These are all colored people parents and students?

A That is right.

Q And their applications was for transfer from a colored school to a white school?

THE COURT: I think that is repetitious.

A Yes.

MR. HALL: All right. I believe that's all.

THE COURT: Mr. Billingsley, is there anything?

*CROSS EXAMINATION*

BY MR. BILLINGSLEY:

Q Mr. Kelly, is Mr. Pitts retained by you and the Wilcox Board of Education annually or was he retained for this particular case?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

THE COURT: Sustain the objection. I don't see the necessity.

MR. BILLINGSLEY: Your Honor, we are asking for a reasonable attorneys fees in this case and certainly if they are going to pay Mr. Pitts from public funds they are also responsible for the attorneys representing the intervenors who are destitute and living in distressed areas.

(149) THE COURT: I am sure Mr. Pitts is retained, but I sustain the objection.

MR. BILLINGSLEY: How much is Mr. Pitts being retained for—how much has Mr. Pitts been paid for representing you and the Board in this case?

MR. PITTS: We object to that.

THE COURT: Sustained.

MR. BILLINGSLEY: Mr. Kelly, in order to shorten the examination, I am going to ask you this, Valerie Watts, Vasellie Jones Hayes and Jessie J. Lymons, who were hired by the Board of Education as teachers sometime ago, but their contracts were terminated last year the same as Mr. Frank Smith, would your answer you have given to Mr. Hall be the same for these three teachers?

MR. PITTS: I object to that. These attorneys have filed a suit in the Wilcox County Circuit Court mandamsing or seeking a mandamus of the Wilcox Board of Education and the four suits of the people he is talking about in the Circuit Court of Wilcox County. I submit to the Court that the Circuit Court of Wilcox County has jurisdiction in those cases. They acquired jurisdiction of those cases and that this Federal Court should not take away from the State Courts, the jurisdiction of that Court, of a case it first acquired until all remedies are exhausted. Now, if any privileges are denied to them under the Fourteenth (150) Amendment or any other amendment of the Constitution, they can resort to the State Supreme Court from the Circuit Court, and if they haven't got the remedy there, they can then go to the Supreme Court of the United States. I submit that this Court should not usurp the powers of the State Court.

THE COURT: I think that was cited in the Still case. I will reserve my ruling on it.

MR. BILLINGSLEY: Would your answer be the same.

A Yes, sir.

MR. PITTS: I object to that.

THE COURT: He said he was asking it in that fashion.

MR. PITTS: I don't know what his question was.

THE COURT: Ask them separately. Give me the name of the first teacher.

MR. BILLINGSLEY: Well, your Honor, I have more than that. I have—this is a class action, but the first teacher is Mrs. Valerie Watts.

THE COURT: Did she teach last year?

A Yes, sir.

THE COURT: Was her contract terminated?

A Yes, sir.

THE COURT: At her request or did the Board do it?

A The Board.

(151) THE COURT: All right.

MR. BILLINGSLEY: Would your answer to those questions be the same to Mrs. Hayes and to Jessie J. Lymons?

A Yes.

Q Now, Mr. Kelly, you received a notice to bring certain records with you; one, the minutes of the meeting of the

Board of Education of Wilcox County for the last five years. Did you bring them?

MR. PITTS: I object to that.

THE COURT: Wait a minute.

MR. PITTS: I object to that, incompetent, irrelevant and immaterial.

THE COURT: I ruled on that, not on your motion, not on the motion filed by Mr. Billingsley, but on a motion to produce under Rule 37 by the Government for identical exhibits. I ruled they would not have to be furnished and I will retain my same ruling.

MR. BILLINGSLEY: If your Honor please, the minute book is very important to this same case. We might need it for purposes of impeachment later on. I have seen these books. I saw them at the time we represented the teachers in Wilcox County. I know these books contain pertinent information. It shows about the teachers being hired and fired and the white schools and negro schools and we need this information. We don't have to use the entire book, but we

(152) need it as relates

to the year of 1965 to '66, and this information I have written notes on of some of the items contained in those minute books, and it is also essential to have the minutes of the Board. These are public records. We need to know, to show how this Board discriminates against negroes and how it maintains a superior school for whites and an inferior school for negroes.

THE COURT: I will reserve my ruling. I will rule on it in the morning.

MR. BILLINGSLEY: Did you also bring all the directories for negro teachers and white teachers as well as white and negro personnel employed by the Board of Wilcox County, Alabama?

A Yes, sir.

THE COURT: I think that information is here.

MR. PITTS: It is with the Government.

MR. BILLINGSLEY: Where it is in, I will pass over it. Did you bring a list of all subjects taught in schools attended by white students?

A Of what now?

Q All subjects taught in schools attended by white students?

A It is in the records there we brought in, yes, sir. There (153) is no list, but it is in the records there that we have.

Q Could you find it for us—not now, but maybe we can get that back to you in the morning.

MR. PITTS: Your Honor, I would like to impose the objection to it in going into these records. Mr. Kelly's office, as such, does not maintain a list of each subject taught in each individual school. We wish we did, because we wanted some of that information, but there is no record in the Wilcox County Board of Education, as I under-

stand it, that lists the subjects that are taught in each school. There are courses in some schools that are not in other schools.

MR. BILLINGSLEY: That is what we want to find out.

A No, sir.

THE COURT: All right.

MR. BILLINGSLEY: Can you get such a list, Mr. Kelly? You are Superintendent of Education of Wilcox County, Alabama, are you not?

A Yes, sir.

Q And as such, you are the officer who supervises the schools and you would know, would you not, what subjects are taught in these schools?

MR. PITTS: We object to that, that is argumentative.

THE COURT: I don't think that is. Do you have the information or not?

A I can get the information from the principals of (154) the schools, Judge.

THE COURT: All right. Did you bring with you a list of all subjects taught—a list of all books approved for study by the Wilcox County Board of Education for white students?



A Not as such. We have a list of all the books that—we have the names of the books that are taught in Wilcox County.

MR. BILLINGSLEY: All right. You have only been with the Wilcox County Board of Education for a year?

A Yes, since July 1st.

Q Did you also bring with you a list of all books approved for study by negro students?

A That is available too.

MR. PITTS: Let him answer the questions. He has already furnished it to you.

THE COURT: Wait a minute, now.

MR. BILLINGSLEY: Did you bring with you, Mr. Kelly, the name of all white teachers now presently employed in the Wilcox County School System and the schools to which they are now presently assigned as well as the years of service of each?

MR. PITTS: Your Honor, we object to that, because that has been produced to the Government. The directory of white (155) and negro teachers was in the Government exhibit.

THE COURT: That is what we are trying to find out.

MR. PITTS: He hasn't looked at it.

A Yes. It is in there.

THE COURT: All right. That ends it.

MR. PITTS: He is wasting time.

MR. BILLINGSLEY: I don't know where to look. Did you bring with you the names of all negro teachers now presently employed by the Wilcox County School teachers and the positions in which they are assigned?

A They are here.

Q Now, Mr. Kelly, can you tell me how many negro teachers' contracts were cancelled for the year of 1965-66?

MR. PITTS: Now, I am objecting to that. He has only four teachers he is representing here.

MR. BILLINGSLEY: This is a class action.

MR. PITTS: There are only four.

THE COURT: Just a minute. I understand what both of you have in mind. One ask the question and that don't need any argument. Overrule the objection. It is a class action.

MR. PITTS: Judge, I will submit to you that it is not a class action.

THE COURT: Well, is it a class action or not?

MR. BILLINGSLEY: Yes, sir.

(156) THE COURT: Is it so alleged?



MR. BILLINGSLEY: Yes, sir.

THE COURT: All right.

MR. PITTS: Judge, in the prayer it is not, and in the headings of the complaint it is not. It only has four names in the heading of the complaint.

THE COURT: I will check the pleadings and if it is not then I will rule out on all except these four. I am not going to stop right now to do that.

MR. BILLINGSLEY: How many negro teachers—how many contracts involving negro teachers was terminated for the year 1965-66?

MR. PITTS: I object. It is not a class action.

THE COURT: I will reserve my ruling. Answer the question.

A You mean—what do you mean there?

MR. BILLINGSLEY: For the year 1965-66?

A I don't know that I could tell you.

Q What is your best judgment? Would you say as many as ten?

A I believe nine.

Q Your minutes will show how many?

A I will have to look it up to see.

Q If you had minutes, you would have to ascertain how many (157) negroes?

MR. PITTS: Wait a minute. We object to that, if he had the minutes.

MR. BILLINGSLEY: Would the minutes contain this information?

A I am sure it would.

Q All right. Now, can you tell us why you terminated or why the Board terminated the contract with Mrs. Watts?

A A reduction in teacher units.

Q Reduction in teacher units?

A Yes.

Q Why did they terminate the contract of Mrs. Hayes?

A For the same reason.

Q And the others?

A The same reason.

Q The same reason?

A Yes.

Q Now, what do you mean by reduction in teacher units?

A I couldn't tell you offhand. I will have to look that up.

Q Do you know how many years of service was rendered to the Board of Education by Mrs. Watts?

A No.

Q Have you seen that information anywhere?

A I don't know whether I have or not.

Q Do you know how many years of service was rendered by Mrs. Hayes?

A No.

Q Do you know how many years of service was  
(160) rendered  
by the other teachers?

A No.

Q Is it possible that you can get that information?

MR. PITTS: Now, your Honor . . .

A I don't know whether we have that information or not.

MR. PITTS: We object to that question for the simple reason because that is as much available to the attorney for the teachers as it is to him. He can get it from the clients.

THE COURT: Sustain the objection.

MR. BILLINGSLEY: Can you tell the Court whether or not there were and are teachers, both white and negro, in the Wilcox County School System with service less than Mrs. Watts?

A Yes.

Q And Mrs. Hayes?

A Yes.

Q Can you tell the Court whether or not there are negro and white teachers in Wilcox County School System who have less training and less degress than Mrs. Watts or Mrs. Hayes?

A Less training?

Q Yes.

A Well, I am sure there is.

(161) Q Do you have any negro and white teachers in the Wilcox County School System who do not have any degrees?

A I believe so.

Q Do you have an idea how many?

A No, I don't.

Q Do you have that information available?

A I expect I could find it.

Q Do you know Mr. Albert James Gordon here, do you not?

A Yes.

Q When was his contract terminated?

A I believe his contract was terminated before I went in office.

Q I see. When did you really go in office?

A July 1st.

Q How long have you resided in Wilcox County?

A Since July 1st.

Q I see. Do you know why Mr. Gordon's contract was cancelled?

MR. PITTS: We object to that. He says it was terminated before he went into office.

THE COURT: He can say so one way or the other.

A No, I would have—I was there, but I would have to refresh my memory about that. I wasn't particularly concerned (162) so I would have to look into that.

Q Did you know that Mr. Gordon was one of the Plaintiff-Intervenors in this action, did you know that?

A Yes.

Q You did know that?

A Yes.

Q And you didn't bring those records with you, did you?

A What records now?

Q Concerning Mr. Gordon and these other Plaintiffs. Did you bring the records and files on these four teachers that we listed down here?

MR. PITTS: We object to that. He doesn't specify what records.

MR. BILLINGSLEY: With reference to the cancellation of their contracts and the reasons therefor.

THE COURT: I think that is admissible. Overruled.

MR. BILLINGSLEY: This information would be contained in your minute book, wouldn't it?

A I believe I brought those to your office, didn't I, Mr. Pitts?

MR. PITTS: If it is, it is in the State mandamus suit.

MR. BILLINGSLEY: Is it not also that this information is (163) with the State Board—Wilcox County Board minutes?

THE COURT: I will reserve my ruling. I will rule on it in the morning.

MR. BILLINGSLEY: Mr. Kelly, would you have information as to the salaries that were received by each of the Plaintiff-Intervenors in the teachers' case?

A Yes.

Q Where is that information?

A It would be in the office.

Q Could you bring that with you tomorrow?

A Yes.

Q Now, do you pay negro teachers the same salaries as you do white teachers?

A They are paid according to the same schedule.

