

NO. 74,945

HEMAN MARION SWEATT,

RELATOR.

VS.

THEOPHILIS SHICKEL

PAINTER, ET AL,

RESPONDENTS.

IN THE DISTRICT COURT

OF

TRAVIS COUNTY, TEXAS,

126TH JUDICIAL

DISTRICT.

STATEMENT OF FACTS.

Filed in the 126 District
Court of Travis County, Texas

at 10:00 A.M.

JUL 6 1947

Ben Lee Choe, District Clerk

Geo. W. Pickens

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Filed in the 126 District
Court of Travis County, Texas
at 1:30 P.M.

AUG - 4 1947
Ben Lee Choe
Ben Lee Choe, District Clerk

By _____ Deputy

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HERMAN MARION SWEATT,

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IN THE DISTRICT COURT OF

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120TH JUDICIAL DISTRICT.

STATEMENT OF FACTS.

B-e-f-o-r-e

HON. ROY C. ARCHER, J u d g e.

A-p-p-e-a-r-s-n-a-n-c-e.

MR. W. J. DURHAM,

MR. THURGOOD MARSHALL,

MR. E. B. BUNKLEY, JR.,

MR. JAMES M. NABBIT, JR.,

COUNSEL

FOR

RELATOR.

MR. PRICE DANIEL, Attorney General of Texas,

MR. JACKSON LITTLETON, Asst. Atty. Gen. of Texas,

MR. JOE GREENHILL, Asst. Atty. Gen. of Texas,

COUNSEL FOR RESPONDENTS.

BE IT REMEMBERED that on Monday, May 12, 1947,
and succeeding days, all in the Regular March Term of said
Court, there came on to be heard the above entitled and
numbered cause; whereupon the Court admitted into evidence
the following:

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1.--	Standards of American Bar Association-----	12	597
2.--	Resolution of Board of Directors of A. & M. College, dated Nov. 27, 1946-----	46	599
3.--	Resolution of Board of Regents of University of Texas, passed February 28, 1947 -----	63	603
4.--	Plat of floor plan of Law School on East 13th Street, Austin, Texas-----	113	Orig. Vol.II
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9.--	Requisition No. UN-1 for law books for Texas State Univ. for Negroes Law Library -----	254	Orig. Vol.II.
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12.--	List of books attached to Request for Bids, (Exhibit 12, attached to Exhibit 11)-----	256	Orig. Vol.II.
13.--	Letter from E. J. Mathews, Registrar, Texas State University for Negroes, to Roman Marion Sweett, dated March 3, 1947 -----	262	614
14.--	Photograph of building at 104 East 13th St.,-- Austin, Texas, site of Negro Law School -----	273 494	617
15.--	National Survey of the Higher Education of Negroes, A SUMMARY, Misc., No. 6, Vol. IV.-----	475	Orig. Vol.II.
16.--	"The Senior Colleges for Negroes in Texas"-----	476	Orig. Vol.II.

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1.--	Title Cover, excerpt page 259, and pages 260-267, incl., of Association of American Law Schools, Handbook, 1945-----	152	--- 618
2.--	Photograph of Negro Law School Building -----	206	--- 635
3.--	Photograph of Law Building at University of Texas -----	208	--- 636
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7.--	Certified copy of Petition to Advance case for an immediate hearing in Pearson v. Murray in Maryland Court of Appeals (On Bill of Exception) -----	480	--- Orig. Vol.II.
8.--	Report of Scholarship Aid Fund for Texas Negro Graduate and Professional Students, 1945-1946 -----	492	--- 640
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Note:-- The following exhibits, in original form
accompany the Statement of Facts, not
being bound in Volume I or Volume II.

A.--	16th Census of the United States, 1940-----	474	-- Orig.
B.--	Accredited Higher Institutions, 1944, Bulletin 1944, No. 3, U.S. Office of Education -----	474	-- Orig.
C.--	General Studies of Colleges for Negroes, Misc. No. 6, Vol. II, U.S. Office of Education -----	474	-- Orig.
D.--	Directory, Colleges and Universities Offering Graduate Courses leading to Master's and Doctor's Degrees, 1940-1945 -----	475	-- Orig.
E.--	Federal Government Funds for Education, 1944- 1945 and 1945-1946, Leaflet No. 77 -----	475	-- Orig.
F.--	Biennial Survey of Education in the United States, 1942-44, Statistics of Higher Educa- tion, 1943-44 -----	475	-- Orig.
G.--	Biennial Surveys of Education in the U.S., 1938-40 and 1940-42, Statistics of Higher Edu- cation, 1939-40 and 1941-42 -----	475	-- Orig.
H.--	Biennial Survey of Education in the United States, 1942-44, Statistics of State School Systems, 1943-44, Chapter II -----	475	-- Orig.
I.--	Federal Security Agency Biennial Survey of Education, 1936-1938 -----	475	-- Orig.
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AFTERNOON SESSION.**May 12, 1947****2:00 P.M.**

THE COURT: It seems this morning that perhaps I wasn't as clear in making a statement of this trial as perhaps I should have been. This case was tried here on stipulations and on some testimony other than stipulations and went to our Court of Civil Appeals, and by agreement of all parties, the Court of Civil Appeals entered an order in which this cause was remanded generally to this Court for further proceedings, without prejudice to the rights of any party to this cause. I think we needed that additional explanation. If we are ready now, we may go ahead.

MR. DURHAM: Relator is ready, Your Honor.

THE COURT: Are you ready, Mr. Attorney General?

MR. DANIEL: Yes.

{ Thereupon counsel for relator and
{ counsel for respondents presented
{ to the Court a statement of their
{ respective pleadings in this cause.

THE COURT: I think with the trial being had before the Court we will be able to hear your testimony and at the same time bear in mind your exceptions on either side. So, for the time being, I am just going to carry your exceptions along in the trial of this case. If at a later time it requires a little more time on your part to prepare to meet issues that may be raised, which might be somewhat of a surprise to you, the Court

will give you that time.

MR. DURHAM: To save time, I thought we could go on with our testimony, we could go on this evening, and maybe talk about the stipulations after Court adjourns.

MR. DANIEL: Just so it is understood, we have no stipulations at this time.

MR. DURHAM: That is right, we have no stipulations at this time.

THE COURT: I haven't heard it if you have.

MR. DURHAM: It is agreed that respondents will put their testimony on first, and then we will put our testimony on, but in the record as it is made up, the relator's testimony will come first in the record.

THE COURT: All right.

{Reporter's Note:- By agreement of
counsel later, this statement of facts
was ordered prepared setting out the
testimony and proceedings in chronolog-
ical order.

MR. DANIEL: Your Honor, we have a witness that we want to put on out of order, and I believe it is agreed we may do that.

THE COURT: All right.

- - - - -

D. A. SIMMONS, a witness produced by Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name.

A D. A. Simmons.

Q Where do you reside, Mr. Simmons?

A Houston, Texas.

Q What profession are you in?

A Attorney at law.

Q Do you hold a law degree?

A I do.

Q From what school?

A The University of Texas Law School.

Q Do you hold any other law degrees?

A I have an Honorary Doctor of Law degree from the University of Montreal and an Honorary Doctor of Law degree from Loyala University in New Orleans.

Q How long have you practiced law?

A Twenty-seven years.

Q Have you during that time had any official association with The American Bar Association?

A I have.

Q Would you please state your official connection with the American Bar Association?

A Well, if I may, I would like to go just a little back of that, because I understand I am called -- I know nothing about the case, but I am called on as a witness on certain phases

of the American Bar standards.

THE COURT: Yes.

A I have been President of the Houston-Galveston Bar Association, 1932 and 1933. I was President of the Texas Bar Association in 1937 and 1938. I was President of the American Judicature Society in 1940 and 1942. For the record, I would like to state the American Judicature Society is the second largest national organization of lawyers in the country, and I was President of the American Bar Association in 1944 and 1945, having heretofore been on the Board of Governors for five years.

Q Have you in your American Bar Association work had occasion to be on any boards that inspected law schools or passed upon the requirements of whether or not certain law schools met requirements of the American Bar Association?

A The standards of the American Bar Association are set by the House of Delegates. They are recommended by the Board of Governors and the Section of Legal Education. I have been a member of the Board of Governors in 1937 to 1940, and 1944 to 1946. I have been a member of the House of Delegates representing the lawyers of Texas, 1936 until today. I am still a member.

Q In your experience with the American Bar Association, I will ask you if you have ever had occasion to study the standards of the American Bar Association as far as law schools are

concerned?

A Yes, sir, I am familiar with them. I was a member of the House when they were voted.

Q You are acquainted with the standards as they exist today?

A Yes, sir.

Q Are you acquainted with the physical facilities, the faculty, library, courses of instruction, and other matters related to the University of Texas School of Law?

A Well, I would say that since I was graduated there in 1920, my late visits, I have not counted the law books. I know they have a very substantial law library. I do not know how many books, and I know a good many of the professors, and I am familiar in a general way with the course of instruction.

Q Do you know whether or not the University of Texas Law School meets the standards of the American Bar Association for an accredited law school?

A It is an approved school.

MR. DURHAM: We object to that because it is an assumption of what those standards are. The witness hasn't testified what the standards are. It is assuming what the standards are.

THE COURT: I believe I will let him proceed, Counselor, along this line. You will save your point, and maybe we will get back to it.

A My answer is: It is an approved law school. It has been

inspected and approved by the House of Delegates of the American Bar Association as having complied with the standards.

Q (By Mr. Daniel) Are you acquainted ----

A I can say what the standards are, briefly.

Q Will you briefly state what the standards are?

MR. MARSHALL: I think the standards are the best evidence.

A I think so.

THE COURT: The standards are.

A I assume that counsel on both sides have them.

MR. MARSHALL: Unfortunately, if Your Honor please, we do not have them, except that one person on our staff has them, and he is not in the court room at this time.

THE COURT: All right.

Q (By Mr. Daniel) I will ask you if this page contains the standards of the American Bar Association with reference to approved schools?

A That is the copy of the standards as approved by the House of Delegates of the American Bar Association.

MR. DANIEL: We wish to offer it. We offer from page 1. It is headed, "Standards of the American Bar Association."

Q I believe your testimony was that the University of Texas Law School has been approved as having met those standards?

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 1.

A That is correct.

Q Now, I will ask you, Mr. Simmons, at my request, whether or not you have inspected the law school for the State University for Negroes here, adjoining the Capitol grounds in Austin?

A Dean McCormick, of the Texas University Law School, took me when the Court recessed this morning, to the building just north of the Capitol, where on the ground floor I found three rooms and a hall and toilet facilities. The first room had three or four or five study desks, a law book case or two with approximately, I would say, one hundred and fifty to two hundred books, and there were two class rooms the Dean pointed out, one with students' study desks; the other one he said was a reserve room in case more than eight or ten students applied. I saw that. I know where that is. I walked over to the Capitol. I was informed, from the reading of the pleadings this morning, which is all I know about that phase of it. I learned that the Supreme Court Library was made available by the statutes. I have a little familiarity with that from twenty years ago as First Assistant Attorney General. I went back, and the books seemed to have been kept up to date, and it is about a hundred or a hundred and fifty yards from this school.

Q You are speaking now of the State Library and the Supreme

Court Library?

A Yes, sir; on the second floor on the north side in the Capitol Building.

Q And that was about how far from the school?

A The north entrance of the Capitol, I would say, was a hundred yards. This is on the second floor immediately above the north entrance.

Q How many volumes of law books are required by the American Bar Association for a library that meets its standards?

A Well, the standards themselves call for an adequate library. The interpretation of that, to get it down to actuality, has been seventy-five hundred well-selected books with cases, in complete sets.

Q I would like to ask you if the Supreme Court Library, with which you say you are familiar, and the State Library there in the Capitol Building, has been kept up to date, and if the evidence shows there are over 40,000 books in that library, -- would it meet the requirements of the American Bar Association for a law school library?

A Well, I glanced over some of the sets. They are up to date. Whether there are 40,000, I would rather leave to the librarian, but obviously there are a great deal more than 7,500 books, and they are books of a character that would afford an adequate legal education.

Q Now then, did you in talking with Dean McCormick acquaint

yourself as to the courses of instruction that are being offered to the law school of the Texas State University for Negroes?

A Well, I was merely informed from the set-up, and from the books on the shelves that the freshmen, first year law school courses are the courses that would be available at this time, and that they were the identical books and the identical courses given the first year law students at the University of Texas Law School.

Q I will ask you a hypothetical question. If the evidence in this case shows that in the building that you have already inspected, the University of Texas law faculty, the same faculty members, offered the same courses in law in that building, and with the library facilities of the Supreme Court Library that we have mentioned, and if the requirements for entrance are the same, the requirements for graduation are the same, as the Texas University Law School, if the evidence shows that the requirements for classroom study and all requirements contained in the catalogue of the University of Texas Law School must be met in the law school of the State University for Negroes, if the evidence shows what I have recited, in your opinion, will Texas University for Negroes Law School offer equal educational opportunities in law as that offered by the University of Texas?

MR. MARSHALL: If Your Honor please, assuming he is an

expert, and assuming all that is in the hypothetical question, I don't think this witness is entitled to give a conclusion as to what the law is in the case. I think that is your job.

THE COURT: I think he hasn't asked him a law question. I think he is asking him if, as an expert, it is substantially the same.

MR. MARSHALL: The question was whether it furnishes the equality required.

THE COURT: Well, he wouldn't say whether there is an equality or not.

MR. MARSHALL: May we have an exception, please, sir?

THE COURT: Yes, sir.

Q (By Mr. Daniel) You may answer, please.

A In my opinion, the facilities, the course of study, with the same professors, would afford an opportunity for a legal education equal or substantially equal to that given to the students at the University of Texas Law School.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Mr. Simmons, what is the purpose of accreditation from the American Bar Association, of law schools?

A To make standards -- pardon me. Would you mind telling me your name?

Q Thurgood Marshall.

A And you are from where?

Q Originally from Baltimore, and now from New York.

A I like to know who I am talking to.

Q Good.

A The purpose of any standards are to set a goal. The American Bar Association standards are to assure adequate legal education to those who are going to represent the public as lawyers. They are merely recommendations, and as -- and your name?

MR. DURHAM: Durham.

A As Mr. Durham suggested a while ago, the American Bar Association is a private association of lawyers, about 40,000, and it set up these standards as a guide to the law schools, because when the standards were set up there were a great many law schools in the United States, mainly night schools, that were giving courses that were deemed to be inadequate, inadequate to prepare the lawyers of the future generation.

Q And isn't it true that many studies have been made by the American Bar Association and the officials, including several past presidents, concerning the inferior education obtained in small, part-time law schools? Isn't that true?

A The Association has been concerned with legal education since 1896, and it has made many studies. That part is entirely correct. We are now beginning to engage in a study

that used to be done by the Carnegie Foundation. They used to make an annual survey of legal education, and Mr. Reed of that Foundation, I think, was assigned other duties about ten years ago, and the American Bar Association has taken over that officially.

Q Are you using Mr. Reed officially?

A No, sir; I happen to know him personally.

Q Have you read any of his studies?

A I have many of them in my library.

Q You are familiar with his viewpoint on part-time law schools?

A I would prefer to answer mine. I have studied at night part time law schools myself. I have studied law in every form, I think. I studied in my father's office as a boy. I came to the University of Texas not having funds to proceed through. I stopped for a couple of years and went to night law school, working in Houston, an unapproved part-time school, with no books except those you could borrow, and I came back after the First World War and came back here, and I believe I am familiar with the office study and small part-time school and the approved law school, and sympathetic with all three.

Q As a matter of fact, as of the present time, isn't the American Bar Association opposed to part-time law schools?

A No.

Q Hasn't the American Bar ----

A For the night school, what they want is legal education for the future lawyers, and as the small school or the night school obviously can't give as much time to the student as a day school, full-time, they require that they give four years of three hours in the evening instead of three years like the regular approved schools, but many of the part time schools are approved.

Q Do you mean approved by the American Bar Association?

A Yes, as having complied with these standards.

Q There is another accrediting agency, the Association of American Law Schools?

A Yes.

Q Isn't this true; their standards are higher than the American Bar Association's?

A In some instances, I think they are more stringent.

Q Isn't it a fact that there are some schools approved by the American Bar Association that are not approved by the Association of American Law Schools?

A I think that is true in some instances. I believe Lincoln University in St. Louis is approved, on our lists ----

Q It is on both of the sections?

A That is the law school, I think. My last check, I think it had 35 students.

Q Counting the faculty?

A Take Howard -- that is a colored law school at St. Louis. Howard School of Law in Washington, the last time I had occasion to go to that, I believe it had -- just before the war, I believe they had about 67 students. It is a fully approved school.

Q Both associations?

A I think so.

Q Yes, sir. Is it not true that accreditation by the American Bar Association is an asset to the school and the pupil and the community?

A We hope so.

Q And it is your opinion that it is of value to any school?

A Yes, sir.

Q And would you not, therefore, say that attendance at an unapproved school does not give equal education to attendance at an approved school?

A No, I wouldn't say that, because any school, -- all of these schools we have named at one time were on the unapproved list. They had to prove how the facilities may be equal, but the student body, after all, is the one that is going to determine the standing of that school, and if the student body takes advantage of the facilities offered, and by the State Bar examination, which has no relationship to the school itself, passed the State Bar examination, and the students of that school, as many in proportion, upheld the

teaching of that school, it is likely, of course, to be approved more readily than one where the product does not stand the gaff of the State examination.

Q The American Bar Association waits and watches what the school is doing before they approve it?

A Yes, sir.

Q They always do that, don't they?

A Yes, sir.

Q But you think in the meantime the school still should be giving the same training as an accredited school?

A Absolutely. The training is for the individual.

Q I understand ----

A It has got to be from the inside, what the man develops himself, what he can absorb himself. If he has the books and curriculum and physical facilities, the light, the books, the professors, I would venture to say that a student who had, -- let's say that school had ten students, with four professors teaching ten students, that the ten students should absorb a great deal more law than with ten instructors teaching seven or eight hundred students.

Q They approve the school, the curriculum and the plant?

A And the product.

Q You don't just approve it on the product?

A No, these standards should show there are seven or eight hundred well-chosen volumes and should have professors who

are full time professors in the field of law.

Q Did you know that these proposed professors for the Negro school are to be part time professors? Did you know that?

A I understood they were full time law teachers.

Q Did you understand their work there was to be part time?

A I would say that with ten students, it would have to be.

Q I don't know what you mean by that.

A I was advised by the Dean of the Texas University Law School they will be the same men that teach at the Texas University Law School. They are full time teachers, of course, employed by the State of Texas to teach students in law.

Q But we are talking about the so-called Negro school. As to that school, they are part time?

A Yes, sir, that is true. They would also be part time at the University of Texas.

Q Did you find out where their offices are?

A At the other school, but they have a desk here. I was pointed out, -- all I know is what I was told this morning, and I told you who told me. I was pointed out the books, the desks, the chairs, and the rooms, and the distance from the State Supreme Court Library, and I went over there to see if it was where it used to be.

Q Do your standards of the American Bar Association, in accrediting a school, -- isn't it limited to what is in the school? To be specific ----

A Until students come, this isn't a school.

Q Thank you, sir; but the other question is this. If you have a school, for example; you are familiar with the fact, are you not, that the library in the Library of Congress is one of the best in the country? Are you not familiar with that?

A Yes, sir.

Q If you had a university in Washington with no law library, but access to the Library of Congress, would you accredit that school?

A You are talking to me. I am only one of 185 delegates in the House of Delegates. I do not personally accredit anybody. If the law school you are talking about had trained professors, set up by Congress across the street, a hundred yards from that library, and the Act of Congress said this library shall be the library of that school, I would say, so far as I was concerned, I would say they had been furnished an adequate library, all of the books they could hope to read or study.

Q I didn't say the library was made a part of the school. I said "made available", like it is to everybody else.

A Yes.

Q Because it is available, would you, therefore, use that as a part of the accrediting of the school?

A Having used this one myself, I know there are not so many people there but what you can always find table space and

all of the books you want to study or read. We are trying to get some law and the standards of the law into the mind and soul of the individual student. I am not trying to build a building for you, or law books. We are trying to build lawyers with character.

Q But you do require the building with the law books?

A We require, as I said before, we require that a certain number of certain proper law books be available.

Q What do you mean by "available"?

A You are the one that asked me, -- you said a while ago, questions on availability. I will say that any time you have a law library a hundred yards away from your school, and that the Legislature says these books are for the use of that school, that those books are available.

Q I think you are familiar with the statute that says they shall be available. Isn't that the language?

A I will let the Judge pass on the statute.

Q You are quoting from it?

A You were talking about Congress, if the Law Library of Congress was available, and I am trying to define what I mean by available.

Q Do you know of any other school the American Bar Association approved that didn't have a library in the building where the school was?

A All I can say is I haven't inspected over about eight law

schools personally.

Q You have been passing on law schools for how many years?

A Personally?

Q Yes, on the Committee?

A On the House of Delegates since it was established in Boston in 1936, and three years before that as a member of the General Council from Texas.

Q During that period, has that body approved a law school that did not have a library in the building where the law school was?

A I can't answer that.

Q To your knowledge?

A All we have ever passed on were ----

Q Can we first get an answer to that; and then you can go ahead? Do you know, to your knowledge, that ----

A I can answer that like lawyers do, either way. I don't know, because the practice is this. Mr. Demuth, of the University of Colorado, and Mr. Sullivan, from the University of Illinois, inspect the schools, and they come back and report to the House of Delegates of the American Bar Association, "We have inspected Lincoln University Law School. It has an adequate available library." Nobody has ever said there is one in the building across the street, in all of the years that I have acted as one of those that have passed on it. In the eight schools that I have inspected, they all had

libraries either in the building, or in adjacent buildings.

Q That is the purpose of having libraries in the law schools?

A In the school?

Q Yes.

A To make books available so that the student can study and learn the principles of law.

Q Don't your requirements also require that you have a trained, competent librarian?

A Someone should be familiar with the books. He doesn't need to be a full time librarian.

Q Do you require that you have a full time dean?

A The interpretation that has been made by the Committee before they are recommended to the House of Delegates, the school should have at least one full time professor or dean for each one hundred or fraction thereof, of pupils. We don't require a full time dean, as you quite well know, Mr. Marshall.

Q I don't know anything about what the American Bar Association requires, because I am not a member of it for one reason.

A May I go ahead?

Q You may proceed.

THE COURT: Until somebody stops you, you can proceed.

A This is quite interesting to me. Are you a member of the Lawyers' Guild?

Q (By Mr. Marshall) One of the founders of it, and a member

of the Board of Directors.

A Are you a member of the National Bar Association of Colored Lawyers?

Q I am a former Secretary for four years of it.

A That is a national association of colored lawyers?

Q No, sir; it is an association of American lawyers that has no bars as to race, creed, or color.

A Is there a single white lawyer in it?

Q Yes, sir; Martin Popper, and two or three others that I can name.

A Of course, we have colored lawyers in the American Bar Association.

Q You had one up until two years ago?

A Bill Lewis. That is purely aside. We can go on with the questions. I helped organize The Texas State Bar. We have colored lawyers in that. We have colored lawyers in the American Judicature Society, if that has any place in the record.

Q Getting back to the law library, and the American Bar Association. They do require that we have at least one full time dean or full time professor for each one hundred students?

A There must be one full time man.

Q I will ask you a hypothetical question. If there is a law school established here in Texas for Negroes that has not

a single full time professor or dean, would you say that that gives the type of education that would meet the approval of the American Bar Association?

A Well, I am going to have to assume that this law school has some students and there are ----

Q Assume not less than one hundred.

A Lincoln, say, with thirty-one. I would say if, as, and when this school has enough students to require through the business facilities, the efforts of a full time man, they should certainly have one.

Q Could that school be approved by the American Bar Association without any full time teacher or dean?

A Yes, sir, it could.

Q It could be?

A Yes, sir; the requirement of one full time professor for each one hundred students isn't in the standards. It is an interpretation made by the Committee as a recommendation to the House of Delegates.

Q So, it would vary?

A If the Committee found it was adequate. What is the purpose of having one instructor for each one hundred, or less? The purpose is stated in the standards to be so that the professor will be acquainted with the needs and the studying of the student body. I would assume, and would so state, that if this school has less than 25 students, that three or four

professors who are full time professors, not part time, would certainly seem to be adequate.

Q What would be -- and maybe you can't answer this -- what would be the minimum number of full time teachers, deans, that you would need?

A At this time?

Q Yes, sir.

A With how many students?

Q Well, assume we have one.

A Well, I wouldn't see the slightest need for a full time professor to give his full time to this one student.

Q And -- then could that one student get the same type of education that other students get by having only the viewpoint of one professor?

A I didn't understand that was to be the case. I understood they were to assign four.

Q And you wouldn't need any full time, then?

A I wouldn't think so. I would think; if he had the same capacity, he could get a better grasp of the principles of law than if he were one of eight hundred students with ten professors.

Q Don't you require, in accrediting schools, that you have a full time professor, or professors, for the purpose of being available to the students during the regular day, throughout the day, for consultation? Isn't that true?

- A No, the purpose, as I stated before, is so that there will be a sufficient number of instructors so that they will personally know each student and be available to encourage and teach him how to study law. Some of them don't know how to study law.
- Q I think we are talking about class room work. I am talking about after class. Isn't that the reason for a full time professor, so that he will be available in the afternoon for consultation?
- A No; so that they will have some chance to individually and personally know the students.
- Q And another question; do you know the difference between a law library and a teaching law library?
- A I don't know what you have in mind, if that is what the answer is.
- Q I will explain it. For example, under the requirements, the types of books that you have to have in a law school library aren't the books that are required, for example, in a Supreme Court Library?
- A Well, I don't think so. They lay more stress on the law reviews and things of that kind than the practicing lawyer does; or, I might say, used to, but the Supreme Court Library here has about everything a general practitioner would need.
- Q Does it have what a law school needs?

A I would say that depends on the course of study. I have known some law schools to give,-- I think there is one that gives a course in patent law. I question whether that one would have facilities for teaching much patent law.

Q A few others, too. The point I am trying to get at is that the law library is an important feature of a law school, a very important feature?

A That is right.

Q And the University of Texas Law Library has one of the best; isn't that true?

A It has a very good library.

Q And isn't it fully accredited by every association?

A As far as I have heard.

Q And does it not have a librarian and an assistant librarian?

A Well, they had a librarian when I was there.

Q And isn't it the only library in this section of the country that has microfilm reports of the records of the Supreme Court?

A You had better ask the dean.

Q If you are going to compare the two; aren't you forced to compare the two libraries?

A I said, in my opinion, the Supreme Court Library, which is one hundred yards from your school, has more than any one, or twenty-five students, would possibly absorb in three years; and if he absorbed that, he would be competent

to start practicing.

Q The answer is that the important thing is that it is not the number of books necessarily, but the right books that you will need?

A Yes.

Q And obviously, there are books at the University of Texas that are not in the library of the Supreme Court?

A I can't answer that.

Q There is a larger percent ----

A I will say that all I have read that qualifies me, if I am qualified to practice law, are in the Supreme Court Library.

Q Do I understand you to say that the basis of your testimony is that the individual student can get as much in an inferior school as he can get in a superior school, if he is smart enough?

A The inferior and superior are your words. I said, with the same instructors in the two schools, and the law books available in the Supreme Court Law Library, a hundred yards across the street, he can get an adequate legal education; at least as good as that of the student, one of seven or eight hundred, getting the similar courses out at the University of Texas Law School.

Q But you don't think it is a mistake to put all of those books at the University of Texas Law School, do you?

A That is not up to me to judge that. I haven't read all of

them.

- Q I don't imagine the librarian has. If the standards of the Association of American Law Schools are higher or more stringent than those of the American Bar Association, as you stated, as a member of the board, how could a student be said to be offered equal educational facilities in the basement across the street as he would at the University of Texas, assuming that the Association of American Law Schools requires a minimum of four full time teachers, irrespective of the number of students?

MR. DANIEL: We object to that question as argument; presuming the requirement of the American Association of Law Schools there, and for the same reason they objected to the requirements of the American Bar Association, we object to that question.

THE COURT: I think he can answer it.

- A It is a little involved. Break it down, if you can.
- Q (By Mr. Marshall) You stated before the requirements of the Association of American Law Schools were obviously more stringent?
- A I said they were slightly different. They require ten thousand, and the American Bar, seventy-five hundred. In the average case that has no meaning. The student won't study over 200 books in his courses.
- Q Have you ever taught school?

A I have lectured a few times.

Q But you have never been a full time professor?

A No, that is correct. I have been a practicing attorney.

Q You have been a practicing lawyer?

A Twenty-seven years.

Q Are you familiar with the teaching curriculum now used in law schools?

A Somewhat.

Q Are you familiar with the teaching methods now, for instance, the case book, and the old outline method?

A Yes, sir. The case book gives more stress to the work done by the student himself in reading, instead of the professor reading and the student making notes, like he used to do twenty-five years ago.

Q And he takes the case book ----

A And studies it himself.

Q And he goes up in the library and reads the footnotes?

A Yes, sir; and the law reviews.

Q Incidentally, how many law reviews did you see in this library over here?

A In the ----

Q At the Capitol?

A I couldn't say. I have gone through a good many of them when I was in the Attorney General's Office.

Q I am talking about today.

A I didn't see them. I am sure they are there.

Q You don't know how many are there now?

A No.

Q Assuming the requirements of the Association of American Law Schools are more strict than those of the American Bar Association, and the University of Texas is a member of both, I think we can assume that is a fact. The Association of American Law Schools requires a minimum of four full time professors, irrespective of the number of students. Would you say a student at that school would get equal educational opportunity with the University of Texas?

A I didn't qualify as an expert on law schools, and I, perhaps, as a practicing lawyer, do not lay as much stress on having as many full time law professors as most people. I think an occasional practicing lawyer mixed up in the faculty is a fine thing. The fact that the American Association of Law Schools wants more full time professors than the American Bar Association doesn't change my view. What we are talking about, affording the opportunity to a student, assisted by a preceptor who knows some law, can learn the principles of law and certainly one student, or ten, or twenty-five, assisted by four preceptors in law would have a better opportunity, if he has it within himself to develop, than one who was asked an occasional question every thirty days or so.

Q The important thing is that if this proposed school used in

the first hypothetical question did not, and could not under those facts, meet the requirements of the Association of American Law Schools, and the University of Texas does meet them; would you say that that is giving equal facilities?

A It wouldn't have the slightest effect on the student, whether he was a trained lawyer when he left the school or not.

Q Would that be equal?

A Equal facilities for what? For him to acquire a legal education?

Q No, sir.

A Whether they were a member of the Association would be utterly immaterial.

Q The question would be whether that would be facilities equal to the facilities at the University of Texas.

A If you are talking about physical facilities ----

Q I am talking about the whole law school -- both. Would you say that that law school that you saw today, even with the opportunity to use the Capitol library, afforded facilities equal to that that you have seen repeatedly at the University of Texas?

A To one student?

Q No, not limited to one student for this question. You may go back to one student next time.

A Someone once said that Mark Hopkins, long-time professor at

Williams College, sat on the end of a log and taught a student on the other end of the log. It depends on the student and instructor, and what they are talking about. Whether they belong to an association or have complied with the standards, in my opinion, for this purpose, is utterly immaterial. If you have competent instructors with adequate books to teach that student, he can get his legal education.

Q Mr. Simmons, let's start with ----

A I couldn't see how he could fail to get that if there were one or ten, where he couldn't get a better education than any ten you would get in the other school, because half of them, I regret to say, look out the window. It gets humid, as it is here in the court room, and he would get a little sleepy, and he looks out the window, and he couldn't do that if there were one or ten.

Q Are you opposed to large law schools?

A I am not advocating them. I am not impressed much by numbers, Mr. Marshall.

Q Since you say we get equal facilities, in your opinion ----

A I didn't say that. I said he had an equal opportunity to get a legal education, is what I said.

Q Could he get an equal opportunity to get a legal education in a law office?

A I think so. The finest lawyers I have ever known, that picture of that one over there, for instance (referring to

photograph hanging in court room.)

Q Mr. Simmons, if we can stay on the facilities ----

A All right.

Q The best way to get on it is to take the concrete ones. In your mind, is there any comparison in value of the building where the University of Texas Law School is with the building across the street where the Negro school is supposed to be?

A I think both of them could well be improved. The Texas Bar Association has been trying for years to get them to tear down the one at the University and build an adequate one.

Q What do you mean by "adequate?"

A For the number of students. It was built in 1907.

Q Is the one across the street equal in monetary value?

A Certainly not.

Q Certainly not. Approximately how many professors do they have at the University of Texas Law School?

A I don't know. The school has changed from fifty year before last to eight hundred and something now. I couldn't tell you.

Q Is the library at the University of Texas Law School larger than the library at the Capitol, and the one in the Negro law school together?

A Each one of them have, in my judgment, fifty thousand volumes, approximately. I don't know how many more.

Q Fifty thousand in that law school over there?

A At the Supreme Court, approximately, I say.

Q Approximately how many in the basement of that building?

A I couldn't say. The Texas University Law School ----

Q No, the Negro law school?

A They had about 200 books, I would say.

Q What kind of books?

A They seemed to have some books on torts and contracts and legal bibliography and Texas Law Review, and a few miscellaneous books of that character. They didn't have any books that I saw, on equity, or on courses that you would give to post-graduates or seniors. These seemed to be, as far as these books were concerned, they seemed to be limited strictly to beginners.

Q Did you see the American Digest there?

A In this ground floor of the Colored Law School Building?

Q Yes.

A No, they were not there.

Q The United States Supreme Court Reports?

A They were not there.

Q Any state reports?

A They were not there.

Q There were no reports there?

A No.

Q There were some case books and text books?

A Yes, and the Law Review. It was The Texas Law Review. I suppose they are partial to that one.

Q Is that the only one?

A That is all I saw. I wouldn't say the only one.

Q Do you know the type of books required in an approved law school to be used in the first year courses?

A These same books on torts, contracts and legal bibliography are the same ones used at the University of Texas.

Q Don't they teach legal bibliography in the library, and use all of the books in the library?

A That is where you learn it.

Q Do you not teach legal bibliography in the library?

A I couldn't answer that. Not when I went to school. They taught it in the class rooms.

Q We are comparing these facilities as of today.

A I have outlined at some length what I saw, and in my opinion, if a man wants to become a lawyer, so far as the books, the curriculum, and the professors are concerned, he can become a lawyer with what is offered him here. Some people want a big law library and a big school. I happen to have studied in night school and a law office, and this school. Perhaps I am not as impressed with a big school as some other people.

Q I understand, but as one point in this case, the State makes an allegation that they are affording equal educational facilities, not equal opportunity to learn, necessarily.

A All I understood was that the State was required to furnish substantially equal facilities and opportunity to acquire a legal education. I am not arguing the law. I am not a lawyer in this case. I was just passing through the city. By reason of having been president of the lawyers from Houston to the United States, they asked me to talk about the standards. If you want me to argue about whether these facilities are worth as much as something else, you had better get somebody else.

Q Hasn't the American Bar Association taken a specific stand urging the abolishment of all law schools not set up as parts of universities?

A Well, they have taken a stand that they do not in general approve what they call the commercial law schools. I recall no resolution saying that they must be part of a university.

Q You set all of the standards or ultimate goals?

A They are recommendations.

Q Didn't the American Bar Association cooperate with the Dallas Bar Association in taking all of the small law schools in Dallas and centering them at Southern Methodist University, the American Bar Association?

A Some of our men, I am sure, helped with that. The schools there were commercial schools, the night schools, as I recall. I might add there is some movement on foot to do the same thing in Houston.

Q Go right ahead.

A I have been asked by the President of the University of Houston if I won't discuss with them means by which they could take over one or two night schools in Houston, and those are commercial schools. The Houston Law School is a night school which I attended back thirty years ago. I would be very happy to see them a part of a university, personally.

Q Do you know what hours the Capitol Library is open?

A Not right now. I studied there many times, day and night.

Q Do you know the hours?

A I do not know.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Mr. Simmons, the two smaller law schools that you mentioned which are recognized by the American Bar Association and the American Association of Law Schools, Howard University and Lincoln University, are they separate Negro law schools?

A That is my understanding.

Q As to the facilities, in your opinion, are the three class rooms that you have inspected, for the Negro law school, based on from one to ten students, equal as far as the opportunities for study and class room work are concerned, with three class rooms at the University of Texas for 850 students?

A Well, we have seats, and the professor could do very nicely

here teaching ten or fifteen students. He certainly, I think, could get more into their heads than sitting with 300, and in the back row.

Q Referring back to the question asked on cross examination as to whether you knew of any accredited law school that had its law library in a separate building, are you acquainted with the University of Michigan Law School?

A I have been there many times.

Q Are you acquainted with the location of the library building?

A It is in the same quadrangle. It is in the W. W. Cook Library Building, across the quadrangle from the Law School. As a matter of fact, I at one time had an office in Hutchens Hall, a part of that building. Hutchens is President of the American Judicature Society.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Isn't there a connecting alcove between the Law Library and the Law School at the University of Michigan?

A It is a large school, and it is a beautiful quadrangle of buildings. Hutchens Hall and W. W. Cook Library are very close.

Q The same is true at Yale?

A I am not so familiar there.

Q When you say Howard University is a Negro university or school, do you know that of your own knowledge?

A All I say is that it was accredited as a colored law school.

Q Do you know whether or not there are any other students prevented from attending there?

A I don't know anything about it. All I know is that in the accredited law schools, Lincoln and Howard are listed as colored law schools.

Q That is in the American Bar Association listing?

A That is what I was being asked about. Would you like to see that?

Q No. I was there when it was accredited. How long will it be, assuming your hypothetical school here, -- I mean, involved in the hypothetical question ----

A Don't say my hypothetical school.

Q I withdraw that. That school that you went in today over here across the street?

A I don't think anything is a school until it has got some students. The building where I was today?

Q That the building, if it should be opened as a school, how long would it have to operate before the American Bar Association would be in a position to accredit it?

A I think preferably it ought to wait and operate long enough to see if the student body was seriously interested in studying law, or if they had some other purpose, and then if

it complied with the standards, it would be given a provisional approval.

Q Can we stop there and see about how long that would be?

A I can't say. I have known of instances where, for instance, I believe St. John's University in New York, Brooklyn, was kept on provisional approval for two years; and I believe the University of Georgia Law School was put on provisional approval when it had some difficulty with a gentleman named Talbot.

Q How long after the provisional approval until you get it on the entire approval?

A I would say two years.

Q That is all.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

MR. DANIEL: I would like to make a statement as to the order of our evidence, now that we have Mr. Simmons excused. You will excuse him?

MR. MARSHALL: Certainly.

MR. DANIEL: We first wish to offer the -- call the attention of the Court to Senate Bill 228, which authorized A. & M. College to set up a law school at Prairie View, and then to offer the resolution on that college, authorizing the establishment of it, and a deposition showing what was

done under the bill, in order that the record might be complete, since the filing of this suit, as to how the State has attempted to meet its obligation; and then we will go into the new school here in Austin.

At this time we offer the resolution of the Board of Directors of A. & M. College, dated November 27, 1946.

MR. DUNHAM: That is the same resolution that was introduced on the trial before.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 2.

MR. DANIEL: We next wish to offer from the deposition of E. L. Angell the agreement of counsel as to waiver of formalities in the taking of this deposition, and I will ask Mr. Littleton if he will read the direct answers. I will propound the questions that were submitted by the State, by the Respondents, to Mr. Angell.

{ The following agreement of counsel
{ ordered copied into the record at
{ this point.

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No. 74, 945

HEMAN MARION SWEATT		IN THE 126th DISTRICT
VS.		COURT OF TRAVIS COUNTY, TEXAS.
THEOPHILUS SHICKEL PAINTER		
CHARLES TILFORD McCORMICK, EDWARD		
JACKSON MATHEWS: BOARD OF REGENTS		

DUDLEY K. WOODWARD, JR., E. E. KIRKPATRICK, |
W. SCOTT SCHREINER, C. O. TERRELL, EDWARD |
B. TUCKER, DAVID M. WARREN, WILLIAM E. DAR- |
DEN, MRS. MARGARET BATTIS TOBIN, AND JAMES W. |
ROCKWELL |

The parties to the above entitled and numbered cause, through their attorneys of record, agree that the deposition of Respondents' witness, E. L. Angell, who resides at Bryan, Brazos County, Texas, may be taken without the filing with the clerk of said court of notice of intention to apply for commission to take the answers of such witness to interrogatories attached to such notice, or service of copy thereof, and of the attached interrogatories, or five days' time before issuance of commission, as otherwise required by law, and further agree that a commission to take such deposition shall be issued by such clerk immediately, and that such deposition shall be taken as provided by law in accordance with such commission and the attached direct and cross interrogatories by any officer authorized thereto by law at any place where the witness may be found and returned in the statutory manner for use as evidence in the trial of such cause, and further agree that when such deposition is returned it may be so used, subject to all other legal objections, at the trial of such cause.

Price Daniel,

Attorney General of Texas

By /s/ Jackson Littleton

Jackson Littleton

Assistant Attorney General

Attorneys for Respondents.

By /s/ W. J. Durham

W. J. Durham

Attorney for Relator.

(The following was read into the
record, Mr. Daniel reading the
Direct Interrogatories, and Mr.
Littleton reading the answers, from
Deposition of E. L. Angell.

E. L. ANGELL (Deposition)

Direct Interrogatories to be propounded to E. L.
Angell, Secretary of the Board of Directors of the Agricultural and Mechanical College, a witness for Respondents in the above entitled and numbered cause, for the taking of his deposition:

Q 1. What is your name?

A 1. E. L. Angell.

Q 2. Where do you live?

A 2. College Station, Texas.

Q 3. What is your position or employment?

A 3. Assistant to the President of the A. & M. College and
Secretary to the Board of Directors.

Q 4. How long have you held such position?

A 4. Assistant to the President since June of 1941, with the exception of about two years in the Army. Secretary to the Board since January of 1946.

Q 5. State whether you are the same E. L. Angell who testified in a hearing of the case, Sweatt v. Painter, on December 17, 1946.

A 5. I am.

Q 6. State whether you are familiar with the provisions of a resolution adopted by the Board of Directors of the Agricultural and Mechanical College on the 27th day of November, 1946, being Minute Order No. 203-46, and entitled The Establishment of Law Course for Negro Students.

A 6. I am.

Q 7. State if you are the same E. L. Angell who certified to said resolution by testimony in the hearing of the case of Sweatt v. Painter on December 17, 1946.

A 7. I am.

Q 8. State who, if anyone, was assigned the responsibility of carrying out the purpose of the resolution.

MR. DURHAM: Just a minute. We object to that answer for the reason that the resolution would be the best evidence of its contents. The resolution is in evidence before this Court.

THE COURT: I think that is true.

Q 9. State what, within your knowledge, was done to carry out the provisions of said resolution.

MR. DURHAM: Your Honor, we want to ask that, until I make my objection, Mr. Littleton be asked to stop at the word "renovated."

MR. LITTLETON: Do you mean as to all of the other paragraphs?

MR. DURHAM: We have no objection to any portion of it down to there.

{Counsel and the Court conferred
{off the record regarding said
{answer.

MR. DANIEL: Just read it to the Reporter, and let him get exactly what you say.

A 9. A suite of rooms in an office building at 409 1/2 Milan Street, Houston, Texas, was secured. These rooms were completely renovated. This suite of rooms was furnished with new furnishings purchased for that purpose.

The services of Attorney William C. Dickson were secured as a teacher for the law courses

Immediately available were some 400 basic law reference books. A list of books required for first year law students was furnished by the Dean of Law at the University of Texas. It was ascertained from a law book firm that these books could be delivered to Houston on 24 hours' notice.

The immediate supervision was under the direction of the Principal of Prairie View University, Dr. E. B. Evans.

Q 10. State whether any building or housing facilities were acquired.

A 10. Yes; suite of offices at 409 1/2 Milan Street, Houston, Texas.

Q 11. If you have stated that building and housing facilities were acquired, state the location of such facilities, and describe them fully.

A 11. Suite of three rooms at 409 1/2 Milan Street, Houston, Texas, which was an office building.

Q 12. State whether anything was done to secure professors for the instruction of the law courses mentioned in the resolution.

A 12. William C. Dickson was employed.

Q 13. If you have stated that anything was done, then state what arrangements were made, and the names of individuals with whom they were made.

A 13. William C. Dickson was employed, to teach the law courses, the supervision of the establishment was under the direction of Dr. E. B. Evans, Principal of the Prairie View University.

Q 14. If you have stated that any instructors and professors for the law courses mentioned were secured, then state

the names of those secured and the qualifications of each.

A 14. William C. Dickson was employed to teach the law courses. He is a practicing attorney in Houston. His training includes Bachelor of Arts degree from Pomona College of California, the Bachelor of Law degree from Harvard University, and the Master of Law from Boston University. In case of need of an additional teacher Dickson's partner, H. S. Davis, Jr., was available. He holds an A. B. degree from Morehouse College, Atlanta, Georgia, and a J. D. degree from Northwestern University.

Q 15. State whether any library facilities were obtained.

A 15. Yes, as stated in answer to Interrogatory No. 9.

Q 16. If you have stated that library facilities were obtained, then describe fully the kind of facilities secured.

A 16. Yes, as stated in answer to Interrogatory No. 9.

Q 17. If you have stated that a law school or law courses were provided pursuant to the resolution of November 27, 1946, then state when they were provided.

MR. DURHAM: Your Honor, we object to that as not being responsive to the question asked. He asked him when it was established, and he said available. He doesn't answer that question.

THE COURT: Yes, I think that is right.

MR. DANIEL: All right, sir. We withdraw that Question 17.

Q 18. If you have stated that a law school or law courses were provided, then state whether such school or courses were open for registration to qualified applicants.

MR. DURHAM: Your Honor, we object to that answer for the reason the answer is "the law course was available." He gives no dates or time, and it is not responsive to that question. It isn't even intelligible.

THE COURT: It doesn't seem to be responsive, or even helpful.

MR. DANIEL: Your Honor, it says whether or not it was open for registration of qualified applicants. I don't know if the fact that it was available ----

THE COURT: He could have said yes or no.

MR. DANIEL: Yes, he could.

Q 19. If you have stated that such school or courses were open for registration to qualified applicants, then state the dates that such registration was opened and closed.

A 19. It was opened on the 1st of February, 1947, and closed on the 14th day of February, 1947, ----

MR. DURHAM: Follow it on out; " * * * which was

four days longer * * *-----"

THE COURT: That portion of it isn't responsive.

Q 20. If you have stated that registration for a law school or law courses was opened and have given the dates, then state whether during such period any applications for registration were made.

A 20. No qualified applicants applied.

MR. DANIEL: That is all we wish to offer until we see what you are going to offer on cross.

THE COURT: You spoke about some stipulations you will work out. Perhaps you will be able to work out something on that.

MR. DURHAM: We don't intend to offer the crosses at this time.

MR. DANIEL: We wish to offer some of them, then. From the deposition of Mr. Angell we wish to offer the following questions and answers from Cross Interrogatories propounded by Relator.

(Mr. Daniel read Cross Interrogatories, and Mr. Littleton read answers, from Deposition of E. L. Angell, as follows:

Q 1. By what authority was a Law School for Negroes in Houston set up?

MR. DURHAM: When he gets down to the word "and" I want to object to it. The resolution is the best evidence.

THE COURT: That is right.

MR. DANIEL: You are asking him for it at this time.

THE COURT: I believe he can state the law, and the resolution. The resolution is in.

- A 1. The law course for Negroes was established under authority of Senate Bill No. 228 of the 49th Legislature, and a Resolution of the Board of Directors of the A. & M. College of November 27, 1946.
- Q 2. What action, if any, did Prairie View University take in accordance with said resolutions in setting up a Law School for Negroes in Houston?
- A 2. The Principal of Prairie View University, Dr. E. B. Evans, was charged with details of setting up the law course.
- Q 3. How much money was expended in setting up this Law School for Negroes in Houston?
- A 3. I do not know.
- Q 4. Were books, equipment and supplies for this Law School for Negroes in Houston purchased for cash or by State requisition or vouchers?
- A 4. They were purchased by Prairie View University, using their funds.
- Q 26. What salary agreement was made with each teacher? If the agreement was written, attach a copy of the same to

this deposition.

A 26. Dickson was to be paid at the rate of \$5,000.00 per year. The agreement was made by Dr. E. B. Evans of Prairie View University and I do not have a copy of the agreement.

Q 27. What salary was paid each of these teachers?

A 27. He was paid at the rate of \$5,000.00 per year.

Q 29. How much time was each teacher required to give to the work of the Law School, that is, state whether the teachers were to give part time or full time and if part time, exactly how many hours per day, per week.

A 29. Full time if necessary.

Q 41. When was this library purchased and what was its purchase price?

MR. DURHAM: We want to object to that word "available". He asked him what he purchased, and it is not responsive.

THE COURT: Let me read it.

MR. DURHAM: We object to the entire part of it after we leave the word "made", -- "Some 400 basic reference law books were made * * *"--

THE COURT: Let him put the question again.

(Mr. Daniel read Question 41 as set out above.

THE COURT: I don't believe that is responsive.

Q 42. How many library stacks or book cases were acquired,

and what kind?

MR. DURHAM: We object to that as not being responsive.

THE COURT: It is not responsive.

Q 45. Give the name and qualifications and salary of each of these officers of the Law School for Negroes in Houston:

- (a) Dean
- (b) Registrar
- (c) Librarian.

MR. DURHAM: We object to that for the reason the answer is not responsive.

THE COURT: He doesn't appear to answer it at all. I will give you your bill on it.

MR. DURHAM: Is that No. 45, Your Honor?

THE COURT: Yes, I am giving you your point on that.

