

MR. ARONSON: I would like to offer as Plaintiffs'

Exhibit 15 into evidence.

Q Do you have any Negro teachers teaching in your system, sir?

A No, sir.

Q And just a couple of other questions with respect to your students in grades ten through twelve; I take it that those students go out of the District -- excuse me, strike that. I take it that the students in grades ten through twelve are in Mr. Cunningham's jurisdiction?

A That is correct.

Q White and Negro?

A Right.

Q And whatever disposition is made of students in grades ten through twelve is up to Mr. Cunningham?

A That is correct.

Q You have no control over it?

A That is correct.

MR. ARONSON: I have no further questions of this witness at this time.

JUDGE RIVES: Any questions by any of the plaintiffs?

MR. BARRETT: Yes, sir; some -- I am sorry.

MR. ADAMS: Yes, sir.

BY MR. ADAMS:

Q Mr. Songer, how long did you say you have been Superintendent of the Jasper schools?

A Two years.

Q And you taught in the school system for approximately -- you have been in the school system approximately seventeen years --

A Yes.

Q -- is that correct?

A Yes, sir.

Q Now, did the Jasper School System do anything about desegregation of its system before 1965?

A No, sir.

Q And since you have been Superintendent of the Jasper School System for two years -- exactly what time did you take office, Mr. Songer?

A It was in July of -- 1st, 1965.

Q And the plan that was adopted by the Board of Education was in May of 1965?

A Yes.

Q Do you know whether there were any discussions so far as desegregation of the school system in Jasper during the period of years between 1954 and 1965?

A No.

Q Are you saying you do not know or there was no discussion?

A I don't know of any.

Q I see. I don't believe you testified, Mr. Songer, as to the percentage of Negroes in the population of the City of Jasper; do you know what that is?



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- A No, but I would think it would somewhere around ten or twelve per cent.
- Q And are you familiar with the pupil-teacher ratio in the City of Jasper?
- A Yes.
- Q What is that pupil-teacher ratio?
- A Oh, it is roughly one to thirty-two.
- Q Do you have any Negro teachers teaching in the Jasper School System?
- A No.
- Q Have you considered, Mr. Songer, the employment of Negro teachers in the Jasper School System?
- A No.
- Q You said the Board of Education, as I understand it, did submit and sign form 441; is that correct?
- A That is correct.
- Q Did it also sign the Government form 441-B?
- A No.
- Q What was the reason that it did not sign such form, Mr. Songer?
- A Because of the wording of the form; it would obligate ourselves, as we interpret the wording, in the future for any action the HEW might take in the future.
- Q Did the -- have you been deferred federal funds, or has your school system had any problem about receiving federal funds?
- A We received funds in 1965, but none in 1966.

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- Q And do you know the reason for this?
- A Yes; because of the non-acceptance of the plan previously submitted.
- Q Now, Mr. Songer, did you understand that any duty or obligation on your part to desegregate the school system of the City of Jasper as the Superintendent of that -- that school system?
- A Yes; my Board will abide by the law.
- Q Are you familiar, Mr. Songer, with the recently passed act, H.446, of the Alabama Legislature?
- A Yes.
- Q And have you been in communication with Superintendent Meadows or any State official since the passage of that act?
- A No.
- Q Have you or your Board considered invoking any of the provisions of the act?
- A No.
- Q And I'll ask you, Mr. Songer, has public confidence in the school system in Jasper been in any way destroyed by the guidelines of HEW?
- A No.
- Q And do you have any parts of the guidelines which you consider to be illegal, yourself, or your Board?
- A I think the section dealing with faculty is not in accordance with the law, the intent of the law.
- Q All right; is that the only one?

A Well, that is the only one I can recall at the present.

Q And in what respect to you feel that is not --

JUDGE RIVES: Counsel, his opinion on the law won't help us.

MR. ADAMS: All right.

Q Now, Mr. Songer, I believe you said you had done nothing about the -- the -- the faculty desegregation, and you are operating under a quasi-freedom of choice and geographic plan; is that not correct?

A Basically; yes.

Q Is it a fact that in Jasper, in the City of Jasper, Mr. Songer, Negroes are located in certain geographic areas of the City predominantly?

A That is correct.

Q And what part of the City is that?

JUDGE RIVES: He has already marked that with a circle. I don't want to terminate you, but this repetition is going mighty far.

MR. ADAMS: All right.

JUDGE RIVES: He has marked with a circle where the Negroes primarily live.

MR. ADAMS: All right. I believe that's all.

JUDGE RIVES: All right.

MR. ADAMS: Thank you.

JUDGE RIVES: Mr. Barrett.

BY MR. BARRETT:

Q Mr. Songer, can you tell us what grades the Frisco School serves?

A I am not positive, but I think it is grades one through three.

Q Grades one through three?

A Right.

Q How -- about how old is the building, would you say?

A Oh, thirty-five or forty years, most likely.

Q Do you think it compares favorably with the buildings that your system maintains?

A No.

Q Is that school located within the City Limits?

A Yes.

Q Who operates the school?

A Walker County Board of Education.

Q They transport Negroes into that school from the County?

A I doubt it; I don't think so.

Q You doubt that?

A I don't think so.

Q You don't know?

A No.

Q It is attended by City Negro children, however?

A Right.

Q Those children haven't been advised by you or the Board directly that they can attend the --

A No, they haven't been advised.

- Q -- the schools attended by the white children in the City?
- A No, they haven't been advised they could attend.
- Q Where is the Walker County Training School located?
- A It is located in a Negro community south of -- west and south of the Parrish highway, highway 18.
- Q Within the City?
- A Yes.
- Q Within the geographic limits of your school district?
- A Yes.
- Q It is operated by the County?
- A Yes.
- Q It is attended solely by Negroes?
- A Yes.
- Q Negroes living within the City attend that school?
- A Yes.
- Q Have you advised the parents of any of those children --
- A No.
- Q -- that they can attend the white schools in the City?
- A No. If I might make a comment --
- Q Surely.
- A -- here. Our plan specifies that once it was approved by the U. S. Office of Education, such notices would be made available. It has never been approved by the U. S. Office of Education; therefore, no notices have been mailed.
- Q And your plan has not been approved?

A That is correct.

Q Did you notice -- have administrative hearing under Title Six?

A Yes.

Q The examiner determined against the School Board; is that correct?

A That is correct.

Q And continued federal funds have been ordered -- I should say federal funds to your district have been ordered discontinued; is that correct?

A It has been recommended.

Q Recommended by the hearing examiner?

A Yes.

MR. BARRETT: No further questions.

JUDGE RIVES: Any further questions from any of the plaintiffs? If not --

JUDGE PITMAN: Let me ask him this question. Does the desegregation plan which you submitted include the Negroes in the County; would it offer them the same opportunity that the white students had to come into the City system if they lived nearer to a City school than to a County school?

WITNESS: There is a provision in our plan that covers all children that live -- that live outside of the City wishing to come in.

JUDGE PITMAN: In other words, substantially the same as the plan for white students you previously had?

WITNESS: Yes, sir.

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MR. SMITH: We --

REDIRECT EXAMINATION:

BY MR. SMITH:

Q -- or do you identify Defendants' Exhibit 49?

A Yes.

Q Is this your freedom of choice plan?

A Yes.

Q Or your plan of desegregation?

A Yes.

Q Would you refer to paragraph four of this Exhibit, and very quickly read it to the court, please, sir?

A "Paragraph four. Pupils residing outside Jasper City School District: In the past pupils residing outside the Jasper City School District have attended schools within the system. If the Jasper City Board of Education continues to accept students from other districts their acceptance will be on a nondiscriminatory basis. In addition, the parent or guardian of the pupil or pupils involved, or such other person standing in loco parentis to such pupil or pupils, shall have the freedom of choice granted in paragraph one (a) hereof, and the choice to ride any school bus operated by the Walker County School System serving the Jasper City School System."

MR. SMITH: We offer Defendants' Exhibit 49.

JUDGE RIVES: (Nodded to indicate affirmative reply)

Q Now, Mr. Songer, on March 30 of this year, did Mr. Eugene Crowder, with the U. S. Office of Education, attend a Board meeting of your City Board of Education?

A Yes, sir.

Q I show you Defendants' Exhibit 48, and I'll ask you, sir, if you can identify this as being the official minutes of your Board of Education wherein Mr. Eugene Crowder, of the U. S. Office of Education, attended?

A Yes, sir.

Q Will you read to the court very quickly the concluding paragraph, and first let me ask, do the minutes reflect that Mr. Crowder did attend?

A Yes.

Q Now, will you read the concluding paragraph of the Board meeting?

MR. ADAMS: Judge, I am going to object to his reading it. It characterizes in the minutes certain conduct on the part of Mr. Crowder. If it is offered just to say it is in the minutes, we have no objection; but if it is offered to prove that he actually said that, of course, we object to it.

MR. SMITH: Well, we don't offer it for any purpose as to what Mr. Crowder might have said.

MR. ADAMS: His attitude --

MR. GRAY: We further object, your honor, on the grounds that no facts are stated in the minutes indicating what Mr. Crowder did, that it simply reaches a conclusion that his conduct



was in a certain manner, and -- and we feel that it's inadmissible.

JUDGE RIVES: The minutes will be admitted for whatever they may be.

Q All right; would you read the paragraph I referred you to, Mr. Songer?

A "The Superintendent and Board had hopes that some progress could be made in behalf of the Board of Education, but it was apparent from the attitude of Mr. Crowder nothing would be acceptable except the so called model plan drawn up by the U. S. Office of Education. Mr. Crowder at this point was most unethical, unprofessional, demanding, arrogant, and repulsive to the Board of Education, declaring that the Board of Education and its Superintendent had submitted a plan that had nothing about it that would be acceptable to the U. S. Office of Education. At this point it was made very clear to Mr. Crowder that this Board of Education was sincere in its efforts to work with the U. S. Office of Education. It had signed a compliance form that it would abide by the law, had submitted a plan to desegregate its schools, had integrated its schools and felt that it was within the bounds of the law, and that this Board of Education stands willing and ready to negotiate any of its difference with the U. S. Office of Education under professional courtesy, attitude and ethical manner, but with the attitude of Mr. Crowder, it was decided to leave the plan as submitted and for the U. S. Office of Education to make the next move."

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JUDGE RIVES: Of course, those minutes are not admitted as proof of any unethical or any conduct on the part of Mr. Crowder, but simply for what is contained in the minutes.

MR. SMITH: We offer Defendants' Exhibit 48.

Q Mr. Songer, have you received any notice of complaint --

A No, sir.

Q -- from the Attorney General, United States Attorney General?

A No, sir.

Q In regard to discriminatory practices within your school system?

A No, sir.

MR. SMITH: I have nothing further.

JUDGE RIVES: Any other questions from any of the other defendants? Any questions from the plaintiffs?

MR. ARONSON: Just two questions, your honor.

RECROSS EXAMINATION:

BY MR. ARONSON:

Q Was your 1965 plan accepted by the Department of HEW?

A No.

Q Was your 1966 plan accepted by the Department of HEW?

A No plan has been submitted for 1966.

Q And I take it from your earlier testimony that these plans were not to be followed until accepted?

A That is correct.

Q So you at this point have never operated under one of the plans that you have discussed at this point?

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- A Oh, yes; we are operating under the plan as submitted to the U. S. Office of Education, even though it was not accepted.
- Q Have you sent out notices?
- A No.
- Q Isn't that part of the plan?
- A Well, yes, but we didn't mail out the notices, because we can't mail out something we know the U. S. Office of Education wouldn't accept.
- Q Did you offer choices to everyone in the County as your plan provided?
- A No; no.
- Q What did you do under your plan?
- A We said we would accept those who came and applied for admission.

MR. ARONSON: No further questions.

JUDGE RIVES: Any other questions from the plaintiffs?

You may come down, Mr. Songer. Call the next witness for the defendants.

MR. MADDOX: Mr. Botts; Mr. Botts.

THE CLERK: Have you been sworn?

WITNESS BENJAMIN CLARENCE BOTTS: I was yesterday;  
yes.

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BENJAMIN CLARENCE BOTTS, witness for Defendants, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

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BY MR. MADDOX:

Q Would you please state your full name?

A Benjamin Clarence Botts.

Q And what position do you hold, Mr. Botts?

A Pike County Superintendent of Education.

Q And how long have you held that position?

A I am in my twelfth year.

Q Would you briefly state your educational qualifications?

A I have a B.S., an M.A. degree in education, B.S. from Auburn University, a Master's degree from Peabody College.

Q Did you submit to the Department of Health, Education, and Welfare a form 441?

A Yes.

Q Do you recall when that was submitted?

A May 14, '65, I believe it was.

