

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

FILED

MAR 8 1968

R. C. DOBSON, CLERK

ANTHONY T. LEE, ET AL,

PLAINTIFFS,

UNITED STATES OF AMERICA,

PLAINTIFF - INTERVENOR,
AND AMICUS CURIAE,

VS.

MACON COUNTY BOARD OF EDUCATION,
ET AL,

DEFENDANTS.

CIVIL ACTION
NO. 604-E

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and between
the parties through their respective counsel, that
the deposition of DR. ERNEST STONE may be taken
before Allan J. Spirtas, Commissioner, in the Grand
Jury Room of the Federal Building, Montgomery,
Alabama, on the 5th day of March, 1968.

IT IS FURTHER STIPULATED AND AGREED that
the signature to and the reading of the deposition
by the witness is waived, the deposition to have
the same force and effect as if full compliance had

1 been had with all laws and rules of court relating
2 to the taking of depositions.

3 IT IS FURTHER STIPULATED AND AGREED that
4 it shall not be necessary for any objections to be
5 made by counsel to any questions, except as to form
6 or leading questions, and that counsel for the part-
7 ies may make objections and assign grounds at the
8 time of the trial, or at the time said deposition
9 is offered in evidence, or prior thereto.

10 IT IS FURTHER STIPULATED AND AGREED that
11 notice of filing of the deposition by the
12 Commissioner is waived.

13 I N D E X

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 UNITED STATES OF AMERICA,)
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) NO. 604-E
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 MACON COUNTY BOARD OF EDUCATION,)
 ET AL,)
)
 DEFENDANTS.)

Montgomery, Alabama,
March 5, 1968.

BEFORE :

Allan J. Spirtas, Commissioner.

APPEARANCES :

Mr. Fred Gray, Attorney at Law, of
the firm of Gray, Seay, Langford & Pryor,
352 Dexter Street, Montgomery, Alabama, appearing
for the Plaintiff, Anthony T. Lee.

Mr. Charles Quaintance, United States
Department of Justice, Selma, Alabama, and Mr.
Frank D. Allen, Jr., United States Department of

1 Justice, Washington, D. C., appearing for the
2 Plaintiff - Intervenor and Amicus Curiae, the
3 United States of America.

4 Mr. Maury D. Smith and Mr. Thomas W.
5 Thagard, Attorneys at Law, of the firm of Goodwyn,
6 Smith & Bowman, Suite 325, Bell Building, Montgomery,
7 Alabama; and Mr. Oakley Melton, Attorney at Law, of
8 the firm of Steiner, Crum & Baker, Suite 1109, First
9 National Bank Building, Montgomery, Alabama, appear-
10 ing for the Defendants.

1 I, Allan J. Spirtas, a Court Reporter of
2 Birmingham, Alabama, acting as Commissioner,
3 certify that on this date, as provided by the
4 Rules of Civil Procedure of the United States
5 District Court, and the foregoing stipulation
6 of counsel, there came before me in the Grand
7 Jury Room of the Federal Building, Montgomery,
8 Alabama, beginning at 1:35 P. M., Dr. Ernest
9 Stone, witness in the above cause, for oral
10 examination, whereupon the following proceedings
11 were had:

12
13 DR. ERNEST STONE,

14 being first duly sworn, was examined and testified
15 as follows:

16
17 EXAMINATION BY MR. QUAINTANCE:

18 Q Would you state your name?

19 A Ernest Stone, E-R-N-E-S-T, if you please.

20 Q Your official position?

21 A I am State Superintendent of Education
22 in Alabama.

23 Q How long have you held this position?

1 A I became State Superintendent of Educa-
2 tion on January 17, 1967.

3 Q Prior to that, what position did you
4 hold?

5 A Prior to that, I was Superintendent of
6 Jacksonville, Alabama, City Schools and
7 Laboratory Schools for the Jacksonville State
8 University.

9 Q That is in Calhoun County?

10 A Right, yes.

11 Q How long did you hold that position?

12 A 21 years and 16 days.

13 Q In your opinion, as an educator, Dr.
14 Stone, would you say that interscholastic
15 athletics has a valuable place in public
16 education?

17 A Well, yes, I would say that inter-
18 scholastic athletics has a valuable place in the
19 life of the students who are attending the schools
20 and colleges of our country.

21 Q Would you state what values you think
22 the interscholastic athletics hold for the
23 students in the public schools?

1 A Well, first I would say that inter-
2 scholastic athletics have a very definite
3 health factor --

4 MR. THAGARD: Would you speak louder,
5 we can't hear you.

6 A -- from the standpoint of body building,
7 particularly large muscle building, on the
8 part of students who participate; and I think
9 this is as applicable to girls as it is to boys,
10 though the boys do play more strenuous games
11 than girls do in our country, and particularly
12 in Alabama, I am sure.

13 I think there is a social value in
14 athletics. Those who participate seem to get
15 some kind of special social thrill out of it;
16 and, then of course, those who are the spectators
17 like to also see their teams win. So, from those
18 standpoints, I think there is a -- I would say
19 there is a value in athletics.

20 Q Would you say that interscholastic
21 athletics has the additional value of building
22 respect among opponents?

23 A I think under the right conditions it

1 promotes good sportsmanship, yes, sir, and
2 citizenship.

3 Q Would you say also that it would be
4 valuable in teaching students or giving students
5 the opportunity to make new contacts?

6 A Oftentimes, I think it does, yes,
7 sir.

8 Q Dr. Stone, you received a subpoena to
9 appear --

10 A Yes, sir, I did.

11 Q -- at this deposition. We will just
12 go down the subpoena. The first item is
13 all schedules of interscholastic athletic
14 contests and all other records and documents
15 that reflect interscholastic athletic contests
16 that involve Alabama State Colleges or Junior
17 Colleges in the school years 1967 and 1968, and
18 1968-'69, as I understand it. Do you have any
19 of those schedules?

20 A I have none of the schedules, and we
21 were told this morning that -- in our division
22 of higher education, that they didn't have any
23 that they knew of. We -- I did bring along

1 excerpts from the minutes of the State Board of
2 Education that shows the concern that the State
3 Board has for athletics in the Junior Colleges;
4 and, in particular, they have never assumed any
5 interest or concern about athletics in the
6 senior colleges and universities, under the
7 State Board of Education. As a result, there
8 has been no action I can find in the minutes
9 of anything ever having been said about athletics
10 in the senior institutions of higher learning
11 under the State Board of Education.

12 Q Could we see the excerpts from the
13 minutes?

14 A This is excerpts from the minutes of
15 the State Board of Education held on December
16 14, 1967.

17 Q I'll just ask Dr. Stone to read that
18 in the record.

19 We would like to have this marked as
20 an exhibit for the government.

21 (Whereupon, said document was
22 received and marked, "U. S.
23 Exhibit Number 1", to the
deposition of Dr. Ernest Stone,
and is filed with the original
of this deposition.)