MR. DURHAM: We object to that for the reason it is not responsive. He doesn't name anybody.

THE COURT: I think perhaps if you will break it up a little, it might be responsive. He might say the dean and registrar were officials of Prairie View University. It is going to be difficult to understand. I will give your point on it.

A 45. The Dean and Registrar were officials of Prairie View University and Prairie View University was to furnish

librarian services at the Houston establishment.

Q 49. State what courses of instruction were offered in the Law School for Negroes in Houston in detail, as follows:

- (a) Name of course.
- (b) Case book and text book used.
- (c) Hours per week classes scheduled to meet.
- (d) Time of day each class scheduled to meet and the number of the room in which it was to meet.
- (e) The number of semester or quarter hours credit to be given for each course.

MR. DURHAM: We object to that as being a conclusion of the witness.

THE COURT: And it isn't responsive either.

MR. DURHAM: And it isn't responsive.

Q 53. Did the faculty of the School of Law for Negroes in Houston prepare the curriculum, schedule the classes and otherwise conduct the general educational work of the law school?

MR. DURHAM: We object to that. It isn't responsive.

THE COURT: I think it isn't responsive.

Q 58. Is this Law School for Negroes still in existence in Houston?

MR. DURHAM: We object to that. That isn't responsive.

THE COURT: The first sentence ends it; yes.

MR. DURHAM: The first sentence.

A 58. The facilities were rented until the 1st of March.

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MR. DANIEL: All right, that is all. We wish to call the attention of the Court to Senate Bill No. 140 of the 50th Legislature, and briefly to review that before we put on the evidence that follows that.

THE COURT: I think we will take that up in the morning.

(Court was recessed at 4:30 p. m.,
(May 12, 1947, until 9:00 a. m.,
(May 13, 1947.

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MORNING SESSION.

May 13, 1947.

9:00 A. M.

MR. DANIEL: May it please the Court, I would like to call attention of the Court to Senate Bill No. 140 of the 50th Legislature, which became effective March 3, 1947. Rather than read the sections that have to do with the establishment of the State University for Negroes in Houston, Texas, I will go over those paragraphs and summarize them, if that is all right with the Court.

(Counsel at this point summarized
(portions of said bill.

I would like to call Mr. D. K. Woodward.

- - - - -

D. K. WOODWARD, JR., a witness produced by the Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

- Q State your name, please, sir.
- A D. K. Woodward, Jr.
- Q Where do you live, Mr. Woodward?
- A Dallas, Texas.
- Q And what is your business?
- A I am a lawyer.
- Q What, if any, official capacity do you have with the University of Texas?
- A I am a member of the Board of Regents, and Chairman of that Board.
- Q How long have you been Chairman of the Board of Regents of the University of Texas?
- A Since the end of November, 1944.
- Q Have you, since becoming Chairman of the Board of Regents of the University of Texas, acquainted yourself with the matter of education for Negroes in Texas?
- A To the best of my ability, yes, sir.
- Q Are you acquainted with Senate Bill No. 140, which I have

just outlined to the Court?

A Yes, sir, I am.

Q I will ask you if you had anything to do with the preparation of the bill, and especially the part that the University of Texas -- as relates to the University of Texas?

MR. DURHAM: We object to it unless he shows he is a member of the Legislature.

THE COURT: I think that would be correct.

Q (By Mr. Daniel) Were you acquainted with the terms embodied in that bill before they were actually enacted by the Legislature?

A I was.

Q Have you studied the terms of this bill, when the bill was pending in the Legislature, and before final passage of it?

MR. DURHAM: We object to that as being immaterial.

THE COURT: I think it is immaterial what he did about it.

MR. DANIEL: Your Honor, we are simply leading up to show the University Board met in anticipation of the final passage of this law, and began their actions a few days before the law became effective.

THE COURT: He can tell what his Board did.

MR. DURHAM: We don't think that anything that a citizen did would be construed, or the Court could presume it would influence the Legislature. I think that would be a reflection

upon the Legislature.

THE COURT: I sustain the objection.

Q (By Mr. Daniel) Did that Board have a meeting prior to the time that this bill was finally passed by the Legislature?

A Yes, the Board met the 28th of February.

Q 1947?

A Yes.

Q Had the Senate Bill 140 already passed one branch of the Legislature?

A Two branches, both.

Q Both branches?

A It had passed in the Senate on the 24th, the House on the 27th, with certain amendments, and it was in that state that the bill was laid before the Board at its meeting on the 28th of February.

Q Did you as Chairman lay the bill before the Board?

A I did.

Q Did the Board of Regents of the University of Texas on the 28th of February study the requirements made of you by the bill?

A Yes.

Q What, if anything, -- did you pass any resolutions at that time?

A We did.

Q Do you have a copy of the resolutions?

A I have.

Q Is this a true and correct copy of the resolution passed by the Board of Regents on the 28th of February?

A It is.

Q We wish to offer it.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 3.

Q Now, Mr. Woodward, in accordance with that resolution, I will ask you whether or not you proceeded to establish the separate law school therein called for?

A We did.

Q Where was it established?

A On East 13th Street, in the City of Austin, immediately adjoining the Capitol grounds on the north. I think the number is 104 East 13th.

Q What kind of building do you have there, as far as classrooms are concerned? How many classrooms do you have in the building where the law school is located?

A Presently available we have four buildings -- four rooms, three of moderate size, and a fourth small room for a reception room, and the small toilet facilities.

Q Did you, in accordance with that resolution, give certain instructions to Dean McCormick, Dean of the University School of Law?

A I did.

Q Will you state to the Court what instructions you gave him as to his part in this school?

A I requested through the Dean of the entire personnel of the Law School an expression as to their willingness or not to teach in the proposed new law school. It was reported to me that they were unanimous-----

MR. DURHAM: We object to that.

THE COURT: Yes. That would be hearsay. We will sustain the objection to whatever was reported to him. He can testify to what he knows.

A All right. I had a conference -- a number of conferences -- with Dean McCormick concerning the establishment of the law school and requested him to give us the, provide the curriculum and the instructors called for in carrying out the resolution.

Q As to the location of the law school of the State University for Negroes, the building that you have spoken of, how far is that from the Capitol grounds?

A It is about a hundred yards from the north door of the Capitol.

Q You are talking now about the Capitol Building?

A Yes, -- from the Capitol grounds?

Q Yes.

A I would say 20 feet. It is a very narrow street there, East 13th Street.

Q Between the location of the law school and the Capitol grounds?

A Yes.

Q You mentioned something about another distance, as between the door of the separate law school and the State Capitol Building. If you know, how far is that?

A I would estimate it to be a hundred yards, 300 feet.

Q Where is the law school located with reference to the University of Texas?

A Well, the University of Texas lies north of 21st Street in the City of Austin, covers a considerable area out there. That would be eight blocks north of the new law school on 13th Street.

Q Then your new law school is located between the State Capitol Building and the University of Texas Campus?

A That would be right.

Q Where is -- state how the new law school is located with reference to the business district of Austin; is it nearer the business district than the University of Texas Law School or not?

A Yes, sir; eight blocks nearer.

Q Is your new law school nearer the banks of Austin and other business facilities than the University of Texas?

A It is eight blocks nearer.

Q Are you acquainted with the State Library called for in this bill, in the Capitol Building?

A I am.

Q Are you acquainted with the location of that library?

A I am, the second floor of the Capitol Building, north wing.

Q Are you acquainted with the space therein, and desks, as to availability of the space and working room in that library for students?

A I am, and have been for many, many years. I have frequented it myself.

Q That is on the second floor of the Capitol Building?

A Yes.

Q Are you acquainted with the Texas University Library and the facilities thereof?

A No, I am not, not as closely as I should be. I know in a general way what it is.

Q Are you acquainted with the working room at the University of Texas Law School Library, not the books?

A I couldn't say that I am with any degree of accuracy. I know they are sorely pressed for space.

MR. DURHAM: We object to that as not being responsive.

THE COURT: Yes.

Q (By Mr. Daniel) This resolution calls for the establishment of the same courses, a curriculum consisting of the same courses in law as those offered at the University of Texas?

A It does.

Q Did you or not give instructions to the Dean of the University

of Texas Law School to establish such a curriculum?

A I did.

Q The resolution also calls for the use of the same faculty members. I will ask you if you gave instructions in accordance with the resolution to the Dean of the University of Texas Law School with reference to the use of the University of Texas Law School faculty members?

A I did.

Q Was the new law school placed in readiness for operations on March 10, as called for in the resolution?

MR. DURHAM: We object to that as a conclusion and opinion.

THE COURT: He can say what was done.

Q (By Mr. Daniel) Will you just state to the Court what was done with reference to having the school ready for registration, as far as you know?

A By March 10th?

Q Yes.

A The premises were put in order for it, cleaned up, painted, and the desks and chairs and certain law books placed in there, and an attendant placed in charge, and notices were sent as directed in the resolution to all persons interested, and there was considerable newspaper publicity given so that we did everything that ----

MR. DURHAM: When he said he did everything ----

THE COURT: Yes. He can say what he did.

A Yes. All of the actions called for in that resolution, to the best of our ability ----

Q (By Mr. Daniel) They were accomplished by March 10th, were they?

A That is correct.

Q The resolution authorizes you to purchase a permanent law library for the school which will meet the standards set by the American Association of Law Schools?

A Yes, sir.

Q I will ask you what you did in accordance with that provision of the resolution?

A I made requisition on the Board of Control of the State of Texas on March 1st, I think it was, either February 28th, or March 1st. The document itself would show the exact date, calling for bids at the earliest practicable date for a list of books purporting to be a complete list as called for by the American Association of Law Schools.

Q Who did you have prepare that list to meet the standards of the American Association of Law Schools?

A The Dean of the Law School of the University of Texas, Dean McCormick.

Q The list that was prepared by him, or under his direction, then, was turned over to you?

A It was presented to me in the regular course for the execution

and delivery of a requisition on the State Board of Control, as required by law, for the purchase of public property.

Q Did you execute that requisition?

A I did, immediately on either the 28th of February or the 1st of March; executed that and filed it with the Board of Control.

Q I believe that is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Judge Woodward, as long as you have been a member of the Board of Regents of the University of Texas, has it or has it not been the policy and custom of the University of Texas not to admit Negroes to any branch thereof?

A There has been no custom of that kind, within my knowledge. The application of the relator in the spring of 1945 is the first application that I can recall, and I have been connected with the University one way or another for fifty years this coming fall.

MR. DANIEL: 1946, wasn't it?

A 1946, the fall or spring of the year, whenever it was that he made his application, 1946, I believe it was.

Q (By Mr. Marshall) Do you know anything about the application of one George Allen to take accounting, between the years 1938 to 1940?

A I do not.

Q Well, why was the application of Heman Marion Sweatt to attend the Law School of the University of Texas refused?

A Under the provisions of Section 7, Article 7 of the Constitution of Texas, pursuant to the advice of the Attorney General of Texas.

Q And on that basis his application was refused; is that correct?

A Correct.

Q Is it or is it not the policy of the regents of the University of Texas to follow that section of the Constitution?

A It certainly is, as long as it remains in the Constitution.

Q Have you been over to this new law school?

A I have.

Q How much -- how was the building obtained, by lease?

A Under lease from the -- through the Board of Regents of the University.

Q And when was it leased?

A It was leased around the end of February or the first of March of this year.

Q For how long was it leased?

A For the period ending August 31, 1947, August 31st of this year. I may say, if you are interested, that we are negotiating now and have the refusal of the building for the year ending August 31, 1948.

Q When you say the building, as a matter of fact, you don't have

the whole building leased, do you?

A We do not at the present time. We have a refusal of the remainder of the building when need for it arises. We have the first floor leased.

Q The first floor is the ground floor, isn't it?

A That is right.

Q And there are comparatively, for classroom purposes, they are small rooms, are they not?

A It depends on the size of the class.

Q If you use the whole building that you do not now have, but if you obtained the whole building, could you put the library of the Law School of the University of Texas in that whole building?

A Certainly not.

Q So, that brings us to the next question. Where are you going to put your library?

A When the library is acquired, it will consist of ten thousand volumes. The library of the Law School of the University of Texas consists of approximately 65,000 volumes, of which about half of them are duplicates. Nobody in his right mind would undertake to assemble 65,000 volumes in a law library in a building or law school just started. There is ample space in the building on which we have the refusal in which to store and provide the use of ten thousand volumes we have under order. We can put them there.

Q Then I understand you can put the 10,000 volumes in the present building?

A That would be my judgment, yes.

Q Well, now, as to these standards of the Association of American Law Schools, do you have enough space to give the amount of space required for library use of students?

A As to that, I wouldn't be qualified to say because I don't know what the requirements are. We have with the -- under the provisions of the statute, with the law library we have under order and with the accessibility to the Supreme Court Library of the State of Texas, we have abundantly sufficient library facilities and working space for the relator's pursuit of his course of law.

Q Now, have you taught law?

A Yes.

Q When?

A I would say it was about, must have been 20 or 25 years ago. I was for a short time a member of the law faculty of the University of Texas.

Q And since that time have you done any teaching?

A No.

Q Are you familiar with the modern methods of teaching in law schools?

A I believe I am, with what you term the modern methods. I happen to be a graduate of the University of Chicago Law

School in the class of 1907. I went there at the time it was being organized. Joseph Henry Beal, a great educator from Harvard, came out and established the case system, and it was because of the establishment of that system, in part, that I took my three years of law work there.

Q What I am getting at, Judge Woodward, is that when you make the statement that he can get an adequate legal education on the facilities that have been provided, I want to know whether or not you are talking as an expert in the field of education.

A I am talking as a man familiar with what it takes to provide a thorough training in law in the State of Texas, and I stated the facts within my own personal knowledge, that the facilities which the Board of Regents of the University set up in accordance with Senate Bill 140 are such as to provide for the relator in this case the opportunity for the study of law unsurpassed any time elsewhere in the State of Texas, and fully equal to the opportunity and instruction we are offering at the University any day.

Q Are the facilities in that school equal to those in the Law School of the University of Texas?

A Do you mean the physical facilities?

Q First, the physical facilities?

A They are not identical.

Q Are they equal?

A For the purpose they are, yes, sir.

Q What is the value of the Law Building at the University of Texas?

A It is an old building. I would say it was constructed 40 years ago. I don't know whether you are talking about the replacement value or original cost, but, of course, the leasehold there has no relation to the physical value of the University of Texas Law School proper.

Q What I wanted to know was in dollars and cents, using whichever method you want to use, original purchase price, or price to reproduce. Is it not true that you can not even compare the value of these two buildings?

A Well, they don't bear any relationship to each other. One is a leasehold adequate for the purpose for which it was obtained, and the other is a property in fee. You are correct in this, that there is no fair comparison in monetary value.

Q Next, as to the library that you have on requisition, does that compare in value with the library facilities at the University of Texas Law School?

A The library on order, and the library made available by law to the relator, had he entered the school, compare very favorably with the library at the University of Texas. You will understand that there may be a few more volumes at the University of Texas, but an examination would reflect that there are many, many duplicates, as there would have to be

with a student body of eight hundred or so.

Q Do you not also know that several of the sets of books required under the rules of the American Association of Law Schools are now out of print?

A I wouldn't know.

Q You don't know anything about those standards?

A I don't claim to be an expert on that. I don't admit complete ignorance about them.

Q Didn't you testify, or rather, I will ask you the question; will this law school set up over here for Negroes meet the requirements of the American Association of Law Schools?

A Well, it will do that, in my judgment, in the process of its development. The facilities and instruction presently provided in contemplation of the registration of the relator were made in accordance with the requirements of the American Association of Law Schools, as I understood it. You will understand, of course, that I rely upon Dean McCormick, who is a very well known and eminent legal educator, as to matters of that kind. I depended on him for that. I have no reason to question his ability as an advisor in that regard.

Q These 10,000 volumes; do you have a copy of that requisition with you?

A No, I don't have it. It is available. It is at the Board of Control, or may be in the court room. I filed the original with the Board of Control.

Q What has happened to that requisition?

A The notices were sent out in the regular way. I am speaking now from recollection as to dates, and the bids were to have been opened on some date in April, and for some reason they were -- of course, you understand, I have got to tell you now what was reported to me about it. If you object, I won't tell you.

Q That is all right, sir.

A It was reported to me that for some reason, in the machinery of the purchase, they had to be delayed. You will understand further that once the authorities of an educational institution file a requisition as required by law, that its execution then rests with another department, the Board of Control. That is part of our Texas administrative system. I have every reason to believe that those books have been, or will be purchased in the immediate future. It is quite possible that the Board of Control has already purchased them.

Q Are they in the law school now?

A No.

Q They are not there as of today?

A No, sir, neither is the relator.

Q They were not there on March 10th, were they?

A No.

Q As a matter of fact, how many books were there on March 10th?

A Oh, I would judge in that ----

Q First of all, did you see the place March 10th?

A Either that, or a day or two before.

Q All right, sir. How many books were there?

A I would estimate 150 or 200.

Q And what volumes were they, generally?

A I don't know. I have a great many things to do, you will understand, counsel; that we had taken the precaution of making the entire library of the Law School of the University of Texas, eight blocks away, available on a loan basis, so that if the relator had come, as we hoped he would, he could have had access through loan immediately to any books in the Law Library of the University of Texas; the Library of the Supreme Court of Texas, for any course he wanted to pursue.

Q Isn't it true that the students of the University of Texas Law School also have access to the Capitol Law Library?

A I think that they, in common with every citizen in Texas, have a right to go in there.

Q So that there is nothing special about that, is there?

A Yes, there is; for this reason ----

Q What is the special thing?

A The Legislature of Texas, which is the policy making body of the State of Texas, saw fit in setting up this general plan for Negro education, to provide specifically that the students there should have the use of that library for the purpose of attending classes at the law school. Now, I, and

every other citizen in the State have to have the use of that library for general purposes, but I do not have it for use as a student in that law school. So as to relieve any question about it, that provision was put in the bill.

Q But as the situation now stands, the right granted by that bill is the same right which every other citizen has?

A Well, if you think that as a lawyer, that is all right. It is not the case. If that is your judgment as a lawyer, that may be good New York law, but it is not good Texas law.

Q For the record, may it be stated that I am not a member of the New York Bar.

A Whatever bar you are a member of, that is not true in Texas.

Q Let's get this straight. In Texas, Sweatt can go over and use the library now, and he isn't a student in any school; isn't that correct?

A Yes, sir.

Q Can't anybody in this court room go over and use that library, regardless of what school he is in; isn't that correct?

A He can go over and use it for the purposes as an ordinary citizen of the State.

Q What peculiar purpose does a student use a law library for that any other person does not?

A Withdrawing books to study.

Q Is there anything in the statute which gives him the right

to withdraw books?

A I think the Legislature wouldn't have considered that necessary when they gave them the right to use it as students.

Q Is there any provision in the statute which specifically gives the students of that school the right to withdraw books?

A I think there is not.

Q And the students of the University of Texas can use that library?

A Oh, yes, just as any other citizen can.

Q And as I understand, the plan is proposed that if any other books are wanted, they can be brought over from the University of Texas Law Library on a loan basis?

A At any time they are needed.

Q How are they going to bring them over there?

A Well, the University of Texas has facilities to do what it is required by law to do. We brought the other books down there. There is nothing difficult about that. We transact a very large amount of practical business, and that would be a very insignificant task.

Q You brought down the 150 books when the school was opened?

A I think so.

Q As a matter of fact, wasn't it just five book shelves?

A I think it was two of those racks of cases. I am not sure about it.

Q Is there any office space in there for professors in the present building?

A You mean private offices?

Q Yes, sir.

A I wouldn't say there is any private office.

Q Is there any private office for the Dean?

A No.

Q Are there any working rooms where students can work and confer with library books?

A You mean work with the library? There will be plenty of room for that when the library is installed there, because we will have the remainder of the building.

Q You say there were four rooms, three moderate size, and one small one?

A As I recall, yes. I have a plan of it. I can tell you in a minute how many there were, and what size, if you are interested.

Q I am quite interested.

A All right. The building faces south. The entrance hall with the administrative desk in it is immediately to the west of a reading room and office, which is 15 feet, 7 inches, by 19 feet, 10 inches. To the north of the entrance hall there is a class room 11 feet, 6 inches by 16 feet, 6 inches, and on the northwest corner of the building is a class room 12 feet by 12 feet, 8 inches. There is, in addition, a toilet

facility in the building. Those are the four rooms currently under lease.

Q Do you have any objection to us putting that in evidence?

A None whatever.

Q May we see it?

A I didn't make it myself. It was made under the -- if you are willing to accept it as accurate. It is accurate.

Q May we look at it a minute?

MR. DANIEL: Yes.

Q (By Mr. Marshall) You don't propose to get 10,000 volumes in that space, do you?

A Certainly not.

Q And whether or not you will have space for the 10,000 volumes depends on whether or not you renew your lease, and whether or not you get the balance of the building; isn't that true?

A Yes, we would have -- the provision for that has already been arranged. I have arranged to renew the lease, the lease on the present quarters for the coming year ending August 31, 1948, and to secure the remaining portion of the building when needed, for the period ending August 31, 1948.

Q When did you say the Law School at the University of Texas was built, about?

A I think about 1906 or 1907.

Q Approximately how many students were going to the law school

the first year?

A I could not tell you to save my life.

Q It was a very small number, wasn't it?

A It was a relative number. You had better get somebody who knows. The Registrar can tell you, because I could not tell you at all what the registration in the law school there was at that time. Of course, the records show it for each year.

Q Do I understand correctly that the law school as it appeared on March 10th obviously did not meet the requirements of the Association of American Law Schools?

A Well, that would call for a conclusion, depending on a great many things; the number of students, the work that they undertook, and a good many other considerations. You will see, after all, the regulations of the American Association of Law Schools and the American Bar Association have to be construed with some degree of regard for the facts. What we set up there was a plant fully adequate to give the very best of legal instruction for the only man of the Negro race who had ever applied for instruction in law at the University in about 63 years of the life of the school. We are practical people. We made that provision fully adequate for that purpose.

Q What do you mean by "practical"? You mean within the money you had available?

A No, here is what we were trying to do, Counsel. We were

trying very hard to, and are still trying to set up for Negro population of the State of Texas a University really of the first class, which down through the years will develop and grow to what we hope to be the greatest University for Negroes in the world. We have the assets with which to do it, and the determination to do it, and that was a part of the plan to provide here at the threshold of this undertaking opportunity identical with that which was afforded at the University, eight blocks away.

Q Well, you didn't get the idea and that plan until after this lawsuit was filed, did you?

A It happens you are mistaken about that.

Q I would like to know.

A On the 13th of January, 1946, the Board of Directors of the University of Texas, and the Board of Trustees, -- Board of Regents of the University of Texas, and A. & M. College met in joint session at Ft. Worth, Texas. They are the governing boards of the two principal State supported schools. One of the questions on that agenda of that meeting was the consideration of the responsibility of those two schools for providing a comprehensive plan of higher education for members of the Negro race in Texas.

Q Did that Board meeting discuss the very wide publicity, including the paper in your home town, the Dallas Morning News, concerning a meeting of Negroes who were insisting on their

equal right to an education?

A When was that? What meeting do you have reference to?

Q The meeting held in Dallas at the Y. M. C. A.

A What date? Do you mean, held on the 8th of March of this year?

Q No, prior to January of 1946.

A I do not -- that meeting was not considered at all, and it was not in any way the occasion for our holding the joint session, or discussing that program. We knew, of course,-- what we knew was this, that we have approximately 1,200,000 members of the Negro race in Texas. There has been a very great change in the economic situation, and in the educational opportunities or ambitions in the last 15 or 20 years of the Negro race. Members of those two boards felt as officers and directors of the State's leading educational institutions that they owed it as a public duty to devise some means of providing for what they thought was a real need for members of the Negro race, and they implemented that by appointing a committee of six, three from each school, to make a study of that. That committee worked diligently for about six months, made its report to the Governor of Texas, the Hon. Coke R. Stevenson, who in turn appointed the Bi-racial Committee, with which I am sure you are familiar. It filed its report, and that report was the basis of Senate Bill 140. So that the undertaking of those two boards

ante-dated the filing of the suit by the relator here, and was not actuated by any extent by the meeting, whatever meeting it was, one that I never heard of, in Dallas, though I live there.

Q Judge, how old is the University of Texas?

A We think of it as having started in 1883.

Q Is it not true it is one of the finest schools in the country?

A It continues to try to be.

Q About how long do you think it would take to build for Negroes a university equal to that?

A It would depend to a greater extent on the response of the members of the Negro race than anything else.

Q Isn't it true that when you set up new departments at the University of Texas, you start off with a few students and end up with a lot when they find out it is running?

A It depends on the course you set up.

Q And it depends on the value of the course you have to the students?

A Will you repeat that, please?

Q When you first offer or open up a new course in the University of Texas, you usually have a small number of students, and year by year the course usually gets more students?

A Normally that would be true. It varies with reference to the course and the public interest in the course. It can happen, and sometimes does happen, that what might be called

a flash interest in some subject, and there may be a very great registration, and they will find it wasn't what they wanted and it decreases, but ordinarily this is true in the University and every other educational institution, that it grows as the worth of the instruction is demonstrated. I think you may conclude that is true.

Q Judge Woodward, the other point I wanted to ask is that you are familiar, are you not, with the supposed law school in Houston, Texas for Negroes?

A What do you have reference to, the Texas State University ?

Q No, sir, the one that was, according to the minute entry, was established in February?

A You mean the one that was provided for by the Act of the 49th, Senate Bill 228, they referred to?

Q Isn't it true that they did set up facilities for Negro training in law in Houston?

A I couldn't say because I had nothing whatever to do with it.

Q Isn't it true that this law school you are about to set up can't possibly run more than a year?

A No, sir.

Q What happens to it at the end of the year?

A Well, at the end of the year from now, on the 13th of next March, if the relator or any other good faith student comes along, it will be operated.

Q Isn't it true that under the statute and resolution, it is

supposed to be turned over within a year ----

A No, it can run through August 31, 1948, and if you will permit me to tell you, I will say that the Board of Directors of Texas State University for Negroes at its first meeting passed a resolution----

Q I will have to object to that. The resolution is the best evidence.

A We will get it, if you want it. Under the provisions of the statute which permits us to operate until August 31, 1948, and by arrangement with the Texas State University for Negroes, the Law School will be in operation a year from now if there are any students, if the relator or anybody else offers to use those facilities. You have reference to the clause in there, I am sure, if I remember it correctly, directing that at the end of any term we be required to turn it over, if they are ready for it.

Q At the end of the first term?

A What clause do you have reference to?

Q I think it is this one, at the end of the first term.

A May I read it? (Reading) "At the end of the first term or semester of any law course offered in said school after the organization and establishment of the Texas State University for Negroes at Houston, and the equivalent organization and establishment of a law course by such university for Negroes, the direction, conduct, operation, location, the unexpended

balance of this appropriation, and all property purchased for the separate school out of the appropriation hereunder, shall be transferred to the Texas State University for Negroes at Houston, and its Board of Directors shall thenceforth continue such law courses as a part of the curriculum of such university, and discharge all responsibility therefor." Was that the clause you had in mind?

Q Yes. Do you intend to keep the law school here or move it to Houston?

A At the present time we intend to keep it here until August 31, 1948.

Q Does it go then?

A It is assumed that by that time the Texas State University for Negroes at Houston will have established the equivalent work, and the establishment of a law course by such University for Negroes at Houston. In other words, it is contemplated that by the expiration of, roughly, an 18 months period from this date the University at Houston will have had an opportunity to fully equip itself as a law school, meeting all of the requirements of a first class law school, and our duties will be over.

Q What assurance would Sweatt have that the law school would be here until he finished it three years from now?

A Until he finishes three years from now? There is no assurance that it would be here three years, nor has he or

any other citizen of the State of Texas the right to require the State of Texas to provide education at any particular place. The State has to provide for him or any other citizen education in law fully equal to that provided at the University of Texas. That, it is prepared to do.

Q Do you consider it a good educational policy for students to have to shift from town to town in going through a law course?

A I think my opinion on that wouldn't be very enlightening to the Court. I don't think it is contemplated at all by the facts in the case.

Q Do the students of the University of Texas have to go from city to city, or isn't it true that since 1907 the school has been situated in the same spot?

A The Law School has been in Austin for a great deal longer than that. However, we maintain a Medical College at Galveston, a part of the University of Texas. Pre-medical training is given here, and the medical training is given at the University branch in Galveston.

Q How long has it been there?

A Oh, it ante-dates the opening of the University here. It is many, many years old.

Q It has been in the one spot a long time?

A Yes.

Q What I am trying to get at is whether or not it is not true

that it is poor educational policy for a student not to know where he is going to get his education the next year?

A I would say as to that, that would depend on the circumstances of each individual case. I can not think that it would be the least hardship to a citizen of Houston, as the relator styles himself to be, to have to return to Houston in August of 1948 and complete the final year of his course there.

Q You don't think so?

A You asked my opinion. I certainly do not.

Q The question I am trying to get at is, and I want to ask it one more time, if you will permit it. Isn't it a poor educational policy, speaking from educational policy, you have been on the Board of Regents for quite some time, and you are familiar with good educational policies. Isn't it poor educational policy to have a student going to a school when he doesn't know where the school will be the next year?

A Well, if he hasn't the acumen to find out where it is going to be the next year, he hasn't any business in the school. It couldn't possibly be any matter of inconvenience or uncertainty to a man of ordinary intelligence, where the school will be conducted the following year. He knows now it would be here until August 31, 1948. He knows that.

Q Judge Woodward, can I ask you one question?

A Any number.

Q Do you know where it will be in 1948?

A With reasonable certainty, I do, based on the obligations of the State officials to carry out their duties, and upon the presumption that they will carry them out, it will be in Houston, in Harris County, Texas, an integral part of the State University for Negroes, on August 31, 1948.

Q Depending on the establishment of that University prior to that time?

A The University is now established.

Q Where is it established?

A In Houston, Texas.

Q And who is the dean of it?

A You mean the Dean of the Law School?

Q No, the dean of a university that has been established?

A I can tell you the members of its governing board. They were appointed last week. If they have selected the officers of the University I haven't been advised of it.

Q Wasn't that their first meeting last week?

A It was. They were appointed and confirmed and met the same day.

Q But the school hasn't been established yet, has it?

A That is a conclusion. My conclusion is, as a matter of law that the Texas State University for Negroes has now been established.

Q Are there any buildings?

A There is another statute which I think has been finally passed which provides for the Texas State University for Negroes acquiring 53 acres of land and the buildings on it as a site for the Texas State University for Negroes. That land is located within the City of Houston, about mid-way between Rice Institute and the Houston University, which is a very large university.

Q What I am trying to get at ----

MR. DANIEL: Let him finish.

Q (By Mr. Marshall) All right.

A I have every reason to believe that that building, which is the equivalent of any building on our campus at the University of Texas, modern construction and very adaptable for university purposes, will come into control of the Board of the Texas State University for Negroes within the next few days.

Q What I am trying to get is, -- you said a minute ago that the school was in existence?

A I said it was established. That is my judgment as a lawyer.

Q Was established?

A Yes.

Q As I understand your testimony, all of this you have testified will happen; is that correct?

A That is right. That is my best judgment. I am not a prophet. I am informed as to the facts, and that is my deliberate

judgment.

Q Is that your judgment, that the Law School will be in Houston in August, 1948, and that is based on your assumption that this University will be in existence at that time?

A Based on my knowledge of the whole situation and my knowledge of the laws that provide for that, and my knowledge of the laws which require public officials to do their duty.

Q How many schools are there set up in this Negro University?

A You mean separate schools of instruction?

Q Like up at the University of Texas? As I understand, it is to be equal.

A Are you talking about its prospective curriculum?

Q What is there now?

A The Texas State University for Negroes, you want to know how many schools have been set up there now?

Q Yes, sir.

A I would say that I think it improbable that any one has been set up.

Q So that it is at the present time still on paper, is it?

A Well, if you wish to put it that way. Every step in its organization thus far contemplated by law has been taken, and \$2,350,000.00 in money is in the bank to pay for its operation during the next two fiscal years. That is substantial paper.

Q And, of course, the statute says two million, or whatever it

is, or as much thereof as might be needed?

A That is the customary language in our appropriation bills.

Q That is the custom. As the Chairman of the Board of Regents of the University of Texas, have you deemed it your responsibility during the whole time you have been on the Board of Regents to give equal educational facilities to all citizens of the State of Texas?

A My -- as far as it is within my power, yes. It happens to be that I actually believe in education, and I think one of the very most forward-looking things the State of Texas could do would be to provide a comprehensive plan of higher education for members of the Negro race.

Q But prior to this year the University of Texas has done what to provide education for Negroes?

A Well, you will understand that the University of Texas is governed by the Constitution of the State, and that we have done exactly what the Constitution authorizes us to do in the conduct of the University of Texas, which is the school set up for the education of children of the white race, but we are, rightly or wrongly, the University is regarded as the head of the educational system of Texas, and as Chairman of the Board, I have conceived it to be my duty to do what I could to promote within the provisions of the law the best of educational facilities for all of the citizens of Texas.

Q What provision have you made for Negroes prior to 1946?

A Prior to 1946. I came on the Board at the end of 1944. The Legislature, the 49th Legislature, met in January following and there was no opportunity under conditions then existing at the University and elsewhere in the State for me to take any part in the deliberations of the 49th Legislature, other than as related immediately to the University of Texas. I attended to that. No member of the University of Texas, so far as I know, and no member of the governing board of officers of A. & M. College was consulted about the passage of Senate Bill 228, as far as I know. That is the Act that undertook to make Prairie View a university.

Q A university?

A When I got squared away, when the picture as a whole began to take shape, it was rather obvious to me that Senate Bill 228 had to be materially supplemented, if there was to be created in Texas a comprehensive program of higher education for members of the Negro race, which I thought was highly desirable.

Q Isn't it true that prior to that time, as a matter of fact, the University of Texas had no facilities of any kind where Negroes were in attendance?

A It is true today, and it has been true every day since the University of Texas was organized, that it could not lawfully extend the use of its facilities to members of the Negro race. That is a matter of constitutional limitation.

We had nothing to do with bringing it about at this time. It was passed in 1876. That is the reason, if you want a reason, why we haven't done anything of that kind; it is because we are prohibited by law, and naturally we can not conduct any public institution otherwise than in compliance with public law.

Q You had no hesitancy in having the -- first, are the professors of law at the University of Texas white?

A Yes, sir.

Q There was no hesitancy in arranging for them to teach Negro students, was there?

A None at all, as a branch of the Texas State University for Negroes. We had a legal right to do that, and I was extremely proud of their cooperation in doing it.

Q But although the teachers had no objection to teaching Negroes, the Board of Regents couldn't admit the Negroes to the Law School?

A You understand it perfectly, I am sure. You understand why we can't. We are bound -- as good a lawyer as you are, you are bound to know that we operate under the Constitution of the State of Texas. Your associate here knows it.

Q Is it not true, since we want to get straight what the two of us know about it, that the Constitution of Texas is, of course, dependent as to its validity on the interpretation of the Constitution of the United States? We agree on that,

don't we?

A Absolutely, yes.

Q All right. When compared with the advantages offered the students of law at Texas University, is there any measure of equality in a set-up which forces a Negro to begin a law course which will be shifted to another institution, the professorship has not been selected, the quality and quantity of instruction, of which is not at the present time known?

A What is your question? Is there any measure of equality?

Q Yes, sir.

A Well, if the relator was in school it would be a little easier to answer that. I will say this, that where the policy of the State of Texas has been established by the adoption of a statute by more than two-thirds of the vote of both branches of the Legislature, with liberal appropriation made for its support, that there is no discrimination whatever, and no uncertainty, against a student who undertakes to avail himself of instruction in the law under the provisions of that statute. I don't think he is discriminated against in the least. I know as a practical matter that the opportunities which would have been afforded the relator, had he seen fit to enter the Law School, the opportunities for instruction in law in the school we set up on East 13th

Street would have been fully equal to that had he been permitted to enter the University of Texas. That may or may not answer your question.

Q That doesn't answer the question.

A I would be glad to make another try at it.

Q The question in sum and substance is, working on this theory of equal facilities, separate but equal, do you consider it equal for a Negro student to go to a school, knowing full-well that on next year he doesn't know where his school will be, who the professors will be, or anything about the school? Is that equal to the Law School that was established at the beginning of the century.

A Under the conditions existing, it affords him fully equal opportunity. You have not stated the question correctly, so that I will have to qualify it by "under the conditions existing". You have failed to state in your question that the Law School is established by the University of Texas, now established on 13th Street for the period ending August 31, 1948. You have forgotten to state that Senate Bill 140 provides for the establishment of this university, not at any uncertain place, but at Houston in Harris County, Texas, and directs that it be conducted as a University of the first class in Houston. Those are the qualifications; my knowledge of the facts which may control my judgment in the case, my knowledge of the class of instructors he would

have here, and the opportunity he would have if he would avail himself of it, leads me to say that he is under no discrimination, if he availed himself of the training the State of Texas had made available for his legal education.

Q He spends two or three hours a day in class?

A I wouldn't know.

Q What do you use as a basis for your statement ?

A I went to the University of Chicago Law School when it was small, and had the benefit of association with men like Mr. Neachen, and Mr. Hall and Mr. Bigelow, and relations with them which a man going there today as a member of a class of five or six hundred would not have. That is the reason that I know that the relator or any other members of his race, if they came to that school which we have established on 13th Street and in good faith undertook to complete their legal education, they would receive instruction and conferences and experiences which they would not have anywhere else today. I know that, because I know the men who would be teaching. Those men are men who have devoted their lives to teaching. They are all full time professors in the Law School.

Q Which ones are you talking about now?

A Because they would come down there,-- I am talking about all of the members of the faculty of the University of Texas.

Q All of them?

A We haven't, as far as I know, unless it be an emergency matter, have none other than full time instructors.

Q Do you consider it necessary to have full time instructors?

A Well, I think it is desirable to have them, where you have an institution that can employ them all of the time. There are certain fields in which part time instructors are desirable, just as in my University of Chicago days we had Julian W. Mack, whom you will remember was the Professor of Federal Procedure, Horace Kent Penney, who was a great lawyer and Professor of Pleading and Practice.

Q Isn't it generally accepted that law schools should have full time professors?

A I believe that is the current view, and I think it is a sound one. That is the reason that we provide here that the full time professors from the University of Texas should be made available here.

Q They can't be full time at both places, can they?

A We feel we can't be prejudiced by having them full time on 13th Street, and give them up at the University of Texas.

Q They are all part time at the 13th Street law school?

A It isn't a question of part time, in the sense that they are people engaged in the practice. They are, every one of them, State employees, engaged for their full time in the instruction in the science of law. The fact that they spend part of their time in one institution and part in another

doesn't make them part time, in the sense that a practicing lawyer would be. At the time I foolishly undertook to part time lecture in the law school it didn't work out for me or the law school, because I was a part time man, and that wasn't good, but if I had been able to be a professor in the Law School at the University, and spent part of my time on 13th Street, I would be none the less a full time employee.

Q I am talking about part time law professors within the meaning of the standards of the American Association of Law Schools.

A How do you define it?

Q A teacher that isn't in the school full time.

A In that specific school. I wouldn't say that made any material difference, if he was in fact a trained professor and was in a school as much as the -- as was required for the number of students who were there.

Q Isn't it true that the reason for full time professors is to have someone available at all times of the day, whenever the students want to see them?

A I really wouldn't know whether that is the reason for it.

Q And the Dean of the school, Dean McCormick of the University of Texas, who will be at this school part time?

A Whenever he was needed he would be there.

Q Where would his office be?

A At the University of Texas, except when he came down there.

There would be space there when he had occasion to confer with anybody down there.

Q Could these students go to see him at the University of Texas?

A Without doubt. If they had occasion to, I imagine Dean McCormick would not object to conferring with a student anywhere.

Q I am reading to you from Senate Bill 140, sir, the section of the statute which says:

"The entire school shall be operated separately and apart from the campus of the University of Texas."

A That is right.

Q You say that despite that provision?

A Yes, sir, certainly. With the school operating there, the fact that a student may see Dean McCormick in this court room or on the street or in his office at the University of Texas wouldn't militate against the operation of the school apart from the campus of the University of Texas.

Q So that if a student at the University of Texas wants to see him at the University he walks across the hall and there he is?

A Yes, sir, in accordance with the hours of appointments.

Q And the 13th Street student would have to go eight blocks?

A Yes. It looks like to me you are magnifying things that any

student in good faith in attempting to get an education would not consider a hardship at all.

Q I am basing mine on, not on what I think students do. I am basing mine on the rules of the Association of American Law Schools.

A It looks like you are magnifying things of little moment compared to the scheme as a whole.

Q I am not obliged to argue with you at this time. The final thing I want to get is that you are not familiar with the standards of the American Association of Law Schools.

A Not other than in a casual way.

Q Can you name any of them?

A Not without reference to them, I wouldn't undertake it.

Q You are not familiar with the standards of accreditation of the American Bar Association, are you?

A Only in a general way.

Q So that all of your testimony is based on your own personal observations and your own personal beliefs, is that correct?

A It is based on my personal knowledge of the relevant facts over many, many years, over my experience -- on my experience as a student in the University in its academic department and in the Law School of the University of Chicago, and upon the general information that I naturally have to acquire in the discharge of my duties.

Q Your primary livelihood is practicing law?

A That happens not to be the fact.

Q It isn't legal education, is it? That isn't your field?

A The position I occupy, of course, carries with it no compensation whatever. It is -- I serve as a matter of public service without compensation at all, and naturally what information I acquire about educational matters comes merely from the discharge of my public duties, and not at all as a paid agent, or function of the State.

Q Do you consider a school that is unapproved by either the Association of American Law Schools or the A. B. A. as equal to a school that is approved by both of them?

A That, again, would depend on the circumstances under which the school was operated. You apparently are trying to draw a comparison between the provisions which the State of Texas has made upon the occasion of the first application ever made to it by a member of the Negro race for education in law. Now, we have laws on our books that have been here for a great many years, within the terms of which we must operate, and do operate. The advisors of the State of Texas have set up a plan here, which, when carried out according to the provisions of the statute, which it must be presumed will be complied with, will entitle this law school to accreditation anywhere.

Q Judge Woodward ----

A So that there is in my mind not the least discrimination

involved in providing the type of education which we have provided, as compared to that which is provided at the University of Texas, no discrimination. I don't think that a student studying law here and graduating from this school that we have set up would be prejudiced at all by reason of the fact that the school in its initial stages had not been accredited by these organizations.

Q Are you familiar with the fact that in some states you can not take the bar unless you came from an accredited school?

A No.

Q Would you consider that a handicap?

A The only handicap ----

MR. DANIEL: We object to that question as to other states. He has alleged only that he wishes to prepare himself to practice here.

THE COURT: I think he has answered the question, anyway.

Q (By Mr. Marshall) The last question I asked, I am limiting him to the present time, not the future, as of March 10, or as of today.

A Which time, now?

Q Take March 10th.

A All right.

Q With the facilities in the 13th Street school available there, and without considering the books that are on order

that are not there, do you say that that furnishes facilities equal to the facilities offered all other students at the University of Texas Law School?

A An answer to that question would be wholly without value, because it would not take into consideration the facts as they existed at that time.

Q I am talking about everything that was in that school at that time?

A I will say this. I will answer your question this way, that the provisions which you relate, plus those definitely and certainly available, provided for the relator, if he had applied, facilities fully equal to those then provided at the University of Texas Law School.

MR. MARSHALL: If Your Honor please, I hate to insist on this, but I think the question is material and we are entitled to an answer to the question alone.

THE COURT: Wasn't the last part an answer to it?

MR. MARSHALL: No, he said taking that into consideration.

THE COURT: That may be the best he can answer it. I don't know.

MR. MARSHALL: He has testified all along, if Your Honor please, that this set-up furnishes equal facilities. I think I have a right to test him as to what he means by it.

THE COURT: You can ask him.

MR. MARSHALL: And I want to find out what is in this law school they are talking about. I am not interested in what is outside. We have gone into that. I am talking about what is in existence.

THE COURT: Perhaps you can limit it to the first of March.

MR. MARSHALL: The 10th, sir.

- Q Judge Woodward, the question is that on March 10th, as to that date, which is the date the school was to open, considering all of the facilities that are available, in existence in the law school building at 13th Street, do you say that that furnishes educational facilities equal to the facilities offered at the University of Texas to all other students?
- A Beyond any question, it does. I will call your attention to that ----

MR. MARSHALL: If Your Honor please ----

THE COURT: He has answered it.

MR. DANIEL: I believe he has a right to explain his answer.

THE COURT: He can. He has answered it, however.

A My answer is, beyond any question, it does.

Q (By Mr. Marshall) Go ahead.

A I wanted to tell you why I am so firmly of that opinion.

The third from the last paragraph of the resolution of the Board of Regents of the University, then in effect, reads as

follows:

"Be it further resolved that pending receipt and installation of such library the Dean of the Law School of the University of Texas be, and he is hereby authorized to supply on a loan basis books from the law library of the University of Texas which may be needed in the efficient conduct of the School of Law of the Texas State University for Negroes."

That provision, together with the library of the State of Texas within 100 yards of that school would meet the most exacting of requirements of any good faith student in the University.

Q My question was, was it equal?

A Yes, sir, fully equal.

Q Do you mean equal, or do you mean if you use both of them you can get the same thing? Isn't that what you really mean?

A I mean this, that the educational opportunity offered re-lator by those facilities at that date was fully equal to those offered on the same day in the Law School of the University of Texas eight blocks away. That is exactly what I mean, because that is a fact.

Q Do you know the curriculum of the law school of the University of Texas?

A In a general way. It is identical in both schools.

Q Do they have the Law Club set up in this school?

A A Law Club is set up by the students. Perhaps if the relator came and other representatives of his race came, you could form one.

Q You can't form it with one student, and you can't have moot court with one student, can you?

A No, you couldn't do it.

Q And you couldn't have any of the interchange common in law schools with one student?

A I presume if there is a good faith desire on the part of the Negro youth of the State of Texas to attend law school, all of those facilities will be developed in a short time, just as I presume they are at Lincoln and Howard. You have to start somewhere.

Q While this is going on it is true, is it not, that the students are not getting the same things they are getting at the University of Texas? Isn't that true?

A Are you talking about social contacts, or educational?

Q Sweatt isn't interested in social contact. He is interested in getting the best legal education he can get.

A Why didn't he come on the 10th of March?

Q Your lawyers will have the opportunity to ask Sweatt about that.

A If that is his only interest he is sitting there within one

hundred yards of the Supreme Court of Texas, the Court of Civil Appeals, and the Attorney General's Office, and the Legislature, where the public legal business of the State of Texas is centered. He has an opportunity unsurpassed to acquaint himself with these facts.

Q He is in the middle of everything but the Law School of the University of Texas?

A He is in the middle of the Law School provided by law for him.

Q That is right, but I mean the University of Texas. The other question is as of today. Is there any material change in the existing facilities in being in the 13th Street school of law from what it was on March 10th?

A Compared to March 10th?

Q Yes, sir.

A None that I observe.

Q Practically the same, is it not?

A As far as I know. That is the way it appeared to me when I was over there the other day, practically the same.

Q That is all.

{Court was recessed at 10:45 a. m.,
{May 13, 1947, until 11:00 a. m.,
{May 13, 1947, at which time proceedings were resumed as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Counsel for relator has gone into the establishment or future

establishment of the Texas State University for negroes in Houston, and you stated that 53 acres of land were available there between Rice Institute and the University of Houston, in the City of Houston, for this University. I will ask you, have you inspected that 53 acres of land?

A I have.

Q Is that the tract of land on which the buildings are located that you have testified the State University for Negroes has available?

A Yes, that is the tract on the west end of which this new modern building has been completed.

Q Are there any other buildings on that tract of land already?

A Not of a permanent nature. There is one planned, and there was some preliminary work going on when I was there 60 days ago.

Q Is a college or university being operated there now?

A I don't know whether they are occupying the new building or not. It was just being completed. It was almost ready for occupancy when I was there, a beautiful building.

Q What is the name of the school that has that 53 acres of land at this time?

A It is called Houston College. It is a branch of the University of Houston, which, in turn, is a body corporate and politic created by the Legislature and operating within the Houston Independent School District.

Q Is it operated as a branch of the University of Houston?

A The Houston College?

Q Yes.

A Such is my information, yes, sir.

Q What is the approximate enrollment?

A 1,800, as I now recall.

Q Now, is that the school, the campus and so forth, that you have testified about that has been made available for transfer to the Texas State University for Negroes?

A That is my interpretation of the statute which has been passed.

Q The statute that you refer to is House Bill 780, is it not?

A I couldn't recall the number, General.

Q I will ask you to look over House Bill 780 and see if that is the act of the Legislature to which you refer.

A The caption indicates that it is the statute. I can examine the whole bill if you like, but I am quite certain from examining the caption that it is the bill to which I have referred.

Q I just simply call attention of the Court to House Bill No. 780 which has been enacted, which provides for transfer of such facilities as have been testified about to the Texas State University for Negroes by any school district within which said facilities are set up. Now, I will ask you, do you of your own knowledge know whether or not the University

of Houston Board has proposed to donate this property and the entire school to the Texas State University for Negroes?

MR. MARSHALL: We object to it. In the first place, the minutes would be the best evidence, and second; there is no duty for him to have received that at all.

THE COURT: Of course, the resolution would be the best evidence.

MR. MARSHALL: Yes, sir.

MR. DANIEL: By agreement we will offer this plat as the next exhibit.

(Said instrument was admitted
in evidence as Respondents'
Exhibit No. 4.

