

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

UNITED STATES OF AMERICA, by
NICHOLAS deB. KATZENBACH,
Attorney General,

Plaintiff,

v.

PERRY COUNTY BOARD OF EDUCATION:
E. J. BLACKBURN, P. M. SUTTLE,
MILTON G. WALKER, P. D. BELCHER,
C. L. MILLING, Members of the
Perry County Board of Education;
and L. G. WALKER, Superintendent
of Education for Perry County,

Defendants.

CIVIL ACTION NO. 4222-66

PLAINTIFF'S
TRIAL BRIEF

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CIVIL ACTION NO. 4222-66

PLAINTIFF'S TRIAL BRIEF

I

NATURE OF THE ACTION

The United States commenced this action, pursuant to Section 407(a) of the Civil Rights Act of 1964,^{1/} on August 16, 1966. The complaint alleged that the defendants, prior to June 1965, operated segregated schools and that the defendants have since June 1965, continued one system of schools exclusively for Negroes and one system of schools for white students and a limited number of Negro students. The complaint further alleged that the educational facilities and opportunities that the defendants

^{1/} 42 U.S.C. §2000c-6.

provide to Negro students are inferior to those provided to white students. In its prayer for relief, the plaintiff sought an order enjoining the defendants from operating a dual school system based on race and from providing inferior educational opportunities to Negro students.

On September 8, 1966, the plaintiff filed a motion for preliminary injunction, seeking an order requiring the defendants to enroll in previously all-white schools all Negro students who had expressed their choice to attend such schools in accordance with the provisions of the defendants' purported plan of desegregation.^{2/}

This Court heard evidence on plaintiff's motion on September 15, 1966, and ordered the defendants to review the choice forms of the Negro students who selected white schools, if the students through their parents notified the defendants that they still desired to attend the white schools they had previously selected. On September 30, 1966, the plaintiff filed an application for an order to show cause why the defendants should not enroll all Negro students who submitted letters of reconsideration.

The Court heard the case on the merits on December 20, 1966. The plaintiff called seven witnesses and

^{2/} On September 8, 1966, the defendants responded to the complaint and attached their plan of desegregation thereto.

introduced 22 exhibits; the defendants called two witnesses.^{3/} At the hearing's conclusion, the Court granted each party ten days to file a memorandum brief.

II

THE PARTIES

The Attorney General, Nicholas deB. Katzenbach, filed the complaint on behalf of the United States of America.

The defendants are the Perry County Board of Education, its members, and the Superintendent of Education for Perry County.

Under Alabama law (Title 52, Alabama Code) the general administration and supervision of the public schools of Perry County are vested in the defendant Perry County Board of Education (§62). The Perry County Board of Education has a duty to maintain a uniform and effective system of public schools throughout the county (§72); to determine the educational policy of the county and to prescribe rules and regulations for the conduct and management of the schools (§73); to exercise control and supervision over the public school system of the county (§74); to consolidate schools and to arrange for the transportation of pupils to and from consolidated schools (§76); to appoint all principals, teachers, clerical and professional assistants (§86); to prescribe the courses of

^{3/} The plaintiff introduced eight exhibits at the September 15 hearing. Hereinafter, we will refer to the exhibits introduced and the testimony given, at the September 15, hearing as (I) and the exhibits and testimony from the December hearing as (II). Page references to testimony at the December hearing are omitted, the transcript of the hearing not being available at this time.

study for the schools under its jurisdiction (§87); and to arrange the county into one or more appropriate convenient compulsory attendance districts, to keep full and complete records of the boundaries thereof, and to enforce the compulsory attendance law (§95).

The county board of education has the power to acquire, hold and convey the title to real and personal property for school purposes and to sue and to enter into contracts (§99).

Defendant L. G. Walker is the superintendent of education for Perry County. Under Alabama law, he is the chief executive officer of the board of education (§102). Superintendent Walker has a duty to see that the laws relating to schools and the rules and regulations of the state and county boards of education are carried into effect (§112); to recommend the kind, grade and location of schools to be established and maintained and the compulsory school attendance districts to be established (§113); to recommend educational policies to promote the educational interests of the county and to recommend rules and regulations for the conduct of the schools (§114); to recommend a building program adequate to the present and future needs of the schools in the county and to recommend a plan for the laying out of such local attendance districts as will best serve the interest of the entire county (§116); and to enforce the school attendance laws (§129).

III

INTRODUCTION

The defendants admit that prior to June 1965, they operated a dual system of schools for Perry County which was strictly segregated on the basis of race.^{4/} All student and faculty assignments were made according to race. In June, 1965, the Perry County Board of Education adopted a desegregation plan for the secondary grades^{5/} which was amended in March 1966,^{6/} to include the first grade for the 1966-1967 school year and all other elementary grades for the 1967-1968 school year.

For the 1965-1966 school year, 121 Negro students chose to attend formerly all-white schools and of these 102 were denied their choice.^{7/} Of the 19 accepted Negro students 10 actually enrolled and 7 completed the academic year in those schools.^{8/}

For the 1966-1967 school year, 161 Negro students chose to attend formerly all-white schools.^{9/} Of these, 30 were accepted during the first week of school and 24 actually enrolled. Approximately 85-90^{10/} Negro students

^{4/} Paragraph 1 of Defendants' Answer. Testimony of Superintendent Walker, Tr. (I) p. 55, Tr. (II)

^{5/} Pl. Ex. 5 (II) at p. 32.

^{6/} Id., at p. 42.

^{7/} Id., at page 36.

^{8/} Testimony of Mr. Walker, Tr. (I) p. 55, Tr. (II) p.

^{9/} Pl. Ex. 3A, 3B, 3C (I). Mr. Walker testified 154 choice forms; 88 at Suttle High, 57 at Uniontown and 7 at Heiberger.

^{10/} Testimony of Negro students at first hearing, Tr. (I) pp. 38-40, 41 and testimony of three principals on December 20, Tr. (II) p. indicates that 65-70 Negro students presented themselves for enrollment August 31 of the 161 Negro students who exercised choice forms for the white schools.

who filled out choice forms but did not present themselves for enrollment at the white schools on the first day of school were not considered for acceptance. All students in grades 2-6 were summarily rejected even after presenting themselves for enrollment.^{11/} Additionally, those students who did present themselves for enrollment were required to validate their academic status and only those that submitted records were accepted.^{12/}

After the Court's order of September 15, 1966, the defendants received 56 applications from Negro students for reconsideration of their choice forms and rejected 42 of them. At the time of the hearing on the merits only 30^{13/} of 2974 Negro students in the Perry County system were attending school with white students.

The defendants have taken no further steps to desegregate the Perry County schools or to remove the racial identity of these schools. In fact, one school, Uniontown Negro Elementary, retains a racial title. All faculty and staff assignments have been made according to race and there are no plans for non-racial assignments for next year.^{14/} The dual bus transportation system is still

^{11/} Testimony of Mr. Walker, Tr. (I) p. 57.

^{12/} Testimony of W. A. Evans, Tr. (II) p. ; testimony of Mr. Walker, Tr. (I) p. 74.

^{13/} Testimony of the principals, Mr. Evans, Mr. Yawn and Mr. Levin, Tr. (II), p.

^{14/} Testimony of Mr. Walker, Tr. (II) p.

in existence.^{15/} All inter-scholastic programs are still
racially segregated.^{16/}

At the conclusion of the December hearing, defendants' counsel requested a court order for his clients, an apparent admission of the defendants' obligations.

The fundamental objection to the defendants' purported desegregation plan is the lack of specificity in its fundamental provisions. We will address ourselves to five of those areas and the evidence to support the proposed relief for each.

1. In the assignment of students, the defendants' failed to follow the basic requirement of a freedom of choice plan of desegregation. The evidence shows that the grounds for the rejection of Negro students to attend white schools were unreasonable. We propose that all Negro students who chose to attend the white schools and whose application for reconsideration were denied be offered the opportunity to enroll in the school they selected in January 1967, if they still desire to do so.

2. Our proposed decree contains the basic legal and practical requirements for an effective freedom of choice plan which includes specific provisions for elimination of the present dual bus transportation system and implementation of a unitary transportation system for the entire county without regard to the race of the students being transported.

3. The defendants present plan contains no specific provision for desegregation of teachers and staff. Since

^{15/} Id., Tr. (II) p. , Pl. Ex. 7A, 7B (II).

^{16/} Testimony of Mr. Walker, Tr. (II) p.

the defendants have taken no steps to fulfill their legal responsibility, our proposed relief recommends practical considerations to be used in meeting this responsibility. The defendants' past activities as reflected in the record suggest such relief is imperative.

4. The record shows that the Perry County Board of Education contemplates an extensive school construction program on the basis of a school survey that was prepared on the assumption of a continued dual system of schools. We propose that the defendants' present plans be held in abeyance pending the recommendations of a new, non-racial survey. Such a survey should use the educational standards of past surveys as applied to the unitary system of schools in Perry County.

5. The segregated school system in Perry County has deprived Negro students of educational facilities and opportunities that have been provided for white students. Our proposed relief contains a requirement that the defendants initiate programs to compensate for the effects of such discrimination.

IV

THE DEFENDANTS' DESEGREGATION PLAN FAILS TO MEET THE CONSTITUTIONAL REQUIREMENT FOR THE NON-RACIAL ASSIGNMENT OF STUDENTS IN THE PERRY COUNTY SCHOOL SYSTEM

A. Minimum requirements of freedom-of-choice plans for the non-racial assignment of students

The student assignment provisions of the defendants' plan as written and as implemented do not establish a non-racial basis for making assignments in desegregated grades. To fulfill its required function, a desegregation plan must adopt a method of reassigning all students in desegregated

grades without regard to race. Thus, the Court of Appeals for the Fifth Circuit has said on numerous occasions that:

A necessary part of any plan is a provision that the dual or bi-racial school attendance system, i.e., separate school attendance areas, districts or zones for the races, shall be abolished contemporaneously with the application of the plan to the respective grades when and as reached by it. 17/

Any plan superimposed on a system of initial racial assignments is inherently discriminatory, and for that reason judicially unacceptable. 18/ It is discriminatory because it subjects Negro students desiring admission to formerly all-white schools to procedures and criteria not imposed on white students already enrolled in such schools.