THE CLERK: Defendants' Exhibit number 50 for identification. Defendants' Exhibit number 51 for identification.

Q Would you examine that form, please, sir?

A This is the form.

Q All right, sir. Mr. Botts, with regard to the language in this form, that the Pike County Board of Education agreed that it will comply with Title Six of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulation of the Department of Health, Education, and Welfare, 45 C.F.R., Part 80, issued pursuant to that title, what did those words mean

to the Board, if you know?

A It meant what -- what the words say, I believe.

Q That you would comply with the law --

A Yes.

Q -- is that right?

A (Nodded to indicate affirmative reply)

Q Was your plan accepted, or -- or did you have to submit a plan?

A We did submit a plan.

Q You could not just file a 441; is that right?

A That's right. That was what was submitted May 11, I believe, rather than compliance form.

Q From whom did you receive a communication that your system could not merely submit a form 441?

A I am not sure who we received it from; I am not sure that we received anything else between the time of submitting that and compliance form and then submitting a plan; I am not sure.

Q All right, sir; do you personally know whether or not there are systems in the other parts of the country who are not required to submit a plan, but are only required to submit a 441?

A I am not familiar with it.

Q All right. Did you submit a plan?

A Yes.

Q Was it in accordance with the requirement of HEW?

A It was; I believe that it was.

Q It was a requirement?

A Yes.

Q Have you examined Defendants' Exhibit 51?

A I am not sure; what is that -- oh, that?

Q Yes, sir?

A Yes; that was after we had submitted the plan, though, I believe.

Q All right, sir; it says that the plan submitted by you in 1965 was acceptable; is that correct?

A Yes.

Q And it is signed by Mr. Francis Kepple as U. S. Commissioner of Education; is that correct?

A Yes.

Q What type of plan did you file in 1965?

A We filed a freedom of choice plan whereby the Board agreed to open four grades to freedom of choice in '65, four grades in '66, and all twelve grades, one through twelve, in '67.

Q All right, sir. And this is the plan that was accepted by Mr. Kepple; is that right?

A Yes.

Q In carrying out that plan, did you submit all the notices, printing in the paper every requirement that was required by the regulations and by the law?

A We did.

Q In the fall of 1965, did you have any Negro students who elected under your plan to go to those grades which were covered in the plan for that year?

A Yes.

Q You did. Did your Board reject any request during 1965 from any student, and if so, what were the reasons for the rejection?

A We accepted all who requested.

Q You accepted all?

A Yes.

Q Did any Board member, or, to your knowledge, any school official influence the choice that was made?

A Not to my knowledge.

Q Not to your knowledge. Did you receive any complaints from any student or any parents that they had been influenced by any school officials in the exercise of their choice?

A We did not.

Q You did not. Did those students attend school?

A Yes.

Q What happened next with regard to your plan that had been accepted from HEW?

A Sometime early in '66, I believe it was either the last of February or March, we received a request to submit 441-B in line with the new guidelines promulgated by HEW.

Q To your knowledge, had any complaint been registered with the Department of Health, Education, and Welfare between the date of the submission of your plan and the requirement to sign a 441-B and abide by the revised statement of policy?

A Not to my knowledge.

Q Did HEW inform you that they had received any complaints that your plan was not being followed?

A No.

Q In accordance with your agreement?

A No.

Q You did not?

A No.

Q What did -- what action did your Board take with regard to this requirement from HEW --

A They sent --

Q -- to sign 441-B?

A They signed 441-B.

Q They signed it?

A Yes.

Q Did you amend it?

A No.

Q When did you sign it; do you recall?

A The latter part of March, I believe; I am not sure of the date; I remember the date we mailed it. We mailed it on April 14.

THE CLERK: Defendants' Exhibit number 52 for identification. Defendants' Exhibit number 53 for identification.

Q Mr. Botts, I show you Defendants' Exhibit 52, and ask you if that is not a blank copy of a form 441-B that you stated your Board signed?

A It is.



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Q All right, sir. I show you Defendants' Exhibit number 53, and ask you if that is a copy of a letter dated April 14, 1966, from you to Mr. Harold Howe in which you state you enclose compliance form 441-B, letter to parents, notice of school desegregation plan, transfer notice, paper clipping ran in local newspaper, Troy Messenger; is that a copy of that letter?

MR. REEVES: What is the date of that letter, please?

MR. MADDOX: April 14, 1966.

A It is a copy of the letter.

Q All right, sir. After the submission of this letter and the signed 441-B, did you receive a communication that your plan had been amended to include all of the provisions of the revised statement of policies issued by the U. S. Department of Health, Education, and Welfare?

A I am not sure that I followed that question all the way.

Q After you signed the 441-B and submitted your plan to HEW, did you receive an acceptance of that plan together with a statement that your plan was amended to include all of the requirements of the revised statement of policy?

A The Chairman of the Board received it.

Q He did?

A Yes.

Q Are you familiar with the revised statement of policies?

A Yes.

Q Are you familiar with Section 181.63 of that statement of policies;

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would you mind reading it to the court?

MR. MADDOX: It is very short, if the court please.

A "The Commissioner may modify this statement of policies as may be necessary to accomplish the purposes of Title Six."

Q Mr. Botts, is it the duty of a School Board to conduct the operation of a school system on a day to day and month to month basis dependent on need?

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

JUDGE RIVES: Well, he is an expert; overrule the objection.

A It is the duty of the Board of Education to formulate policies from month to month, week to week, as occasion arises.

Q All right, sir. Is the assignment of students and the placement of teachers, the hiring of teachers, one of those policies?

A The Superintendent recommends that under those policies; yes; to the Board.

Q When I refer to the Board, I am referring to your local Pike County Board of Education --

A Yes, sir.

Q -- you understand that, don't you?

A Yes, sir.

Q Does the State Board of Education assign students in the Pike County System?

A No.

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Q Does the State Board of Education hire the teachers --

A No.

Q -- in the Pike County System?

A No.

Q Does the State Board of Education direct you in the manner of the assignment of students and/or teachers?

A No.

Q Now, with regard to your original agreement, form 441, I believe it referred to the fact that you would abide by the regulations known as 45 C.F.R., part 80, and I will show you what purports to be a copy reprinted from the Federal Register and call your attention to paragraph 80.3, subparagraph (c), dealing with employment practices; doesn't that section say in effect that the only agreement which is made has to do with funds other than those that are -- go for employment primarily?

MR. GRAY: We object.

MR. REEVES: We object.

JUDGE RIVES: Sustain objection; we have the statement before us.

MR. MADDOX: All right, sir.

Q Mr. Botts, does your school system receive any funds from Department Projects under the Public Works Acceleration Act, Public Law 87-658?

A No.

Q Does your school system receive any funds from the Community Work

and Training Programs under Title Four of the Social Security Act, 42 U.S.C. 609?

A No.

Q Does your school system receive any funds from the Work Study Program under the Vocational Education Act of 1963, Public Law 88-210, Section 13?

A Not to my knowledge.

Q All right, sir. Does your school system receive any funds from the establishment of Sheltered Work Shops under the Vocational Rehabilitation Act, 29 U.S.C. 32 to 34?

A No.

Q Mr. Botts, did you receive any instructions or explanation of the form 441 from the Department of Health, Education, and Welfare?

A I received what is known as the guidelines.

Q You received no document or pamphlet that was supposed to explain what form 441 was?

MR. REEVES: Object; I think he has answered the question.

JUDGE RIVES: Any further questions?

MR. MADDOX: Yes, sir.

Q Mr. Botts, did you have any further contact from the Department of Health, Education, and Welfare?

A Yes.

Q When?

A In July.

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Q Of this year?

A Yes.

Q From what official of that Department were you contacted?

A By Mr. Eugene Crowder, a field representative for Alabama as I understood, from HEW.

Q All right, sir. Did he come to your office or contact you at your invitation, or did he contact you on his own initiative?

A On his own initiative.

Q What was discussed?

A Well, Mr. Crowder called me one day and asked if he might see me the next. I believe it was on -- on a Wednesday, that he called, and I stated that I would be available, I would be in my office on Thursday morning. And he came in, and rather early in the morning, about nine o'clock, I guess, and informed me that the Office of Education was making a routine survey of certain local school systems in that vicinity, and they wanted to make a survey of my system, go through my records of compliance with HEW and see the minutes pertaining to our desegregation plans and so forth, go into the schools and look over the facilities, compare facilities, and such as that.

Q All right, sir. Did you cooperate with him?

A Yes.

Q Did he look at your records?

A Yes.

Q Did he visit your schools?

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A Yes. He and his team did those things.

Q Were these the same schools to which your plan had applied that you had filed the year before?

A Yes.

Q The students that were assigned to the various schools in your system were assigned on the basis of their own choices?

A Yes.

JUDGE RIVES: Don't lead your own witness too much,

Mr. Maddox.

MR. MADDOX: Sir?

JUDGE RIVES: I say don't lead your own witness too much.

MR. MADDOX: Excuse me, Judge; I am sorry, your honor.

JUDGE RIVES: But proceed as quickly as you can. It is rather tedious; go ahead as fast as you can, Mr. Maddox. If leading will expedite it, you may lead him to some extent. This delay is not on your part now; it is on the other counsel, I am sure it is --

MR. MADDOX: Yes, sir; Judge.

JUDGE RIVES: -- they seem to want to read these papers at length.

Q Mr. Botts, I show you Defendants' Exhibit 55; can you identify that communication?

A Yes; it's my letter to Mr. Richard L. Fairley.

Q Do you happen to have in your file a copy of the letter to which

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that letter is an answer?

A I am not sure that I have it with me.

MR. MADDOX: May I just include that on that Exhibit, Judge?

JUDGE RIVES: Let them see it first.

MR. MADDOX: All right, sir.

Q Mr. Botts, I show you a copy of a letter which purports to be addressed to you from Mr. Richard Fairley; did you receive that letter?

A Yes.

Q All right, sir. This letter purports to recommend or suggest certain changes in the Shellhorn and Harmony school system, does it not?

A Yes.

Q Under this plan as suggested, it would require the so called pairing or consolidation of those two schools; is that right?

A Yes.

MR. REEVES: I object; doesn't the letter speak for itself?

JUDGE RIVES: Beg your pardon?

MR. REEVES: I submit that the letter speaks for itself --

MR. GRAY: And he is reading it.

MR. REEVES: -- and he is reading it.

JUDGE RIVES: Give him a reasonable scope of examina-

tion of it. I think we are going into considerable detail. Hereafter in examining the witnesses on either side, try to get all of your Exhibits --

MR. MADDOX: Yes, sir.

JUDGE RIVES: -- and get them into one Exhibit --

MR. MADDOX: Yes, sir.

JUDGE RIVES: -- all of your letters or communications, get them into one Exhibit, let the other side examine them.

MR. MADDOX: Your honor, I apologize for that.

JUDGE RIVES: It will not be necessary to be handing these communications back and forth so much.

MR. MADDOX: I apologize, Judge; I thought about it after I got started that would have been a lot simpler.

JUDGE RIVES: Good.

Q Now, Mr. Botts, would you state to the court your understanding of what was required by this suggestion? In your own words?

A I believe it was suggesting that we place certain students from Ansley School and Harmony in with Shellhorn Junior High School.

Q All right, sir.

JUDGE PITTMAN: Was one a Negro school and one a white school?

WITNESS: Harmony and Ansley are Negro schools; Shellhorn Junior High School is an integrated school.

Q Mr. Botts, did you have occasion to attend any of the meetings which were called by the Superintendent of Education in 1965 and



'66 here in Montgomery?

A Yes.

Q Did you attend all three?

A I did not attend the meeting the latter part of May or first of June; I attended all others.

Q Did the Governor, at those meetings -- well, excuse me. State -- state in substance what the Governor said, if anything, at those meetings?

A Well, he suggested that we consider seriously rejecting 441-B.

Q Did he state his reasons?

A In his opinion they went beyond the intent of the 1964 Civil Rights Act.

Q All right, sir. Mr. Botts, have you received any notice of any complaint having been filed by any parent or student in your school system with regard to discrimination on the ground of race, color, creed, or national origin from the Attorney General of the United States?

A No.

MR. MADDOX: Thank you.

JUDGE RIVES: Any other questions? No other questions for Mr. Botts?

MR. MADDOX: No other -- no, sir; that is all. I would like to offer my Exhibits.

JUDGE RIVES: Yes, sir; all right, the Exhibits may be introduced. Any questions from the defendants? Mr. Gray?

From the plaintiffs; I beg your pardon.

MR. GRAY: Thank you, sir.

CROSS EXAMINATION:

BY MR. GRAY:

Q Mr. Botts, how long have you been Superintendent of Schools of Pike County?

A I am in my twelfth year.

Q Is that the only school system in the County?