Q Teachers with an A.B. Degree get the same salary as teachers with Masters get?

A We use the same schedule.

Q Same schedule?

A Yes.

Q Now, on your bus drivers, what is the regular rate for a bus driver?

A I couldn't tell you.

Q You don't have that information?

A No. We would have it in the office. I don't have it with me.  
(164)

Q Do you pay all bus drivers the same salary?

A I never have had occasion to look into it. I would have to look it up.

Q Who pays the bus drivers, your office?

A It is paid out of my office.

Q Could you get that information to us?

A Yes.

Q Do you pay white and negro bus drivers the same scale?

MR. PITTS: Judge, I object to this. There is nothing in here about bus drivers.

THE COURT: Well, it is all involved in the case. Overrule the objection.

MR. PITTS: We except.

MR. BILLINGSLEY: Your Honor, I don't know. I am coming to a point here now—I believe we have—the matters have been pretty well covered.

THE COURT: Well, let's don't repeat it then as relates to the assignment of students and principals and other professional personnel, except, I believe, Mr. Kelly testified that there was some type of desegregation as far as janitors

were concerned. You do have negro janitors in white schools?

A I believe there are some.

THE COURT: You answered this morning in the (165) affirmative.

MR. BILLINGSLEY: Are there any white janitors in negro schools?

A No.

Q That is the only type of desegregation you have, is that right?

A That situation is true, yes.

Q Now, Mr. Kelly, I want to show you a book here. Do you recognize that book?

A Yes.

Q Can you identify it?

A Yes. It is a history book.

Q For what?

A For Alabama.

Q By whom?

Dr. Summersell.

Q What is contained on the front of this book here?

A A flag.

Q What kind?

A That is a confederate flag and I believe that is the Alabama flag.

Q I see. And it is also in the appendix, is it not?

A Yes. What page are you referring to?

(166) Q Page 624.

A Yes.

Q All right. Now, I will show you this book and will you tell the Court—your Honor, I am doing this in order to avoid putting these voluminous books into evidence.

THE COURT: All right.

A That is Civics for Alabama schools.

Q These are books presently used in the School System?

A I wouldn't know.

Q Were they used last year?

A I wouldn't know.

Q Who would know?

A The principals could tell you.

Q Will you read this fine print and tell us what page it is on?

A Do you have a magnifying glass?

Q Will it be all right for the Court Reporter to read it for you?

A Yes.

COURT REPORTER: Morgan County White Supremacy, for the Right, Democratic Party of Alabama, Official Ballot.

MR. BILLINGSLEY: Mr. Kelly, you are familiar with most of the books used in the School System in Alabama, are you not?

(167) A No, I am not.

Q Do you know of any books that depict the lives of negro citizens that are being taught in the Wilcox County School System?

A I don't know.

Q Are you acquainted with books used in the First and Second Grade children books?

A No, I am not.

Q You have not seen children's books and you don't know whether these books contain pictures of all white children or all negro children?

A No, I do not.

MR. BILLINGSLEY: All right, that's all I have, your Honor.

MR. HALL: Judge, I'm sorry. I meant to offer Exhibit 1, which Mr. Kelly identified into evidence.

THE COURT: All right. You realize he was put on under Rule 43-B?

MR. HALL: Yes, sir.

(Whereupon, said document was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 1.)

### CROSS EXAMINATION

BY MR. PITTS:

(168) Q These books he is asking you about here are school books in Alabama, is that correct?

A Yes.

Q Now, this business he is talking to you about where he had Mr. O'Connor read to you that had White Supremacy on it, what page is that on? What page did he offer in evidence that had the ballot on it?

MR. BILLINGSLEY: It had a piece of paper on it.

MR. PITTS: I'm showing you page 124 here, Mr. Kelly. Looking at that, that is a balow, isn't that correct?

A Yes, sir.

Q And up until the May primary, 1966, May primary, '66, every ballot that carried the Democratic symbol had those words on it, didn't it?

A I believe that is correct.

Q And that book there is nothing more than a reproduction?

A Except that says Morgan County.

Q Of a ballot to illustrate to the children what a ballot is, is that correct?

A I believe so.

MR. PITTS: That's all.

THE COURT: All right. Step down.

MR. BILLINGSLEY: Wait just a minute, your Honor. I (169) want to ask him something else.

THE COURT: All right.

#### RE-CROSS EXAMINATION

BY MR. BILLINGSLEY:

Q Mr. Kelly, can you find the picture of a negro in either one of these books doing anything other than plowing in the fields and picking cotton?

A I never have looked in those books.

MR. BILLINGSLEY: All right. Thank you. That's all.

THE COURT: Is that all?

#### RE-CROSS EXAMINATION

BY MR. PITTS:

Q Mr. Kelly, you are not in the publishing business, are you?

A No, sir.

Q And those books there, do you know what press published these books?

A No, sir, I don't.

Q Let's take a look at them and see which press published them. This book here is Alabama History with that—what is that?

A Colonial Press.

Q Colonial Press. And this press over here, is that by Colonial (170) Press also?

A Yes, sir.

Q Do you have any stock in Colonial Press or employed or interested in Colonial Press in anyway?

A No, sir.



MR. PITTS: All right, sir.

THE COURT: Now, look, each one of you ask this man questions. If you have released him, all right. You have gone back and asked him four or five more questions and I'm getting tired of this.

MR. BILLINGSLEY: This is my last time, your Honor.

THE COURT: All right.

#### *FURTHER RE-CROSS EXAMINATION*

*BY MR. BILLINGSLEY:*

Q Mr. Kelly, do you know the Defendant, A. R. Meadows? Do you know the Superintendent of Education?

A Yes.

Q Are you familiar with the State Board of Education of the State of Alabama?

A Yes.

Q You are saying that you are not responsible for these books, are you not, these books are distributed by the State Board of Education or its agencies or employees, is that true?

(171) A I don't know how those books there were obtained.

Q Are you familiar with any of the books that are circulated in the school system?

A No, I couldn't say that I am.

Q You really couldn't say what is in those books?

A No, I couldn't.

MR. BILLINGSLEY: That's all.

THE COURT: All right. Step down.

MR. PITTS: Your Honor, I move to exclude all of the testimony. It is now shown that these books are taught in the Wilcox County School System.

THE COURT: If they are not connected up, I will rule it out. All right. Mr. Hall?

MR. HALL: Your Honor, we are introducing depositions of Dr.—this is Plaintiff-Intervenor's William F. Thompson's exhibit No. 2, the deposition of Dr. Eugene Carson Blake. Exhibit No. 3, the deposition of Dr. J. Forrest Burns. Exhibit No. 4, the deposition of Mr. William P. Thompson. Exhibit No. 5, the deposition of Dr. Garaud S. Willmore, and Plaintiff-Intervenor's William F. Thompson's exhibit of the deposition of Claude C. Brown.

MR. PITTS: Are you offering those in evidence?

MR. HALL: Yes.

MR. PITTS: I object to them.

(172) THE COURT: Let them in.



(Whereupon, said Deposition of Dr. Eugene Carson Blake was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 2.)

(Whereupon, said Deposition of Dr. J. Forrest Burns was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 3.)

(Whereupon, said Deposition of Mr. William P. Thompson was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 4.)

(Whereupon, said Deposition of Dr. Garaud S. Willmore was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 5.)

(Whereupon, said Deposition of Claude C. Brown was received and marked in evidence, Plaintiff-Intervenor's Exhibit No. 6.)

*DR. GAYRAUD S. WILLMORE*

The witness, called on behalf of the Plaintiff-Intervenor, after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. HALL:*

(173) Q What is your name?

A Gayraud S. Willmore.

Q Were you one of the ones that the deposition was taken of?

A Yes.

MR. PITTS: I object to his deposition. He is present in Court.

MR. HALL: We had an agreement that these depositions are in evidence in the Court. We just don't want to go over these matters again.

THE COURT: It was the Court's understanding and maybe erroneously that these depositions would be used in place of the witnesses. I notice from the envelopes, from the depositions up here on this desk, that the Doctor's testimony had already been taken. The Court would much prefer using the deposition. I would suggest that—Mr. Pitts, were you present at the taking of the testimony?

MR. PITTS: Yes, sir.

THE COURT: Under the rules of evidence, if the witness is available then the deposition is not admissible, but it was my understanding and I say perhaps erroneously that the deposition would be used. I would much prefer that the deposition be used. I would like to suggest that Mr. Pitts review the deposition during a recess and if there is anything else he wants to ask him, ask him, but I don't

(174) see  
any need of going over the same testimony twice.

MR. PITTS: Judge, if a witness—it is my understanding of the statute and also the Alabama Statute and there are cases on it, if a witness is present in Court . . .

THE COURT: I have already said that in Court.

MR. PITTS: I object to the deposition going in.

THE COURT: Well, I think under the circumstances I'm going to let it in.

MR. PITTS: Now, I haven't made any stipulation. It was my information he wasn't going to be here.

MR. HALL: If your Honor, please, I have discussed this with Mr. Pitts. I don't say that we had it, but I had an understanding that there would be no question of the admission of these depositions. However, I can easily go through this with Mr. Willmore. I have no objection except I think it would be an imposition on the Court. I see nothing to be gained from it.

THE COURT: Let me see that deposition.  
(Off the record.)

THE COURT: Mr. Pitts?

MR. PITTS: Yes, sir.

THE COURT: I reiterate what I said. Technically, you are right. If you insist on the witness to be put on, the witness (175) is here. I still think the deposition could be used. You are within your rights if you insist.

MR. PITTS: Well, Judge—let the thing go on in.

MR. HALL: State where you live, Mr. Willmore?

A 275 Mount Lucas Road, Princeton, New Jersey.

Q Dr. Willmore, what is your occupation?

A I am a minister.

Q Do you have other employment?

A No.

Q Are you occupied as Executive Director of the Christian United Presbyterian Church of the United States of America?

A Yes, sir.

Q You are presently employed as Executive Director of that organization?

A Yes, sir.

Q Were you so employed, Dr. Willmore, during the year 1965?

A Yes, I was.

Q During that year, sir, did you join Mr. William P. Thompson, Moderator of that Church, Dr. Eugene Carson Blake, the Stated Clerk of that Church, and others in filing a petition of intervention in a lawsuit pending in the U.S.

District Court, Southern District of Alabama, styled, United States of America, by Nicholas Katzenback, Attorney General, against the Wilcox County Board of Education and others?

A Yes.

Q At that time, sir, were you joined by Dr. Marshall Scott, who is Chairman of that Commission?

A Yes.

Q He is still the Chairman?

A Yes, he is.

Q In your petition, sir, filed in this Court which enjoins other persons, certain allegations were made, among them, some allegation with reference to some ownership of some school land. Can you tell this Court whether or not the United Presbyterian Church by and through one of its agencies own any of the lands in Wilcox County used for school purposes?

A Yes, sir.

Q Does it own more than one piece of such land?

A Yes.

Q Does it own buildings situated on this land?

A Yes, it does.

Q More than one building?

A Yes.

Q Does it participate in other ways in the education processes in Wilcox County?

A Yes, it does.

(177) Q By way of their contribution to the lunch program or in any other way, can you tell us in what way it makes contributions and has made contributions for the past years in the education process of Wilcox County?

A I understand by contributions to the lunch program, by provisions of maintenance services for the buildings and—I am not sure of otherwise.

THE COURT: I didn't understand you.

A I am not sure of other ways. Those two I do know.

THE COURT: Let me ask you this, please. Mr. Hall has asked you about schools or more than one school. Are you able to tell me which particular schools fall in this category?

A Yes, sir. The school at Anniemanie, Arlington, the school at Miller's Ferry and the school at Clary—is it Perry?

MR. BILLINGSLEY: Yes.

A Yes.

THE COURT: All right.

MR. HALL: If your Honor please, I understand—and this is off the record.  
(Off the record discussion.)

THE COURT: All of the schools in Wilcox County are not owned, but some of the land is and some isn't?

MR. HALL: Yes, sir.

(178) THE COURT: Some plants are and some are not?

MR. HALL: Some are not.

A Yes, sir.

THE COURT: All right.