1 Q Do you intend in the future to obtain
2 these athletic schedules?

3 A Yes, sir, this is our intention.
4 We want to get the athletic schedules; and,
5 if I may say by way of explanation, the concern
6 of the State Board of Education is simply this.
7 We want athletics in the Junior Colleges to
8 stay in their rightful respectful place. We
9 don't want overindulgence. You can drive a
10 bus from Mobile to Decatur too many times in
11 a year. It is too expensive. The concern is
12 to keep athletics in the proper perspective; and
13 the resolution has to do with the number of
14 scholarships; and, of course, those are limited
15 scholarships. That is not "room-and-board"
16 like senior colleges and so forth; and that
17 resolution could be misleading unless there is an
18 understanding of what the scholarships involve.
19 Of course, you notice there is a great diversifi-
20 cation -- tennis, basketball, football -- well,
21 football is not in it. We don't -- there is a
22 resolution not brought here that perhaps I
23 should have brought. I never thought about it.

1 The Board did pass a resolution prohibiting the
2 playing of football in the Junior Colleges in
3 Alabama. It may be in there.

4 Q I think it is in there. Does the
5 number of scholarships -- the number that each
6 school is to be permitted --

7 A Yes, I don't think there is any
8 differential in the size of the school as far
9 as the scholarship is concerned; though I am
10 not absolutely certain of that. I don't recall
11 there is any differential whether a school has
12 3500 students or 300 students. I don't recall
13 a differential -- there might have been.

14 Q Do all -- excuse me.

15 A I am not that certain about it. I would
16 have to read it.

17 Q Do all the State Junior Colleges have
18 athletic programs?

19 A I couldn't answer that absolutely;
20 I would think that all of them have some kind of
21 athletic program, yes.

22 Q Let me rephrase. The interscholastic
23 athletic program -- does Wenonah, for example,

1 have an interscholastic athletic program,
2 to your knowledge?

3 A I think it does, yes.

4 Q Does it?

5 A It is one of the larger ones.

6 Q Does it have any contests with any
7 predominantly white schools?

8 A Not to my knowledge.

9 Q Would the same be true of Mobile State
10 Junior College?

11 A I am not certain. I would be of the
12 opinion that would be correct.

13 Q That its teams play only teams from
14 other Negro schools, is that correct?

15 A Yes, if they play interscholastic
16 athletics. I don't believe Mobile College does,
17 but I am still not sure about that.

18 Q Has any of the other college teams
19 played, to your knowledge, a team from a
20 predominantly Negro school?

21 A Not to my knowledge -- not in basket-
22 ball. They may have participated in some other
23 things, but that I would not know. I reiterate

1 none of them play football.

2 Q The subpoena also lists copies of
3 all correspondence from you or your agency
4 to officers of the State College and Junior
5 Colleges concerning compliance with the order
6 of the court in the above styled case, Lee
7 against Macon, of March 22nd, 1967. Is there
8 any such correspondence?

9 A I have seven items of such correspondence.
10 I would like, in submitting them to you, to
11 say that these may not apply exclusively to
12 Junior Colleges. They could well apply to some
13 other facets -- 99 public school systems as
14 well as the Junior Colleges, and here is the
15 breakdown of what is contained in those.

16 Q In the letter dated February 28, 1968,
17 you wrote to the Presidents of the Senior and
18 Junior Colleges concerning faculty segregation.
19 Do you know whether there are any white coaches
20 at any of the Negro Junior Colleges or colleges
21 in Alabama?

22 A I do not know the answer to that question;
23 I am sorry.

1 Q Do you know of any Negro coaches at
2 any of the white state institutions?

3 A I do not know.

4 Q Do any of these communications deal with
5 athletics?

6 A No, sir, none of the communications
7 thus far have dealt specifically with athletics.
8 They have dealt with the demands of the court
9 order in which athletics were involved.

10 Q Have you given any instructions to the
11 State Colleges or Junior Colleges, either orally
12 or in writing, to do anything about desegregating
13 athletics?

14 A We have given instructions to all
15 Junior Colleges and Trade Schools, though
16 Trade Schools would not apply in the sense to
17 abide by the court order, and not to deprive any
18 student of any opportunity to participate in
19 any of the activities that are afforded all
20 students.

21 Q You also, I believe, brought educational
22 directories for 1964-'65, as well as '66-'67, and
23 '67-'68.

1 A That's correct. You asked for one
2 for '68-'69; we do not have it.

3 Q We certainly don't expect you to do that.

4 A We did bring one for '66-- no, '65-'66 --
5 '64-'65 -- '65-'66, and '67-'68.

6 Q Directing your attention to the 1964-'65
7 educational directory, on Page 97, I would ask
8 you to state whether this shows Toulminville
9 Junior High School in Mobile County?

10 A Yes, I see.

11 Q Is that a white school or a Negro school?

12 A I wouldn't know without double checking,
13 but I believe it was a whiteschool.

14 Q All the schools on that page are
15 predominantly white schools, are they not?
16 It is in the white section of the directory.

17 A I would judge they are. That would be
18 my opinion.

19 Q At that time the directory was separated
20 by race, isn't that correct?

21 A I am not sure; I did not have anything
22 to do with publishing that directory.

23 Q Well, the evidence in this case reflects

1 that. Now, you have brought the directory for
2 1966-'67. I notice this appears to be your
3 personal copy. We would like to have this as
4 an exhibit. Now, if it is inconvenient to
5 use this one, we could use another one. All
6 right, we already have a copy in the hearing
7 in 1967, so we won't have to -- that will be
8 all right.

9 MR. SMITH: Do you want to give that back
10 to him?

11 MR. QUAINANCE: Yes.

12 Q Directing your attention to Page 251
13 of the '67-'68 educational directory, I would
14 ask you to describe what ~~that~~ contains?

15 A On Page 251, that is the Congressional
16 Association of Secondary School Principals
17 and High School Athletic Association Districts.

18 Q That is a map of the State that shows
19 the eight ASA Districts, is that correct?

20 A Yes, that's right.

21 Q Is there any map in the directory
22 that shows the districts for the Alabama
23 Athletic Association?

1 A If there is one, I don't know about it.

2 Q What is the Alabama State Association
3 for Health, Physical Education, and Recreation?

4 A That is a professional organization
5 made up of teachers and supervisors; any
6 interested teachers and supervisors of health
7 and physical education, and administrators
8 who are -- any administrators who are particularly
9 interested in the development of health on the
10 part of the children.

11 Q What is the relation of that association
12 to your office?

13 A Well, the only relationship it would
14 have to my office would be on a professional
15 basis. I am sure that many of the consultants
16 would be members of the State Department of
17 Education. I am not. I know that Mr. Stautman,
18 our State Supervisor of Health and Education
19 is interested in it; and I know that he has --
20 we have had programs going this year in the
21 various high schools of the State on a completely
22 desegregated basis -- Negro students -- Negro
23 schools being invited along with white schools

1 for the participation. I think it is important
2 to note that this health and physical education
3 participation may or may not be contests,
4 though some of them are contests, like track
5 and things that students can participate in
6 who are not physical giants or more agile physically
7 than someone else, though the one in good physical
8 condition nearly always excels. It is not for
9 that reason at all; it is for the development
10 of good health and healthy bodies, rather than
11 for displaying athletic accomplishments.

12 Q Prior to this year -- this school year --
13 were there any Negro members of the association?

14 A Well, I couldn't answer that question
15 except to tell you I think so. I don't think
16 that it has been a desegregated basis.

17 Q This year there are Negro members, as
18 I understand it?

19 A Yes, sir. I understand there are Negro
20 members.

21 Q The association invited Negroes to
22 join this year?

23 A This year, and whether they did before this

1 year, I cannot answer.