Q Referring to that plat which has been introduced in evidence as respondents Exhibit No. 4, showing the floor space in that first floor of the building which you now have leased, I will ask you now to state to the Court how the second floor of that building which you say you have arranged for, for the State, will compare with the amount of space on the first floor?

A It will be equal to it.

Q The arrangement of the rooms and number of rooms?

A Substantially the same.

Q Now, will you answer the same question with reference to the third floor of the building; how much space, and the arrangement, as compared with the first floor?

A Substantially the same on each floor.

Q How many rooms on the fourth floor?

A My recollection is that that is a large room there. I don't recall the partitions in it, but substantially the same floor space.

Q Substantially the same floor space?

A Yes, sir.

Q Now, counsel for relator has asked you the question of whether or not this school as it now stands will meet the American Association of Law School standards and requirements. I will ask you whether or not you have plans if sufficient students enroll, to operate that school in such a way that it will meet those standards and requirements at the very earliest possible date?

A We have.

Q Do you have -- have you considered whether or not your appropriation of a hundred thousand dollars is sufficient to meet those standards, or as many of them as can be met with students between now and September 1, 1948?

A We have.

Q Have you itemized the necessary expenses to meet those standards between now and September 1, 1948, provided you had students?

A We have, as far as we could predict the use of the facilities.

Q Do you have your estimated cost of operating such a school?

A I have.

Q Does your estimated cost for the operation of such a school provide for full time professors?

A Yes, sir.

MR. MARSHALL: If Your Honor please, may we find out what the witness is reading from?

A I will hand it to you, if you like; a proposed budget which I requested my associates to help me prepare for the operation of the school through August 31, 1948, assuming that the relator and other qualified students apply for admission.

MR. MARSHALL: May we ask a preliminary question for an objection?

THE COURT: Yes.

MR. MARSHALL: Did you prepare it?

A I helped prepare it.

MR. MARSHALL: Are these your figures or somebody else's?

A Part mine, and somebody else's also.

MR. MARSHALL: Partly somebody else's?

A You understand that in an organization such as I represent it is rare that one man does all of the thing. That budget has been prepared by Dean McCormick and myself, as we prepared many other budgets of a similar nature in the operation of the University. You understand the academic matters are provided by the men skilled in that, and the administrative

matters by those skilled in that, and the cooperation results.

MR. MARSHALL: It is part yours and part somebody else's.

A Part both. I am familiar with the matters outlined here.

MR. DURHAM: I want to ask a preliminary question. You prepared those figures, in part, in what capacity?

A In what capacity?

MR. DURHAM: Yes, in what capacity?

A In my capacity as Chairman of the Board of Regents of the University, and carrying out the duties imposed by that resolution.

MR. DURHAM: Have those figures been approved by the Board as a whole?

A The Board of Regents?

MR. DURHAM: Yes.

A No.

MR. DURHAM: We object to it as not being official.

THE COURT: I think he has not offered them. He is simply using it to question him from.

MR. DURHAM: If they are not admissible in evidence I don't think they are admissible to use them as a memoranda.

MR. DANIEL: You haven't given me a chance to prove them up yet.

MR. DURHAM: We object, until you do prove them up.

Q (By Mr. Daniel) As I understand, what you have is an estimated budget through August 31, 1948 of what amounts it would take to meet the requirements of the American Association of Law Schools, as far as they can be met within that period of time?

A That is right.

Q And you have prepared that for the purpose of determining whether or not you have sufficient money to meet such requirements?

A Yes.

Q How much do you take into consideration for rent that will be required for rent on the building until August 31, 1948?

MR. DURHAM: Your Honor, we want to make this objection; that that isn't an official act of the Board of Regents. It is an individual opinion of two members of the Board of Regents, and would not be binding on the Board of Regents. It is wholly inadmissible and speculative.

THE COURT: If he knows what the rental is, I think he could testify.

MR. DURHAM: I think so, too, but not what the Board of Regents estimate.

MR. DANIEL: I would like to call the Court's attention to the fact that the Board gave, in this resolution, the Chairman, all of the powers to go ahead with this plan.

Q How much have you allowed in this estimate for rent on the building?

A On the portion of it now occupied \$1,875.00. That is the

contract rental of \$125.00 a month. We have estimated it would require \$3,000.00 to acquire the additional floors, in the event they are needed, and negotiations that I have made under authority of the Board are carried out. You understand this is just an estimate.

Q I understand.

A Made in the usual course of the discharge of my duties.

Q Have you allowed anything in your estimate for repairs and improvements?

A We thought \$2,000.00 would be reasonably needed to make provision for rearranging the space to take care of the library, and we hope for students who might come.

Q Do you know how much of that has been spent?

A I don't know. Some considerable sum, but the Comptroller could tell you that.

Q How much have you allowed for the books you have testified about having ordered?

A \$32,000.00 was estimated to be the cost of those volumes.

Q Do you have any allowance in your estimate there for library upkeep?

A \$2,000.00, we thought would cover that.

Q What estimate have you made as to salaries?

A We have in there four professors at \$6,000.00 per annum, which is the base pay for professors of law in the University, and figuring the time they would be employed, that is on a

nine months basis, we estimated it would take \$30,000.00 to employ them, if we are fortunate enough to secure students.

Q Have you made any allowance for summer school this year?

A Yes, four full time professors at \$2,000.00 for the summer term each, which is the amount we would pay the same men at the University.

Q When does the summer semester begin at the University?

A Right around the first of June; I would have to look at the calendar to see. I would say around June 3d, I think.

Q Will the new law school be ready to open another semester around the first of June?

A Yes.

Q Have you allowed anything for a full time librarian ?

A Yes, sir, \$4,500.00. That is at the rate of \$3,600.00 per annum.

Q Have you allowed anything for other employees?

A Well, custodian and janitor, \$100.00 a month, \$1,600.00. Secretary, at \$1,800.00 a year, \$2,250.00; stationery and supplies, \$500.00; contingent and miscellaneous expense, \$1,000.00. These figures total \$88,725.00, and leave an unexpended balance of \$11,275.00, from the appropriation of \$100,000.00 which is today available.

Q The attorney for relator asked you about the time that would be given by University of Texas professors in the new law

school before you have full time professors employed there for the new law school. I will ask you, what is your opinion if -- the same kind of question he asked you -- as to the amount of time that could be given to the students in the new school individually as compared with the amount of time the same professors could give to the same students if allowed to attend the University of Texas Law School.

MR. DURHAM: We object to that for the reason this is one of the officials. We are not to assume that he knows his duty. I think he is entitled to testify what time was required. This is not a witness who is presumed to state what his duties are upon presumption. He knows his duties.

THE COURT: If he knows that, -- what time they could give to it, it would be all right. I just don't know.

A I am not entirely certain that I understood the question. If you are asking me to approximate it as a matter of hours per student per instructor, is that what you have in mind?

Q (By Mr. Daniel) No, what I had in mind; following up the point that counsel made as to the fact that your professors from the University of Texas would be in the new law school part time, I am asking you whether or not, if you know, they would be able to give the students in the new law school as much of their total time as they would give if the students were out at the University of Texas taking law under them in those classes out there.

A They would be required to give ----

MR. DURHAM: We object to that as being a presumption. We have no objection to what the professors were hired to do, but his opinion as to what they could do would be a presumption and conclusion. If they hired the professors the contract of employment is the best evidence of the terms of it, whether it is verbal or written.

THE COURT: I think perhaps, counsel, he is asking the opinions. You can have your bill.

MR. DURHAM: Note our exception.

A They are required, whenever the relator or any other student offers himself, to give to him all of the time and attention necessary to carry the provisions of that resolution into effect.

THE COURT I believe that isn't an answer to your question.

MR. DANIEL: I withdraw the question for the time being.

MR. DURHAM: We ask that that answer be stricken.

THE COURT: Yes, sir.

Q (By Mr. Daniel) Do you know how many applicants, or inquiries you had about the school prior to March 8, 1947?

A Only by report. I didn't receive them personally. I know from the records, and the reports at the University.

Q Do you know that there were some inquiries for registration?

A There were.

Q Do you know of any meetings held by an organization of the Negro race and attended by any persons on this court room on March 8, 1947, in Dallas?

A Through public reports.

MR. DURHAM: If Your Honor please, may we have that stricken?

THE COURT: Only of his knowledge.

Q (By Mr. Daniel) Do you know of your own knowledge?

A Only through public reports and conversation.

MR. DURHAM: We object to that as not being responsive and hearsay.

MR. DANIEL: That is all.

REGROSS EXAMINATION.

Questions by Mr. Marshall:

Q Judge Woodward, 53 acres, you say, are available in Houston. Is that not at the present time the property of this, the Houston Junior College, a Negro school now in existence?

A It is known as the Houston College Branch of the University of Houston; and it is the identical property contemplated by this statute that was read here.

Q Is it not true that that property is property that was purchased for the most part from private donations, including donations of Negroes?

A There were substantial donations, I know, according to the

press reports, by members of both races, in part. I don't know whether that was so wholly. The title to it is vested in the body corporate, politic -- it is known as the University of Houston.

Q What arrangement in salaries was made with the professors at the 13th Street law school?

A They would draw the same salary as they draw at the University of Texas.

Q Was that part of their salary to be paid out of this \$100,000.00 ?

A Yes, for the services rendered at the law school, they would be paid.

Q I understood you, when you were going through this proposed budget, they were going to pay them the same they were paid at the University of Texas Law School?

A Yes.

Q But they didn't get two salaries; the proposal wasn't to give them two salaries?

A No, what we are hoping, in making up the budget, hoping very much that -- these are outside figures based on the hope that the relator and other students of the Negro race qualify, and in sufficient numbers to permit us to conduct a law school, come in, and happily give us the opportunity to employ four full time professors.

Q Do you mean you need a certain number before you can run a

law school?

A Naturally, you would one kind of arrangement for one kind of student body, and another arrangement for another student body.

Q Wouldn't the library be the same, with the exception of duplicate volumes, whether you had one or one hundred students?

A The library has already been provided, adequate for any number of students who might reasonably be expected to apply, and it will be completely available.

Q You testified under examination by the Attorney General that that budget was prepared in order to meet the standards of the American Association of Law Schools?

A I testified it was prepared to enable the school of law of this State University -- the Texas State University for negroes -- to comply with those standards under any reasonable set of circumstances that might arise. These are outside figures, or expenditures which the State of Texas has provided for. We can spend only so much of that as the circumstances, as they arise, may require.

Q Who was the full time librarian?

A We will appoint a full time librarian when the relator or some other qualified students apply for instruction there.

Q Did you have a full time librarian when the school opened March 10th?

A No, we didn't have any students, either.

Q Did you have any at that time at the University of Texas Law School?

A Yes.

Q You do, do you not?

A Certainly.

Q And you have assistant librarians, too, don't you?

A Where we need them, yes.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Mr. Woodward, from your experience as Chairman of the Board, and on the law faculty, I will ask you your opinion, that if there were as many as 14 inquiries for this law school before March 8, 1947, would you, in your opinion, expect in the normal course of school operations that there would be at least some students report for admission on March 10th, if something had not happened to keep them from doing so?

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

THE COURT: I think it is rather speculative.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

CHARLES T. MCGORMICK, a witness
produced by the Respondents, having been by the Court first
duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name, please, sir.

A Charles T. McCormick.

Q Where do you live, Dean McCormick?

A I live in Austin.

Q What position do you hold with the University of Texas Law
School?

A I am the Dean of the school.

Q How long have you been Dean of the Texas University Law
School?

A Seven years.

Q Prior to that time what experience had you had in law
school work?

A Well, I became a professor of law at the University of Texas
in 1922. From there, in 1925, after serving during the
intervening period, I went to the University of North
Carolina Law School as Dean of the Law School; and in 1930
I went to Northwestern University Law School as professor of
law, and served there until 1940, when I returned to the
University of Texas Law School as Dean.

Q What degrees do you hold, Dean McCormick?

A The A. B. Degree from the University of Texas, and L.L.B. Degree from Harvard Law School.

Q Are you one of the authors of McCormick and Hay on Evidence?

A Yes, sir.

Q Would you state to the Court what, if any positions, you have held in the American Association of Law Schools?

A I have served as a member of the Executive Committee, and as President of the Association.

Q When were you President of the Association of American Law Schools?

A In 1942.

Q On what groups within the Association have you served?

A Well, I have served on the Executive Committee, as I mentioned, and upon various committees, such as the Committee on Cooperation of the Bench and Bar, and several other committees, the entire list of which I do not remember.

Q Are you familiar with the terms of Senate Bill 140 that has been reviewed here to the Court this morning?

A Reasonably so.

Q Are you familiar with the terms of the resolution of the University of Texas Board of Regents, dated February 28, which was read in evidence this morning?

A Yes, sir.

Q I will ask you if under that resolution you assumed the

position of Dean of the Law School for the State University for Negroes?

A Yes, sir.

Q Did you under the provisions of that resolution and the instructions of the Chairman of the Board of Regents establish, or help establish, such new law school?

A Yes, sir.

Q Are you acquainted with the physical facilities of the Law School for the State University for Negroes?

A Yes, I am.

Q How many class rooms do you have at the University of Texas?

A We have three class rooms.

Q How many students do you have at the University of Texas Law School? Of course, I am talking about ----

A Approximately 850 at this time.

Q How many class rooms do you have in the law school for Negroes?

A Well, there are two class rooms.

Q How do the physical facilities of the new law school compare with the University of Texas Law School, as far as lighting, ventilation and other such matters are concerned?

A Well, I would say they were approximately the same, or similar.

Q About how many inquiries or applications did you receive for admittance in the new Negro law school?

A Personally, I believe, by letter or in person, I received five inquiries, but the inquiries would normally come either to me or to the Dean of Admissions, and the Registrar, Dean Matthews, of the University, and he received some of the inquiries.

Q He received others, did he?

A Yes, he so informs me.

Q About what maximum load did you figure for students for the first year in the new law school, based upon the maximum load, -- based on inquiries received?

A Well, I hoped and expected there would be at least five or six at the beginning of the school, and that as the years went on and subsequent terms were opened, that perhaps ten or twelve would register. I say that in the light of the Negro population of the State, and my observation of some similar schools that have been established for Negroes in other states.

Q Based upon the maximum load that you could reasonably expect for the first year of the school there, and compared with the maximum load of students at the University of Texas Law School, I will ask you to compare the physical facilities offered by the Negro Law School with those offered at the University of Texas Law School.

A Well, with respect to the adaptability for use, for the expected number, the ones who would attend the Negro Law

School, as compared with the actual conditions of attendance at the University of Texas Law School, why, I would say that the physical facilities were roomier and more convenient than those at the University of Texas Law School.

Q You mean the facilities ----

A Floor space per student would be substantially greater if an estimate of 10 students were made.

Q Do you have the figures on floor space per student at the University of Texas Law School at the present time?

A Yes, I do. These figures were furnished me by the Comptroller, and from my observation of the situation, I would say they were correct.

Q Approximately how many square feet of floor space do you have at the University of Texas Law School?

A We have 46,518 square feet.

Q How many students do you have at the University of Texas Law School?

A Well, there were 886 at the beginning of the year.

Q Have you figured the approximate number of square feet of floor space there at the University of Texas?

A Well, the figures as made by the Comptroller are 53 square feet per student. I haven't actually divided that number into the other. I assume that is correct.

Q Approximately 53 square feet. Have you examined this floor plan of present space available in the new law school?

- A Yes, I have.
- Q Approximately how many square feet of floor space are available there, total?
- A That, again, is a measurement by someone else, but it accords with my general observation; and it is reported to me as 1,060 square feet.
- Q Have you examined the space?
- A Yes.
- Q Does that appear approximately correct to you?
- A It does.
- Q Based on a maximum load of ten students, then, that would give you how many square feet per student in the new law school?
- A 106.
- Q 106 square feet?
- A Yes.
- Q Does that take into consideration any of the library space available in the State Capitol Building, the figures that you have given?
- A No, it does not.
- Q Now, on that basis of comparison, I will ask you to state whether or not in your opinion the physical facilities offered by the Negro Law School are substantially equal to those offered at the University of Texas Law School?
- A Yes, having in mind, as I said before, the respective use

by the respective number of students in each of the two institutions.

Q Do you know about how many students were contemplated, or how many were figured in the needs for the University of Texas Law School Building, how many students it was built for, whether or not you are crowded or not?

A Well, it was planned for four hundred students. It now has, as I said before, about 850.

Q It now has about twice as many as the building was actually built for?

A Yes, sir.

Q Now, as to library facilities in the new school, are you acquainted with the Texas State Library over at the Supreme Court Library on the second floor of the Capitol Building?

A Only in the most general way. I have visited it and looked at it.

Q Are you acquainted with the space and the desks and the places available for study?

A I have such acquaintance as you would get from casual observation.

Q Would such facilities there in the library offer as much room as the Texas University Library offers for its students?

A Well, I couldn't give an exact comparison as to that. I would be disposed to say, at a guess, that the University of

Texas Library area was perhaps larger than the State Library ----

Q Based, again, on the number of students that we have been talking about, which of the two libraries would offer more space and convenience for study?

A Well, assuming that the State Library is not otherwise crowded by public users, and I think it is not, I would think that the facilities of the State Library would be more spacious for the use of a student body of, say 10 students in the near by school, than would be the facilities at the State University Law Library, which are now exceedingly crowded.

Q That is, the University of Texas Law Library is now exceedingly crowded?

A That is correct.

Q Are you acquainted with the approximate distance from the Negro Law School over to the State Law Library?

A Yes, I am.

Q Approximately how far?

A Well, I would say it was 100 yards to the door of the Capitol, and then perhaps 25 yards the rest of the distance.

Q If the evidence in this case should show that the books in the Texas State Library, the number of books, type of books, are substantially equal to those in the University of Texas Law Library, I will ask you if, in your opinion, the

library facilities for the Negro Law School are substantially equivalent to those at the University of Texas.

MR. DURHAM: That is a hypothetical question, and we object on this ground; that if it isn't shown, we can renew our motion to strike this testimony.

THE COURT: Yes.

MR. DANIEL: Yes, that is all right.

Q Based upon a showing, or substantial showing of the equality in the two libraries, in your opinion, will the library facilities offered the Negro Law School be substantially equivalent to those offered by the University to the University of Texas Law School students?

A If you would add to that hypothesis that a selected group of books for immediate reference in connection with the class work is available in the quarters of the Negro Law School, and that other books that might be referred to and called for would be available for immediate loan, from the Law Library of the University of Texas, I would answer yes.

MR. DURHAM: Your Honor, we ask that that answer be stricken for the reason that the witness asked himself, and he predicated it upon facts not stated by counsel.

THE COURT: Well, he probably would just turn around and ask him the identical hypothesis.

MR. DURHAM: We object again, unless he puts it in there.

MR. DANIEL: I will not bring it up until I compare the books.

Q Do you have a librarian on the staff at the University of Texas Law School?

A Yes, we do.

Q State her name.

A Miss Helen Hargrave.

Q Have you asked her to check the books in the State Law Library and make a comparison with the University of Texas Law Library for you?

A Yes, I have.

Q Now, I will ask you if you did anything in accordance with this resolution about arranging a list, or having one arranged, of 10,000 books to meet the standards set by the American Association of Law Schools, to be placed in the building that now houses the Negro Law School?

A Yes, sir, I requested Miss Hargrave to prepare a list of 10,000 volumes meeting the standards of the American Association of Law Schools. She did prepare such a list, and on the basis of that list, as I understand it, an order was made for the purchase of a certain number of the books on that list.

Q Now then, in accordance with the resolution passed by the Board of Regents, and your instructions from the Chairman of the Board, I will ask you if you did adopt a curriculum for this new law school?

A Yes, we did.

Q Is it, or is it not, the same as the curriculum and courses offered at the University of Texas Law School?

A That is correct.

Q Did you adopt the University of Texas courses as stated in your Bulletin of the University of Texas Law School?

A We did.

Q Do you have a copy of the bulletin?

A Yes.

Q Will you state to the Court on what pages you will find the courses of instruction that were adopted for the new school?

A Pages 23 to 29.

Q And you are referring now to the University of Texas Law School Bulletin?

A Dated August 1, 1945.

Q Dated August 1, 1945?

A Yes, sir, that is the last printed bulletin that we have issued.

Q So, your curriculum----

A I may say that that is the same curriculum which we adopted. We likewise made special provisions for an interim class to enter in March, 1947 in the Negro Law School.

Q Your general curriculum as compared with that of the University of Texas Law School is the same, is that correct?

A Yes, sir.

Q What about your faculty for the Negro Law School? Compare that with the faculty for the University of Texas Law School. Is that the same faculty?

A Yes. Mr. Woodward, the Chairman of the Board of Regents of the University of Texas, requested me to consult the law faculty and ascertain their willingness to cooperate in the steps contemplated by the resolution in the founding and carrying forward of the Negro Law School, and the faculty assured me of their willingness to cooperate, and that contemplated, of course, the offering of all necessary courses in our curriculum as the school should develop.

Q Will you state how the entrance requirements for the Negro Law School as set up by you compared with the entrance requirements for the University of Texas Law School?

A Well, we adopted and announced that the entrance requirements and the other requirements for admission in the Negro Law School would be the same as in the University of Texas Law School.

Q What about class room requirements, grades and examination requirements for the new school? Are they the same as for the University of Texas Law School?

A All of the catalogue regulations for the University of Texas Law School were adopted, and were to govern the Law School of the State University for Negroes.

Q All of the regulations here in the catalogue for the

University of Texas were adopted by the Texas State University for Negroes; is that correct?

A Yes.

MR. DURHAM: I didn't want to disturb the Attorney General. I want to ask a question for the purpose of an objection. You say the curriculum was adopted. How was it adopted?

A As I understand, the resolution gave to the Chairman of the Board of Regents of the University of Texas the power to make all necessary arrangements for the establishment of the Negro Law School, and he, consulting with me, directed that the Negro Law School should adopt ----

MR. DURHAM: You had a resolution adopting the curriculum?

A No, an announcement was made in writing by myself and the Dean of Admissions of the University, under the instructions of the Chairman of the Board of Regents of the University of Texas.

MR. DURHAM: Your Honor, I don't think I made myself clear. Did I understand you to say ----

A Which announces the adoption ----

MR. DURHAM: Is that in writing?

A Yes, sir.

MR. DANIEL: We will prove it up. I would like to offer the catalogue referred to.

{Said instrument was admitted
{in evidence as Respondents'
{Exhibit No. 5.

Q Now, Dean McCormick, do you have the list of law professors on the faculty of the University of Texas who were made available to teach courses in this law school, this new law school?

A Do you mean the particular ones who were assigned to teach classes?

Q First, I would like to have your complete list of the faculty.

A Yes, sir.

Q Do you have the qualifications there of those faculty members?

A Well, simply briefly summarized, not stated in full, giving their degrees and teaching experience.

Q To save time, I would like to offer that. We just offer it in evidence without reading it. We offer the list of faculty members with the brief statement as to qualifications.

{Said instrument was admitted
{in evidence as Respondents'
{Exhibit No. 6.

Q Now, Dean McCormick, we have talked about the general curriculum and the faculty members available. I will ask you what particular courses you had already application for at the time you set up the new law school?

A Well, we had not had application by any student for

admission, if that is what you mean. We contemplated and made ready for an entering class in March.

Q First year class?

A An entering class. We have during the war and post-war emergency period provided for students, in order to accelerate their course, to enter in the middle of the school year, in March; in previous years, and in February of this year, and that was the class that we contemplated and provided for this spring by the immediate assignment of courses and professors for the teaching of such beginning classes.

Q Then, you specifically provided before the opening of the school on March 10th for instruction in what courses?

A Contracts, torts and legal bibliography.

Q Are they the same courses that you offer first year law students at the University of Texas Law School?

A They are the same courses.

Q What instructors did you assign to teach those three courses?

A Associate Professor Leo W. Leary, Assistant Professor S. T. Morris, and Assistant Professor Chalmers M. Hudspeth.

Q Are those the same instructors that teach those same identical courses in the University of Texas to first year law students?

A That is right.

Q Now, you mentioned a minute ago having prepared a written announcement of courses and the opening of this law school.

Do you have a copy of that announcement?

A Yes, sir, I do.

THE COURT: We, then, will recess at this period and will take that up at two o'clock.

(Thereupon Court was recessed
(at 12 o'clock noon May 13, 1947,
(until 2 o'clock p. m., May 13,
(1947.

AFTERNOON SESSION.

May 13, 1947.

2. P. M.

CHARLES T. MCCORMICK, having resumed the witness stand, testified further as follows:

DIRECT EXAMINATION.

(Continued)

Questions by Mr. Daniel:

Q Dean McCormick, is this the copy of your announcement of courses for the Negro Law School?

A Yes, it is.

Q We wish to introduce the announcement.

(Said instrument was admitted
(in evidence as Respondents'
(Exhibit No. 7.

MR. DANIEL: May it please the Court, I will read a few paragraphs of this announcement, and review some of

{Mr. Daniel read to the Court
certain portions of said
announcement, and summarized
other portions of same.

Q I will ask you if your announcement contains, the facts stated therein are correctly -- are correct representations as to what you were offering there on March 10th?

A They are.

Q Now, Dean McCormick, I would like to ask, if in your opinion, the facilities set up at the new law school for Negroes furnishes to Negro citizens the equal opportunity for study in law and procedure as that offered in the University of Texas Law School?

A Yes, I believe they do.

Q In your opinion, do you believe that the facilities set up in the Negro Law School furnished to the relator in this case, and would give to him, if he entered, equal opportunities to study law and procedure as he would have if he was admitted to the University of Texas Law School?

A Yes, they would do so.

Q Was the school opening -- was it opened on March 10th, as announced in your written bulletin?

A Yes, it was.

Q Were you down there?

A Well, I was down there from time to time.

Q During that day?

A I don't believe I was there on the first day. There was no

necessity for me being there.

Q Were you there during the week of March 10th?

A Yes.

Q Do you know ----

A I was there previous to that time also.

Q And previous to that time?

A Yes.

Q Do you know the relator, Heman Marion Sweatt, by sight?

A Yes.

Q Did he register there at the school?

A No, he did not.

Q Is the school still being maintained, ready for instruction of the relator in this case, if he should see fit to enter?

A Yes, sir, the facilities are held available.

Q When will your next semester begin?

A That depends on whether we have any applications.

Q What about your semester at the University of Texas?

A It begins on the 3d of June, the summer session.

Q The summer session begins on the 3d of June?

A Yes.

Q Are you equipped to begin a summer session, a similar session for the Negro Law School on June 3d also?

A Yes.

Q I believe that is all.

CROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, have you at any time examined the qualifications of Heman Marion Sweatt, the relator in this case, for admission to a law school?

A No, I have not.

Q Do you know whether he is qualified to enter the law school at the University of Texas?

A I am so informed by the admissions office, Mr. Mathews.

Q Did the Registrar so notify him?

A That is my understanding. Of course, I have no first hand knowledge.

Q Now, Dean McCormick, in speaking of the faculty of this supposed Negro Law School, I believe you stated that three professors or teachers at the University of Texas School of Law had been assigned to teach interim courses; is that correct?

A That is correct. That is, for the first semester.

Q Leo W. Leroy, is that one of them?

A Leary.

Q Oh, Leary. Would you tell us what Mr. Leary taught at the University School of Law the first semester of the current school year?

A Well, one of the courses that he taught was a course in Federal Regulations, substantive Federal Regulations.

Q That is clear. What else did he teach?

A I don't remember what else he taught. You see, we have seventeen members of the faculty, and I don't remember off-hand each of the subjects they teach each semester. I can readily look it up, however, and let you know.

Q Would it take you -- do you have the material here available that you could look it up?

A No, I don't have it here, but I can get it by telephone.

Q All right; just before you get it by telephone, and I think we want it, Mr. Chalmers Hudspeth; that is another teacher assigned to that school?

A That is correct.

Q What did he teach the first semester at the University of Texas Law School this current school year?

A During the course of the year he has taught the course in domestic relations, and the course in legal bibliography, but there, again, I don't have at my finger tips what each of these teachers has taught because we have many sections of the courses.

Q That is all right.

THE COURT: Would you like to take a minute and find out what you want and let him phone and get it?

MR. NABRIT: Yes, sir; I think it would be very good.

THE COURT: Tell him what you want, then.

MR. NABRIT: I want to know what each of these

teachers taught at the first semester at the University of Texas during the current school year, how many hours each taught, and the second semester, this current semester, I want to know what each of these teachers is now doing, the course by name, hours and what classes. By classes, I mean, first, second or third year classes; those classes normally assigned by you for the faculty of the School of Law of the University of Texas.

MR. DANIEL: May I suggest that he get that this afternoon and bring it in the morning?

MR. NABRIT: I would like to get it now, if he can get it over the phone.

THE COURT: We can recess a few minutes, and he can go into the Reporter's room.

(Further discussion was had off the record, and the witness requested Mr. Mathews to obtain the information outlined above.)

Q (By Mr. Nabrit) Dean McCormick, moving from the faculty for the moment to the building for this proposed law school which is located, as I understand it, on 13th Street, approximately a hundred yards from the State Capitol, in which there is a law library that is available, according to your statement, to the students in this school of law, how many stories are there to this -- first, I will ask you, have you visited this building?

A I have.

Q How many stories are there?

A Three.

Q The floor on which the proposed law school is located, is that the basement floor?

A Well, I would call it the ground floor. It is perhaps two or three depressed feet under the ground, but there are ample windows and lights. It is not an artificially lighted space.

Q So that actually it is a basement floor in that building?

A It isn't what I understand by a typical basement, which is what is underground.

Q But it is at least half underground, isn't it?

A Well, I wouldn't be sure. I wouldn't have thought so, no.

Q It is a considerable distance depressed from the level of the sidewalk, so that it is necessary to go down several steps?

A Yes, sir; four or five steps.

Q In your judgment, does it have adequate windows for a law building, that is, enough daylight, irrespective of internal illumination? In your opinion, is that a satisfactory arrangement, purely from the standpoint of windows?

A Yes, it impressed me so. Of course, most law buildings, so far as I know, need in many of the rooms artificial light in the daytime. I know ours does at the University of Texas.

Q Probably if you were securing one today, you would look at that as one of the things that you would insist upon in the building, would you not?

A No, I wouldn't insist on a building that didn't need artificial light in the daytime in all of its rooms.

Q I mean, in looking for a law building for the University of Texas, that would be one of the things you would take into account?

A The adequacy of light, yes.

Q All right. In the second place, in respect to that building, is it in your opinion adequate in size, this basement floor, which is, as I understand it, the only part of that building now under your control. Is there in the basement adequate space to place library stacks sufficient to hold these 10,000 books which are supposed to have been ordered?

A No, there is not.

Q Do you, of your own knowledge have at this moment information as to where those books will come, if they should arrive, where would they be placed?

A Well, my information comes from Mr. Woodward, who is the Chairman of the Board and has the responsibility for the providing of physical facilities, and I understand from him that he has arrangements perfected whereby the University has an option on the remainder of the building, and when the entire building is put into use it would be, of course,

considered as a whole as to how the space would be utilized, and just which room or rooms it would be decided to put the library in, I couldn't say.

Q Who would decide that? Not the Board of Regents, you don't mean that?

A Yes, they would decide upon----

Q They would decide in what room you would have your classes and what rooms you would have your offices and your library?

A Well, they would ultimately. The advice of the Dean would, no doubt, be taken, and that of the business agents of the University.

Q And no doubt the Dean's advice would be decisive in regard to arrangements in the building?

A Probably so. That is, if it didn't cost more than the University could command in the way of money.

Q That is, if it didn't exceed that \$100,000.00 which we are supposed to have?

A That is right -- I wouldn't say "supposed to have". I believe it has been appropriated.

Q I don't know how much of it has been expended, therefore, I supply that phrase. You may be able to tell me later how much we have left. This question, Dean McCormick, in considering the announcement for the opening of school on March

10th, I take it from your testimony that no library was available in the school at that date, nor at that date did the school possess any place in which it could have placed these 10,000 books; is that true?

A Well, there was a small selection of reference books immediately accessible for these three courses in the building.

Q That is right, but I am speaking of the 10,000.

A No, there was no adequate space immediately provided, for the simple reason that getting the books is a matter of some time, and ----

Q Your Honor, I wish you would just strike -- have the last part of that stricken.

THE COURT: That is right. It is by way of explanation, but probably wasn't responsive.

Q (By Mr. Nabrit) Dean McCormick, you are former President of the Association of American Law Schools?

A Yes.

Q And as I understand it from articles which you have written, one of the proponents of increased standards for law schools, is that true?

A Yes, sir; I believe in raising the standards of legal education generally.

Q The University of Texas is a member of that Association, is it not?

A That is right.

Q Are you familiar with the handbook of that association?

A Well, it is a large volume.

Q I mean by that you know that ----

A Generally, yes.

Q Do you know John P. Dawson, who is Secretary of the Association?

A Yes, I do.

Q I would like to show you a copy of that. Do you have any objection to this?

MR. DANIEL: No.

MR. HARRIS: No objection. I would like to enter this. Now, I would like to call the attention ----

A Would you tell me what year?

Q I am going to call your attention to this ---

A Will you tell me what year that was?

Q I want you to read the published letter of the Secretary-Treasurer certifying it.

A 1945 Handbook?

Q Yes. Are these the rules now in force in the association, to your knowledge?

A Yes, they are.

MR. DANIEL: No objection.

MR. HARRIS: We would like to introduce, Your Honor, pages 259 to page 269, inclusive, which carry the articles of the association, and the names of the members of the

Association of American Schools of Law.

- A I believe you want to confine that to Article 6. I believe that is the one that contains the standards.

MR. NABRIT: Article 6 on page 260, 261, all of it from Article 6 on.

(Said instrument was admitted
in evidence as Relator's
Exhibit No. 1.

- Q (By Mr. Nabrit) Now, Dean McCormick, are you familiar with the rule of the Association of American Law Schools which states in substance that in order to be accredited by this Association a law school must have a minimum of four full time professors or teachers of law?

- A I am familiar with that.

- Q In your opinion, is the arrangement which you have made for the faculty at this Negro Law School, which was to be effective March 10, in keeping with that requirement?

- A No, I don't believe that it complies with that requirement, but I believe that the faculty, the facilities which we have furnished to the Negro Law School, is equal to those that ----

MR. NABRIT: Your Honor, I would like to ask that all of the witness' answer from "but" be stricken.

THE COURT: I don't think it was by way of explanation either, so I believe he could have stopped there. It may be pertinent on cross examination.

MR. NABRIT: Yes, we will stop it right there, please.

Q Dean McCormick, in assigning that faculty to the law school, or the Negro School of Law, were they to teach courses at the University of Texas at the same time? I don't mean the same hour, but I mean during the same semester that they were to teach in the Negro Law School?

A That is true as to Mr. Leary and Mr. Morris, but not as to Mr. Hudspeth, I believe. He had taught the course in legal bibliography the previous semester, but my recollection is that he is not teaching it this semester. I am not quite certain about that, but that information will be verified.

Q Do you recall what the usual number of hours a teacher at the University of Texas School of Law is required to teach?

A Well, it varies from time to time with the necessities of the curriculum, and it runs usually from five to eight hours of teaching per week in a given semester, and I would say on an average of about six.

Q It seems that information is here. If it is I would like to ask him those questions right here.

THE COURT: Yes.

(Thereupon Mr. Daniel delivered
an instrument to the witness.

A Do you want me to give this information to you now?

Q (Mr. Nabrit) I would like for you to tell me what the three teachers assigned to the Negro Law School taught at the University of Texas the first semester of this year, and

what those teachers are teaching at the University of Texas Law School the second semester.

- A Mr. Leary during the first semester was teaching Equity I, a three semester hour course, and the seminar in Federal Regulations, a two semester hour course, and he is teaching now in the second semester Contracts, which is a six semester hour course. Mr. Hudspeth during the first semester was teaching Procedure I, a four semester hour course, Legal Bibliography, two sections, each of one semester hour. During the second semester he is teaching Agency in two sections, of two semester hours each, and Domestic Relations, three semester hours. Starling P. Morris during the first term was teaching Personal Property, a three semester hour course, and Legal Writing and Argument, a two semester hour course. During the present semester he is teaching Torts, a six semester hour course.

- Q Now, Dean McCormick, how long has Mr. Leary been teaching at at the University of Texas School of Law?

A He began his teaching last fall.

- Q This year is his first year?

A That is correct.

- Q How long has Mr. Hudspeth been teaching at the University of Texas?

A The same length of time.

- Q He began last fall?

A Well, now, I may be mistaken. He may have begun last summer.

Q Let's say last summer, but this is his first year, and, Dean McCormick, how long has Mr. Morris been teaching at the University of Texas?

A I think he probably began last summer, and has been teaching since that time.

Q Do you recall, Dean McCormick, whether or not the teachers of the first year law students at the University of Texas, and I am not asking you to try to remember which sections they have or anything of that sort; just whether out of the total number of teachers at the University of Texas Law School who are engaged in teaching first year law students, whether there is a single teacher who has been teaching law longer than one year?

A Well, I would have to go over the list.

Q Here you are.

(Mr. Nabrit handed the instrument
to the witness.

A Yes, there are some.

Q Do you know by looking at the list of the faculty which ones they are, and how long they have been teaching at the University of Texas, or teaching law at other universities?

A Yes.

Q Could you state those, please?

A Mr. Davis has taught since 1940 in the University of Texas,

and from 1935 to 1940 at the University of West Virginia.

Mr. Huey has taught, except for war service, at the University of Texas since 1936. Mr. Morris, Clarence Morris, taught at the University of Wyoming, 1926 to 1940, and the University of Texas since 1940, and Mr. Jerry S. Williams came to the University in 1946, and I believe he had had two years of previous teaching.

Q Thank you.

A I think I should explain that by qualification, however, to this effect; that the first year class which entered in February, beginning class, which corresponds most nearly to the beginning class in the Negro Law School, was taught only by teachers of this same experience, that they entered law teaching last fall, or last summer, with the exception of the one of the course in Legal Bibliography, which was taught by Miss Hargrave, to that group, and she has had several years of teaching experience in the field of Legal Bibliography.

Q Let me ask you this, Dean McCormick. In the assignment of this faculty to the School of Law, to the Negro School of Law, how was that assignment made, by lot, by designation, or by volunteering, just what method produced these three individuals as the faculty?

A Well, it was done by myself, after consultation with other members of the faculty.

- Q Were these teachers ----
- A Including the teachers themselves.
- Q Yes. Were these teachers to receive under the arrangements which you had in mind at that date, March 10th, were they to receive their salary from the Negro Law School or from the Law School of the University of Texas?
- A Why, I would assume from the Negro Law School. As I understand the legal element, the Board of Regents of the University of Texas were to administer the financial affairs of the Negro Law School until the time of the permanent organization of the University for Negroes.
- Q Maybe we can get it another way and bring it within your knowledge. Had you made plans for adding three other members to your faculty in place of these three who were going on the pay roll of the Negro Law School on March 10th?
- A No, these men were to continue their teaching at the University of Texas School of Law.
- Q Were you to continue them on the pay roll?
- A That is correct. They would get their same salaries, but ---- I mean they would get the same salaries they had previously gotten at the University of Texas Law School and would be paid extra compensation for the work in the Negro Law School.
- Q Under that arrangement that existed in the University of Texas Law School for these three persons for the second semester, each of them had a load of from five to six hours.

If they taught in the Negro Law School first year subject, Torts and Contracts, four and six hour courses, would that not have been in excess of the hours which you use as your standard at the University of Texas? You said it varied from five to seven or eight?

A It would have been an addition to their usual load, rather larger than usual, but I may explain this, that in the case of the two larger courses, Contracts and Torts, they would simply be teaching additional sections of the same subject with the same books, and the custom in law schools is to count that as only one-half of the corresponding number of hours of non-repeated course; so it would amount, under the custom of law schools, to a nine hour weekly load, which is heavy, but not excessive.

Q But it is heavier than what you have as your usual load at the University of Texas?

A Yes.

Q Because the American Association thinks when you pass eight, you are watering down your instruction?

MR. DANIEL: Well, we object.

MR. NABBIT: I withdraw the question.

A I don't believe that is a fact.

Q Yes. Is it your opinion, Dean McCormick, that law school students get the full use of a law library, assuming it is an adequate one for books, from that standpoint for the

moment, is it your opinion that they get the best use out of this library without a librarian who is there to serve students and teachers, people who are engaged in study and research?

A I think a librarian is, of course, necessary for the operation of a library for the benefit of students or anyone else.

Q Who was the librarian for the Negro Law School on March 10th of this year?

A Well, we had not formally appointed a librarian, but Miss Hargrave, for a considerable period of time gave a great deal of service to the planning and provision of the library arrangement.

Q Under the standards of the American Association of Law Schools, it is stated that in order for a school to qualify it shall have been in operation for a period, usually, for approximately two years, and then upon inspection by the Association, if it meets their standards, it will be accredited?

A Two years is the minimum time, as I understand it.

Q Yes, that is what I say. Now, is it your opinion that a law school that is not accredited is for the purposes of accreditation equal to the law school of the -- to the University of Texas Law School?

A I don't understand that question.

Q Well, let's put it another way. The Association of American Law Schools accredits certain law schools based upon those schools having reached certain accepted standards which are known to all people in the field of law in rating law schools on that basis. If I look in this book and see the University is listed as a member, I know it meets these minimum standards. Now, for the purpose of accreditation, that is, for that purpose, is a law school which is not accredited as a member of this Association equal to the University of Texas School of Law?

A For the purposes of accreditation, why, obviously, a law school that is not accredited does not equal one that is accredited, but I still don't catch the significance of the question.

Q It will follow. Is this Negro Law School which was open on March 10th a member of the Association of American Law Schools?

A No, it is not.

Q Is it accredited?

A Not in that sense, no.

Q In what sense is it accredited?

A Well, you mean by accredited, the opinion of people familiar with the situation and with the law school, their opinion as to the value of the facilities and instruction, why, then, it is accredited in that sense, by those who hold the favorable estimate of it. If you mean accredited by the Association of American Law Schools, why, it is not.

Q I mean, is it accredited in the sense in which educators in the field of law speak of accreditation of law schools?

A Well, they usually speak of it in the sense of being a member of the Association of American Law Schools, and of being an approved school on that list of the American Bar Association.

Q Is a student at the University of Texas School of Law permitted under the regulations of the University of Texas and the School of Law at the time he is engaged in the study of law at the Law School, to also take courses in the University of Texas, for example, Political Science, Economic Theory, or some other course, Philosophy?

A Yes, he is, provided the total amount of hours does not exceed fourteen.

Q Now, where were -- are these students of this Negro Law School to study courses like these, Economics and Political Science, under the set-up which you have stated has been adopted under your faculty?

MR. DANIEL: Your Honor, we object to that question because it is going into a field wholly irrelevant and immaterial to any issue in this case. Relator has sued for entrance into the Law School, says he has been denied the right to study law and procedure, and hasn't alleged that he cares to study anything else, and going into these other fields would certainly be beyond the issues of this case.

MR. NABRIT: If Your Honor please, one of the things alleged by the relator is that in not being admitted to the University of Texas he is being denied equal opportunity with the students who do enter it. One of these opportunities is this opportunity to study, and the Dean has testified that the students in the law school do have that right, and I think it is quite ----

THE COURT: I will let him answer it, if he can.

A You say where is he to study?

Q (By Mr. Nabrit) Yes, sir. Where is he to get these courses in Economic Theory and Philosophy and other courses offered by the University of Texas which are available to the students in the University of Texas School of Law?

A I could not answer that question. There are -- in so far as it assumes any common practice or any encouragement by us of that practice in the University of Texas School of Law, it is unfounded.

MR. DANIEL: I would like to preserve our bill of exception on this testimony as to other courses not mentioned in relator's petition.

THE COURT: Yes, sir.

A If I might add to the question, I would say that it is customary that law students do come prepared in the fields of economics and government and similar courses, and that we do

not encourage them to take courses outside the School of Law when they are in the School of Law, because it tends to disrupt the regular progress of their law studies.

Q (By Mr. Nabrit) I agree with that, but you also do not forbid it?

A No, we do not.

Q And, as a matter of fact, you do have students at the Law School who not only take these courses, but take graduate courses, is that not true?

A Well, if there are, they are very few. I don't keep close enough check on the actual registration to know whether there are actually in the law school now students who are taking academic courses, but it is a very nominal element, if any.

Q So far as you know, the students at the Negro School of Law have no place where they could take these courses under your plans and arrangements?

A I have no information about that.

Q As a former President of the American Association of Law Schools, and as the Dean of several law schools, and as an outstanding authority in several fields of law, Dean McCormick, do you -- are you of the opinion that one of the basic elements in a great law school is the history and traditions which have been built up over years of time, including the graduates who have become famous in the State

of Texas? Is that your opinion -- that is an element in a great law school?

A Yes, that is a source of pride to a law school that has that background.

Q One other question on that along that same line. Is it, in your opinion, a good thing for a law school to be unstable as to its location, and to its faculty, sort of a roving school of law? Is that, in your opinion, an unsatisfactory condition in which to operate a law school?

A I would think that a roving law school would certainly not be an ideal school.

Q Now, taking this hypothetical question, and assuming that the evidence will bear out the assumptions, if they have not already been proved, if a law school such as this Negro Law School, in its proposed location, with a faculty carrying a heavier schedule than the usual number of hours carried by the faculty of the University of Texas School of Law, without access to any University facilities other than the School of Law, with no accreditation, with an uncertainty as to its permanence in its present location, with library -- with no library whatsoever in the building -- and with inadequate space for housing a library, if the books were available, and with a faculty of instructors who are beginners in teaching law, a law school equal to the Law

School of the University of Texas?

A Well, wouldn't you have to add some other elements in your description? That doesn't describe a law school. It doesn't tell the expected numbers of students or the actual numbers of students in attendance, and the facilities for small, as compared with large classes.

Q Suppose, Dean McCormick, you answer mine that way, and then we will take the other. Take my hypothetical question. Is that law school which I have described equal to the Law School of the University of Texas?

A I will say that I can't answer the question because your description is not complete, and you would have to give the expected number of students, and you would have to suppose a certain ratio of students to faculty, and a certain size of the classes.

Q If we are going to assume that, I would have to assume a certain number of graduates and a certain number of authorities on the faculty in the field of damages and other fields, and I would have to assume a certain number of judges. You see what I am trying to get from you, as one of the outstanding men in the field of legal education, is an answer on that type of school. It might not have some other elements that some other school might have, or that some other hypothetical question might give it, but I would like that opinion on that type of law school.

A You are contrasting what to me seems to be an incompletely described school with a school I know all about, and I can't take a fragmentary school and compare it with a school that I know about.

Q Let's put it that way. Would that "fragmentary" described school in my hypothetical question equal the Law School at the University of Texas?

MR. DANIEL: We object to that question because the fragmentary school in the question leaves out matters which have been proved so far without any dispute in this case; leaving out elements that make the hypothetical question absolutely irrelevant and immaterial, and inadmissible in this case for any purpose.

THE COURT: I think he would have a right to make up his hypothetical case anyway he wanted to. It is purely imaginary.

A If he is going to imagine; I can't make a comparison unless he imagines the numbers of students.

THE COURT: A hypothetical question presupposes a lot of things that may or may not be true.

Q (By Mr. Nabrit) Is that school, Dean McCormick, equal to the law school of the University of Texas?

A Well, I would say that if you presuppose a class, a small class, of not to exceed 10 entering students there, that then

the facilities there and the law school in that situation, as it is now, would compare favorably.

Q That isn't the hypothetical question.

A With the University of Texas as it is now.

Q That isn't the hypothetical question, Dean McCormick. What this question is, is the school which I described equal to the Law School of the University of Texas?

A Well, I would say yes, if you will presuppose a small number of students to which those facilities are adapted. If you are presupposing a larger number of students, to which those facilities are not adapted, I would say no; but I can't compare a law school with no student population presupposed with a law school where I know the student population, and I know the ratio of faculty to students, which is a very material factor in comparing law schools.

Q My law school doesn't have all of those factors in it. My law school is the one in this hypothetical question. If it doesn't have something you think a law school should have you just answer it, because mine doesn't have that. Is my hypothetical question, the law school in that, equal to the Law School of the University of Texas without anything ----

A Without any students?

Q Without anything other than my hypothetically stated question.

A Which would presuppose that there were no students.

Q Is that equal to the Law School of the University of Texas?

A Without any students, it is not.

Q My question -- I have stated all of the factors in my question that I want. Is that school equal to the Law School of the University of Texas?

A As I said before, I am unable to make the comparison in my mind between the school having only the elements that you describe, without any description of the student body. I am unable to make that comparison.

Q In other words, you want to fix my school. You see, I want to fix it. That is the best answer I can get. I will ask you another question, Dean McCormick. You stated in your direct testimony that as a result of studies made by you or some member of your staff on the University of Texas, that they had ascertained that there were 53 square feet of floor space per student at the University of Texas School of Law?

A That is correct.

Q And then on some basis you arrived at this figure, if I am quoting you correctly, that there are 106 square feet per student at the Negro School of Law?

A I said that was on the assumption of 10 students.

Q Where did you get those ten students from?

A We haven't gotten them.

Q Why did you pick ten?

A Well, I picked ten as just an arbitrary figure of what I thought would be about the maximum of the student body of the beginning Negro Law School in Texas under normal conditions where no, where there was no influence that discouraged them from coming.

Q What about where there was an influence to encourage them to come? Could we take 150 students and assume the influence is discouraging them? Divide that by that. We will only get 10 square feet per student.

A It is a matter of which is the more reasonable assumption.

Q Let's take the hypothetical question, and let's compare 150 students, and then ask you is it equal to the University of Texas School of Law?

A Presupposing those other factors included, including the present quarters assigned to the law school, they are inadequate for 150 students. Consequently, my answer would have to be accordingly.