MR. HALL: The church does own this property and these buildings at this time, is that correct?

A That is correct.

Q Did it own the same land and same property at the time the suit was filed?

A I am not sure, sir, whether we owned the land at Camden at the time the suit was filed. I think not. I am not sure.

Q At one time the Church formerly owned the school property in Camden?

A Yes.

Q Can you tell us something about the Church's position with reference to segregated education?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial what the Presbyterian Church's position may be.

THE COURT: They are intervenors and I have to go into this whole matter and I overrule the objection.

MR. PITTS: We except.

A The Church has made numerous announcements on integration of education and feels that this position—that it is (179) taking is very consonant with its historic positions, especially since the 1954 school decision.

Q Do you know, Dr. Willmore, whether this position has been communicated to the School Board of Wilcox County Board of Education?

MR. PITTS: We object to that.

THE COURT: Overruled.

A It was communicated.

MR. HALL: Could you tell us, sir—I will withdraw that. Dr. Willmore, was there a general assembly—what is the governing body of the United Presbyterian Church of the United States of America?

A It's General Assembly.

Q Was there a recent General Assembly of the Church?

A Yes, sir.

Q Subsequent to the filing of this suit?

A Yes.

Q Were you in attendance there, sir?

A Yes, I was.

Q Did you make a report?

A Yes, I did.

Q And you sat through the proceeding of the General Assembly?

A Yes.

(180) Q All right, sir. Let me ask you to examine Plaintiff-Intervenor's Thompson and others Exhibit No. 7 and tell us if you can identify it?

A Yes, I can identify this.

Q Are you familiar with this?

A Yes.

Q Were you present—this purports to be a resolution of the General Assembly. Were you present when it was presented?

A I was at the General Assembly at the time it was presented.

Q Do you know whether or not the resolution was passed?

A Yes. I know that it was passed unanimously by the General Assembly.

Q Do you know whether or not this copy has been certified by the proper authorities?

A It has been certified by the Associate Stated Clerk.

Q Is it a true and correct copy of this particular resolution?

A Yes.

Q What does the resolution have to do with this particular lawsuit?

A Well, this resolution, the last part . . .

MR. PITTS: We object to that, the resolution speaks for (181) itself.

THE COURT: Sustain the objection.

MR. HALL: We offer it in evidence.

MR. PITTS: We object to it and I want to ask him some questions on Voir Dire.

THE COURT: All right.

## VOIR DIRE EXAMINATION

BY MR. PITTS:

Q Was this part of the resolution following the Civil War, the United States Presbyterian Church of North America?

A This was part of the context of the resolution. I believe the resolutions are found on this page, but it was set in this context.

Q Now, what is up above that?

A This is a part of a longer report of the general council of the United Presbyterian Church to the General Assembly and this section had to do with the Wilcox County concerns.

Q And this part up here was really just written up by someone and then the resolution put here, wasn't it?

A Well, sir, this intends to present the historic progress of resolutions leading up to the final resolution at the Boston Assembly recently.

MR. PITTS: We object to it, your Honor. It doesn't contain (182) the entire resolution passed by the Church. It is not certified by the proper authorities and not the best evidence.

THE COURT: May I see it?

MR. HALL: Yes, sir.

THE COURT: I will reserve my ruling on it until I have time to read it. Go ahead.

## CONTINUED DIRECT EXAMINATION

BY MR. HALL:

Q Dr. Willmore, did the General Assembly ratify the action taken by its officers in this lawsuit?

A Yes, sir. It did.

Q Did it commend it?

MR. PITTS: Wait a minute. I object to what it stated. The General Assembly may do certain things, but the minutes of the assembly are the best evidence.

MR. HALL: He was present at the General Assembly.

MR. PITTS: That is not the best evidence. It violates the rule. What I want to submit to you, the minutes of organizations of what took place at meetings should be certified by to particularly an organizational meeting like the Presbyterian Church and it ought to be under somebody's authority and sworn to by someone who has the authority. What is the question propounded to this witness?

MR. HALL: Your Honor, I asked him if the General Assembly (183) of the Church, meeting at Boston on May 18th, I believe it was, ratified the action taken by the officers in this lawsuit and confirmed it and authorized them to proceed and prosecute it to an end.

THE COURT: Doctor, would that be in the minutes of the General Assembly?



A Yes, sir, it would.

THE COURT: I think that is the best evidence.

A Those minutes are not yet available except in the original copy.

MR. HALL: They are going to have to be transcribed and reduced?

THE COURT: I will give you an opportunity to get them, but I do think that is the best evidence.

MR. HALL: I believe that's all Doctor.

THE COURT: Mr. Billingsley, anything you wish to ask him?

MR. BILLINGSLEY: No, sir.

THE COURT: Mr. Pitts?

MR. PITTS: Yes, sir.

THE COURT: Proceed with the witness.

### CROSS EXAMINATION

BY MR. PITTS:

Q How many times have you been to Wilcox County?

(184) A I believe this makes the fourth time, sir.

Q You mean you think you are in Wilcox County now?

A No, I'm sorry, sir. I think I have been here three times.

Q And you were in Wilcox County. What schools did you visit?

A I have visited all of the schools.

Q Name those schools now that you have visited so we won't have any mistake about it.

A I visited Camden Academy, Anniemanie, Arlington and Prarie and Miller's Ferry Schools.

Q You say you went to Arlington and Anniemanie?

A That is one school.

Q Anniemanie is one school at Arlington, isn't it?

A Yes.

Q Now, let's take the Camden Academy.

A I beg your pardon, sir?

Q The Academy at Camden. You did see some brick buildings in that area there of that Camden Academy property, didn't you?

A Yes, sir, I did.

Q When was the last time you were there?



A I believe in the Fall of 19—no, I have been there in 1966.

(185) Q You were there in 1966?

A Yes.

Q How many modern brick buildings are there on the Camden property?

A I don't recall.

Q Do you remember seeing any there?

A I remember seeing a brick building, at least one.

Q Are they the property of the Presbyterian Church?

A That is my understanding that they were.

Q Those new brick buildings were constructed by the Presbyterian Church?

A I saw one brick building. This was not the new one you are referring to. The one I am referring to is in the new building.

Q Is that the one further back when you drive in to it off the highway in the very rear back there as far back as you can go?

A I didn't understand that that was the property of the Presbyterian Church.

Q Did you see another new building back there near the Football Field?

A I don't recall seeing one there.

Q The big white building, was the old property of the church, wasn't it?

(186) A Yes.

Q Do you have an industrial arts building there?

A I don't recall that there was.

Q Didn't you remember testifying over yonder or hearing someone testifying in Montgomery that the Industrial Arts Building was a very fine equipped building?

A I didn't remember that part of the testimony, sir.

Q And you don't remember seeing an Industrial Arts Building there?

A No, I don't.

Q You didn't visit one?

A I didn't visit the buildings. That is not my primary purpose for being there.

Q I am going to show you here Government's Exhibit—I mean, Page 22 of Government's Exhibit No. 6, and ask you have you ever seen that building?

MR. HALL: If your Honor please, I'm going to object to all of these questions about buildings unless there is some argument that the Church doesn't own the property at Arlington.

THE COURT: What is the relevancy?

MR. PITTS: This property here, the Church, this property the Church is operating and the Church did own, and the Wilcox County Board of Education, this particular property I am asking about now, Wilcox County Board of Education had to take it over. They were operating on a (187) segregated basis. The Church itself was.

THE COURT: Go ahead.

A What was your question?

MR. PITTS: I asked you had you seen this picture?

A I don't remember seeing it.

Q You don't remember seeing the building?

A No.

Q On Government's Exhibit 6?

A No.

Q Now, go down to—after leaving Camden, go over to Miller's Ferry. You remember seeing buildings there at Miller's Ferry? You remember those buildings?

A Vaguely.

Q How many do they own there?

A I don't know the number, sir.

Q What is the condition of those buildings?

A I thought they were fair.

Q Do you know whether the Wilcox County Board of Education owns buildings there too?

A I do not know that.

Q As a matter of fact, in every school you have down there the Wilcox County Board of Education has had to go in and buy land right beside it and build modern buildings on it, haven't they?

MR. HALL: If your Honor please, I object. This witness has said he is not familiar with the property. He don't remember the buildings and Mr. Pitts is doing all the affirmative testifying.

THE COURT: He has the right to ask him the questions.

MR. HALL: The witness says he don't know.

THE COURT: I'm tired of telling both of you, particularly you, you are not going to talk when I am talking, and that applies to both of you. I am sure that if the Doctor knows the answer he will answer. If he doesn't know the answer he will say he doesn't know. Go ahead.

A I am not familiar with the physical property at these schools.

MR. PITTS: You remember Anniemanie. Have you been over to that school?

A Yes, I was there.

Q Is there a gymnasium there?

A I don't recall seeing one.

Q You didn't see one. Did you see a big white building there that is close to the building down at Camden Academy and looks very similar to it?

A I don't remember.

Q You don't remember anything about Anniemanie?

(189) A This was a trip taken in which I was taken very quickly, mainly to talk to people. I saw the buildings, but I didn't investigate them carefully. That was not my purpose for being there.

Q You don't remember what they look like?

A I only have a vague recollection of their being in fair to poor shape.

Q There was no gymnasium there?

A I don't recall having seen one.

Q Now, up until the present time, and for many years, the Presbyterian Church established these schools in Wilcox County mainly for negroes, didn't they?

A Yes. I believe that is the way it could be put.

Q They were interested in educating negroes, weren't they?

A The children of the freed slaves, yes.

Q That has continued on—those schools have continued on down through the years after the Civil War as being negro schools, haven't they?

A Yes.

Q And the teachers in all of those schools were negroes, weren't they?

A Yes, I believe so.

Q Do you know whether or not the Presbyterian doctrine (190) was taught in those schools?

A I don't believe so, as such. I don't believe any sectarian testifying has gone on in those schools recently. The unit I work for does not administer those schools.

Q Do you know if there was required prayers in those schools?

A I do not know that.

Q Do you know whether the Presbyterian Church placed religious teachers and ministers at each of those schools?

A Yes.

Q You do know that, don't you?

A Yes.

Q Did they place any white ministers or white religious teachers there?

A I do not know if they have ever had white teachers there. It could very well be over the past years.

Q So the schools that have been maintained and operated and established down there by your church have been negro schools, haven't they?

A Yes.

Q One other question. You are also talking about the policies of the Presbyterian Church, your Church, and they are also maintaining segregated schools in Arizona and Utah, aren't they?

(191) A I would say there are schools with one ethnic group attending and not segregated schools.

MR. PITTS: All right. That's all.

THE COURT: Anything else?

MR. HALL: That's all.

THE COURT: Thank you, Doctor. Have a seat.

MR. HALL: Judge, I think that is our case.

THE COURT: You have no more witnesses other than the depositions?

MR. HALL: No, sir.

THE COURT: Mr. Billingsley, do you have any witnesses?

MR. HALL: We did offer them.

THE COURT: Well, let me check my records here. Depositions numbered 2, 3, 4, 6 and 7—7 is not a deposition. It is a resolution and marked admitted. You were right. Mr. Billingsley, do you have anything?

MR. BILLINGSLEY: No, sir, not today.

THE COURT: Well, I will decide whether it is today or tomorrow.

MR. BILLINGSLEY: Yes, sir. We do. Are you going to recess or what?

THE COURT: That is what I am trying to find out. How many witnesses do you have?

(192) MR. BILLINGSLEY: I have about five or six.

THE COURT: Well, yes. I'm going to recess until tomorrow morning at 9:00 o'clock and not 9:30.

MR. MADISON: Your Honor, may I make a motion before you get out of here?

THE COURT: Yes, sir.

MR. MADISON: The Plaintiff proper, the United States, has rested in the main case.

THE COURT: Yes, sir.

MR. MADISON: We want to make a motion for a judgement as to those two on behalf of the State Board of Education and Dr. Meadows on the grounds there is no evidence connecting them whatsoever, separately and severally.

THE COURT: All right. Is your motion couched with the same qualification that it had when you originally made it that you can be brought back?