A No.

Q How many other school systems are there?

A One other.

Q And what school system is that?

A Troy City.

Q Do you have a -- incidentally, did you attend the meeting that was called where the Governor discussed the possibility of holding mass meetings in various communities where the Superintendents executed form 441-B?

A No, I did not attend that meeting.

Q Do you -- prior to 1965, did there exist in Pike County a dual system of education based on race?

A Yes.

Q Except for HEW regulations -- strike that. Has the Pike County Board of Education done anything toward desegregating its schools other than doing those things which has been required by HEW?

A No.

Q But for HEW regulations, would the school system in Pike County exist as it had in the past?

A In my opinion; yes.

Q At this time do you have any -- did your plan include desegregation of your faculty for this school year?

A It provided for team teaching.

Q Beg your pardon?

A Team teaching on an integrated basis in certain areas.

Q Explain to us, please, what you mean by team teaching?

A I mean two or more teachers working together with the same group of children simultaneously.

Q Do you have any such team teaching now?

A No.

Q What is the purpose of the team teaching?

A Well, it is considered a new innovation which provides for better educational facilities under certain circumstances.

Q Has that been suggested by leading educators?

A Yes.

Q Was that suggested in any of these meetings with the Governor and the Superintendent?

A Not to my knowledge.

Q Do you at this time have any Negro teachers teaching white children in your County?

A No.

Q Do you have any white teachers teaching Negro children?

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- A No.
- Q How many schools do you have in the system?
- A Twelve.
- Q How many Negro schools?
- A Seven.
- Q And do only Negroes attend those schools?
- A Yes.
- Q And how many white schools do you have?
- A Five.
- Q Now, in those five white schools, do you have any Negroes attending the white schools?
- A Yes.
- Q How -- in how many white schools are there Negroes attending?
- A Three.
- Q How many Negro students are attending white schools?
- A Fourteen.
- Q And this covers how many different grades?
- A Eight.
- Q How many children in your school system exercised choices? Approximately?
- A Approximately sixty, I believe.
- Q Now, were these Negro students who exercised choices --
- A Yes, sir.
- Q -- or white students who exercised choices?
- A Negro students exercised --

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- Q Are the white -- did the white children exercise any choice in selection of schools?
- A They -- all children were mailed a choice, and practically all of them filled them out, but none exercised a change excepting Negro children, other than to white, predominantly white schools.
- Q Now, those Negro children who did not fill out forms, how were they assigned?
- A Well, we attempted to get all of them to get forms in; we -- we were unable to get them all, but we had only -- only sixty that indicated a change to predominantly white schools.
- Q Now, what happened to those who exercised no choice at all?
- A We let them enroll.
- Q Where?
- A At the school wherever they showed up to register.
- Q Do you have a feeder system in your County where, say, if you had first through six, and a student finished the sixth grade here, he goes to another certain school?
- A Yes.
- Q Is that system still in existence?
- A Yes.
- Q And that is true of both Negro and white?
- A Yes.
- Q I think you testified that you have no -- do you have any Negroes in administration in your school system other than principals?
- A Yes.

Q What positions?

A Supervisor.

Q And is that person a Supervisor of the Negro schools?

A Yes.

Q And how long has that person exercised that -- held that position? Approximately?

A Some twenty years.

Q And -- man or woman?

A Woman.

Q And does she still exercise the job now that she has held all the time?

A Yes.

Q Are her functions today the same as they were prior to now?

A Somewhat the same.

Q Does she have any white teachers under her supervision and control?

A No.

Q Is her office and -- in the same area your office is located?

A It is in the same suite of offices.

Q That is in the County Courthouse, or do you have a special building?

A No, it is in the County Activity Building, County-owned building for County activities.

Q Now, do you have a -- a -- a white supervisor?

A No.

Q Whose position is similar or comparable to the Negro supervisor?

A We do not at this particular time.

Q Have you in the past --

A Yes.

Q -- had such a person? And was that person's function dealing with the white schools?

A Yes; incidentally, she retired, and we haven't replaced her.

Q I understand. Now, approximately how many Negroes made choices to white schools?

A Approximately sixty.

Q And how many were accepted, and how many rejected?

A The Board accepted all of those within the eight grades that were open to freedom of choice, with the exceptions of two or three in a first grade that we had reason to believe was already overcrowded by enrollment, spring enrollment.

Q Of the spring enrollment?

A Yes.

Q Now, in determining the capacity of the school, did you, say, in your white school -- and they had pre-registration?

A Uh, huh.

Q And all the white kids who wanted to go, were they automatically accepted back?

A Yes.

Q And was that automatically done before the Negro applications were considered?

A No.

Q They were not?

A No.

Q Then how did you determine that there wasn't enough space for these two Negro children?

A Well, that -- we -- we had two choice periods. We had one in the spring that was suggested throughout the State, I believe, in April; and then, because of the visitation of Mr. Crowder and his team, we agreed to reopen freedom of choice for fifteen days in August. And at that particular time we had reason to believe that -- that this particular grade was already full.

Q Well, so you, even though, in your -- in your -- in your plan they could go to a particular grade, when that grade became filled full, then --

A Yes, sir.

Q -- then you eliminated the others?

A Yes.

Q Now, did you have any space in -- in grades not covered by the plans that were not crowded?

A Yes.

Q Now, did you consider admitting some of the students that you denied because they were not included in that grade into those grades where there was sufficient space?

A No, we -- we didn't consider that.

Q Are the high schools in your County accredited by the Southern



Association of Colleges and Schools?

A Not all of them.

Q Are the high schools?

A We have two white high schools accredited by the Southern Association. Our --

Q And how many Negro?

A We have three Negro schools; only one of them accredited by the State, and --

Q And what?

A And it is not accredited by the Southern Association.

Q None of your Negro schools are accredited by the Southern Association?

A No.

Q And only one of the Negro schools is accredited by the State?

A Correct.

Q Will you point out to the court what are some of the deficiencies in these Negro schools?

A Well, we have just never applied for accreditation in the Southern Association in this particular school.

Q Why?

A It has just never been any request locally for it.

Q Any advantages in being in the Southern Association?

A Well, that is a matter of opinion.

Q Well, you -- you did think it was sufficient enough to get the white schools in; is that right?

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- A Well, that has been done before I ever became Superintendent, in one of the schools particularly, and the other request came from local school.
- Q Now, are all of the white schools in your County approved by the State of Alabama? Accredited; I am sorry?
- A As they are approved --
- Q I mean all --
- A -- all --
- Q -- are all of the white schools in the County accredited by the State Board of Education?
- A No.
- Q How many of the white schools are so accredited?
- A Two.
- Q Are those the same two schools?
- A Yes.
- Q Are accredited by the Southern Association --
- A Yes; yes.
- Q -- of Colleges and Schools?
- A (Nodded to indicate affirmative reply)
- Q As Superintendent of Schools in Pike County, will you tell the court what, in your opinion, it would take to completely eliminate the Negro schools and the white schools in Pike County and have one County system of education?

MR. SATTERFIELD: Object, may it please the court; that is not, involved, elimination of all schools; it is a question of

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discrimination is the only thing involved. Object.

MR. GRAY: He said the system -- he has testified, I believe, rather clearly, to a dual system of education based on race in that County, and all I am trying to determine from him is what will it take in order to do away with the racial characteristics, if counsel would prefer that term --

MR. SATTERFIELD: May it please the court --

MR. GRAY: -- of all the schools in the County.

MR. SATTERFIELD: -- that was not the question asked.

JUDGE RIVES: Well, rephrase your question then.

MR. GRAY: All right.

Q Will you tell the court, Mr. Botts, in your opinion, how can the Board of Education of Pike County operate one system of education without consideration of race in Pike County?

A That is a sixty-four thousand dollar question. In my opinion, it would take time and take a court order, probably, to do it.

MR. GRAY: Thank you very much. That's all.

JUDGE RIVES: Any other questions from the plaintiffs?

MR. REEVES: We have no questions -- oh, sorry.

JUDGE RIVES: Do you have any, Mr. Barrett?

MR. BARRETT: Yes, sir; I do have.

MR. MADISON: Your honor, before we get started, could I be permitted to ask this witness just a few questions?

JUDGE RIVES: Yes, sir.

REDIRECT EXAMINATION:

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BY MR. MADISON:

Q Mr. Botts, Governor Henderson left certain large amount of money in trust for the benefit of schools in Pike County; is that true?

A Correct.

Q And that money was to be used for the construction of schools in the County?

A Yes.

Q Originally it was about fifty thousand dollars for each school, and that was enlarged by court decree to some additional amount; is that correct?

A Yes.

Q Was there anything in Governor Henderson's will that you know of that restricted the use of that money to any particular type school, that is, whether white or colored?

A None whatsoever.

Q It has been used --

MR. SATTERFIELD: If it please the court, we have a very extensive record; we object to any private fund which might have been made available under anyone's will, under any count are not involved in the pleadings or the issues of this case, or any applicable statute involved in the pleadings here; we object to this line of questioning.

JUDGE RIVES: If the fund is administered by the public school authorities, we think it would be proper to the issues in the case.

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Q Has that money been expended in the construction of some of the schools in Pike County, some of the money from Governor Henderson's trust?

A Yes.

MR. MADISON: That's all.

JUDGE RIVES: You care to ask him anything, Mr. Barrett?

MR. BARRETT: Yes, just a few questions.

RECROSS EXAMINATION:

BY MR. BARRETT:

Q Mr. Botts, I would like to show you a copy of the minutes of the meeting of the Pike County Board of Education held June 15, 1966, which was marked as Exhibit 15 to your deposition, and is now in evidence in this case, and I call your attention particularly to the statement that the Board discussed requests of Governor Wallace to consider recall of compliance agreement 441-B; now, I would like to ask you if, prior to that time, the Board had executed form 441-B?

A Yes.

Q And when, prior to that, had Governor Wallace requested that it be recalled by the Board?

A Well, he suggested to a group of Superintendents the latter part of March, as I recall.

Q 1966?

A Yes.

Q What was it; was it a meeting or --

A Yes, it was a meeting called by the State Superintendent of Education, Dr. Meadows.

Q Where was the meeting?

A It was in the State Office Building auditorium, in the -- in the building where the State Department of Education is housed.

Q Do you recall another meeting in the Governor's office?

A I do.

Q What was the occasion for that meeting?

A It was to discuss with some fifteen or eighteen local Superintendents this same question of recalling or not mailing 441-B if we -- recalling it if we had mailed it, not mailing it if we -- if we hadn't mailed it.

Q How did you happen to go to that meeting?

A I got a call the day before from the Governor's office informing me that they were considering such a call. I had a meeting --

JUDGE RIVES: What, Mr. Botts; got a call from the Governor's office --

WITNESS: Yes.

JUDGE RIVES: -- informing you what?

WITNESS: Informing me that it was possible that the Governor would call some Superintendents together.

JUDGE RIVES: (Nodded to indicate affirmative reply)

A The next day I was in a meeting at Auburn, and my office called me to inform me that the Governor's office had called and desired

that I be at a meeting at two o'clock in the Governor's office here in Montgomery.

Q Thank you. Mr. Botts, are the school buildings in your system insured?

A Yes.

Q Both those buildings attended by Negro students and by whites?

A Yes, sir.

Q Is that correct?

A Yes.

Q I would like to show you Government's Exhibit 171, which is a bound series of I.B.H. sheets titled, "State of Alabama, Department of Finance, State Insurance Funds"; now, I call your attention particularly to two pages that relate to Pike County.

JUDGE JOHNSON: What Exhibit number is that?

MR. BARRETT: This is 171, your honor.

JUDGE JOHNSON: Government's Exhibit?

MR. BARRETT: That is correct; it is so marked. It should be on our supplemental list.

JUDGE JOHNSON: Number 171 on your supplemental list is a letter of November 29, '66, on Alabama Department of Finance letterhead.

JUDGE PITTMAN: Here it is.

MR. BARRETT: That being the case, either the Exhibit is misnumbered or it --

JUDGE JOHNSON: Yes.



MR. BARRETT: -- it may be that we erroneously --

JUDGE JOHNSON: 172 is called insurance schedule.

MR. BARRETT: Pardon me?

JUDGE JOHNSON: 172 is insurance schedule, 1966-1967.

MR. BARRETT: I see; one or the other is in error; the Exhibit, itself, is marked 171, and --

JUDGE JOHNSON: Which should it be, Mr. Clerk?

MR. BARRETT: -- the Exhibit indicates it is 171.

THE CLERK: 171 is the letter.

JUDGE JOHNSON: It should be 172, apparently, from what the Clerk says.

MR. BARRETT: Yes, apparently.

JUDGE JOHNSON: Let it be changed; let it be changed, and show it 172.