2 Q I understand. Of course, you haven't
3 been a State Superintendent prior to this school
4 year?

5 A I was not State Superintendent at the
6 time when the policies were being set for the
7 1966-'67 year, but for the 1967-'68 years,
8 I was State Superintendent.

9 Q Yes, sir.

10 A And, we issued the invitation to Negroes
11 to participate regardless of race.

12 Q What is the relationship of the
13 association -- well, let me withdraw that, and --
14 did you, as State Superintendent, have anything
15 to do with those invitations being issued?

16 A Nothing more than to say that the invi-
17 tations would go out on a fair basis to all
18 children.

19 Q What is the relationship of the
20 association to the Alabama High School Athletic
21 Association?

22 A So far as I know, there isn't any.
23 There may be a working relationship between the

1 associations; I am not sure about that, but
2 so far as I know, there is no -- they are not
3 one and the same organization by any means.

4 Q Their handbooks are published together.

5 A Are they? I don't know; I just couldn't
6 tell you.

7 Q Where are the offices of the Alabama
8 High School Athletic Association?

9 A The office of the Alabama High School
10 Athletic Association is down in the State
11 Department of Education, but it is to be moved
12 just as soon as they can possibly find space
13 outside of the State Department of Education
14 for it; and we hope that will be this spring,
15 because we need the space.

16 Q How much space are they taking?

17 A They are taking two small offices --
18 together, smaller than this room. There is
19 a sort of semi-partition between the two.
20 Maybe I better say temporary partition.

21 Q And then, there is a reception room
22 also, is that correct?

23 A No, sir. There is not a reception room.

1 They have four people that work in there-- the
2 executive secretary and his assistant and
3 two ladies; and if you had -- if you call it
4 a reception room, then the ladies also work
5 there, and you could sit there and wait till
6 you could be seen by one of the others, that
7 is true.

8 Q That is down the hall from your office?

9 A It is on the fourth floor, yes.

10 Q Where is the office of the Alabama
11 High School -- Alabama Interscholastic Association?

12 A For a certainty, I don't know. I
13 can tell you where I heard it is, if you would
14 like to know that.

15 Q All right.

16 A Heard it is at the Alabama State College;
17 but I don't know that it is there, because I have
18 never been officially told by anyone that knows
19 that it is located there; but I think it is
20 common knowledge that it is located there.

21 Q Where are your Negro consultants in
22 the State Department located?

23 A Negro consultants in the State Department

1 of Education are fixing -- the ones we have
2 are fixing to be moved to the State Department
3 of Education, much over their protest.

4 Q They are now at Alabama State?

5 A One of them is at Alabama State -- a
6 consultant in library science is at Alabama
7 State, and the schedule is to move her in
8 next week, but she doesn't like the idea at all,
9 because her office space is not as nice as
10 where she is stationed.

11 Q I suppose you could put her in the
12 Alabama High School Athletic Association?

13 A I would put her with the other librarians
14 and treat them all alike.

15 Q Who is your advisory representative
16 to the Central Board of Control of the High
17 School Athletic Association?

18 A We do not have one, to my knowledge.

19 Q When you were associated with the
20 Jacksonville School System, did you have an
21 interscholastic athletic program?

22 A Yes.

23 Q I assume your white schools belonged to

1 the High School Athletic Association, is that
2 correct?

3 A Yes, sir.

4 Q Did it have Negro schools?

5 A We had a Negro school, yes.

6 Q What association did it belong to?

7 A It belonged to the Alabama -- I don't
8 know, I can't -- they do not play football.

9 Q Why was that?

10 A First place, they were too small.
11 They did not have enough boys to participate.
12 In the second place, the last two years, most
13 of the athletes came to the previously all white
14 school.

15 Q How big was the Negro school?

16 A It was about 250 and 12 grades --
17 something in that neighborhood. You cannot
18 ever say exactly, because your enrollments go
19 up and down a few each year.

20 Q Did you have a track team at the white
21 school?

22 A Not an organized track team. Occasionally,
23 we would have a little county meet and practice

1 for maybe a week and get some of the boys after
2 the football spring training was over, to kind
3 of give them a little physical training --
4 not coaching, but physical training.

5 Q Who would participate in the county
6 meet?

7 A Well, the county meets for the past
8 two years I was there, we had -- I believe most
9 of it -- a good many of the events were won
10 by Negro students who were in Negro schools.

11 Q Which schools participated?

12 A Predominantly white schools participated,
13 but we had another meet for the predominantly
14 Negro schools in the county. We did not have
15 many predominantly Negro schools because they
16 are few in number in that area.

17 Q Did all the predominantly Negro schools
18 participate in that meet?

19 A Not all of them; some of them didn't
20 care to participate.

21 Q All were invited?

22 A I would assume that they would all be
23 invited; I am not sure they were, but I would assume

1 or they could have been.

2 Q Did you have a basketball team?

3 A Yes. We had a basketball team.

4 Q Did it participate in the county basket-
5 ball meet?

6 A Yes, sir.

7 Q That was with the white schools?

8 A Predominantly white schools.

9 Q Predominantly white schools, and you had
10 a football team?

11 A Yes, sir.

12 Q Is there a county football championship?

13 A There is in that county, yes, sir.

14 Q How does that work?

15 A Well, the team that wins the most games
16 on a percentage basis.

17 Q The two teams with the best record
18 play for the county championship?

19 A Usually that is what happens -- the
20 two teams with the best record.

21 Q That is, two teams from predominantly
22 white schools that have the best record?

23 A Yes, but for the past three years each

1 of the teams, with one or two exceptions, have
2 had outstanding Negro athletes.

3 Q Last year were you aware that Cobb
4 Avenue had an undefeated football team?

5 A I was not aware of that, but I am not
6 surprised. They were a very large school.

7 Q They did not participate in the county
8 championship game, did they?

9 A To my knowledge, they did not. I was
10 not there, but to my knowledge, they did not.
11 They could have, had they belonged to the same
12 association.

13 Q That is exactly correct.

14 A And they could have belonged to the
15 same association had they applied for membership.

16 MR. THAGARD: That is exactly right.

17 MR. QUAINANCE: That is all we have.

18

19 EXAMINATION BY MR. SMITH:

20 Q Dr. Stone, I first want to ask you whether
21 or not you have been under the order of the
22 United States District Court since assuming the
23 duties as State Superintendent of Education for

1 Alabama?

2 A No, sir, I have not. I have been under
3 the order of the United States Court since
4 March 22, 1967; and the period of time between
5 January 17, 1967 and March 22, 1967 -- so far as
6 I know -- I was not under a court order. Actually,
7 there was a court order prior to March 22nd; but
8 certainly -- I think I know what you had reference
9 to, and that is to the statewide order of desegre-
10 gation of that date. Now -- well, I was under what-
11 ever court order the State Director of Education
12 was under when --

13 Q You assumed your office?

14 A -- I assumed my office, yes, that is true.

15 Q Have you, to the very best of your ability,
16 abided by the order of this court in the matter of
17 the operation of the public school system in this
18 state?

19 A I have done the very best I could; and
20 it may have been that I made some mistakes;
21 but we have sent copies of every -- of all
22 correspondence to the court, even some correspond-
23 ence that I guess the court felt was not

1 necessary, but we still sent it because we wanted
2 our record to be clear.