MR. MADISON: No, sir, this is a separate motion.

THE COURT: I will grant your first motion and we will bring you back if we need you.

MR. PITTS: Your Honor, wait just a minute. I want to ask you something. I want to know if any witnesses are in this Courtroom? I want to know if any witnesses are in this Courtroom that is going to be used by anyside here?

THE COURT: I don't know. They are put in here.

(193) MR. PITTS: I am talking about witnesses.

MR. BILLINGSLEY: I am only going to use parties.

THE COURT: We can settle this later. The Court will recess until 9:00 o'clock tomorrow morning.

(Whereupon, Court recessed for the day to resume the trial of the cause on June 24th, 1966, at approximately 9:00 o'clock A.M., at which time the following occurred:)

THE COURT: All right. Proceed.

MR. GUY S. KELLY

The witness, resumes the stand, to testify on behalf of the Plaintiff-Intervenors:

### DIRECT EXAMINATION

BY MR. BILLINGSLEY:

Q Would you state your name to the Court, please?

A Guy Kelly.

Q You are the same Mr. Kelly that testified yesterday?

A Yes.

Q Superintendent of the Board of Education of Wilcox County, Alabama?

A Yes.

Q Mr. Kelly, did you bring with you today the minutes of the Board of Wilcox County for the last five years?

A No, I haven't.

(194) Q You did not produce those minutes yesterday?

A No.

Q You were issued a subpoena to bring those records, were you not?

MR. PITTS: We object to that question. The Court denied the motion to produce. There has been no motion to produce by this Intervenor for anything.

MR. BILLINGSLEY: May I finish, Mr. Pitts?

MR. PITTS: You talk to the Court. I object to that line of questioning.

MR. BILLINGSLEY: May I finish, your Honor?

THE COURT: Sure.

MR. BILLINGSLEY: Did you bring the records?

A No.

MR. PITTS: I object to that.

THE COURT: Well, that is a matter that is going to have to be passed on by the Court. I have already ruled they did not have to produce them. However, I will hear from you.

MR. BILLINGSLEY: Your Honor, so to speak, the action is we are representing the teachers that were fired, and the best evidence will be the minutes of the Board of Education. Now, on the other hand, we issued a Subpoena Duces Tecum to Mr. Kelly and the members of the Board and they did not bring the minutes. Now, the minutes

(195) should be here in an effort to give the Court an opportunity to rule upon the question of whether or not we can see those minutes. Now, I have here, your Honor,—I have seen those minutes before. I have here some notes I would like to show the Court that I made from these minutes when we were in Wilcox County trying the case for three of the teachers involved in this suit. I have some idea of what these minutes contain.

THE COURT: Were the minutes, Mr. Kelly, were the minutes produced at the trial in Wilcox County of which he speaks?

A I believe they were made available to him. I believe they were given the minutes to look at, yes, sir.

MR. BILLINGSLEY: You see, your Honor.

THE COURT: What particular minutes do you want?

MR. BILLINGSLEY: I have asked for the minutes for the last five years. I have found, in trying these cases, if you have a change to examine the minutes, you have an opportunity to gather pertinent information that goes to the issues involved in the case, but I am willing, since the Government has put in other evidence that we wanted, I am willing to ask for the minutes for the year—January, 1965 up to the present time.

THE COURT: It seems to me that the minutes concerning the discharge of the four teachers in question very likely (196) would be pertinent to this case. The rest of the minutes, I don't think so.



MR. BILLINGSLEY: May I speak to that?

THE COURT: Just a minute, whenever I get through.

MR. BILLINGSLEY: All right, sir.

THE COURT: I don't think we are going to finish this case today. I hope we do, but Mr. Kelly, I am going to ask you to produce, for my inspection, the minutes concerning the discharge of the four teachers in question. All right. Now, Mr. Billingsley, what is it you want to say?

MR. BILLINGSLEY: We also would like to ascertain what position the Board has taken with regard to desegregation of the school system both for students and teachers and also concerned about school construction and other school personnel and extra-curricular activities.

THE COURT: I don't think you need the minutes on that.

MR. BILLINGSLEY: Then may I make another request, your Honor, to the Court?

THE COURT: All right.

MR. BILLINGSLEY: To present an exhibit which I do not have available now. We could issue a subpoena Duces Tecum to Mrs. Bailey and have her bring her notes here, but I don't want to take up a lot of time. The request is, we be given an opportunity to have marked as Plaintiff-  
(197) Exhibit...

THE COURT: Well, we'll work out the number.

MR. BILLINGSLEY: Whatever it might be, which consists of a transcript of the hearing that we held in behalf of three teachers in Wilcox County before the Board of Education, which was transcribed by Mrs. Gertrude Bailey who is the Court Reporter.

THE COURT: Before whom?

MR. BILLINGSLEY: The hearing was before the Board of Education, the original hearing.

THE COURT: Before the Board of Education?

MR. BILLINGSLEY: Yes, sir.

MR. PITTS: I would like to be heard on this.

THE COURT: All right. Let me let him finish. Do I understand correctly that this was a hearing before the Board of Education?

MR. BILLINGSLEY: Yes, sir, at which time we took the position that the present Board of Wilcox County were illegally constituted in that they were elected before the negroes were registered to vote in that county, until the voters act of 1965 was passed, and we contended in that hearing and we are going to contend in this one that this Board was—this Board was illegally elected and therefore had no right to be sitting as a Board of Education of Wilcox County and had no right to dismiss or fire or do any-  
(198) thing with reference to these teachers.

THE COURT: Do you have that transcript?



MR. BILLINGSLEY: No, sir, but I can get it.

THE COURT: I am not going to rule on that issue at this time.

MR. BILLINGSLEY: All right, sir.

THE COURT: Now, if you wish to offer the transcript, I will give you the opportunity—I will give you sufficient time to obtain it. Now, whether or not I am going to admit it or not, I will cross that bridge when I get to it.

MR. BILLINGSLEY: Thank you very much.

THE COURT: All right.

MR. BILLINGSLEY: Mr. Kelly, did you bring the information we requested of you yesterday?

A No, I haven't.

Q Your Honor, we would like to ask the Court to order Mr. Kelly to give us this information.

THE COURT: Well, now, I thought he was going to bring it but catalogue it.

MR. BILLINGSLEY: Did you bring the list of subjects taught at white schools and negro schools?

A All we have is in the Government's exhibit there.

Q Did you bring a list with reference to accreditation of negro (199) schools and white schools?

A The Government has that also.

Q Can you find that for us, Mr. Kelly?

A It is in here.

Q Can you find it for us here?

MR. PITTS: Judge, that is listed as an exhibit in the case. He hasn't been listening to what is going on.

THE COURT: They are in evidence. Confer with Mr. Quaintance.

MR. QUAINANCE: Your Honor, Plaintiff's Exhibit 22 consists of the applications for accreditation and contains a list of courses taught in accredited schools. There are three negro schools not accredited and we have no list of the courses in those schools.

THE COURT: What exhibit is it now?

MR. QUAINANCE: 22, your Honor.

MR. BILLINGSLEY: But it doesn't give all of it.

THE COURT: What has, to the three schools that are un-accredited?

MR. BILLINGSLEY: Yes, sir.

THE COURT: Mr. Kelly, will you please furnish to the Court the subjects that are offered in these three un-accredited schools?

MR. PITTS: Judge, I want—just a minute. Mr. Kelly has  
(200) repeatedly testified and it seems nobody has paid  
any attention to his testimony. He has repeatedly testified  
that the only person that can produce that information  
is the principals.

THE COURT: Well, Mr. Pitts, I have listened to the witness'  
testimony and he testified yesterday very distinctly that  
he could get it from the principals and I understood he  
was going to get it from the principals and have it here  
today.

MR. PITTS: No, sir. You misunderstood him, Judge.

THE COURT: No I didn't either.

MR. PITTS: He said the only person that . . .

THE COURT: I want him to produce it. He is in charge of  
the principals.

MR. PITTS: We have no . . .

THE COURT: Just a minute now. Listen, I want the informa-  
tion. I don't care about bringing the principals here. This  
man is in charge of the educational system there and he  
may as well get the information.

MR. PITTS: Judge, we have no way of getting it here today.

THE COURT: I understand that. I want it the next time the  
Court is in session.

MR. BILLINGSLEY: We are in a position of not being able  
to complete this case without this information.

Mr. Kelly, I will ask you will you mark this—  
(201) will  
you mark this as Plaintiff's Exhibit—Intervenor's Gordon  
Exhibit \_\_\_\_No. 1?

THE COURT: The minutes aren't here. We will put that  
one in as 1.

MR. BILLINGSLEY: All right, sir.

MR. PITTS: Judge, I would like to see that, please.

THE COURT: Yes, sir.

(Whereupon, document handed to counsel for the Defense.)

THE COURT: Mark it in evidence.

(Whereupon, said Description and Analysis of Elementary  
and Secondary Education of Acts of 1965 was received  
and marked in evidence, Plaintiff-Intervenor Gordon's  
Exhibit No. 1.)

MR. BILLINGSLEY: Will you observe this, Mr. Kelly, and  
tell us what it is, please, sir?

MR. PITTS: Now, Your Honor, we object to him telling what  
it is. The exhibit speaks for itself.

THE COURT: Well, I understand that, but let him look  
at it and identify it.

A This is an article.

MR. PITTS: Now, we object to that. The article speaks for itself.

THE COURT: I understand that, but let him (202) identify it, Mr. Pitts.

A This is an article on the American Education by the United States Department of Health, Education and Welfare, concerning the Elementary and Secondary education Act.

MR. BILLINGSLEY: As a matter of fact, those are the guidelines, are they not?

A I don't know.

Q Have you seen this before?

A No.

Q I see. Have you seen any correspondence from the Department of Health, Education and Welfare, particularly the office of education?

A Have I received what?

Q Any correspondence from the Department of Health, Education and Welfare, particularly to the Office of Education?

A I am continually getting something.

Q Have you corresponded with them to find out what is available to this school system?

A No.

Q You do not?

A No.

Q Did you know that for the fiscal year 1965 there were \$640,764 available in physical resources for that particular school year alone to Wilcox County? (203)

MR. PITTS: I object to that question. There is no proof of that, your Honor. Your Honor—he is the judge, not you. I object on the grounds there is no proof for the fact that that amount of money is available.

THE COURT: Well, he is asking that witness if he knows if there is or is not. I don't know. Overruled.

A That much money is not available to Wilcox County. That is an erroneous impression that the Government, the Health, Education and Welfare is deliberately fostering.

MR. BILLINGSLEY: Is deliberately what?

A Fostering.

Q How much was available, if you know, Mr. Kelly?

A The Government said that \$611,000 is available and there is a clause in there that says you can only secure thirty

percent, I believe is correct, if your annual budget. So it is reduced by that amount.

Q Do you have any correspondence?

A I can't figure it out.

Q Do you have any correspondence to that effect?

MR. PITTS: Your Honor, I object to all of this testimony on the grounds it is incompetent, irrelevant and immaterial. A school does not have to abide by the guidelines of H.E.W.

(204) THE COURT: All right.

MR. PITTS: The guidelines of H.E.W. are in themselves illegal and they have far exceeded the authority granted the Department of Health, Education and Welfare or any other Department of the United States Government under the 1965 Civil Rights Act.

THE COURT: All right. Give Mr. Pitts a continuing objection to this line of questioning.

MR. BILLINGSLEY: Judge, we want to offer that in evidence.

THE COURT: I will reserve my ruling. Go ahead.

MR. PITTS: Judge, I want to put a further objection to that there. I want to object that there is no statute of the United States that gives the Health, Education and Welfare the

right to pass or to hand down guidelines to promulgate rules or regulations that are referred to as guidelines and that they far exceed any statutes passed by Congress.

THE COURT: I will reserve my ruling. Go ahead.

Give them a continuing objection to this entire line of questioning.

MR. PITTS: Judge, can I have a continuing objection to everything pertaining to the guidelines or rules of H.E.W.?

THE COURT: Yes, sir.