Q Thank you. Dean McCormick, did I understand you to state that the Negro Law School had adopted these announcements and courses and other things as a part of that law school for Negroes?

A That is correct.

Q Now, where is the moot court in this Negro Law School?

I see here the moot court. That is where -- what arrangements

under the faculty for the Negro Law School are there for this law group competition and the moot court?

A Well, that, of course, has not been instituted. It can't be instituted until you get some students.

Q But when you have got the place and -- a place for it?

A There would be no trouble about the place for it.

Q Where is the place in this building across from the Capitol?

A Well, any one of the class rooms could be used for that purpose.

Q So one of those class rooms is for moot court?

A It is certainly susceptible to that use. Of course, we don't have that in the beginning semester of the first year.

Q Where does the first year student -- I will ask you this first -- I withdraw that. In the University of Texas School of Law is the first year law student permitted to visit the moot court?

A Well, the moot course is now given in the course in Legal Argument, and it consists of competition in cases between groups of students. As I say, that isn't given in the first year.

Q Your answer wasn't responsive to the question. The question was, are the first year students of the University of Texas permitted to visit the moot court, sit in and hear the cases?

A I presume so.

Q I mean, do you know?

A Well, the preliminary arguments, nobody visits them, they are not worth visiting. The last argument, it is customary for some visitors to attend, including, of course, the first year students.

Q Do the students of this proposed Negro Law School in the first year class, or did they on March 10th, 1947, have access to such a final competition?

A No, they did not.

Q What scholarships are available to the students at the Negro Law School? Are these that I find in here that have been adopted? This has been adopted. Are these available to the students, on page 10, law scholarships and loan funds, of the Respondents' Exhibit No. 5; are these law scholarships and loan funds available to students, were they available to students in the Negro Law School on March 10, 1947?

A No, they were not. I may say that those are mostly, in fact, all of them are contributed from private sources, and not contributed by the public funds.

Q They are available to the students in the Law School of the University of Texas?

A Yes.

Q And they are not available to students in the Negro Law School? On page 8 of this same exhibit under "Honors and Aids", I notice the Order of the Coif. That is, as I think

you will agree is one of, if not the highest, legal honorary societies, and honor students in the upper tenth or upper number of the graduating classes at the University of Texas School of Law are eligible for that, is that not so?

A That is correct.

Q And their grades are taken from their first year right on up to the time that they are chosen, together with character and other qualifications?

A Yes, that is right.

Q Were those honors, or that particular honor available to a student at the Negro Law School on March 10th? Could his grades then begin to accumulate so as to give him an opportunity for the Order of the Coif?

A Not unless that Order of the Coif should later authorize that school to confer that award. The Order of the Coif, again, is a privately constituted, rather than a public organization.

Q Yes, but it is operated by the faculty in the Law School in the University of Texas?

A That is right.

Q So that to all intents and purposes it is a faculty, locally guided and directed organization?

A That is right.

Q Now then, it is obvious -- I won't say it is obvious. We will strike that out. The Order of the Coif is only found

at accredited law schools; is that not true?

A I believe that is right.

Q The minimum period in which this law school could be accredited would be two years, a minimum of two years after it had been in operation?

A That is right.

Q So that we would know thereafter the applications would go to the Order of the Coif for a Chapter, so that any student who entered on March 10th would have finished school before an application for the Order of the Coif would have been proper and in a position to have been acted on? That is just a mere matter of time, and assuming everything else went exactly as it should go, and we had a fine school, and it was accredited, the time wouldn't permit the establishment of an Order of the Coif so that you could get the student elected prior to his graduation?

A I think it would be unlikely.

Q On page 12 of this same exhibit, Dean McCormick, there is a paragraph, two paragraphs under the heading "Legal Aid Clinic." How does that clinic operate?

A Well, it is operated by a part time director, Mr. Woodrow Patterson, an Austin lawyer, who in conjunction with students in the University of Texas Law School, carries on legal aid for persons unable to pay a lawyer, and the cases come to the Legal Aid Bureau, and they are handled by the

students under the direction of Mr. Patterson.

Q Are the students who assist in this work at any time first year law students?

A They are not.

Q They are second and third year students?

A Practically all third year students.

Q Third year students. Now, on page 9 of Respondents' Exhibit No. 5 there is a paragraph headed "The Texas Law Review". Would you describe the classification of students who are eligible to work on The Texas Law Review?

A The second year students, or rather students beginning in the second year, if they have a grade of approximately 80 or above, are invited to compete for the Texas Law Review, and at the middle or the end of their second year they may be elected to the Board of Editors.

Q Now, in connection with these scholarships, keeping those in mind, the Order of the Coif and The Texas Law Review, all of which in a school of law go to the better students, or the students with the better records, better ability or more ability; in your opinion, Dean McCormick, are these, the scholarships, The Texas Law Review, and the Order of the Coif, incentives for a higher scholastic activity on the part of the students of the Law School of the University of Texas?

A Yes, I think they are.

- Q So, that any student who enters the University of Texas School of Law as a freshman and who reads this or who hears it discussed or finds out who won these honors, if he has it in him, he wants to qualify at some time, and that has a bearing on his work?
- A Yes, it does.
- Q What, on March 10th was there over at the Negro Law School to stimulate this scholastic activity of a nature similar to these three?
- A You mean what was there?
- Q Comparable. What did you offer? What was offered a first year law student on March 10th at the Negro Law School which was of the same incentive value as a scholarship?
- A Why, the influence which was comparable, and which I think would have served as an equal if not greater stimulus, was the increased contact with the faculty, due to the probable smallness of the student body.
- Q And you think that that would take the place of the value and effect of competition?
- A Well, there is always competition in every class, as you know, for grades, and that is a much more important competition than these extraneous matters of Coif and Law Review, the natural instinct of every able student to cope with his fellows, and it is fine in the training for his profession. That is the most important influence, that natural

intellectual impassion, which is stimulated by contact with good teachers.

Q So that you consider the University of Texas Law Review an extraneous matter?

A Yes; it was founded by the lawyers of Texas, not by the State of Texas, and is financed by their contributions.

Q And you consider honors at the University of Texas School of Law as extraneous?

A Well, you mean the honors, the Order of the Coif and Texas Law Review?

Q Yes.

A Yes, they are minor and extraneous.

Q How about these cash scholarship awards; are they extraneous?

A They are in the sense that I have been speaking about. They are very microscopic influences. They are not large elements in the picture at all.

Q So that so far as the University of Texas is concerned, it might as well get rid of all of those?

A No, certainly not.

Q Then they are of sufficient importance for us to ask again why, what was offered on March 10th to the law school student at the Negro Law School comparable to these? You say they are adopted. I want to know if ----

A Do you mean, do we have any system of awards beyond the natural competition in the classes themselves?

Q No.

A And the incentive of grades, or success in the courses?

None are provided for, if you mean were there any scholarships or prizes or Law Review.

Q Then, you don't mean that this was adopted?

A I don't mean that, because none were provided for in the first semester, that that would not follow as a course of the natural evolution of a well-conducted school.

Q Then, Dean McCormick, you don't mean that this was adopted for the Negro Law School?

A Well, so far as applicable to a school just starting with an anticipation of one entering a beginning class.

Q The first year student at the University of Texas Law School, everything in here is applicable to him unless it is specifically stated that it is not applicable; is that true?

A Well, that is a large order. I am not prepared to say offhand without scrutinizing all of the regulations.

Q As you stated a moment ago, one of the important elements in the School of Law is competition, in your opinion, one of the most important. A law student who entered the University of Texas on March 10th, 1947, would have the competition of several hundred law students from all over the State of Texas, including the opportunity for hearing legal discussions by upper classmen, and engaging in them with them.

What about the law school for Negroes on March 10, 1947, did that law school offer to relator in this case that type of competition?

A Well, I really think if you have a small class that the -- where everyone knows each other, and his capacities, that the competition is, if the level of the class is fairly high, is apt, perhaps to be more intense than in an eight or nine hundred student group, where a given student knows only a small number of the total student body.

Q Of course, that isn't responsive for the reason that you injected the question of the level of attainment of the class being high, which you, of course, agree is an assumption that we would not be able to validate, in the absence of the presence of students and a review of their I. Q. and their preparation; is that not true?

A Well, our entrance requirements are at least three years of college for non-veterans, and at least two years of college for veterans, with a grade requirement of C or better, and I believe that that makes fairly sure the attainment of high level of intellectual quality. Of course, it is all relative.

Q You assume that -- you have no way of demonstrating that if your numbers become smaller ?

A No, it is a matter of observation and experience. I have taught small classes and large ones, and I am inclined to

to think that the competition in a small class may well be at as high a level as it is in a class of 150.

Q Now, Dean McCormick, are the facilities which have been set up for this law school for Negroes, are the facilities equal to the facilities at the Law School of the University of Texas, and I will explain then so that you will know what I mean. I mean the library, I mean the building. In the building I mean the offices, class rooms, lavatories, locker rooms, lounge room, librarian's office, the professors' offices, the recreation room. I mean all of those facilities in the building; are they, in your opinion, equal to those at the University of Texas School of Law?

A Well, facilities are things that are to be used. Their quality is relative to how many and what kind of people are going to use them. Now, if you ask me, for the purposes of the relator, or of a small group of applying students, as compared with the adaptability of the University of Texas Law School facilities for its present student body of 850, I would say yes, they are equal.

Q What I would like to know, just two points; (a) and (b), one a Negro boy and one a white boy, and one going to the University of Texas and one going to this Negro Law School, isolated from other students. Will the facilities which the white boy finds at the University of Texas, or are the

facilities which the Negro boy finds at the Negro Law School equal to the facilities the white boy finds at the University of Texas Law School?

A I would say yes, with this explanation; that if that young Negro student goes to the Texas State University for Negroes School of Law, either alone or with a small group of fellow students, and enters the class there with the three faculty members assigned, compared with the University of Texas Law Schools entering on February 1st with a group of 175 other students in a law school already overcrowded twice its capacity, why, I would say, yes; the Negro student has at least equal and probably superior facilities for the study of law.

Q So that you think that the Law School for Negroes has superior facilities to those at the University of Texas?

A I said at least equal, and probably superior.

Q Now, irrespective of numbers, point out the superiorities in this, in the facilities in this Negro Law School?

A I can not answer irrespective of numbers, because you are talking about facilities for human beings to be taught law by other human beings. To say irrespective of numbers, are your facilities equal or superior, or what not, is meaningless to me. I can't attach any meaning to that.

Q I can agree with that. The only thing, you wish to take ten, and I would like for you to take 150, so that we would

have one-sixth of the population of it. We have about 850 at the University. Take about 150. Based on the population, at least, we have a basic reason for taking that number.

A We have this basic reason for taking 10, that the University had received inquiries, I am informed by the Registrar, of approximately, did receive about 14, and so with that number of inquiries it is reasonable to assume that something less than that would be the practical number to anticipate as entering the law school, if there were no influences preventing them from entering.

Q Do you think that as valid a basis for that conclusion which you came to might just as well be that the law school had moved from two cities inside of a month, and that that, in itself, would create that type of thing, without determining the number of persons who wanted to study law? Wouldn't that be valid?

A I didn't undertake to say what the influences were that kept them from coming. I undertook to say what the indication of the maximum apparent immediate demand under the circumstances was.

Q Let me ask you this, Dean McCormick. What, in your judgment, is the maximum capacity of the proposed Negro Law School in its present location, based upon the same sort of overcrowded condition which exists at the University of Texas

School of Law?

A Well, are you assuming the acquisition of the entire building, or assuming the present lease upon the ground floor?

Q I am taking only what they have, that is the ground floor.

A Well, I would say that it could accomodate 12 to 15.

Q I would then ask you if the present facilities for the Negro Law School, which in your opinion would accomodate a maximum of 12 to 15 students, are equal to the facilities at the University of Texas Law School which -- from those figures we take 886 as the maximum -- accomodate 886 students as a maximum?

A They are not equal in size, no.

Q Are they equal in quality?

A Yes, for that number of students, I believe that they are.

Q Well, we have the maximum of each, you see. We have the maximum student body. Are they equal in quality to the maximum student body in each?

A I am afraid I was -- I thought you asked me the maximum appropriate student body for that size quarters, and you are -- I think I misunderstood your question. You intended to presuppose an overcrowded condition commensurate with that at the University of Texas. Well, I think you wald have, in that case, you would have to double the estimate that I have made of from 12 to 15, to 24 to 30.

Q All right. Let's double it. Then, at the maximum capacity, are

those facilities equal to the facilities in the law school in the University of Texas to their maximum capacity?

A To their present overcrowded condition, you mean?

Q Yes.

A Yes, I think so.

Q You see, we are assuming both overcrowded?

A Yes.

Q And you say they are equal in quality?

A They provide for 25 or 30 students about like the University of Texas premises provide for 850 students.

Q Dean McCormick, are you familiar with some of the early history of the Law School of the University of Texas?

A Generally so.

Q Do you recall the early enrollment at the Law School of the University of Texas, about the time that building was erected that is now there, roughly; not any exact figure?

A No, I do not, but I would say it was somewhere between two and three hundred, but it is just a guess.

Q Do you know how many students, or do you recall how many students there were at the University of Texas Law School the last year before the war?

A Approximately 750.

Q Approximately 750; and roughly, ---

A At least that was true in 1939, before the draft went into effect.

Q At least, you consider that your last normal year?

A Yes, I believe I do.

Q In your opinion, was the present law school building for the University of Texas erected for a small number of students?

A Yes, that is my understanding, is that it was contemplated that the maximum would be about 400.

Q About 400?

A Yes.

Q Now then, in your judgment, is the contemplation and the plan for this Law School for Negroes equal to that type of planning?

A Would it be likely to have a similar development?

Q Yes.

A That is corresponding to a growth from 250 to 750 in the course of 30 years?

Q Several years, or whatever number ----

A That would be about 30 years.

Q Yes.

A Well, I would suppose that it would be something of a similar growth.

Q That is all.

THE COURT: We will take a few minutes.

(Court was recessed at 3:30 p. m.,
(until 3:50 p. m., May 13, 1947,
(at which time proceedings were
(resumed as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Now Dean McCormick, I believe you have already testified that the basis of 10 students and your planning on that basis was arrived at by reason of the number of inquiries made. I will ask you if you had ever before establishing this school received more than the one application for attendance at the Law School at the University of Texas from a Negro?

A No, I have not.

Q Going back to the matter of legal aid, is that a private set-up that is run there at the school to give legal aid to outsiders?

A No, that is part of the Law School.

Q Are any first year students entitled to participate in that legal aid program?

A No, they are not.

Q The Order of the Coif, is that a private organization operated there at the University Law School, Texas University?

A Yes.

Q Are first year students entitled to admission?

A No, that is awarded only at the time of graduation.

Q Are first year students entitled or required to participate in moot court?

A No, they are not.

Q Are first year students entitled to places on The Texas Law Review?

A No, sir.

Q Is The Texas Law Review a private organization?

A Yes, it is.

Q I believe you said that the scholarships and loan funds were private set-ups, not furnished by the State?

A The money came from private donors.

Q Are all other things provided at the University of Texas Law School by State funds such things provided for first year law students by State funds, provided for Negro law students in the Negro Law School from State funds?

A That is right.

Q Now, it was mentioned several times on cross examination that you could not be accredited by the Association of American Law Schools without some students, and that you could not organize these various honor societies without students. Have you done anything whatever toward discouraging students from enrolling in the Negro Law School?

A Quite the contrary. We hoped very much for an enrollment of a reasonable number of students after we had made the provision for training them.

Q In view of these inquiries and applications received prior to March 10, 1947 did you anticipate having at least some students on the morning of March 10, 1947?

A Yes, I felt very confident that we would have at least five or six students. You said in view of applications. We didn't have applications, but inquiries.

Q Inquiries. Now, if the relator had been admitted to the University of Texas Law School for the spring semester, who would have instructed him in Contracts?

A Mr. Leary.

Q Mr. Leary?

A That is right.

Q The same professor that you provided to instruct him in Contracts in the Negro Law School?

A That is right.

Q Who would have instructed him in the University of Texas Law School in Legal Bibliography?

A Why, I believe that Miss Hargrave had charge of the sections of Legal Bibliography of the group entering in February.

Q If he had entered the previous semester, who would have taught him Legal Bibliography?

MR. DURHAM: We object to that. There is no claim of any negro school in existence at that time.

Q (By Mr. Daniel) I say, at the University of Texas, had he been admitted to the University of Texas the previous semester, last fall, who would have taught him Legal Bibliography?

A He might have been taught by Mr. Hudspeth, or by one or two others who were teaching various sections of Legal

Bibliography.

Q If he had entered the Negro Law School on March 10th who would have taught him Legal Bibliography?

A Mr. Hudspeth.

Q If he had entered the University of Texas Law School for the spring semester who would have taught him Torts?

A Mr. S. T. Morris.

Q The same Mr. Morris who would have taught him Torts if he had entered the Negro Law School?

A That is correct.

Q Had you assigned these professors to teach first year law students in the University of Texas prior to the establishment of the Negro Law School?

A Yes.

Q Had you assigned the professors to teach first year law students at the University of Texas prior to the resolution of the Board of Regents of the University of Texas authorizing you to give courses to the Negro Law School?

A Yes, sir.

Q The classes were already in session, were they not?

A Yes.

Q What I am getting at; did you assign these professors to teach first year law in the University of Texas Law School, having anything in mind that they might also teach in the Negro Law School, at the time they were assigned.

A No, not at the time they were assigned.

Q Now, on page 260 of Association of American Law Schools Handbook, in addition to the two year requirement for admission to the Association, I would like to take up with you each of the requirements, for the purpose of your opinion as to whether the separate Negro Law School financed in accordance with the plans already made and indicated by Senate Bill 140 could ever meet those requirements, after a two year period.

Let's take up the first one there, listed on page 260: (Reading)

"It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received."

Does your Negro Law School meet that requirement?

A Yes, sir, it does.

Q At this time?

A Yes.

Q Number two, the second requirement. I will ask you to state it briefly, rather than we read the whole requirement. It has to do with entrance requirements, the entire requirements, is that correct?

A That is right.

Q Do you have the same entrance requirements for the Negro Law School that you have for the University of Texas Law School?

A Yes, that was so provided in our amendment.

Q Then your entrance requirements meet the standards of the American Association now?

A They do.

Q Number three. It must be a school which occupies substantially the full working time of the students, required for work in the school, "shall be considered a full-time school." Does the Negro Law School meet that requirement?

A Yes, sir, it does. That standard differentiates between full-time and part-time schools, and sets up requirements for each, and the Negro Law School, under the provisions made therefor, met the standard here in regard to full-time schools.

Q Number four. (Reading)

"The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination."

Do you have that same requirement for your Negro Law School at this time?

A We do.

Q Number five. That has to do with special students, that no such shall be admitted except under certain conditions

listed there. I will ask you if you have that same requirement for the Negro Law School?

A Well, our requirements at the University of Texas Law School are more stringent, in that they do not admit special students, and they would not be admitted to the Negro Law School.

Q They would not be admitted to the Negro Law School?

A That is correct.

Q They meet that standard; is that correct?

A That is correct.

Q In the Negro Law School?

A That is correct.

Q Now, the sixth requirement, own a law library of not less than 10,000 volumes with certain specifications as to those volumes. I will ask you if you have ordered 10,000 volumes for a permanent library for the Negro Law School, to meet those requirements?

A We have ordered a sufficient number and kind of books to meet those requirements.

Q In addition to that, at this time do you have a library available for this law school in the State Capitol Building with in excess of 40,000 volumes of law books?

A We do.

Q Number eight provides that a complete individual record of each student must be kept. Do you have the same requirement

as far as the Negro Law School is concerned on the individual record of students?

A Yes. Did you mean to pass over number seven?

Q I didn't mean to, but let's pass number seven for the time being, to number eight, individual record of students.

A Yes, that would be satisfied by the regulations now in effect in the University of Texas Law School and which are adopted by the Negro Law School.

Q Are those -- number nine. (Reading)

"It shall be a school which possesses reasonably adequate facilities and which is conducted in accordance with those standards and practices generally recognized by member schools as essential to the maintenance of a sound educational policy."

I will ask you if, in your opinion, the Negro Law School meets the requirement laid down here by the American Association for reasonably adequate facilities?

A Yes.

Q Now, those are all of the requirements, as I understand them, except number seven, which we have passed. Is that correct, sir?

A That is correct.

Q Then, we at this time in the Negro Law School meet the requirements of the American Association of Law Schools except as to two years' running, and number seven, which I will read, as

(Reading) "Commencing September 1, 1932, its faculty shall consist of at least four instructors who devote substantially all of their time to the work of the school; and in no case shall the number of full-time instructors be fewer than one for each one hundred students or major fraction thereof."

I will ask you to state whether or not the present Negro Law School, as planned for your first semester, meets those requirements?

A Well, I believe that technically it does not.

Q Technically, it does not, because your professors assigned are giving part of their time to another school, the University of Texas, is that right?

A That is correct.

Q Does it meet that part of the requirement which is intended to have only full-time professors teaching the students, instead of having lawyers who are practicing part time?

A I think it certainly does, in substance, and I may add that it is quite frequent in law schools in the east which are near together, for instructors to be instructing at the same time in two schools. That is, instructors from Harvard, Yale or Columbia occasionally spend part of their time in instructing in one of the other schools, and, of course, technically, they would as to any particular school be

part-time, but in substance, of course, they are devoting all of their time to law teaching.

Q Technially, you do not meet the requirements of four full-time professors, but as a practical matter for the first semester students that attended, as a practical matter, do you furnish them that which the full-time professors would have furnished them?

A Yes, I believe we do.

Q As a matter of fact, if the relator had been in the University of Texas Law School classes with a hundred or more in your first class for that spring semester ----

A There were nearly two hundred.

Q Out at the University of Texas -- and these same three instructors at the University teaching them, with the 200 students, in your opinion, or within your knowledge, would the relator have had as much personal attention from the professors and as much time from them as he would from those same three professors teaching in the Negro Law School?

A Assuming a school of no more than a small number of students?

Q Yes, sir.

A In the Negro Law School he would have gotten a great deal more personal attention from the faculty than he would have had he been in the large entering classes in the University of Texas.

Q Isn't it a fact that the requirements of full-time professors, at least one to every 100 students, isn't the idea behind that to have the professors available to give care and attention to the individual students?

A Yes.

Q And more care and time and attention could have been given to the Negro students, based on not more than 10 students, than in the University of Texas Law School?

A Yes, that is right. They would have had not only their classes, but office hours in the Negro Law School, and would have been available much more conveniently than to the students at the University of Texas Law School.

Q Can you think of any reason why, if a student enters out there, and this school grows, as you testified on cross examination that it might be possible to grow, and with the Legislature furnishing the money Mr. Woodward itemized here today, can you think of any reason why that Negro Law School can not within a period of two years, before anyone can graduate from it, why, that school can not meet all of the requirements of the Association of American Law Schools?

A No, I see no reason why it should not comply with those requirements very rapidly, since the Legislature has announced that it was providing for a University of the first class, and a law school equivalent to that of the University of Texas, as exactly the same expectation and re-

liance on the Legislative assurances are the only thing we have to rely on for the continued development and stability of the University of Texas Law School.

Q Are you acquainted with Lincoln University, and the separate law school operated for Negroes in Lincoln University, in Missouri?

A I am somewhat acquainted with it. I haven't been there, but when I was on the Executive Committee of the Association of American Law Schools, the Committee had a conference, I believe, with one of the faculty of that school there.

MR. DURHAM: We object to that as hearsay.

THE COURT: He shouldn't testify to hearsay.

A I am just stating the extent of my acquaintance with it.

THE COURT: Don't recite anything he said.

Q (By Mr. Daniel) Lincoln University Law School has met the requirements of the Association, has it not?

A Yes, sir.

Q And is it a member of the Association?

A That is correct.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, at the University of Texas School of Law, do you use the same method of teaching and study?

A Yes.

Q Will you state briefly just what that is?

A Well, it is the method most widely prevailing in American law schools today, where the books used as the basis for study in most courses is a collection of cases designed to illustrate and develop the principles of law in the particular subject.

Q Now, you testified that the, -- in your opinion, the library -- Section 6 of Respondents' Exhibit No. 5 -- that the library at the Negro Law School met those requirements. I would like to read it to you.

A Did I testify that the library met those requirements?

Q No, the question was asked you by the Attorney General, does this law school meet the requirements and standards of Section 6, and you answered yes.

A My recollection of our colloquy is that he asked me if we had ordered the books necessary to meet the requirements.

Q Yes, but your answer was yes. I am going to read Section 6, and let you answer this way. (Reading)

"Commencing September 1, 1932, it shall own a law library of not less than 10,000 volumes, which shall be so housed and administered as to be readily available for use by students and faculty. Commencing September 1, 1940, it shall have, in addition to the four instructors specified in Section 7 of this

article, a qualified librarian, whose principal activities are devoted to the development and maintenance of an effective library service."

I would like to ask you, Dean McCormick, did the Negro Law School meet the requirements of Section 6 as read to you on March 10, 1947?

A Did it then meet the requirements? No, clearly not, and I didn't say it did.

Q Does it meet the requirements today?

A No, it does not.

Q Assuming that in all other respects this Negro Law School is the equal of the Law School of the University of Texas, for the sake of this question only, would the Negro Law School lose that equality by reason of the fact that it did not have a library as set forth in Section 6.

A No, I think by no means would it lose the equality. In other words, you might have library facilities equal to that of the University of Texas, but not meeting that standard of ownership. This standard requires that the books be owned and the library of the Negro Law School is not owned by the Negro Law School, but I think that in respect to substantial equality, that matter of ownership is immaterial. The library facilities which are furnished to and are owned as the law school is owned, by the State of Texas, and if they are available to the students, and are equal in range and

quality to the library facilities of the University of Texas Law School, they would be equal, but would not meet this standard.

Q Then, in your judgment, and as a former President of the Association of American Law Schools, you do not consider that Section 6 of the Association are necessary or are valid?

A No, I wouldn't say that.

Q All right, then. Assuming that all of these other factors are equal, is this requirement with respect to a library, if it isn't met, does that not make the Negro Law School less -- unequal to that of the University of Texas Law School?

A No, sir. I think that the compliance with the standards is merely evidence of a qualification, evidence of quality, I would say, but I think you can have substantial equality of facilities quite regardless of the complete compliance with the Association of American Law School regulations, if the substance of the educational facilities are provided. That form of ownership, I think, is not a prerequisite to the equality.

Q As a former President of the American Association of Law Schools, on what basis did you require law schools being considered by your Association, and as a former member of the Executive Committee and passing on it, what was your reason for requiring the law schools that applied during

that time for admission to the association, and for accreditation by the Association of American Law Schools to comply with this as a minimum standard, if, in your opinion, it is not necessary in order to have equality with the University of Texas Law School?

A Normally, in order to have the books available, you would need to own them, but you may well have a special situation, as I think you do here, where they are fully and completely available, though ownership is not in the school.

Q Departing from that for just a moment, I understood you to say with respect to Section 7 of Respondents' Exhibit No. 5, where it stated that the faculty shall consist of at least four instructors who devote substantially all of their time, that technically it did not meet it, but it met it, you thought, substantially, by reason of the fact that these men taught at the University of Texas and taught in this law school, and, therefore, were giving all of their time to instruction, and you illustrated it by stating that in the East that goes on frequently.

A I would say occasionally.

Q Do you know of any institution in the East where that goes on, and where, outside of the men who do visit from school to school, there are not in each of those school four other full-time law school teachers?

A No, there isn't any such.

Q Also, the Negro Law School where they have three, I think we probably forgot to point out to you that only three teachers have been assigned. There are not four, if they could be denominated full-time.

A Of course, the three teachers is limited to the first semester, and the instructions from the Chairman of the Board of Regents were to plan to use all of our faculty, so far as necessary, to maintain a full curriculum for the students who did come during this interim period until four or more full-time professors could be employed for the Negro Law School.

Q One other question, Dean McGornick. As a Dean of a law school, is it your opinion that three teachers who are teaching a full schedule at the University of Texas, where they are resident instructors, and who are visiting professors, or who teach over at the Negro Law School -- I won't use the word "visiting" -- who teach those same courses over at the Negro Law School, is it your opinion that they are as available for consultation and for working with the students in the school where they are not residents, as they are at the University of Texas?

A Well, I think under the plan that we had adopted they would be more available for a group of the size indicated of Negro students than they would be available to the large sections of 150 or 175 students at the University of Texas.

Q Where were their offices to be, as you had arranged them?

A Well, we had planned for them to spend a reasonable time in meeting office hours at the Negro Law School in this reading room and office room, and then they would also have offices at the University of Texas.

Q Are the offices for the teachers at the University of Texas in the reading room?

A Well, my office is in part of the library, and I am subject to constant interruptions by people coming in and getting books in my office.

Q I understand your office, but the teachers; are their offices in the reading room?

A Well, there is a tier of offices on the first floor that opens up into the reading room on the lower level. Some of them open up -- one of them is in part of the library, and the others are divorced from the reading room.

Q And you have in this law school for Negroes offices equal to those?

A Well, we don't have separate offices for the three instructors, but there are ample facilities for them to meet office hours in the room called the reading room where the desks are.

Q But the offices are not equal?

A No, I would not say they were.

Q I think you stated, Dean McCormick, that these 10,000

books have been ordered; is that correct?

A Well, there are a certain number of that 10,000 that is on hand now, and the balance have been ordered.

Q How many are on hand?

A Well, Miss Hargrave can give you the details of that. She is the librarian who compiled the list. I think there are some 1,300 or 1,400 on hand, and about 8,700 for which she has placed an order through the Comptroller to the Board of Control.

Q Which Comptroller is that, of the University of Texas, or the State?

A The University of Texas.

Q That is all -- Dean McCormick, what is the name of the Comptroller to whom you refer ?

A Mr. Simmons.

Q Mr. Simmons?

A Yes.

Q Do you know his initials?

A C. D. Simmons, I believe.

Q Mr. C. D. Simmons?

A Yes.

Q On page 261 of Respondents' Exhibit No. 5, there is this paragraph which I will read, Dean McCormick.

A I have it before me.

Q You have it before you?

A Yes.

Q Does this school meet the requirement of that provision, that is, the Negro Law School?

A Which one, which provision?

Q The last paragraph on page 261, beginning "No school shall be or remain* * *."

A Well, that is my understanding, yes.

Q Here is why I asked you that, Dean McCormick, so that you will know before you answer. If a student enters the Negro Law School which has been set up here, it isn't accredited under the rules of the Association of American Law Schools, if after one year or a semester, or two years, or any period short of graduation, if for any reason he desires to transfer to another school -- maybe this one goes out of existence, or maybe he prefers another one, or he may get a scholarship -- or if for any reason he wishes to transfer to another school, no school that is a member of the Association of American Law Schools can admit him and give him credit for the work done here. Is that equality with the students of the University of Texas Law School? As a former President of the Association, in your opinion, is that equality?

A Certainly that privilege of transferring credit would not be available to the students of the Negro Law School until that school had become accredited.

Q Don't you consider that a lack of equality, in that he has to remain there or lose all that he has done?

A No, not in the larger outlines of substantial equality. The transference of credits from one school to another is a matter of not very frequent concern to students. I don't suppose we have five percent of our students that have transferred any credits, not to my knowledge.

Q You would say that the fact that of that five percent, in that five percent, any student in the University of Texas who wanted to transfer, had the privilege and that right, and under those regulations, since the University of Texas is a member of the Association, could transfer those credits to any other school; whereas, a Negro in this Negro Law School would lose all of the work that he has done.

A Yes, I would call that a minor and temporary inequality or deviation.

Q At least, you call it an inequality?

A One which would disappear as soon as the school had carried out for two years the plan that the Legislature has made for its development.

MR. NABBIT: Your Honor, I would ask that you strike out the last, about what the Legislature intends to do.

THE COURT: I think that probably was not germane to the answer.

A He asked me about equality and how that bore upon equality, and I thought that was an explanation of what bearing I thought it had upon equality.

Q (By Mr. Nabrit) Dean McCormick, I wish to show you some pictures purporting to be pictures of the law school for Negroes, of which you are the Dean. I wish you would look at them and see if these are pictures of the building of that law school.

A I am the Dean of both of them.

Q Yes. I just want you to now be Dean of this one. (Counsel for relator handed the witness two photographs.) Dean McCormick, do you recognize these as being pictures of the law school for Negroes?

A I recognize one of them, the small picture of part of the entrance, I wouldn't recognize.

Q But you do recognize this one?

A Yes, sir.

MR. NABRIT: We would like to offer this in evidence.

(Said instrument was admitted
in evidence as Relator's
Exhibit No. 2.)

Q Now, Dean McCormick, would you state so that the Court might see it, and point out where the law school is in that area? (Referring to Relator's Exhibit No. 2.)

A This doesn't picture any of the interior of the law school. Just from this view, I don't know where the entrance to

the ----

Q It is right here.

A Where is the step-down?

Q (Indicating on photograph to the witness).

A Well, the law school occupies the entire ground floor of which a part of the outer wall is shown here.

Q And this is a sign of some occupant of some other part?

A Of the second floor, yes.

Q The consulting petroleum gas engineer that occupies the second floor or some part of it, is that correct?

A That is correct, as far as I know.

THE COURT: I believe, if you will permit, I will ask you to indulge me, and we will resume in the morning. We will resume at 9 o'clock in the morning.

(Court was recessed at 4:35
p. m., May 13, 1947, until 9
o'clock a. m., May 14, 1947.)

MORNING SESSION.

May 14, 1947.

9:00 A. M.

CHARLES T. McCORMICK, having resumed the witness stand, testified further as follows:

REGROSS EXAMINATION.

(Continued).

Questions by Mr. Nabrit:

Q Dean McCormick, I wish to show you two pictures, purporting to be scenes of the building housing the Law School of the University of Texas. I wish you would look at them and see if you can identify them as that building, as the building housing the school?

A Yes, these are different views of the same building, the law school building on the campus of the University of Texas.

Q Thank you. We wish to offer those in evidence.

{Said instruments were admitted
in evidence as Relator's
Exhibits Nos. 3 and 4, respec-
tively.

MR. NABRIT: That is all.

REDIRECT EXAMINATION.Questions by Mr. Daniel:

Q Dean McCormick, do you at this time have any picture available of the Negro Law School that shows as much of the housing facilities, as broad a view of the building as the picture that has just been introduced here showing the

University of Texas Law School?

A No, I do not.

Q The picture that was introduced yesterday, would you state to the Court whether or not that shows the entire building from the outside, of the Negro Law School, like these pictures do of the University of Texas Law School Building?

A No, the view of the building in which the law school is situated is incomplete.

Q Now, Dean McCormick, yesterday counsel for relator asked about the credits that would be earned by the relator in the Negro Law School, and whether or not they would be recognized upon a transfer to some other school. I will ask you to -- I believe you started to explain your answer there. I will ask you to explain whether or not the credits earned in the Negro Law School in the two years preceding recognition by the American Bar Association, if they would then be subject to transfer to a school recognized by the Association of American Law Schools?

A Yes, that is provided in the last clause of the rule which appears in the last two lines on page 261, and the top of page 262.

Q Will you read that for the information of the Court? It has been introduced in evidence here.

A (Reading) "Provided, however, that credit may be given for work taken in another American law school

within the two year period immediately preceding its admission to this Association."

Q Now, yesterday in showing wherein the Negro Law School had already met all of the requirements except the full-time professors and the two years' time, on the library requirement, I believe you testified that you had ordered the necessary number of books to meet the library requirement of the Association of American Law Schools, is that correct?

A Well, I had given directions for their ordering. I didn't myself order them.

Q What about the feature of a full-time librarian. Do you have any arrangements or any plan for the appointment of a full-time librarian at any date in the future?

A Well ----

MR. DURHAM: We object to that, Your Honor. It is too speculative, about any date in the future. It wouldn't have any probative force on any issues.

THE COURT: I believe I will let him answer it, Counselor, for the present. It may not be material. I will let him answer at this time.

MR. DURHAM: Note our exception, if Your Honor please.

A We have the funds available, and have been instructed to secure a full-time librarian, and the necessary additional full-time faculty at such time as the student demand makes

the need for their services apparent, and at such time as the librarian and faculty of the highest caliber, which is what we need, can be secured. That is always a matter of search and negotiation.

Q I will ask you, have you examined the second and third floors of the building, the Negro Law School Building?

A Well, I went over yesterday evening after court and tried to get in, but I was unable to do so because the building, the tenants of the two upper floors had left, and those floors were locked.

Q I will ask you if those floors contain the same floor space, at least as much floor space, as the first floor that you now have rented? I am talking now about the remainder of the building, the second and third floors that Mr. Woodward, the Chairman of the Board, testified he had made arrangements, or had refusal on, for the Negro Law School. I will ask you if those floors each contain at least the same amount of space, if they would furnish suitable space for your permanent library of ten thousand volumes.

MR. HARRIS: We object, Your Honor.

MR. DURHAM: We object to that because the witness has testified he hasn't seen it.

THE COURT: I hardly see how he could testify to the space, not having examined it.

MR. DANIEL: I based it on if it had the same floor

space, the same space as the first floor.

THE COURT: That is an assumption that I expect we had better have verified.

Q (By Mr. Daniel) I will ask you, Dean McCormick, if you will look it over during the noon hour so that we can talk with you about it.

A Yes.

Q That is all.

REGROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, you stated, I believe, that the law school was open on March 10th?

A That is correct.

Q And I presume that according to your announcement the facilities and personnel necessary were available; is that correct?

A That is correct.

Q You stated just a moment ago that you would get a librarian when a demand was made?

A No.

Q I would like to ask you ----

A I didn't -- I don't believe that I said that.

Q You didn't say that?

A I said that we had instructions to get one as soon as the student demand became apparent and we were able to secure one

of the high quality that we would insist on.

Q Now, Dean McCormick, on March 10th did you have a librarian for the Negro Law School?

A Well, we didn't have a separate librarian, but Miss Hargrave, the Librarian of the University of Texas Law School, under my instructions, did the work that was needed to be done by a librarian for a beginning school, in preparing the list of books to be secured, and in preparing the orders for books, and all of the other work that would be necessary to be done by a law librarian at that juncture.

Q Had you on March 10th secured a full-time librarian for the Negro Law School?

A No, we had not.

Q Have you today secured, as of this date, secured a full-time librarian for the Negro Law School?

A No, we have not.

Q The section of the standards Association of American Law Schools to which you referred, and from you read a moment ago about transfer of credits, the acceptance of those credits depends itself upon a prior accreditation by the American Bar Association, does it not?

A I am not quite certain about that. It -- I would think it may well be that if a school makes its compliance so apparent that it is, that the officers of the Association would predict that it would be admitted, I would be inclined to suppose

that this rule would permit the credit to be given before the actual admission into the Association, but I don't know of any ruling on that.

Q No, and you don't ----

A There is nothing in the wording of the rule to rebut that conclusion.

Q Thank you. That is all.

MR. DANIEL: That is all, Dean McCormick.

THE COURT: All right. You may have your seat.

(W i t n e s s E x c u s e d)

M I S S H E L E N H A R G R A V E, a witness

produced by the Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Miss Helen Hargrave?

A Yes.

Q You are the Librarian at the Law School of the University of Texas?

A Yes, I am.

Q How long have you been connected with the library at the Law School?

A Since 1929.

Q Do you have any other library connections other than that at

the University proper?

A I am a member of the Association, American Association of Law Schools -- of Law Librarians, and as a member of that association I am a member of the joint committee on cooperation between the Association of American Law Schools and the American Association of Law Librarians.

Q The -- what is the function of that committee?

A That committee has as part of its duties the obligation to make out the requirements for law school libraries and then to recommend those requirements to the executive board of the Association of American Law Schools.

Q What degrees, what college degrees do you have?

A I have an L. L. B. degree, and I have had a course in Law Library Administration at the University of Columbia.

Q I will ask you if you have had any duties assigned, or any connection with the Negro Law School?

A Dean McCormick asked me to make out a list of 10,000 volumes that would make an adequate library for that law school.

Q And you -- did you prepare that list?

A Yes, I prepared the list.

Q Was your list prepared upon the basis of the requirements of the Association of American Law Schools?

A Yes, it was.

Q Do you have a copy of that list with you?

A Yes, I do.

MR. LITTLETON: We would like to introduce this.

MR. DURHAM: We object to the introduction of it as self serving. It serves no purpose. Your Honor, we go right back to our exception. We haven't been apprised of it.

MR. LITTLETON: She has been qualified as an expert, Your Honor, has prepared the list on the basis of the requirements, and is a member of the committee that sets those requirements.

THE COURT: I believe I will give you your bill.

MR. DURHAM: Note our exception.

(Said instrument was admitted
in evidence as Respondents'
Exhibit No. 8.

Q (By Mr. Littleton) Have you ever had any other duties assigned to you in connection with this school, or any other instructions?

A Yes, I made out the list from the original list that was set, containing the books to be ordered, and that list was sent to Mr. Simmons, the Comptroller of the University.

Q You prepared another list in addition to this one?

A Yes.

Q What was the difference between the two lists?

A We eliminated all gifts and any duplicates that had gotten into the first list.

Q And you say that list was sent to Mr. Simmons, the Comptroller of the University?

A Yes.

Q Do you have a copy of that list with you?

A Yes.

MR. LITTLETON: I would like to introduce that as the list that she prepared.

THE COURT: What is the difference between them?

MR. DURHAM: We want to make this additional objection. We object to this as a copy. It isn't the original. Second, it is self-serving.

MR. LITTLETON: She has testified, Your Honor, that this is the list prepared for the purpose of requisitioning the books.

THE COURT: Of course, the very requisition itself, or the one attached to it would be the best evidence.

MR. LITTLETON: The requisition will be introduced later.

THE COURT: I believe we had better wait until that is done.

MR. DURHAM: We object to the duplication.

MR. LITTLETON: We can introduce it later. That will be all right.

Q Miss Hargrave, have you had any other duties in connection with the Negro Law School assigned to you?

A I selected some books that are customarily used by the first -- the students in the first year class, and some other books

that I thought might be of some use, and sent them to the Negro Law School.

Q Have you made any comparison, or have you investigated the make-up of the State, or Supreme Court Library?

A Yes, I have. The Supreme Court Library has, in accordance with the requirements laid down by the Association of American Law Schools, with few exceptions, all books that meet those requirements.

Q What exceptions did you find? What difference did you find in comparison of the two libraries?

A The State Library is not as -- doesn't have as many law text books as the law library at the University. It does not have as many legal periodicals, and the English Law Reports go only to 1932. In those respects it is not as strong -- it does not -- of course, you can't say it doesn't comply, but in text it is not as strong, and in the latter two it does not entirely comply with the requirements.

Q Is that the only phase in which the Supreme Court Library of the State Library fails to meet the standards of the Association of American Law Schools?

A As far as I know, those are the only things that ---

Q You have said that it was short on periodicals. Did you find periodicals in the Supreme Court Library or in the State Library?

A Yes, there are legal periodicals in that library, but the

requirements of the Association of American Law Schools is for ten sets of legal periodicals with current numbers. I found only half of that many that were kept with current numbers.

Q You found five sets?

A Yes.

Q Do you recall what periodicals those were?

A Yes, the American Bar Association Journal, the Harvard Law Review, Columbia Law Review, the Texas Law Review, and a long run from Volume 21 on of Yale Law Review, and in the -- that is accepted by the Association as a long run in current numbers, and the early numbers are impossible to secure. That is considered a complete law review.

Q Did you find anything in the Supreme Court or the State Library which you do not have in the Texas University Law Library?

A Yes, sir; there are some things in that library that we do not have. That is, things in which they are very much stronger than the Law School library.

Q Can you give us some example of what you found there that they have?

A Well, the State Law Library is a depository, Government Depository, and, therefore, they automatically receive the reports of all of the administrative bodies of the United States Government, and also, all -- and also receive the

other publications that are sent to the superintendents of documents, to the depository library. It is the strongest library in the south on State Session Laws. It has a great many books in other fields that we have very, very few of, and that is the reports of administrative bodies of the State of Texas. As, for instance, the Attorney General's opinions, and Tax Board opinions of other states, and some of the states have Workmen's Compensation Boards, or their equivalent, and they have those reports, and others of that type.

- Q Now, in the list that you made up pursuant to Dean McCormick's instructions as to the requirements for a requisition of the books needed for the new Negro Law School, did you include the text books and periodicals that are needed to meet the requirements of the Association of American Law Schools?

MR. DURHAM: We object to that, Your Honor. The report itself would be the best evidence of what is included.

THE COURT: I think that would be true.

MR. LITTLETON: All right. We will fix it later then.

- Q How many -- I will put it this way, Miss Hargrave. Excluding the duplicate sets of books in the Library of the Law School of the University of Texas, how many volumes, approximately, do you have in that library?
- A Approximately between thirty and thirty-five thousand volumes.
- Q All told, you have 65,000?

A Approximately 65,000.

Q How many volumes did you find in the State and Supreme Court Library?

A With my inspection and the information that I received, there was approximately 42,000.

Q In making your comparison of the Library of the Law School of the University of Texas, and the State Library down at the Supreme Court, did you make any observations as to the space, between the two libraries, the floor space?

A The library at the Law School at the University of Texas has a larger floor space, I believe. Yes, a larger floor space than the one at the capitol.

Q Are the facilities at the State Library equal to the facilities offered at the Library at the University of Texas, that is, from the standpoint of desks and room to study?

A We have more tables and chairs at the Law Library at the University. We have a great many more people using them.

Q You have a great many more people using them at the University than from the standpoint ----

A From what I have observed at the State Library, the times I have been there.

Q Now, as a member of the Library Committee of the American Association of Law Schools, that makes up the requirements, in your opinion, would you say that the library, the State and Supreme Court Library is substantially equivalent to the

Law Library at the University of Texas?

A Speaking of the two in just that way, they are substantially equivalent. Now, if it is spoken of the two as meeting the requirements of the Association of American Law Schools for the students, the State Law Library is, as I pointed out earlier, it does not have as many texts and it does not have as many legal periodicals, and the English Reports end in 1932.

Q You have pointed out certain things that the State and Supreme Court Library did have that the Law Library at the University did not have; is that right?

A Yes.

Q And on a substantial basis, with these differences that we have mentioned, the library as a whole is substantially equal to that at the University of Texas?

MR. DURHAM: We object to that as leading and suggestive.

THE COURT: It is quite leading.

Q (By Mr. Littleton) In your opinion, Miss Hargrave, for law school purposes, leaving out -- having in mind the differences that we have mentioned, are the two libraries substantially equal?

A In my opinion, they are substantially equal, with the differences that I have twice pointed out.

Q Miss Hargrave, in ordering the books for the permanent

library for the Negro Law School, did you order enough of the periodicals, legal periodicals, to meet the requirements of the Association of American Law Schools?

MR. DURHAM: We object to that, first, as an opinion and conclusion of the witness as to whether or not it was enough. We submit the further objection that there was a list filed in writing with the Comptroller.

THE COURT: The list would be the best evidence.

Q (By Mr. Littleton) Miss Hargrave, I will ask you to refer to the list you made up of the books----

MR. DURHAM: Your Honor, I want to ask one question for the purpose of an objection.

THE COURT: All right.

MR. DURHAM: Miss Hargrave, is that the original you filed with the Comptroller, the one that Mr. Littleton has?

A The reports that were filed with the Comptroller were all mimeographed.

MR. DURHAM: Thank you. We object to it.

THE COURT: That would, of course, be the list that we should have.

A The mimeographed list?

THE COURT: Yes.

A That is the one that was ----

MR. LITTLETON: Your Honor, we were putting in the two lists. You ruled out the list that she filed with the

Comptroller.

THE COURT: I simply said the one you actually filed was the one that was admissible. We ruled on a copy of something.

MR. LITTLETON: This list that she has prepared showing the requirements of the Association of American Law Schools is the one that she showed the overall picture of the library, and we have accounted for the difference in the two lists by the fact that she has some gifts available.

THE COURT: The only objection is that you are not offering the one she submitted. I think that is correct, the one that the Comptroller has.

Q (By Mr. Littleton) Is this list that you handed me here, Miss Hargrave, the list that you presented to the Comptroller of the University of Texas for the purchase of the books being ordered for the Negro Law School?

A This list was sent to the Comptroller, and a list without the price was sent to the Comptroller -- a duplicate list run off on the same stencils, but with the price off, was also sent to the Comptroller.

Q But this list was the one that you prepared for the purpose of making the order?

A That was originally sent to Mr. Simmons to make the order.

Q And the difference between the third list you mentioned is the fact that it doesn't have the price or the estimated price

as listed there?

A The estimated price.

MR. DURHAM: Your Honor, we are entitled to our objection. They say they bought ten thousand dollars worth. Now they say they have got three different lists.

THE COURT: I think the list actually submitted to the Comptroller is the one we should go on.

MR. DURHAM: That is our contention.

Q (By Mr. Littleton) Did you say that list was actually submitted to the Comptroller?

A Yes.

MR. LITTLETON: I might state, Your Honor, that later on it will be shown that this is the list that went with the requisition all the way through.

THE COURT: I think we had better wait and get that. We had better offer the one that is admissible.

MR. LITTLETON: She testified this is the one that was prepared for the purpose of the requisition.

THE COURT: With certain changes.

Q (By Mr. Littleton) Miss Hargrave, why was the third list prepared that you mentioned?

A The third list was prepared to send to dealers, without the price being put on, the estimated prices.

Q Is the only difference -- what is the difference between this list and the third list you mentioned?

MR. DURHAM: We object to that. It is immaterial what the difference was.

THE COURT: I think that the list that was actually ordered was the one we should inquire about.