3 Q To summarize for the benefit of the
4 court, the exhibits which the government has
5 attached to this deposition in the category
6 of correspondence --

7 MR. QUAINANCE: Excuse me, we have
8 attached only one exhibit.

9 MR. SMITH: I want to attach the others.

10 MR. QUAINANCE: We haven't offered those.

11 MR. SMITH: You haven't attached --

12 MR. QUAINANCE: No.

13 MR. SMITH: I offer all the items you sub-
14 poenaed. I offer them to be attached to the exhi-
15 bits. Do you have those? Do you have any ob-
16 jections to all of them being attached?

17 MR. QUAINANCE: No, sir.

18 (Whereupon, said documents were received
19 and marked, "Defendant Stone's Exhibits 1
20 through 5", to the deposition of Dr. Stone,
 and is filed with the original of this
 deposition.)

21 Q Dr. Stone, I will ask you whether or not
22 in your letter dated March 28, 1967, you advised
23 each of the 99 school systems in Alabama --
 each of the trade schools and each of the junior

1 colleges that they should become familiar with the
2 order of this court dated March 22, 1967?

3 A That I did. I tried to be as specific
4 as I possibly could, and I -- and I pointed out
5 the fact that it was the head of the institution --
6 the president or superintendent or director --
7 that it was his responsibility to become personally
8 knowledgeable of the contents and implications
9 of the court order.

10 Q I'll ask you whether or not in your
11 correspondence dated April 19 of 1967, you
12 advised each of the 99 school systems and trade
13 schools and the junior colleges to furnish you
14 information pertaining to the transportation
15 section of the court's decree dated March 22?

16 A Yes, sir, I did.

17 Q And then, I will ask you whether your
18 letter dated April 27, 1967, advised the presidents
19 of the colleges and directors of the trade
20 schools to become familiar with Section 5 of the
21 order and that you further offered any assistance
22 that they may desire or request in regard to
23 implementing those requirements?

A Yes, sir, I did.

1 Q I will ask you if your letter dated
2 August 28, 1967, directed to the presidents
3 of the junior colleges and trade schools included
4 forms for those officials to report the extent
5 of the desegregation of each of their respective
6 institutions?

7 A I did, to junior colleges, senior colleges,
8 and institutions -- one or two -- one was the
9 universities and the trade schools -- to do that.
10 I enclosed the form for their report.

11 Q And then in your letter dated February
12 28, 1968 to these officials, you requested further
13 implementation of Section 5 of the court order,
14 is this correct?

15 A That's true, and copies of all correspon-
16 dence coming to the court.

17 Q Now, referring back to your first
18 letter which is attached as an exhibit to the
19 deposition, that being the letter dated March
20 28, 1967, you directed that all of these officials
21 become familiar with the order dated March 22nd?

22 A That's correct.

23 Q Were you, at that time, mindful of the

1 fact and did you know that the court's order
2 of that date made specific reference to
3 athletic events and extracurricular activities
4 of the students?

5 A I knew that it applied to all of the
6 activities of the schools, yes, sir.

7 Q Including athletics?

8 A Including athletics.

9 Q To your certain knowledge, have the
10 athletic programs within the 99 school systems
11 that are subject to this order been desegregated?

12 A Yes, they have all been desegregated.

13 Q Have you, as State Superintendent,
14 received any complaints from any Negro athlete
15 or parents, from any representative of the
16 United States Department of Justice or from anybody --

17 A I have not.

18 Q -- as to the manner in which the
19 athletic programs have been administered through-
20 out the school systems?

21 A I havenot. I received no official
22 complaints from anyone representing a school system.
23 May I make a correction. We were talking about

1 the desegregation of the schools; all of the
2 previously all white schools have been desegregated --
3 not all of the Negro schools -- previously all
4 Negro schools -- have been desegregated. I
5 wanted to correct that. We have -- so far as
6 I know, there has not been any complaint on
7 the way any Negro athlete or any other --
8 or any Negro student in any other activity
9 registered in our office -- about the treatment
10 of anybody on account of race. I do know this --
11 that we have not had reported to us a major
12 incident that came up in any of the 99 school
13 systems, so far as we know, that was brought on
14 by the desegregation of these schools. I know
15 that it would be amiss to say there hasn't been
16 any flare-up, but when you take 900,000 children,
17 you are going to have some flare-ups, but not
18 of major importance at all. Little boys fight
19 sometimes and they don't pay any attention to
20 the color of the face when they are fighting.
21 They just get mad and fight, but so far as
22 we know, there hasn't been anything of a major
23 incident at any athletic event or any social

1 event of any kind in any school in Alabama since
2 September, 1967.

3 Q Dr. Stone, has your office or the
4 State Department of Education exercised any
5 control over athletics in the high schools in
6 Alabama?

7 A We have not, and I -- so far as I am
8 able to ascertain, we have no jurisdiction.

9 Q Do the athletic programs of the various
10 public school systems in Alabama receive any
11 state financial support, do you know?

12 A None whatsoever.

13 Q How are those athletic programs supported?

14 A How are they supported financially?

15 Q Yes, sir.

16 A By collections at the gate -- admission
17 charges for basketball and football with the
18 principal amount of the financing coming from the
19 football teams -- though the basketball is
20 improving -- proceeds from basketball games --
21 larger crowds are going to basketball games
22 than we had in the past, I am told. I am told,
23 and I am sure that is reliable.

1 Q Is participation in athletics on the
2 high school level and college level a purely
3 voluntary matter on the part of the individual
4 student?

5 A Purely and absolutely voluntary. In the
6 high school -- in high schools there is no
7 financial advantage that any high school athlete
8 can get to play. You can't even -- no one can
9 pay his tuition. You are not supposed to buy
10 his sweater. There is a limitation to how much
11 you can spend on the letter you put on his
12 sweater. I think that has been raised to \$2.00.
13 While I am not sure of this, I understand both
14 of the high school athletic associations have
15 similar regulations so far as recruiting athletes
16 or paying them or giving them any kind of monetary
17 consideration for participation in athletics.
18 That is not true in the colleges. They have
19 customs -- what they call athletic scholarships --
20 and that is something that is recognized by
21 the college athletic associations, and I suppose
22 it is common knowledge all over the whole country
23 that every college student, or nearly every college,

1 has athletic scholarships.

2 Q Have you, as State Superintendent, or
3 to your knowledge, has any member of the State
4 Board of Education or any official within the
5 State Department of Education interfered in
6 any way with the integration of high school
7 athletics in Alabama?

8 A We have not, in any conceivable way.
9 The State Board of Education, I am sure --
10 and members of the State Board of Education
11 might be interested in their teams back home
12 on the basis of something local and never bring
13 up -- we never discuss athletics in the State
14 Board meeting except as it might apply to the
15 junior colleges. The only time I have ever
16 discussed it, we brought it up in an effort
17 to control -- as I said a moment ago, the
18 junior college athletic programs keep them within
19 bounds. So, as far as I know, that is the only
20 time athletics have ever been mentioned in a
21 State Board of Education meeting.

22 Q Dr. Stone, what authority does the
23 State Board of Education have or exercise over

1 the University of Alabama and Auburn University?

2 A We have absolutely no authority --
3 none whatsoever over the University of Alabama
4 or Auburn University.

5 Q I show you five -- excuse me, four
6 acts of the Legislature of Alabama, being
7 Act Number 239, Act Number 420, Act Number 424,
8 and Act Number 773, relating to Florence State
9 College, Livingston State College, Jacksonville
10 State College, and Troy State College, and
11 first ask you if you are generally familiar with
12 the provisions of these acts of the Legislature?