MR. BILLINGSLEY: Mr. Kelly, isn't it a matter of fact that (205) the negro teacher contracts were cancelled because of Civil Rights activities?

A No. No, definitely not.

Q Isn't it a matter of fact, that Civil Rights activities took place before the teachers' contracts were cancelled?

A I am sure that there was Civil Rights activities going on prior to that.

Q Were demonstrations taking place?

A I wasn't in Wilcox County prior to July 1st.

Q Did demonstrations take place after you got there?

A Not as I know of.

Q Do you know of any complaints made by negro citizens to the Board of Education when you first got to Wilcox County?

A Not as I know of.

MR. BILLINGSLEY: That's all.

THE COURT: Mr. Pitts, anything?

MR. PITTS: No, sir. Come down, Mr. Kelly.

THE COURT: Call your next witness.

*MR. ROBERT E. LAMBERT, JR.*

The witness, called on behalf of the Plaintiff-Intervenor Gordon and others, and after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took (206) the stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. BILLINGSLEY:*

Q Will you state your name to the Court, please?

A Robert E. Lambert.

Q Where do you live?

A Darlington, Alabama, Wilcox County.

Q How long have you lived there?

A All of my life.

Q All of your life. Then you know a great deal of Wilcox County and particularly as relates . . .

A I know a lot about Wilcox County and I know some about the school system.

Q You own a lot of property?

A I own some.

Q How much property do you own?

THE COURT: I don't see that that has anything to do with it.

MR. PITTS: I object to it.

Q Are you acquainted with the school system as it relates to the participation of the Wilcox County Board of Education? In addition to the Presbyterian Church?

A Some.

Q Will you tell us how this whole thing is organized, at the (207) present time?

A Well, the Presbyterian Church, I understand began this work in Wilcox County in 1895. That was before I was born, and it was done for the education of negro children. They owned property in, I believe, five places, and at the start owned the buildings. Later, it became necessary for Alabama and Wilcox County to build certain buildings

and when they built them, they required that certain land for these buildings be deeded to the State and the County and these buildings, from that time on then, were the property of the State and the County and not of the Presbyterian Board. The Presbyterian Board continued to own certain buildings and, I understand, had certain employees, but generally speaking, I didn't know any of the employees and didn't know their functions.

THE COURT: Mr. Lambert, for my own information, are there, at certain of these school sites that were originally owned by the Presbyterian Church, still on that site or some of the buildings owned by the Church and some by the School System?

A Yes, sir.

THE COURT: As it became necessary to build a building, the particular piece of land that the building on which it was situated was carved out of what the church owned and deeded to the educational system?

(208) A That is correct according to my understanding.

THE COURT: Thank you.

MR. BILLINGSLEY: Do you know Mr. Albert Gordon, Mr. Lambert?

A I have seen him a time or two. I don't really know him.

Q Do you recall when this contract was cancelled?

A It was cancelled sometime in 1965.

Q Do you know the month?

A No. I am not sure about the month.

Q Do you know why you cancelled his contract?

A Yes, sir.

Q Why?

A Because he was giving bad checks over the country and being garnisheed and had a judgement placed against him on the records of Wilcox County.

Q To whom did he give bad checks?

A I don't remember that.

Q Do you have that information available?

A No, I do not.

Q Can you get this information?

A I don't know whether I could or not.

Q You are evidently aware of it?

A It was presented to the Board.

(209) Q By whom?

A It was presented in his presence and by . . .

Q You mean were the checks there?

MR PITTS: We object to that. Let the witness finish.

THE COURT: All right. Go ahead.

A The different cases of where he had given the bad checks were told to us in his presence. He didn't deny that, that is, he didn't deny them and it is on record in Wilcox County. There is a judgement or more, and only in the last two or three months, a letter has come from a store in—I can't think of the name of the place—to get money that he owes right now. And unless he has paid it in the last few days . . .

MR. BILLINGSLEY: He is unemployed as far as you know?

A As far as I know.

Q Who came to the Board and mentioned about these bad checks that he gave? Give us their name, please?

A Well, I couldn't give you that; different people that he owed.

Q Do you have this in your minutes, the names of these people?

(210) A No. I don't know whether it is in the minutes or not.

MR. PITTS: Your Honor, there is something else I want to bring to your attention. I understand you are giving me a continuing objection. I understand this is not a proper

procedure for this Court to go into, because it is in the breast of the Circuit Court of Dallas County.

THE COURT: Let me make this statement. I'm not going to retry the discharge of this Plaintiff or any other Plaintiff. You have a right to ask the Board, the Chairman of the Board, why he was discharged. You have done so. He has given you his reasons. I am not going to retry the details of it. Now, I'm going to sustain the objection.

MR. PITTS: Judge, for the record purposes, I realize you have sustained the objection, but I want to get in the fact that I object to all of that, any testimony relative to this, because this Plaintiff, this man, Albert Gordon, selected the jurisdiction of this Court and he selected the Circuit Court of Wilcox County and he is the Plaintiff in a suit down there that is pending in this case. We are going to offer in evidence—and he selected that and he jumps out of that Court and selects . . .

THE COURT: I have sustained your objection.

MR. PITTS: I wanted that in, your Honor.

THE COURT: I have already ruled. You have a right to ask (211) him why they discharged him and you have done so.

MR. BILLINGSLEY: All right. That's all. Come down.

MR. HALL: Wait just a minute.



## CROSS EXAMINATION

BY MR. HALL:

Q Mr. Lambert, am I talking loud enough? Mr. Lambert, I want to ask you two or three questions. Are you Chairman of the Wilcox County Board?

A I am.

Q Were you Chairman last year?

A No.

Q That is the '65-66 year?

A I was made Chairman in February of this year.

Q February of this year?

A Yes.

Q I believe you say you live at Darlington, Alabama?

A That is correct.

Q Is that near any of the communities—were you in Court yesterday?

A I was.

Q Is that near Prarrie, Arlington or . . .

A That is in the eastern part of the County. They are in the western.

Q I want to ask you a question about some matters—some man we discussed yesterday, Frank Smith. You were (212) on the Board when a Board had a meeting to consider the cancellation of Frank Smith's contract?

A I was.

Q You participated in the cancellation of that contract?

A I did.

Q You do know that Frank Smith did appeal to the Tenure Board of Alabama?

A I have understood that. I do not know that.

Q You did not attend the hearing on appeal?

A No.

Q You were informed that there was a Tenure hearing?

A I have heard it.

Q And you are aware of the fact that the Tenure Board, after hearing, cancelled the action of the Wilcox County Board and, in effect, ordered the re-employment of Frank Smith, is that correct? Do you know that?

A I think that is true.

Q Now, have you re-employed Frank Smith?

A We have not.

Q You have not paid him any salary this year?

A We have not.

Q Has the Board taken any action on Frank Smith at all?

(213) A No.

Q Have you taken any other action in cancelling his contract?

A No.

Q It is just at a standstill?

A Yes.

Q Could you tell us about your own knowledge about when you got the information about the Tenure Board's action?

A I couldn't tell you that.

Q Is it fair to say that it has been at least four or five months ago?

A Probably.

MR. HALL: Thank you very much.

THE COURT: Mr. Pitts, anything?

MR. PITTS: I don't care to ask him anything just now, Judge.

THE COURT: Step down.

MR. PITTS: Judge, there is a statement I would like to make for the record.

THE COURT: All right.

MR. PITTS: This man, Albert Gordon, he is not a Plaintiff in a suit in Wilcox County. Frank Smith is.

THE COURT: Well, is Gordon an Intervenor-Plaintiff in this case?

(214) MR. PITTS: Yes, sir. I made the statement that he was the one that instituted a mandamus suit, but that is incorrect.

MR. HALL: I would like to inform the Court that Frank Smith does have a petition for mandamus in the Circuit Court, but Frank Smith is not a Plaintiff Intervenor. However, he would be held in the class if the Court holds this as a class action.

THE COURT: All right. Call your next witness.

*MR. EDWARD M. HALE*

The witness, called on behalf of the Plaintiff-Intervenor Gordon and others, after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the stand and testified as follows:

## DIRECT EXAMINATION

BY MR. BILLINGSLEY:

Q May I ask the Court to ask whether or not, since this Defendant—it has been conceded, since he is not a Plaintiff or Defendant or whatnot, because they have made these charges in this Court about this Defendant and we don't have the records. We do not have the minutes, and it makes it very difficult. The best evidence would be the minutes and this makes it very difficult for me to really proceed as I can. I think I should proceed in this case, but I don't  
(215) want  
to take up a lot of time.

THE COURT: You have the right to ask, I would assume, Mr. Hale, you are evidently a member of the Board, is that right?

A Yes, sir.

MR. BILLINGSLEY: All right.

THE COURT: You have a right to ask Mr. Hale, as a member of the Board, why your client was discharged, but going into the details of it, I am not going to retry that case. I have enough to try that belongs to me. Go ahead.

MR. BILLINGSLEY: Would you state your name to the Court, please.

A Edward M. Hale.

Q Where do you live?

A Pineapple, Wilcox County, Alabama.

Q How long have you been a resident there?

A All of my life.

Q How long have you been a member of the Board of Education?

A Approximately ten years.

Q Approximately ten years?

A Yes, sir.

Q I will ask you, Mr. Hale, whether or not you have seen  
(216) Plaintiff's Exhibit 1 before?

A I have not.

Q You have not. What is your profession, Mr. Hale?

A I am President of the Bank of Pineapple.

Q President of the Bank of Pineapple?

A Right.

Q Did your bank, at one time, handle funds for the Wilcox County Board of Education?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial.

THE COURT: Well, I think it is, but he has already answered.

A We did.

Q Did you, at that time, take the checks that the teachers cash and hold them over a period of time, and while you were holding...

THE COURT: Just a moment. The reporter has to change the paper in his machine.

MR. BILLINGSLEY: Yes, sir.  
(Off the record.)

THE COURT: All right. Proceed.

MR. BILLINGSLEY: Did you, at one time, participate in withholding teachers checks and in turn lend them money and charge them interest while you held the checks?

(217) MR. PITTS: I object to that question.

THE COURT: Sustain the objection.

MR. BILLINGSLEY: Mr. Hale, what are your functions as a member of the Board of Wilcox County, Alabama?

MR. PITTS: We object to that. That calls for a question of law, which is in the State Statutes.

THE COURT: Well, I realize that, but generally, can you answer it, Mr. Hale?

A The overall policy forming functions of the Board members.

Q What does that consist of?

A General policy for the Board for the School System.

Q Can you be more specific?

THE COURT: I think the Court takes general knowledge of the function of a Board of Education.

MR. BILLINGSLEY: Is it the function of the Board to get funds for a decent education in Wilcox County?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial, and besides that the State Statute states the obligations.

THE COURT: I think you are right. The Court takes judicial knowledge of that.

MR. BILLINGSLEY: What has the Board done to get funds for the purpose of improving the School System of Wilcox  
(218) County?

MR. PITTS: We object to that.

THE COURT: Overruled.

MR. PITTS: I object to it on the same grounds.

THE COURT: Yes, sir. Can you answer that?

A I know of no action we have taken.

Q None whatsoever?

A That is my understanding.

Q Have you visited all of the schools in Wilcox County?

A I would think over a period of years I have.

Q Have you visited the school in Boykin, Alabama, recently?

A Not recently.

Q When was the last time you visited that school?

A I would not know specifically.

Q Have you visited it within the last year?

A I have not.

Q You do know the conditions out there?

A I do not.

Q Have you visited any white schools then recently?

A Possibly two.

Q Recently—do you have any children?

A Yes.

Q Where do they go to school?

(219) A Moore Academy in Pineapple.

Q Did you find broken out windows in those schools, a lot of them or any?

A I didn't look for them.

Q What type of heat do they have in those schools that you are familiar with?

A I don't recall.

Q What type of toilet facilities?

A I didn't go in the toilets and I do not know.

Q You don't know?

A I don't know.

Q You know Mr. Gordon here, do you not?

A I do.

Q How long have you known him?

A I don't know specifically, probably ten or fifteen years.