JUDGE PITTMAN: Give me my list back.

MR. BARRETT: Oh, surely. You want me -- ?

Q Mr. Botts, I will call your attention to the column in which appears the names of the particular schools; are those schools in your system? You don't have to look at them all, but if you can --

A Yes.

Q Now, the schools start with Banks, is that correct, and then run through Spring Hill New Elementary, and then the names from there on start a new alphabetical sequence, and that second sequence, each school's name is preceded by the letter C; you notice that?



- A Yes.
- Q Are those schools for which the school's name is preceded by a C schools attended by Negroes?
- A Yes.
- Q Mr. Botts, approximately how many students are there in your system?
- A Approximately thirty-eight hundred.
- Q And approximately how many of those are Negro and how many white?
- A Around two thousand Negro children and eighteen hundred white.
- Q Mr. Botts, is your system assigned any vocational education units?
- A Yes.
- Q How are those -- how is the number of units assigned to the system determined?
- A By a request from the local Board of Education.
- Q And who determines whether you get the units or not?
- A State Department has to approve it.
- Q And they determine the number of units?
- A Yes; of course, that is determined, too, on the request of local systems. If you don't request it, it isn't likely they will come and offer it to you.
- Q Is the same true of exceptional children units?
- A Yes.

MR. BARRETT: I have no further questions.

JUDGE RIVES: Any other questions for the plaintiffs?

MR. ADAMS: No.

JUDGE RIVES: Any further questions for the defendants?

REDIRECT EXAMINATION:

BY MR. MADDOX:

Q Mr. Botts, did you receive any communication from the Department of Health, Education, and Welfare with regard to 441-B?

A Yes, I have at different times.

Q As a matter of fact, didn't you receive a letter which is marked as an Exhibit that if you didn't abide by the requirements which they were making, your funds would be terminated; is that right?

MR. ADAMS: Object to leading the witness.

JUDGE RIVES: Yes, that is your own witness. The letter will speak for itself, if it is an Exhibit that is in evidence.

JUDGE PITTMAN: What number Exhibit is that, Mr.

Maddox?

MR. MADDOX: Yes.

JUDGE PITTMAN: Which number Exhibit is that; do you know?

MR. MADDOX: Oh, excuse me; it is the last one, I believe, your honor.

JUDGE RIVES: Mr. Ray, I saw you rising; did you want to ask this witness some questions, too?

MR. RAY: I wanted to ask a few, Judge.

JUDGE RIVES: All right; when they get through, you may ask him.

JUDGE PITTMAN: We can find it; I just thought you had

it and could put your hand on it.

WITNESS: Yes, this letter is from Commissioner Howe, dated --

JUDGE PITTMAN: Look in the left hand corner, if you will, and give us the number of the Exhibit; that is all we want; in the left hand corner down there -- no, sir; in the left hand corner of the bottom.

WITNESS: 54.

JUDGE PITTMAN: All right; thank you, sir.

JUDGE RIVES: Any other questions?

A This -- this indicates that there is a possibility of funds being cut off if we don't do certain things.

MR. MADDOX: All right.

BY MR. RAY:

Q Mr. Botts, with regard to the meeting of March 31, or in the early April, that was held in the auditorium of the building where the office of the Department of Education is here in Montgomery, where I believe you testified that -- you mentioned that some statement as to the withdrawing of 441-B by those systems that had executed it was mentioned; do you recall at that same meeting some discussion by those who were conducting the meeting as to whether or not Boards should at this time attempt to secure -- now, this is in March or April -- should attempt to secure court orders for their systems?

MR. SATTERFIELD: Object to the leading question; I

believe this attorney is said to be representing certain defendants; that has been put on --

JUDGE RIVES: Overrule the objection.

A In some meetings that possibility was discussed; I don't recall whether it was March or April, but that -- that has been discussed.

Q Were you present at such meetings where it was discussed?

A Yes.

Q And will you tell the court what the suggestions of those conducting those meetings were as to whether or not to secure or have local Boards attempt to secure court orders in March and April of this year?

A I am not sure that I can enlighten you on that.

Q Well, let me ask you this, if I may, Mr. Botts; did anyone on the podium or the stage of the auditorium at any of the meetings that you attended suggest that local School Boards should not, in either March or April of 1966, secure court orders because of some of the decisions that had been rendered?

A I am not sure.

MR. RAY: All right; thank you, sir.

JUDGE RIVES: Any other questions from the defendants?

MR. SATTERFIELD: No, sir.

JUDGE RIVES: If not, Mr. Botts, you may be excused.

It is now, according to my watch, twelve thirty, gentlemen. I think it might be an appropriate time to take out for lunch. We will recess for one hour, until one thirty.

(At which time, 12:30 p.m., a recess was had until 1:30 p.m., at which time the trial continued)

JUDGE RIVES: All right, Mr. Satterfield.

MR. SATTERFIELD: May it please the court, we will call Mr. Albert Hamlin, member of the staff of HEW, as adverse witness; Mr. Hamlin.

THE CLERK: Have you been sworn?

WITNESS ALBERT THOMAS HAMLIN: No.

THE CLERK: Do you solemnly swear that the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

WITNESS ALBERT THOMAS HAMLIN: I do.

THE CLERK: Please be seated.

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ALBERT THOMAS HAMLIN, witness for Defendants, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. SATTERFIELD:

Q Mr. Hamlin, what is your full name, please?

A Albert initial T. Hamlin; the T. is for Thomas.

Q And by whom are you employed at the present time?

A Office of General Counsel, Department of HEW.

Q And how long have you been connected with HEW?

A Since August, this year, 1966.

Q August, '66. During that time, have you familiarized yourself

with the procedures and policies of the Commissioner of Education, Mr. Howe, United States Commissioner of Education, Mr. Howe?

- A I have been involved in some of them and attempted to familiarize myself with those with which I have been involved. s,
- Q You have been involved, have you not, in connection with possible deferment of federal financial assistance and with actions taken in connection therewith?
- A Only from a legal standpoint; the legal office gives advice on legal matters; we don't get involved in the administration of those things.
- Q But you are familiar with the -- generally with types of action which are taken and method utilized in connection therewith, are you not?
- A In a general way.
- Q Yes. Now, in connection generally with the procedures, I might ask, you were present, were you not, when we took Mr. Howe's deposition in Washington?
- A I was.
- Q I see. Now, in connection with the general procedures of the United States Commissioner of Education and the Department of Health, Education, and Welfare, it is a fact, is it not, that the 1966 guidelines have been sent to the officers of local school systems in seventeen of the states, have they not?
- A I think that is a fact.



Q Is that the best of your knowledge?

A Yes.

Q It also is a fact, is it not, that these guidelines have not been sent to the local officials in the other thirty-three states, have they?

A I am not sure of that; I am trying to recall from Mr. Howe's testimony whether that was a fact or not; and I am not quite sure of that fact, whether that is a fact or not.

MR. GRAY: May it please the court, your honors, I would like to inquire of this witness whether he has been in court during all these proceedings; I think all the witnesses are supposed to have been under the rule.

JUDGE RIVES: I think it is in our discretion to excuse that, even if he has been. You are a lawyer, aren't you; aren't you a lawyer?

WITNESS: Right; I am of counsel.

MR. GRAY: We withdraw our observation.

MR. REEVES: I think the record, however, should reflect --

JUDGE RIVES: Beg your pardon?

MR. REEVES: I think the record, however, should reflect that he is an attorney for one of the parties in this case.

JUDGE RIVES: He is an attorney for one of the parties in this case?

MR. REEVES: That's right; he is counsel of record

for the Secretary Gardner.

JUDGE RIVES: That is all right. Have you actually been in court?

WITNESS: I have been in court throughout the proceedings, your honor.

MR. SATTERFIELD: We have no objection.

MR. ADAMS: Your honor, would it not be subject to the same type of ruling which was made in the case of Mr. Maddox as being attorney for one of the parties, and his testimony, of course, might be confidential?

MR. SATTERFIELD: May it please the court, that is a personal privilege and has not been requested by the witness, if he wants to apply it.

WITNESS: I would like to confer with Mr. Barrett on that point, if I might. Mr. Barrett is the litigation attorney for the Department of HEW.

JUDGE RIVES: All right, you want to go talk with Mr. Barrett, and step down there and see.

WITNESS: Thank you.

(Witness conferred with Mr. Barrett)

Q (by Mr. Satterfield) Now, Mr. Hamlin, it is a fact, is it not, that neither you nor anyone else to your knowledge in the connection with legal matters through the office of the United States Commissioner of Education has participated in any deferral, termination, or other similar proceedings having to do with



federal financial assistance in the field of education in any state other than seventeen of the southern and border states; is that not true?

MR. BARRETT: If the court please, I feel I have to object to that question as calling for hearsay matters outside the knowledge of this witness.

MR. SATTERFIELD: I am asking as to his knowledge, may it please the court.

JUDGE RIVES: He can testify so far as he knows; we will overrule the objection and permit the witness to testify as far as he knows.

A Well, the only instance within my knowledge is one in Chicago, which was last year, and is on my desk, Chicago being one of the cities within my jurisdiction.

Q And during that period, and as to that particular one, while there was deferral, it was withdrawn after two days, was it not?

A I am not familiar with that part of it; I do know that there was a deferral action and that it was withdrawn; I don't know the length of time or anything further.

Q Very, very soon, very quickly, was it not?

A I don't -- I do know it was withdrawn; I don't know whether it was quickly.

Q Now, Mr. Hamlin, then in -- insofar as your own knowledge is concerned, other than that once instance, is it not a fact that in -- there have been no such actions taken, to your knowledge,

in any state other than the seventeen southern and border states?

A Not to my knowledge.

Q Yes. Is it also not a fact that insofar as the acceptance of original form 441 issued in connection with the 1935 guidelines --

MR. SMITH: '65.

Q I mean '65, I am getting too old -- 1965 guidelines, that there has been no question raised, to your knowledge, as to their acceptance or continuance in any state outside of the seventeen southern and border states?

MR. BARRETT: If the court please, I feel I have to object again, this time on the ground that the witness is being questioned regarding events and practices prior to his coming to the Department of Health, Education, and Welfare. I think it hardly fair to the witness, nor would it be competent evidence were he permitted to testify.

MR. SATTERFIELD: I believe in his capacity in which he stated he acts, I believe certainly we will have a right to question him as to his knowledge. I think it is a question solely of weight.

JUDGE RIVES: When did you go with the Department?

WITNESS: August of this year, 1966; approximately three months ago.

JUDGE RIVES: About three months ago?

WITNESS: Yes.

JUDGE RIVES: I think he could only testify to the period during which he has been there and his knowledge during that

period.

Q Do you have any such knowledge during that period?

A Would you repeat the question, please?

Q Yes; do you have any knowledge during the period that you have been in that capacity of the Department declining or refusing to continue to utilize form 441, the original form, in any states other than the seventeen southern and border states?

A No, I do not.

Q It is a fact within your knowledge, is it not, Mr. Hamlin, that since you have been with the Department, you have come to know that throughout these states, uniformly, there has been required the execution of form 441-B, either in its original form or with slight modifications which the record here shows in order for federal financial assistance to be continued in the educational field?

A No, that is not true; that is not true.

Q What -- what is the situation?

A The situation is that if a school system is able to show that it is operating on a desegregated basis as to its faculty, facilities, transportation, student body, and the rest of it, as set out in, I think, paragraph III, Roman numeral III, of the original revised -- the original statement of policy, policy statement, or the so called guidelines of 1965, then it can execute a form 441. There are some school systems in some of the southern states which have executed a form 441, because they were

act -- operating under a -- a desegregated basis. The 1965 guidelines also require that if a school system was not operating on a desegregated basis, it must file an acceptable plan for the voluntary desegregation of the school system. The difference being that if the 441 was acceptable, the Department of Health, Education, and Welfare would require that that school system immediately show proof of desegregation, wherein if a voluntary plan were submitted, as in the majority of the seventeen southern states to which you referred, the school systems were allowed a period of time to gradually desegregate their school systems. However, school systems which could not show that they were willing or able to immediately desegregate were required to -- could not give a true assurance on the form 441, then those school systems were required to file a voluntary desegregation plan, and also to file what is known as form 441-B.

Q And then where they were required to make this type of proof, do you have any knowledge of the requirement of the type of proof you have mentioned having been made in any state out of these seventeen states we have mentioned?

A Well, we do have an area director which covers the states outside of the seventeen states mentioned, and there are constant reviews in those states. Where a school system in one of the other thirty-three states is found to be operating on a basis not completely desegregated, they are required to immediately -- they are not allowed any period of time, but they are required

to immediately effectuate a desegregation plan. They don't have to file a plan, but they are required to immediately desegregate, and they are --

Q Can you give us any instances in which that requirement has been made, either in form or in fact?