13 A Yes, sir. I am.

14 Q Do these acts purport --

15 A I was not for them, but I am familiar.

16 Q -- to divest any control by the State
17 Board of Education over these institutions?

18 A These acts propose to take the
19 complete control of these four institutions
20 away from the State Board of Education and place
21 them in the hands of a local Board of Trustees --
22 not have a local Board of Trustees, but have a
23 state-wide Board of Trustees.

1 Q We offer these Acts as an exhibit to the
2 deposition.

3 (Whereupon, said documents were received
4 and marked, "Defendants' Exhibits 6 through
5 9," to the deposition of Dr. Ernest Stone,
and are filed with the original of this
deposition.)

6 Q Dr. Stone, generally speaking, is it
7 your understanding that these Acts of the
8 Legislature place these institutions in the
9 same positions as those occupied by the University
10 of Alabama and Auburn University?

11 A Yes, sir, it is; and other state colleges
12 under it operate Boards of Trustees, like Alabama
13 College, for instance.

14 Q You mentioned that, in your opinion,
15 athletics have value and should be considered from
16 several standpoints, among them health and social
17 factors and also from the standpoint of the spect-
18 ator; and I believe you further stated that under
19 the right conditions, an interscholastic athletic
20 program promotes good sportsmanship and good citi-
21 zenship, is this correct?

22 A That is what I think -- very strong of
23 that opinion.

1 Q What effect if any, in your opinion,
2 has the integration of athletics in the 99
3 public school systems, and the school systems
4 generally throughout the state, had upon the
5 freedom of choice of pupils choosing to attend
6 any particular school? Is that question too
7 detailed?

8 A No, sir, I don't think so. It is my
9 opinion that athletics,-- and I am as honest about
10 this as I know how to be -- has tended to promote
11 the desegregation of schools. I would like to --
12 by way of explanation -- just say that coaches in
13 Alabama, and in America, while they are nice
14 people, they like good athletes; and they have
15 been -- I don't think there is any question about
16 it -- we might have a hard time proving it; but
17 it is generally known that many of the coaches
18 in the previously all white schools have recruited
19 Negro athletes to come into their schools under
20 the freedom of choice; and so far as I am concerned
21 personally, I am not complaining about this. I
22 think that many of our Negro athletes have done
23 a great deal for their race in their excellence

of performance on the gridiron and on the basketball court. I don't think there is any question about it. I think they have been outstanding in many respects, and I could name you some of them. I recall that last spring -- the spring of 1967 -- the most valuable player in the State tournament was a Negro boy, and he got a standing ovation from not an all white audience, but from an audience that was predominantly white. I would say that the audience was at least 85 per cent white. There might have been more than that, but he got a standing ovation, not because he was a Negro and not because he was not a Negro, but because he was a good athlete; and I think the Negro athletes that are playing now on the teams that were previously all white or predominantly white have done a great deal to bring about and to promote the desegregation of the schools; and I honestly believe that; and I think this. When you get out there on the athletic field or the court, if everybody plays by the rules, if he is a good athlete -- and the Negro students have proved themselves to be good

1 athletes -- not all of them, but many of them
2 have; and they have proved themselves to be
3 good citizens; and just about every previously
4 all white school in Alabama of any appreciable
5 size has now some Negro athletes on their
6 desegregated teams. That is not uncommon at all
7 all across the State.

8 Q Dr. Stone, isn't it true that you played
9 three or four sports in both high school and
10 college as a student?

11 A Yes, sir, and I was a good athlete
12 too. Of course, I never did "play-off" because
13 I didn't get a job coaching.

14 Q In your opinion, would several factors
15 be, of necessity, taken into consideration in
16 scheduling athletic events?

17 A Well, yes, Mr. Smith, the first thing
18 we have to do -- and maybe this is unfortunate
19 in Alabama, but I don't think -- I mean it is
20 uncommon in any other section of the State --
21 country -- first thing we have to be sure that
22 we can do to field an athletic team is to make
23 enough money at the gate to support it. Now,

1 that is the first -- if we kill that, why then,
2 we kill our competitive athletic program --
3 interscholastic program -- because now --
4 it is now stated or assumed or estimated, and
5 I think fairly so, that it costs about \$150
6 to field a boy on the football team. Well,
7 when you take that with -- I am talking about
8 just for clothes; and then, of course, you have
9 to pay twenty five or \$30.00 for his insurance --
10 athletic insurance; and then, you have the doctor
11 bills in addition to that; and you have transpor-
12 tation; and you have to feed the boys before the
13 game, and oftentimes after the game; and it
14 costs a lot of money to feed a football team.
15 Now, every team -- you see, every team doesn't
16 have a great big stadium and a lot of people
17 to draw from when they play football or basket-
18 ball; but it still costs about as much to field
19 that boy out there as it does for a large school.

20 Q Then, would it follow that scheduling
21 athletic events would be almost a specialty
22 in itself?

23 A It would have to be a specialty; there

1 are so many things involved in making a football
2 schedule or basketball schedule. In the first
3 place, what are the traditions between the two
4 teams; how many people will come to see them
5 play; what about the rivalry and the friendliness
6 of the rivalry; how about "it means so much to
7 beat or to compete with a long-time rival";
8 for instance, Jacksonville, Alabama and Piedmont,
9 Alabama are about eleven miles apart. Well,
10 Piedmont usually wins up at Piedmont, and Jackson-
11 ville wins down at Jacksonville; and I don't think
12 the referee takes it away from them. Everybody
13 else thinks that when they lose -- nearly every-
14 body -- but that rivalry is there, and people
15 go to see that. They like the rivalry; and
16 both of these teams, incidentally, had a
17 desegregated team; and I don't think that the
18 Jacksonville basketball team, this time, had
19 a Negro that was one of the first five; but they
20 had two out of the twelve that made the trip;
21 but usually, some of the Negroes got to play
22 all the time; but the Negroes -- was not because
23 they were Negroes, but because they were tenth-

1 graders. They are not quite as experienced as
2 the boys that were eleventh and twelfth-graders.

3 Q Dr. Stone, as an educator, what, in
4 your opinion, would be the effect of this court
5 ordering a predominantly white school to compete
6 in an athletic event -- say for example, a foot-
7 ball game against a school that was all Negro?

8 A Well, let me first say I think --
9 I think you would kill athletics by forcing anybody
10 to play anybody when it is a voluntary enterprise
11 to start with. I think it would be -- I think
12 it would be educationally unsound and wouldn't
13 be in the best interest of the schools to force
14 them to play anybody, regardless of the color of
15 the schools -- of the students in the schools.
16 I think it would be a mistake to force anybody
17 to play someone else, because no one has to play.
18 It is purely a voluntary thing, but to say --
19 I think this -- that we would hinder a good
20 program and considerable progress towards the
21 elimination of the dual school system, and that
22 is the ultimate motive of the court order, if
23 I read it correctly. I think we would greatly

1 hinder that if we force previously all white
2 schools to play previously all Negro schools;
3 and I base this upon a psychological factor
4 and my experience working with boys and girls
5 for 35 years. You start building up then a
6 racial pride on the part of both the white
7 students and the Negro school students; and
8 they start pitting their athletic skills against
9 each other, not as a desegregated team, but
10 as one race of people playing another race of
11 people; and that is what we are trying to get
12 rid of -- trying to avoid in the elimination
13 of the dual school system; and I am -- I am
14 not down here as an expert. I don't know whether
15 you ever get to be an expert in the field of
16 education or not, but I have been in it for 35
17 years, and I have been dealing with boys and
18 girls in administrative positions for 35 years.
19 My first experience was as the principal of a
20 junior high school, and I don't think -- I think
21 previously all white schools will start playing
22 previously all Negro schools within a reasonable
23 length of time, if they are not forced to do it.