MR. LITTLETON: I am afraid I don't ----

THE COURT: A list was sent to the Comptroller.

MR. LITTLETON: This is it.

THE COURT: Apparently it is isn't, because you have it. That, at best, is a copy of it, is it not.

MR. LITTLETON: No, sir; this is not a copy.

THE COURT: That is the one?

Q (By Mr. Littleton) Miss Hargrave, did you testify a while ago that all of the lists that you made up for the purpose of making a requisition were mimeographed lists?

A They were.

Q And you sent a mimeographed copy to the Comptroller?

A Yes.

Q And this is a mimeographed copy?

THE COURT: Is that the one you sent to the Comptroller?

Q (By Mr. Littleton) Is this the list that you sent to the Comptroller?

A Yes, I sent about 30 of them, and that is one of the ones that I sent.

Q Miss Hargrave, this morning when you were in the court room, where did you get this list?

A I had it.

Q You had this list----

A No, you gave it to me. After you gave it to me, I had it.

MR. LITTLETON: Later on, Your Honor, I will bring out the fact that I secured this from the Comptroller, and we will qualify it right on from there. It is a minor difference? Do you still object?

MR. DURHAM: We still object.

Q (By Mr. Littleton) One more question, Miss Hargrave. On the two lists that -- on the second list that you prepared for the purpose of making the requisition, how many books ----

MR. DURHAM: Just a minute, Mr. Littleton, please. Your Honor, we object. The Court has sustained that.

THE COURT: Yes. I think we should offer the list.

MR. DURHAM: The list itself is the best evidence of what it contains.

THE COURT: I think that is right.

MR. LITTLETON: All right. Pass the witness.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Miss Hargrave, will you give to the Court the essential difference between a teaching law school library and the type of library that we usually find in State Capitols and court buildings?

A In a teaching law school library, I think the principal

difference, and I think, probably in addition to what is found in the court library is a larger selection of text books and more legal periodicals.

Q Is it not also true that in a teaching law school library emphasis is made on the exclusive use of that library by students and faculty as contrasted to a public library?

A Well, we do not.

Q Is your -- are the majority of the users of your library law school students and faculty, or other people?

A The majority are law school students.

Q And faculty?

A Yes.

Q And people from other -- doing graduate work in the University, do they use it at times?

A Yes.

Q Aren't the other people that use it the exception rather than the rule?

A We have lawyers, as what I might term, fairly frequent visitors. I don't think that we would have more than one or two a day, sometimes not that.

Q They are usually graduates, aren't they, of the law school?

A Not always.

Q Not always?

A No, sir.

Q They are people who come to you from Austin? The University

Law School is in Austin?

A Yes.

Q It is the same city where the Capitol Library is, is it not?

A Yes.

Q Now and then you have visitors who come in for the purpose of looking up law books?

A Yes.

Q Do you have sight-seers walking around?

A Occasionally people come in to look at the class pictures.

Q Occasionally?

A Yes, but it isn't a regular thing.

Q And you do insist that order is kept in that library; it is your duty, is it not?

A Yes, we have order in the library.

Q And that it is quiet, is that not correct?

A Well, as far as we can.

Q I am trying to get at what you try to do. You try to make it as conducive to study and concentration as possible, do you not?

A As far as possible, considering the great number of students that we have.

Q But you do try to do that?

A Yes.

Q The American Association of Law Librarians is restricted, is it not, to law librarians in accredited law schools; is that

A Oh, no.

Q Do you have any law librarians who are not in accredited schools?

A Well, I take that back. I am not sure about that. I know we have librarians other than in law schools who are members, and there are non-librarians who are members.

Q And it is the job of your Association to raise the standard of law librarians, or the law libraries?

A The Association has done some work in both lines.

Q And Miss Hargrave, you have assistants at the University of Texas?

A Yes, I do.

Q Are they qualified law librarians?

A One of them is, and the other one, yes, I think would meet the standards.

Q You have two, and what are the duties of your two assistants? What are the duties of yourself and your assistants in connection with the law library at the University of Texas? What duties do you perform? Specifically, I will ask it this way; is a part of your duty the duty of helping the students while they are in the library?

A Yes, part of the duty is to help the students. We order the books. We see that the work is done to get the books on the shelves, and we see that, as far as possible, the students get the material that they need.

Q And when students are in difficulty as to where to find a particular point they need for their class room work, is it not true that either you or your assistants will give them aid in that task?

A Yes, we try to locate what they need.

Q And the three of you are trained in just that job, are you not?

A No, I wouldn't say that. One of the assistants is a graduate of the law school, and so she knows the work. The other assistant is not a law -- did not graduate from law school, but she has been working in the library for a few years, and can do that work to some extent.

Q I guess you know more about yourself. As a matter of fact, you teach Legal Bibliography, don't you?

A Yes, I do.

Q So you are in a perfect position to assist any student in how to find the law in books?

A I can help them to find the law.

Q And you do that, do you not?

A Yes.

Q Now, as a librarian of the school over here on 13th Street, you made provision to be there to help the students to find cases when they wanted to find them?

A My instructions about that school were to gather together and send out the materials.

Q Were you instructed to do anything else concerning that school?

A No.

Q As to this State Library here in the State Capitol, is it not true that that library is available to the students at the University of Texas Law School?

A I believe it is.

Q For example, have you had any occasion to send them there to find these administrative reports of the U. S. Government that you do not have? Have you ever had occasion to do that, if you remember?

A I can not recall at this time.

Q Is it not true that many of the books necessary to comply with the standards of the Association of American Law Schools are now out of print?

A Oh, I wouldn't say many, no.

Q Aren't there -- aren't most of the top-flight the law review early numbers now out of print?

A The early number of the Yale are out of print.

Q Aren't the early numbers of Harvard also out of print?

A No, because complete sets of Harvard can be bought from the very beginning.

Q From the plates. They have the plates still?

A You can buy them from Harvard University Law Library Association, I believe it is called.

Q And aren't some of the English Reports unavailable?

A I don't know about unavailable. Some of them are out of print, as you call it, but I don't think they are unavailable.

Q As a matter of fact, Miss Hargrave,-----

A Let me explain that.

Q Go right ahead.

A Merely to say that a book is out of print in no wise means it is unavailable.

Q I was ready to get to that. Is it not true that within your Association of Law Librarians that you are -- even the finest library in the country -- they are constantly writing to each other trying to get books that they don't have, and they are unavailable any place else; isn't that a constant procedure?

A If the libraries can locate duplicate volumes in some other library for which they can make an adequate exchange, that is sometimes done.

Q Sometimes done. Now, taking the Law Library at the University of Texas as it now exists, with all of its books, can it be duplicated today?

A As far as I can recall now, we have nothing in that library that can't be duplicated today.

Q Nothing at all?

A So far as I can recall now.

Q For example, bearing in mind the recent difficulties we have had with the war and so forth, about how long would it take you to get your English Reports, as of today?

A I don't know. It would take a little while until a set came on the market.

Q Quite a while, could be quite a while?

A It is unlikely that it would be quite a while, I think, because there are a good many sets in this country, I am sure. So, any -- even a large set of books like that comes on the market with more or less reasonable frequency.

Q Well, about how long would it take you to set up a library to equal the one you have at the University of Texas?

A You mean, if I had enough money?

Q If you had enough money?

A Uh ----

Q Just a minute. That is all we are asking.

A I think I could do it in less than a year.

Q Less than a year. Now, we get to the other point which you anticipated, approximately how much?

A How much ----

Q Approximately how much money?

A Oh, I don't know.

Q Could you do it for a hundred thousand dollars?

A It would take me a little while to figure on that. I wouldn't like to give an estimate.

Q With 65,000 law books of any description, it would cost more than a hundred thousand dollars, wouldn't it?

A If you didn't -- many of those books in that library we have had as gifts.

Q We are assuming that we are going to get no gifts, without the gifts, to purchase the library that you have at the University of Texas, of 65,000 volumes of law books, I will ask you this; offhand, there are a few law books that are two and a half, but most of them are around five and six, just in range?

A That is right.

Q So that 65,000 books would cost more than ----

A I was mistaken about that. They don't average five dollars.

Q About what do they average?

A They average, I would say, about four dollars.

Q About four. So that if we use that round figure, 65,000 at four, we would go way over a hundred thousand, wouldn't we? Isn't that true, isn't that true, Miss Hargrave?

A If all of those books were acquired brand new, which would make the newly acquired library -- we don't have all of those books new. We never did have all of them new.

Q I understand that. Where else in this section of the country do we find microfilm reports of the records and briefs in the United States Supreme Court other than at the University of Texas Law School?

A I don't know what other law libraries in this section of the country have these.

Q There are none in the State Capitol Library, are there?

A Not that I know of.

Q Now, as to these administrative reports of the United States Government and other publications of the United States Government and the State of Texas, the Session Laws of the several states, is it not true that all State Capitol Libraries usually have those?

A I would think so. I don't know. That is only an opinion.

Q Do you need those to teach law?

A We have a good many of them that make up our library.

Q You have some, too?

A Yes.

Q Those that you don't have, do you need?

A If we can buy them, we will add them to our present number.

Q And in the meantime, if you need them, they are available in the State Capitol Library, is that correct?

A Yes, they are down here in this library.

Q And are they not just as available to the students at the University of Texas Law School as they would be to the students at the proposed Negro Law School on 13th Street.

A So far as I know, but I am not ----

Q That is all you can testify. So, that in comparing the two, as a matter of fact, isn't it true that it isn't fair to use

those books that are available to both groups, isn't that true?

MR. DANIEL: Your Honor, that calls for a conclusion of the witness on what is fair.

THE COURT: I think so.

MR. MARSHALL: I withdraw it, sir.

Q In your estimate of 42,000 volumes at the State Library, it is based on the estimate of the librarian there; you said you obtained it on information?

A Yes.

Q Do you know whether or not that 42,000 volumes included these Government reports and administrative board reports and session laws?

A No, those were not included, I believe. I think they are in addition.

Q But you are not sure, are you?

A No, but that is my belief, that they are in addition.

Q Now, with your testimony that in your library you have between thirty and thirty-five thousand volumes, without duplicates, is it not true that in order to have a library to equal that, you would have to have at least 30,000 volumes of the same caliber?

A It seems to me that in judging the substantial equality of any library, that you can have a considerable difference -- I know you can have a considerable difference in the various

types of books, so long as they comply with the standards of the Association of American Law Schools.

Q Well, Miss Hargrave, first; may I ask you -- those standards are minimum standards, are they not?

A That is true.

Q If we forget the standards, then what is used as the basis of comparing equality of law libraries, if we remove the standards of the Association of American Law Schools?

A I think that it is having available the books that are generally used by anyone connected with the law.

Q And do you mean by that both faculty and students?

A Yes.

Q Do you know the poundage, weight, that is required for the floor of a law school library?

A No, I do not.

Q Have you seen this building over here on 13th Street where the law school is to be?

A I have not been in it, but I have seen the building.

Q Would you venture to say that second floor could hold 10,000 volumes of law books?

A I don't know anything about that.

Q The last two questions, if I understand you -- understood your direct examination, there is no question that as to legal periodicals and English Law Reports ----

A From 1932 on ----

Q I was getting your conclusion. Did you not say as to those two items the State Library did not meet the requirements of the Association of American Law Schools? No question about those two?

A That is true.

Q And as to textbooks, to your mind, they needed a few, but you wouldn't pass on that, as such?

A No, I would have to compare ----

Q So, now, I ask you as of March 10th of this year, and as of the present time, with all of the law books available for the 13th Street school for Negroes in that building, and in the State Capitol Building, all of those books, is it not true that with all of that we do not comply with the minimum standards of the Association of American Law Schools; is that correct?

A If you assume that that is all the books that there are available, ----

Q I am not -- I am merely assuming everything, ----

A ---- for that school.

Q Miss Hargrave, I am only assuming what is in the question. I will get to the next one. My question is, limiting your testimony, and limiting your answer to this question as of March 10th and as of today, is it not true that if you use all of the books in the 13th Street school for Negroes, plus all of the books in the State Library in the State Capitol,

that those two groups of books, taken all together, do not meet the standards of the Association of American Law Schools, is that correct?

A That is true.

Q Now, I understand that under the resolution books in your library are to be made available to these students' use, is that correct?

A Yes, sir, that is correct.

Q Now, what I want to know is this. Have you done any accrediting for your Association of Law Librarians?

A No, I have not.

Q Do you know of any accrediting agency, recognized in the legal field, that uses as the basis for accrediting one school, the law library of another school? Have you ever heard of that?

A As far as I can remember, that has never come to my attention.

Q Well, isn't it true that in evaluating law libraries and law schools, you evaluate the law library that is in that school; isn't that correct?

A Some law school libraries -- I would think in general that that is the method that is used.

Q That is all. Thank you, Miss Hargrave.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, the books that you sent to the Negro Law

School, what kind of books were they?

A They were, in the main, books that customarily are used by students in the taking of the first year courses in law.

Q Did they include the textbooks?

A Yes.

Q Did they supply the deficiency in textbooks that you have stated existed in the State or Supreme Court Library?

A Yes, they did.

Q Do the practicing lawyers of Austin frequently use the library of the University of Texas?

A Yes, quite a number.

Q On your trips, on your visits to the State or Supreme Court Library, what conditions have you observed there as to there being a suitable condition for study, the quiet in the place, and the order of its operation?

A The times that I have been down there, it has seemed to me that there was no more confusion and, in most instances, less confusion, than in the Law Library at the University of Texas, because of the large number of persons using it.

Q Do you understand that a librarian for a law library is required by the standards of the Association of American Law Schools to have a law degree?

A That is not necessary.

Q In your helping the students at the library, does that help and assistance include help and assistance in briefing the

law, or just finding the books?

A We just find the books and get them for them. If a student has difficulty in determining what book it might be well to use, we occasionally lend a helping hand.

Q Are you, yourself, constantly present in the library, and available to the students?

A Not all of the time. I have my teaching duties, and so there are times when I am not available.

Q Do you have administrative duties?

A Yes, I do.

Q Do you understand that the books included in the list which you prepared, those books included on that list which are out of print -- I will withdraw it. Do you understand that the books required to meet the standards of the Association of American Law Schools which are out of print are available from dealers and publishers?

A That is right, yes, they are.

Q We have mentioned that the Supreme Court Library did not include the English Reports since 1932. Do the law students or do first year law students make any use of those reports?

A No, they do not, as far as I know.

Q Have you had any instructions as to supplying any other books for the Negro Law School?

A Yes, I have. The Law Library at the University of Texas has more than 500, between 500 and 600 surplus books in good

condition that meet the requirements of the Association of American Law Schools that are available for transfer to the new law library, and there have been offered to this school through me, three gifts of between 900 and 950 books.

Q Are the English Reports since 1932 available to the Negro Law School from the University Law School Library?

A At any time.

Q In your library approximately how many students does your library of 65,000 books accommodate?

A At the present about 850 students.

Q How many books would you estimate would be required to accommodate 15 students, excluding the duplications?

A I don't see why, excluding duplications, if the books are well selected for the purpose, that it should take many more than the minimum requirements set down by the Association of American Law Schools.

Q You have testified that of this 65,000 law books that approximately 30,000 of them are duplications?

A Yes.

Q In regard to the microfilm reports you say you have in your library, do you have a "reader" or projector for the use of those reports there?

A No, I do not.

Q Do you know whether the State Library has a microfilm projector?

A I have been told that it has.

MR. DURHAM: We object to that, Your Honor, and ask that it be excluded.

THE COURT: Only what she knows of her own knowledge.

MR. LITTLETON: I think that is all.

REGROSS EXAMINATION.

Questions by Mr. Marshall:

Q But is it not true, in the bulletin put out by the Law School you mention the fact that the microfilms are available?

A Yes, they are available to anyone, but we do not have a reader.

Q Now, Miss Hargrave, you testified that you -- first of all, let me ask you this. Why do you have duplicate volumes? Is it not because of the large number of students; isn't that the reason?

A Yes, we use duplicates to take care of the students.

Q Now, you testified that with the exception of duplicates, you would need only approximately 10,000 books to teach 15 students; is that correct?

A I said well selected books for the purpose.

Q Then may I ask, you as Librarian of the University of Texas, why is it, with your duty to economize under Texas laws, that with the exception of and excluding the duplicates you have between thirty and thirty-five thousand volumes at the University of Texas Law School?

A We have 850 students.

Q As I understood you to say that the duplicates were for the purpose of taking care of additional students; isn't that correct?

A We have some duplicates, many duplicates to take care of our additional students.

Q As a matter of fact, Miss Hargrave, isn't it true that -- excuse me, did you want to say something else?

A No.

Q Isn't it true that excluding the question of duplicates that it would take as many law books in a law library to service one student as it would to service one hundred; isn't that true, excluding duplicates?

A I do not think so. That is my opinion. Your range of interest might ----

Q For example, you testified that you do not use the English Reports in the first year?

A No.

Q Didn't you testify----

A That wasn't the answer.

Q What was it, Miss Hargrave?

A I said that it was very infrequent that first year law students had any use of the English Law Reports from 1932 to date.

Q Oh, from 1932 to date?

A Yes.

Q Aren't they included in the Legal Bibliography course, for example?

A As I remember the questions, on that Legal Bibliography course, I don't think that any books in the English Law Reports from 1932 to date were necessary to answer those questions. That is a little time back that I am thinking over, but as I remember ----

Q I will ask you this question. In the course on Contracts, and the course on Torts, aren't there frequent references in footnotes to British Reports and Canadian Reports, frequent?

A As I remember, those footnotes, -- there are references to English Reports.

Q Isn't it true that they also have references to legal periodicals?

A Yes, they have references to legal periodicals.

Q So that in the first year you need both English Reports and legal periodicals, don't you?

A I think it might be well to explain ----

Q Go ahead.

A ---- that at our law school it is a very rare case when a first year student is ever -- is allowed to read an assigned article in a bound volume of the legal periodicals. We don't have a sufficient number of those legal periodicals

and if an article is assigned the professor notifies me, permission is gotten from the publisher of the law review, and the article is mimeographed in anywhere from 25 to 50 copies in order to make them readily available to the students.

The same process is followed in almost every course in the second year. We don't have quite as many students in that year, and at times we buy the unbound issues of the periodical containing the article so that we will have copies, but we don't think that 350 or 400 students could use one bound periodical.

Q One more question, Miss Hargrave. In your association with other law school librarians and experience in your organization, the American Association of Law Librarians, do you ever in comparing law libraries of one school with another, as to its worth as a law library, take into consideration the number of students the school has?

A Have I ever done so.

Q Have you ever heard that discussed, the number, in comparing it?

A I have been at a good many, and done work in a good many of these law libraries around the country, and I think that libraries of recognized law schools, that there are certain groups that have -- there are a good many who have books that

will well take care of the student bodies that they have in those schools.

Q I mean, isn't it a fact that in considering the value of a law school library as such in comparison, isn't it true that you consider the books that are in the library as to caliber, time, and being up to date, rather than that we have forty thousand volumes for four people? What I mean is this; isn't it true that the number of students is no measuring rod as to the efficiency of a law school library, isn't that true?

A Well, I think that that is in connection with my earlier statement that a well selected library is the best criterion.

Q In other words, the type of books that you have in it; isn't that correct, and not the number of students?

A I don't see ----

Q Can I get specific? For example, in comparing Harvard's library with the library at the Library of Congress, or Association of the Bar of the City of New York, which are constantly compared as to which one is the best, isn't the discussion as to what is in those libraries, and not the number of people that use them? Isn't that the criterion that is used?

A Yes, as far as I know.

Q So, that on that basis, if we were to compare the library at the University of Texas Law School with the library to be

established, including 10,000 volumes, and forget about the students, isn't it true that the library at the University of Texas is a better library than the one to be established in this law school, isn't that true?

A At the present time, considering only the books and not considering the use to be made of the books in the two libraries, yes, I think that is true.

Q Thank you, Miss Hargrave.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, I want to read to you a paragraph from the resolution of the Board of Regents. (Reading)

"Be it further resolved: That pending receipt and instillation of such library, the Dean of the Law School of the University of Texas be, and he is hereby, authorized to supply on a loan basis books from the Law Library of the University of Texas which may be needed in the efficient conduct of the School of Law of the Texas State University for Negroes."

Do you understand that to include the loan of the microfilm reports to the Negro school?

A Yes, sir, certainly.

Q Do you understand it to include all other books that may be necessary?

A I understand it to include all books that may be necessary,

or are in any way needed at that school.

Q You mentioned a moment ago that articles of legal periodicals which were assigned to the first and second year students were mimeographed. Have you sent any of those mimeographed copies to the Negro Law School?

A Copies of those articles were included in the group of books that were sent to the Negro Law School.

Q Now, you have said that the Library of Texas includes 65,000 volumes overall, but that excluding duplicates, it is comprised of approximately thirty to thirty-five thousand. What is the reason for the additional 30,000 of the duplicates? Will you explain that fully, and how it operates?

A We have two reasons for duplicates. In the textbook field we have to have duplicates so that we figure if 20 -- from 15 to 25 students will have the use of one copy. In the reports we have duplicate copies so that the reports will be more available for the large number of persons using them. We have acquired a considerable number of duplicates by gift.

Q Thank you.

THE COURT: All right. We will recess for a few minutes, please.

(W i t n e s s E x c u s e d)

(Court was recessed at 10:45 a. m.,
(May 14, 1947, until 11:05 a. m.,
(May 14, 1947, at which time proceedings were resumed as follows:

HALL LOGAN, a witness produced by the Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Mr. Hall Logan?

A That is correct.

Q You are Chairman of the Board of Control of the State of Texas?

A Yes, sir.

Q How long have you been with the Board of Control?

A Since the first of January, 1936.

Q Have you received any request to purchase any law books, request from the University of Texas to purchase any law books for the Negro Law School?

A Yes, we have. Their request No. U N 1, dated March 3, 1947.

Q Do you have a copy of that requisition with you?

A Yes, sir.

Q Is there a list of law books attached? Does it describe the law books that are to be purchased?

A Yes, sir.

Q Itemize them?

A Yes, sir, there is a 54 -- I believe it is 54 -- page description, yes.

Q Mr. Logan, is that the list that you loaned to me -- did you

loan that list to me this morning?

A Yes, sir.

Q That is the list that was attached to the requisition when you received it?

A Yes, sir.

Q Will you refer to the list and state whether it includes a requisition to purchase legal periodicals?

A Yes, there are periodicals here on page 11.

Q Will you read from the list the names of the periodicals?

A American Bar Association Journal

California Law Review

Columbia Law Review

Cornell Law Review

Harvard Law Review

Illinois Law Review

Iowa Law Review

Journal of Criminal Law and Criminology, Northwestern University.

Law and Contemporary Problems, Duke University

Law Library Journal

Law Library, Indiana University

Law Quarterly Review, TheCarwell Company

Michigan Law Review.

Minnesota Law Review

National Bar Journal

University of Pennsylvania Law Review

Texas Bar Journal

Texas Law Review

Virginia Law Review

Yale Law Journal

Index to Legal Periodicals

Jones and Chipman, Index to Legal Periodicals

Digest of Legal Periodicals

Commerce Clearing House

I believe that covers the periodicals, at least the way they are headed here.

Q Now, for the purpose of help to the Reporter, will you state what pages of that list those periodicals are on?

A They are covered on pages 11, 12, 13, inclusive, of the requisition.

Q Will you refer again to the list and state whether it includes requisition to purchase English Reports?

A Yes, it does. Probably I can find the actual purchase order quicker.

Q Let's stay with the list right now, Mr. Logan.

A All right, sir. Yes, on page 15, English Legal Material, from the Carswell Company.

Q How many total volumes of English material are requisitioned?

A 854.

Q Now, will you refer again to the list and state whether it shows a total for the number of -- a summary and a total for

the number of the books on the list?

A Yes, the total volumes, 8,727, and the price on that ----

Q No, will you refer to the requisition and state what date you received that at the Board of Control?

A The requisition was received on March 3, 1947.

Q Will you state who signed the requisition?

A It is signed by D. K. Woodward, Jr., Chairman, Board of Regents, the University of Texas.

Q I believe -- will you identify the requisition as to the number?

A It is UN-1. That is the coding of the Negro University.

Q Give me the requisition and the list that was attached to it.

A All right, sir.

Q I would like to introduce this.

(Said instruments were admitted
{ in evidence as Respondents'
{ Exhibits Nos. 9 and 10, respectively.

Q Mr. Logan, have you done anything to comply with the requisition made? What have you done to comply with the requisition, or to purchase the law books requested?

A Well, upon receiving the requisition, we interviewed a number of representatives of the law book publishers and dealers, clarifying the specifications, and talking to them about the availability of them, and with the University of Texas. A good many of these are out of print, and after going through those discussions, on April 7th we issued the bid

forms, as we call them, and asked for bids on April 7th, 1947, including the specifications essentially as set out in the duplicate of that.

Q Do you have a copy of the request for bids and the specifications that you mentioned?

A Yes, I have. Here is the specifications in detail, comprising the 54 pages, and here is the three page rider of explanation of instructions on the bid, as we issued them to some 35 prospective bidders.

Q Will you refer to that request for bids and state what date it bears?

A It bears the date of April 7th, for opening, two weeks, the customary opening period.

Q What number does it bear?

A It bears requisition UN-1.

Q Will you refer to the list which you attached to that request for bids, and state how it compares to the list that you received with the requisition?

A It is an exact duplicate of the other. The only exception is that when the University gave them to them for the purpose of their encumbering of funds, they put estimated prices on there. When we send it to the bidders, we leave the price off. We don't want to tell them what to charge.

Q Will you refer to the list and state how many books are included on the list which you attached to your request for

bids?

A I don't believe it is totaled, but we could examine it and compare it to those for items.

Q It is your understanding that it includes the same number of books as the list attached to the requisition?

A That is right.

Q Will you give me a copy of the request for bids, the specifications, and the list attached to it?

A Yes.

MR. LITTLETON: I would like to introduce this.

{ Said instruments were admitted
{ in evidence as Respondents'
{ Exhibits Nos. 11 and 12, respectively.

MR. DANIEL: To save the record, may I ask counsel if they will agree that it is the same, except for the prices, and not put it in the record.

MR. MARSHALL: I think, if Your Honor please, they are identical, and at some future time we can withdraw one of them.

THE COURT: All right.

Q (By Mr. Littleton) Mr. Logan, to whom did you send your request for bids on these law books?

A There is a list of 35 bidders.

Q I don't think it is necessary to ----

A All of our recognized list that we carry who pay their fee as standard bidders on all types of books, legal books, plus some others that we felt could bid, everybody we could

think of.

Q Have you received bids on these law books pursuant to the requests made?

A Yes, we have received 23 bids from 22 separate bidders, one making two bids.

Q Have you made any awards or placed any purchase orders on the basis of the bids received?

A Yes, we have placed the purchase orders on all of the new books, plus the English volumes. We have not placed any on second hand to date.

Q How many volumes, all told, have you placed orders on?

A 5,702 volumes have been placed to date.

Q Will you describe the English volumes that you mentioned that you have ordered?

A These were purchased from the Carswell Company, English Reports, reprint, volumes 1 to 176, good, second hand, 176 volumes.

English Table of Cases, 2 volumes, new cloth -- wait, that second item isn't a part of it. The other part of it is English and Empire Digests, subject to prior sale, isn't second hand; 49 volumes. The two total \$1,085.00.

Q On the books that you have ordered, what dates of delivery were generally specified?

A Shall I just run through them?

Q I think -- do you have some standard date? You can give it

to me approximately.

A 30 to 60 days, another 30 to 60; 30 to 60; 60; 10 days after receipt of order; 60; 30 to 60; 30 to 60, 30 to 60, 15 days; 30 to 60; 30 to 60; 10 days; 30 to 60; immediate delivery; immediate delivery.

Q What are the -- do your orders show delivery instructions?

A The delivery instructions, books to be shipped to the University of Texas Library, Room 11, Main Building, Austin 12, Texas. They all read the same way.

Q Mr. Logan, you have stated that you have placed that order -- orders for 5,700 of the books requisitioned. You have also stated that there were 8,700 books requisitioned. Can you state why the orders on the remainder of the books of which you -- the remainder of the books on which you have received bids have not been purchased?

A The balance of the books, we understand, will all be second hand, not available as new, because we specified wherever possible to buy new books, and these other three thousand, whatever they are, are going to require a considerable amount of study in order to determine which is the best buy from the State's standpoint. They are -- we anticipate, without any question, they will be released within two weeks. We cleared these new ones first. The second hand books are classified as to excellent, whether they are shelf worn, or whether they are good, with further bindings, and we have to

analyze each of those conditions with the price to determine which is the best buy.

Q You have received bids, however, on all of the books requisitioned?

A We have.

Q Pass the witness.

MR. MARSHALL: No questions.

THE COURT: All right, Mr. Logan. You will be excused.

(W i t n e s s E x c u s e d)

M I S S H E L E N H A R G R A V E, having

been recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, I show you this purchase requisition, UN-1, dated March 3, 1947, and I show you the list of books attached to that requisition and ask you to look over that list and state whether or not you prepared it?

A This is the list that I prepared.

Q Will you refer to the list, Miss Hargrave, and state the total number of volumes included on the list?

A 8,227.

Q Miss Hargrave, I show you again the list which you prepared, which meets the requirements of the Association of American

Law Schools, and ask you to refer to the list and state how many volumes are included on that list?

A There are 10,008 volumes on that list.

Q So that between the list that you prepared to meet the standards of the Association of American Law Schools and the list that you prepared for the requisition there is a difference of 1,281 books; is that correct?

A That is right.

Q Will you state why you did not include the 1,281 books on the list which you prepared for requisition?

A The reason that I did not include them was because that number of books had been offered as gifts to the new law library, or are available for transfer to it, as I qualified them in earlier testimony, to the new library.

Q Pass the witness.

MR. MARSHALL: No questions.

(W i t n e s s E x c u s e d)

E. J. M A T H E W S. a witness called by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Mr. E. J. Mathews?

A Yes, sir.

Q You are the Registrar at the University of Texas?

A Yes.

Q How long have you been Registrar?

A 35 years.

Q Were you appointed the Registrar of the Negro Law School?

A Yes, sir.

Q State the dates that you assigned for registration in that law school?

A March 10, 1947. That was the first day, but registration was not to be restricted to that one day.

Q How long did you keep the law school open for registration, Mr. Mathews?

A Well, we announced a week, but in correspondence we didn't fix any final day.

Q Did you in your capacity as Registrar notify the relator, Herman Mation Sweatt, of the opening of that law school and the dates of registration?

A Yes, sir.

Q How did you notify him?

A By letter, registered mail.

Q Do you know the date of that letter?

A I think it was March 2 or 3; it was a week before.

MR. LITTLETON: If Your Honor please, we have served the formal notice for them to produce the original of the letter in Court.

THE COURT: All right.

MR. DURHAM: This is it.

Q (By Mr. Littleton) Mr. Mathews, I show you this letter and ask you whether it is the letter that you sent, that you wrote to Heman Marion Sweatt?

A Yes.

Q Is that your signature?

A It is.

MR. LITTLETON: I want to introduce the letter.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 13.

{ Mr. Littleton read to the Court
{ Respondents' Exhibit No. 13.

Q (By Mr. Littleton) Mr. Mathews have you received any reply from the relator to that letter?

A No, sir, none at all.

Q Has the relator presented himself for registration since the mailing of that letter?

A No, sir.

Q How many inquiries -- have you received any inquiries regarding this school since its establishment?

A Yes; all told, fourteen. Two of the -- twelve of the fourteen came during the first half of March. Two of them came during April, and so I take it they applied more particularly to start next fall, some future time, but there were twelve, rather, eleven letters, and one inquiry in person that were

made during the first half of March.

Q Did all of these inquiries come from prospective students for the school?

A Well, I assume they were.

Q In other words, did the nature of their inquiry indicate to you that they were prospective students?

A The reading of the letters indicated ----

MR. DURHAM: Wait, Your Honor.

THE COURT: Of course, the letters ----

MR. DURHAM: The letters would be the best evidence.

Q (By Mr. Littleton) Do you know whether Henry Doyle inquired concerning the opening of the law school, and registration?

A He presented himself on March 10th at the Negro Law School. He, with a friend, asked some questions, but he wasn't ready to enroll.

Q Had he talked with you before that time about his registration?

A I suppose that would be hearsay testimony. He didn't talk to me, but he talked to ----

MR. DURHAM: Your Honor, we object to it.

THE COURT: That is right.

A ---- the Assistant Registrar.

CROSS EXAMINATION.

Questions by Mr. Durham:

Q Mr. Mathews, I believe you have stated that the requirements

for admission to the University of Texas are identical with the requirements for the admission of a student to the Negro Law School?

A Yes, sir.

Q In your letter you referred to the relator's application. When did you first see and examine the relator's application for admission to the University of Texas School of Law?

A It was during a period of a conference between some half dozen negro leaders in Texas, held in the President's Office. I believe that was last summer.

Q The application of the relator was presented to you at that time as Registrar of the University of Texas for admission to the first year law class of the University of Texas School of Law. I believe you examined the application and determined his qualifications for admission?

A Yes, sir.

Q Is that the same application that you referred to in paragraph 2 of the letter addressed to the relator on March 3, 1947?

A Yes.

Q That was the only application that you had had from the relator, and he possessed the qualifications necessary for admission to the law class, first year law class, in the University of Texas School of Law?

A The academic qualifications.

Q The academic qualifications. Now, I believe the application on the part of the relator for admission to the University of Texas School of Law, first year class, was refused?

A Yes, sir.

Q Why was it refused, Mr. Mathews?

A Because the Constitution of the State of Texas forbids us to accept as students members of the Negro race.

Q He possessed all other qualifications, except he wasn't a white student?

A So far as I know, yes; academic qualifications.

Q And you refused his application for admission to the first year law class of the University of Texas law School solely on account of race and color?

A The Constitution of Texas.

Q I observe, Dr. Mathews, from the letter there that you have got mimeographed, -- typewritten form of letterhead. Did you have any printed form of letterhead for the Negro University?

A Mimeographed.

Q That is all you had; likewise, for your envelope?

A Yes, sir.

MR. DURHAM: We want to offer the envelope.

{ Said instrument was admitted
in evidence as Relator's
Exhibit No. 5.

MR. DURHAM: That is all, Your Honor.

REDIRECT EXAMINATION.Questions by Mr. Littleton:

Q Mr. Mathews, you stated you received some 14 inquiries during the first half of March, and April. Did any of those persons making an inquiry, of those 14 persons, register in the school?

A No, sir.

(Witness Excused)

THE COURT: I suppose, then, we will recess until two o'clock.

(Court was recessed at 12 o'clock
noon, May 14, 1947, until 2 o'clock
p. m., May 14, 1947.)

AFTERNOON SESSION.

May 14, 1947.

2 P. M.

MISS HELEN HARGRAVE, having been recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.Questions by Mr. Littleton:

Q Miss Hargrave, I want to add one question to the testimony that you gave before lunch. You testified that you had 1,281 books available by gift, and from the Texas University Library. You also testified that the list which you had made

up for requisition from the Board of Control showed 8,727 books. I ask you whether or not the 8,727 books, plus the 1,281 books, as has been shown by you, and listed, is sufficient to satisfy the requirements of the Association of American Law Schools?

A Yes.

Q During the lunch recess have you made -- did you make an inspection of the building at the law school, the Negro Law School?

A Yes, I did.

Q Did you make that inspection -- what was the object of that inspection?

A I wanted to look over the arrangements of the rooms, and to find out about the space so that I could figure how many books could be accommodated there, law books could be accommodated there.

Q From your inspection, will you state whether you found that there was -- the building was ample to house a library of more than 10,000 books?

A Yes, it is.

Q Pass the witness.

REGROSS EXAMINATION.

Questions by Mr. Marshall:

Q Miss Hargrave, it is true, is it not, that you couldn't put them in that basement part that is now open for the law school, could you?

A No.

Q Did you see the ground floor that you go down five steps to get to there, that floor?

A Yes.

Q You couldn't put that on that floor, could you?

A With the other things moved out, there could be put, as I figure, in those rooms, approximately 7,000 books. That leaves the stacks with adequate aisle space between.

Q Would there be any other space left down there after that?

A No, that would take the space on the ground floor for the books.

Q Is it possible on the ground floor to have a library and a law school at the same time?

A Not of the size library that has been ordered and acquired for the law school.

Q What I should have included, Miss Hargrave; is it possible to have a library sufficient in size to meet the standards of the Association of American Law Schools and class rooms and library space and office space; is it possible to have all of that on that first floor?

A No, it is not.

Q No way it could be done?

A No, it would not be possible on the first floor.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q When you made your inspection at lunch, Miss Hargrave, you

inspected the whole building?

MR. DURHAM: We object to that. The evidence shows the State didn't have the whole building at that time, and doesn't have it now, and that certainly is going outside of the pleadings, and outside of this case on a speculative proposition.

MR. LITTLETON: The evidence shows that arrangements have been made for the acquisition of the entire building.

THE COURT: But as I understand, you allege that you have sufficient space to ----

MR. LITTLETON: Your Honor, I am showing how much housing facilities it would take to house the library.

MR. DURHAM: We don't object to him showing how much it would take to accomodate this school.

THE COURT: Yes.

Q (By Mr. Littleton) When you made your inspection at noon, Miss Hargrave, did you compute -- did you examine the entire three floors of the building?

A Yes, I did.

MR. DURHAM: Your Honor, we object to it. It is immaterial. It isn't in issue in this case.

THE COURT: I am going to hear it, but I am bearing in mind it is just what it might take to put that many books in.

MR. DURHAM: If that is the purpose, it is different,

Your Honor.

Q (By Mr. Littleton) Did you find the three floors of this building substantially of the same area?

A Yes, I did.

Q Would you say that a library of 10,000 volumes sufficient to meet the requirements of the Association of American Law Schools could be housed in an area of that size?

A Yes, it could be.

Q Would that leave an area of that size, and housing a library of that size, would that leave sufficient space for class rooms?

A Yes, it would.

THE COURT: I am considering it for the purpose stated only.

Q (By Mr. Littleton) Did you make any observations as to the structure of that building?

A I noticed that it was a brick building.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Did you make any tests as to whether or not the second and third floors would hold stacks of law books?

A I made no tests.

Q So, you are not in a position to testify, as to whether or not you could put a library on the second and third floors,

are you?

A I presume in a brick building the walls, solid brick, that the balance of the books could be so arranged around the walls that with the knowledge that I have about that, it would take care of those books.

Q Do I understand your testimony to be that you would put the books around the walls, and you wouldn't have stacks in the middle of the floor?

A On the ground floor, no. On the ground floor, it would take the space of the ground floor for stacks, as we usually find them in libraries, in order to handle the approximately 7,000 books that I figured on.

Q And where would the reading room be -- downstairs?

A No, you couldn't have the reading room downstairs. It would have to be on another floor because the ground floor would be filled with stacks of books.

Q Miss Hargrave, as a matter of fact, are you familiar with the amount of space in a law school that is needed for class room instruction, Dean's office, faculty offices? Are you familiar with that, or just in a general way?

A Just in a general way. I don't know much about that.

Q So that when you testify that that building is adequate to house all of this, you are testifying just in a general way, are you not?

A I don't see how it could be much otherwise.

Q That is all.

MR. LITTLETON: That is all.

THE COURT: All right.

(W i t n e s s E x c u s e d)

C H A R L E S T. M c C O R M I C K, having been recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Dean McCormick, during the noon hour, did you inspect the three floors of the building in which the Negro Law School is now housed?

A Yes, I did.

Q I will ask you to state whether or not in your opinion the entire building furnishes sufficient space within which to house the number of class rooms, reading room that you now have, and a law library of 10,000 volumes?

MR. DURHAM: Your Honor, we make the same objection.

THE COURT: It will be given the same consideration as I stated before.

A Assuming a small student body for which those facilities were furnished ----

MR. DURHAM: Your Honor, we ask that that answer be stricken as not responsive.

THE COURT: Yes, it really isn't.

Q (By Mr. Daniel) Limit it strictly to the question of whether or not it would furnish sufficient room for the same number of class rooms and reading room you now have, plus space for 10,000 volumes of books; I will ask you whether or not in your opinion that building would furnish such suitable space?

A By class rooms we now have, you mean on the first floor?

Q Yes, the same size class rooms?

A Yes, it would contain all of those facilities.

Q I will ask you to look at this picture, please. Will you state to the Court what building that pictures?

A That appears to be a representation of the building at 104 East 13th Street.

Q Is that a picture of the building which we have referred to as the building which now houses the Negro Law School?

A Yes, it is,

MR. DANIEL: We would like to offer that.

{Said instrument was admitted
in evidence as Respondents'
Exhibit No. 14.

Q Dean McGormick, I will ask you to look at the picture again, and state, if you know, from what place the picture was taken, looking at the foreground between the place where the camera was and the building?

A Evidently taken from the Capitol grounds.

Q From within the Capitol grounds?

A Yes.

Q That is all.

REGROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, when you were inspecting the law school at the noon hour, did you go through this entrance as indicated by the picture?

A I don't believe I did. I entered on the second floor and came down through the stairs.

Q Do you recognize that as the entrance to the law school?

A Well, there seems to be a corner near by. I assume it is correct. I don't know that I would recognize it if you didn't tell me it was, however.

Q Can you recognize your sign on the door telling the prospective students to come to your office?

A The sign is there. I certainly can't recognize it in this picture.

Q But this appears to you to be a part of the law school?

A Yes, sir, I judge so.

MR. NABRIT: We would like to offer this in evidence.

MR. DANIEL: You had better identify what is upside down and otherwise in that picture.

MR. NABRIT: That is a problem.

(Said instrument was admitted
in evidence as Relator's
Exhibit No. 6.

Q Dean McCormick, did I understand you to state in reply to the question of the Attorney General that in your opinion, from your inspection of the building, and using all three floors, it would adequately house a law school with the same number of class rooms which you now indicate you have on the first floor, and with library facilities adequate to contain a library with a minimum number of 10,000 volumes?

A That is right.

Q Are you an expert on library arrangement?

A No, I am not.

Q How did you compute the number of feet of floor space necessary to house the stacks, and on what basis of computation did you determine the number of stacks necessary to house 10,000 volumes, in making your estimation?

A I really didn't carry it out that far. I just was making a general inspection, and it seemed to me that the building was large enough for that purpose. Miss Hargrave, however, did make the detailed estimates of the number of stacks, and of the space needed, and where the space could be found to put them.

Q Are you testifying on the basis of Miss Hargrave's estimates, or on the basis of your estimation?

A Well, I suppose it is really partially both.

MR. HARRIS: Your Honor, I should like to make a motion to strike out all of the testimony which Dean McCormick has made with reference to the adequacy of this

building to house the law library, in that he says it is not based on his information, and evidently upon that of Miss Hargrave.

THE COURT: I believe he said partly, didn't he?

MR. NABRIT: What part is that?

THE COURT: I wouldn't know.

Q (By Mr. Nabrit) Dean McCormick, what part of your estimation is yours?

A Well, I have had some contacts with law school buildings, so that I have a general notion of the size of building appropriate for the small law school, and from that background, and from my inspection, and in the course of that inspection Miss Hargrave and I discussed the particular parts of the building where books could be so stored, and she pointed out to me features, and the availability of space for the books, so that those things are always somewhat of a composite of fact and background and experience and inspection, and what people point out to you and tell you.

Q Suppose we ask you this, Dean McCormick; taking an average size library stack such as Miss Hargrave indicated to you would be used there, how many volumes of law books would it hold, the average size law library stack?

A Well, if there is any uniform size for them, I am not aware of it.

Q Let's take any size that you know of, the size that you

discussed.

A We didn't discuss any particular size.

Q From your background and experience with law schools, what size, how many volumes do you know will get on any one stack? Take any stack that you know about from your experience. How many volumes would get on it?

A I think of a stack as a tier of say, from two to perhaps eight or nine shelves, and I don't know how many books would go in a stack. I don't know of any uniformity as to number.

Q Take a stack that extends across the width of that room, 8 tiers, steel stacks, purchased by the Dean and the Board of Regents for this Negro Law School, to house these books. How many volumes would one of these stacks hold?

A You say, a steel stack?

Q I assume you are going to use steel. I will just say stacks. Maybe you are going to use some other kind.

A Are you assuming a certain length of it? I don't know the uniform practice as to length of the shelves.

Q Looking at the space on the ground floor, you estimate that it, together with the other space, would hold 10,000 volumes. I am asking you these questions to find out if you had any part in this estimation, or if it is based on your experience, or of, so far as your statement is made, it is based simply upon Miss Hargrave's testimony, or her experience, or her information, or is there any knowledge which you possess, for

example, as to the number of feet of space required for a student in a library reading room, or if you know how much floor space is required for an average table in a law school, how much aisle space is required by a standard law school librarian, or is your statement, as a matter of fact, merely a guess?

A No, I would say it was a general fact from my experience and observation of law schools in general, and my inspection of this one. Now, Miss Hargrave makes that report, and it seems to me that by going over there and looking at the building and seeing whether that report accords in a general way with my knowledge and experience, that I would be able to state that I believe the building would furnish those facilities.

Q What type of building is that, Dean McCormick, construction?

A Well, it is a three story building, with brick construction on the outside.

Q Is it solid brick, semi-brick, brick facing?

A I could not tell you as to that.

Q Does it have steel beams and girders?

A I don't know. I haven't made that close an examination of it, and I don't know very much about construction, anyhow.

Q So that you don't know whether it will house the library or not, because you don't know whether the walls and framework will sustain the weight of it? Do you know of your own

knowledge that it will?

A No, I don't.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Have you, as Dean of the school, discussed with Miss Hargrave if you had the whole building where the majority of the books should be located in the building?

MR. DURHAM: Your Honor, we object to their going into anything Miss Hargrave told him, as hearsay.

THE COURT: Of course, he shouldn't testify from what she told him. I think he might, with consultation, relate what conclusion he arrived at.

Q (By Mr. Daniel) I didn't mean to ask you what she told you. Did you have a consultation with her as to where in that building would be the proper place to put the bulk of the library books?

A Yes.

Q And from that consultation, what conclusion did you arrive at as to the floor on which the majority of the books should be placed?

A Well, I thought probably the ground floor would be the most appropriate place.

Q There isn't any question about the supports to the ground floor, is there, Dean McCormick?

A Well, I would suppose not.

Q That is all.

MR. HABRIT: No questions.

THE COURT: All right.

(Witness Excused)

MR. DANIEL: We would like to call the relator,
Heman Marion Sweatt.

HEMAN MARION SWEATT, Relator,
having been called as a witness, and having been by the
Court first duly sworn, testified as follows:

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Will you state your name, please?

A Heman Marion Sweatt.

Q Are you the relator in this case?

A I am.

Q Where do you reside?

A Houston, Texas.

Q What business are you in?

A United States mail service, mail carrier.

Q How long have you been a mail carrier?

A Eight years.

MR. DURHAM: Your Honor, would you ask the witness

to speak out just a little louder?

THE COURT: Speak out louder.

A Eight years.

Q (By Mr. Daniel) You applied for entrance into the University of Texas on February 26, 1946, is that correct?

A That is right.

Q I will ask you if it isn't true that on or about March 20, 1946, you were furnished a copy of an opinion by the Attorney General of Texas stating that if you desired and made demand on Prairie View University, that that school was under mandatory duty to furnish you an equal law training with the University of Texas Law School?

A Yes.

Q You read that opinion, did you?

A I did.

Q Did you make demand or give any notice to Prairie View University, or any of its officers, that you wanted to attend a law course there?

A I did not.

Q Did you ever apply to Prairie View University or to any official of that school, or of A. & M. College for a law course?

A No.

Q You didn't, then, follow the Attorney General's opinion as to what was the legal procedure by which you were entitled to

an equal law course?

A No.

Q You were in this court room on December 17, 1946, at the last hearing of this case, were you not?

A Yes.

Q Did you hear the resolution read at that time whereby the Board of Directors of A. & M. College authorized the officials of Prairie View to set up a separate law school in Houston for Negroes?

A I did.

Q Then, at that time you knew that such separate law school was proposed for establishment in Houston, Texas, didn't you?

A I did.

Q Did you read in the newspapers anything about that law school being set up in Houston?

A I did.

Q You did.

A I did.

Q You knew, then, that that law school was set up by Prairie View University in Houston, Texas on February 10, 1946, didn't you?

A I knew some rooms were there.

Q You knew they were where?

A In Houston.

Q In Houston?

A That is right.

Q You knew that they called that the Law School of Prairie View University, didn't you?

A I knew that they called it that, yes, sir.

Q Did you go up there for the purpose of registering?

A I went up there to see it. I didn't go to register.

Q But you knew where the location was, didn't you?

A Yes.

Q Before the date of registration, February 10th?

A Yes, sir.

Q And you knew the date of registration was February 10, 1946, didn't you?

A Yes.

Q Did you talk with any of the men who were employed to operate the law school?

A No, I didn't.

Q Did you check into the qualifications of the lawyer who had been employed to teach law in that school?

A Yes.

Q You checked into his qualifications?

A Yes.

Q Were you doing that for the purpose of determining whether or not you would attend the school?

A No.

Q When did you make up your mind that you wouldn't go to that

school?

A After talking with my attorney .

Q Which of your attorneys?

A Mr. W. J. Durham.

Q Did you talk with any other of your attorneys?

A No, I did not.

Q Did you have Mr. Marshall, attorney for the National Association for Advancement of Colored People, as one of your attorneys at that time?

A December 17th?

Q Right.

A I didn't have -- I never have had Mr. Marshall as my attorney. I have not.

Q You have not?

A That is right.

Q You know Mr. Marshall, sitting right here, do you not?

A Yes.