A I don't -- I do know that it has been made; I don't recall the names of the school districts in which it has been made; I do know that there are some school districts currently under review in which negotiations are going on for immediate desegregation.

Q Isn't it a fact, Mr. Hamlin, that the guidelines known as the 1966 guidelines not only have not been distributed to the local school districts throughout the other states, other than these seventeen, but that these guidelines have not been applied, to your knowledge, by the Department of Health, Education, and Welfare or the United States Commissioner to school districts outside of these states?

A Well, the guidelines apply equally.

Q Excuse me; could you say yes or no, and then explain?

MR. BARRETT: If the court please, I believe the witness was commencing to answer the question.

JUDGE RIVES: He said let him say yes or no and then explain; I believe you may answer it. If you can say yes or no, why, you may do so and then explain it.

A Your statement is not true. I don't recall the wording of it and whether a yes or no answer would be -- but --

Q Let me repeat the question.

A All right.

Q Is it not a fact that these 1966 guidelines not only have not been distributed to local school officials in these other states, but these guidelines have not been enforced and required to be obeyed by the Department or the Secretary in school districts outside of these seventeen states?

A I don't know about the distribution of them, whether they have been distributed outside of the seventeen southern states or not. I do know that they apply equally to all of the states, all fifty of the states. The 1966 guidelines in the main deal with the voluntary desegregation, and the large majority, I -- I suppose maybe even all of the school systems with voluntary desegregation plans are in the southern states, but there are portions of the guidelines which apply to all fifty states; the guidelines, themselves, apply to all fifty states equally.

Q When you impart that they apply, you are referring to the theoretical application and the way they are drawn, are you not?

A I mean the actual application.

Q Not in the actual enforcement?

A Since I --

Q In their legal application, you might say?

A Legal application and the actual enforcement, they apply equally to all the states.

Q Now, that is subject to what you testified concerning enforcement



actions, your testimony a few minutes ago?

A Yes; well, it is not subject to anything, but it is --

Q Now, it is a fact, is it not, that in these states -- and let's refer principally to Alabama -- the seventeen states that is within, subsequent to September 16, 1966, school systems having a freedom of choice plan which was approved by the Department and the Commissioner have been notified that unless there is additional desegregation of student body and faculty satisfactory to the Commissioner, it will be necessary for them to do away with the freedom of choice plan?

A I am not aware of that. If I might clarify for the court's benefit and the benefit of counsel --

Q Beg your pardon?

A If I might clarify for your benefit and the benefit of the court, the responsibilities in the office of General Counsel are, for the most part, delegated on a geographical area basis; my primary responsibilities do not include the State of Alabama. I am here for this one particular case, and I have worked on the Alabama situation only where litigation has been involved; so that for general information concerning only legal advice that is directly connected with Alabama and Alabama alone, I have no knowledge, because I don't -- Alabama is not within my jurisdiction.

Q Are any of these seventeen states within your jurisdiction?

A Yes; Florida, South Carolina, Georgia, Louisiana, Texas,

Arkansas.

Q Then is it not a fact, to your knowledge, that -- this is -- I hand you now which has already been introduced as Exhibit -- Defendants' Exhibit number 12, dated September 16, 1966, addressed to Mr. Blackwood, Superintendent of Blount County Board of Education, and call your attention to -- you may read the entire letter if you so desire -- these two paragraphs and this top paragraph on page two.

MR. BARRETT: May I approach the witness to view the Exhibit?

JUDGE RIVES: Certainly.

A Would you repeat your question in connection with this?

Q Well, I -- referring to this Exhibit --

A Yes.

Q -- which I have described, is it not a fact that this follows the policy and pattern utilized by the United States Commissioner of Education notifying school districts that if reasonable progress isn't -- if student desegregation is not achieved under the freedom of choice plan, an alternative plan would have to be adopted?

MR. BARRETT: If the court -- if the court --

JUDGE RIVES: Mr. Barrett.

MR. BARRETT: -- please, I will object to the question as calling for the opinion and conclusion of the witness on matters with which he is not familiar in his official capacity. He has



Arkansas.

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MR. BARRETT: If the court -- if the court --

JUDGE RIVES: Mr. Barrett.

MR. BARRETT: -- please, I will object to the question as calling for the opinion and conclusion of the witness on matters with which he is not familiar in his official capacity. He has

testified he is a member of the office of General Counsel of the Department of Health, Education, and Welfare, which is not a part of the office of the Commissioner of Education.

JUDGE RIVES: If the witness does not know and says that is not in his capacity, of course, he wouldn't have to testify.

MR. SATTERFIELD: May it please -- may it please the court, he has testified that he has acted for the Department in a number of states in this general type of matter.

WITNESS: No; I have not. If I gave that impression, I am sorry. I thought the impression I gave was that I give legal advice to the Office of Education on matters strictly legal; on administrative matters or policy matters, we have no -- no capacity whatever.

Q Are you not, Mr. Hamlin, in fact familiar with the policy and practice of the Commissioner of Education -- United States Commissioner of Education in relation to a freedom of choice plan which are being operated in the states where you operate, where you work?

MR. BARRETT: If the court please, I will object to the question as being incompetent, irrelevant, and immaterial, whether this witness is familiar with certain policies of the Commissioner of Education. Counsel had an extended opportunity to examine the Commissioner, himself, over a two-day period; that deposition is a part of the record, and I would --

JUDGE JOHNSON: In evidence; is it in evidence?

JUDGE RIVES: Yes, the deposition has been introduced.

MR. BARRETT: Yes, I understand it is as offered by the defendants; and I object on the ground it is irrelevant, what the knowledge of this witness is regarding the policies of the Commissioner regarding which the Commissioner has testified.

MR. SATTERFIELD: May it please the court, there are two matters in that connection. The first is that we asked that Commissioner Howe have available to us these records so that we might question concerning the records, and he declined to do so, on perfectly proper ground, I suppose, that he didn't have enough notice, although he could have gotten these, in my judgment, if he so desired. He did not permit us to have these or other similar records. The question now asked the witness, I think, is to qualify and to testify as to his knowledge concerning the policies and practices; I believe it is a perfectly proper question.

JUDGE RIVES: Well, let the court confer on it just one minute.

(Court conferred)

JUDGE RIVES: The court is of the opinion that the objection should be sustained; objection sustained.

MR. SATTERFIELD: May I ask the court, is that to this question alone, or as to --

JUDGE RIVES: Suppose you state what your view is on it, Frank; I will ask Judge Johnson to state the views of the court on it.

JUDGE JOHNSON: It is the court's view that what this witness may know or may not know as far as the policies of the Commissioner of Education is concerned is irrelevant, and that is the basis for the ruling of the court, and the ruling of the court on that particular question runs to any questions along that line.

MR. SATTERFIELD: Yes, sir. Then I would assume that the ruling would preclude further questioning of this witness as we --

JUDGE JOHNSON: It would be a waste of the court's time to pursue it along that line as to what his knowledge is concerning the policies of the Commissioner of Education.

MR. SATTERFIELD: Well, I will ask to confer with counsel; we had expected to ask questions concerning documents we did not have available when we questioned Mr. Howe.

(Mr. Satterfield conferred with counsel)

Q Is it a matter of fact, Mr. Hamlin, that your Department has prepared statements of law and briefs in connection with and relating to the 1966 guidelines which have been generally distributed to school officials in the seventeen states which we have mentioned?

A Since I have been at the Department, I am not aware of -- of that being done; I would imagine that if there were a general distribution of material which involved a legal question, that someone in the office of General Counsel would review it.

Q Are you not familiar with the fact that such briefs or interpre-

tations supporting the guidelines are utilized coming from your Department and utilized by the Commissioner of Education in connection with school districts in these areas, these states?

A In certain administrative proceedings, there are briefs which are filed. They are filed by the -- in the enforcement unit of the office of General Counsel, in connection with those -- those administrative hearings. I have not yet been involved in the writing of any of these briefs or in the -- any of these hearings. I expect very shortly that I will be involved in those situations.

Q Is it not your construction in the capacity which you have stated, and in that capacity in relation to the United States Commissioner of Education, that under the 1966 guidelines the Commissioner has the discretion to require that a school district abandon and do away with a freedom of choice plan if the results do not meet with the approval of the Commissioner?

MR. BARRETT: I will object to the question.

JUDGE RIVES: Objection sustained.

MR. SATTERFIELD: Beg your pardon?

JUDGE RIVES: Objection sustained.

MR. SATTERFIELD: Just -- just a moment. May it please the court, I believe under the ruling of the court it would not be of assistance in the presentation of the case to ask further questions of this witness.

JUDGE RIVES: Any further questions from the plaintiffs -- Mr. Ray?

BY MR. RAY:

Q Mr. Hamlin, have you had an occasion in the study of litigation perhaps even involving this case to review the files of HEW involving the Tuscaloosa City or Tuscaloosa County School System?

A Mr. Ray, our involvement in the litigation has been only to assist the attorneys of the Department of Justice in whatever way we could to gather material; we did not, in the office of General Counsel, ourselves review the material, so that I have not reviewed the file of Tuscaloosa City or Tuscaloosa County.

Q Mr. Hamlin, may I ask you what your occupation or position was before August of this year?

A Before August of this year, I was a trial attorney at the Department of Justice, United States.

Q And are you familiar with the documents that are now in the Commissioner of Education's office, such as has been mentioned here, guidelines and regulations that might presently appear in his office and available to the public if they should ask for them?

A I have been attempting in the three months I have been there to become familiar with all aspects of all of the legislation and otherwise dealing with these things.

Q May I show you a document, and ask you if you recognize it or know that it is available in the office of the Commissioner of Education?



MR. BARRETT: If the court please, counsel has shown me the document, and I think I can shorten the examination by stipulating that it is a document prepared in the Office of Education, that it has been distributed by the Commissioner to local school districts.

JUDGE RIVES: So stipulated.

MR. RAY: I would like it marked, please, as Defendants' Exhibit.

JUDGE RIVES: What is it; what is this document?

THE CLERK: Defendants' Exhibit number 56.

MR. RAY: I would like to show it to the court. It is entitled, if the court please, the 1966 Title Six guidelines for school desegregation, and it is in a printed form, further identified as G.P.O. 903-578, and marked for identification as Defendants' Exhibit number 56.

JUDGE RIVES: All right, sir.

Q Have you seen this document that has been stipulated to, Mr. Hamlin?

MR. BARRETT: If the court please, I will object to the question of whether or not a member of the General Counsel's office has or has not seen this particular document as being irrelevant to any issue in this case.

JUDGE RIVES: Yes; I don't see how that can be relevant to the case --

MR. RAY: All right, if the court please.



MR. BARRETT: If the court please, counsel has shown me the document, and I think I can shorten the examination by stipulating that it is a document prepared in the Office of Education, that it has been distributed by the Commissioner to local school districts.

JUDGE RIVES: So stipulated.

MR. RAY: I would like it marked, please, as Defendants' Exhibit.

JUDGE RIVES: What is it; what is this document?

THE CLERK: Defendants' Exhibit number 56.

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JUDGE RIVES: All right, sir.

Q Have you seen this document that has been stipulated to, Mr. Hamlin?

MR. BARRETT: If the court please, I will object to the question of whether or not a member of the General Counsel's office has or has not seen this particular document as being irrelevant to any issue in this case.

JUDGE RIVES: Yes; I don't see how that can be relevant to the case --

MR. RAY: All right, if the court please.

JUDGE RIVES: -- sustain the objection.

Q Mr. Hamlin have you had an occasion to advise the Commissioner with regard to the document that you have seen as Defendants' Exhibit number 56 since you have been in the Department?

MR. BARRETT: I will object to this question on the ground of the relevancy, and it is a question that goes to the function of this witness as an attorney in the Department of Health, Education, and Welfare in advising his clients, one of the officers in his Department.

JUDGE RIVES: May the court see the document.

(Exhibit presented to court)

JUDGE RIVES: The objection is sustained.

MR. RAY: Thank the court.

Q Mr. Hamlin, have you or anyone to your knowledge devised a definition for a school that would be identifiable as intended for members of one race?

MR. BARRETT: Object to the question upon the ground of relevancy.

JUDGE RIVES: On the ground what?

MR. BARRETT: It is irrelevant whether or not this witness or anyone else to his knowledge has devised a definition as to a particular term.

JUDGE RIVES: Objection sustained.

MR. RAY: I have no further questions.

JUDGE RIVES: Any further questions of this witness

by anybody?

MR. ADAMS: No questions.

MR. GRAY: No questions.

MR. ARONSON: No, sir.

MR. BARRETT: No questions.

JUDGE RIVES: You may come down, Mr. Hamlin.