1 If they are forced to do it, I think untold
2 numbers of high schools in Alabama will completely
3 eliminate interscholastic athletics.

4 Q Dr. Stone, is the State Junior College
5 program integrated?

6 A From the standpoint of students?

7 Q Yes, sir.

8 A Every junior college -- every previously
9 all white or predominantly white junior college
10 in Alabama, with one exception, has Negro
11 students; and they have recruited and recruited
12 and recruited, because they were afraid to
13 lose some federal money, and they couldn't find
14 Negroes to come. Only two Negroes in the
15 area served by this junior college graduated
16 from high school last year, and one of them got
17 a scholarship in athletics, and the other went
18 to Florence State College.

19 Q Are Negro pupils in the State Junior
20 College program permitted freely to participate
21 in all sponsored athletics?

22 A Yes, sir. Yes, sir, they have been told
23 unmistakably that they cannot be discriminated

1 against in any way; and we have no evidence
2 that they have been discriminated against.

3 Q Is it true that the Alabama High School
4 Athletic program is one of the finest in
5 America?

6 A I have been told that -- that it is
7 one of the finest in America from the standpoint
8 -- I am talking about from the standpoint of
9 producing great athletes; I am talking about from
10 the standpoint of doing things for children.

11 Q And it has, in fact, produced many
12 athletes who have been able to participate in
13 college programs?

14 A Yes, sir, Bart Starr is a pretty good
15 example -- pretty good example. Hank Aaron
16 is another good example. He plays baseball
17 for the Atlanta Braves. He is a Mobile Negro.

18 Q Willie Mays has no --

19 A Willie Mays is a pretty nice athlete
20 and one of the finest citizens we have in
21 this country, too.

22 Q Dr. Stone, have you ever heard of
23 either a college or a high school, predominantly

1 of one race, ordered or compelled to compete in
2 athletics against a school or college predominantly
3 of another race, including the United States
4 Naval, Military, and Air Force Academies?

5 A I have not. It is my understanding,
6 based upon the common knowledge that I have,
7 that the scheduling of athletic events is something
8 purely voluntary and something that institutions --
9 high schools, colleges, and other institutions --
10 do on their own or within the framework of
11 their own voluntary organization.

12
13 RE-EXAMINATION BY MR. QUAINANCE:

14 Q You spoke of the rivalry between
15 Jacksonville and Piedmont. Would you say that the
16 closeness of the two schools contribute to the
17 rivalry?

18 A It probably has something to do with
19 it, yes -- the boys knowing each other.

20 Q I wanted to clear up one thing. Mr.
21 Smith asked you whether you ever received any
22 complaints including from the Justice Department;
23 and you didn't respond directly to that. We did,

1 in fact, inform you prior to filing this motion,
2 is that correct?

3 A Yes, yes, we were informed by a
4 representative of the Justice Department that the
5 motion was going to be filed. We surely were,
6 yes, sir, but it was not done -- what I meant
7 to say, that we had no evidence that you did
8 it because of some incident -- of some upheaval
9 caused by any kind of racial incident in any
10 of these schools -- that is what I meant to say.
11 If I didn't say it, I meant to say it that way.

12 Q You state that the athletic programs
13 receive no financial assistance from the State,
14 but you don't mean to suggest that the State
15 doesn't contribute, for example, to the building
16 of gymnasium facilities, shower facilities,
17 and locker facilities, do you?

18 A Not for athletic purposes. They maybe
19 used partially for that, but it is for educational
20 purposes.

21 Q In the State?

22 A I might say that in recent years more
23 of that money has been spent for gymnasiums in

1 previously all Negro schools than it has been
2 in previously all white schools, so far as
3 gymnasiums are concerned.

4 Q Then you didn't mean to suggest that
5 coaches at these schools don't receive money
6 from the State in the form of teachers salaries?

7 A Not for coaches, they don't.

8 Q They do receive teachers salaries?

9 A Most teach a full schedule and coach
10 after school is out.

11 Q Referring to Exhibit 1 of your deposition,
12 I want to ask you if it doesn't state that the
13 Board recognizes --

14 A Now, let me go back. I am talking about
15 the 99 school systems. Your college coaches
16 are paid, I am sure, partially from State funds.

17 Q We were just talking about the 99.

18 A I just wanted to make that clear.

19 Q Let me ask this, so it will appear
20 directly on the face of the record, whether this
21 excerpt from your minutes says that the Board
22 recognizes there are -- that there is a need
23 for close supervision of athletics in Alabama

1 State Junior Colleges, is that correct?

2 A Yes, sir, that is correct.

3 MR. QUAINANCE: That is all we have.

4 A I might say that the junior colleges
5 are the responsibility of the State Board of
6 Education. The public schools are not under the
7 State Board of Education. They are under local
8 Boards of Education.

9
10 RE-EXAMINATION BY MR. SMITH:

11 Q Dr. Stone, I want to refer you back to
12 your statement that some representative from the
13 United States Justice Department informed you
14 about the filing of this motion relating to
15 athletics prior to the time that it was filed.
16 Now, isn't it true that they told you they were
17 filing it the day before it was filed or, what
18 are the facts?

19 A The facts as I remember them is that they
20 told us they were filing it. They did not, if
21 I recall correctly, tell us when they were going to
22 file it, and it may well be that they filed it
23 the next day.

1 Q All right. Did they state to you the
2 substance of any specific complaint or complaints
3 in regard to the filing of this motion?

4 A Not so far as athletics were concerned.
5 Insofar as I -- I can't recall -- naming any
6 complaint other than the fact that Negro schools
7 and previously all white schools were not playing
8 each other, if this is --

9 Q They didn't say it was based upon the
10 complaints of any Negro citizens in Alabama,
11 did they?

12 A No, sir, as I recall, they did not.

13 Q And they didn't recite any particular
14 fact situation that showed discrimination against
15 any Negro athlete in the public school systems
16 in Alabama?

17 MR. QUAINANCE: Excuse me, he already
18 testified that they did. He said the Negro
19 schools and white schools don't play each other.
20 This is discrimination.

21 MR. SMITH: That is your conclusion
22 of discrimination. I am asking him if they
23 stated any Negro athlete had been discriminated

1 against in the athletic programs of the school
2 he was attending?

3 A They didn't say that. I don't recall
4 them ever saying that.

5 MR. SMITH: That is all.

6
7 EXAMINATION BY MR. GRAY:

8 Q Dr. Stone, you stated that you feel it
9 would be detrimental to the good athletic programs
10 that Alabama has if predominantly white schools
11 are compelled to play predominantly Negro schools,
12 is that correct?

13 A Or anyone else.

14 Q I think you further testified that this
15 should be on a voluntary basis?

16 A Yes, sir.

17 Q In your opinion, do you think the
18 99 school systems that are under the court order
19 have made any progress toward desegregated schools
20 since the issuing of the order?