To meet these requirements, any plan which purports to base the assignment of students upon the choice of the student or his parents must provide that all students in desegregated grades exercise a choice of schools. It must also provide that all students will be assigned according to their choice unless the number of students in a particular grade, who chose the same school, exceeds the capacity of the school for that grade, in which case,

17/ See Singleton v. Jackson Municipal Separate School District, 355 F.2d 865, 870 (5th Cir. 1966); Lockett v. Board of Education, 342 F.2d 225, 228 (5th Cir. 1964); Stell v. Savannah-Chatham County Board of Education, 333 F.2d 55, 65 (5th Cir.), cert. denied 379 U.S. 933 (1964).

18/ Bush v. Orleans Parish School Board, 308 F.2d 491 (5th Cir. 1962); Green v. School Board of City of Roanoke, 304 F.2d 118, 123 (4th Cir. 1962); Northcross v. Board of Education of City of Memphis, 302 F.2d 818 (6th Cir.), cert. denied 370 U.S. 944 (1962); Norwood v. Tucker, 287 F.2d 798 (8th Cir. 1961).

priority among all choosing students must be given on some non-racial basis such as proximity. In Stell v. Savannah-Chatham County Board of Education, 333 F.2d 55, 65, the Fifth Circuit Court of Appeals stated:

This freedom of choice, with schools no longer being designated as white or Negro, in the grades to which the plan of desegregation has reached means that each child in the system may attend the school he chooses to attend, without regard to race so long as space is available in the school, and where it is not available to all it is to be awarded on the basis of proximity of the residence of the pupil to the school.

Thus, the only reason for which a choice may be denied is overcrowding. If overcrowding exists, a non-racial basis must be found both for (a) determining those students whose choices are to be denied and (b) assigning those students whose choices are in fact denied.

Prior attendance at a school cannot constitutionally be used as a criteria for determining priority among students who choose it, because such attendance was based upon racial assignments. The requirement that all assignments in desegregated grades be made on a non-racial basis extends to students who fail to exercise a choice. Thus, the Court of Appeals for the Eighth Circuit in Kemp v. Beasley, 352 F.2d 352 F.2d 14,22 (5th Cir. 1965) said:

It is the opinion of the Court that the failure of the plan to provide some non-racial basis for assignment if the "freedom of choice" is not exercised is fatal to the plan. The continuance of the dual attendance areas where whites are required to attend all white schools and Negroes are required to attend all Negro schools should they fail to elect otherwise is unconstitutional and must be remedied.

B. The Perry County Desegregation Plan Does Not Meet These Constitutional Requirements

As implemented by the defendants, the Perry County desegregation plan superimposes a transfer plan upon a

pre-existing dual school system. The original plan adopted in June 1965^{19/} required that

Those pupils desiring to transfer from the schools they previously attended must file application for transfer. All pupils shall attend the school they previously attended or have made application to attend, unless advised to the contrary. 20/ (Emphasis added)

As amended, the purported freedom of choice plan provides for a mandatory choice of schools for students in the desegregated grades during the spring choice period, and those students who do not exercise a choice at that time must file a choice on the first day of school.^{21/} Overcrowding is the only stated reason for rejection of a choice of schools and in that event no student is to be given preference for prior attendance at any school. Anyone whose choice is denied because of overcrowding would be offered a second choice.

The defendants have not followed this plan. These provisions have been interpreted by the defendants to mean that Negro students will continue to be assigned according to their race unless they take the initiative and apply for transfer. Even for those Negro students who did take

19/ Pl. Ex. 5 (II) pp. 32-33.

20/ Ibid.

21/ Defendants' Answer, filed September 8, 1966, paragraphs Ib and III.

22/ Id., at paragraph VI.

the initiative, "freedom" of choice has been a delusion. They were told they were to make a free choice, but their choice was only a gamble, subject to the whim of the defendants. It should be emphasized that the element of this type of desegregation plans which makes it a constitutionally permissible alternative to a plan that guarantees a specific amount of student desegregation, such as a strict geographic zoning plan, is that the choice be truly free. The defendants put the following barriers in the way of freedom of choice for the 1966-67 school year:

1. They did not notify the students and parents which grades would be desegregated for the 1966-67 school year and took no action on the choice forms received prior to the first day of school and rejected all students who exercised choice forms for grades not actually covered by the plan. 23/
2. They required that Negro students validate their academic standing as a precondition to enrollment -- a requirement not made of white students. 25/
3. They arbitrarily rejected Negro students without giving any reasonable explanation. 25/

23/ Testimony of Mr. Walker, Tr. (I) p. 57, Tr. (II) p.

24/ Id., at Tr. (I) p. 74.

25/ Testimony of Luverne Dixie, Tr. (I) pp. 25-26.
Testimony of Carolyn Fay Meltan, Tr. (L) p. 7.

Superintendent Walker testified that the Board of Education took no action on the choice form but left the acceptance or rejection of pupils to the principal at each school.^{26/} Mr. Walker also stated that any pupil could attend any school in Perry County, but only "provided the principal can fit them into his program."^{27/}

In accordance with the Court's order of September 15, 1966, the defendants received 56 applications from the parents of Negro students for reconsideration of their choices to attend a white school and rejected 42 of them.^{28/} We submit that none of the reasons stated are valid under the defendants' purported plan for desegregation, including the "grade full" category. The evidence shows that theory to be unreasonable as well. The following chart illustrates the grade and number of students rejected at Suttle High because the grade was full.^{29/}

<u>Grade</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
Number	2	6	2	8	11	1

^{26/} Testimony of Mr. Walker, Tr. (II), p.

^{27/} Testimony of Mr. Walker, Tr. (I), p. 64.

^{28/} See Table for a summary of the reasons for rejection.

^{29/} We examined the defendants' letters to parents, (Report to the Court) the applications for reconsideration, (Pl. Ex. 6 (II)) and when necessary the choice forms (Pl. Ex. 3A, B, C (I)) to determine the grade of the rejected student.

The October attendance report shows the following number of students enrolled in those grades.

<u>Grade</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
<u>Number</u>	28	31	24	20	22	20

The reason for the larger number of students in the eighth grade is that the white eighth grade students who attended Heiberger Junior High last year transferred to Suttle ^{30/} and were accepted for enrollment before any Negro student was even considered in that grade. ^{31/} Yet, four Negro students who were rejected because the eighth grade was full at Suttle are attending classes at Marion Baptist Academy with 72 other Negro students in the same room. ^{32/}

The superintendent testified that the Board asked the principal "how many they could afford to take, if they could take more in a grade . . . "it was the principal's opinion and we just took a pick at random." ^{33/} Mr. Evans, the Suttle principal, further stated that overcrowding was not the only reason for rejection; geographical location was also considered to get a "fair representation." ^{34/} In addition, the pupil-teacher and pupil-classroom ratios support the position that the Suttle school is not overcrowded. ^{35/} The principal testified that more desks could be placed in each room, and Mrs. Evans, the eighth grade

^{30/} Pl. Ex. 5 (II) p. 52.

^{31/} Testimony of Mr. Walker, Tr. (I) p. 73, Tr. (II) p. ;
 Testimony of Mr. Evans, Tr. (II) p. . In fact, a bus route was re-established this year "to carry those students down" and others from the Heiberger area to Suttle.
 Testimony of Mr. Walker, Tr. (II) p. .

^{32/} Compiled from Pl. Exs. 6 (II) and 22 (II).

^{33/} Testimony of Mr. Walker, Tr. (II) p.

^{34/} Testimony of Mr. Evans, Tr. (II) p.

^{35/} See Attachment A, Tables 2 and 3, pp. A 2-5, infra.

English teacher, testified to the same effect.^{36/}

The defendants also rejected Negro students on the basis of alleged inadequate transportation to Uniontown High School. However, the testimony of Miss Gladys Avery shows that school buses transport Negro students right past the white Uniontown High School and on to the Negro Hatch High School, a quarter of a mile away.^{37/}

C. The Defendants' Failure to Make Non-racial Assignments According to its Plan for Desegregation Justifies Immediate Relief

The evidence has shown that the defendants subjected Negro students who sought to enroll in formerly all-white schools to procedures not imposed on white students already enrolled.

All white students were enrolled at the school of their choice whether or not they exercised a choice for that school and at least 16^{38/} white students were transferred from Heiberger to Suttle without exercising a choice form for that school and were given preference over Negro students who chose that school. For the Negro students rejected for overcrowding, the defendants did not apply uniform non-racial standards to determine which choices would be denied and gave priority to those white students already enrolled.

^{36/} Testimony of Mr. Evans, Tr. (II) p. ; Mrs. Evans Tr. (II) p.

^{37/} Testimony of Gladys Avery, Tr. (II) p.

^{38/} See Pl. Ex. 3C (I). We counted the number of white students who chose Heiberger school and who would be entering the eighth or ninth grade. Mr. Evans testified there were about 20 transfers from Heiberger, Tr. (II) p.

These facts in addition to the defendants' failure to accept their responsibility to take affirmative steps to desegregate the Perry County School System, compels this Court to grant immediate relief. We propose that all Negro students who requested that their choice forms be reconsidered be permitted to enroll in the school of their choice if they still desire to do so no later than the first full week of the second semester of the 1966-1967 school year.

V

AN EFFECTIVE FREEDOM OF CHOICE PLAN MUST INCLUDE
PROVISIONS FOR ELIMINATION OF A DUAL BUS
TRANSPORTATION SYSTEM

The proposed decree submitted in Part IV, infra, contain the basic legal and practical requirements for an effective freedom of choice plan. The substantive requirements of the proposed decree derive from the Fourteenth Amendment and the decisions of the Courts. The administrative details derive largely from the 1966 HEW guidelines^{39/} which were approved by the Fifth Circuit Court of Appeals December 29, 1966 in United States v. Jefferson County Board of Education.^{40/} In most respects, it is identical to the Proposed Decree that was generally approved by the Fifth Circuit in the Jefferson County case. The proposed decree makes specific provisions for the elimination of the dual bus transportation system in Perry County. Such relief is necessary based upon the evidence in this case.

39/ "Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964," U.S. Department of Health, Education and Welfare, March, 1966.

40/ Case No. 23345, (5th Cir. 1966). These are the Fifth Circuit consolidated school cases.

With few exceptions, the school bus routes currently in use were established prior to June, 1965^{41/} to serve a dual school system based on race. Plaintiff's Exhibit 7 (II) depicts the existing routes for white and Negro buses which often are parallel or overlap each other.