Q Mr. Gordon was—do you recall when Mr. Gordon's contract was cancelled?

A I recalled that his contract was cancelled. I don't know when.

Q It was cancelled after demonstrations took place in Wilcox County, wasn't it?

A I don't recall.

Q The minutes would show, would they not?

(220) A I am sure they would. It would show when his contract was cancelled.

Q It would also show when the demonstrations started taking place, the minutes?

A I don't know. I am sure they would show . . .

Q Did you read the minutes from last year?

A Of course, minutes are read from the preceeding meeting.

MR. PITTS: I wish you would let him finish his answers.

A I have not personally gone to the minute book and read the preceeding minutes for the preceeding year, no.

Q Do you know why the teachers contracts were cancelled?

THE COURT: The four you represent?

MR. BILLINGSLEY: Your Honor, I am going to file an amendment to my original complaint. Well, I will stick to this, at the time, to the four we represent.

MR. PITTS: Your Honor, I object to the question and the form in which it is, do you know why.

MR. BILLINGSLEY: Do you know why the contracts were cancelled then?

MR. PITTS: I object to it, because he has testified that this man's, Gordon's contract was cancelled because of demonstrations. This witness has not testified to that.

(221) THE COURT: All right. He has asked him has there been and Mr. Hale says he doesn't know. Go ahead.

MR. BILLINGSLEY: Did you say you did not know why the other teachers' contracts were cancelled?

THE COURT: No. He hasn't answered that. Go ahead.

MR. BILLINGSLEY: Do you know Mrs. Valerie Watts?

A I do.

Q Do you know Mrs. Vastie Jones Hayes?

A I don't believe I know her.

Q Do you know Mrs. Jessie J. Lymon?

A Vaguely.

Q Can you tell us why their contracts were cancelled?

A Would you name those—are those the . . .

Q Mrs. Valerie Watts?

A That was due to reduction in teacher units as given us by the State Board of Education.

Q Was that because of lack of funds?

A On average daily attendance.

Q Was that also because negro students had stayed out of school?

A It was based on average daily attendance.

Q Well, do average daily attendance things change sometime during the year 1965, between January and May?

A It changed from the preceeding year.

(222) Q And your records will show that there were negro students who did not attend school, is that right, as they had the previous year?

A That is an administrative matter and I don't know that.

Q Would that information be in your minutes?

A I don't know.

Q Where could we get that information?

MR. PITTS: We object to that, incompetent, irrelevant and immaterial where he could get it. It is not within the knowledge of this witness where he could get it. The State De-

partment is obviously—that it could be gotten from the Alabama Department of Education.

THE COURT: Is that where it can be gotten?

MR. PITTS: Yes. That is obvious that is where. Every year every County gets a teacher unit assignment.

THE COURT: Well, thank you.

MR. BILLINGSLEY: The Department, of education, does it not get its information from the Board of Education in Wilcox County, isn't that right?

A The average daily attendance, as reported to the State Department, would have to come from the County involved.

Q And this information comes from the Superintendent of Wilcox County Board of Education, doesn't it?

(223) A There again, that is an administrative matter and I don't have knowledge of the actual administration of the system.

Q Judge, at this time, we would like to amend our complaint.

(Document handed to Court.)

THE COURT: I am going to reserve my ruling on this. Mark it filed.

MR. PITTS: I object to any amendment, your Honor.

THE COURT: All right.



MR. BILLINGSLEY: Do you know Mrs. Roosevelt Johnson who was a teacher and still is a teacher at the—I believe, Coy Public School?

A I know a Roosevelt Johnson who was a teacher at one time and who lived north of Oak Hill. I think he is the son of . . .

Q Do you have a list or can you get a list—rather—withdraw that. Did you receive a subpoena Duces Tecum from us for you to produce and bring with you certain records?

A I did.

Q Did you bring the records?

A I did not.

Q Why?

A I did not have them.

(224) Q You could not get them or were they available?

A Not to my knowledge.

Q Would the minutes show the names of all teachers who were terminated or whose contracts were cancelled for the year 1965-66?

MR. PITTS: Your Honor, I want to object to this question. This can't be a class action for teachers that are dismissed by a school.

THE COURT: I think this, as to whether it could be a class action or whether it could not, I am not passing on it, but I think to change the posture of this case, at this time, it comes too late and I am going to deny the amendment. I think we should stick to the four who were named and who, I would assume, that the case, the Plaintiffs and the Defendants case, was based upon and prepared upon.

MR. BILLINGSLEY: That's all.

### CROSS EXAMINATION

BY MR. QUAINANCE:

Q Mr. Hale, has the Board of Education discussed the closing of the Berson or Yellow Bluff Schools, to your knowledge?

A I think we have had some discussion on that.

Q Has any decision been reached?

A I don't think any official action has been taken on (225) that.

Q Has any teachers been notified there would be a change?

A There again, that would be an administrative action.

Q Do you know if any parents have been notified of the change?

A That would be an administrative action and I could not know.

MR. QUAINANCE: No further questions.

## CROSS EXAMINATION

BY MR. HALL:

Q Mr. Hale, do you hold an office on the Board?

A I am Vice Chairman.

Q You are Vice Chairman?

A Yes, sir.

Q How long have you held that office?

A Since the time Mr. Lambert was elected.

Q Since January of '65?

A That is correct.

Q Mr. Hale, can you tell the Court whether or not there are any schools serving children in Wilcox County, Alabama, where both white and negro students attend?

A Would you ask that again, please?

Q Do you know whether or not there are any schools either Elementary or High School in Wilcox County, Alabama, serving both negro and white students?

A There are none to my knowledge.

Q Can you tell the Court if the Board has discussed, since you have been on that Board,—I have forgot how long you said you have been there?

A Approximately ten years.

Q Has it been discussed within the Board or at regular formal meetings any plan for integrating the schools of Wilcox County?

A Oh, yes.

Q Has any decision been made by the Board?

A We were actively pursuing that, getting all the information we could when this suit was filed.

Q Up until the time of the filing of the suit, Mr. Hale, had the Board made a decision either to integrate or not to integrate their school system?

A They had not.

Q At the time of the filing of this suit?

A We were developing a plan.

Q But hadn't, at that time?

A We had no formal approved plan.

Q You had no plan to transfer students?

A Our plans are in abeyance pending the outcome of this (227) suit.

Q Mr. Hale, do you by any chance—I will withdraw that. Are you able to give us your best judgment as to the number of negro students in Wilcox County Schools?

A There would be approximately 4,500.

Q 4,500 negros. Would you give us your best judgement as to the number of white students in Wilcox County schools?

A Approximately 1,100.

Q Now, will you tell us how many schools you have in Wilcox serving negros, how many elementary schools?

THE COURT: Did you say how many elementary schools?

MR. HALL: Yes, sir.

A I think there are approximately 15 serving negro students.

THE COURT: Those are elementary?

A Those are not all elementary.

THE COURT: Elementary and High Schools?

A Yes, sir.

THE COURT: Are you able to break them down?

A No, sir.

MR. HALL: That is the total number of schools serving negros?

A Right.

Q Would you please give us the number of schools serving (228) whites in Wilcox?

A Three.

Q Are they also elementary and high schools?

A They are.

Q They are both elementary and high schools?

A They are.

Q Of the 15 serving negros, how many of those have high school departments?

A You are getting specifically in administration again and I don't know.

Q You don't know exactly. Now, Mr. Hale, does the Wilcox County Board employ—well, I will withdraw that question. Are there any negros on the Wilcox County Board of Education serving as members of the Board?

A They are not.

Q Are there any administrative personnel employed by the Wilcox County Board in any capacity?

- A I think so. They may occupy a dual capacity, possibly, as a principal. There again, that gets under administration, but I think the Superintendent has advisers from among the colored faculty, but that is administration again.
- Q Mr. Hale, I hope we understand each other. You say the Superintendent may have advisers from among the negroes. I want to know if the Board, as such, just as they  
(229) employ the Superintendent, do you have an Assistant Superintendent?
- A I don't think we do.
- Q Do you have any other persons employed by your Board of Education who work from some central office either in an administrative capacity or advisory capacity who are paid by the Wilcox County Board?
- A Unless they occupied a dual capacity as principals and other functions too.
- Q All right, sir. Do you, yourself, know of any such person that the Board is paying a salary?
- A I do not.
- Q That is neither white or colored? You don't have either white or colored persons?
- A I don't recall any.
- Q That you know of?
- A That is correct.

- Q You were serving on the Board when Frank Smith was discharged by the Board?
- A I was.
- Q Ostensibly, because of the loss of teacher units?
- A My answer is it was because of that.
- Q Are you aware of the fact that the tenure Board, established by the State Legislature to review the Board of Educations'  
(230) actions, decided your action could not stand, do you know that?
- MR. PITTS: Your Honor, I object to that, because Frank Smith is not a party intervenor.
- THE COURT: Well, we have gone into it. I overrule the objection.
- MR. HALL: You do know that?
- A It was my understanding. I think that was reported to the Board.
- Q And the matter was communicated to you by the Tenure people?
- A I think that is correct.
- Q Has the Board taken any action on the matter since that time?
- A We have not.

Q Have you allowed Frank Smith to return to his employment?

A We have not.

Q Have you paid him any salary since that time?

A Not to my knowledge.

Q Do you know of any plan that the Board of Education has to reinstate him and pay him his back salary?

A I know of no plan.

MR. HALL: That's all.

(231) THE COURT: Anything else?

*CROSS EXAMINATION*

*BY MR. PITTS:*

Q Mr. Hale, you know where Lower Peachtree is, don't you?

A I do.

Q You know where Yellow Bluff is?

A Approximately.

Q And is that in—you live at Pineapple?

A The opposite end of the County.

Q That is in the opposite side of the County from you, is that correct?

A That is correct.

Q These two communities would be in the western part of Wilcox County and you are over in the eastern part?

A That's right, and it is in an area and there is only 1 bridge across it, and it is much further than Airline miles.

Q Now, Mr. Hale, you say you have been on the Board for ten years, is that correct?

A Approximately.

Q Has there been considerable discussion or has there been some discussion with the Board about the closing of the Lower Peachtree and Yellow Bluff schools?

A Yes, sir.

Q Is it the plans of the County Board of Education  
(232) to  
move those children from those schools to a school at Pine Hill?

A It is a continuing consolidation program.

Q All right. Now, some years ago when this was discussed at the Board and it was out among the people that attended, parents that attended that had children attending these schools, was a petition filed and do you know whether a

petition was filed or a protest made with your Board not to close those two schools?

A Either a petition filed or a delegation came before the Board with a request that we not close the schools.

Q With a request that you not close the schools?

A That is correct.

Q Those two schools the Board of Education has not spent any considerable money in keeping up for the simple reason they had plans to eventually put them into the Pine Hill school, is that correct?

A That is correct.

Q And that plan was delayed somewhat for two reasons, lack of funds and the other is the patrons didn't want it moved?

A In the consolidation program, we have tried to give the patrons time to adjust to the closing of the school that (233) has taken place in this case.

Q Do you know whether or not the School Board has recently acquired or in the act of acquiring ten acres of the land at Pine Hill for the purpose of consolidating these schools?

A That has been authorized.

Q Have you seen or do you know about the plans that have been drawn for a building there?

A Those are in existence.

Q That consolidated school, modern school, would cost a considerable sum of money, is that correct?

A It will.

Q I will ask you, also, Mr. Hale, getting back to your side of the County, Boykin, that is on your side of the County, isn't it?

A That's right.

Q And is that in a rather remote section of Wilcox County?

A It is.

Q Is there, right near there, the W. J. Jones High School and Junior High School?

A Not near Boykin.

Q Well, I meant, in the vicinity?

A There would be other schools nearer. Are you confused (234) with Berson or Boykin?

Q Berson. I said Boykin, but I meant Berson.

A Berson is near the W. J. Jones High School.

Q There is also an elementary school at W. J. Jones?

A Oh, yes.

Q Which is just down the road, is that correct?

A Yes.

Q And is that a rather new building?

A It is rather new.

Q Now, Snow Hill, down where the Snow Hill property is, do you know where that is?