Q You know, of course, having sat through the case, he is participating here in the case and cross examining witnesses?

A Yes, sir.

Q He is signing the papers as one of your attorneys of record?

A Yes,

Q Didn't you authorize him to do it?

A I authorized Mr. W. J. Durham to represent me, and in a conference with him, I left it with him to secure what aid

he found it necessary to.

Q You found it agreeable for him to accept the aid of the attorney for the National Association for the Advancement of Colored People?

A It is agreeable for him to employ Mr. Marshall.

Q After talking with your attorney, and before making an inspection of the facilities, you decided you wouldn't go to the school?

A I decided before talking to them.

Q After inspecting the school?

A No, before that.

Q Did you do that before finding out what kind of facilities there were, and faculty was going to teach in that school?

A Yes.

Q Did you check into the courses that were going to be offered in that school?

A No, I did not.

Q Did you register in that Prairie View Law School at Houston?

A No, I did not.

Q About how far is the school from your home in Houston?

A I would estimate it as being two and a half or three miles.

Q Now, in February of 1947, did you know about a new law school about to be established here in Austin for Negroes?

A Yes.

Q You read the newspaper accounts of it, didn't you?

A Yes.

Q You knew Senator Lacy Stewart, who is now deceased, did you?

A I didn't know him. I knew he was a Senator.

Q You were acquainted with his Senate Bill 140 pending in the Legislature during the month of February, or read of it in the newspapers?

A I was familiar with the newspaper reports of it.

Q You knew the bill proposed to set up a State University for Negroes, and a separate Law School for that University, to be conducted in Austin by the University of Texas Board of Directors, didn't you?

A Yes.

Q Did you receive this letter from the Registrar of the Negro Law School that was introduced here this morning?

A The letter that was shown me, yes, sir; I received it.

Q That is Respondents' Exhibit No. 13?

A Yes.

Q What date did you receive the letter? It is dated March 3d?

A I think I received it on the 4th or 5th, one.

Q Upon receipt of that letter did you make any reply to Mr. Mathews, the Registrar?

A I did not.

Q Did you go to see Mr. Mathews and talk to him about what he said in the letter about absolutely equal courses being offered here in the law school?

A I did not.

Q Did you go and talk to Dean McCormick to see about what kind of courses would be offered?

A I did not.

Q Did you talk to any University of Texas officials to see if you would actually get equivalent instruction in law in this separate law school, the same as if you went to the University of Texas?

A I did not.

Q Did you make any investigation of this separate Negro Law School?

A Yes, I did.

Q Did you make an investigation before you made up your mind you wouldn't attend it?

A I made an investigation immediately after receiving the letter.

Q Didn't you send the letter to Mr. Marshall, the letter that you saw him take out of his brief case, before we introduced it? Didn't you send that to Mr. Marshall?

A No, I did not.

Q Who did you send it to?

A I took it on the train to Mr. W. J. Durham.

Q When did you make up your mind not to go to the school?

A When Mr. W. J. Durham told me it wouldn't give me equal law training as the University.

Q Is that the same day you took him the letter?

A Yes.

Q How soon did you get on the train after you received the letter?

A The next day.

Q And you went to Dallas to see your attorney, Mr. Durham?

A That is right.

Q After how much consideration of the matter was it before your attorney told you, advised you not to attend the school?

A I stayed in Dallas for a week.

Q How long had you been there before your attorney told you that?

A During the time that I was there, we discussed it at length, while we were there.

Q The first day you got there you showed him the letter, is that right?

A That is right.

Q And that was about what date?

A I don't remember it by dates. I received the letter either the 4th or the 5th, and I got the train on the 6th.

Q Then, you were there in Dallas by the 6th or 7th?

A That is right.

Q Right?

A Yes.

Q And you showed him the letter the first thing, didn't you?

A That is right.

Q And there in that conference of yours he made his decision about what you ought to do?

A It was several days before he made his decision. He told me definitely after the conference that it would not afford me equal education as could be obtained in the University of Texas.

Q And you made no personal investigation of the matter yourself, did you?

A I am not qualified to pass upon the quality of a law school, no.

Q Did you talk to anybody else about the quality of the law school other than Mr. Durham?

A I did not.

Q And how long did you remain in Dallas after the 6th or 7th of March?

A I was there on -- I am telling you I went there around the 6th or 7th, and I remained there probably a week before I came back to Houston.

Q Then you were there on March 8th when the National Association for the Advancement of Colored People and other organization representatives met to decide whether or not to support or not to support this separate Negro Law School, weren't you?

MR. DURHAM: We object to it; first, upon the

assumption that the National Association for Advancement of Colored People met. That is the first assumption. The question assumes that he was there at the meeting. Both assumptions are without any evidence on the matter in the record.

THE COURT: I think you had better ask him if he was there.

Q (By Mr. Daniel) Were you in Dallas on March 8th, 1947?

A I was there.

Q Are you acquainted with a meeting -- do you know anything about a meeting held in Dallas on that date at which this lawsuit was discussed?

A I know nothing of the meeting.

Q Did you while you were in Dallas read a report in the Dallas News about what took place in that meeting?

A I did not.

MR. DURHAM: We object to it as being hearsay.

THE COURT: He says he didn't.

Q (By Mr. Daniel) You did not. Isn't it true that you knew before the date of registration down here, March 10th, at the new Negro Law School, that certain leaders who were helping you in this case opposed you in this separate law school?

MR. DURHAM: We object to that about "certain leaders." There is no evidence in the record. It is purely an assumption.

THE COURT: He can ask him if he did.

A I don't know anything about -- I don't know what leaders --
I don't know anything about the leaders.

Q (By Mr. Daniel) Do you know Joseph J. Rhodes, President
of the Texas Council of Negro Organizations?

A Yes, I do.

Q Did you discuss this law school with him while you were in
Dallas?

A No, I didn't.

Q Did you hear about the action his organization took against
the school while you were in Dallas?

A No.

MR. DURHAM: We object to it as hearsay.

THE COURT: He says he never heard it.

Q (By Mr. Daniel) Now, your deposition was taken in this
case on June 15, 1946, wasn't it?

A There was a deposition taken in Houston a little before the
first hearing.

Q Did you state in your deposition at that time, and as you
have stated here, your attorney was Mr. Durhan, is that
right?

A Yes.

Q At the time you filed this suit Mr. Marshall wasn't in the
case at all representing you, was he?

A No.

Q At the time we took your deposition on June 15, 1946, he was

not in the case, was he?

A No.

Q You had not known him, and he had not been brought into the case at the time your deposition was taken, had he?

A Not from me, no.

Q From anybody else, your attorney or anybody else?

A Not that I know of.

Q Isn't it a fact that in your deposition taken on June 15, 1946 that this question was asked to you, and you gave the following answer; this is the question?

"Q Isn't it a fact that you would not attend the Prairie View University if legal training were provided for you there?"

And didn't you give this answer?

"A That is not true. I will attend Prairie View University on a first class law school equal to the University of Texas."

Isn't that true?

A I gave that answer.

Q At that time, on June 15, 1946, you said that you would have attended a law school at Prairie View University if it was equivalent to that at the University of Texas?

A If it was equivalent.

Q In other words, you have no objection to a separate law school for Negroes if it is equivalent ?

A I will have to answer that question in this way. I don't believe in segregation. I don't believe equality can be given on the basis of segregation. I answered that question, in that it stated that it would be -- if it would be given at Prairie View, I still do not believe that segregation will give equal training.

Q That is exactly the point I am getting at. On June 15, 1946 you were willing to accept segregation and a separate law school at Prairie View if it was on an equal basis, weren't you?

A Assuming that it would be equal.

Q That is what I say. Is this your signature to the deposition that was taken on June 15th?

A That is mine.

Q Now then, after June 15th, 1946, and after you had sworn in your deposition that you would go to a separate law school if it furnished equal facilities; after that time, Mr. Herbert Marshall -- I mean Mr. Thurgood Marshall, Attorney for the National Association for the Advancement of Colored People, came into this case, and has been helping on it since then?

A After what date?

Q After your deposition, June 15th, 1946?

A A good time afterwards, yes, sir.

Q A good while afterwards?

A A good while afterwards.

Q And after June 15th, 1946, after you swore to that in this deposition, is when you made up your mind you were not for segregation at all?

MR. DURHAM: We object to it because it does not represent the facts in that question. The question doesn't ask him about a separate school. The question asked about a school at Prairie View.

Q (By Mr. Daniel) Are you acquainted with Prairie View University?

MR. DURHAM: We renew our objection. Nothing has been done about that question and answer. He asked if he didn't take the position on that date that he was for segregation. That isn't represented in that question.

MR. DANIEL: I withdraw the question.

Q (By Mr. Daniel) You are acquainted with Prairie View University?

A Yes, sir.

Q You know that is a separate Negro school, don't you?

A Yes, it is a separate Negro school.

Q White people do not go to that school?

A As far as I know.

Q You knew at the time you swore to this in your deposition that that was a separate school for Negroes, didn't you?

A I did.

Q And when you said in that deposition that:

" I will attend Prairie View University on a first class law school equal to the University of Texas,"

on June 15th, you knew that was a separate Negro school, didn't you?

A I did not. A first class law school, in my opinion, a first class law school is where an individual has general contact with people with whom he will work after graduation.

Q You didn't answer my question. Let's go back to my question. At the time you said you would attend Prairie View University on a first class law school, you knew Prairie View was a separate school for Negroes at that time, didn't you?

A At that time, but I answered the question on the basis of the establishment of the school.

Q That is right?

A That is right.

Q But at Prairie View?

A In Prairie View.

Q You didn't think they were going to establish a school for both whites and Negroes at Prairie View?

A I didn't know what they were going to do.

Q Let's see if you didn't know one thing. Didn't you know at that time it would be a separate Negro Law School, if it was at Prairie View?

A I did not.

Q You did not. Anyway, you were willing to go to a law school at Prairie View, if it was equal to that at the University of Texas, weren't you?

A If it was equal.

Q And that was June 15, 1946. Now, since that time, June 15, 1946, I will ask you if you have changed your mind about going to a separate law school at Prairie View University, if it was equal to the University of Texas.

MR. DURHAM: We object to the portion of it, if he has changed his mind since June 15th, for the reason that the deposition, they haven't offered it, and it isn't the proper assumption.

THE COURT: He can ask him if he is willing to go now.

Q (By Mr. Daniel) Will you answer that?

A Am I willing to go to a separate school at Prairie View?

Q If it is equal to the University of Texas?

MR. MARSHALL: The record shows there is no law school at Prairie View. The evidence shows it.

THE COURT: It would be hypothetical. Let's see what the last question was.

(The Reporter read to the Court the
last question set out above.)

THE COURT: I sustain the objection to the last one. You can reframe your question.

MR. DANIEL: Yes, sir.

Q (By Mr. Daniel) Since June 15, 1946 you have changed your mind about being willing to go to a law school at Prairie View University, even if it was equal to that at the University of Texas, haven't you?

MR. MARSHALL: We renew our same objection.

THE COURT: Ask him if he has changed his mind, first.

Q (By Mr. Daniel) Have you changed your mind?

A Yes.

Q And you changed it after June 15, 1946?

A No, I changed it after studying the situation after filing the suit, after learning more facts about education.

Q After you swore that you would attend one on June 15, 1946; isn't that right?

A That is the date of the deposition?

Q That is the date of the deposition.

A After that.

Q After that date?

A Yes.

Q And it was after that date that Mr. Thurgood Marshall of the N.A.A.C.P. came into this case?

MR. MARSHALL: I didn't object in the beginning, but I object at this stage to cluttering up the record, and I wish, if the Court would permit me to take up a case, that is

on all-fours. It is State, ex rel Bluford vs. Canada, 153 S.W. (2d), page 12.

That is in regard to the Journalism School at the University of Missouri, and that case ruled against the same things we are urging in this case; however, in that case the Attorney General of Missouri put up the same type of smoke screen to the effect that the case wasn't the plaintiff's case, but belonged to a public organization, and to put the case further on all-fours, the organization is the National Association for the Advancement of Colored People, and the Supreme Court, although ruling against us, had this to say.

"In our view, if appellant has the legal right and actually expects to attend the University, her motives for doing so are immaterial."

On that basis, we object to the continuation of this line of testimony.

THE COURT: I think he has answered it, as far as we need on it.

MR. DANIEL: If the Court please, I would like to say to the Court that our purpose here is not to show his motive for wanting to attend a law school. Our purpose is to lead up to a connected chain of events motivating him not to attend the separate school that has been offered to him, and, therefore, showing bad faith on the part of the relator.

MR. DURHAM: He had a right to change it one minute before ten o'clock on the 10th. That is an individual right,

and the fact that he did change can't be questioned.

THE COURT: I think he had a right to change his mind.

MR. DANIEL: Yes, sir.

Q Do you know of any other Negro boys who want to attend the law school?

MR. DURHAM: We object to that as being immaterial, irrelevant, and of no probative force.

THE COURT: I believe I will let him pursue it.

Q (By Mr. Daniel) Do you know of anyone else of the Negro race wanting to go to a law school?

A I know some who say they want to go to a law school.

Q Would you give me the names of those whom you know personally who wanted to attend law school?

A I read in the paper where there was a Mr. Doyle said he wanted to attend a law school.

Q Who else do you know, of your own knowledge?

A That is all.

Q You know of only yourself and Doyle?

A That is right.

Q Has the National Association for the Advancement of Colored People contributed to you, toward the expenses of this lawsuit?

A Contributed to me?

A No.

Q Have they contributed toward the attorneys here, or any other expenses of this lawsuit?

A I don't know that they have. They offered, after I had filed the suit, to assist me in it.

Q Were you in Austin on March 26, 1947, about the time of the last hearing in the Court of Civil Appeals in this case?

A I was here at the last hearing in the Court of Civil Appeals.

Q Isn't it true that you attended a meeting here in Austin the night of March 25th, at which Thurgood Marshall, the attorney here, spoke to a group of Negro citizens.

MR. DURHAM: We object to that as completely immaterial and not germane to any issue.

THE COURT: I don't see how it could assist us, Mr. Attorney General.

MR. DANIEL: I want to prove as to what was said and done about that matter about finances for this case, for the purpose of showing that the National Association for the Advancement of Colored People had as much control and management of this case, and what happened in this situation about this law school as he does himself, and that they have the further purpose of following that up with a concerted program to boycott this law school and keep other students out.

Your Honor, we were careful not to bring up the point about no students ever there. Only Marion Sweatt, did

we, on direct examination show, as not in that school. The relator on every possible occasion has pointed to the fact that there were no students there, and we feel like we can show that chain of events, and it is his fault and the people supporting the lawsuit that they don't have students, and that is a material issue in this case.

THE COURT: Anything he would testify to would be hearsay, wouldn't it? It would be what somebody said, wouldn't it?

MR. DANIEL: No, sir; I believe, Your Honor, that through that I can refresh his memory as to knowledge of money which has been spent in this case by N. A. A. C. P. I am trying to refresh his memory. I am also trying to -- I will also try to impeach him in the fact that he said he doesn't know anything about the expenses paid by N. A. A. C. P., and show that he does know about it, and knew about it at this meeting where \$20,000.00 was asked for.

MR. DURHAM: We don't think he can show it through the newspapers.

MR. DANIEL: I am not asking that.

THE COURT: He can testify to anything he knows of his own knowledge about this.

Q (By Mr. Daniel) Isn't it true that at that meeting you attended, isn't it true that at that meeting you attended you heard Mr. Marshall say that this case had already cost

\$6,000.00, and that the N. A. A. C. P. was helping finance it.

A I don't remember.

MR. DURHAM: That is immaterial.

THE COURT: He said he didn't hear it.

Q (By Mr. Daniel) Did you hear Mr. Marshall tell the crowd you needed to raise \$20,000.00 for this lawsuit.

MR. DURHAM: That would be hearsay, what the attorney said.

MR. DURHAM: It is purely hearsay.

Q (By Mr. Daniel) Are you paying Mr. Marshall a salary or fee for assisting you in this case?

A I am not.

Q The National Association for the Advancement of Colored People is furnishing his services?

A I don't know.

Q You don't know how he came into the case?

A He came into the case -- in a conference with Mr. Durham, he said he would get assistance in the case, and how he got it and who is paying him, I don't know.

Q Do you know whether or not the National Association for the Advancement of Colored People have encouraged this lawsuit, and encouraged people to support it?

MR. DURHAM: We object to it.

MR. DANIEL: I asked if he knew.

MR. DURHAM: We object to that as irrelevant and immaterial.

THE COURT: If it was communicated directly to him, I expect it would be helpful.

A I don't know.

Q (By Mr. Daniel) Now, you took a year's study at the University of Michigan, didn't you?

A That is right.

Q What year was that?

A That was the school year of 1937-38.

Q Did the State of Texas pay anything on that at all?

A No, they did not.

Q That was at the University of Michigan?

A That was at the University of Michigan.

Q Now, did you on March 10th, 1947, present yourself over here for registration in the new Negro Law School?

A I did not.

Q Did you at any time from your trip to -- the receipt of your original notice and your trip to Dallas to talk it over with your lawyer, did you personally make any -- come to Austin and look over this school?

A No, I did not.

Q Did you talk with any of the law professors who were going to teach in the school before making up your mind not to go to it?

A I did not.

Q You actually didn't make up your own mind about whether to go to it or not?

A Sure, I made up my mind. I made up my mind after talking with somebody who could judge a law school. I couldn't do that.

Q And that was only Mr. Durham?

A That was only Mr. Durham.

Q And you took his word that you shouldn't come because it was not equal?

A I took his word it wouldn't give me the type of law education that I could obtain in the University of Texas.

Q You want to go to law school at the University of Texas?

A Yes.

Q You know for several years there have been appropriations made by the Texas Legislature to send Negro students outside the State of Texas to schools when they wanted to take certain training that is not provided inside Texas?

A I know that is possible.

Q You didn't apply for that money?

A I did not.

Q You want to go to school in Texas?

A Yes.

Q You are not interested in transferring from some law school you are admitted to, to some law school outside of Texas?

A I want to complete my course in Texas.

Q Not interested in transferring outside the State later on, are you?

A No.

Q You have finished your A.B. Degree?

A Yes.

Q What other degrees?

A That is the only degree I have finished.

Q You don't care to take any other courses than law courses?

A I don't know. I might, after I get in.

Q At the time you filed the suit, all you wanted was law courses?

A I don't know what it will take for me to take law. When I went to the University of Michigan, taking Bacteriology, I had to go back and get other courses. I don't know what I will take when I get in the University of Texas.

Q That is all you have applied for up to this good day, is law, is it not?

A Yes.

Q And that is all you want at this time?

A Yes, that is right.

Q If this Court should hold that this new Negro Law School gives you substantially equal opportunity to obtain a education in law, you wouldn't attend it, would you?

MR. DURHAM: We object to that.

THE COURT: It doesn't make any difference to me if he

attends it or not. This Court is concerned only with the facilities. We don't care whether he goes or not.

Q (By Mr. Daniel) If it is thought that the separate Negro Law School in Austin offers you absolutely equal facilities, you wouldn't attend it, would you?

MR. DURHAM: We object. It is a supposition.

THE COURT: I believe in that case he would have a right to answer if, in his opinion, this school was absolutely equal.

A It depends upon an assumption that I can not agree with.

Q If you could agree with it; let's say that, let's say we leave it to other judges, and some judges, somebody who knows about it, found it to be so, and we assume it is so, that the new Negro Law School is absolutely equivalent to the University of Texas Law School, but it is a separate school for Negroes, you wouldn't attend it, would you?

A I would not.

Q That is all.

MR. DURHAM: We reserve the right to examine him later, Your Honor. No questions.

THE COURT: All right.

(W i t n e s s E x c u s e d)

MR. DANIEL: Your Honor, I believe that -- I was just thinking, they have some witnesses they are in a hurry

to put on, so I suppose it would be all right for us to stop our testimony, and come back to it later. We won't close.

THE COURT: That will be all right. We will take a few minutes while you are getting your witnesses lined up.

{ Court was recessed at 3:05 p. m.,
{ until 3:15 p. m., at which time
{ proceedings were resumed as
{ follows:

D R. R O B E R T R E D F I E L D, a witness

produced by the relator, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give the Court your full name, sir.

A Robert Redfield.

Q And your present occupation?

A I am now Professor of Anthropology and Chairman of the Department of that name at the University of Chicago.

Q Will you review briefly your past qualifications, and your training, and the positions you have held, and the general work you have been doing?

A After taking a Bachelor's Degree, I went to the University of Chicago Law School and took a degree of J. D. I was admitted to the Bar of the State of Illinois, and two years thereafter returned to academic life, where I received

training in Anthropology and Sociology, and special work in the problems between the racial and color groups. I received a Doctor's Degree in 1928.

Except for periods when I have been giving instruction at other universities in the United States, I have been employed at the University of Chicago as a teacher, and doing research work, and as an educational administrator.

I have also been in charge of the research program for Carnegie Institute at Washington, and at the present I am in that capacity. Last October I gave up the position of Dean of Social Sciences at Chicago University, a position I held for 12 years.

Q How long have you been studying in the field of racial differences?

A About 20 years.

Q And in that period of time have you considered the question of alleged racial differences in school students?

A I have considered many aspects of the problem of differences between national groups, including school students.

Q And have those studies included the comparison of students of both races, studying under the same circumstances?

A I have followed the literature in that field, as well as, of course, making my common-sense observations as a teacher and administrator.

Q Well, Dr. Redfield, as a result of your studies, are you in a

position to give your opinions on the general subject?

I will give you more specific ones later, but I wish on the general subject of, one; the inappropriateness of segregation to the purposes of education, the inappropriateness of segregation in education to the interests of public security and of it, and to the general welfare of the community.

MR. DANIEL: Your Honor, we object because this lawsuit involves only education in law and procedure. We object to any questions or opinion evidence that may be offered as to general surveys, not limited to law schools, which are composed of those who have completed certain preliminary work in other fields, and we object to the testimony that has been called for by this question, to the question, and to any other questions along that line.

MR. MARSHALL: May it please the Court, this case has narrowed down to one issue. I think the pleadings did considerable toward the end of narrowing it down. In the first place, in our original petition we claimed that the refusal to admit the relator was in violation of the 14th Amendment, and in all of the pleadings filed by the State of Texas, no question has ever been raised as to the qualifications of relator other than his race or color, so that is out of consideration.

The defense of respondents is summed up in their first supplemental answer, large paragraph 2, small (1) in parenthesis, in this statement.

I am quoting.

"The Constitution and laws of the State of Texas require equal protection of law and equal educational opportunities for all qualified persons, but provide for separate educational institutions for white and negro students."

And then follows the allegation that the refusal to admit the relator in this case was not arbitrary at all, and was not in violation of the 14th Amendment, but was in keeping with the segregation statutes of the State of Texas, and in that way joined issue; and in the second supplemental petition we alleged:

"In so far as respondents claim to be acting under authority of the Constitution and laws of the State of Texas their continued refusal to admit the relator to the Law School of the University of Texas is nonetheless in direct violation of the 14th Amendment to the Constitution of the United States."

If there can be any doubt as to our position in the case, in the fourth paragraph in the same pleading in the supplemental petition, we state:

"In so far as the Constitution and laws of Texas relied on by respondents prohibit relator from attending Law School of University of Texas

because of his race and color such constitutional and statutory provisions of the State of Texas as apply to relator are in direct violation of the 14th Amendment to the Constitution of the United States."

So, I think that the lines are drawn in this case, and the direct attack has been made that the statutes requiring segregation, the general statutes which prohibit this relator from attending the University of Texas, we claim are unconstitutional, and we have the right to show their unconstitutionality.

How do we propose to do so? Several ways. Before that, I would like to bring this out. As to whether there is any question as to the validity of segregation in this case, the Attorney General brought it out with the last witness. He deliberately brought it out, according to which, as I understand from his cross examination, the Attorney General believes the relator has changed his position from conforming to the statute to now insisting that segregation was invalid, and it was the Attorney General who asked the last question which puts the validity of the segregation statutes flat in issue in this case.

There are several ways of going about proving the unconstitutionality of statutes. They haven't shown any line of reasoning for the statutes. I imagine they are

relying on the presumption that the statutes are constitutional. If they are relying on that we have a right to put in evidence to show that segregation statutes in the State of Texas and in any other state, actually when examined, and they have never been examined in any lawsuit that I know of yet, have no line of reasonableness. There is no understandable factual basis for classification by race, and under a long line of decisions by the Supreme Court, not on the question of Negroes, but on the 14th Amendment, all courts agree that if there is no rational basis for the classification, it is flat in the teeth of the 14th Amendment.

THE COURT: I will let you offer your testimony. I will give you your bill, and I will allow it, at any rate.

MR. DANIEL: Do I understand they will be limited to surveys on law students, or education in general?

THE COURT: Of course, it is like throwing a rose into a group of flowers. The odor is there. We are presumed to act only upon what is admissible testimony, in the last analysis, anyhow, so I am going to hear it, and if in my opinion it is material and admissible testimony, I will consider it. If it isn't, I will not.

MR. MARSHALL: Thank you, sir.

THE COURT: It will be in the record.

MR. DANIEL: We may have our full bill on it, with-

out repeating our objection?

THE COURT: That is right, it will follow right through.

MR. DANIEL: Unless there is something else.

THE COURT: Yes.

Q (By Mr. Marshall) Dr. Redfield, as to the question of the relationship of segregation to the purposes of education, will you first give us what are the overall acceptable purposes of education as construed by educators in the field? What is the main purpose of public education?

A No two men, of course, will state this the same way, but I should say that the main purposes of education are to develop in every citizen in accordance with the natural capacities of those citizens, the fullest intellectual and moral qualities, and his most effective participation in the duties of the citizens.

Q Dr. Redfield, are there any recognizable differences as between Negro and white students on the question of their intellectual capacity?

MR. DANIEL: Your Honor, we object to that. That would be a conclusion on the part of the witness. It covers all negro students and all white students. It isn't limited to any particular study or subject or even show what it is based on.

THE COURT: I suppose his qualifications he has

testified to would qualify him to draw his conclusion.

MR. MARSHALL: We will follow with what he bases it on.

A If Your Honor will allow me I will present the answer in that form.

THE COURT: Yes.

A We got something of a lesson there. We who have been working in the field in which we began with a rather general presumption among our common educators that inherent differences in intellectual ability or capacity to learn existed between negroes and whites, and have slowly, but I think very convincingly, been compelled to come to the opposite conclusion, in the course of long history, special research in the field.

The general sort of situation, Your Honor, which brings about this opposite conclusion, the conclusion that I may state now, significant differences as to intellectual ability, or as to ability to learn, if any, are probably not present between the two groups. We have been brought to that conclusion, Your Honor, by a series of studies which have this general character.

Samples from the two groups, negroes and whites, are placed in as nearly identical situations as possible, and given the limited tasks to perform, tasks which are understood to be relevant to the intellectual faculties, or the capacity to learn. Then these samples are measured against each other as to the degree and kind of success in performing

these limited tasks. That is a general description of the material which leads to the conclusion I have stated. Perhaps at this point it is sufficient to say that the general conclusion to which I come, and which I think is shared by a very large majority of specialists----

MR. DANIEL: We object to that as hearsay, Your Honor.

THE COURT: I think so.

A The conclusion, then, to which I come, is differences in intellectual capacity or inability to learn have not been shown to exist as between negroes and whites, and further, that the results make it very probable that if such differences are later shown to exist, they will not prove to be significant for any educational policy or practice.

Q (By Mr. Marshall) As a result of your studies that you have made, the training that you have had in your specialized field over some 20 years, given a similar learning situation, what, if any differences, is there between the accomplishment of a white and a negro student, given a similar learning situation?

A I understand, if I may say so, a similar learning situation to include a similar degree of preparation?

Q Yes.

A Then, I would say that my conclusion is that the one does as well as the other on the average.

Q Well, in your experience, your studies in this particular

field, what is your opinion as to the effect of segregated education; one, on the student -- I will give them all to you, and then you can take them separately -- two, on the school, and three, on the community in general. Will you give your opinion?

- A My opinion is that segregation has effects on the student which are unfavorable to the full realization of the objectives of education. First,-- for a number of reasons, perhaps. I will try to distinguish.

Speaking first with regard to the student I would say that in the first place it prevents the student from the full, effective and economical coming to understand the nature and capacity of the group from which he is segregated. My comment, therefore, applies to both whites and negroes, and as one of the objectives of education is the full and sympathetic understanding of the principal groups in the system in which the individual is to function as a citizen, this result which I have just stated is unfortunate.

In the second place, I would say that the segregation has an unfortunate effect on the student, which I might now anticipate, since, to my opinion, has an unfortunate effect on the general community, in that it intensifies suspicion and distrust between negroes and the whites, and suspicion and distrust are not favorable conditions either for the acquisition and conduct of an education, or for the

discharge of the duties of a citizen. You asked me, did you not, as to the class, and the community?

Q The school was the second, and the community was the third.

A I think I have perhaps indicated the difficulties with reference to the school. The school room situation is, provides less than the complete and natural representation of the full community. That is the general view of educators, or it is my view, I should say. It is my view that education goes forward more favorably if the community of student, scholar and teacher is fairly representative of the total community. Rather, the highly specialized and the development of the suspicion and distrust which the segregated situation brings about is correspondingly unfavorable in the school.

With respect to the general community, I suppose there isn't a great deal to add, but if I am still answering your question, I might say this. In my opinion, segregation acts generally on the total community in an unfavorable way for the general welfare, in that it accentuates imagined differences between negroes and whites. These false assumptions with respect to the existence of those differences are given an appearance of reality by the formal act of physical separation. Furthermore, as the segregation, in my experience, is against the will of the segregated, it produces a very favorable situation for the increase of bad feeling, and even conflict, rather than the reverse.

Q Dr. Redfield, what has been your personal experience concerning the admission of minority groups to educational facilities to which they had previously been denied admission?

A Well, as I have indicated, my principal experience has been in connection, in the University of Chicago, and in its related educational institutions. The situation there generally is that no segregation is practiced in any of the educational facilities of the University, neither in the class room nor in the dormitory, or in eating facilities or anywhere else in the educational facilities. While the same city or community in which the University lies is one in which segregation or exclusion is practiced as a matter of custom, but not as a matter of law, in a very wide variety of situations, and facilities open to the general public.

In giving that background, I come to the question of what my experience has been with negroes theretofore denied some educational facilities, and I have had experience with one or two such situations in the University of Chicago and its affiliated institutions, and that in each of the cases that I can recall the result has been, in my opinion, highly beneficial to education and to the University community.

Q Were there any ill effects at all?

A I don't know of any.

Q Do you know of any good effects?

A Yes. Perhaps I should mention a case. The students were

denied admission, negro students were discouraged from admittance is perhaps a more accurate statement, to the labor-school atory/of the University.

They were discouraged admission for a great many years. Then it was made apparent that they would be welcome, and they began to come, and there was an opposition from a minority of the academic community to the step. Many evil consequences were told. None of those consequences took place, but, on the other hand, there was an improvement in the community in that there was a representation of the national community which is favorable to education, and the relations between the white and the negro groups were improved in parent-teacher and endeavor.

Q Thank you, Doctor.

MR. DANIEL: I want to be sure that my exceptions and objections have gone to the entire testimony.

THE COURT: Oh, yes.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Redfield, how many of those surveys of the reaction of students have been limited to law school students?

A Are you speaking of surveys which I made personally, or of which I have known?

Q Which you made personally?

A I have never made a survey of law school students.

Q Is this testimony you have been giving based on surveys you have made, or you have read about?

A In larger measure, the latter. I have participated.

Q You have participated in some?

A Yes.

Q But the majority of the studies you have been testifying about and upon which your testimony is based, are studies made by other people, and which you have read?

A That is the nature of science, sir.

Q Yes. I just want to be sure that is in the record. Somebody may not know that is the nature of science. Have you yourself made any study of the effect of separate education in law schools?

A No, sir.

Q As I understand it, it is your opinion that it is discrimination against the white students to require them to go to a white University here in Texas; is that right?

A If I understand the meaning of what I said, that isn't what I was attempting to say. I was attempting to describe the consensus in regard to educational objectives in the policy of segregation.

Q And you applied that to separate white schools, with only white students. You said several times, I believe, in your testimony, I believe you said several times that the same applied to segregation of white students, making them go

to the separate school.

A I think it is to the advantage of any student to be in a community that is largely representative of the national community.

Q To that extent, you believe that any state that requires the white students to go into a separate school from the negro students is to that extent a discrimination against the white students?

A I am not sure the other description was used, but I think it worked both ways.

Q It worked both ways. You have talked about a gradual change that you have observed. All of your testimony, I believe, indicated a gradual change in the situation you have talked about, and in the conclusion you have reached.

A With reference to admission of negroes to facilities that had theretofore been denied them?

Q Yes.

A The case I had in mind was where there was a period when they were not admitted, and then a period when they were admitted. I don't know how you use the word "gradual."

Q As I understood, you thought there was some difference between ability to learn----

A I beg your pardon. You are now asking me with respect to the quality of students, as to this matter of racial difference?

Q Yes.

A I said opinion on the subject has gradually changed.

Q Isn't that generally due to the fact that the subject matter has gradually changed over a period of years?

A We are wiser than we were, yes, sir.

Q Don't you believe that in a community where segregation has been enforced as long as it has in some of our southern localities, that the only way that the ultimate goal that you think is the best can be properly obtained is by a gradual change, instead of forcing it upon the community?

A If I can answer the question at all, Your Honor, I would like---

THE COURT: You can explain.

A I think that all change should not come on any more rapidly than it is consistent with the general welfare.

Q (By Mr. Daniel) Yes, sir. In other words, you will agree with the other eminent educators in your field, the fields in which you are acquainted, that it is impossible to force the abolition of segregation upon a community that has had it for a long number of years, in successfully obtaining the results that are best?

A No, I don't agree to that.

Q Do you think the laws should be changed tomorrow?

A I think that segregation is a matter of legal regulation. Such a law can be changed quickly.

Q Do you think it has anything to do with the social standing in the community?

A Segregation in itself is a matter of law, and that law can be changed at once, but if you mean the attitude of the people with respect to keeping away from people of another race, then perhaps I have another answer.

Q I am speaking about desired results for the individual and the community, and for the state.

A Will you ask your question over again?

Q With respect to the individual, the state, the community and the schools, do you, in your opinion, believe that an immediate change in segregation will accomplish the results that you have testified as being best in a community where segregation has been enforced and recognized for many years?

A I think in every community there is some segregation that can be changed at once, and the area of higher education is the most favorable for making the change.

Q You admit there are areas in which the change can not be made at once?

A You mean in 24 hours, with more harm than good resulting?

Q Yes.

A Certainly.

Q Or within a year?

A May I state my opinion again?

Q Instead of 24 hours, we will say within a year or two.

A I will put it this way. I think this will satisfy you on that as covering my opinion. I think the steps by which, and the rapidity with which segregation in education can be removed with the benefits to the public welfare will vary with the circumstances.

Q In other words, the circumstances of the community and how long there has been segregation will have a bearing on it?

A Yes, sir.

Q In other words, do you recognize or agree with the school of thought that, regardless of the ultimate objective concerning segregation, that if it is to be changed in southern communities where it has been in effect for many years, if it is to be changed successfully, it must be done over a long period of time, as the people in that community change their ideas on the matter?

A That contention, I do not think, will be my opinion on the matter scientifically.

Q Does that represent, scientifically, a school of thought on that, in your science, in the matter?

A There are some that feel that way.

Q Yes, sir. You are acquainted with the history of the carpet bagger days in the Civil War?

A I feel better acquainted with it today, sir, than anybody.

Q Dr. Redfield, let me get you clearly on that. You are not talking about your own trip down here, are you, to Texas?

You say you are acquainted with it today?

A It just drifted into my mind.

Q You recall the carpet baggers, where they packed up and came down here from out of the state. You didn't mean to be talking about your trip down here, did you? You are the only witness from out of the state that we have had on, so far. You didn't mean to be talking about the trip down here?

A I am afraid the idea has come into my mind now.

Q That wasn't what you referred to?

A It is in my mind now.

Q Are you acquainted with the history of the carpet bagger days in the south?

A In a very general way.

Q You know, do you know, from that history, that the attempt to force the abolition of segregation in the south just didn't work?

A Yes, of course.

Q Do you feel like the social attitudes and beliefs of the people in that day had some bearing on whether or not it would work?

A Oh, yes.

Q Of both races?

A Oh, yes.

Q Are you acquainted with Howard University Law School in Washington?

A No, sir, only by reputation.

Q You know it is a negro law school?

A Yes.

Q Have you made any check on the separate Negro Law School as to the kind of educational facilities and equality of opportunities that are offered the students of that school?

A No.

Q Would you undertake to testify here, Dr. Redfield, that students attending that separate Law School for Negroes at Howard University do not receive equal educational opportunities in law with those attending a similar white school?

A In my opinion, deprivation of opportunity to exchange professional and intellectual matters with members of the other major groups in their nation is one of the short-comings of the school.

Q You have never made any check, though, as to students who have come out of that school, and where that has been a handicap on them, have you?

A No, I never have.

Q It is just your idea it is a handicap, without having checked to see whether or not it is?

A That is right.

Q Are you acquainted with Lincoln University by reputation, a separate law school for Negroes in Missouri?

A I have heard of it.

Q Have you made any survey of the students educated in that school?

A I think I have indicated I made no survey of legal education.

Q You are not prepared to say whether or not those students who received their legal education in that separate law school come out of there handicapped in any respect, as far as their knowledge of the law is concerned, are you?

A I have the opportunity of transforming a conclusion, and as far as there is validity in that, I can draw a conclusion as far as segregated education is concerned.

Q I am talking about the individuals who have come out of the separate Negro Law School. Have you made any check to see whether they have received equal educational opportunities with white students of Missouri in the white law school?

A I have had no occasion to.

Q Then, you don't know whether there are any disadvantages or not, actually, to those individuals, do you?

A In the particular case of those individuals?

Q Yes, sir.

A By virtue of knowledge I might have of them in particular,

no.

Q Do you recognize, Dr. Redfield, that there should be some limit to your theory of abolition of segregation?

A I think I have indicated a limit.

Q A limit?

A Yes, a limit.

Q What limit do you say there should be, and will still give what you think is necessary from the standpoint of public education?

A The general welfare would be served by extending non-segregation, at the expense of segregation, and that general limit will be defined in my particular conclusion, as the particular circumstances.

Q Is it necessary that there be social commingling?

A I understand that by social commingling is meant communication of students and professor, and intellectual endeavor,-- yes.

Q Is that as far as you think it is necessary to have such commingling to obtain the objectives you think are so necessary?

A I think that whatever commingling is a natural and proper accessory to the educational endeavor will in the long run

develop to the general welfare.

Q Do you think it is necessary to have social commingling of the races in order to obtain the things you think are necessary to give, to attain the objective that you say is set for public education?

A The question is repetitious. I have answered it.

MR. DURHAM: If Your Honor please ----

THE COURT: I really believe he has answered it.

If you are not quite satisfied, General, you may ask another question.

MR. DANIEL: I am not quite satisfied. I don't want to ask an embarrassing question, but yet, -- you have testified -- I really want to know -- you have testified that you believe certain segregation must be done away with in order to accomplish the best for the school and the community?

A If you are thinking about intermarriage, -- if that is in your mind, I would be delighted to answer.

Q My mind hadn't gotten quite that far on the subject.

A I am sorry.

Q I am simply trying to ask you, since you have testified that a certain amount of doing away with segregation is necessary, I want to know your explanation, or expert opinion, on how far it must be done away with in order to accomplish the best for the individual, the school and the community.

MR. MARSHALL: This case is at least limited, and the direct examination is most certainly limited, to education.

THE COURT: I understood that is what he answered, that only in so far as it was necessary for students to have a mutual exchange of ideas along professional and educational lines.

MR. MARSHALL: But this question isn't limited to that.

THE COURT: I understood he answered as I stated, a good while ago, General.

Mr. DANIEL: I have asked how far he thinks that

is necessary.

A In order to accomplish the educational objective?

Q Yes.

A Roughly speaking, in the class rooms and in the natural discussion of educational objectives we have commons rooms in our University where the students meet to discuss common educational problems.

Q What about fraternities? Is it necessary that there be commingling there?

A In any particular situation, I should think probably not.

Q You think it is not necessary that they belong to the same social groups?

A This might not be your case, but I should say probably not.

Q You feel like a Negro student at a separate school that doesn't have the same fraternities or scholarships as the other school ----

A I was thinking of social fraternities.

Q Let's limit it to that.

A That seems relatively unimportant. I could answer it either one way or the other, and I would like to see the particular case to see how I would answer it.

THE COURT: Are there other questions?

MR. DANIEL: Yes, sir; just a second, Your Honor.

Q Doctor, are you acquainted with the Encyclopedia Britannica, the publication by that name?

A I have a set. I don't look at it very often.

Q You are from the University of Chicago?

A Yes.

Q Is that publication now published under the auspices of that University?

A Yes, sir; and it badly need rewriting.

Q It is published under the auspices of your University?

A Yes.

Q Have you read the article therein on education, and segregation of the races in American Schools?

A If I have, I don't remember it.

Q You don't remember it.

Have you written any articles for the Encyclopedia Britannica?

A No, we are just beginning a revision of anthropological articles, and it seems there has to be a very drastic change.

Q Do you know who wrote the articles in the Encyclopedia Britannica on the subject of higher education for Negroes, and segregation?

A I don't remember such articles.

Q Do you recognize the Encyclopedia Britannica and the articles on such subjects as an authority in the field?

A No, I do not.

Q You do not?

A No, sir.

Q Do you know of some scientists in your field who do recognize those articles?

MR. DURHAM: We object to that as being irrelevant and immaterial, what somebody else recognizes.

THE COURT: That would be his -- perhaps not what they recognize, but what they have said about it.

A I think I could answer that question, and do more justice to the meaning than just with a yes or no answer.

Q (By Mr. Daniel) Go right ahead.

A All of the articles you have mentioned in that publication are of extremely uneven merit, so that the men with whom I have talked who have studied it--- I haven't studied it -- tell me that certain articles are extremely good and other articles are extremely bad. That is about the best I can answer.

Q I understand you are going to leave, and we may want to know something about that, as an authority. Is that Encyclopedia Britannica, could we here in the Court -- could the Court, in your opinion, consider that as one of the recognized authorities in the field, if they have an authority on the subject?

A I don't think you could, for the reason that you might hit on one of the articles that was particularly out of date.

Q You haven't read the articles on the subjects we are talking about?

A If I have, I have forgotten it,-- I probably have.

Q But it is your opinion the Court couldn't accept that as an authority?

A You might get a bad one. I couldn't say.

Q Could you give us some of the authorities that you think we would be justified in taking as authorities on the subject you have testified to us about? Have you written any books on the subject?

A Not with respect to the American Negro. I have written on the general subject with respect to other racial groups.

Franz Boes , Ruth Benedict, Ashley Montague, Otto Kleinberg. Is that enough.

Q Give us one more.

A One more. I will make it a good one. Then, Dr. Leslie White.

Q Do all of these scientists have the same, share your ideas as to segregation?

A I don't know.

Q Do you know any scientists who have written books or articles on the American Negro, on segregation, who do not share your ideas?

A Many of the scientists that study this problem have not written or expressed themselves on the education results of segregation. They are agreed, all that I have mentioned, and

a great many more on the conclusions which I gave in direct testimony in the first of my remarks with regard to the probability, or the existence of inherent differences in educational capacity, but the application of the conclusion to the school situation concerns a very much smaller group of people, because the group of people concerned with that are educational administrators and the like, and many of those people whose names I have given you are not educational administrators.

Q But on your conclusion as to education, you told me there were authorities in the field who disagreed with your conclusion?

A I think not.

Q Maybe I am speaking about the gradual change.

A I don't know who I could cite for that.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Redfield, you testified on cross examination that your opinions were based on your own studies, but mostly on other studies that have been made. I want to ask you as to whether or not the studies you are speaking of made by other people were scientific studies or not?

A They were.

Q And I want to ask you as to whether or not they were mostly published scientific studies?

A They were.

Q Generally recognized in your field as authorities?

A Yes, they were.

Q Do you know of any recognized scientific study that recognizes any inherent racial difference among the races, as to capacity to learn?

A A man named Porteus in Australia published some papers which I have read, on the Australian aborigines, which reach the conclusion that there are inherent differences between the races. I am sure there are other papers that reach a similar conclusion. They are all specific studies, and the conclusions are drawn on differences in achievement in the races, and the case of Porteus is one. John Ferguson is publishing one, but there are very, very few that would draw the opposite conclusion to the one that I have stated concerning the inherent difference.

Q Isn't it true the Australian aborigine is on the bottom of the heap?

A The important thing is there are different studies, and it has taken them a long period of time to reach the conclusion I have offered.

Q Isn't it true the majority of scientists in your field are in agreement there is no inherent racial difference?

A Yes.

Q Isn't it true that such studies as the Kleinberg study in 1935, and others, are specific factual studies which show that a given fact situation, there is no difference?

MR. DANIEL: We object to that because it is leading.

THE COURT: Of course, it is leading.

MR. MARSHALL: Your witness.

RECROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Redfield, in determining the question of changing the laws and regulations in a community concerning segregation, how far, in your opinion, should the community, should the State consider the community attitudes of both of the races concerning the matter?

A It would depend upon the circumstances. I can make an observation, which I think is a partial answer. I think the effect of having a regulation -- I guess I will have to make a speech to answer that.

Q I don't believe ----

A I have got quite a long ----

Q I don't believe it calls for that. I will ask you this. Do you think the community attitude of both of the races should be considered when you go to see what is best in the way of the field of education for that community?

A I think so. You understand that the attitudes of the community are complex. Attitudes in the State of Illinois and the State of Texas, I take it, are, one; some white people don't want to be near negroes under certain conditions, and those same white people want equality of education and other

opportunities in America, and there are both kinds of attitude in making the change.

Q Would you consider the attitude of some Negroes that would rather have segregation themselves, in determining the educational situation?

A Yes, and you have to consider that Texas, with other Americans, share the view that equality of opportunity is due every man in this country, and they are struggling, as are all of us, to reconcile those attitudes.

Q You would take those two into consideration before you would arrive at what is best to be done for the individual and the community?

A Always understanding both kinds of attitudes.

Q I will ask you, Dr. Redfield, if you have made any check on the relative number, of where the Negroes of this country who hold college degrees, have obtained those degrees? Have you made any study as to the opportunities offered for the Negroes of this country to obtain college degrees?

A I have read reports on it.

Q Isn't it true that the figures of 85% of the Negroes of this country who have college degrees received them from southern, separate colleges?

A I don't remember.

Q Does that sound about right?

A When you say it, sir, it does.

Q Thank you. Are you a member of the National Association for the Advancement of Colored People?

A No.

Q That is all.

(W i t n e s s E x c u s e d)

MR. DURHAM: That is the only one that we have to put on out of order.

MR. DANIEL: I want to call Mr. Durham.

W. J. D U R H A M, having been called as a witness by the Respondents, and having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name, please.

A W. J. Durham.

Q Where do you live, Mr. Durham?

A Dallas, Texas.

Q What business are you in?

A Engaged in the practice of law.

Q Are you attorney for Heman Marion Sweatt in this case?

A I am.

Q You heard him testify concerning the fact that you were his attorney when the suit was filed?

A I did.

Q Was Thurgood Marshall here in the case at that time?

A No, I wasn't here when he talked to me about it.

Q You were not in it either?

A You said was he here. I was in Dallas when he talked to me about it.

Q You misunderstood my question. Was the attorney here, Thurgood Marshall, the attorney for the National Association for the Advancement of Colored people, helping you in the case at the time you filed it?

A No, he wasn't.

Q Was he in the case at the time the deposition of the relator was taken in Houston, Texas, June 15, 1946?

A I had possibly had communication with him.

Q You had?

A Yes.

Q Had the relator had any communication with him at that time?

A Not that I know of .

Q I would like for you to state to the Court what, in the way of finances or legal services, the National Association for the Advancement of Colored People is furnishing in this case?

A They have furnished the money to pay for the record on appeal.

Q How much money has the National Association furnished?

A \$100.00 to me, I think it was. No, whatever the record in this case costs. I don't remember just what it was.

Q Are they also furnishing the attorney for the Association, Mr. Marshall?

A That is right.

Q Were you here at the meeting held here in Austin the night before the case came up in the Court of Civil Appeals?

A I was not.

Q What other finances had the N. A. A. C. P. furnished in this case?

A None, to me.

Q Do you know of any to anyone else?

A I don't know, not of my own knowledge.

Q Did you attend a meeting on March 8, 1947 in Dallas and address that meeting which was considering the question of this lawsuit and higher education for Negroes?

A I have attended several meetings in Dallas where they discussed higher education for Negroes. As to what date, I don't know, I don't remember at this time.

Q Were you in Dallas when the relator came up there and showed you the relator from the registrar saying that he would be admitted to the new Negro Law School?

A I was there. He stayed at my home.

Q You have heard him testify here as to the discussion and conclusion that was reached there, to the effect that he should not enroll, have you not?

A I did.

Q Prior to advising him whether or not he should enroll in the new Negro Law School, I will ask you if you came to Austin

and made any check on the school?

A I did not.

Q Did you send anyone down here to make an inspection of the school?

A I did not.

Q Did you talk with Dean McCormick or any of the other faculty members assigned to the new Negro Law School to determine whether or not, in your opinion, this new Negro Law School had the equal facilities to those at the University of Texas?

A Did I talk to any of them?

Q Any of the officials of the University?

A I did.

Q Did you make any investigation whatever of the courses that were to be offered, and the instruction to be offered in this new school, before advising, before you and the re-later came to the conclusion that he should not attend?

A I only read the courses set out in the catalogue.