The evidence shows that the defendants made no major changes in the bus routes to accommodate the Negro students who elected to attend white schools.^{42/} A Negro student who was accepted at the white Suttle school testified that she rides a Negro bus to Suttle even though a white bus passes within one-fourth of a mile from her home.^{43/} In fact, the defendants have used the alleged unavailability of bus transportation as a basis for denying the choice of three Negro students to attend the white Uniontown High School.^{44/} Yet, transportation is provided for Negro students in the eleventh and twelfth grades who live in Eastern Perry County and travel across the county to Hatch school in Uniontown, a distance of 66-100 miles round trip.^{45/} One of the rejected Negro students at Uniontown testified that the Negro bus she rides stops at

^{41/} Testimony of Mr. Walker, Tr. (II) p.

^{42/} Testimony of Miss Willie Moore, Tr. (I), pp. 45-46. Mr. Walker testified there are some Negro students who ride white buses, Tr. (II) p.

^{43/} Testimony of Willie Moore, Tr. (II) p.

^{44/} See Table 9, p. A-16.

^{45/} Testimony of Miss Carolyn Faye Melton, Tr. (II) p.

Uniontown High to discharge a Negro student whose choice to attend that school was accepted.^{46/}

The actions of the defendants in failing to rectify the dual bus system impede the progress of desegregation in Perry County. Without knowledge that bus service is available or will be provided, Negro students are discouraged from choosing a white school. The District Court in Franklin v. Barbour County Board of Education,^{47/} recognized that the effectiveness of a freedom of choice plan is seriously impaired if a dual bus transportation system is continued.

Our proposed relief is not new to rural Alabama. The District Court in Harris v. Crenshaw County Board of Education^{48/} stated:

In order for the freedom of choice plan . . . to operate effectively and as intended it will be necessary for the Crenshaw County Board of Education to make a study and revision of its county-wide school bus transportation system in order to eliminate the system as it presently exists. . .

Thus, there is ample evidence in the record and support in the case law to require the defendants to eliminate all vestiges of a dual bus transportation system.

^{46/} Testimony of Miss Gladys Avery, Tr. (II) p.

^{47/} Civil Action No. 2458-N (M.D., Ala.), decided September 22, 1966. See also Wright v. County School Board of Greenville County, Virginia, 252 F. Supp. 378, 383 (E.D., Va., 1966).

^{48/} Civil Action No. 2455-N (M.D., Ala.), decided September 23, 1966. See also Wright v. County School Board of Greenville County, Virginia, 252 F. Supp. 378, 383 (E.D., Va., 1966).

VI

THE DEFENDANTS HAVE A CONSTITUTIONAL DUTY TO
DESEGREGATE THE FACULTY AND STAFF IN THE PERRY
COUNTY SCHOOL SYSTEM

A. The Defendants Have No Plan for the Non-racial
Assignment of Faculty and Staff.

It is clear from the recent decisions that there can no longer be any delay in the desegregation of faculty and staff personnel. Significant steps must be taken to eliminate segregated faculties by the 1967-68 school year.^{49/} The record shows that the defendants have made no effort to comply with this obligation and have no constructive plans for the future.

The evidence shows and the defendants admit that teaching positions are entirely segregated by race in Perry County.^{50/} The purported plan of desegregation contains general language to the effect that their staff will be desegregated but contains no specific, affirmative measures. Mr. Walker testified that he recruits teachers for positions at Negro schools from predominantly Negro colleges in Alabama and for positions at white schools from predominantly white colleges in Alabama.^{51/} While filling vacancies at the Negro schools for 1966-67, the defendants did not contact any white persons about teaching in all-Negro schools and no Negroes were contacted regarding teaching in white schools for the 1966-67 school year.^{52/} When the defendants decided

^{49/} Singleton, supra, 355 F.2d at 870; Davis, supra, 364 F.2d at 904.

^{50/} Pl. Exs. 7 (I), and 15 (II). Testimony of Mr. Walker, Tr. (II) p. .

^{51/} Testimony of Mr. Walker, Tr. (II), p. .

^{52/} Id. at p. .

to abandon the Crossroads school (Negro) they did not attempt to reassign the displaced teacher non-racially, but automatically assigned her to another Negro school.^{53/}

There is a need for more teachers at the Negro schools. The current pupil-teacher ratios at the Negro schools are substantially higher than those at the white schools,^{54/} but the defendants have refused to hire additional teachers, even though the schools have earned and are allocated more teacher units under the state financial assistance program than are currently employed.^{55/} Thus, the defendants are presented with an excellent opportunity to accomplish desegregation of the faculties at these schools.

B. The Record shows that affirmative relief is necessary for the desegregation of teachers and staff.

As late as 1962, a desegregation plan that deferred consideration of faculty segregation was acceptable.^{56/}

^{53/} Id. at p. __, Pl. Ex. 5(II) p.57.

^{54/} See Attachment A, Table 2.

^{55/} Pl. Ex. 6(II). The teacher directory(Pl. Ex. 7(I)) shows 123 teachers are employed while the exhibit shows that Perry County has earned from last year's attendance and will be paid by the state for 133 teacher units. Thus, the defendants could employ at least 10 more teachers without incurring additional local expense.

^{56/} See Augustus v. Board of Public Education of Escambia County, Florida, 306 F.2d 862 (5th Cir. 1962).

Today, faculty desegregation must be provided for.^{57/}

In a suit involving the desegregation of the Jackson, Mississippi School System, the Fifth Circuit Court of Appeals stated:

In view of the necessity that the Jackson school system be totally desegregated by September 1967, we regard it as essential that the plan provide an adequate start toward elimination of race as a basis for the employment and allocation of teachers, administrators, and other personnel.^{58/}

Where a school board is operating under a plan using a freedom of choice method of desegregating, the desegregation of faculty and staff is particularly important. As the District Court said in Kier v.

County School Board of Augusta County, 249 F. Supp.

239 (W. D., Va., 1966) at 246:

Freedom of choice . . . does not mean a choice between a clearly delineated "Negro school" (having an all-Negro faculty and staff) and a "white school" (with all-white faculty and staff). School authorities who have heretofore operated dual school systems for Negroes and whites must assume the duty of eliminating the effects of dualism before a freedom of choice plan can be superimposed.

^{57/} See Davis v. Board of School Commissioners of Mobile County, 364 F. 2d 896 (5th Cir. 1966). See also Bradley v. School Board of City of Richmond, 382 U. S. 103 (1965) and Wheeler v. Durham City Board of Education, 363 F. 2d 738 (4th Cir. 1966). In Wheeler, the Court interpreted the Supreme Court's decision in Bradley as " . . . authority for the proposition that removal of race considerations from faculty selection and allocation is, as a matter of law, an inseparable and indispensable command within the abolition of pupil segregation in public schools as pronounced in Brown v. Board of Education [citation omitted]," 346 F. 2d at 740.

^{58/} Singleton v. Jackson Municipal Separate School District, 355 F. 2d 865, 870 (5th Cir. 1966). The Court of Appeals re-affirmed its position in the Davis decision, 364 F. 2d at 901.

upon the pre-existing situation and approved as a final plan of desegregation. It is not enough to open the previously all-white schools to Negro students who desire to go there while all-Negro schools continue to be maintained as such. Inevitably, Negro children will be encouraged to remain in "their school" built for Negroes--and maintained for Negroes with all-Negro teachers and administrative personnel. See Bradley v. School Board, 345 F. 2d at 324 (dissenting opinion). This encouragement may be subtle but it is nonetheless discriminating. The duty rests with the school board to overcome the discrimination of the past, and the long-established image of the "Negro school" can be overcome under freedom of choice only by the presence of an integrated faculty.

A detailed plan for faculty desegregation is included in our proposed decree because the records indicate that the defendants are unwilling to take the steps necessary to eliminate the segregated faculties until forced to do so by specific court order. The desegregation of the faculty must start by the fall of 1967. Thus, the defendants must start working as soon as possible to efficiently accomplish this transformation. The specific recommendations are derived from the October 4, 1966 Order of the District Court in Wheeler v. Durham City Board of Education, Civil Action No. C-54-D-60, M. D., N. C., which order was issued after the Circuit Court remanded the case to the District Court, 363 F. 2d 738 (4th Cir. 1966), requiring the inclusion of provisions for faculty desegregation.

VII

THE DEFENDANTS' PRESENT PLANS FOR CONSTRUCTION OF SCHOOL FACILITIES ENCOURAGES PERPETUATION OF A DUAL SCHOOL SYSTEM

- A. The Defendants Present Construction Plans are Based on a State Survey which Presupposes the Continuation of a Dual School System

Superintendent Walker testified that the Perry County Board of Education plans to construct a new high school west of the city of Marion to serve the western part of the county and also plans to enlarge the facilities at the East Perry Junior High School (Negro) in order to accommodate all twelve grades at that center (instead of the present 10 grades) for pupils in the eastern part of the county.^{59/}

Mr. Walker further testified that these plans were based upon a school survey conducted by the State Board of Education in the 1965-1966 school year.^{60/}

The underlying assumption of the state survey is the continuation of a dual system of schools. The tables and charts in the survey which are used to illustrate census statistics, enrollment, average daily attendance and holding power of the Perry County school system are categorized by race.^{61/} In the discussion of attendance areas and their recommendations for the same, the survey team states that they used these charts in their analysis of school centers. They also used four spot maps - maps that mark the location of all school age pupils - that were prepared by race.^{62/}

^{59/} Testimony of Superintendent Walker, Tr. (II) p.

^{60/} Pl. Ex. 9(II) "Report of a Partial Survey of the Perry County School System," School Year 1965-1966.

^{61/} Id., at pp. 1-8.

^{62/} Id., at pp. 27-30. Separate maps were prepared for white and Negro students to show both the elementary and high school students. Although each map purports to include both races, the race to be identified is marked by dark dots. Thus, the pupil density for a given area can be differentiated by race.

B. Recommendations for School Centers are Based on Race

The definition of an attendance area as used by the survey staff is the "entire area from which senior high pupils should attend one center. This center should be so located that the school is more accessible to these pupils than another school."^{63/} In the recommendations made for Perry County, the attendance areas are listed first by schools which are attended predominantly by white students and then by schools attended by Negro students. In this manner there are two recommended white centers - the Suttle area including a junior high center at Heiberger and the Uniontown center. These centers are presently in existence.

The survey recommended three Negro centers - Hopewell, for the west Perry area, Robert C. Hatch, for the southwest Perry area and East Perry for the southeastern area. The Hopewell area has no existing senior high center, the East Perry center presently serves grades 1-10 and the Robert C. Hatch center serves grades 1-12. It is noted that in the Uniontown (W) - Hatch (N) and Suttle (W) - East Perry (N) areas, the students to be served are drawn from the identical geographic areas. The former centers are located within the same city while the latter centers are less than two miles apart.