A I do.

Q That property that is over at Snow Hill, is that another situation that is similar to the Presbyterian Church?

A It is very similar.

Q And does a separate—does a corporation there own that property, is that correct?

A The State of Alabama, I believe, owns ten acres of the land on which the buildings are situated.

Q All right.

A However, the Snow Hill Institute, which is incorporated, and has a Board owns eleven or something over a thousand acres of land and they have buildings and homes on that land.

(235) Q And on the land that is owned by the State or the County, has there been built on there modern buildings for elementary schools and regular schools, high schools?

A There is a rather large brick building there and has classes in Home Economics and Agriculture, a building for that. I don't recall whether this was a brick building or not, but there are other buildings there too.

Q Has the Board of Education considered closing that school and transporting the students from that school down to the W. J. Jones High School?

A That has been considered.

Q I will ask you whether or not there was a petition or a protest filed among the people in that area asking that that school remain open?

A A rather loud protest.

THE COURT: What one are you talking about?

MR. PITTS: Snow Hill, Judge, a rather loud protest.

A Yes, sir.

MR. PITTS: Now, Mr. Hale, I ask you about Boykin and confused that with Berson. Berson is over there near the W. J. Jones School in your end of the County?

A That is correct.

Q And Boykin is over there in what is called Guy's Bend?

(236) A That is correct.

Q Have you ever been to Boykin School?



A It has been years.

Q You are not too familiar with that side of the River?

A That is correct.

MR. PITTS: That's all.

THE COURT: Anything else of Mr. Hale?

*RE-CROSS EXAMINATION*

*BY MR. QUAINANCE:*

Q Mr. Hale, did you say one reason for not consolidating the school was lack of funds?

MR. PITTS: What was the question? I didn't hear it.

MR. QUAINANCE: I asked Mr. Hale if one of the reasons for not consolidating the school was a lack of funds?

A I did not say that.

Q Mr. Pitts had asked that question and would the answer to that be yes?

A I think the answer to that would be no. We have followed as active a consolidation program as the public would permit us to do without extreme protest on the part of the patrons.

Q Has the Board given directions to the Superintendent or any other persons to carry out consolidation at Yellow Bluff or Berson for this coming school year?

(237) A Those plans all are almost formalized. I don't think any formal action has been taken on that.

MR. QUAINANCE: That's all.

THE COURT: Anything else?

Mr. Hale, I want to ask one or two questions. It might not even be relevant to this lawsuit.

Snow Hill—isn't it called that, Snow Hill Institute?

A Yes, sir.

THE COURT: Is it part of the public school system of Wilcox County?

A Yes, sir. The thing that is generally misunderstood on that is that the teachers are paid by the County Board of Education.

THE COURT: They are. How long has it been in the Wilcox County—wasn't it at one time privately owned?

A Yes, sir.

THE COURT: How long ago was that?

A There are others here that would give you a more accurate—

more accurate information. I have rather vague information. It goes back to Mr. Randolph S. Simpson's days who made the land available to that school.

THE COURT: Who was the principal of that school? Wasn't it Wilson up until he died about ten years ago.

(238) A Ligon Wilson. He was quite outstanding. In fact, I think he might have been Director of the NYA.

THE COURT: He founded it, didn't he?

A No, sir. In effect, Mr. Simpson was the founder. He was a white man.

THE COURT: There was a negro who was principal of it, wasn't there?

A Yes, sir. In fact, all of the principals I have ever known have been negros.

THE COURT: All right.

A W. J. Edwards was principal for many, many years.

THE COURT: Who was the one that died about ten years ago?

A Well, I thought it was Wilson.

THE COURT: Well, anyway, I'm getting away from the case. I tried a case here ten or fifteen years ago that had nothing to do with the school system at all and I was trying

to orient myself. I will wait and talk with you later. Thank you.

Call your next witness.

*MR. W. J. JONES*

The witness, called on behalf of the Plaintiff-Intervenor Gordon and others, after having first been duly sworn to tell the truth, the whole truth and nothing but the truth, took the (239) stand and testified as follows:

*DIRECT EXAMINATION*

*BY MR. BILLINGSLEY:*

Q Would you state your name to the Court, please?

A W. J. Jones.

Q Where do you live, Mr. Jones?

A Oak Hill, Alabama.

Q Were you the former Superintendent of Education in Wilcox County, Alabama?

A Yes, sir.

Q And you were succeeded by Mr. Kelly?

A That's right.

Q When did you resign or retire?

A July 1st, 1965.

Q I see. How long had you been Superintendent?

A I lacked three months of being there 42 years.

Q Three months of being there 42 years. You are well acquainted with the school system in Wilcox County, Alabama?

A I think so, yes.

Q Do you know the plaintiff here, Mr. Gordon?

A Yes.

Q How long have you known him?

A I have known him for a number of years.

Q I see. Is he a resident of Wilcox County?

(240) A From around Camden, yes.

Q How long did he teach in the public school system of Wilcox County?

A I can't recall exactly, but he taught a number of years.

Q I see. Do you recall whether or not he was engaged in demonstration activities before he was terminated by the Board?

A Well, I don't know.

MR. PITTS: Who is he referring to?

MR. BILLINGSLEY: Mr. Gordon.

A I think he was, yes.

MR. BILLINGSLEY: Mr. Gordon was the one that got the church for the demonstration and the movement people when they first came, wasn't he?

MR. PITTS: Your Honor, I object to going into details of demonstrations in Wilcox County. Did I understand you to say, Mr. Jones, that you understood that he had been so engaged?

A That was my impression, yes, sir.

MR. BILLINGSLEY: Your Honor, I am not going into details either. I just wanted to bring these questions out. The information came to you, did it not, Mr. Jones, that Mr. Gordon procured it for the movement people when (241) they came to Wilcox County?

A I don't now about that.

Q And you also discussed this with Mr. Gordon too, didn't you?

A I don't recall any connection with knowing that he procured the building.

Q Did you discuss his Civil Rights activities with him at anytime prior to the cancellation of his contract?

A I didn't think so.

Q You don't think so?

A I don't remember any specific conversation with him about that.

Q Do you remember having any conversation with him about his Civil Rights activities?

A No. I remember having a lot of conversation about this debt business.

Q Civil Rights activities?

A No. If it was, it was in a very general way.

Q In a general way?

A I don't remember anything specific.

Q Did you, Mr. Jones, slap one of the negro students during the demonstration activities on Camden Academy?

MR. PITTS: We object to that.

THE COURT: Sustain the objection.

(242) MR. BILLINGSLEY: When also, at the same time, a law enforcement office whipped a student?

MR. PITTS: We object to that.

THE COURT: Sustain the objection.

MR. BILLINGSLEY: That's all.

# CROSS EXAMINATION

BY MR. QUAINANCE:

Q Mr. Jones, I would like to ask you some questions about the teacher units. As I understand it, up through the last year you were the Superintendent and the State provided the list of available teacher units by race, is that correct?

A That is correct, yes.

Q Could you tell me whether Wilcox County spent all of its available negro teacher units?

A For a number of years, we could not use all of the negro teacher units, because of space.

Q Did Wilcox County School System spend all of its white units?

A We had to, because of accreditation.

Q To maintain accreditation, is that right?

A I believe there were eight over the State allotment.

Q And the County paid for those teachers?

A Yes.

(243) MR. QUAINANCE: No further questions.

## CROSS EXAMINATION

BY MR. HALL

Q Mr. Jones, at the time you were Superintendent—Mr. Jones, and up until the time of your retirement, did you have any assistants in your office at Camden, clerical, stenographic, secretarial or otherwise?

A Yes. We had two negro supervisors.

Q Two?

A One elementary and one high school.

Q Did they have office space?

A Yes. They had office space.

Q They did. Wasn't that at the office in Camden?

A It was in the same building that the Superintendent's office was.

Q What building was that?

A In the community building.

Q The community building?

A It is where the County Agent and Home Demonstration Agents were.

Q And the County Board had some space set up for negro supervisors?

A Yes.

Q How many white supervisors did you have?

(244) A We have never had any.

Q Who supervised them? What was the function of the negro supervisors?

A To look after the instructional program and also to help me with particularly—that is, particularly the man, the high school supervisor.

Q Let's see, when you say look after the instructional program, what do you mean sir?

A Just what a supervisor does. They would visit the schools and visit the classrooms and help with the instruction.

Q What would they help instruct—how would they help with instruction?

A Just as any supervisory service would do.

Q Mr. Jones, I wish you would assume that I am totally unfamiliar with educational methods, and I am really trying to get some information about these negro supervisors.

A No. One was a man and one was a woman.

Q Did they have different functions or the same function?

A One looked after the elementary and one after the high schools.

Q Which one looked after the elementary?

A The woman.

Q And the man?

(245) A Looked after the high schools.

Q Do you remember the man's name?

A Joe Davis first.

Q At the time you left this is what we have reference to.

A K. P. Thomas—A. P. Thomas was the supervisor.

Q And the woman?

A Bessie M U N D E D .

Q Are these people still employed, to your knowledge?

A They are.

Q In the same capacity?

A I don't think they are. I think they are—I know they are teaching.

Q Were they teachers at the time you are speaking of?

A No.

Q They had no teaching duties?

A They had no teaching to do.

Q And they visited the schools. Would they decide what books the children were to get and what they were to study?

A That is prescribed by the State.

Q I was trying to get at their duties. You said a moment ago they had something to do with the teaching. If you will, tell us what they did and that would clear that up.

(246) A Largely, they would see that the State courses of study was adhered to.

Q The State prescribed what the students will study, is that correct?

A That's right.

Q Does the State prescribe always the textbooks they will study?

A That is in the High School textbook bulletin.

Q Isn't it a fact, that the State recommended a group of books in certain categories and left it to individual school people to decide on the specific text?

A Yes. They have some alternates, but you have to select them.

Q Who makes that selection in the Wilcox County System or did at the time you were there?

A We did that through the principals.

Q And the supervisory people had nothing to do with that?

A Yes, they did.

Q What we are trying to get at, Mr. Jones, is what specifically they had to do with it?

A The Supervisor would work with the principals in group meetings, and we would try to have this same—the same textbooks used, because of the availability of buying them and the principals would meet with the supervisors and  
(247) myself

and we would select the best books and try to have it uniform, though it was not always uniform, because some of them would prefer another book that was on the list instead of the others.

Q You are saying then up through the last school year, for the most part, the textbooks were uniform in the schools in Wilcox County?

A For the most part.

Q Were they uniform throughout the system? Were they uniform in the negro schools and uniform in the white schools?

A Uniform throughout the entire system. We had a book depository where they sold books and it was expedient

and good business to have those books available, and if there were too many, it was difficult for the children to buy the books. We tried—but it was not a strict thing, if a principal wanted another book that was on the list, he was allowed to have that.

Q Mr. Jones, I don't know if you addressed yourself to my question or not. I'm trying to find out, as I understand it, the textbooks were more or less uniform for the most part in the Wilcox County School system?

A That's right.

Q What I want to know, you had a bi-racial system. You had white and colored schools?

(248) A Yes.

Q You had different supervisory personnel for the colored schools and white schools. I want to know if you had different textbooks?

A No.

Q Did you study the same textbooks and did you have the same courses of study in all of the schools?

A I would say they did. Now, you understand there are some constants and some electives?

Q No, sir. I don't understand the educational system at all.

A Well, there are certain constants that are required and certain electives.



THE COURT: Let me ask this. Go to the constants. Were the constants the same in both the white and colored schools?

A Yes. The State would require that. The electives may have been or may not have been.

THE COURT: All right. For the most part were they the same or not?

A Yes, sir.

THE COURT: All right.

MR. HALL: Can you tell us, as a former Superintendent recently retired, how many of the negro schools have high (249) school departments?

A Well, the only school we had accredited by the Southern Association was the negro school at Camden Academy.

THE COURT: I think what his question was, how many of the negro schools had high school departments?

A We had seven negro schools that were accredited and maybe some of them were on a warning list where they were, but there were seven schools that had some status of accreditation.

THE COURT: That were high schools?