21 A Made any progress towards desegregating
22 schools?

23 Q Yes.

1 A Yes, sir. Very definitely so.

2 Q Do you think this 99 school systems
3 would have made that progress on a voluntary
4 basis?

5 A I think some of them would. I think
6 some were already at it.

7 Q Do you think you would have the degree
8 of progress in desegregation that we have now
9 but for this court order?

10 A I couldn't answer that intelligently
11 because I don't know; it would be supposition.

12 Q Well, let me -- the law defines, so
13 far as school desegregation is concerned --
14 as outlined by the Supreme Court in 1964 --
15 none of these schools were desegregated, were
16 they?

17 A Well, the Civil Rights Act was passed
18 in 1964, and yes, there was some desegregation
19 between 1954 and 1964.

20 Q In the absence of court order?

21 A Yes, sir.

22 Q In the public schools?

23 A Yes, sir.

1 Q In the public schools of Alabama?

2 A Yes, sir.

3 Q What schools?

4 A Some Alabama schools. Jacksonville
5 High School was desegregated in '55.

6 Q '55?

7 A And again in 1962, elementary schools.

8 Q Any others other than that?

9 A None that I know of. I was not in a
10 position to know about any others at that time.

11 Q You indicated that most of the money
12 in recent years that has been spent for con-
13 struction of gymnasiums has been in Negro schools?

14 A I didn't say "most of it". I said that
15 more has ~~been~~ spent in recent years for the
16 construction of gymnasium facilities -- more
17 for gymnasium facilities for previously all Negro
18 schools than has been spent for the construction
19 of gymnasiums in previously all white schools,
20 because -- this is particularly true since the
21 court order -- because we were ordered to
22 equalize facilities.

23 Q It is a fact that what had happened

1 before -- they spent the money in white schools
2 and haven't spent it in Negro schools, so now
3 you are spending more in Negro schools in
4 an effort to bring them up to par of the white
5 schools?

6 A Well, I don't know; that still would be
7 supposition.

8 Q Is it a supposition that the State of
9 Alabama and the School Board had spent less
10 money on Negro facilities than on white facilities?

11 A When you come to tax money -- when you
12 come to tax money -- to saying tax money, I am
13 not at all sure that you are correct, but when
14 it comes to total money, you are correct because
15 it has not been an uncommon thing at all for a
16 group of white citizens to just build a gymnasium
17 at the white school.

18 Q Then, is it your testimony that most
19 of the white gymnasiums throughout the State of
20 Alabama were built by individuals?

21 A No, sir, I didn't say that. I said
22 it was not uncommon.

23 Q How many senior colleges are still under

1 the control of the State Board of Education?

2 A Well, we have Alabama State College and
3 Agriculture and Mechanical College -- it is located
4 in Huntsville -- and Alabama State College here in
5 Montgomery; and then there is some question about
6 whether two of the other colleges are or are not
7 under the State Board, because the boards have not
8 been completely appointed -- a majority of the
9 boards have not been completely appointed, and it
10 is by -- I presume in the absence of a board of
11 education, they would still be under the State
12 Board of Education.

13 Q And once these acts which have been
14 introduced as Defendant Stone's Exhibits 6
15 through 9 -- once they become "in effect," what
16 state institutions -- four-year colleges -- will
17 be under the control --

18 A Alabama State College in Montgomery,
19 and Alabama A & M -- Agriculture and Mechanical --
20 at Huntsville.

21 Q Those are two Negro colleges?

22 A Yes, sir.

23 Q And two traditional Negro colleges?

1 A Yes, sir.

2 Q And they are the only ones that will
3 remain under the State Board?

4 A Yes, sir, unless some of these de-
5 segregate -- both Negro and white.

6 Q I think you indicated you were opposed
7 to withdrawing these institutions from the
8 State Board of Education?

9 A I expressed no opposition to them.
10 I thought they were getting along mighty well
11 under the State Board of Education.

12 Q Did I understand your testimony that
13 you opposed it?

14 A I said I was not for it.

15 Q You were not for it?

16 A If I remember correctly.

17 Q Why are you not for it?

18 A Well, I have always got a belief that
19 if something is getting along well, there is no
20 point in changing it; and I think they were getting
21 along well.

22 Q Do you see any basic reason as to why
23 all the predominantly white colleges should be

1 under a private trustee board, and Negro colleges
2 under the control of the State Board of Education?

3 A I see no difference in having a separate
4 Board of Trustees for a Negro State College or a
5 white State College -- I mean, predominantly
6 white, and I think there is no difference as far
7 as that is concerned.

8 O Are you frequently called upon as the
9 highest state educational officer in the State
10 to appear and to testify either for or against
11 legislation involving education?

12 A Yes, sir. Yes.

13 Q Prior to the time these bills became
14 law, did anyone discuss them with you?

15 A No one discussed --

16 Q No one?

17 A -- discussed it with me.

18 Q Did you know they were going to be
19 introduced?

20 A At the time they were introduced --
21 may have been -- I don't remember correctly --
22 may have been that I heard rumors of it. Of
23 course, when they were introduced, it became

1 public knowledge. We all knew it then -- when
2 they were introduced -- before they were passed
3 for several months -- well, I don't know that
4 it was several months -- several weeks.

5 Q Do you still receive reports from
6 these colleges?

7 A We have to receive and report certain
8 financial reports from them for this year
9 and next year because of the appropriations
10 which came on the basis of equalization -- and
11 equalization having to do with the number of
12 students enrolled. Now, Alabama State College
13 and Alabama A & M College have direct appropriations,
14 which is considerably more per student than
15 it is at either one of the four colleges that
16 are going under separate Boards; and that is
17 one of the reasons they feel like if they have
18 a separate Board they can get more money.

19 Q Is all that part of the idea of trying
20 to equalize Negro education in this country --
21 the fact that they now receive more per student
22 than some of the white students?

23 A No, I don't think so. I think it is

1 in an effort -- the two institutions were needing --
2 needed some buildings, and I think they just
3 did a little better job in public relations
4 in lobbying with the Legislature than has been
5 done in the past -- brought it about.

6 Q Have those two institutions also received
7 more appropriations?

8 A I can't answer that.

9 Q In your best judgment?

10 A In my best judgment, I think it is
11 about equal. I am not talking about the
12 University of Alabama and Auburn; you have got
13 an entirely separate thing. The institution in
14 Alabama that has the most money per student
15 is Tuskegee. It is running out there as high as
16 three thousand per student, but it is not public
17 money; it is foundation money.

18 Q I was talking about public institutions.

19 A Yes.

20 Q Now, would you believe it would be in
21 the best interest of these two predominantly
22 Negro institutions if they had separate trustee
23 boards as the white institutions?

1 A No. I don't think it would. I don't
2 think it was in the best interest of the other
3 four.

4 Q Would you oppose such a bill if
5 introduced?

6 A No, I didn't oppose the others. I
7 wouldn't oppose these, so I would treat them
8 all alike.

9 Q I believe I understand your testimony,
10 sir, to be that in your opinion you believe it
11 is better for the athletic program to continue
12 as it has been in the past?