C. Planned Construction in Perry County is Intended to Serve All-Negro Schools that are to be Discontinued

1. Mr. Walker testified that the new West Perry school would serve the present attendance area of the Hopewell, Morning Star, Oak Grove #21, Hanna, Spring Hill, and Reynolds Chapel schools and that those schools would

^{63/} Pl. Ex. 9(II), pp. 15-16.

be abandoned.^{64/} Each school is presnetly attended solely by Negro students and staffed exclusively by Negro teachers. The Minutes for July 14, 1966 reflect that representatives of the State Board of Education made the recommendation and that the old schools should "be brought into this school."^{65/} The record shows that the construction of a new school in this area is simply a new house for the old tenants.

2. The second proposed project in the Perry County school system involves an additionto the present East Perry Junior High School so that it would be expanded into a permanent center, and that the Oak Grove Junior High, Provewell and Vilula schools be "added to it."^{66/} Each of these schools is attended exclusively by Negro students as is East Perry. Further, the record shows that such additions are intended at this time to be financed with federal funds.^{67/} Superintendent Walker admitted that the school as expanded would have the same attendance area as the white high school (Suttle) and that there would be two twelve grade centers approximately two miles apart.^{68/}

^{64/} Testimony of Superintendent Walker, Tr. (II) p. Pl. Ex. 5 (II) p. 55.

^{65/} Id. at p. 51.

^{66/} Id. at pp. 51, 56; Testimony of Mr. Walker, Tr. (II) p.

^{67/} Pl. Ex. 5, p. 55; Pl. Ex. 10; Testimony of Mr. Walker, Tr. (II) p.

^{68/} Testimony of Mr. Walker, Tr. (II) p. . The state survey recommends at least 350 pupils and 12 teachers for a six grade accredited high school. Pl. Ex. 9(II) pp. 11-12. The October Attendance Report (Pl. Ex. 4(II)) shows there are approximately 648 students of both races in all grades enrolled in the Suttle - East Perry attendance area and of these approximately 270 are enrolled in secondary grades. These figures do not include an estimated 25-50 Negro students who attend Robert C. Hatch school in the 11th and 12th grades who live in eastern Perry County.

D. The Record Substantiates Requiring a New Non-racial Survey in Perry County

We propose that on the basis of the evidence presented in this case that the Court order the defendants to hold in abeyance their present construction plans until a Court-approved non-racial survey of the educational needs of the Perry County school system has been completed. Such a survey should make use of the services provided by the State Board of Education for such purposes.

We do not propose to recommend what specific school construction is best for Perry County. However, we do propose that a new survey should follow the recent guidelines enunciated by the Fifth Circuit Court of Appeals in the consolidated school cases:

The defendants, to the extent consistent with the proper operation of the school system as a whole, shall locate any new school and substantially expand any existing schools with the objective of eradicating the vestiges of the dual system and of eliminating the effects of segregation.

69/ United States v. Jefferson County Board of Education, supra, (decided December 29, 1966).

VIII

THE SEGREGATED SCHOOL SYSTEM IN PERRY COUNTY HAS DEPRIVED NEGRO STUDENTS OF EDUCATIONAL FACILITIES AND OPPORTUNITIES THAT HAVE BEEN PROVIDED FOR WHITE STUDENTS

Education costs money and a good education costs more money. A better education flows from better facilities, instructional materials, library books, etc. It follows that the greater the investment in a child's education, the more he will benefit from it.

Public education in Alabama is based on the premise, expressed through the policies of the Minimum Program,^{70/} that all children in the State will be provided with nearly equal educational opportunities; the Minimum Program, in effect, provides for the distribution of tax revenues from the wealthier counties in the state to the poorer counties.

The dual school system based on race has defeated the policies of the Minimum Program in Perry County. Over the years, the school officials of Perry County have invested so much less in the education of each Negro child than each white child that the resulting disparity in educational opportunities provided in the white and Negro schools is overwhelming and can only mean that each Negro child will derive much less from his educational experience than will each white child.

^{70/} Ala. Code, Title 52, §209.

A. The Disparities in Educational Facilities can be Measured by Present Inequalities Between the White and Negro Schools

1. Value of School Plants. For the 1966-67 school year the value of the white schools (including buildings and contents) was \$1,204.61 per student while that of the Negro schools was \$300.35 per student. ^{71/}

Table 4 sets forth the valuation per pupil for each school in Perry County for the year 1966-67. The valuation per pupil in the Negro schools ranges from a low of \$16.98 at White Hill and \$97.30 at Hopewell to a high of \$667.94 at Antioch, ^{72/} whereas the white schools range from a low of \$1,081.54 at Uniontown High to a high of \$1,335.94 at Suttle High School. ^{73/} Thus, the lowest total per pupil value for white students was substantially higher than the highest total per pupil value for Negro students.

2. Physical Facilities. Negro schools, as compared to white schools, have inferior and inadequate physical facilities.

Thirteen of the Negro schools operated by the defendants lack such basic facilities as indoor restrooms. All of the Negro schools with the exception of Robert C. Hatch High School do not have a lunch room. ^{74/} All of the Negro schools except for Robert C. Hatch High lack central heating units. ^{75/}

^{71/} See Table 4, Attachment A, 1966-67 Value of Buildings and Contents, Per Pupil, By Race and By School.

^{72/} The relatively high valuations in the seven Negro schools are due to the fact that these schools maintain several grades with few students.

^{73/} See Table 4.

^{74/} See Table 7, footnote 2.

^{75/} See Table 7.

All three white schools have central heating,^{76/} indoor restrooms, and lunch room facilities. Both white high schools have gymnasiums while only one Negro school has a gymnasium. Only three Negro schools while all the white schools have assembly rooms or auditoriums.

3. Classrooms and Teachers. Negro students must attend school in more crowded classrooms than white students, and in the system there is one teacher for each 32.68 Negro students and one teacher for each 21.67 white students.

During the 1966-67 school year the defendants maintained schools with a total of 33 classrooms for white students and schools with a total of 81 classrooms for Negro students.^{77/} The white schools had an average of 20.4 pupils per classroom and the Negro schools had an average of 36.7 pupils per classroom.^{78/} There are thirteen Negro schools that offer more grades than the number of available classrooms. Even though the defendants contemplate abandoning eight of these small and insufficient schools, there remains at least one Negro school teaching eight grades with only four classrooms.^{79/}

For the school year 1966-67, the defendants employed 91 Negro teachers to instruct 2,974 Negro students and 31 white teachers to instruct 672 white students.^{80/} The average number of pupils per teacher in the white schools was 21.7 as compared to 32.7 in the Negro schools.^{81/}

^{76/} Ibid.

^{77/} See Table 3, Attachment A, Pupil-Classroom Ratio, By School and By Race.

^{78/} Ibid.

^{79/} See Table 2, Attachment A, Pupils per Teacher, By School and By Race.

^{80/} Ibid.

^{81/} Ibid.

4. Buses. Transportation facilities provided for Negro students are inferior to those provided for white students.

The defendants transported 546 white students on 15 buses and 2,060 Negro students on only 26 buses. The average number of pupils to be transported per bus for the white students is 36.4 as compared to 79.2 for the Negro students.^{82/} In order to transport so many Negro students, 76.9 of the Negro buses must make more than one trip while only 20.9 of the white buses make more than one trip.^{83/} This means that Negro students in many cases must leave for school earlier and return home later than the white students in Perry County.

5. Library Facilities and Accreditation. Two of the three white high schools are accredited and have a combined average of 22.3 library books per student, while at the only Negro high school that is accredited, there are less than 7 library books per student.

The number of library books at the high schools in Perry County are found in the accreditation reports.^{84/} The record does not show the number of library books in the non-accredited Negro schools. But in the accredited Negro school, Robert C. Hatch, there are 6.61 books per pupil, while in the two white schools there are 25.20 and 19.17 books, respectively, for a combined average of 22.38 books per pupil in the two schools.^{85/}

^{82/} See Table 5, Attachment A, Summary of 1965-66 Transportation Report, By Race.

^{83/} Ibid.

^{84/} See Table 10A, Attachment A, Number of Library Books per Pupil in Accredited Grades, By School and By Race.

^{85/} Ibid.

6. Library Expenditures. For the 1965-66 school year, the defendants spent an average of \$13.75 per white student and \$6.79 per Negro student for library books.

Table 11 sets forth the per pupil expenditures for library books by race for the accredited schools. The record does not show the expenditures for library books in non-accredited schools. In the accredited Negro school, Robert C. Hatch, the defendants spent \$6.61 per pupil, while \$9.26 and \$17.34 was spent respectively, for a combined average of \$13.75 in the two white schools.

B. The Record Requires Relief to Correct the Effects of Part Discrimination

The evidence establishes that the defendants have afforded Negro students inferior educational facilities and opportunities. Our proposed relief contains provisions that the defendants initiate remedial programs to correct the effects of past discrimination and to equalize the educational facilities for all students in Perry County.

IX

PROPOSED DECREE

It is hereby ORDERED, ADJUDGED and DECREED that the defendants, the Perry County Board of Education, each member thereof, the superintendent of education of Perry County, Alabama, their agents, officers, employees, and successors and all those in active concert and participation with them, be and they hereby are permanently enjoined from:

(1) refusing to enroll all Negro students who, in accordance with this Court's Order of September 15, 1966, requested that their choice to attend formerly all-white schools be granted and who have not been offered the opportunity to enroll and who present themselves at the respective school of their choice at any time within the first week of the second semester of this school year; and,

(2) refusing to give written notification to the parents or guardians of the Negro students on or before the first day of school for the second semester that those students may be enrolled at the school of their choice upon presenting themselves at said school within the first week of the second semester of this school year; and,

(3) refusing to notify the parents or guardians of the Negro students that bus transportation will be provided on a non-discriminatory basis to the school that said students choose.

It is further ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees and successors and all those in active concert and participation

with them, be and they hereby are permanently enjoined from failing or refusing to conduct a re-survey of the educational requirements of the Perry County school system for the purpose of developing and making recommendations for the location and construction of new or additional school facilities, the consolidation of existing facilities, the abandonment of existing facilities that are inadequate or the continued operation of which are inconsistent with the proper operation of a school system, and the reassignment or relocation of students and grades, all to the end of eradicating all vestiges of the dual system in Perry County and of eliminating the effects of past racial segregation in the Perry County school system. A report of the re-survey, including recommendations for the construction, consolidation or abandonment of school facilities, shall be served upon counsel and filed with the Clerk of this Court no later than March 1, 1967. No action shall be taken upon the basis of the survey report of the 1965-66 survey of the Perry County school system nor shall any other steps be taken toward the construction, abandonment, major alteration or consolidation of schools in Perry County until 30 days have elapsed from the filing with the Clerk of this Court of the report of the re-survey that is herein ordered.