Q And those are the same courses offered at the University of Texas?

A Those are the courses offered at the University of Texas.

Q That is all of the knowledge of the matter that you had before you and he reached the conclusion he should not enroll in the separate law school?

A No.

- Q You say that isn't all of the information you received concerning the courses?
- A The courses, yes. That is the only information I had concerning the courses.
- Q Did you have any other information concerning the professors?
- A I never knew who the professors were.
- Q I see. And that is all of the investigation that you made at that time concerning the facilities of the school, the courses and the professors, before the decision was reached as to what he should do?
- A Well, no.
- Q What other investigation did you make of the facilities, the courses and the professors?
- A I asked a Mr. Maceo Smith to furnish me a report.
- Q You asked Mr. Maceo Smith to furnish you a report on the new Negro Law School?
- A That is right.
- Q Did he furnish you that report?
- A Yes.
- Q Is he connected with the National Association for the Advancement of Colored People?
- A Yes.
- Q What is his official position with that organization?
- A Secretary of the State Conference of Branches, N. A. A. C. P.
- Q State that again.

A Secretary of the Texas Conference of Branches of N. A. A.
G. P.

Q Is he here in the court room today?

A I haven't seen him.

Q Where does he live?

A Dallas.

Q Did you make any investigation other than the one you asked
Maceo Smith to make?

A No.

Q Did he give you a written report?

A He gave me a report by telephone.

Q How long after you asked him for it?

A Oh, perhaps four or five days.

Q Perhaps four or five days -- did you make -- then, was it
strictly on the investigation made by Maceo Smith that you
arrived at the conclusion that you and the relator agreed
upon him ----

MR. HARRIS: We object to that. The basis upon
which the attorney advises his client is ----

THE COURT: It is confidential.

A And I desire to claim it at this time.

Q (By Mr. Daniel) All right. I will ask no further ques-
tions, -- before you go, I will ask you one question. Did
you make any other investigation yourself of the matter,
regardless of what you advised your client? You, yourself,

did you make any other investigation of the matter other than what Maceo Smith ----

THE COURT: You can ask him whether he did or didn't, but not what he did.

A I made no other investigation.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q When you say the money that was contributed to the record in this case by the N. A. A. C. P., did you mean the National office of the N. A. A. C. P. or the State Conference of Branches?

A The State Conference of Branches of the N. A. A. C. P., and not the National.

Q And that conference is composed solely of people in Texas?

A Around 40,000 negroes and whites.

Q Both whites and negroes?

A I want to make this statement. When I said "for the record" in this case, Mr. Sweatt gave me the first \$100 to pay the Court costs when I filed this lawsuit. That came directly from Mr. Sweatt.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q To refresh your memory on this matter of the meeting of March 8, 1947, I would like for you to look over this

article and see if you can refresh your memory as to that particular meeting I am asking about.

A This says March 13th.

Q If you will read on down it says the meeting was on the 8th.

A I attended a number of meetings. Whether this meeting or not, I don't know.

Q Look that over and see if that doesn't refresh your memory about attending that particular meeting?

A Now, I attended two or three meetings where similar actions were taken as the action taken here. Whether it was at this meeting or not, because they hold many meetings that I don't attend.

Q This meeting reported here was held just before the Negro Law School was to be opened, the week-end before, wasn't it?

A I don't know.

MR. NABBIT: Your Honor ----

MR. DANIEL: I will withdraw the question.

Q Did you attend one of those meetings several days before March 10, 1947, at which you made a report to the meeting yourself about the separate Negro Law School that was set up here, and which Mr. Henry Doyle, of Austin, was present, and Joseph Rhodes was present and presided at the meeting?

A I have never made a report to any meeting at any time anywhere with reference to the Negro Law School, because I knew nothing about it.

Q You knew nothing about it. Did you ever attend any meeting at which any report was made concerning the N. A. A. C. P. intending to picket the Negro Law School on March 10, 1947, the date it was to open, in which that was reported?

MR. NABRIT: Your Honor, that question is entirely irrelevant and it is immaterial.

THE COURT: I believe it is. I will let counsel answer it, if it -- if he wants to.

A I have never been in a meeting that I can remember where the N. A. A. C. P. took action with reference to picketing the law school.

Q (By Mr. Daniel) I didn't ask you if they took any action. I said, was any report there made or anything mentioned concerning the proposed picketing of this school?

A Not while I was in the meeting.

Q Not while you were in the meeting. How long did you stay?

A I came into the meeting -- the Bar Association meets from ten until eleven, as well as I remember, the last meeting I attended on Saturday morning, and I attended the Dallas County Bar meeting from ten until eleven. I don't know how long the meeting had been in session. I went back to my office, and the office girl told me they called me to come to the auditorium at the Roseland Hall. They wanted me to make a statement for the benefit of those assembled with

reference to the Sweatt case, and I think I got to the meeting around twelve o'clock. The only statement I made in that meeting was with reference to the status of the Sweatt case, and as to other -- what other business they transacted before or after I left, shortly after I made my statement with reference to the Sweatt case ----

Q Picketing wasn't mentioned while you were at the meeting?

A No, because when I came in I told the girl in the office that I would have only a few minutes, and when I came in, they said, "Come to the front, and we will let you make your statement and go." I made my statement, and I guess I had been in there not more than four or five minutes. As soon as I made my statement I attempted to leave the building, and some two or three fellows I knew stopped me, and I sat and talked to them for maybe five or ten minutes, and I left the meeting, and it occurs to me that the meeting adjourned while I was still there talking to them, but I don't know what discussion took place before I went there.

Q What was the name of the meeting -- the organization?

A I believe that was the -- I am mistaken about the N. A. A. C. P. It was a State Council of Negro Organizations.

Q Was N. A. A. C. P. a member of that council?

A As I understand, every organization in Texas, religious, fraternal, social and all other characters, organizations of that nature, are members of that organization. That is my

Q Do you know Henry Doyle, of Austin?

A Yes.

Q Did you see him there at the meeting that day?

A I am not sure whether I knew Henry Doyle on that day. I probably did. My impression is there were some people from Austin.

Q That was Saturday before May 10, 1947?

A I can't be exact about the date.

Q It was before the opening date of the new law school in Austin?

A My best recollection is that it was, but I wouldn't be positive about it.

Q I see. Is Maceo Smith a lawyer?

A No.

Q He is the man that made you the city report that you received on the law school, is that right?

A That is right.

Q He is not a lawyer?

A That is right.

Q That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will recess until nine o'clock in the morning.

(Court was recessed at 4:30 p. m.,
(May 14, 1947, until 9:00 a. m.,
(May 15, 1947.

MORNING SESSION.

May 15, 1947.

9:00 A. M.

EARL G. HARRISON, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.Questions by Mr. Nabrit:

Q State your name, please.

A Earl G. Harrison.

Q And where do you live, Mr. Harrison?

A Philadelphia, Pennsylvania, 2028 Spruce Street.

Q What is your occupation?

A Professor of Law, and Dean at the University of Pennsylvania Law School in Philadelphia.

Q Dean Harrison, would you please state your educational qualifications?

A I received my Bachelor of Arts Degree at the University of Pennsylvania in 1920; my Bachelor of Law Degree at the University of Pennsylvania Law School in 1923.

Q Would you state briefly your professional experience?

A From 1923 until July 1, 1945, I practiced law in Philadelphia. During a portion of that time I conducted courses at the University of Pennsylvania Law School, principally between 1932 and 1938. I became Dean, full-time Dean, and Professor

of Law on July 1, 1945.

Q Are you a member of the American Bar Association?

A Yes, sir, I am; and I am Vice Chairman of the American Bar Association's Committee on Continuing Education of the Bar, a committee which is considering ways and means of post admission education. I might say also that since '39 I have been a Trustee of the University of Pennsylvania, and as such, a member of the Board of Trustees of the Law School of the University of Pennsylvania.

Q Have you ever done any work for the Department of Justice?

A Yes, I have.

Q What was the nature of that?

A Well, in 1940 I directed the first National registration of aliens in the United States; immediately after the outbreak of war I supervised the registration of aliens of enemy nationality. From 1942 to 1944, I served as United States Commissioner of Immigration and Naturalization.

Q Now, Dean Harrison, I want to ask you a hypothetical question. Based upon the evidence which has been, which has already been offered in this case, and to be offered in this case, and upon the proposition that these facts will be proved that are used in this hypothetical question. Assuming that the proposed Negro Law School in Texas is equal in all other respects to the Law School of the University of Texas, except in respect to the size of the student body, and further

assuming that the proposed Negro Law School has a student body which consists of one student, in your opinion would the Negro Law School offer to that Negro student a legal education equal to that offered to any student at the University of Texas, which has a student body of approximately 800 students, and further in connection with that, would it offer a legal education substantially equivalent to that?

A In my opinion, it would not.

I have taken into consideration in that answer the facts as have been testified to by Dean McCormick ----

MR. DANIEL: Excuse me, sir. We object to anything taken into consideration outside of the hypothetical question.

THE COURT: Yes, that is right. The answer should be to the question of counsel.

MR. DURHAM: Your Honor, he assumed in that question the testimony that had already been introduced.

THE COURT: I know, but then counsel asked him to assume certain things, and he then in his answer said he was assuming something something else. It may have been in the testimony, but it wasn't within the confines of his question.

MR. NABBIT: All right.

A I would like to make this additional comment upon the question. In my opinion, it is mistaken, even absurd, to speak

of any institution that has one student as a law school.

Q Why?

A Because the system, the modern system of instruction used in a law school is what is known as the case system, the case method. That is to be contrasted with the former method of the lecture system, in which the professor of law merely sat and lectured to the class, in which case it didn't make much difference how many or how few students there were in the class.

Q Before you go any further in that, Dean Harrison, I would like for you to include in a discussion of this hypothetical question, in dealing with two propositions, whether this student could get equal education or whether he could get the substantial equivalent to that received by a student of the University of Texas; also, ten students. That is, we want the hypothetical question with one student in the Negro Law School, and we want you to deal with and take ten students at the Negro Law School, both in contrast to the students of the University of Texas, where they have approximately 800 students. Will you tell us something about the case system of study and the reason for your opinion?

A Before I do that, I want to answer specifically the question supposing a student body of ten students.

Q Yes.

A In my opinion, such students still would not get an equal

education, or even one that is substantially equal to that which is received by the students in such an outstanding law school as the University of Texas Law School.

Now, I say that largely for the reason that the system of instruction used today is the case method. I was about to elaborate on that. It is to be contrasted with the lecture system. Also, it is to be contrasted with the so-called textbook system, in which the professors and class would use a textbook, which means the result of study by some other professor or lawyer or judge of the pertinent court decisions in that field. The class would take, therefore, rather predigested material by someone else, and undertake to become familiar with the rules of law that can be taken from court decisions, but a good many years ago a change was effected in the method of legal education, and gave rise to the so-called case system.

That system merely means that the students go to the original sources for their materials, namely, the decisions of the courts, and under that system the professor does very much less talking than he did under the lecture system.

He calls on some member of the class to make a report on a given case which has appeared in the case book, and right at that point, the professor usually calls for comment from the other members of the class, and from there on it is largely a matter of discussion in which the members of the

class participate to a large extent, one commenting on the recital made by the previous; another criticizing his statement, either the facts of the case or the decision arrived at by the Court, and it is first and foremost a class discussion.

Now, I find it very difficult even to contemplate the possibility of legal education under such a system of that being received even slightly adequate, if you have a single student in the class, and more than that, I say the same thing is true where there is a limited group of ten.

The so-called smaller law schools usually average between 50 and 100.

MR. DANIEL: We object to that. He is testifying about something not within his own knowledge, hearsay.

THE COURT: Yes. I think that isn't within the question. He might know of it, but he was not questioned about it. I will sustain the objection.

Q (By Mr. Nabrit) So that, Dean Harrison, in your opinion, under the case system of study, it is practically impossible for a single law student to get the best possible training out of a class?

A That is true. In my opinion, a very important facility of a modern law school consists of one's classmates. In other words, it isn't enough to have a good professor. It is equally essential that there be a well-rounded, a representative

group of students in the class room to participate in the class room discussion which centers around previous decisions of the courts.

- Q Now, Dean Harrison, does the presence of -- I will restate that. Is the study of law affected by the presence or absence of upper classmen. By that, I mean this; if a single law student, studying in a freshman class in a school where there are no other students, in the second and third year classes, is the possibility of that student receiving a sound legal education affected by the absence of these upper classmen?

MR. DANIEL: We object, that calls for a conclusion of the witness, Your Honor. It doesn't even call for opinion testimony.

THE COURT: I believe he could answer that, Mr. Attorney General.

MR. DANIEL: Note our exception.

- A In my opinion, it would have a very material bearing upon the legal training the student would receive. In other words, work in a law school outside of regular class room hours is exceedingly important, rubbing elbows with the other students in the law school, taking part in small discussion groups, discussion with advanced students, all are very important considerations, equally so, in my opinion, with the actual class room work itself.

- Q (By Mr. Nabrit) Dean Harrison, have you made any studies; are

you acquainted with the results of any scientific studies with respect to the size of law schools?

A I am.

Q Would you state your knowledge of these scientific studies or your conclusion which you have reached from your own investigations?

MR. DANIEL: We object to the question, and we would like to know what the studies are.

THE COURT: He can perhaps relate what the studies are.

A I am familiar with the studies that have been made by the section on Legal Education of the American Bar Association, with the surveys that have been conducted periodically by the Carnegie Corporation, and by the Russell Sage Foundation.

Q What has been the result of your studies with respect to the sizes of law classes and their bearing on legal education?

MR. DANIEL: Your Honor ----

MR. NABBIT: If you know?

MR. DANIEL: We object to the testimony concerning these studies. We believe they would be the best evidence here. He is testifying about something he didn't have anything to do with, according to what has been shown so far.

THE COURT: I think he would have a right to testify, being familiar with the scientific studies.

MR. DANIEL: Note our exception.

A All of the studies that I have mentioned have considered at one point or another the relative merits of a large, as contrasted with a small student body. Most of these studies have divided the law schools of the country into three groups; the so-called large law schools that have a student body in excess of 1,000. Most of the law schools in the country, it was found in the course of these studies, have a student body ranging from 100 to 500.

There is another substantial body of law schools having a student body less than 100. The studies that have been made have put into the category of so-called smaller law schools those students having a student body of between 50 and 150. Those studies also have indicated that the opportunities for legal education, a thoroughly rounded legal education, are much more limited in the so-called smaller law schools than they are in the larger law schools.

The studies that I have reference to have pointed out in general there are four objectives of law school education. One is, of course, to prepare the practitioner. Second, is to prepare and train law teachers. Third, is to train and prepare men for legal research, and the fourth objective is to train and prepare men and women for public service.

The studies to which I have referred have reached the conclusion that the so-called small law schools are not in a

position to achieve or even to strive for all of those four objectives. They have concluded that the small law schools are not in position really to train men for law teaching or for legal research, and those studies have reached the conclusion that the so-called smaller law schools should, therefore, confine themselves primarily to preparing practitioners, and for preparing men and women for public service.

Q Dean Harrison, do these studies show the, show whether the smaller law schools have in most cases such things as law reviews, moot court?

A The studies show that many of the smaller law schools do not have these additional facilities, which, in my opinion, are extremely important. The existence of a law review is not only a great incentive to all students, but if a student is fortunate enough to qualify for a position as editor, it is a tremendous advantage to him, not only then in the course of his legal training, but throughout the rest of his professional life. It is a qualification to which he can always point with pride, and which will be very helpful to him in connection with his professional standing, and with his professional advancement.

The same is true with respect to the system of moot court arguments. That, again, is something that is outside the class room, but all of the leading law schools of the country, certainly including the University of Texas Law

School have a system of moot court arguments. It doesn't make much difference, in my opinion, whether those arguments are participated in by first year men or not. It is something to which they have access, but in the second and third years they are permitted to take part in it.

They learn something which isn't taught in a good many law schools in any other way, brief writing, ability to stand up and present an argument before a court, training in that, legal research, all of those are covered by the so-called moot court argument system which prevails generally in the leading law schools of the country.

Q Dean Harrison, would you say that scholarships, honors, societies like the Order of the Coif, and law reviews, are extraneous and unimportant factors in a law school?

A They are by no means extraneous. They are an important part of law school life of law schools. To have such an organization as the Order of the Coif is, again, an incentive to the student body, not only looking forward to practicing, one looking forward to a career of public service, but certainly to one who might look forward to law teaching, work on legal research. The fact that he has had an opportunity to be elected to an organization such as the Order of the Coif is an extremely important one to him. All of the matters to which you refer are, in my opinion, an integral and most important part of the legal training, and are by no means to the

slightest degree extraneous.

Q Dean Harrison, is it true that with one student there is no necessity for a full-time teacher because one student with the same capacity as other students could get a better grasp of the principles of law than if he were one of 800 students with many teachers?

A I thoroughly disagree with that point of view, and in my opinion, it is not true, that merely because there should be a small number of students there would be any the less need or desirability for full time professors. Now, the reason, as clearly shown in all of the studies that have been made, the reason for insisting ----

MR. DANIEL: Your Honor, that isn't responsive to the question. I would like for him to ask him the questions.

THE COURT: Yes.

A I am about to discuss the full-time professors.

MR. DANIEL: I know, but let him ask you for it, please, Dean Harrison, from now on.

Q (By Mr. Habrit) Dean Harrison, it has been stated that the reason for full-time teachers is that the teachers will have some chance to individually and personally know the students. Is that the reason for full-time teachers in law schools?

A That is one of the reasons.

Q Do you know the other reasons? If so, state those.

A Of course, I know them; and other reasons equally important

are that the teacher should be available to the students during the usual business hours. The great objection to the part-time lecturer, the lawyer or the judge downtown who comes out and gives an occasional class room hour, the greatest objection to having the whole faculty consisting of that kind of professors is that he will not be available to the student during the ordinary hours when the student is going over the class room notes, his class room discussion, and endeavoring to make up what he calls a digest, or his own review.

Frequently he gets stuck. Something then becomes unclear to him which he thought previously he understood, and so, it has been thought to be a great advantage that the law professor ought to be in the building, accessible to the law students. That doesn't mean that he is accessible every minute of the time. A professor has other duties. He is often engaged in his own research, which is a fundamental reason for requiring a reasonable number of full-time professors, have them there in the law school so that they should be available to the student outside of regular class room hours, to help him over troublesome spots.

Q Dean Harrison, are you familiar with the standards of the Association of American Law Schools?

A I am.

Q Under the standards of the American Association of --

Association of American Law Schools, would a student who was enrolled and engaged in the study of law at an unapproved law school during its first year of operation, who wished to transfer from that school to one of the law schools in the Association of American Law Schools, would that student's credits be accepted by the school which was a member of the Association?

A They certainly would not. If a student attended a first year ----

MR. DANIEL: Just a minute.

MR. NABRIT: Just a minute, Dean Harrison. I think he has answered it, too.

THE COURT: Yes, he has answered it.

Q (By Mr. Nabrit) Would the fact that students' credits would not be accepted from this school be of any importance in evaluating the legal education of that student and the opportunity for that student at this unapproved school, in comparison with the legal education of a student at another school which was approved, and whose credits would be accepted?

A Of course, it would.

Q What is the reason for that?

A A great many law students, after they have taken part of their education, desire to launch upon a specific kind of career. Many of them are totally unable to judge at the outset of their legal education what they want to do, and so, not an

inconsiderable number of them do think in terms of transferring from one institution to another, after they get a clearer idea of what it is they want to do, particularly if they want to specialize,

A student who is in an unapproved school can not transfer to an approved institution. Let's say at the end of the first year, for example, if the school which he has been attending up to that point has not been approved by the Association of American Law Schools, therefore, there is a distinct advantage to the student who is attending an approved institution to have that greater flexibility which arises out of the fact that he may, for one reason or another, wish to transfer to another institution, even though he may not have that intention at all when he enters the law school.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dean Harrison, one of the main advantages of the case system of study is in order that the students may go to the original sources, prepare for recitations on them, and make those recitations in the class room; isn't that correct?

A That is correct.

Q That is one of the advantages?

A That is right.

Q Now, let's take a hypothetical case of a hundred and seventy five students in the class room as compared with ten students in the class room, with the same professors, a one hour class period. I will ask you, in your opinion, whether or not a larger percentage of the students in the class room of ten could recite on the cases assigned for the day than in the class room of 175?

A Unquestionably, a higher percentage of the smaller class would be called on to recite on the cases, but it is necessary for me to qualify that to this extent.

Q I will let you qualify it in a minute.

A I must explain my answer now.

Q I think you have answered my question.

THE COURT: I think he can explain his answer.

MR. DANIEL: All right.

A I do want to say that an equally important part of class room discussion----

Q I am coming to that next.

A All right, if you ask me a question.

Q I am not going to leave anything out in the value of the system.

A Thank you.

Q The next important ----

MR. DURHAM: We object to it. The witness is entitled to answer the question, to qualify his answer. Now he goes to

the next question.

MR. DANIEL: That is going to be just what he is talking about.

MR. DURHAM: All right.

Q (By Mr. Daniel) Now, the next important feature of the case system, as I understood your testimony on direct examination, was the class room discussion, where, after this one student has recited, or as many, as large a percent as possible has recited on the case during the class period, then other students may be given an opportunity to arise and criticize the discussion and make comments; correct?

A That is right.

Q Now, I will ask you if it isn't correct that in a class room of ten during an hour's period, with the same professor, if a larger percentage of the students within the class room would not be able to comment and discuss the case than in a class room of 125 during the same period of time?

A Yes.

Q That is correct?

A Yes, but it is here that I want to say that it is equally important what the student hears, as well as the opportunity he has to make his own comment. It isn't alone important that the student have an opportunity to make comments or suggestions or arguments, but it is equally important, in my opinion, that he should hear the comments and criticisms

of other members of the class.

Q Now, Dean Harrison, you have been teaching that system for several years, haven't you?

A Yes.

Q Isn't it an unusual thing for more than nine fellow students to comment on recitations? Isn't that the unusual, rather than the usual thing?

A No, not in my classes.

Q I see.

A There is more likely to be 25 or 30 students in any one hour who will make a comment, not a recitation on a case, but will make a comment or criticism of what has been said by some fellow student or what has been reported upon on the case under discussion.

Q But in an hour's class where you allow 25 to comment on the recitation given by a fellow student, certainly you do not get to cover as many cases during that hour as if fewer commented?

A That is right. You don't cover as many cases.

Q But in a smaller class of ten where less would be able to comment, not more than nine, ten counting the professor, you would, of course, be able to cover more cases during the hour, wouldn't you?

A Yes.

Q Now then, Dean Harrison, I would like to ask you on the

full-time professor proposition if the -- a law school has three or four full-time professors for ten students, assigned full time; if they would not be in a position to meet the requirements there of giving as much time as possible to the students, much better than in a school where seventeen professors have 850 students to give time to?

A Let me be sure that I understand your question.

Q Yes, sir.

A Am I to assume that the three or four so-called full-time men spend their time outside of the class in the same building with me, the student?

Q All right, sir, exactly as -- you were here when Chairman Woodward and Dean McCormick testified?

A Yes.

Q About the proposed plan for the future of this Negro Law School under discussion?

A Yes.

Q If that is adopted, whereby three or four full-time professors are there all of the time, would not they be able to give more of that required time than seventeen would to 850 students at the larger law school?

A Of course they would, if they are full-time in the so-called new institution, and if they do not go back to the University of Texas after they complete their class room work.

Q I would like to ask you a hypothetical question. If you have

a separate Negro Law School, let's say in one part of the city with absolutely every facility, physical and otherwise, including societies, fraternities, law reviews, and everything that you have in a white law school in another part of the city, in exactly -- with the same number of students, the same faculty and everything else equal except that they are separate schools, one for the whites and one for the colored, I will ask you if, in your opinion, there would be any chance that a student attending one of those separate schools would not receive substantially equal legal training and procedure from those two schools?

A In my opinion there is a considerable chance that just that would be the case.

Q They would receive substantially equal legal education?

A That they would not, and I say that because whenever you have a student body that is limited to one group, you do not get the kind of representation, cross-section of the community that is so highly desirable in particularly the first year classes of law school.

Q If I understand your answer to that question, you believe that a law school in one part of the city with 850 white students, the same faculty, everything exactly the same as one in another part of the city with 850 Negro students, everything is exactly the same except they are separate schools, you believe that the student in the white school would not receive

equal or substantially equal legal training with the student over in the Negro School, is that correct?

A I say that the student in the white school would receive a better legal education, better legal training, because in my opinion, you can not get, under present conditions, a class made up entirely of Negro students that would be as representative of the entire community as would be the case in a class, a school made up entirely of white students.

Q You don't think there would be any chance of substantially equal educational opportunities then in separate schools?

A No, the white student would have a decided advantage, in my opinion.

Q That is all.

MR. NABBIT: That is all. Thank you.

(W i t n e s s E x c u s e d)

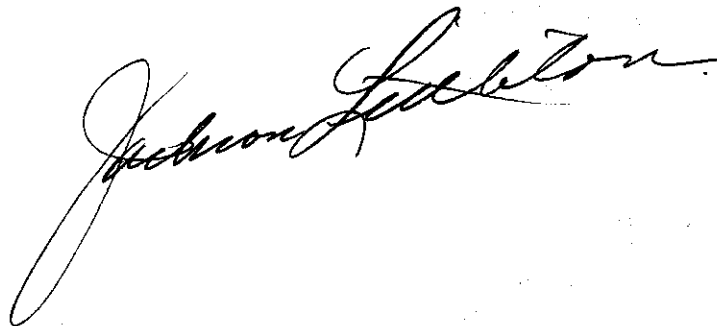
MR. MARSHALL: That is the only one we have.

(Court was recessed at 9:45 a. m.,
{until 10:05 a. m., May 15, 1947,
{following which proceedings were
{resumed as follows:

MR. MARSHALL: May it please the Court, we have one witness whose testimony will be based on some records, that we will have on the way here, and I think it would be all right, if, with the permission of the Court and the other side, for him to testify to those.

The following testimony given by Relator's witness, Dr. Charles H. Thompson, pertaining to colleges and universities other than the one involved in this law suit has been deemed by the Court to be immaterial and irrelevant to the issues of the Relator's right to enter the Law School of the University of Texas. Accordingly, the Judgment of the Court dated the 17th day of June, 1947, in addition to sustaining the Respondents' exception to Relator's allegations pertaining to colleges and universities not involved, has ordered that the testimony be stricken from the record.

Because of the Relator's desire to file this appeal promptly a formal ruling will be included in this record by agreement of the attorneys for both sides subsequent to the filing of the appeal.

A handwritten signature in cursive script, reading "Jackson Lee Linton". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

THE COURT: Subject to the production of the instruments, I think it would be all right.

MR. MARSHALL: They will be here in a few minutes.

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D R. C H A R L E S H. T H O M P S O N, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Will you give your full name?

A Charles H. Thompson.

Q And your address?

A 1230 Fairmont Street Northwest, Washington, D. C.

Q Your present position?

A I am Dean of the Graduate School of Howard University.

Q That is in Washington, D. C.?

A Yes.

Q First of all, where were you born?

A I was born in Jackson, Mississippi.

Q Will you trace your educational qualifications?

A Yes. I attended an elementary school, private Baptist school in Kosciusko, Mississippi, and graduated from what I thought was a high school; and I attended Wayland Academy, of Virginia Union University, in Richmond, Virginia, starting

in 1911, and finishing the academy there in 1914, and subsequently attended college until 1917, and went to Chicago, and spent a year there and got the degree of Bachelor of Philosophy in June, 1918, and then I went overseas in World War I and spent eleven months in France, returned and went back to the University of Chicago, where I took my Master's Degree in 1920.

In 1920-21 I taught at the Virginia Union University in Richmond, Virginia. At the end of that year I went back to the University of Chicago to work toward a doctorate in psychology. In 1922 I went to the State Normal School in Montgomery, Alabama, and spent two years as instructor in teacher training in that institution.

In 1924 I went back to the University of Chicago and completed the training for the doctorate, and received my Doctor's Degree in 1925. On completion of my doctorate at the University of Chicago I went to the Sumner High School in Kansas City, Kansas, and taught psychology and economics in the Junior College for one year.

- Q Dr. Thompson, on your master's, what was your particular study in your thesis?
- A I made a study of comparative learning abilities of Negro children in the City of Chicago.
- Q Getting back to the positions you have held since you obtained your doctorate, after leaving Sumner High School in

Kansas City, where did you go?

A To Howard University, as Associate Professor in Education, in 1926. In 1929-1930, I was made Professor of Education. In 1931 and 1932 I was Acting Dean of Education at Howard University.

In 1932 I was made Director of the Bureau of Educational Research and editor of the Journal on Negro Education, and in 1938 I was made Dean of the College of Liberal Arts, which position I held until 1943. Beginning January 1, 1944, I have since been Dean of the Graduate School of Howard University.

Q Up to the present time?

A Yes.

Q Explain to the Court what is the Journal on Negro Education.

A The Journal on Negro Education is a scholarly magazine in the field of education, which deals primarily with the education of minority groups, and particularly, the Negro group.

Q And how wide is the circulation of that ?

A It has average circulation of a scholarly journal.

Q Is it a magazine of general circulation, or a magazine usually circulated among people in the educational field?

A Primarily the latter.

Q What then is the Bureau of Educational Research that you are Director of?

A The Bureau of Educational Research is an organization which

was set up to make investigations of various types of educational problems, primarily problems dealing with minority groups, particularly Negroes in America.

Q Have you published any scientific articles?

A Yes.

Q In what publications, as far as you can remember?

A A number of publications. The Annals of the American Academy on Political and Social Science, Educational Administration and Supervision and several others that I do not recall at the present time, School and Society.

Q Dr. Thompson, have you done any scientific work, research on the question of the comparative educational facilities for white and Negro students in segregated school systems?

A Yes, I have.

Q About how long have you been working on that?

A Oh, as I indicated a moment ago, I became interested in the problem when I was working for my Master's Degree at the University of Chicago. In 1928, I believe I published the first results of an investigation that I made on the educational achievements of Negro children in separate schools. That was published in the annals to which I referred, in 1928, and since then I have published a lot of things, a list of which I do not have at the present time.

Q Dr. Thompson, are you familiar with other recognized scientific studies in the field of the comparison of education

of Negro and white students in separate schools?

A I am.

Q Have you worked at all with the United States Department of Education in recent years?

A On several occasions.

Q Can you briefly give those occasions, and what type of work it was?

A The first contact with the Bureau was around 1931 or 1932. That wasn't on one of these comparative studies. It happened to be a study of the products of graduate schools of the country. The second contact was a commission called the Wartime Educational Commission. The most recent contact I have had was as advisory member of the National Survey on Higher Education of Negroes, published in 1942.

Q Was that published by the United States Government Printing Office?

A Yes, it was.

Q As an official document?

A It was.

Q By the way, while discussing the Government, do you at the present time hold a position on any official commission of the Federal Government?

A I don't know whether you would call it United States Educational -- United Nations Scientific Educational Organization. I am on the National Committee for the United Nations

Scientific and Cultural Organization, which is under the sponsorship of the State Department.

Q That represents the United States Government?

A Yes.

Q In the United Nations organization on education?

A Yes, commonly known as UNESCO.

Q Are there any people from Texas serving on that Commission with you?

A I think Professor Dobie, at the University of Texas, and Dr. Evans, of the Library of Congress, is on that Commission.

Q Do you have any official connection -- what is the National Educational Association?

A That is an association of teachers in the United States, public and private.

Q And do you hold any official position in that organization?

A I am the consultant to the Educational Policies Commission of the UEA.

Q What is the Educational Policies Committee?

A That is very much as its name suggests, to study and make recommendations concerning educational policies for development of education in the United States.

Q Do you know of the Association of American Colleges?

A Yes.

Q What is that?

A That is an association of some five or six hundred liberal

arts colleges in the United States which have come together in an association for their mutual benefit.

Q Do you hold any official position in that organization?

A Yes, I happen to be a member of the Committee on Teacher Education of that organization.

Q Do you know anything about the Nation's Schools, a magazine, and if so, what is it?

A The Nation's Schools is a magazine in the field of education that deals largely with administrative and supervisory problems, broad policy problems.

Q Do you hold any position in that organization?

A I happen to be consulting editor of that magazine.

Q Do you hold any position with The World Book Encyclopedia?

A Yes. I have forgotten my exact title. I suppose it is consulting editor. What I do is edit all of the material concerning Negroes which goes into that encyclopedia.

Q What is the Southern Association of Colleges and Secondary Schools?

A The Southern Association of Colleges and Secondary Schools is an organization composed of a number of white secondary schools and colleges in the southern area. It is an accrediting agency for this region, and I presume there are other things that go on in it that I don't know of.

Q Does that Association accredit white schools in the Austin area?

A It does.

Q Colleges and secondary schools?

A Yes.

Q Does it also accredit Negro separate schools in the same area?

A Yes.

Q Do you hold any official position in connection with the accreditation of these schools?

A During the past year and a half I have been an inspector of Negro colleges for the Southern Association Committee which accredits Negro schools.

Q What were your duties in that position?

A My duties were to go around with a committee, generally of three, to inspect designated institutions, and to make a report as to whether or not they were living up to standards, in the case of schools already in, and in the case of schools that were trying to get in, to find out whether they met the standards.

Q How many such schools have you inspected in the last year and a half?

A Six or seven.

Q Six or seven?

A Yes.

Q Were you requested by the relator in this case to make certain studies concerning higher education for Negroes in Texas?

A I was.

Q Approximately what date?

A Around the first week in April.

Q As a result of that request what did you do?

A Well, the first thing, I had to rearrange my calendar at the University. That was the very first thing.

Q I mean, in connection with the study?

A The first thing I did on the study was to exhaust all of the sources that were available to me in the Bureau of Educational Research at Howard University. That was number one. Number two, I exhausted all of the resources in the United States Office of Education, particularly the Statistical Division. By exhaust, I got all of the material and made a study of it, as far as possible, up until about May first, when I got on the train to come to Texas. I have been here since, the last 10 or 12 days; in fact, I got in Austin Tuesday a week ago. I have been attempting since being in Austin to exhaust all possible sources of information relative to the education in Texas.

Q Where did you go for this information? What I am driving at, what type of information did you examine?

A First, I went to the Department of Education.

Q Is that the State Department of Education of Texas?

A That is the State Department of Education of Texas, to the office of the Executive Secretary of Scholarship Commission.

I have forgotten the gentleman's name, but his secretary was there, and she gave me the information which I desired.

Then I went over to the Capitol Building. That was in the education building here on Congress and something. I went over to the Capitol Building to the State Superintendent's Office, with the intention of talking to the State Superintendent but he was busy and I found I could get the information I wanted from the statistical department in the Superintendent's Office, and I talked to a Mrs. Tanner in that department, and I went to the Division of Higher Education to see if I could get catalogues or audit reports of State supported institutions in Texas, and found I couldn't get them from that office, but I was directed to the State Auditor's Office, where I went and got all of the available latest reports for all of the higher institutions, State supported, in the State of Texas.

Then I went out to the University of Texas for two reasons. First, to get some information, and, second, to see it and to look over the general plan. I went to the Registrar's Office to get some catalogues, which I did, on various schools. I didn't get all of them that I need, but sufficient. Then I went over the grounds of the University of Texas. I started on foot, and it was very hot, and I got a taxicab and drove all around the place to get an idea of what it looked like. Then I began work on the material. While

I am talking about where I went ----

Q Didn't you also go some place else in Texas?

A The next place I went was to Prairie View State College, where I spent five or six hours going through that plant, talking with the principal and teachers, looking at the equipment in the various buildings and that sort of thing. I spent a very profitable five or six hours at Prairie View. I hadn't been to Prairie View before, and I was very anxious to get all I could from that institution.

Q Dr. Thompson, in these studies that you made of the information that you did not have in your own mind, but that you obtained from other documents and records, will you give the Court as many of those documents and records as you can remember, as to whether or not they were official or private documents?

A Well, the audit reports were official reports.

Q We will decide whether they were official. Just name them.

A The State Auditor's Reports, audit reports of the several State supported higher institutions in Texas. Of course, I had recourse to S.B. 140.

MR. DANIEL: Would you give the dates on those reports, so that we will know how far they go?

A 1945 and 1946, 1945 for some of them, and 1946. I was told those were the latest available ones. There was one which I did not get which they said was not available, namely, the

report for the Texas Technological College at Lubbock, but I got all of the rest of them.

Q (By Mr. Marshall) What other documents did you use in your study?

A Well, I will finish with Texas, if I can.

Q Fine.

A I had access to practically all of the catalogues of the institutions, of the State supported higher institutions.

Q When you say "catalogues" do you mean the published catalogues?

A The published catalogues of the institutions. There are a few exceptions, of course. I have had access to H. B. 246, which is the current appropriation bill, I think, passed by the House. What else in Texas? State Superintendent's Report, the Regulations of the Board of Trustees of the State Board of Education in Texas. Others will come to me.

Q What, in Washington, did you use?

A The reports of the United States Office of Education, the biannual surveys for 1937 and 1938, 1938 to 1940 -- 1940 to 1942; Statistics of Higher Education, Statistics of Higher Education of the United States Bureau of Education for 1943-1944, Statistics on Higher Education for 1945-1946 for some institutions.

Q As to those Government reports from the Department of Education, what are they based upon, if you know of your own knowledge?

A They are based upon reports sent in by the several institutions of the United States Office of Education for compilation and summarizing.

Q And is that pursuant to the United States Department of Education?

A Yes.

Q Is there anything else that you can remember now? If not, we will come to it.

A The list of accredited schools, United States Office of Education. I have a good memory, but I can't remember all of them.

Q We will find out. Now, Dr. Thompson, as a result of your experience over twenty-some years in the field of comparing the education in segregated school systems, and as a result of the materials that you have gone into and examined, are you prepared to testify as to the comparative value of the public education in college, graduate and professional levels, in the State of Texas, with statements as to the official documents from which you obtained information that you do not have in your own mind?

A I do -- I am.

Q As a result of your past experience, your research among recognized scientific sources of information, and your personal observation and examination of official documents and records while in Texas, have you made a comparison of the

provisions for and the quality and quantity of education offered at Prairie View for Negroes with that offered at the University of Texas and other schools offering college, graduate and professional training for white students in the State of Texas?

A I have.

Q First of all, will you name the State supported institutions of Texas above the high school level to which Negroes are admitted?

MR. DANIEL: Your Honor, I would like to interpose our objection to that question. It seems to be the phase where he is about, after having qualified, to testify as to the schools for the purpose of making a comparison in the field of higher education. I would like to make the objection to that question and to the testimony along that line concerning higher education that has been furnished in Texas in the past in other schools other than the two schools that we now have for consideration in this case. The relator's petition asserts an individual right, as held by the Supreme Court in the Gaines case, the right that he has to enter the State supported white school, is an individual right which he has, unless the State furnishes a separate school with substantially equal facilities for the training he desires.

In his petition here, he makes no allegations whatever that would put us on notice that he intends to put into

this case evidence as to all of the other schools, schools he doesn't seek to enter. Whatever the comparative value or the comparative value may have been in the past as to those schools, has no bearing whatever as to his individual right to a legal education, what he is seeking by this suit, and we say that certainly that line of testimony is not admissible. It is irrelevant and immaterial in this case. We will not object to any part of that testimony bearing on the schools that we have directly involved in this case, but as to the other schools, and what has gone on in the past, and not concerned with what we have at the present, we feel is irrelevant and immaterial in this case. It is today, and what we have for the relator today that answers what he has alleged that he is entitled to as an individual right in this case.

THE COURT: Unless it has a final bearing on this case it would not be considered.

MR. MARSHALL: But I can proceed, sir?

THE COURT: Yes.

Q (By Mr. Marshall) Will you name the State supported institutions of Texas above the high school level to which Negroes are admitted?

A Prairie View University.

Q Would you say -- do you know of any others?

A I don't know of any other school, no.

Q Any other public supported school?

A No.

Q Will you name the State supported institutions maintained by the State of Texas above the high school level to which white students are admitted?

A I take it that you mean the four year institutions, rather than ----

Q I do mean four year institutions.

A Well, there is the University of Texas, and all of its branches; the Texas A. & M., and its several branches, including the Agricultural School at Tarlton, and Prairie View, by the way, is a branch of A. & M., and Texas State College for Women at Denton; Texas Technological College at Lubbock; the Texas College of Arts and Industries, and then there are seven teachers colleges.

Q There are seven teachers colleges?

A There are seven teachers colleges, North State Teachers College, and East State Teachers College, West, Southwest Teachers College, the Sul Ross State Teachers College, and San Houston State Teachers College.

Q Making a total of how many?

A That ought to be twelve, the way I named them.

Q There are twelve, are there not? And is there another one?

A It doesn't come to me.

Q What are the -- and I am speaking now, I am asking you to answer this from your experience in this particular field,

and among your associates in that field and the studies that have been made in that field, what are the recognized criteria for comparing education offered in different schools?

A Well, the adequacy of, at least, the following things which I shall mention: Number one, physical facilities, plant assets, and the general total assets of an institution. The physical facilities, such as buildings, equipment, et cetera. The total assets of the institution would include not only that, but endowments and other items involved. Number two, the amount of current educational funds at the disposal of the institution. Three, the curriculum, courses of study offered, or the course, as the case may be. Four, the faculty. Five, the library. Those are the five generally recognized criteria. I might add, the standing of the educational institution in the educational world and in the community. I don't know whether accreditation would cover it or not, but we will say those five or six.

Q Now then, in appreciating and comparing one school with another, or one school with a group of schools, do you use any one of these as the most important, or any group of them as the more important, or how are they considered in relative value, the six items you have mentioned?

A I don't know how you would make any relative value. They are so interdependent it would be difficult to divorce one from

the other. You can't have a curriculum without a building and equipment. At one time we had Mark Hopkins on one end of the log and Garfield on the other, but it is different now. You can't have one of these without the other. They are interdependent.

- Q The first of the criteria mentioned was physical plant. Will you compare the physical plant at Prairie View with that of the University of Texas and other colleges and universities, public supported, that you mentioned above, which are offered to white students?

MR. DANIEL: We wish to renew the objection directly to that question. That has no bearing on any issue in this case.

THE COURT: I am going to hear it. I am unable yet to relate it to this.

MR. DANIEL: Our bill will go to all of it?

THE COURT: Yes, sir.

MR. DANIEL: Yes, sir.

- A I have made a study of the plant assets, and the total institutional assets of the eleven institutions that I have mentioned, with the exception of the Texas Technological College. I have used as sources for my information the audit reports of the State Auditor of these institutions, S. B. 140, and the U. S. education bulletins to which I have just referred. Now, in 1945-46 these institutions, with the

exception of Texas Technological College, had plant assets worth approximately \$72,000,000.00. Probably before I go into that, Your Honor, I might state the basis upon which I am determining adequacy and the general criteria of measurement, if you please.

THE COURT: All right.

A Beginning with the second Morrill Act ----

Q What is the second Morrill Act?

A That is the land grant college act in 1867.

Q Of the United States Congress?

A Of the United States Congress. There were four Negro schools under the act of 1862 which received some money, some of the land grant money. Then in 1890, when the second Morrill Act was passed, it made provision for all of the Negro schools to receive -- all of the Negro land grant schools -- to receive a portion of the money, the act reading something like this; that a just and equitable distribution shall be made. That phrase has been in the subsequent amendments, the Nelson amendment in 1922, and Section 2 of the Bankhead-Jones Amendment of 1925. In making out the just and equitable distribution, the administrators of that fund have set up a formula as follows, or substantially as follows: That where you have separate schools and there is to be a division of these funds, that the Negro school or the school separated, or the schools separated, because in some states

they have separate schools for several races, they would receive an amount at least, or a proportion, at least equal to the proportion which they are of the total population.

Q Is that formula used by the U. S. Department of Education?

A That is in the case of the distribution of those funds.

Q As to the U. S. Department of Education and other studies that have been made, and all of the comparisons that you have studied during your years of experience, isn't that the formula that is generally used by the people in your field?

A Among the majority, I think. I don't know all of them, but I think the majority accept that.

Q Is that a formula in comparing Negro and white schools where they are separate?

A Where money is involved.

Q Where money is involved. Get back to the plants.

A To explain further the formula; in the State of Texas there are roughly five and a half million white people, and, roughly, one million Negroes. Just for purposes of illustration, suppose that \$11,000,000.00 were appropriated to the white schools, that would mean two dollars for each white person in the population. Therefore, I would say it was two dollars per capita total population for the whites. If in the Negro schools one million dollars were appropriated, and there were one million Negroes, that would be one dollar per capita. That is one way I will use the formula

in giving the statistics. The other way is this; the Negroes in the State of Texas constitute 14.4 % of the population. Let's assume that ten million dollars were appropriated for the higher institutions in the State of Texas, Negro and white.

On the basis of this formula, it would be expected that the Negroes would receive at least \$1,440,000.00, being 14% of ten million dollars. I shall use from time to time that formula in those two ways, if I may.

Q I want to get back to the plant. I think you testified there were some \$72,000,000.00 worth of assets?

A Yes; I had better be exact about that.

Q First, let's have that, will you? While the Attorney General is looking at them I want to ask you a few questions.

MR. DANIEL: Those are just his notes?

MR. MARSHALL: Yes.

MR. DANIEL: You are not going to introduce them?

MR. MARSHALL: No.

MR. DANIEL: He can read them better than I can.

THE COURT: He can use them to refer to.

Q (By Mr. Marshall) Using that group of papers you have in your hand to refresh your recollection, and to testify to, to go back to the comparison of the physical plant at Prairie View with these other schools----

A All right. Now the plant assets of all of the institutions

studied, the four year institutions, minus the Texas Technological Institute, the plant assets of all of those institutions in 1945-1946 amounted to a total of \$72,790,097.00.

Q What was it at Prairie View, according to the same report?

A Prairie View's plant assets were stated as being \$2,170,910.00. Now, recently S. B. 140 has appropriated \$2,000,000.00 for plant, so adding that to the Prairie View item, you would get a total appropriation for, or total plant assets for Negro education or higher education as being \$4,170,910.00.

Q May I ask one question there, Dr. Thompson? In arriving at any figure on the physical plant and the assets, is it not proper to include money that has been appropriated and available, even though it hasn't been spent yet?

A Yes, that is the reason I call it plant assets, rather than physical plant. Under that formula, of \$72,790,097.00, which represents the plant assets of the total institutions, if the formula had operated, that is to say, if Negro institutions had gotten 14.4% it would have totaled \$10,481,773.00. Instead, however, they got a little over four million dollars. In other words, they got six million -- or they didn't get six million, three hundred and ten thousand, seven hundred and sixty-three dollars which they would have gotten under the formula.

Now, to put it another way, and probably a little clearer, on a total per capita population basis, there were invested in plant assets of white institutions \$12.88 for every white person in the State of Texas. There were invested in the Prairie View,-- in the plants of Negro institutions -- \$4.71 for every negro in the population in Texas.

Q Now, what about the total institutional assets of the two groups, at Prairie View, as compared to the others?

A In the total institutional assets, they total \$162,039,628.00. That is all of the institutions. Prairie View, \$2,568,554.00. S. B. 140 appropriated \$3,350,000.00, making a total for the Negro assets of \$5,918,554.00.

Q In order that we might have this clear, what is the difference between total institutional assets and the other material you were just giving?

A The plant assets have to do with buildings, equipment, et cetera. The total institutional assets include not only that, but also all of the other assets of the institution, endowment funds and all other kinds of funds.

MR. DANIEL: Now, I think he is getting into something on which the records would be the best evidence, if they are admissible at all. We would like to be on notice of what he is counting as endowment for these white schools.

MR. MARSHALL: These auditor's reports have all been

subpoenaed, and we told the auditor we didn't want to keep him around, and we had him on call, and he is called. Do you have the reports? He is testifying exactly from the reports, and it is commenting on the basis of evidence that will be in.

THE COURT: Let's proceed, and you will have your evidence, and we will handle it by motion to strike, or anything else that is proper.

MR. DANIEL: Note our exception.

Q (By Mr. Marshall) We still don't have clear what you mean by the total institutional assets. What are you reading from now?

A The Audit Report of the University of Texas.

Q For what year?

A For 1945.

Q And who is it issued by?

A C. H. Cavness, C. P. A., State Auditor.

Q Of the State of Texas?

A Of the State of Texas.

Q What page are you reading from?

A Page 4. It includes as assets general operating funds, pledged revenue property funds, and endowment funds.

Q Now what page are you reading from?

A Plant funds. Page 6. Plant funds; that is what that includes, generally.

Q That is what it includes. All right. Now, the last

question before that was that the total appropriations to the -- I mean the total institutional assets for the Negro institution at Prairie View was some five million dollars; is that correct?

A That is right.

Q And the total -- you gave the total figure for the other institutions as \$162,000,000.00?

A No, that is the total assets of all of the institutions studied, were \$162,000,000.00.

Q That is the institutions of higher learning, including Prairie View?

A That is right.

MR. DANIEL: Now, Your Honor, I wish to make a further objection to the testimony in this record concerning endowment funds from private sources. In this case, if he is going to make a comparison as to State funds, and I understand that is what he said his ratio was he is testifying about, that we should distinguish between private endowment funds and gifts to this University and other schools, and limit the comparison to State funds.

MR. MARSHALL: I don't think we ever took the position we were limiting this to the State funds. I don't care how the University of Texas gets it.

THE COURT: I don't think it would be material as to the private gifts.

MR. MARSHALL: But it is available.

THE COURT: I don't think that would work a mitigation to you as to private gifts.

MR. MARSHALL: Say we have a university, that both schools get a hundred thousand dollars from the Legislature, and it happens the University of Texas has oil wells that are available and can be used tomorrow morning to build them more buildings.