WITNESS: Thank you.

JUDGE RIVES: Call the next witness.

MR. SATTERFIELD: We call Mr. Elvin Hill -- excuse me, I believe I had better call Mr. Pettey, as the gentleman has seen this material, no delay on it.

MARSHAL: What is his name?

MR. SATTERFIELD: Mr. Pettey, P-E-T-T-E-Y.

THE CLERK: Have you been sworn?

WITNESS J. C. PETTEY: No, sir; I haven't.

THE CLERK: Please raise your right hand. Do you solemnly swear that the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

WITNESS J. C. PETTEY: I do.

THE CLERK: Please be seated.

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J. C. PETTEY, witness for Defendants, having been duly sworn,  
testified as follows:

DIRECT EXAMINATION:

BY MR. SATTERFIELD:

Q What is your name, please, sir?

A J. C. Pettey, Superintendent of Morgan County Schools, offices in Decatur, Alabama.

Q And how long have you held that position?

A This is my fourth year.

Q Beg your pardon?

A Fourth year.

Q Your fourth year; would you -- what educational training have you had, Mr. Pettey?

A I have a B.S. degree from Florence State College and an M.A. from Peabody, and I have taught in all levels of the county schools, and I have been -- all of my education has been, that is, my teaching has been in that County.

Q How many students are there in your school system, total number?

A About nine thousand, eight hundred something.

Q I see. Now, Mr. Pettey, did your school system execute form 441 under the --

A Yes, sir.

Q -- original guidelines?

A In 1965; yes, sir.

Q And then thereafter, what occurred with reference to the execution of form 441-B?

A We signed it with a provision.

Q I hand you here a document from your file --

A That is it.

Q -- and ask if you recognize it?

A Yes, sir.

Q What is that a copy of?

A That is a copy of 441-B as signed by Robert Street, the Board Chairman.

Q I see. Now, I hand you, also from your file, a -- a memorandum, and ask you what that represents?

A This is a conference that we had with Mr. Gene Crowder, and he asked us to withdraw this and said that he felt if we would add this to it that it would be accepted.

MR. SATTERFIELD: I will have these -- I would like to mark these, please, for identification, and then we will have the record show which was which.

THE CLERK: Defendants' Exhibit number 47.

MR. SATTERFIELD: Might you mark one A and one B so they can be referred to that way, or as two Exhibits.

JUDGE PITTMAN: What number are those?

THE CLERK: 57-A and 57-B.

Q Now, the one to which reference was made as having been originally executed, what Exhibit number is that?

A 57-A, or that would be -- yeah, that is 57-A.

Q Yes. Now, would you please turn to Exhibit 57-B, and read to the court the words that Mr. Crowder of the Department of Health, Education, and Welfare suggested be placed in form 441-B?

A He -- he gave -- he -- he had this, and I asked him for it, and

he said he had one copy, and I asked him to let me run it off, and I -- he did, and it was in the presence of the Board members, and he said, "This assurance does not commit this school system to comply with any requirements of the Department of HEW which is contrary to Section 401(b) or 604(b) of the Civil Rights -- Civil Rights Act of 1964."

Q Now, would you check back on that 604; was it not just 604 without a (b)?

A Yes, sure; 401(b) and 604, I believe.

Q Was that inserted in your later assurance you filed, this provision?

A We did not, another --

Q On this? Was he advised that it was so amended?

A We -- we told him we would consider it, and we did not change it.

Q I see, but did he -- did you -- did you -- did he understand that you would so amend your assurance, or do you know?

A We did not amend our 441-B.

Q Oh, I see.

JUDGE RIVES: I didn't understand the witness as to whether Mr. Crowder told him that would be permissible or requested that he did do it, put such condition in; which did Mr. Crowder do?

WITNESS: Ask me the question; I didn't understand.

JUDGE RIVES: Did Mr. Crowder tell you it would be permissible?

WITNESS: He said in his opinion it would be accepted.



JUDGE RIVES: Would be acceptable.

WITNESS: Yes, sir; in his opinion it would be accepted; yes, sir.

JUDGE RIVES: I see.

MR. SATTERFIELD: May I call the court's attention to the fact this is the identical provision, legal effect, that Superintendent Meadows had recommended to the --

JUDGE RIVES: I couldn't understand you.

MR. SATTERFIELD: May I call attention to the court that this is identical in effect to the suggestion of Superintendent Meadows, of the State of Alabama.

JUDGE RIVES: I see; all right.

MR. REEVES: I object --

MR. BARRETT: I don't recall we had the language of Dr. Meadows' suggestion, but if we do, I would like to have my attention drawn to it.

MR. SATTERFIELD: He testified from the stand that a modification in which the Board stated that this would not be -- require them to violate these two sections was what he recommended; he -- he -- his statement was to the identical effect of this; it is in the record.

JUDGE RIVES: You gentlemen may check back on Dr. Meadows' testimony and see; this is this witness's testimony.

Q Mr. Pettey, did your Board adopt a freedom of choice plan?

A Yes, sir; this is the -- in 1965.



Q I see; is that a copy of it?

A Yes, sir.

MR. SATTERFIELD: We would like to introduce this as Exhibit, please, sir.

THE CLERK: Defendants' Exhibit number 58.

Q Now, have you from time to time received from the Department of Health, Education, and Welfare any forms which you were required to prepare?

A Yes, sir; we had the white form which was an estimate, I believe I am correct in that, and then the green form which was to follow later, and that is a copy of what we sent him.

MR. SATTERFIELD: Would you mark this, please, sir,  
as --

THE CLERK: Defendants' Exhibit number 59.

Q Mr. Pettey, in maintaining your records, are they maintained in such a way that you will be able to in the future, and are you now able, to give a breakdown of information as between the races?

A Yes, sir.

Q The white race and non-white races?

A Yes, sir.

Q Would you tell us whether or not that is in accordance with the requirements of Health, Education, and Welfare, and the requirements of their reports?

A Yes, sir.

Q Does that apply both to the student body and to the faculty?

A Yes, sir.

Q Would you tell us whether or not it applies not only generally to the system, but to every school in the system as to student body and faculty?

A It is broken down as to individual schools.

Q So the records with reference to race then are might -- maintained by you under the requirements of Health, Education, and Welfare Department, are they not?

A Right; yes, sir.

Q Now, Mr. Pettey, I will ask that it be marked for identification, a memorandum from your file.

THE CLERK: Defendants' Exhibit number 60 for identification.

Q Now, turning to this memorandum from your file, Exhibit number 60, would you state to the court what you have done in your schools, the major steps you have taken to carry out the desegregation and to comply with the requirements of HEW and the Commissioner of Education of the United States?

A As of this sheet, in our 1965 sheet that we filed with them, we agreed to do the following: And one, the Morgan County Teachers Planning Committee would be integrated, the Morgan County Legislative Council would be integrated, the Teachers Institute would be integrated, faculty in-service training programs will be integrated, all school busses, training programs will be

integrated, the annual bus drivers' picnic we have in the spring will be integrated, all students choosing to go to previous all white schools will be permitted to ride in previous all white school busses, principals' meeting would be integrated, and the County system, a freedom of choice, 1965-66, grades would be one through twelve, and then the N.Y. staff -- N.Y.C. staff would be integrated, and the office, central office, integrated, would be integrated in the summer of 1965 and '66.

Q Would you tell the court whether or not in carrying out the freedom of choice plans you have done the same to the best of your ability?

A All --

Q And in good faith?

A Yes, sir; all of these were carried out in 1965 except the one, which was the integration of the in-service training program, and it has been integrated this year.

Q Was that -- tell us whether or not that was prior to the middle of October of this year?

A It is by -- it was in late August, last week in August when we had our first meeting.

MR. SATTERFIELD: I see. I would like to have this marked for identification, please.

THE CLERK: Defendants' Exhibit number 61 for identification.

Q Mr. Pettey, during the last several years, have you had telephone conferences and I believe one or more individual conferences with representatives of HEW or the Commissioner of Education of the United States?

A We have had several phone calls; I wouldn't recall; less than ten, I would say; and only one meeting with anyone from HEW, and that was Mr. Crowder.

Q That is Mr. Crowder?

A Yes, sir.

Q The one you referred to awhile ago?

A That was in July for this year.

Q I hand you here an original letter, and ask that we may have permission to substitute a copy, and ask -- which has been marked now for identification Defendants' Exhibit 61, and ask you what that is?

A This is a letter from Mr. Howe --

Q I see.

A -- October 13, stamped October 13.

Q Without reading the entire letter, would you read to the court the last two sentence -- two sentences on page one of this letter?

A This is a letter suggesting many things which we do, and the last one you are asking me to read here says, "Another step that can be helpful is a substantial desegregation of faculty in order to remove the identification of schools as either white or Negro."

Q Then would you please read the last two paragraphs?

A "I" -- "If your" -- let's see, this last -- "I can assure you that our primary interest is in facilitating the distribution of federal funds for the improvement of public education. Although it is our responsibility in appropriate cases to initiate procedures leading to the termination of federal assistance, we do not look forward to doing so."

Q Now, from your course of dealing over a period of time, what is your opinion with reference to whether or not if you fail to carry out these suggestions you endanger the continuance of the receipt of federal assistance?

A If I understand your question, I think that that is -- it means if we do not do it, we will lose federal funds, if that is the question.

Q That is your understanding?

A That is what I understand it to be.

MR. SATTERFIELD: Okay. Here; I believe this is introduced finally and fully.

Q I hand you here a copy of a letter dated November 9, 1966, which has been signed by Mr. Fairley --

MR. SATTERFIELD: -- I ask first that it be marked for identification.

THE CLERK: Defendants' Exhibit number 62 for identification.

Q Did you receive this letter, Mr. Pettey --

A Yes.

Q -- the original of the letter?

A November 9, 1966.

Q Uh, huh; now, since November 9, have you received any further communication from Mr. Howe or Mr. Fairley?

A I don't recall any.

Q Yes; uh, huh.

A Maybe one more letter; I am not sure.

Q Yes. Would you read to the court this last sentence of the second -- of the first full paragraph on the second page of the letter?

A This last sentence, "School Dis" --

Q This sentence beginning here?

A "But I must point out to you that faculty desegregation is an essential" -- I can't make it out here on --

Q It is "Element."

A Is that "Element" -- "of compliance with the school desegregation guidelines and that continued" --

Q "Receipt."

A That is -- "of federal funds is dependent upon the acceptance of the substantial" --

Q "Accomplishment" --

A Yeah -- "program." That's right; blurred.

Q -- "of substantial progress," is it not?

A Yes, "Progress"; it is blurred, "Program," there.



Q Now, Mr. Pettey, in the assignment of pupils within your system, by whom is the authority exercised subject to the freedom of choice plan? That -- is that exercised at a local level or the State level?

A At a local level, Board of Education.

Q Local level, Board of Education?

A Yes, sir.

Q In connection with the assignment of teachers, the hiring and firing and compensation of teachers, by whom is that handled?

A By the Board, local Board of Education.

Q Other than the matter of considering recommendations with reference to the building of schools, or the use of expert assistance such as architectural services, by whom are the determinations made concerning the building of schools, the location, and other matters with a reference to school construction?

A Local Board of Education.

Q Has that been true throughout this time?

A Yes, sir.

Q With reference to the use and availability of State funds, at any time during the period here involved, has there been any distinction made in that connection by the State Board of Education, the State Superintendent of Education, or other State agency on the ground of race?

A No, sir.



Q Has any action in connection with financing of schools been made in -- in your system or affecting you by any State authority on the ground of race?

A No, sir.

MR. SATTERFIELD: Indulge me just a moment. I have no further questions.

JUDGE RIVES: Any other questions from any of the defendants? Any questions from the plaintiffs?

MR. ZARR: Yes, sir.

CROSS EXAMINATION:

BY MR. ZARR:

Q Mr. Pettey, I believe you testified that Mr. Crowder suggested to you a qualification for your form 441-B, which is the subject of Defendants' Exhibit 57-B?

A Yes, sir.

Q Can you tell the court what the circumstances of that suggestion were?

A Mr. Crowder called to come to our office and talk with me, and our Board if I preferred, and I did, I invited them in; and just in the conversation, we had been turned down on the previous one, the one that is the other number, and he just had this one, and just said that he -- in his opinion if we would place -- put this one instead of the other one that it would be accepted. Now, I said in his opinion he said it would.

Q Now, sir, what circumstances or what did you tell him that led

to his suggestion of that language?

A He just had it there already, he had it in his files and just had it there on the desk and just --

Q Well, what did you tell him that made him produce this?

A I didn't tell him anything; we just -- he was just saying that we would not accept -- that they had not accepted the one we had, and he just had that on the desk, and he suggested that if we would place this one, that in his opinion it would be accepted.