It is further ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees and successors and all those in active concert and participation with them, commence immediately a study and revision of the existing Perry County bus transportation system to eliminate all vestiges of a dual transportation system, and to effectuate a unitary school bus transportation system

designed to serve the Perry County school system without regard to the race or color of the students to be transported, and file such a plan with this Court on or before June 30, 1967.

It is further ORDERED, ADJUDGED and DECREED that the defendants, their agents, officers, employees and successors and all those in active concert and participation with them, be and they hereby are permanently enjoined from discriminating on the basis of race or color in the operation of the Perry County School System and from failing to take steps to eliminate the effects of past racial discrimination in the operation of the system, all in accordance with the following provisions:

I

COMPLETION OF DESEGREGATION

Commencing with the 1967-68 school year, all grades shall be desegregated and pupils shall be assigned to schools without regard to race or color in accordance with the provisions of this decree.

II

EXERCISE OF CHOICE

The following provisions shall apply in all grades:

(a) Who May Exercise Choice. A choice of schools may be exercised by a parent or other adult person serving as the students' parent. A student may exercise his own choice if he (1) is exercising a choice for the ninth or a higher grade, or (2) has reached the age of fifteen at the time of the exercise of choice. Such a choice by a student is controlling unless a different choice is exercised

for him by his parent or other adult person serving as his parent during the choice period or at such later time as the student exercises a choice. Each reference in this decree to a student exercising a choice means the exercise of the choice, as appropriate, by a parent or such other adult, or by the student himself.

(b) Annual Exercise of Choice. All students, both white and Negro, shall be required to exercise a free choice of schools annually.

(c) Choice Period. The period for exercising choice shall commence on March 1 and end on March 31, preceding the school year for which the choice is to be exercised. No student or prospective student who exercises his choice within the choice period shall be given any preference because of the time within the period when such choice was exercised.

(d) Mandatory Exercise of Choice. A failure to exercise a choice within the choice period shall not preclude any student from exercising a choice at any time before he commences school for the year with respect to which the choice applies, but such choice may be subordinated to the choices of students who exercised their choices before the expiration of the choice period. Any student who has not exercised his choice of school within a week after school opens shall be assigned to the school nearest his home where space is available under standards for determining available space which shall be applied uniformly throughout the system.

(e) Public Notice. On or within a week before the date the choice period opens, the defendants shall arrange

for the conspicuous publication of a notice describing the provisions of this decree in the newspaper most generally circulated in the community. The text of the notice shall be similar to the text of the explanatory letter sent home to parents. Publication as a legal notice will not be sufficient. Copies of this notice must also be given at that time to all radio and television stations serving the community. Copies of this decree shall be posted in each school in the school system and at the office of the superintendent.

(f) Mailing of Explanatory Letters and Choice Forms.

On the first day of the choice period there shall be distributed by first class mail an explanatory letter and a choice form to the parent or other adult person acting as parent of each student who will be entering a desegregated grade in the following year, together with a return envelope addressed to the superintendent. The text for the explanatory letter and choice form shall conform as nearly as possible to the sample letter and choice form appended to this decree (Appendices A and B).

(g) Extra Copies of the Explanatory Letter and Choice Form. Extra copies of the explanatory letter and choice form shall be freely available to parents, students, prospective students and the general public at each school in the system and at the office of the superintendent.

(h) Return of Choice Form. At the option of the person completing the choice form, the choice may be returned by mail, in person, or by messenger to any school in the school system or to the office of the superintendent.

(i) Choices not on Official Form. The exercise of choice may also be made by the submission in like manner of any other writing which contains information sufficient to identify the student and indicates that he has made a choice of school.

(j) Choice Forms Binding. Once a choice form has been submitted, and the choice period having expired, the choice is binding for the entire school year and may not be changed except in cases where compelling hardship is shown by the student.

(k) Preference in Assignment. In assigning students to schools, no preference shall be given to any student for prior attendance at a school, and no choice shall be denied for any reason other than overcrowding. In case of overcrowding at any school, preference shall be given on the basis of the proximity of the school to the homes of the students choosing it, without regard to race or color.

(l) Second Choice where First Choice is Denied. Any student whose choice is denied must be promptly notified in writing and given his choice of any school in the school system serving his grade level where space is available.

(m) Transportation. If school bus transportation is provided, buses will be routed to the greatest extent which is possible in light of the geographic distribution of students, so as to serve each student choosing any school in the system.

(n) Official not to Influence Choice. At no time shall any official, teacher, or employee of the school system influence any parent, or other adult person serving as a parent, or any student, in the exercise of a choice,

or favor or penalize any person because of a choice made. Information concerning individual choices made or schools to which individual students are assigned shall not be made public.

III

NEW STUDENTS

Each new student shall be required to exercise a choice of schools before enrollment. Each such student shall be furnished a copy of the prescribed letter to parents, and choice form, by mail or in person, on the date the choice period opens or as soon thereafter as the school system learns that he plans to enroll. Each shall be given an opportunity to exercise his choice during the choice period. A prospective student exercising his choice after the choice period shall be given at least one week to do so.

IV

SERVICES, FACILITIES, ACTIVITIES AND PROGRAMS

No student shall be segregated or discriminated against on account of race or color in any service, facility, activity or program (including transportation, athletics, or other extra-curricular activity) that may be conducted or sponsored by, or affiliated with, the school in which he is enrolled. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student.

SCHOOL EQUALIZATION

(a) Inferior Schools. In schools heretofore maintained for Negro students, the defendants shall take all reasonable steps necessary to provide physical facilities, equipment, courses, and instruction of quality equal to that provided in schools previously maintained for white students. Conditions of overcrowding, as determined by pupil-teacher ratios and pupil-classroom ratios shall, to the extent possible, be distributed evenly between schools formerly maintained for Negro students and those formerly maintained for white students. Excepting materials the defendants or other parties demonstrate by records or other evidence that the defendants or other governmental agency did not provide or help to provide, library books, textbooks, science equipment, and school buses shall, to the extent possible, be distributed so as to bring about approximate equality of numbers and condition of such materials at each school in the system, in relation to enrollments at each school. If for any reason it is not feasible to improve sufficiently any school formerly maintained for Negro students, where such improvement would otherwise be required by this subparagraph, such school shall be closed as soon as possible, and students enrolled in the school shall be reassigned on the basis of freedom of choice.

(b) Remedial Programs. The defendants shall provide remedial education programs which permit students attending or who have previously attended all-Negro schools to overcome past inadequacies in their education.

VI

FACULTY AND STAFF

(a) Faculty Employment. Race or color shall not be a factor in the hiring, assignment, reassignment, salary, promotion, demotion or dismissal of teachers and other staff members, including bus drivers, except to correct the effects of past discriminatory assignments.

(b) Dismissals. Teachers and other professional staff members may not be dismissed, demoted, or passed over for retention, promotion or rehiring, on the ground of race or color. In any instance where one or more teachers or other professional staff members are to be displaced as a result of desegregation, no staff vacancy in the school system shall be filled through recruitment from outside the system unless no such displaced staff member is qualified to fill the vacancy. If, as a result of desegregation, there is to be a reduction in the total professional staff of the school system, the past assignment of any teacher or staff member, where such past assignment was based upon race or color, shall not be considered in determining whether he shall be released.

(c) Past Assignments. The defendants shall take steps to assign and reassign teachers and other professional staff members to eliminate past discriminatory patterns. In order to encourage transfers by present members of the faculty to schools in which pupils are wholly or predominantly of a race other than such teacher's, the Board of Education or the Superintendent or other personnel office shall:

(1) Review the composition of present instructional staffs as soon as possible during the 1966-67 school

session and determine which teachers can be transferred on such voluntary basis and shall arrange for such transfers as soon as feasible in the best interest of the school system.

(2) All present teachers and other professional personnel shall be given an unequivocal and explicit assurance that teachers who volunteer or who do not volunteer for such transfers shall not be subjected to any adverse treatment by reason of such action on their part.

(3) Conduct a meeting with all teachers and professional personnel to set forth in detail the Board's nondiscriminatory employment practices and to encourage teachers to transfer so as to aid in desegregating school faculties; and

(4) Write to all teachers in the system and ask that they notify the Superintendent by mail whether they are willing or unwilling to teach in schools in which the majority of the students are of a race other than their own.

(d) Recruitment. In the recruitment and employment of new teachers and other professional personnel, all applicants or other prospective employees shall be informed that the Board operates a racially desegregated school system and that teachers are subject to assignment in the best interest of the School System without any consideration of their race or color or the race or color of the student attending the particular school. Institutions, agencies, organizations, or individuals that refer teachers to the School System shall be advised accordingly and requested to inform persons seeking referrals.

VII

REPORTS TO THE COURT

(a) Report on Choice Period. The defendants shall serve upon the plaintiff and file with the Clerk of the Court on or before June 1, 1967, and each subsequent year thereafter, a report tabulating by race the number of choice applications received for enrollment in each grade in each school in the system, and the number of choices granted and the number denied in each grade of each school. The report shall also state any reasons relied upon in denying choice and shall tabulate, by school and by race of student, the number of choices denied for each such reason.

(b) Report After School Opening. The defendants shall serve upon opposing counsel and file with the Clerk of the Court fifteen days after the opening of schools for the fall semester each year, a report setting forth the following information:

(i) The name, address, grade, school of choice and school of present attendance of each student who has withdrawn or requested withdrawal of his choice of school or who has transferred after the start of school year, together with a description of any action taken by the defendants on his request and the reasons therefore.

(ii) The number of faculty vacancies, by school, that have occurred or been filled by the defendants since the order of this Court or the latest report submitted pursuant to this subparagraph. This report shall state the race of the teacher employed to fill each such vacancy and indicate whether such teacher is newly employed or was transferred from within the system. The tabulation of the number of transfers within the system should indicate the schools from which and to which the transfers were made. The report shall also set forth the number of faculty members of each race assigned to each school for the current year.