13 A I did not say that.

14 Q With the modification that Negroes will
15 be permitted to play on --

16 A On a voluntary basis.

17 Q -- in normally white schools.

18 A Yes, sir, and if the Negroes in white
19 schools -- if your predominantly Negro schools
20 want to play a predominantly white school,
21 I see nothing whatsoever wrong with it, if
22 they can get together, but I think if you make
23 them do it, blood will flow.

1 Q You don't think a little encouragement
2 from the court wouldn't help make them do it
3 voluntarily?

4 A I think if they were made to play
5 by the court, many would quit playing, and
6 those that did play would bring on a lot of --
7 you know something about people, and I am not
8 talking about races. I am talking about people;
9 I think it would bring on some very unusual
10 situations in Alabama; and I think you would be
11 surprised at the number of schools that will
12 completely stop playing athletics. Now, I think
13 if they were not forced to do it that they would.
14 More of them would play, and I think we are going
15 to have some of this next fall --

16 Q Tell me, Dr. Stone --

17 A -- on a voluntary basis, if it goes
18 that way.

19 Q Tell me, in your opinion, how can we
20 do away with the dual athletics, as we have in --

21 MR. SMITH: Object to the form of the
22 question.

23 A Evidence is quite clear that athletics

1 in Alabama is quite integrated.

2 MR. GRAY: Go ahead and answer my
3 question.

4 A What is the question?

5 (Whereupon, the question was read by
6 the Reporter.)

7 MR. MELTON: We object on the ground
8 there is no evidence that there is a dual
9 athletic system in Alabama.

10 MR. GRAY: We note his objection. Go
11 ahead and answer.

12 A I think if it is eliminated, I think
13 you will eliminate the athletic system as
14 it is now eliminated, in my opinion, because
15 everybody who's eligible can join an athletic
16 organization -- and when I say, "who is eligible",
17 I said if they were an accredited senior high
18 school and have the desire to play whatever
19 athletics they want to play -- I think when schools
20 play each other on a voluntary basis as they are
21 now doing and play each other with athletes in
22 the schools regardless of race, then it will have
23 been eliminated.

1 Q Do you know any predominantly white
2 school who has played -- I am talking about
3 high school and predominantly Negro schools?

4 A Yes, sir.

5 Q Where?

6 A Jacksonville, Alabama -- baseball --
7 not in football; because, as I mentioned before,
8 the Negro school didn't have a baseball -- I
9 mean a football team back yonder. When both
10 schools played baseball, they played every
11 spring of the year, sometimes five or six times,
12 because the baseball field was on the Negro
13 school campus.

14 Q Other than Jacksonville, you couldn't
15 say that is the rule in the State, or is that
16 more or less an exception?

17 A I don't know. It is more or less the
18 exception. I think Negro boys and girls have
19 been playing each other in basketball, baseball,
20 and softball -- things of that nature -- for
21 a long time. I don't think they have been playing
22 football.

23 Q In the high school system?

1 A Not necessarily as scheduled games in
2 the high schools, but most of your games go on
3 in the summer and become part of the recreational
4 program.

5 Q And this has been going on in the State
6 of Alabama for some years, in your opinion?

7 A I recall seeing the Negro team in
8 Jacksonville play the all white high school on a
9 Sunday afternoon twenty years ago; and they had
10 trouble getting a referee; and the Negroes wouldn't
11 take a referee the white people wanted -- Coach
12 "Steve", an all-American player they got there.

13 Q That was twenty years ago -- you wouldn't --
14 you wouldn't say that was common in the state at
15 that time?

16 A I would say Negro boys and white boys
17 have been playing baseball together for a hundred
18 years in Alabama.

19 Q In teams in Montgomery?

20 A I don't know about Montgomery. I don't
21 know that Montgomery would be different from
22 anybody else. You know there has been some
23 might good relations between Negro youngsters

1 and white youngsters -- that in communities in
2 Alabama they are eating out of each other's
3 refrigerators -- is much better than a whole
4 lot of people want to make out like they are.

5 Q My question --

6 A If you could get rid of a few people
7 who agitate, we would have more love and human
8 relations by far than we have like it is.

9 Q My question is not a group of kids
10 who might be playing out here on the field,
11 but I am talking about in the organized athletic
12 programs -- team between team -- that is what I
13 mean.

14 A I think the time will come when they
15 will be playing each other, if we don't make them;
16 otherwise, they will quit playing.

17 Q In your best judgment, how long do
18 you think it will take -- couple of years?

19 A I wouldn't want to pin it down to any
20 specific number. I wouldn't care --

21 Q Do you think it will be as long as
22 since the game in Jacksonville 20 years ago?

23 A I saw a very similar game last summer

1 in Jacksonville. You might be interested to
2 know that there were two Civil War generals
3 born in Jacksonville, and it is the burial place
4 of General Pelham, and we have got some southern
5 traditions and background, but we also have
6 got some people that love their fellow man.

7 Q I also heard Jacksonville was a very nice
8 place.

9 A Some of them may be better, I don't
10 know.

11 Q I think you testified earlier that you
12 had sent communications out to the schools who,
13 at that time, including senior colleges, were
14 under the supervision of the State Board?

15 A That's right.

16 Q Calling for their attention to the fact
17 that they were covered by this order, is that
18 right?

19 A Yes, sir. And not only is that right,
20 but it was very vividly called to their attention -
21 specifically and urgently called to their
22 attention, if you please.

23 Q And, have you received from those

1 institutions periodic reports as to what progress
2 they have been making?

3 A Well, all of the reports we have been
4 asked to turn into the court. We have received
5 reports from the school systems and processed
6 them -- brought them to this court and filed
7 them in the regular order in which we were --
8 the Clerk of the Court -- in full compliance
9 with the regulations of the court.

10 Q Did that include any reports coming
11 from the senior colleges under the State Board
12 of Education?

13 A Yes, sir.

14 Q Now, since these four schools -- these
15 acts have been passed applying to them, have
16 you received any reports from these four institu-
17 tions?

18 A Yes.

19 Q You have?

20 A Yes, sir.

21 MR. GRAY: I have no further questions.

22 A Let me tell you this. We assumed that
23 before this Board of Trustees was appointed,

1 that they were still under us. Now, if we are
2 wrong, we are wrong. We can't help it. They
3 had to be under some Board of control, so we
4 felt they were under the State Board of Education,
5 and so we wrote in compliance with the order,
6 and we filed it properly with the court.

7 MR. SMITH: Gentlemen, do you have any
8 more questions?

9 MR. MELTON: Thank you, Doctor.

10 MR. QUAINANCE: Thank you very much,
11 Dr. Stone.

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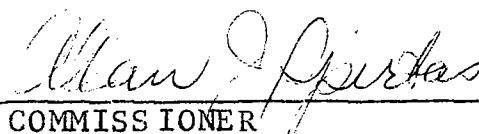
C E R T I F I C A T E

STATE OF ALABAMA)

JEFFERSON COUNTY)

I hereby certify that the above and foregoing deposition was taken down by me in stenotypy, and the questions and answers thereto were reduced to typewriting under my supervision, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in any wise interested in the result of said cause.


COMMISSIONER

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U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.
MONTGOMERY, ALA.

WAIVER

I hereby waive the reading, examination, and signing of the deposition I gave in the case of Lee v. Macon County Board of Education on March 5, 1968, in Montgomery, Alabama. I am signing this waiver voluntarily and with knowledge that I have the right to read and examine the deposition and make corrections before signing it.

Ernest Stone

March , 1968