Q And did he give any reasons --

A No.

Q -- for that?

A No, sir.

Q Well, can you relate to the court exactly what the circumstances of that discussion were; can you tell us in substance what was said on both sides?

A No; just -- it was just general meeting, they were just discussing the 441-B with provision we had in it had been turned down, and his -- he was working with us to try to get it accepted, and this is -- it grew out of that --

Q Mr. Pettey -- I am sorry.

A -- that is all.

Q Mr. Pettey, isn't it true that you told Mr. Crowder that you were having trouble with signing the 441-B from State officials?

A No, sir; Mr. Crowder told me.

Q He told you?

A (Nodded to indicate affirmative reply)

Q What did he tell you?

A Just we had not been accepted.

Q No; did he tell you anything about interference by State officials with your desegregation plan?

A (Shook head to indicate negative reply)

Q I thought your answer was previously yes?

A No, sir; not interference of State officials.

Q I see. Now, this qualification says in substance, does it not, sir, that your school district will not comply with any NEW requirements which are void under or without authorization under the Civil Rights Act of 1964; now, did you tell him at all of any efforts by State officials to put into your 44 -- 441 compliance -- B compliance form the language like this or any message to this effect?

A No.

Q And you cannot tell the court exactly what you told him or anything about what you told him that would lead him to suggest this kind of language?

A No, sir; he didn't -- I don't -- we were just discussing 441-B as we had signed it, and it had been turned down.

Q Now, did you discuss with Mr. Crowder the messages by the Governor about the guidelines?

A No, it was not mentioned.

- Q Did you discuss with Mr. Crowder any communications from Dr. Meadows to you --
- A No, sir.
- Q -- about the guidelines?
- A No, sir.
- Q When was this conversation?
- A I believe it was in July, I think July 22, I am not sure; it is in one of the files; it was in July.
- Q I see. Now, on June 6, 1966, did you attend a meeting in Montgomery called by the Governor of all Superintendents?
- A I attended a meeting; I don't know about that date.
- Q Could it have been around June 6?
- A Could have; could have been.
- Q Now, were the HEW guidelines discussed at that meeting?
- A Not with me.
- Q Not with you?
- A They -- they -- the program -- I don't remember; someone spoke, Albert Brewer, at one meeting, maybe Mr. Satterfield at another one.
- Q Did Mr. Brewer speak about the guidelines?
- A No, sir; not necessarily.
- Q He did not; did Dr. Meadows speak about the guidelines?
- A No, sir.
- Q Did Governor Wallace speak about the guidelines?
- A I don't think Governor Wallace even made a speech.

- Q At the June 6 meeting?
- A He was up there several times.
- Q Okay; did you attend the meeting in Montgomery on March 31 of this year -- well -- of the local Superintendents called by Dr. Meadows?
- A I attended two meetings.
- Q Two meetings?
- A That was called down here, but I don't remember the dates.
- Q But it could have been March 31, 1966?
- A Could have; could have been.
- Q Who, do you recall, spoke at that meeting?
- A Would that have been the first one or the second one?
- Q Assume the first?
- A I don't recall.
- Q You don't recall?
- A No.
- Q Okay; Mr. Pettey, could you give us the relative breakdown of the school population by race in Morgan County? I will give you --
- A Fairly well; not exactly; this is -- this is an estimate. At the present time we have -- here, we have eight thousand, eight hundred seventy-five white, seven hundred and eighty-one colored, but now, at -- both of those have gone up a little, and I think we have a little over nine thousand whites and eight hundred eleven colored, I believe, at the last report.

- Q Now, Mr. Pettey, approximately, of those seven hundred eighty-one Negro students in your system, about how many would you say are going to school in -- in white schools?
- A We know exactly; fifty-six.
- Q Fifty-six?
- A Last year it was three.
- Q And in how many grades?
- A One through twelve, now, I am not -- that is, the grades are open; I am not exact if there is one in every grade; it should show it here somewhere.
- Q Now, sir, how many Negro schools are there in your system?
- A Four.
- Q Four; and how many elementary and how many high schools?
- A Well, one high school, three elementary.
- Q One high school, three elementary?
- A The high school is one through twelve.
- Q Right; and how many white schools are there?
- A Well, there is nineteen in all.
- Q Nineteen; and how -- what is the breakdown, high school, elementary?
- A Well, it's -- I couldn't give you that exactly; we have nine high schools, I believe -- eight -- eight white ones, and seven of those are one through twelve; one is seven through twelve.
- Q Is the Negro high school accredited by the Southern Association?
- A No, sir; it is accredited by the State Association.



- Q State Association; are any of the nine white schools accredited?
- A Only one.
- Q Only --
- A Only one.
- Q Of the white high schools accredited by the --
- A None of the one -- of one through twelve are accredited, both white or colored.
- Q I see. Now, with reference to the four Negro schools and nineteen white schools, can you tell the court how can the racial characteristics of each school be eliminated?
- A No, sir.
- Q You don't know?
- A No; I don't know.
- Q Do you have any idea?
- A Well, there is many ways, probably; I don't know.
- Q Well, can you tell me what you think would be the best way?
- A I don't think I could answer that question, just off -- just off hand.
- Q Excuse me. Sir, having reference to the fact that there are only seven hundred eighty-one Negroes in the system and several thousand white students, can you tell the court what it would take to eliminate the Negro schools and to make provision for integrating the Negro students into the white schools?
- A Well, first thing, it would take a lot of building.
- Q Building?



A Buildings to take care of them, because our white schools are -- many of them in barracks now.

Q But there are only four Negro schools and nineteen white schools?

A No, no; that nineteen is a combination; that is -- that is all the schools, take the four -- fifteen white and four colored, nineteen in all; we only have nineteen schools in our total system.

Q I see; so there is fifteen white --

A Yes.

Q -- and four colored?

A Yeah; that's right.

Q So it might involve building or adding to four schools?

A Well, it should -- yeah; it would.

Q Now, what else can you think of that would help to eliminate these racial distinctions and classifications of the schools?

A Time.

Q And what else?

A Well, I just don't hardly know how to answer.

Q The best thing would be a court order, wouldn't it?

A I wouldn't say so.

Q You wouldn't?

A I wouldn't say it was the best; it might be some other way.

Q It would be the fastest?

A Well, it might be.

Q Well, it would be no other way --

MR. SATTERFIELD: I object; that is a matter of the process of the court.

JUDGE RIVES: Objection sustained.

Q Now, do you have any -- in your Morgan County School System, do you have any Negro teachers teaching white children?

A No, sir.

Q You have any white teachers teaching Negro children?

A No, sir.

Q Do you expect to have any?

A No; we had -- we had expected to, but we didn't.

Q And why is that?

A Well, the teacher didn't -- in other words, we had -- thought we had hired some, and they didn't show up.

Q Do you mean you planned to have one white teacher for Negro children?

A We had planned to, we had discussed it, because I made the statement in one of these letters that we had discussed it, and we had talked to a person who would and -- but it didn't materialize.

Q For next year, do you expect to have any white teachers teaching Negro children?

A I can't answer that, because that would be an action of the Board.

Q Do you plan to recommend to the Board such action?

A I -- I am not sure.

Q Pardon me one moment. Sir, can you conceive in the near future

of your School Board voluntarily eliminating the racial characteristics of these schools in your system?

A Not totally.

Q At all?

A I don't -- I can't answer for the Board.

Q But you don't think so?

A Well, I don't know.

MR. SATTERFIELD: I object, may it please the court, as to what he may think.

JUDGE RIVES: Objection sustained.

MR. SATTERFIELD: Freedom of choice still is the law and always will be, we believe.

JUDGE RIVES: Let's move along, it is moving very slowly.

MR. ZARR: I am sorry.

JUDGE RIVES: Let's move on; moving too slowly; asking a lot of irrelevant questions.

MR. ZARR: No further questions, your honor.

JUDGE RIVES: Any other questions of this witness?

MR. BARRETT: No questions.

MR. ADAMS: No questions.

JUDGE RIVES: Mr. Pettey, you may come down.

WITNESS: Sir?

JUDGE RIVES: You may be excused --

WITNESS: Thank you.

JUDGE RIVES: -- Mr. Pettey.

MR. SMITH: Revis Hall, Revis Hall.

MR. SATTERFIELD: May this witness be excused?

JUDGE RIVES: Mr. Pettey -- I would like to ask Mr. Pettey one question; was that -- what you have done to desegregate -- these annual bus drivers' picnics that are desegregated, is that an official function?

WITNESS: Not necessarily, but we -- each year our Board, we give our picnic, and all of our bus drivers come together and have an annual picnic, and we had not been having our colored drivers in this particular, but now we do.

JUDGE RIVES: Now you do?

WITNESS: We do now.

JUDGE RIVES: That is all right.

JUDGE PITTMAN: Mr. Pettey, with reference to Defendants' Exhibit 57-B, what was the occasion of your not amending your form to include that suggested change?

WITNESS: I couldn't answer that; the Board just asked for a delay; that's all.

JUDGE PITTMAN: Thank you.

WITNESS: When we discussed it, they just said that -- just table it, and we will deliberate it at a later date.

JUDGE PITTMAN: Do you remember at what time of the year that was?

WITNESS: In July, I don't recall -- I believe the

22nd, the best I remember, the letter dated, but it was in July.

JUDGE PITMAN: Of '66?

WITNESS: Yes, sir.

JUDGE PITMAN: Thank you.

JUDGE RIVES: No need of holding Mr. Pettey here any longer?

MR. SMITH: No, sir; you are excused, Mr. Pettey.

MR. SATTERFIELD: You are excused.

WITNESS: Thank you.

MR. SMITH: Mr. Hall. Mr. Hall, were you sworn?

WITNESS REVIS HALL: No, I haven't.

MR. SMITH: All right; will you be sworn, please, sir.

THE CLERK: Do you solemnly swear that the testimony you give in this cause to be the truth, the whole truth, and nothing but the truth, so help you, God?

WITNESS REVIS HALL: I do.

THE CLERK: Please be seated.

WITNESS REVIS HALL: Thank you.

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REVIS HALL, witness for Defendants, having been duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. SMITH:

Q Is this Mr. Revis Hall?

A Revis.

- Q Revis, I am sorry; R-E-V-I-S?
- A That is correct.
- Q H-A-L-L?
- A Yes.
- Q You from Anniston, Mr. Hall?
- A Yes.
- Q And you hold the position as Superintendent of the Anniston School System; is that right?
- A Yes.
- Q How long have you held this position?
- A Two years.
- Q Two years?
- A Uh, huh.
- Q Now, did the Anniston City System adopt a freedom of choice desegregation plan of its school facilities?
- A Yes.
- Q Approximately when did you adopt it, sir?
- A I believe this was in the spring of '65.
- Q Working under this plan, have Negro pupils been assigned and are presently attending previous all white schools?
- A Yes.
- Q What is the rough -- if you know, accurately, but your estimate otherwise -- number of pupils attending your system?
- A Seventy-four hundred, I believe.
- Q Now, is this all inclusive, Negro and white?



A Yes.

Q Seventy-four hundred?

A Seventy-four hundred.

Q Can you give the court your opinion as to the number of Negro and then your opinion as to the number of white?

A I believe we have approximately thirty-two hundred Negro, and the remainder white.

Q I see; how many schools do you have within the City system?

A We have seventeen.

Q Seventeen schools?

A (Nodded to indicate affirmative reply)

Q How many of these schools are designated or would be identified as Negro, and how many would be white?

A Well, we have -- we have predominantly five, I believe, Negro --

Q I see.

A -- and the remainder would be white.

Q Remainder would be white?

A Predominantly would be white, because we have the schools desegregated.

Q Mr. Hall, will you tell the court the number, as of this date, the number of Negro pupils in the City of Anniston that are attending schools that were held exclusively for the whites previous to this desegregation plan?

A I believe there is two hundred and sixteen now; we had two twenty; we have approximately two sixteen.



Q Two hundred sixteen?

A Who were admitted; yes.

Q What grades are affected?

A All grades, grades one through twelve.

Q And in the adoption and implementation of the plan, did you use forms prescribed by the Office of Education --

A Yes.

Q -- Department of Education, of Health, Education, and Welfare?

A Yes.

Q Would you look quickly at Defendants' Exhibit 63, and state for the record whether or not these are the forms which prescribe the notice, the choice form, and the plan, itself?

A That is correct.

MR. SMITH: We offer Defendants' Exhibit 63.

Q Now, Mr. Hall, has your Board Chairman signed a compliance form 441?

A Yes; the 441-B, I believe, was the most recent one.

Q Well, first, did they sign --

A 441.

Q -- or did your Chairman sign 441?

A Yes; yes.

Q Was this submitted to the Office of Education?