(iii) A description of any steps or programs instituted by the defendants pursuant to paragraph V of this decree. The report for 1966-67 may be filed at the same time as the report required by paragraph VII(a) of this decree. A supplementary report on the program of redistributions required in paragraph V(b) and the remedial programs required in paragraph V(c) of this decree shall be served upon the plaintiff and filed with the Clerk of the Court on or before February 1, 1967.

APPENDIX A
PERRY COUNTY BOARD OF EDUCATION
MARION, ALABAMA

Dear Parent:

All grades in our school system will be desegregated next year. All students may choose to attend any school in our system, regardless of whether that school was formerly all-white or all-Negro. It does not matter which school your child is attending this year. You and your child may select any school you wish.

Every student, white and Negro, must make a choice of schools. If a child is entering the ninth or a higher grade, or if the child is fifteen years old or older, he may make the choice himself. Otherwise a parent or other adult serving as parent must sign the choice form.

The form on which the choice should be made is attached to this letter. It should be completed and returned by March 31, 1967. You may mail it in the enclosed envelope, or deliver it by messenger or by hand to any school principal or to the Office of the Superintendent at any time between March 1 and March 31. No one may require you to return your choice form before March 31 and no preference is given for returning the choice form early.

No principal, teacher or other school official is permitted to influence anyone in making a choice or

to require early return of the choice form. No one is permitted to favor or penalize any student or other person because of a choice made. A choice once made cannot be changed except for serious hardship.

No child will be denied his choice unless for reasons of overcrowding at the school chosen, in which case children living nearest the school will have preference.

Transportation will be provided, if reasonably possible, no matter what school is chosen.

Your School Board and the school staff will do everything we can to see to it that the rights of all students are protected and that desegregation of our schools is carried out successfully.

Sincerely yours,

Superintendent

APPENDIX B

CHOICE FORM

This form is provided for you to choose a school for your child to attend next year. You have 30 days to make your choice. It does not matter which school your child attended last year, and it does not matter whether the school you choose was formerly a white or Negro school. This form must be mailed or brought to the principal of any school in the system or to the office of the Superintendent, Marion, Alabama, by March 31, 1967. A choice is required for each child.

Name of child _____
(Last) (First) (Middle)

Address _____

Name of Parent or other
adult serving as parent _____

If child is entering first grade, date of birth:

(Month) (Day) (Year)

Grade child is entering _____

School attended last year _____

Please indicate what school you desire your child to attend by marking an X beside the name.

Name of School	Grades	Location
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Signature _____

Date _____

To be filled in by Superintendent:

School assigned _____

X

CONCLUSION

The desegregation of schools in Perry County has started without a realistic plan to guide the school administrators in determining their future course of conduct. The school board and its superintendent abdicated their responsibility to deal with the important policy questions that desegregation presents when they passed the transfer applications to the individual school principals for disposition.

The Proposed Decree set out in Part IX of this brief seeks to clarify for the defendants their responsibilities under the Constitution and the court interpretations. It also seeks to provide the defendants with the necessary forms and administrative procedures similar to those in use in other school districts.

Respectfully submitted,

VERNOL R. JANSEN
United States Attorney

JOHN DOAR
Assistant Attorney General
FRANK M. DUNBAUGH
ALEXANDER C. ROSS

KENNETH P. FRANKLAND
Attorneys
Department of Justice
Washington, D. C. 20530

December , 1966

ATTACHMENT A

TABLE 1

PERRY COUNTY SCHOOL SYSTEM

Operating Schools

By Race a/

WHITE

<u>School</u>	<u>Grades</u>
Suttle High	1-12
Uniontown High	1-12
Heiberger	1-7

NEGRO

<u>School</u>	<u>Grades</u>
Robert C. Hatch High	8-12
East Perry	1-10
Marion Baptist Academy	1-10
Morning Star	1-9
Oak Grove Junior High	1-9
Hopewell	1-8
Reynolds Chapel	1-8
Vilula	1-8
Antioch	1-7
Provewell	1-7
Uniontown Negro Elementary	1-7
Hanna	1-6
Hinton	1-6
Oak Grove #21	1-6
Spring Hill	1-6
White Hill	1-6

a/ Compiled from October, 1966 Attendance Report, Pl.
Ex. 4 (II).

TABLE 2
PERRY COUNTY SCHOOL SYSTEM
1966-67 Pupils per Teacher
By School and By Race b/

<u>WHITE</u>			
<u>School</u>	<u>Number of Pupils</u>	<u>Number of Teachers</u>	<u>Pupils per Teacher</u>
Heiberger (1-7)	91	4	22.75
Suttle (1-12)	256	14	18.29
Uniontown (1-12)	325	13	25.00
Total	672	31	21.67

<u>NEGRO</u>			
Marion Baptist Academy (1-10)	692	17	40.70
East Perry (1-10)	171	6	28.50
Morning Star (1-9)	50	3	16.67
Oak Grove Jr. High (1-9)	114	3	38.00
Hopewell (1-8)	111	3	37.00
Reynolds Chapel (1-8)	68	2	34.00
Vilula (1-8)	61	2	30.50
Provewell (1-7)	69	2	34.50
Antioch (1-7)	128	4	32.00
Uniontown Negro Elem. (1-7)	671	19	35.31

b/ Compiled from Pl. Exs. 4(II) and 7(I). The number of students is shown in the October 1966 Attendance Report Pl. Ex. 4(I). The number of teachers is shown in the Teacher Directory Pl. Ex. 7(I).

NEGRO (Cont.)

<u>School</u>	<u>Number of Pupils</u>	<u>Number of Teachers</u>	<u>Pupil per Teacher</u>
White Hill (1-6)	97	3	32.33
Spring Hill (1-6)	16	1	16.00
Oak Grove #21 (1-6)	16	1	16.00
Hinton (1-6)	83	2	41.50
Hanna (1-6)	55	2	27.50
Robert C. Hatch (8-12)	572	21 ^{*/}	27.14
Total	2,974	91	32.68

*/ Does not include principal as teacher.

TABLE 3
PERRY COUNTY SCHOOL SYSTEM

Pupil-Classroom Ratio
By School and By Race
1966 - 1967 c/

WHITE

<u>Schools</u>	<u>No. of Students</u>	<u>No. of Classrooms</u>	<u>Pupil-Classroom Ratio</u>
Heiberger (1-7)	91	7	13.00:1
Suttle High (1-12)	256	12	21.33:1
Uniontown High (1-12)	325	14	23.21:1
Total Number of Students	672	Total 33 Number of Classrooms	Average 20.36:1 Pupil- Classroom Ratio

NEGRO

Antioch (1-7)	128	4	32.00:1
Hanna (1-6)	55	2	27.50:1
East Perry (1-10)	171	6	28.50:1
Marion Baptist Academy (1-10)	692	11	62.90:1
Hinton (1-6)	83	2	41.50:1
Hopewell (1-8)	111	3	37.00:1
Morning Star (1-9)	50	3	16.66:1
Oak Grove #21 (1-6)	16	1	16.00:1

c/ Compiled from Pl. Ex. 8 (I) and 4 (II). The number of classrooms per school is shown in the Inspection Reports of Pl. Ex. 8 (I). The number of students per school is shown in Table 2. There is no inspection report for Marion Baptist Academy. The number of classrooms was determined from the first page of Pl. Ex. 17b, which does not include any mobile classrooms.

NEGRO (Cont.)

<u>Schools</u>	<u>No. of Students</u>	<u>No. of Classrooms</u>	<u>Pupil-Classroom Ratio</u>
Oak Grove Jr. High (1-9)	114	3	38.00:1
Provewell (1-7)	69	3	23.00:1
Reynolds Chapel (1-8)	68	2	34.00:1
Robert C. Hatch (8-12)	572	12	47.66:1
Spring Hill (1-6)	16	1	16.00:1
Vilula (1-8)	61	3	20.33:1
Uniontown Negro Elementary (1-7)	671	18	37.27:1
White Hill (1-6)	97	3	32.33:1
Total Number of Students	2,974	Total 81 Number of Classrooms	Average 36.71:1 Pupil- Classroom Ratio

TABLE 4

PERRY COUNTY SCHOOL SYSTEM

1966-67 Value of Buildings and Contents
Per PupilBy Race and By School d/

<u>School</u>	<u>Value of Building</u>	<u>WHITE</u>		<u>Number of Students</u>	<u>Total Per Pupil Value</u>
		<u>Value of Contents</u>	<u>Total Valuation</u>		
Heiberger	\$110,000	\$ 6,000	\$116,000	91	\$1274.73
Suttle	305,000	37,000	342,000	256	1335.94
Uniontown High	306,000	45,500	351,500	325	1081.54
Total	\$721,000	\$88,500	\$809,500	672	\$1204.61

<u>NEGRO</u>					
Antioch	20,000	1,500	21,500	128	167.97
East Perry Jr. High	75,000	4,500	79,500	171	464.91
Hinton	10,000	600	10,600	83	127.71
Hanna	10,000	800	10,800	55	196.36
Hopewell	10,000	800	10,800	111	97.30
Morning Star	15,000	1,200	16,200	50	324.00
Oak Grove #21	10,000	600	10,600	16	662.50
Oak Grove Jr. High	15,000	1,200	16,200	114	142.11

d/ Compiled from Pl. Ex. 13 (II). To determine the total per pupil value we divided the total valuation by the number of students per school as shown in Table 2. No figures were available for Marion Baptist Academy since it is not insured by the defendants.

<u>NEGRO (Cont.)</u>					
<u>School</u>	<u>Value of Building</u>	<u>Value of Contents</u>	<u>Total Valuation</u>	<u>Number of Students</u>	<u>Total Per Pupil Value</u>
Robert C. Hatch	\$272,000	\$34,000	\$306,000	572	\$ 534.96
Provewell	15,000	1,200	16,200	69	234.78
Reynolds Chapel	10,000	900	10,900	68	160.29
Spring Hill	10,000	500	10,500	16	656.25
Uniontown Negro Elem.	125,000	16,000	141,000	671	210.13
Vilula	8,000	600	8,600	61	140.98
White Hill-	15,000	1,000	16,000	97	16.98
Total	\$620,000	\$65,400	\$685,400	2,282	\$300.35

TABLE 5

PERRY COUNTY SCHOOL SYSTEM

Summary of 1965-66 Transportation Report,
By Race e/

<u>WHITE</u>					
<u>Bus #</u>	<u>No. of Trips Made</u>		<u>Total No. of Students Transported</u>	<u>Age of Bus</u>	
42	2		38	4	
34	1		14	13	
43	2		43	5	
16	1		16	15	
65-2	1		41	1	
55	1		40	2	
46	1		38	5	
37	1		30	6	
35	1		11	14	
77	1		38	6	
44	1		41	3	
70	2		97	6	
48	1		53	4	
41	1		22	2	
<u>39</u>	<u>1</u>		<u>24</u>	<u>-</u>	
Total Number of Buses	15	Total Number of Trips	18	Total Number of Students Transported	546
				Average Age of Buses	6.14

e/ Compiled from Pl. Ex. 6 (I). We have designated the bus as either Negro or white, depending upon the school it served.