A Yes.

Q Will you name the seven high schools?

A Camden Academy was accredited by the Southern Association as well as by the State. Miller's Ferry was accredited by the State. Anniemanie was accredited by the State. I don't believe Boykin was.

Q BOYKIN?

A Yes.

Q That is a high school?

A High school grades are taught there. Willim J. Jones High School made application and I don't believe it was ever accomplished while I was in office. How many is that?

THE COURT: I think that is six.

Q I have Camden, Miller's Ferry, Anniemanie, Boykin and (250) William J. Jones.

A And Snow Hill.

Q That is six on my list, sir.

THE COURT: Did you have Camden?

Q I have Camden, Miller's Ferry, Anniemanie, William J. Jones, Boykin and Snow Hill.

A Well, Lower Peachtree had high school grades.

Q Is that a high school?

A Well, when I was superintendent it was a high school and then I believe the last year or two the high school children were transported to Anniemanie. It is up to grade nine, isn't it?

Q Now, Mr. Jones, which of these is there scientific laboratories at, at any of these schools? Do you know whether or not at Camden they taught chemistry to the students there?

A The practice was they would teach physics one year and chemistry the next year. None of the schools attempted to offer both the same year, because of the teachers and that sort of thing. You wouldn't get enough to elect for a course.

Q Was there a science laboratory at Camden?

A Yes, sir.

Q What did it consist of? Would you describe it for us? Did they have bunsen burners?

A It was a modern building and had modern  
(251) equipment.

Q This is at Camden. Now, that is the new school you are speaking of, property which was acquired from the Presbyterians?

A The school that the State and County built.

Q That they put on land acquired from the church?

A Yes.

Q Are there laboratories there?

A Yes.

Q Did they teach chemistry there?

A Well, I am sure they did. They offer chemistry one year and physics the next year.

Q Now, Mr. Jones, are you testifying from your knowledge of what they did or are you saying that they must have? You are saying that you are sure they did. Do you know whether they did or not?

A I couldn't have intimate knowledge of all of those little details.

Q You yourself didn't visit these schools very often, did you?

A I really did.

Q Did you observe very closely what was going on in these negro schools?

A I considered that my function and my duty.

Q Your two negro supervisors, did they talk with  
(252) you  
very often about what was going on?

A Every day.

Q You are not really familiar with the courses of study here, what they were, of your own knowledge?

A Well, I am fairly familiar with it. I was familiar with the negro course of study as I was with the white, but I couldn't keep in mind all of those details because of the—that was more the function of the principal.

Q You can't be certain right now, in this Court and on this stand, whether or not these six schools in any given year—the last year or the year before, taught a specific subject, can you?

A Well, I can be reasonably sure they did.

Q But you are guessing, aren't you?

MR. PITTS: Your Honor, we object to that question, you are guessing, when he says he is reasonably sure. That is arguing with the witness.

THE COURT: All right. Go ahead.

MR. HALL: Your Honor, this is—we invoke Rule 43-B.

MR. PITTS: I object to that. This man is not a part of this suit.

THE COURT: He is attempting to answer the questions as best he can. Go ahead.

(253) A What was the question?

THE COURT: Mr. Jones, did all high schools teach math?

A Yes, sir.

MR. HALL: What?

THE COURT: What math did they teach—what were constants that were required that you know that were taught?

A They taught general mathematics and that was a required subject. Now, geometry was an elective subject.

THE COURT: You cannot or you couldn't tell me from last year what school taught geometry and what didn't is that correct?

A I wouldn't know.

THE COURT: Now, but he is asking you could you state to me, last year, or the last year you were in office what schools taught chemistry and what schools taught physics or either of them?

A I wouldn't know in detail.

THE COURT: You couldn't tell me definitely that school A definitely taught chemistry or school B. definite taught chemistry?

A I wouldn't remember the details, no.

THE COURT: All right, sir.

MR. HALL: Did you, yourself, have clerical help in your  
(254) office?

A I had two.

Q How many clerks did you have?

A I had a bookkeeper and a secretary.

Q Were these persons white or colored?

A White.

Q Did you have any other office help?

A Did I have what?

Q Any other office help?

A No. That was all.

Q On your Board of Education, how many members did you have on the Board, the Wilcox County Board?

A Five.

Q Are any of them colored?

A They were all white during my administration.

Q In the forty years you were employed by the Wilcox County Board, did you ever have a negro Board member?

A A colored board member?

Q Yes, sir.

A No.

Q They were always white?

A That's right.

Q Did you ever have as many white students in school than you had negros?

(255) A No.

Q You always had twiced as many?

A Yes.

Q The Board members are all offered for election.

A Yes.

Q And they are voted on at public election?

A That's right.

Q Can you tell us if any negros voted in Wilcox County prior to 1965?

A I don't think so.

Q Do you know of your own knowledge?

A I don't know of my knowledge that they did.

Q Have you ever heard of any negro voting prior to 1965?

MR. PITTS: We object to that.

THE COURT: Sustain the objection. I don't think that is an issue in this particular case.

MR. HALL: That's all.

*RE-CROSS EXAMINATION*

*BY MR. QUAINANCE:*

Q Mr. Jones, you stated that because of space limitation, you weren't able to use all of the negro teachers units. Would you state approximately how much money annually in the last few years your administration had to turn back (256) to the State from negro teacher funds?

A I remember some \$20,000 or more.

MR. QUAINANCE: Thank you.

*RE-DIRECT EXAMINATION*

*BY MR. BILLINGSLEY:*

Q Mr. Jones, do you know Mr. Roosevelt Johnson who is a teacher in the Wilcox County School System?

MR. PITTS: Your Honor, I object to the continuous examination.

THE COURT: I don't think this is in rebuttal of anything. I am going to sustain the objection.

MR. BILLINGSLEY: All right, sir.

THE COURT: Do you want to ask him anything?

MR. PITTS: Yes, sir.

*RE-CROSS EXAMINATION*

*BY MR. PITTS:*

Q Mr. Jones, talking about these courses that is being taught in schools and the books and so forth, you mentioned a depository. Up until just the last two years or three years, the State furnished only a portion of the books?

A Just elementary.

Q Did they furnish all of the elementary grades or how many was there?

A No. The parents bought some. Now, those books (257) were

furnished by the State and the children were not allowed to take them home and they remained at school. A lot of times the parent would want the child to have books at home and they would buy them and it started out the first three grades was furnished by the State.

Q That is what I'm trying to get at, the number of grades.

A And it was not a complete coverage. It helped a lot, but it was not where every child could have a book, for example, a reading book would be a multiple sort of thing

and three children would use the same book. There would be three reading books.

Q And it started out with the first elementary grade, is that right?

A Yes.

Q Then did the State increase that program?

A They extended it.

Q How far did they extend it on the second occasion?

A They extended it up through the sixty grade before I left office.

Q That was the elementary grades, is that correct?

A That was as far as it went.

Q Now, those books would be—I mean, the Wilcox County Board of Education, at sometime in a year, would get a (258) list of

books that would be available from the State for its school system for the next year, is that correct?

A Yes. You could make requisitions and fill up the gap.

Q In order to make that requisition through your supervisors and your principals of your schools, you would have meetings, is that correct?

A That's right.

Q This list of books that was sent, for instance, reading books, there may be one or two history books, one or two books that that teacher could select, is that correct?

A Yes. We had a textbook committee made up of teachers who advised in the selection of those books.

Q With that textbook committee and through your principals and supervisors, and after you had decided what books were going to be taught in the Wilcox County schools, you requisitioned your order from the State, is that correct?

A That is exactly right, yes.

Q Was that same system used for the negro schools as well as the white schools?

A Yes.

Q Now, since you have left office, are you familiar with the fact that the State now furnishes all books?

(259) A I have heard that, yes.

Q Now, Mr. Jones, the courses that you mentioned, some of these high schools, the negro high schools, was typing taught in any of these negro schools when you were there?

A I believe it is taught in practically all of them.

Q Shorthand?

A I don't know about shorthand, because it is hard to get teachers to qualify to do that.

Q But you did have typing?

A Yes, sir. I expect we had some shorthand too.

MR. BILLINGSLEY: Your Honor, we are going to ask that what he expects to be stricken.

THE COURT: All right.

MR. PITTS: And you did have, you say, in all of these schools, there were laboratories, is that correct, for scientific studies?

MR. BILLINGSLEY: We object to that, your Honor.

THE COURT: Just a minute.

MR. PITTS: And those laboratories were for chemistry, biology and physics, is that correct?

MR. HALL: Your Honor, we object to this. This is leading.

THE COURT: Don't lead him.

MR. PITTS: Judge, this is cross examination.

MR. HALL: Judge, the witness has testified that  
(260) they

had—couldn't testify as to what courses were taught in these schools, but he could admit what Mr. Pitts spells out for him.

THE COURT: Well, we have a non-jury case here. I understand the testimony.

MR. PITTS: Those were the type of laboratories that were used?

A Your question was what?

Q The laboratories that you referred to were chemical, or physics?

A They would vary as to adequacy on that. I'm not too familiar with that.

THE COURT: They would vary in what?

A They would vary probably as to the facilities that they had.

THE COURT: I thought you used the word adequacy.

A I was thinking about the chemical materials and physical materials.

THE COURT: All right.

MR. PITTS: Now, Mr. Jones, do you know whether in some of these schools the Superintendent—I meant the Wilcox County Board of Education purchased some portable laboratories?

A No. I don't know about that.

(261) Q Were there any purchased?



A I'm not familiar with that.

Q All right. Now, let's get to Lower Peachtree and Yellow Bluff.

A All right.

Q You visited both of those schools, didn't you?

A A number of times.

Q They are on this side of the river or in the western part of Wilcox County, is that correct?

A This is correct.

Q And while you were Superintendent of Education, was there any plans discussed for closing those two schools and transferring the pupils to Pine Hill?

A While I was Superintendent, the Yellow Bluff was reduced to a Junior High School and to an elementary school and the children transported to Pine Hill. The plan was—we just didn't have the school buses to do it, but we could have reduced the fifteen schools to a much smaller number if we had had sufficient school buses to do it, and have had space at the schools to put those children. There was a program of consolidation all through the years that I was superintendent.

Q And one of the—during that time when you were talking or discussing closing the schools at Lower Peachtree and Yellow Bluff, was there any protest filed with the

(262) Board

about closing those schools by the parents that lived in that community?

A Particularly at Lower Peachtree I recall delegations there that didn't want it closed and I remember some white people joining in with them.

Q They wanted it left open, is that right?

A They wanted a 12th grade school there at Lower Peachtree.

Q Is Lower Peachtree, is that a rather remote section of Wilcox County?

A It is at the extreme end of Wilcox County.

Q Is that true of Yellow Bluff too?

A Yellow Bluff is across the river and there is no white people live at Yellow Bluff much, maybe a family or two.

Q While you were principal—superintendent, was the Pine Hill School built?

A It was built during my administration.

Q Do you now whether there was any acquiring of any of the land to enlarge that school?

A That took place after my retirement. I had heard that, but of my own knowledge, I don't know.

Q As a practical matter—I withdraw that question. From your years of experience as Superintendent of education of Wilcox County and from your knowledge of the  
(263) geographical situation in the County and the demand for schools in the County, is it the most practical and feasible method to close these schools and consolidate them into the Pine Hill School?

MR. HALL: We object to this, your Honor.

THE COURT: It is a matter of opinion that this gentleman can answer. This gentleman has been Superintendent of Education for forty years. He is qualified to testify as an expert and he can give his opinion on it.

A Certainly, consolidation makes for a good school system. When I was first made Superintendent there were forty-six white schools and when I retired there were three. There must have been a hundred negro schools and there was no transportation or anything. We were following a State survey in these consolidations and it was scientifically worked out by a staff of people from the State Department of Education assisted by the University of Alabama and maybe Auburn that would make these surveys. The people generally understood that that is what the Board was striving for was to have as few students as possible in the schools and make them as good as possible.

Q To have as few schools to serve to adequately serve Wilcox County, but to strive for excellence, is that correct?

A That is correct.