A Yes.

Q U. S. Office?

A It was.

Q Did you sign, or did your Chairman sign, form 441-B?

A Yes.

Q Did you attend any meetings held in Montgomery called either by the Superintendent of Education or by the Governor?

A Yes.

Q How many such meetings did you attend?

A I believe it was, as I remember, it was three.

Q Three meetings?

A Three meetings.

Q And it is your recollection that you attended all of them?

A Yes, I did.

Q And would they have been in the month of September, '65 --

A Right.

Q -- March of '66, and June of '66?

A Right.

Q Did Governor Wallace address each of these meetings? Did he make statements to the group assembled?

A As I remember, he did; I know, I remember specifically two of them; I think he did all three.

Q Subsequent to the meeting date, did your Board sign form 441-B and send it to the U. S. Office?

A Yes, in March.

MR. SMITH: I have no further questions.

JUDGE RIVES: Any further questions by the plaintiffs?

Mr. Ray?

BY MR. RAY:

Q Mr. Hall, do you have any faculty cross-overs in your school system?

A Yes.

Q How many do you -- how many Negro teachers do you have in previously white schools?

A I believe we have -- I think we have three now.

Q And how many white teachers do you have in previously or predominantly Negro schools?

A I believe there is -- I think it's four; I say it is four, because they are in the special programs we have, in the day care program and special education programs.

Q Are -- is your system -- has it been notified by the Office of Education that your system is qualified to receive federal funds for new projects?

A Yes.

Q Has there been any withdrawal mentioned in your system?

A No.

Q Concerning the meetings which you attended, Mr. Hall, do you recall a meeting whereby a specific reference was made to the Anniston schools?

A Yes, I believe I do in -- yes; yes.

Q Would you relate to the court what that statement was, please, sir?

A Well, I think in the process of explanation of -- and I forget who it was that said it; there was an indication of approximately

the number of Negro children that we had in the schools as just a fact related which was erroneous, of course.

Q Was it related that there were too many?

A Well, I don't know; that would be an interpretation that some might place on it.

Q Were -- well, let me rephrase it, if I may, Mr. Hall; was the number given to the group larger than those that are actually attending previously white schools?

A Yes.

Q Do you recall, sir, any statement made at any time or at any of the three meetings that you attended concerning the fact that it was not now the time to attempt to secure a court order concerning the handling of schools by local Boards?

A No, I don't remember any reference to that; however, there could have been.

Q All right, sir. Do you recall any reference, particularly at the last meeting that would have been held, that one, I believe, for June 6, 1966, whereby any statements were made by anyone on the rostrum or the stage of the meeting place to the effect that if local School Boards did not listen to the suggestions made by those on the stage, that meetings would be held, mass meetings would be held in several areas, populous areas, whereby those present would take the matter to the people and allow the local School Boards to present their side of the case?

MR. SMITH: We object to the form of the question, if

the court please.

JUDGE RIVES: What is the objection, to the form of the question?

MR. SMITH: Of course, I don't know what Mr. Ray's position is, but the question is certainly suggestive of an answer, and maybe it has to be framed in this light to elicit the answer.

JUDGE RIVES: I think Mr. Ray is one of the defendants, he is representing one of the defendants, and --

MR. SMITH: Yes, sir.

JUDGE RIVES: -- it would be up to the plaintiffs to suggest -- to object if it were leading.

MR. SMITH: Maybe it would be out of order.

JUDGE RIVES: Objection will be overruled.

MR. SATTERFIELD: May it please the court, with respect -- it is my understanding that it is a rule of law, and that a waiver would not make it right.

MR. GRAY: Plaintiff has no objection to the form of the question.

JUDGE RIVES: You may answer.

A Would you phrase it again; rephrase it, please, or restate it.

Q Do you recall a meeting that you attended in June of 1966 here in Montgomery where some person from the stage or rostrum of the auditorium in the Administrative Building stated that the matter of staff and the matter of the signing of 441-B would be carried to the people, and that mass meetings might be held in certain

areas where the situation or the position of those on the rostrum would be presented to the mass meeting, and that the members of the Boards of Education would be granted equal time to explain the situation?

A I remember some discussion of this particular question, but also most of it in the newspapers and so forth.

MR. RAY: All right; thank you, sir. That's all the questions I have.

JUDGE RIVES: Any further questions from the defendants? Any questions from the plaintiffs?

MR. GRAY: Just a couple.

CROSS EXAMINATION:

BY MR. GRAY:

Q Let me ask you specifically, Mr. Hall; do you recall whether or not at that meeting that Mr. Ray was interrogating you about, did the Governor of this State make any reference to holding mass meetings in certain areas where Boards failed to listen to suggestions made at their meetings?

A I don't remember any specific statement directly to Boards of Education, but I remember some discussion relative to the fact that this -- the whole question might need to be carried or taken to the people.

Q Do you recall the Governor making such statement?

A Not -- not specifically at that meeting.

Q You don't know whether the Governor made it or someone else?

- A It could have been made, but I don't remember just who might have made it, because we had several speakers.
- Q Do you recall whether or not the Governor said that -- with respect to that meeting, and with respect to going into areas where the Superintendents would not listen, do you recall him making a statement to the effect that he would hold such meetings, and that he would be accompanied by Lieutenant Governor Allen, Speaker of the House Brewer, and State Superintendent of Education Meadows?
- A I read it in the paper, in two papers, the next day, but I don't -- I don't remember specifically them saying that about a school system.
- Q You don't recall them saying that?
- A No.
- Q Do you recall them further, in the same conversation, indicating that if it became necessary to hold such meetings, that he, the Governor, would state to the people what his position was, and then let the Board and the local Superintendents state to the people and explain to the people why their children had to attend schools with Negro teachers; do you recall that?
- A I -- I read it in the newspaper the next day; I don't specifically remember that being stated by the Governor.
- Q Would you deny that the Governor made that statement?
- A No, I would not.

MR. GRAY: No further questions.



- A It could have been made, but I don't remember just who might have made it, because we had several speakers.
- Q Do you recall whether or not the Governor said that -- with respect to that meeting, and with respect to going into areas where the Superintendents would not listen, do you recall him making a statement to the effect that he would hold such meetings, and that he would be accompanied by Lieutenant Governor Allen, Speaker of the House Brewer, and State Superintendent of Education Meadows?
- A I read it in the paper, in two papers, the next day, but I don't -- I don't remember specifically them saying that about a school system.
- Q You don't recall them saying that?
- A No.
- Q Do you recall them further, in the same conversation, indicating that if it became necessary to hold such meetings, that he, the Governor, would state to the people what his position was, and then let the Board and the local Superintendents state to the people and explain to the people why their children had to attend schools with Negro teachers; do you recall that?
- A I -- I read it in the newspaper the next day; I don't specifically remember that being stated by the Governor.
- Q Would you deny that the Governor made that statement?
- A No, I would not.

MR. GRAY: No further questions.

JUDGE RIVES: Any further questions from the witness?

BY MR. ADAMS:

Q Mr. Hall, how long have you been Superintendent of Anniston?

A Two years.

Q Two years, and I think you said you signed form 441 and 441-B, that is, the Anniston School System; is that correct?

A That is correct.

Q As a part of -- of -- part of the plan for desegregation in form 441, was there any provision for faculty desegregation?

A As I remember, it wasn't a provision for it, but there was a statement in there relative to nondiscrimination and relative to employment practices in the plan, the original plan.

Q Did your Board state whether or not any specific number of persons would be transferred, that is, teachers, would be transferred to previously -- to schools which were different from their race?

A May I just get a clarification; are you thinking about the '65 plan, or are you thinking about now, 441-B?

Q Well, I was first asking about '65, and then --

A Not during that time.

Q Then I was going to ask you about sixty---

A Not during '65, there was no numbers suggested, because it was nondiscrimination in employing practices --

Q All right.

A -- was what that plan had reference to.

Q Now, in your form 441-B --

A Uh, huh.

Q -- did you provide in that particular form any provisions for faculty desegregation and specify numbers of teachers of one race that would be assigned to schools of another race?

A Yes, we did.

Q Now, in form 441-B, Mr. Hall, how many Negro teachers did you specify would be assigned to previously all white schools?

A We planned to reassign five.

Q All right. How many white teachers had you planned or did you set forth in form 441-B would be assigned to Negro schools?

A Either two or three, as I remember.

Q Did you carry this proposal out in the 1966-67 school year?

A We did partially; we have -- we have three, as I remember, Negro teachers assigned, but not to the positions specifically that we had listed on the form, because we considered those to be tentative, but we had about four or five white teachers assigned to previously all Negro schools.

Q They are assigned there now?

A Yes, they -- they are working now in those categories in the day care program.

Q Were these the categories you specified in your form 441-B?

A We had all of them specified, but we didn't indicate we were assigning Negroes to -- Negro teachers and white -- and/or white teachers to that particular program; we had them in the regular

program originally designated.

Q In other words, in the form you had them in the regular program rather than in the program they are assigned to now?

A Yes; in summer school we had two Negro teachers assigned in the regular summer school, but we didn't assign the other three in the -- in the fall, this fall of '66.

Q When did you make this change, Mr. Hall?

A Well, we didn't make the change; we just didn't assign them, because on August 29 we had a court case filed against us by the -- the -- the local N. double A.C.P., and at that time we were advised to wait for the outcome of this, with the Judge to designate the number that we would need to assign.

Q All right; as a matter of fact, though, Mr. Hall, isn't it as result of pressure from State officials that caused you to change your plans for the desegregation of the faculty in Anniston City School System?

A No, because the case was filed the next day after the Legislature passed this particular act, and we had not assigned the teachers, we had not taken the step; we did assign the other teachers, however.

MR. ADAMS: That's all.

JUDGE RIVES: Any further questions of Mr. Hall?

MR. BARRETT: I have one or two questions, your honor.

JUDGE RIVES: Mr. Barrett.

BY MR. BARRETT:

- Q Mr. Hall, you testified that at one of these meetings a mis-statement was made regarding the number of Negro children assigned to white schools in Anniston; is that correct?
- A I -- as I remember, I testified that the statement that was made in passing --
- Q Yes.
- A -- was the number that was mentioned was wrong, was larger than the number that we had.
- Q Did you correct the statement?
- A Yes, I did.
- Q When it was --
- A I did, and it was accepted.
- Q -- what was the context of the statement that you corrected?
- A Well, I don't remember specifically; I just remember generally that a number mentioned there as the matter of the plan, as a matter of discussion of the plan, was in error. I corrected it later; I did not correct it at that meeting.
- Q Mr. Hall, you testified that your Board did execute a form 441-B; did you receive any encouragement or assistance in that connection from any State official?
- A Any encouragement, assistance?
- Q Yes?
- A We didn't feel we needed any, because we accept the fact that -- that our Board under the State rules and regulations that is relative to the Legislature has a right and privilege to take

this action, themselves. So we didn't solicit any from any source.

Q Did you discuss the matter with any State official?

A No, because when the forms came in, in order to execute those on time, with the April 1 to the 30th we had, the Board passed this in March, and we mailed it in March.

Q Did you have any discussion with the State officials after you had adopted the form 441-B?

A Well, I am sure in this general discussion, when we -- when all of the school people in Alabama met to discuss it at the previously named meetings, we had those discussions, but we had already sent out our pupil forms and so forth, so we --

Q I understand; but apart from that, did you have any direct conversations with any State officials regarding your having executed the forms 441-B?

A No; I had on file various telegrams and so forth, and from the State Board of Education, which I think you have.

Q And from Dr. Meadows?

A Yes; but other than that, we had none; they were all, I would assume, just formal statements that were made to all Superintendents.

Q Did you have any telephone conversations?

A No, I did not.

MR. BARRETT: Thank you.

JUDGE RIVES: Further questions of Mr. Hall?



MR. SMITH: May the witness be excused?

JUDGE RIVES: You are excused --

MR. RAY: If it please the court, I would like to ask him.

JUDGE RIVES: Mr. Ray.

MR. SMITH: Excuse me.

REDIRECT EXAMINATION:

BY MR. RAY:

Q Mr. Hall, with regard to the meeting of March 31, '66, that you attended, did -- did the -- your attending that meeting or the result of attending that meeting change what the Anniston City Board did at all?

A I think not; not at all.

Q And is the same true of the June, '66, meeting insofar as what the Anniston City Board of Education did?

A The determination of what we were going to do, faculty assignment and student assignment, was in force up until August 29 when our case had been filed.

Q Insofar as you know, did the anti-guidelines bill, called House Bill 446, that was passed in August of 1966 by our State Legislature, has that in any way affected the operation of the Anniston City Schools at this time?

A It has not, not as far as we are concerned, because we followed the procedure that we have the right to operate until such time as the laws are changed.