<u>Bus #</u>	<u>NEGRO</u>		<u>Total No. of Students Transported</u>	<u>Age of Bus</u>
	<u>No. of Trips Made</u>			
40	2		71	3
45	2		98	2
59	2		74	2
54	2		80	2
72	3		86	5
12	1		21	16
32	1		42	14
25	1		39	15
43	1		36	16
19	1		41	14
74	2		67	5
20	2		54	15
66	2		48	11
71	4		122	10
10	2		82	12
6	2		91	13
78	2		95	4
15	1		147	4
18	3		98	4
68	3		169	11
65	2		109	10
13	2		60	16
24	3		104	15
33	3		113	14

TABLE 6

PERRY COUNTY SCHOOL SYSTEM

Per Pupil Inventory Value
By School and By Race f/
1963 - 1964

WHITE

<u>School</u>	<u>Number of Students</u>	<u>Total Value of Inventory</u>	<u>Value Per Pupil</u>
Heiberger	73	\$ 8,027.60	\$ 109.97
Suttle	214	36,789.95	171.91
Uniontown	267	45,775.50	171.44
Total	554	\$ 90,593.05	\$ 163.52

NEGRO

Antioch	157	\$ 1,642.50	\$ 10.53
Cross Roads	39	1,139.50	29.21
Hanna	69	1,148.00	16.64
East Perry	166	5,754.11	34.67
Hinton	84	670.00	7.98
Hopewell	104	1,107.00	10.64
Morning Star	62	2,390.50	38.55
Oak Grove #21	36	1,025.00	28.47
Oak Grove Jr. High	129	3,310.00	25.65
Provewell	60	1,318.50	21.97
Reynolds Chapel	77	954.00	12.39
Robert C. Hatch	390	25,920.50	66.46

f/ Compiled from Inventory of Perry County Schools 1963-64, Pl. Ex. 14 (II), and the Annual Attendance Report for 1963-64, Pl. Ex. 1 (II). We took the total inventory value for each school and divided it by the number of students enrolled for 1963-64 to arrive at the value per pupil. Our statistics excludes those schools that are now within the Marion City System. No figures were available for Marion Baptist Academy.

NEGRO (Cont.)

<u>School</u>	<u>Number of Students</u>	<u>Total Value of Inventory</u>	<u>Value Per Pupil</u>
Spring Hill	53	\$ 25,920.50	\$ 9.64
Vilula	64	644.50	10.07
Uniontown Negro Elementary	646	21,042.21	32.57
White Hill	90	1,496.00	16.62
Total	2,226	\$ 70,083.32	\$ 31.49

<u>NEGRO (Cont.)</u>			
<u>Bus #</u>	<u>No. of Trips Made</u>	<u>Total No. of Students Transported</u>	<u>Age of Bus</u>
75	2	71	5
<u>27</u>	<u>2</u>	<u>- 42</u>	<u>15</u>
Total Number of Buses	26	Total Number of Trips	53
		Total Number of Students Transported	2,060
		Average Age of Buses	9.73

<u>Category</u>	<u>White</u>	<u>NEgro</u>
Number of buses running more than one trip	3	20
Percentage of buses running more than one trip	20.90	76.92
Average number of trips per bus per day	1.20	2.03
Average number of pupils to be transported per bus	36.40	79.23
Average number of pupils transported per trip	30.33	38.86
Average bus age	6.14	9.73

TABLE 7

PERRY COUNTY SCHOOL SYSTEM

Comparison of Basic Facilities
By School and By Race g/Junior and Senior High SchoolsWHITE SCHOOLS

<u>School</u>	<u>Vocational Agriculture</u>	<u>Home Economics</u>	<u>Gymna- sium</u>	<u>Audito- rium</u>	<u>Lunch Room</u>	<u>Indoor Restroom</u>	<u>Central Heating</u>
Heiber- ger	<u>1/</u>	<u>1/</u>	Needs	Has	Has	Has	Has
Suttle	Has	Has	Has	Has	Has	Has	Has
Union Town	Needs	Has	Has	Has	Has	Has	Has

Junior and Senior High SchoolsNEGRO SCHOOLS

<u>School</u>							
E. Perry	Needs	Needs	Needs	Needs	Needs	Needs	Needs
Oak Grove Jr. High School	Needs	Needs	Needs	Needs	Needs	Needs	Needs
Robert C. Hatch	Has	Has	<u>3/</u>	<u>3/</u>	<u>2/</u>	Has	Has

e/ Compiled from State of Alabama - Department of Finance
State Insurance Fund Inspection Report, 1965, Pl. Ex. 8(I).

1/ Courses not offered at the grade level served by these schools.

2/ Under Construction.

ELEMENTARY SCHOOLS

Negro Schools

<u>School</u>	<u>Lunch Room</u>	<u>Indoor Restroom</u>	<u>Central Heating</u>
Antioch	Needs	Needs	Needs
Hanna	Needs	Needs	Needs
Hinton	Needs	Needs	Needs
Hopewell	Needs	Needs	Needs
Morning Star	Needs	Needs	Needs
Oak Grove #21	Needs	Needs	Needs
Provewell	Needs	Needs	Needs
Reynolds Chapel	Needs	Needs	Needs
Spring Hill	Needs	Needs	Needs
Vilula	Needs	Needs	Needs
White Hill	Needs	Needs	Needs

TABLE 8

PERRY COUNTY SCHOOL SYSTEM

Statistical Summary of the Action Taken
by the Defendants on the Choices of
Negro Students to Attend
White Schools h/

<u>School Year</u>	<u>Number of Negro Students Choosing to Attend the White Schools</u>	<u>Action</u>		<u>Percentage of Choices Granted</u>
		<u>Granted</u>	<u>Denied</u>	
1965-66	121	19	102	15.7
1966-67	161	30	131	18.6
(After 9-15-66) Court Order	<u>56*</u>	<u>14</u>	<u>42</u>	<u>25.0</u>
TOTAL	338	63	275	18.6

h/ The number of Negro students choosing to attend white schools was derived from the Minutes (Pl. Ex. 5 (II)) for 1965-66 and the choice forms for 1966-67 (Pl. Ex. 3A, B, C (I)). Those choosing after the Court Order were taken from the Applications for Reconsideration (Pl. Ex. 6 (II)). The action taken was compiled from testimony of Superintendent Walker.

* The 56 students who requested reconsideration of their choices are included in the 161 students.

TABLE 9
PERRY COUNTY SCHOOL SYSTEM

Summary of Rejection Notices
to Negro Students i/

<u>Number of Negro Students Rejected</u>	<u>Reason for Rejection</u>
30	Grades requested are full.
3	Inadequate transportation.
2	Students lived closer to another school than the one chosen.
1	Student was underage when the choice form was signed.
1	Student answered letter.
2	Letter received from parent was not readable.
1	Adult's relationship to student was questioned.
1	Poor grades.
<u>1</u>	Attending city schools.
TOTAL 42	

i/Compiled from defendants' Report to the Court September 21, 1966 pursuant to the Court's Order of September 15, 1966.

TABLE 10

PERRY COUNTY SCHOOL SYSTEM

B. Number of Textbooks Per Pupil
By Race, For Grades 1-6 j-1/

<u>Grades</u>	<u>Total Number of Textbooks on hand</u>		<u>Number of Pupils</u>		<u>Number of Books Per Pupil</u>	
	W	N	W	N	W	N
1st W	964		65		14.8	
N		4054		395		10.3
2nd W	709		67		11.4	
N		2562		337		7.6
3rd W	1049		67		15.7	
N		2905		325		8.9
4th W	1172		69		17.0	
N		2752		341		8.0
5th W	794		63		12.6	
N		2303		335		6.9
6th W	820		70		11.7	
N		2363		244		9.7
Total						
W	5508		401		13.7	
N		16,939		1977		8.6

j-1/ Compiled from Pl. Exs. 17a(II) and 6(I). The total number of textbooks on hand for each grade was taken from the Textbook Inventory 1965-66. (Pl. Ex. 17a(II)). The number of students is shown in the Annual Attendance Reports, 1965-66 (Pl. Ex. 6(I)).

TABLE 10
PERRY COUNTY SCHOOL SYSTEM

C. Number of Reading Books Per Pupil
By Race, By Grade j-2/

<u>Grades</u>	<u>Total Number of Readers on hand</u>		<u>Number of Pupils</u>		<u>Average Number of Books Per Pupil</u>	
	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>	<u>W</u>	<u>N</u>
1st W	325		65		5.0	
N		1135		395		2.9
2nd W	493		67		8.0	
N		1127		337		3.3
3rd W	464		67		6.9	
N		904		325		2.8
4th W	406		69		5.9	
N		709		341		2.1
5th W	236		63		3.7	
N		353		335		1.1
6th W	287		70		4.1	
N		495		244		2.0
Total						
W	2211		401		5.6	
N		5123		1977		2.6

j-2/ Compiled from Pl. Exs. 17a(II) and 6(I). The total number of readers on hand for each grade was taken from the Textbook Inventory 1965-66 (Pl. Ex. 17a(II)). The number of students is shown in the Annual Attendance Reports, 1965-66 Pl. Ex. 6(I)).

TABLE 11

PERRY COUNTY SCHOOL SYSTEM

Per Pupil Expenditures for Library Books
By School By Race 1965-66 k/

<u>School</u>	<u>Accredited Grades</u>	<u>WHITE Number of Students</u>	<u>Total Expenditure</u>	<u>Per Pupil Expenditure</u>
Uniontown	7 - 12	173	3,000	17.34
Suttle	7 - 12	<u>138</u>	<u>1,279</u>	<u>9.26</u>
TOTAL		311	\$4,279	\$13.75
<u>NEGRO</u>				
Robert C. Hatch	8 - 12	619	\$4,207.28	\$6.79

k/ Compiled from Pl. Exs. 12(II) and 6(I). The number of students was taken from the Annual Attendance Report, 1965-66, (Pl. Ex. 6(I)). The total expenditures in 1965-66 for library books were shown in the Applications for Accreditation, 1966. We took the total expenditures for the above schools and divided it by the number of students to arrive at the Per Pupil Expenditure. No figures were available for the other unaccredited schools.

TABLE 12
PERRY COUNTY SCHOOL SYSTEM

Expenditures Per Pupil 1963-64
By Type of Expenditure
By Race L/

<u>Type of Expenditure</u>	<u>Total Expenditures</u>		<u>Per Pupil Expenditure</u>	
	W	N	W	N
Instructional	280,258.58	492,537.17	214.59	134.16
Sub. Teachers	903.75	2,302.50	.69	.62
Vocational Expenses	1,983.51	1,812.26	1.51	.49
Plant Operation	11,998.56	10,685.10	9.18	2.91
Plant Maintenance	15,940.88	13,331.63	12.20	3.63
Transportation	52,391.96	49,927.35	40.11	13.60
Capital Outlay	63,745.37	228,926.55	48.80	123.04
TOTAL	W \$427,222.61	\$799,522.56	\$453.52	\$289.57

L/ Compiled from Pl. Exs. 2(II) and 1(II). We have computed the per pupil expenditure by dividing the yearly expenditures for 1963-64 by the total number of pupils enrolled, by race, during the 1963-64 period (1,306 white students and 3,671 Negro students).

ATTACHMENT B

Description of Exhibits

This Attachment consists of a description of each exhibit offered into evidence in this case. All exhibits were admitted. We have included detailed descriptions only of plaintiff's exhibits, giving the title or a summary description of the defendants' exhibits. The chief purpose of the descriptions is to show the type of information that may be obtained from plaintiff's exhibits.

I

September 15, 1966 Hearing

A. Plaintiff's Exhibits

Pl. Ex. 1

General Highway map of Perry County, Alabama. This map shows the location of all schools in use in Perry County for the 1966-67 school year. Included on the map is Cross Roads School which was closed during September, 1966.

Pl. Ex. 2

Letter from the Superintendent of Education to the parents of Perry County students explaining the adoption of a desegregation plan.

Pl. Ex. 3 A, B, C

Choice forms submitted by Negro students during the 1966 choice period to attend the white schools for the school year 1966-1967.

The forms for Heiberger Junior High School (3C) also contain choice forms of white students who chose to attend Heiberger.

Pl. Ex. 4

Enrollment figures for Suttle High School as of the September 15, 1966 hearing.

Pl. Ex. 5

Explanatory Notice sent by the Perry County Board of Education to parents describing the school desegregation plan for the Perry County System, beginning in September, 1966.

Pl. Ex. 6

Annual Report for Perry County - Attendance and Transportation, 1965-1966. This report lists each school in Perry County. The report lists the number of teachers at each school (Column III), and grades taught (Column II). This report also reflects the number of buses in the system and such information as bus number, school served, seating capacity, number of pupils transported, number of trips each day, make and model of bus, and number of years in service. Negro buses are listed first, then white buses. In addition, these reports give certain figures by school (Negro schools first), such as number of students transported.

Pl. Ex. 7

Teacher Directory 1966-1967. The basic source is the 1965-1966 Directory with additions and deletions. Mr. Walker testified it is the most accurate source for this year.

Pl. Ex. 8

State Insurance Fund Inspection Reports, 1965-1966. The Inspection Report lists the insured buildings in the Perry County System. For each building the following information is given: number of rooms, type of construction

(e.g., wood frame, masonry, etc.), number of classrooms, and whether the building contains a lunchroom, auditorium, gymnasium, shop, or home economics room.

B. Defendants' Exhibits

Def. Ex. 1

Petition of white citizens of Perry County at a meeting held on August 31, 1966, requesting that no Negro students be enrolled at Suttle High school for 1966-1967.

II

December 20, 1966 Hearing

A. Plaintiff's Exhibits

Pl. Ex. 1

Annual Report for Perry County - Attendance Reports 1960-1965. These reports list each school in Perry County by race. Totals for each item tabulated in the reports are kept separately by race. The reports list the number of teachers at each school (Column II), grades taught (Column III), and such attendance data as the number of students on the rolls at the close of the last month of school (Column V) and average daily attendance (Column XI). In addition to the attendance statistics by school, which are broken down only by department (e.g., elementary grades), there is a compilation of attendance by grade and by race (items XVII through XXII). Item XXVIII lists high school graduates, by race.

Pl. Ex. 2

Annual Report for Perry County - Financial Statement, 1958, 1958-60 and 1963-65. These financial statements contain the ordinary type of balance sheet and a statement

of public revenues and receipts. Exhibit 4 to the report lists expenditures by race for instruction, maintenance, transportation and capital outlay. Exhibit 5 to the report is a detailed breakdown of expenditures for transportation by race. Exhibit 6 to the report lists receipts and expenditures of local funds by race.

Pl. Ex. 3

Annual Report for Perry County - Transportation Reports, 1956-65. These reports reflect, as to each bus in the system such information as bus number, school served, seating capacity, number of pupils transported, number of trips each day, make and model of bus, and number of years in service. White buses are listed first, then Negro buses. In addition, these reports give certain figures by school (white schools first), such as number of students transported.

Pl. Ex. 4

Monthly Attendance Reports for September and October 1966 for each school in Perry County. The reports show attendance statistics for each grade, as well as elementary, junior high and senior high schools' totals and a grand total. Among the statistics given are the number of teachers in each school, enrollment at the end of the month, average daily attendance and reasons for absences. The number of non-white students is included in item XVII.

Pl. Ex. 5

Minutes of the Perry County Board of Education, 1963-1966.

Pl. Ex. 6

Applications for reconsideration of choice forms to attend white schools in Perry County. Included in this exhibit are copies of letters sent by Negro parents to the Perry County Board of Education after the September 15, 1966 hearing requesting reconsideration of their choices to attend white schools as well as notations of the superintendent and the disposition of each request. Such notations are the basis of the defendants report to the Court dated September 21, 1966.

Pl. Ex. 7A, B, C

Separate overlays prepared from maps obtained from the defendants demonstrating the bus transportation routes for the white and Negro schools. A third overlay shows the selected Negro bus routes. These maps illustrate the dual bus systems and frequent overlapping of routes.

Pl. Ex. 8

A notebook of photographs of three white and eight Negro schools in Perry County. The notebook contains 42 pictures, identified in the Table of Contents and numbered as such. The pictures illustrate the disparity of facilities between white and Negro schools.

Pl. Ex. 9

Report of a Partial Survey of the Perry County School System, 1965-1966. This is a report of a survey conducted by the State Department of Education. The report shows school census for the years 1950 through 1962, evaluates the buildings and sites in use at the time of the survey, makes recommendations for future school centers and includes pupil density maps prepared by race.

Pl. Ex. 10

Applications for Federal Funds 1965 and 1966.

These exhibits contain the justification for federally funded programs, a description of the project and estimated disbursements.

Pl. Ex. 11

Construction Correspondence. This exhibit describes the defendants use of state funds for two construction projects and the use of federal funds for a third project - additions to East Perry Junior High School including the architect's preliminary plans.

Pl. Ex. 12

Applications for Accreditations, 1966. This exhibit consists of the applications for secondary school accreditations submitted to the Alabama State Department of Education and the Southern Association of Colleges and Schools by the two white high schools and one Negro high school. The applications show the stated pupil-teacher and book-pupil ratios, the subjects offered by each school, the educational background of the teachers, and the school's own evaluation of its library, science, health and physical education facilities and its counseling and guidance program.

Pl. Ex. 13

Insurance Schedules 1965-1966. The Insurance Schedules list the insured buildings at each school in the Perry County School System. For each building the following information is given: number of rooms, building value, content value, and insured value.

Pl. Ex. 14

Inventory record, 1963-64. These records list the contents in each school at the close of the 1963-64 school year. No inventories have been taken of the schools since that date. In some instances, the purchase price of the articles is listed. The inventory includes schools that are currently in the Marion City System and does not include records for Marion Baptist Academy.

Pl. Ex. 15

Institute Records, 1965-66, and 1966-67. These are IBM lists of teachers, principals, supervisors, and the Superintendent for each year. Administrative personnel are listed first. Regular teachers and other personnel are listed by school. Vocational teachers for each year are listed at the end of the record. For all personnel, the record lists teaching assignments, total years experience, rank and type of certificate, and annual contract salary.

Pl. Ex. 16

Allocation of teacher units 1961 through 1966. This exhibit shows the number of teacher units earned from the previous years attendance and includes the rank of teachers and principals, and the number of regular and exceptional teacher units. For the years 1961 through 1964 there is a racial breakdown as to the number of teachers employed, the number of teacher units and the rank of certificates.

Pl. Ex. 17A

Textbook Inventory - grades 1-6, 1965-66. This exhibit sets forth the inventory of state-owned textbooks for the school year ending June 1966. The exhibit includes

the number of books received, worn out, destroyed and available at the end of the school year.

Pl. Ex. 17B

Textbook Inventory - grades 7-12, 1966-67. This exhibit includes similar information as set out in Pl. Ex. 17A. In addition thereto, the exhibit also includes purchase requisitions for textbooks.

Pl. Ex. 17C

Textbook Inventory - November 1966. This exhibit sets forth the title of the textbooks in use and the number of books needed for each grade. The exhibit also shows the book shortages in each class for various schools and the enrollment figures per class.

Pl. Ex. 18A - F

Class Schedules and Enrollment Figures for Suttle High School, Uniontown High School, Heiberger Junior High School, Marion Baptist Academy, East Perry Junior High School, and Robert C. Hatch High School.

Pl. Ex. 19A - C

Floor Plans of Suttle High School, Uniontown High School, and East Perry Junior High School.

Pl. Ex. 20A - C

Applications for Accreditation 1964-66 for Suttle High School, Uniontown High School, and Robert C. Hatch High School. These applications contain the same type of information as Pl. Ex. 12.

Pl. Ex. 21

Students Enrolled in Eighth Grade at Suttle High School. This exhibit lists the names of all students enrolled in the eighth grade English class at Suttle High School.

Pl. Ex. 22

Students Enrolled in Eighth Grade at Marion Baptist Academy. This exhibit lists the names of all students enrolled in the eighth grade English class at Marion Baptist Academy.

CERTIFICATE OF SERVICE

I certify that, on December 30, 1966, I served the foregoing Brief, by mailing a copy thereof, postage prepaid, to the attorney of record for the defendants at his address as follows:

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