THE COURT: Those are state properties.

MR. MARSHALL: The endowment is state property.

THE COURT: But he is speaking of some private person who gave a thousand dollars.

MR. MARSHALL: Let's ask this question.

Q Dr. Thompson, is the figure of endowment included in the auditor's report of the State of Texas as an asset of the University of Texas?

A Yes.

Q It is included as an asset in there?

A Yes.

MR. DANIEL: May it please the Court, may I ask him one question for the objection?

THE COURT: Yes.

MR. DANIEL: Do you know whether or not that endowment included as assets comes from State funds or private funds?

A The one I am going to refer to in a moment comes from State

funds.

MR. DANIEL: I am talking about your total you have been testifying about on the University of Texas. Are you in a position to testify whether or not that total endowment and the other assets came from State or private funds?

MR. MARSHALL: If Your Honor please ----

MR. DANIEL: Have you broken that down to see where the funds come from?

A It is broken down in the report, but it is included in this figure.

MR. DANIEL: What I am asking you about----

A Whether I have used these funds ----

MR. DANIEL: Your total on the endowment funds is what?

A \$61,000,000.00.

MR. DANIEL: \$61,000,000.00?

A From the State.

MR. DANIEL: Well, that is owned by the State now, you mean?

A Yes, this came from the State.

MR. DANIEL: Do you know whether or not that endowment came from the State? It is listed under State. Do you know of your own knowledge whether that came from the State or private sources?

A This report indicates it came from the State.

There are other funds which presumably are the ones which you are referring to, but the \$61,000,000.00 came from the State.

MR. DANIEL: I want to preserve my bill on it.

MR. MARSHALL: I just remember the testimony that they are relying on, on supposed gifts to our law school to make it equal. They relied on that all day yesterday.

THE COURT: Yes, I understand.

MR. DANIEL: We testified to it as a gift. Here we want to know what is a gift, and what is State funds, that is all.

MR. MARSHALL: That is all right.

A Shall I proceed?

Q Yes, Doctor.

A As I was saying, the total institutional assets of white institutions amounts to \$28.66 for each white person in the population. In the Negro schools it equals \$6.40 for each Negro in the total Negro population. In other words, the whites have almost four and a half times, to be exact, 4.47 times as much in total assets per capita of the population as the Negroes.

Q Now, as to the proportion of the population, will you use the figures that are used as to the proportion of the population in the State of Texas?

A Do I have those figures?

Q No, I said, will you give those as to this particular institutional assets, if the formula you mentioned above had been used?

A If the formula, that is, the 14.4% had been used, Negro higher education would have totaled institutional assets of \$23,333,706.00, or \$17,445,152.00 more than they actually were. Now, the total assets of the white institutions are proportionately much greater than the plant assets, as you can see, largely because of the large endowment fund which the University of Texas has by reason of money or lands or other material things given by the State. In other words, the University of Texas has an endowment from the State listed as \$61,277,162.00 in 1945. Now, if the formula were operative as far as Negro higher education is concerned, Negroes would have had an endowment fund from the State which totaled \$8,923,911.00 of the above amount. Now, Prairie View, the only endowment fund that I could find for Prairie View is \$26,000.00 in U. S. Government securities listed in the A. & M. audit report for 1945.

Q Well, now getting to the question of one of the criteria of the current educational, that is, as of the last audit report, limiting it strictly to the current educational funds, will you compare Prairie View with the other schools?

A In 1943-1944, the latest complete statistics available, in the U. S. Office of Education for all of the schools,

including those in Texas, I say, all of the schools because I want to compare those with some of the other schools, there is appropriated ----

MR. DANIEL: You say that is 1943 -- what?

A 1943-1944.

MR. DANIEL: The fiscal year 1943-44?

A U. S. Office of Education Bulletin for '43'44, for that year.

MR. DANIEL: I want to make the further objection, if this testimony is considered by the Court, what has gone heretofore wouldn't have any bearing on the case. Certainly the part back in 1943 wouldn't have any bearing on this case, and the facts as they exist today in this Court. We object to it as wholly irrelevant and immaterial, having no bearing on what is available today.

Q (By Mr. Marshall) May I ask another question? Are those the latest figures in the U. S. Department of Education?

A They are.

Q That is our basis for it, the latest available figures that you can use for the comparison, and the 1943-1944 is the latest thing we can get, and I think it goes to its weight rather than its admissibility.

THE COURT: I think so.

MR. DANIEL: Note our exception.

A In 1943-'44 Texas appropriated \$11,071,490.00 in State,

County and District funds for higher education in Texas. They appropriated to white institutions \$10,858,018.00. In other words, \$1.98 for each white person in the white population in Texas. Now, in the case of the Negro institutions, or to the Negro institutions, there were appropriated \$213,472.00, or 23¢ to every Negro in the total population, or for every Negro in the total population. In other words, \$1.98 for the white, 23¢ for the Negro. The whites in this instance, white institutions got eight times, 8.06 times, to be exact, as much as the Negro.

Q (By Mr. Marshall) You mean per capita?

A Per capita.

Q Dr. Thompson, did you examine the appropriations of the 49th Legislature?

A I did.

Q What figures did that show?

A That showed total appropriation, excluding such things as appropriation for firemen's training, teaching hospitals for the medical branch at Galveston and cooperative extension and the like; the total amount of money appropriated for purely educational purposes in the State of Texas was \$11,476,519.00 for 1946, and \$11,469,478.00 for 1947. Now, to the white four year State higher institutions there were appropriated in 1947 \$11,066,519.00, and in 1947 \$11,059,478.00 to the white schools. Now to the Negro

school, Prairie View, there were appropriated \$410,000.00, which included \$25,000.00 for the scholarship fund, for each of the years 1946 and 1947.

Q When you say scholarship fund ----

A The out of state scholarship fund for Negro students. On the basis of the formula which I have described, Negro institutions, higher institutions, State supported institutions, should have gotten in 1946 \$1,652,618.00. In 1947 they would have gotten \$1,651,684.00. May I correct that last figure? \$1,651,604.00 is the correct figure. In other words, in 1947 and 1946 the State supported white institutions got \$2.01 per capita on the basis of the total population, and the Negro schools for the same years got 44¢ for each Negro of the total Negro population in Texas.

Q Now, did that figure include the two appropriations of \$500,000.00 in S. B. 140?

A No, it did not, but assuming that to include it, the two appropriations of \$500,000.00, which would make \$1,000,000.00, for 1947, for this year, and add it to the \$410,000.00 which Prairie View got, which would give you \$1,410,000.00 the Negroes got, figured per capita on the basis of the total population, it would be \$1.53 as against \$2.01 for the whites.

Q And that assumes that the whole million is spent in one year?

A That is right.

Q Well, now, going back to the reports of the United States Office of Education for the years 1945 and 1946, and I ask you if the figures you are about to use are the latest figures available?

A That is right.

Q Will you compare them, school by school, as best you can?

A In 1945-1946, Prairie View had 1,576 students. The State contributed to Prairie View \$346,250.00 for current expenses.

MR. DANIEL: Hold it just a minute.

A I would be glad to make these figures available to the Attorney General.

MR. DANIEL: I am having to get it as you go along.

A I will make it available to you.

MR. DANIEL: I want to get it right now as we go along.

A The school year 1945-1946.

THE COURT: We will take a few minutes' recess.

(Court was recessed at 11:05 a. m.,
{until 11:20 a. m., at which time
{proceedings were resumed as follows:

Q (By Mr. Marshall) May it please the Court, the documents we are talking about, most of them, have come in, these Federal Reports of the United States Department of Education. They have all been certified by the individual officer in the Department of Education, the Executive Assistant, and the certification is pursuant to Section 1601, Chapter 10,

Title 42, United States Code. The Court will take judicial knowledge of them, but we would like to introduce them, with the right of either side ----

MR. DANIEL: Do you mean offer the entire volumes?

MR. MARSHALL: Sure, with the right of either side to use any part thereof.

MR. DANIEL: We certainly object.

THE COURT: It would seem to me that would be too big, to put it all in. Just offer the part which is pertinent to this case.

MR. MARSHALL: The idea is that the testimony by Dr. Thompson is being made from these records, and I wanted to leave them in until the close of the hearing so that if there is any question, we can go to the documents.

MR. DANIEL: They will be available here.

THE COURT: Yes, but not introduced in evidence.

MR. MARSHALL: That is perfectly all right, but I wanted you to know that we had them. If Your Honor please, in order to keep the record straight, I think the procedure we should follow is that if Dr. Thompson refers to those documents, that we reserve the right, before the case closes, to put in the particular pages of the documents that he has been referring to, and we will let him pick the pages out.

THE COURT: I think that is all right.

MR. MARSHALL: And that his testimony is on that

basis.

Q Do you remember where you left off?

A I was at Prairie View, and East State Teachers College.

Q That is right.

A I was saying that Prairie View, with 1,576 students, got from the State in 1945-1946, \$346,250.00. East State Teachers College, which is a white institution with 1,205 students, got from the State for current educational expense \$448,749.00. In other words, East State Teachers got 30% more money than Prairie View, which had 29.6% more students.

Q May I ask one question there? Was Prairie View giving, in addition to its regular liberal arts education, did it also purport to be giving graduate training?

A Prairie View is the teachers college, A. & M. College and University for Negroes in Texas.

Q And it purports to give Master's training, too, does it not?

A It does.

Q Go right ahead.

A To put it another way, that the student appropriation for East State Teachers College was \$372.40; for Prairie View the per student appropriation was \$219.70.

Q You are sure that figure is \$219.00?

A \$219.00. East State Teachers had a per student appropriation from the State which was 69.4% larger than the per student appropriation to Prairie View. East State Teachers College

had a per student appropriation from the State which was 45.8% larger than Prairie View's per student appropriation, from both the State and the Federal Government.

The appropriation from the State per student for five teachers colleges for white was \$296.10, 34.5% more per student than for Prairie View, and those teachers colleges were East State Teachers, Sul Ross, Southwest, Sam Houston, and North State Teachers.

Now, the proposed appropriation in H. B. 246 in the 50th Legislature carried for 1948, eliminating the items which I have mentioned previously in my testimony as quasi-education, a total of \$23,125,323.00 for 1948. For 1949, \$27,389,-----

MR. DANIEL: What are you reading from now, for 1948 and 1949?

A The proposed appropriation for 1948 and 1949, H. B. 246 of the 50th Legislature

MR. DANIEL: I don't think that has been enacted yet.

MR. DANIEL: That hasn't been enacted.

THE COURT: I don't think it has been enacted.

MR. MARSHALL: I don't think it has been, either, sir; we, therefore, move to strike that portion of it.

A Now, as a consequence of such differences as I have indicated in financial support, the Negro has been educationally

disadvantaged over the years in Texas so far as Texas public higher education is concerned.

MR. DANIEL: We object to that as a conclusion of the witness, Your Honor. He testified to comparative funds. Now he is about to draw a conclusion as to whether or not there has been educational disadvantage on account of that.

MR. MARSHALL: If Your Honor please, I will be very glad to ask him a question, and then we will get the objection straight.

THE COURT: All right.

Q (By Mr. Marshall) Dr. Thompson, from your experience over a period of years of comparing the educational facilities available to white and Negro students in segregated public school systems, and the recognized treatises you have read on that subject, and I mean scientific treatises, as a result of your work in inspecting colleges and the knowledge you have obtained therefrom, what is your opinion as to the equality of educational facilities offered by the State of Texas to its white and negro students, limiting your opinion to college, graduate and professional training?

MR. DANIEL: We object to that, Your Honor. It has no bearing in this case. His question should be limited to the schools involved in this case, if it is to have any material bearing at all on the case.

THE COURT: I believe I will hear it.

MR. DANIEL: Note our exception.

A The objection has removed the question.

THE COURT: He will read it back to you.

(The Reporter read to Dr. Thompson
the last question as shown above.)

A The answer is that Negroes are seriously disadvantaged both from the point of opportunities and relative accomplishment. In the first place ----

MR. DANIEL: Now ----

THE COURT: That answers it.

MR. MARSHALL: That answers it.

Q Now, is that based -- I want to ask whether or not your answer includes the studies you have made in Texas or not, that you have testified about?

A Yes.

Q It does include that?

A Yes.

Q Now, will you explain to the Court your reasons for your opinion which you have just given?

A Well, I have three reasons. In the first place, twice as many white students are provided opportunity in the public higher institutions in Texas as Negroes, and I would like to quote, if it is permissible, from a study, "Senior Colleges for Negroes in Texas," which was made at the direction of the Biracial Conference on Education for Negroes in Texas, Professor T. S. Montgomery, of the Sam

Houston Teachers College, Chairman of the Committee for Study, Dean B. F. Pittenger of the School of Education of the University of Texas, Chairman of the Steering Committee. The study was made and printed about -- at least printed, in 1944, presumably made between 1942 and 1944.

MR. DANIEL: Made by whom? You so far leave the impression it is Dean Pittenger.

A It was made at the direction of the Biracial Conference. Dean Pittenger was the Chairman of the Steering Committee, and Professor Montgomery was the Chairman of the Committee for the study, and wrote up the study, the report.

MR. DANIEL: That clears it up.

A Now, this report states the following, and I quote:

Q (By Mr. Marshall) What page?

A Page 24 and part of 25.

"Texas provided through State-supported senior institutions of higher education for 66.8% of white students enrolled in senior colleges, but for only 31.8% of her Negro students in senior colleges. The ratio of the percentage that the Negro students in the State college are of all Negro college students to the percentage that the white students in State-supported senior colleges are of all white senior college students, is 1 to 2.1. In other words, the State

is bearing twice the burden of providing opportunity for higher education for whites than she is providing such opportunities for Negroes. A disproportionate burden is placed on private effort in providing opportunity for higher education for Negroes."

On page 25:

"The ratio of the number of white students to Negro students in State-supported colleges per thousand of youth of each race, age 15 to 20 is 5 to 1. On this basis the State is providing five times as much opportunity for higher education in State-supported colleges for white youth as it is for its Negro youth."

MR. DANIEL: Give us the date of that report.

A It is dated April, 1944. Now, in the second place, I said that the differences in financial support resulted in differences in educational accomplishment. In the last census, which was the sixteenth census, in 1940, for the first time the U. S. Bureau of Census attempted to find out the educational level of the population; so that they obtained from all persons 25 years old and over certain information concerning how much education you have had, how many years, et cetera. It was found in the State of Texas that 218,225 persons, or 8% of the population 25 years old and

older have from one to three years of college. That is white. In the case of Negroes 11,704, or 2.5%. Over three times, to be exact, 3.2 times as many whites had one to three years of college as Negro.

Those who had had four years or more of college among whites constituted 5%. Among the Negroes, 1.2%, again, about three times as many.

MR. DANIEL: I would like to know where you are getting those figures.

A The U. S. Census Report for the State of Texas.

MR. DANIEL: Do you have them for the northern states also in that book?

A That is Texas.

MR. DANIEL: That is all right. I will ask you about it later.

A I said a moment ago that the Negro was disadvantaged in this respect, particularly from the point of view of college because, as we all know, an individual has to have two or three years of college before he can get in a law school or medical school or dental school, to say nothing about other areas in which college training is necessary. Now, in the third place, a similar situation exists on the professional level.

Take the matter of doctors. In Texas there were 6,076 white doctors, 164 Negro doctors. In other words, there

were of the white doctors 1 to every 903 of the white population in Texas, and one Negro doctor to every 5,637 of the Negro population.

Thus, on the basis of population, there are more than six times, in fact, 6.24 times as many doctors in proportion to the white population as there are Negro doctors in proportion to the Negro population. For the sake of comparison, in Tennessee, where the Meharry Medical School is located, to which Negroes are admitted, there are almost three times, in fact, to be exact, 2.8 times as many Negro doctors in Tennessee as there are in Texas, where Negroes have no medical school to which they can be admitted.

Take the matter of dentists,-----

Q (By Mr. Marshall) First, one question there. State whether Meharry Medical College is a fully accredited medical college or not.

A It is.

Q Go right ahead.

A Take the matter of dentists. The number of male dentists in the State of Texas, white, are 1,901; Negro 81. The ratio of white dentists to white population is 1 dentist to every 2,886 of the white population, one Negro dentist to every 11,412 of the Negro population. There are almost four times, to be exact, 3.9 times as many white dentists in proportion to the white population as there are Negro dentists in

proportion to the Negro population. Again, taking Tennessee for comparison, in Tennessee where the Meharry Dental College is located to which Negroes are admitted, there are twice as many Negro dentists as there are Negro dentists in Texas, where Negroes have no dental school to which they can go.

In the District of Columbia, where the Howard University Dental School is, there are almost four times as many Negro dentists in proportion to the Negro population as there are Negro dentists in proportion to the Negro population in Texas.

Q What about engineers, Dr. Thompson?

A In the case of engineers in Texas, there are 8,961 white engineers in Texas. In the case of Negroes, there are 6 Negro engineers in Texas. The ratio of white engineers to the white population is one to every 612 of the white population. The ratio of Negro engineers and Negro population is one Negro engineer to every 154,065 Negroes. In other words, there are over 250 times as many white engineers in the State of Texas in proportion to the white population as there are Negro engineers in proportion to the Negro population.

Now, finally, take the matter of lawyers. In Texas, and all of these figures are from the 1940 Census.

Q That is the latest census?

A That is right. In Texas there were 7,701 white lawyers. There were 23 Negro lawyers. The ratio of white lawyers to

the white population was one white lawyer to every 712 of the white population, one Negro lawyer to every 40,191 of the Negro population. In other words, there were 56 times as many white lawyers in proportion to the white population as there were Negro lawyers in proportion to the Negro population.

Q Dr. Thompson, getting to the next point of comparison between Prairie View and the other schools, will you compare the curriculum at Prairie View, first, with the curriculum at other schools?

A May I make this introductory statement about the curriculum? The curriculum and faculty and library are the very heart of an institution. However, you must have sufficient financial resources in order to have an adequate curriculum or adequate library or adequate faculty.

Q When you say you have to have sufficient funds to have an adequate faculty, are you or not speaking from your experience in getting a faculty for the graduate school at Howard?

A I am.

Q You have been in that field for quite a while, and know quite a bit about that?

A About 15 or 20 years.

Q Let's compare the curriculum.

A First, let's take the under-graduate curriculum.

Q What is this testimony based on?

A This is based on the National Survey of Higher Education for Negroes, which was a U. S. Office publication, and also upon the catalogue study of Texas A. & M., University of Texas, and Prairie View.

Q Go right ahead.

A The National Survey of Higher Education for Negroes, to which I have just referred, in the making of this survey, found out in Texas that there were 106 under graduate fields of specialization in the white State supported institutions, and 49 in the Negro institution, Prairie View. In other words, there were about twice as many fields of under graduate specialization in the white institutions as in Prairie View.

Now, I have made an analysis, or used the sources, the Texas A. & M. Catalogue and the University of Texas Catalogue, the Texas A. & M. Catalogue states, and that is for 1946-1947, page 10, general information; there are 45 departments of under graduate specialization.

Prairie View University has 13 departments of specialization. In other words, A. & M. has more than three times as many. In the case of engineers, engineering is offered in four white technical schools with eight different curricula leading to engineering degrees. No such curricula was offered at Prairie View, except that you might call mechanical arts education, or industrial education, engineering.

There are, however, a number of sub-collegiate, or high school trade courses given at Prairie View, such as broom making and mattress making; auto mechanics, carpentering, laundering and dry cleaning, plumbing, shoe repairing, tailoring and the like.

Q Dr. Thompson, in your experience in the field of education, do you know of any other university in the country that will give credit toward a degree in liberal arts college for broom making and mattress making? I am talking about universities, not colleges or institutes. Do you know of any recognized, accredited university?

A No, I don't know of any. I am trying to think. There are several institutions which give similar courses. I don't know of any other institution that gives broom making and mattress making.

Q Isn't it true that these are the subjects that are usually taught in the high schools or lower vocational schools?

A That is correct.

Q For example, do they teach any of the subjects you have mentioned at Howard?

A No.

Q Do they teach -- did you find in the catalogue of either A. & M. or the University of Texas, or any other of the schools you have talked about broom making and mattress making?

A No, I did not.

Q Auto mechanics or carpentering, or any of those?

A No.

Q You can go ahead, if you will, Dr. Thompson, to the graduate level of curricula.

A Yes. I might mention in connection with the under graduate field, if I may, because it connects up with the graduate field ----

Q Go right ahead.

A The chemistry department, the chemistry department, which is a very important department in a land grand institution; the chemistry department at Prairie View is not accredited by the American Chemical Society. I did find they were approved at Texas A. & M. and the University of Texas.

Q What effect does that have on a student who wants to do graduate work?

A It means if he wants to do it in chemistry he has to be conditioned a year or a half year; for example, a student coming to us without physical chemistry, which is a thing not given in one of these departments, would have to take a year of that before he could begin his graduate school in chemistry.

Q You are speaking of Howard Graduate School?

A Yes, sir.

Q Is that true in all of the other schools that you know of?

A I should imagine so. I know it is true in some. I don't know

about all of them . The graduate school is of recent origin. It began about the date of the Gaines decision, which was around 1938. In the fall of 1946 nine state Negro colleges in eight southern states gave graduate work in at least one field.

In Texas Prairie View and the Houston College were the Negro institutions giving graduate work. They had a combined enrollment at Prairie View for the regular term and summer of 1946 of 229; Houston College, 308, making a total of 537 students. Graduate work is given in all of the white four year State high institutions in Texas.

The regular term enrollment in white State graduate schools in 1945 was 2,358. Thirteen white State institutions gave 2,846 Master's Degrees and 212 doctorates during the period 1940 to 1945. That is from the Director of Colleges, universities offering graduate work relating to Master and Doctor Degrees, 1940 to 1945, U. S. Office of Education.

Prairie View gave during this same period 103 Master's Degrees and 55 Negro students got Master's Degrees on the out of state scholarship fund, and six doctorates on the out of state scholarship fund between 1939 and 1943, making a total of 159 Negroes who got graduate degrees during approximately a five year period, as contrasted with some 3,000 white students who got graduate degrees in the same period. Now, in general, the range of offerings in white

graduate schools, whether in Texas or in other southern states, is wider than in the Negro graduate school. The National Survey of Higher Education for Negroes, to which I have referred, a U. S. Office publication, indicated in 1942 that the Texas state supported higher institutions for whites offered graduate work in 65 fields, and 5 for Negroes.

At the present time Prairie View offers graduate work in 13 fields, and the Texas A. & M. 45 fields. The University of Texas gives 10 different types of graduate degrees in 40 fields. Prairie View gives a Master's Degree in 13 fields.

THE COURT: I suppose this would be a good point, then, to resume, then, at two o'clock.

{ Court was recessed at 12 noon May
{ 15, 1947 until 2 p. m., May 15,
{ 1947.

AFTERNOON SESSION.

May 15, 1947.

2:00 P. M.

D R. C H A R L E S H. T H O M P S O N, having resumed the stand, testified further as follows:

DIRECT EXAMINATION.

(Continued)

Questions by Mr. Marshall:

Q Dr. Thompson, when we closed I think you were testifying as to the curriculum of the under graduate schools.

A No, I was on graduate schools.

Q Continue on the graduate schools.

A The University of Texas and A. & M. College of Texas, between the period of 1940 and 1945 gave 212 doctorates. Now, if a Negro wishes to obtain a Doctor's Degree in the State of Texas, the only recourse he has in so doing is through what is admittedly an inadequate scholarship fund.

MR. DANIEL: I want to ----

THE COURT: Well, I think that part "admittedly" -- you can withdraw that.

MR. MARSHALL: I withdraw that.

MR. DANIEL: The inadequate part, too, unless followed by some proof.

THE COURT: That is right.

MR. DANIEL: Admittedly inadequate.

Q (By Mr. Marshall) Doctor, we will get to that later.

A All right. Now, in order for a Negro to be eligible for an out of state scholarship to do graduate or professional work, he must be a resident of Texas; he must have resided in the State of Texas for eight years. In order for a white student to do graduate work, all he has to do is be white, and maybe a resident of Texas, because out of state students are admitted in the graduate school at the University of Texas. The out of state scholarship fund provides \$100 a semester in all fields except medicine, where it is \$150 a semester.

It provides round-trip to the school of the student's choice at three cents a mile, less the following items: the tuition fee paid to the University of Texas, which is stated as \$25 a semester, less the round-trip fare from the student's home to Prairie View. The student may also get ten percent of the total award. In other words, a student may get a maximum of \$165.00 for tuition for the regular year, that is, two semesters, and three cents a mile for transportation, less the round-trip from Prairie View.

Now, I have an illustration that was given on the Scholarship Committee Report of a student who wished to attend Columbia University, taking fifteen percent. The tuition was approximately \$407.00, the railroad fare was \$96.00. That student received from the scholarship fund \$165.00 for tuition and \$70.00 for railroad fare, making

something like \$235.00 out of a total which he would have to pay, merely for railroad fare and tuition to go to Teachers College, Columbia University, of five hundred and eight dollars and some cents, making the student pay \$237.00 himself.

Now, the cost per student at the University of Texas in 1945 -- 1946, at the Main University was \$511.00. At the Texas A. & M. College, after eliminating the funds for cooperative extension, the cost of instruction per student was \$734.00 for the same year. The State spends \$200 to \$500 more in these institutions to educate a white graduate student than they spend on the Negro student who wishes to do graduate work on a scholarship.

Q Dr. Thompson, how important is the question of opportunity to do research in a well recognized and well organized university?

A It is very important indeed.

Q Have you made any comparison as to the research opportunities available at Prairie View with the other colleges you have mentioned?

A Yes, I have.

Q What is the result of your study, please?

A The results show, taking a sample of five white high institutions of our years, shows that they expended in 1945, 1946, \$2,753,809.00 for separately organized and

budgeted research. Prairie View received for that year, 1945-1946 nothing, as in previous years, for separately budgeted and organized research.

On the basis of the formula which I described this morning, Prairie View or Negro higher education would have received \$396,547.00. In 1946 Prairie View was voted \$10,000.00 by the Texas A. & M. Board of Directors of the Experiment Station to set up a sub experiment station at Prairie View to be known as Sub-Experiment Station No. 18. This is all of the money that Prairie View has received, to my knowledge, for research.

The Federal Government in 1945 made an appropriation, or gave Texas A. & M. College \$251,288.00 for experiment station research. In taking into account the amount of money that the State puts in, if the formula had operated, Prairie View or Negro higher education would have received \$36,185.00.

Q The question was raised as to how much did they receive, Prairie View?

A \$10,000.00 in 1946 for the special purpose of setting up that Sub-Experiment Station No. 18.

Q That came from Texas A. & M.?

A That is right.

Q Have you compared the professional curriculum of Prairie View with other schools?

A I have.

Q What are the results of your studies on that?

A Well, in medicine, I might state, as a general background, that there are three Class A medical schools in the State of Texas; two private, Baylor and Southwestern, and one public, the medical branch of the University of Texas. The University of Texas catalogue, 1945-1946, lists 353 students. They receive from the State for current expense, not counting the amount of money that went to the three hospitals which are used for clinical purposes, \$694,165.00 for the year ending 1946. In other words, there was a cost per student of around \$1,800.00 or \$2,900.00. Now, a Negro student who wants to take medicine in the State of Texas, his only recourse is to the scholarship fund, which I have mentioned previously. Even if the student attended McGill University in Montreal, Canada, and I pick that because it is the farthest away and it would cost more for travel, he would get less than \$500.00 for mileage. McGill is 2,100 miles. The State spends more to educate a white medical student in the University of Texas than they spend on a Negro student through the scholarship fund, and there are six times as many white doctors in the State of Texas in proportion to white population as there are Negro doctors in proportion to the Negro population.

Now, taking the matter of dentistry, the State pays around \$1,500.00 per dental student. A Negro who wishes to

study dentistry can not get more than \$400.00 from the scholarship. Thus, the State spends a thousand to eleven hundred dollars more for the dental education of a white student than for a Negro student through the scholarship fund, which probably explains why there are almost four times as many white dentists in proportion to the white population than there are Negro dentists in proportion to the Negro population.

Q Without comparing the curricula at all, or other items, how many accredited law schools do the records show there are in Texas?

A Three -- let's see. Yes, three, Baylor and S. M. U. and a public law school, the University of Texas.

MR. DANIEL: Accredited by whom?

A The American Bar Association.

Q (By Mr. Marshall) Now, getting to the fourth point of the criteria to compare schools, public education in general, did you compare the faculty at Prairie View with the faculty at these other schools you have testified to?

A I have.

Q What do the results of your examination show?

A I might say that the basis of my examination is two-fold.

Number one, salary; number two, training. Obviously, to have a good faculty and to hold it, you have got to pay them attractive salaries and give them satisfactory working conditions.

That is why I took salaries from the point of view of training. I wanted to see whether or not the training at Prairie View seemed to be, or some of the members, at least, seemed to be equal to the training of some of the white teachers in some of the white State teachers colleges and other higher institutions, which got high salaries.

Now, as to salaries, the salaries in general at Prairie View are too low, in general, to attract and hold a sufficiently large number of good teachers, or even to meet the competition from other Negro colleges, as I will point out in a moment.

Q Do you, as Dean of the Graduate School of Howard University, have any knowledge as to the necessities of this Negro university as to faculty members?

A Very definitely so.

Q Is the item of salary an item that is at least a part of the consideration?

A A very large part.

Q Go right ahead.

A Now, I would like to refer again, if I may, to the study that I referred to, Senior Colleges for Negroes in Texas, in which two statements, at least, were made concerning salaries. Page 36, the first statement, and it is as follows, and I quote:

"With reference to Prairie View, further study was

made to determine the number of faculty members who had accepted offers from institutions outside of Texas. Investigation disclosed that twenty-five 'well prepared and able teachers' were lost to other institutions within the past five years because of the inability of Prairie View 'to match their salary offers.' Of the twenty-five faculty members lost, eleven held the degree of Doctor of Philosophy."

The next quotation, page 39:

"In no professorial rank is the median salary in Prairie View equal to the lower limits of the range in State supported white colleges. The median salary of a full professor in Prairie View is \$2,025.00, while the lowest salary paid a full professor in a State supported white college is \$2,700.00. The corresponding figures for associate professor are \$1,530.00 and \$2,000.00; for assistant professor, \$1,520.00 and \$1,800.00; and for instructor, \$1,170.00 and \$1,500.00."

Now, not only was that statement true in 1942 or 1943, when it was gathered for this study; the same is true in 1946 and 1947. Except one white teacher in thirteen white State supported higher institutions, holding comparable positions in comparable departments, the highest salary paid

a full professor in Prairie View is lower than the lowest salary paid a white professor in any one of these thirteen institutions, on a nine months basis.

Again, the principal ----

MR. DANIEL: May I interrupt there? May I get this down to date? What is the date of it?

A 1946 and 1947.

MR. DANIEL: And the data you read a minute ago was ----

A From this book in 1944, which was in 1942 or 1943. The principal of Prairie View in 1946-1947 got a salary that was \$1,000.00 less than the lowest paid head of any four year State supported institution in Texas.

Q (By Mr. Marshall) In going through the records of these several institutions, did you find any other institution in Texas giving college and graduate work that has a principal at the head of it?

A No, I haven't.

Q Have you ever heard of any University in the United States giving graduate work that is headed up by a person with the title of principal?

A No, I haven't.

Q What is the usual title?

A President or chancellor, or something of the sort.

Q Go right ahead.

A Now, Prairie View's faculty as a whole obviously -- I won't say obviously -- Prairie View's faculty as a whole isn't adequately trained. However, there are some adequately trained teachers at Prairie View, and naturally they should be paid accordingly. Let's look at the training for the moment. In 1940-1941, and this is found in the National Survey of Higher Education for Negroes, page 31, -- page 14, 8.33% held the Doctor's Degree, 45.5% held the Master's Degree. In 1942-1943, -- this is from the Senior colleges, this study here, Senior Colleges for Negroes in Texas, in 1942-1943, 6% had the Doctor's Degree and 52% had the Master's Degree. In 1945-1946, according to the Prairie View catalogue, and the degrees listed therein, 9.3% had a Doctor's Degree, 52.3% has the Master's Degree. I said a moment ago that Prairie View would obviously have to raise salaries considerably in order to meet the competition of other Negro colleges. There are some four or five Negro colleges, to my knowledge, that pay as much as \$5,000.00 for a full professor.

Q Isn't it also true that in recent years Negroes have been given opportunities to teach in colleges that are not designated as Negro universities?

A That is true. There are some fifty or sixty Negroes now teaching in northern institutions.

Q So that you have additional competition now?

A That is right.

Q You go right ahead.

A The library, obviously, is very important. It is the life-blood of graduate work. The present library holdings of Prairie View are 25,000 titles, 465 serials.

Q I think we know what titles are. What are serials?

A Any sort of thing that runs in serial magazines and proceedings which run in serials. Leaving out of account the library at the University of Texas, which is one of the best university libraries in the south, it certainly has the largest collection of any university in the south, and taking the State Teachers Colleges libraries, the holding of white State Teachers Colleges libraries in Texas are larger than Prairie View. For example, the holdings of twelve white, four year schools, that is, teachers colleges and four schools in 1945, ranged from 28,357 in the Texas College of Arts and Industries, to 750,974 in Texas University.

North State Teachers College had more books, 144,426, than all the Negro public and private colleges in the State of Texas in 1945. The number of books that the negro colleges in Texas was supposed to have in 1945 was one hundred and ten thousand and something.

Now, East State Teachers College, with 1205 students in 1945-1946, had library holdings of 81,974 volumes in 1945, as compared with Prairie View in 1947 with 1619

and 25,000 volumes.

The Southwest State Teachers College, with a student body of 957 students, had 56,612 volumes in the library in 1945. The Sam Houston Teachers College, with 1401 students in 1945-1946 had 63,100 volumes in the library in 1945.

Q Dr. Thompson, from your experience as Dean of the Graduate School of Howard University, is it one of your responsibilities to ascertain as to whether or not that library is kept up to standards for accredited graduate schools?

A That is true.

Q And in your position as inspector for the Southern Association of Colleges and Secondary Schools, is it one of your jobs to inspect, as to the adequacy of libraries in the colleges?

A Yes.

Q On the basis of your experience in those two fields over a period of years, what is your opinion as to the adequacy of the facilities which you saw and inspected at Prairie View last week?

A Well, frankly, they are inadequate.

Q Did you see the library at the University of Texas, for example?

A I didn't go in it.

Q Are you acquainted with the number of books in it?

A I am acquainted with the holdings.

Q How does Prairie View library, regardless of the number -- just

the number of books -- is there any semblance of equality between the two?

A There would not appear to be.

Q And the figures you have given on the books are figures that are used in that opinion of yours; is that correct?

A That is right.

Q Do you believe that Prairie View's library is adequate to maintain a graduate school?

A In fact, Prairie View doesn't have a first class under graduate library. That isn't only my opinion, but the opinion of this survey committee. They quoted the late Dr. Bishop, who was one of the outstanding librarians, who was last at Michigan, if I may quote that, page 64, and this is the quotation:

"A well selected library of 50,000 volumes will perhaps suffice for the needs of sound teaching in a college of not more than 500 students. This number does not include duplicates."

Q Does Prairie View have anywhere near that amount?

A They have 25,000 volumes.

Q And how many students?

A 1619, I think I mentioned that a moment ago, 1619 students.

Q Dr. Thompson, in the earlier part of your testimony, I think your last criteria was the one of -- I don't think this is the exact phrase for it -- accreditation or standing in the

scholarly world. Did you check on the accreditation of Prairie View with the other public supported schools in this state?

A I did.

Q What was the result of that study?

A Well, the results that I found are as follows: I might explain, in order to explain what the results mean, the highest accreditation which any college can get in this country is to get on the approved list of the Association of American Universities. The highest accreditation that a university can get is to be a member of the Association of American Universities. There are three white State schools on the approved list of the Association of American Universities; Texas A. & M., North Texas State Teachers, and Texas College for Women.

Q What about the University of Texas?

A The University of Texas is a member of the Association of American Universities.

Q Is Prairie View a member?

A No, Prairie View is not a member.

Q Is it accredited by that association?

A No.

Q Well, did you -- about how much accreditation did you find Prairie View to have?

A Prairie View is accredited by the regional association in this

area, the Southern Association.

Q Does it carry any other accreditation that is recorded in the legal proceedings, that you know of?

A Not that I know of, except the State accredits the institution, of course.

Q Well, now, what about for example, the Medical School of the University of Texas? Is that accredited or not?

A Yes.

Q What about the -- it is already in about the Law School. What about the School of Engineering?

A The School of Engineering is accredited by the Engineering Council for Professional -- I will give you the name of it -- Engineering Council for Professional Development.

Q Dr. Thompson, as a result of your study that you have made of Prairie View with the other schools and universities in this state that are publicly supported, can you compare favorably-- can you compare Prairie View favorably with any one of them?

A I don't think so, at present. I can't think of any institution that it would compare -- would you define "compare favorably" for me, so that I may be sure to know what you are talking about?

Q Pick the smallest State teachers college in Texas your mind. Tell the Court whether or not there is any State supported school in the State of Texas that will give a Negro the equivalent of the education that can be obtained by a white

student in the smallest of the teachers colleges in Texas.

A I doubt if I can answer that.

Q I will ask you this. In your criteria you used to compare the schools, how do you compare Prairie View with the University of Texas?

A There is no comparison there. I can answer that.

Q What do you mean, there is no comparison?

A I mean that Texas University is a university. Prairie View is the university -- I don't know how else to say it. It is a poor college.

Q And it isn't -- and is it or is it not a university in the field of general educational policies?

A You mean on paper?

Q No, as it exists today. Is it or is it not a real university?

A No, it is not a real university.

Q Can it give to the Negro student the type of education that is given to the white student at the University of Texas?

A Not at all.

Q Can a graduate student attending Prairie View University get the type of education that a graduate student at the University of Texas can get?

A I doubt it very seriously.

Q In your experience in your field of education, and as Dean of the Graduate School, is it possible to put graduate work,

adequate graduate work training on to a school that gives inferior under graduate training?

A If I may turn the question around, I would say it is highly undesirable. It is possible to put it on there and have just as poor graduate work as you have under graduate work.

Q Would it inevitably follow that the graduate work would be inferior?

A I think so.

Q Your witness.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Thompson, you are not opposed to good separate schools for Negroes, are you?

A Would you mind elaborating on that question?

Q I mean, based on your experience as an educator, for the best interests of all of the people concerned, are you opposed to having the establishment of good separate schools for Negroes?

A Emphatically, yes.

Q You are opposed to it?

A I am.

Q Do you know Ambrose Caliver?

A Yes, I know Dr. Caliver.

Q Is he a Negro or a white man?

A He is a negro.

Q Are you acquainted with his summary made for the National Survey of Higher Education of Negroes for the United States Department of Education? I will hand it to you and see if you are acquainted with it.

A I am generally acquainted with it.

Q The book that you have there in your hand, I will ask you to state whether or not that is a similar study to the one you have testified here about on direct examination?

A It is one of the series of volumes of that study.

Q The one you have testified about, I believe, is dated 1942, is it not?

A That is right.

Q The one I have handed you is dated 1943, is that right?

A That is right.

Q That is the latest one out, the one you have in your hand now, isn't it, the latest one you have any knowledge of?

A May I give a qualified answer to that?

Q All right.

A The summary was written after the other volumes were set up, naturally.

Q Yes.

A And was printed after that. That is why it bears a later date.

Q That is the latest thing then arrived at from the work that was printed ahead of it?

A It is a part of the study summarized by Dr. Caliver.

Q Your Honor, I would like to make clear that I am cross examining him, and I still want to retain my bill of exception, and I am cross examining him just in case the Court desires to consider this evidence.

THE COURT: All right.

Q (By Mr. Daniel) Is Dr. Caliver a recognized authority in the same field that you have testified about that you are acquainted with, through experience and training?

A By some people, yes.

Q Well, do you recognize him as such?

A In some areas, yes.

Q He has made a much more comprehensive study of the subject in preparing this work for the Government than you have in preparing for your testimony here today, hasn't he?

A I doubt it.

Q You doubt that?

A Yes.

Q I will ask you if you agree with his conclusion contained in this work that the kind and amount of education needed by any individual or group in a democracy at any given time is determined by their capacities, their interests, their abilities, disabilities, and their goals?

A Certainly.

Q You agree with that?

A Yes.

Q Do you agree to his conclusion here in this summary that in addition to taking into consideration the amount of money spent and the facilities available, in determining the question as to whether or not equal opportunities are offered for higher education, that in addition to all of that, in determining what should be offered, that you should take into consideration the environment and social order of the particular area in which the schools are established?

A I don't know that I get that. Would you mind restating it?

Q Suppose I read you what he says, and then you tell us whether or not you agree to that. This is from page 1 of this summary:

"National Survey of the Higher Education of Negroes, a Summary,"

printed in 1943 by the United States Office of Education:

"Formerly in our educational processes, particularly in organized education, this inter-relationship has not always been recognized,"

talking about inter-relationship between social order, that I have been talking to you about, and the fixed facilities.

"The Survey of the Higher Education of Negroes, however, which this volume summarizes, attempts to view education in its social setting, and consequently, not only are institutional matters studied, such as student personnel, curriculum, faculty, administration, and other facilities,

but also the social and economic factors
surrounding the institutions and influencing
the lives of the students and their communities."

Now, my question is, do you agree with that statement from
the summary that these educational things, in addition to
what you have testified about here today, must necessarily be
taken into consideration in deciding upon how you can offer
equal educational opportunities in a given community?

A That was a basic assumption underlying all of my study.

What Dr. Caliver means there is apparently the thing that I
do not agree with. I have argued with him about it.

Q You don't agree with his conclusion on that?

A I don't agree with his general educational philosophy of
what a university or college is, or what it is supposed to
do for an individual.

Q Do you agree with this portion of the summary?

"In saying, therefore, that the higher educational
needs of Negroes should be considered in light of
their backgrounds and special interests, a princi-
pal is enunciated which applies equally to any
other group in our body politic."

A I think that perfectly odd.

Q Do you feel like, for a white student you should establish
the kind of school the need or demand calls for?

A Yes, and if I may explain that, I don't think there are

any needs among the white part of the community that are not among the Negro part, or shouldn't be.

Q You have been here through this testimony today, haven't you?

A I certainly have.

Q I don't mean today. You have been on the talking end of it today, but since the case began Monday morning?

A Off and on.

Q You have heard it testified here that the relator in this case is the first applicant for law to the only State Law School that was in existence at the time he applied, haven't you?

A I believe I heard that, yes.

Q Yes. You know of no other applicants for law, any other students who wanted to take law in the State today before this time?

A I didn't even know he wanted to take it before this case came up. I don't mean to be facetious about that.

Q I understand. I don't mean to be, either. I am trying to lead to the point as to your opinion as an expert as to what should be available before there is a demand for it. In other words, is there is only one Negro student who wants to take law, none before him, do you feel like that the State should have provided a law school prior to that time for Negroes?

A I think that the State should have provided for Negroes in

1876 or whenever it was that Prairie View University or the Texas A. & M. was set up. I think it should have been then. The fact that only one Negro student wants law, it seems to me, is immaterial in this state or any other state, from my point of view.

Q You don't teach broom making and mattress making at Howard University?

A No, those are not college subjects.

Q You don't have demand for them?

A Negroes have demands for them, and we teach them in the trade schools where they ought to be taught.

Q Until there is a demand for certain subjects at Howard University that you do not now teach, you just don't offer them, do you?

A That isn't true, no. You see, there is a difference between demand and being able to meet the demand. We put on three departments last year that we didn't have. We didn't know a single student would take those subjects, geology, geography and another that I can't think of at the moment. We put those subjects on, not because of the fact that we had a demand, but because we thought students ought to have the opportunity to get an education in those fields, and I think the same thing about a university. The opportunity ought to be there, because the opportunity itself is stimulating.

Q Regardless of whether the students want to take the courses or

not?

A That is right. The only way to determine whether a student wants to take a course is to make it available, in my opinion.

Q Now, you have studied-- you have read the survey and the summary that has been made on this question, you have testified about, by the Federal Government, haven't you, Dr. Thompson?

A Two or three years ago, I read the summary. I read the other volume because, to be perfectly frank with you, I knew Dr. Caliver, and I didn't agree with him on educational philosophy, and I knew about what he would put in the summary. I was interested in the basic facts so that I might draw my own conclusions rather than have his conclusions.

Q Let me read another one.

"Changes in the social structure -- of which the educational system is a part -- must come slowly if disorganization is not to result."

A I agree with that.

Q Then, in order to solve this problem that we have here, as you have testified about, in your opinion, in this State the problem that you have testified about as having existed in past years, don't you believe that the only way to solve it is by a gradual change, a gradual change from failing to furnish equal educational opportunities to a system, setting

up those equal educational opportunities by State supported schools?

A If I may answer it this way, I would have answered the first part of your question yes, but the latter part forces me to say no. May I explain? I think I know what the question that you started out -- I won't put it that way. I think I know what you are driving at.

Q You answer what you think I am driving at, and if you don't get it, I will come back.

A What you are saying in so many words is this, is what I think you were saying, assuming that this thing ought to be done gradually, the change ought to be made gradually.

Q I am not saying it. I have read from Dr. Caliver here, and I asked you did you agree with him.

A You gave me a question.

Q Yes, I did. Go ahead.

A Do you want me to answer your question, or Dr. Caliver?

Q Go ahead and answer what you understood I am driving at.

A What I understand you to be driving at is this; that where we have certain customs in the south, and to change overnight would cause disruption of one sort or another, you are saying gradual change, that is more or less authentic, it seems to me. You have got to start somewhere. This is the first time I have been to Texas. I have been in practically all of the southern states, and was born in the south, but I

have been very much impressed with it since I have been to Texas, by both the white people and the Negroes in Texas. I think you are a very progressive community. It is my opinion that the time is ripe to start with professional and graduate work. I think it could very easily be done in law, and then work gradually. That is what I mean by a gradual change. Of course, if you tried to change the system overnight from the kindergarten through the University, you might have more disruption than otherwise; and yet, I don't know whether the disruption would be so much at that.

I think, to answer your question, to begin with the law school and graduate school, and then the college and high school and so forth, that that would be a gradual change, and I think most people would agree that is gradual.

Q Whatever the State should do to accomplish the purposes we have both been talking about, whatever should be done, don't you believe should be first taken into consideration the desires of the Negro citizens of this state, if that is what they want, the general desires of the Negroes as to what they want? Just answer yes or no so that we can speed along.

A I don't want to speed along and answer it wrong. May I answer and qualify it?

THE COURT: You may answer and explain it.

A The thing that has surprised me; I have been pleasantly

surprised to see that Negroes really want to go to the University of Texas.

Q (By Mr. Daniel) That isn't responsive to my question at all.

A I am merely explaining.

MR. DANIEL: I ask that it be stricken.

THE COURT: I doubt if it is responsive to the questions.

A Very well, Your Honor.

Q (By Mr. Daniel) You are acquainted with the facts and figures as to the number of northern Negroes who come to southern separate schools for education, are you not?

A In a general way, yes.

Q I will ask you if this statement by Dr. Caliver, in your opinion, from your studies, is substantially true?

"While southern Negroes often go north for graduate work, there are large numbers of Negroes resident in northern states who go south to attend Negro colleges. Moreover, even in northern colleges and universities there are often, if not usually, special problems which confront Negro students regardless of their places of residence or previous training."

A I think that is true.

Q I will ask you to state whether or not you are acquainted with this survey and the conclusion drawn from it by Dr.

Caliver, making the survey of eight northern universities where negroes were admitted. This is from page 13.

"Whereas very few southern Negroes were attending these eight northern universities in 1939-40; in the year preceding, nearly 4,000 northern negroes attended Negro colleges. Almost three thousand of this number attended colleges in southern states. The majority of these Negro students were residents of eight northern states which rank high in economic resources. Thus, instead of the northern states carrying an undue burden in the higher education of Negroes, it appears that institutions located in those states which have the least wealth are providing educational facilities for Negro residents from more economically favored regions."

Do you agree with that?

A I think the facts stated in the first part of the statement are correct. I think the implications may not be.

Q In other words, the majority of your northern Negroes who have available to them institutions that they can attend, a majority of the northern Negroes attending colleges actually elect to go to separate Negro schools?

A No, that isn't true. Dean Caliver said they studied eight institutions. The 4,000 students came from all over the

north, is that correct?

Q Yes. Do you have the figures on how many Negro students are attending college, northern Negro students?

A We made a survey -- Dr. Jenkins, who was a member of the Bureau of Educational Research, made a survey this fall.

Q Could you get that for us by morning?

A I might have it here. I don't know. I will look and see. I haven't -- let's see, in 1945, there was something like five or six thousand Negroes attending school in the north, and the estimate now is that about twice that many, because of the G. I. Bill and things of that sort.

Q Suppose you try to get me those figures overnight?

A All right.

Q Have you read the conclusion by Dr. Caliver as to what is the best thing to be done for the Negroes who want to have equal educational opportunities in both the north and south, contained in this summary, or survey you have been testifying about here today, under Chapter 6, pages 40 through 50?

Have you read that? Are you acquainted with that?

A I probably read them, but as I said a moment ago, I don't put much weight on the conclusions, because Dr. Caliver and I don't have the same educational philosophy.

Q You don't find anything in his conclusions which would indicate that it was necessary to do away with separate schools in order to give equal opportunities?

A I don't remember his conclusions, but I doubt seriously if he put that in print, being in the Office of Education.

Q That is the conclusion that he has on that matter. Is that one you disagree with him on? You know what his conclusion is?

A His public conclusions and his private conclusions may be different. You are talking about his public conclusions.

Q You tell us you know his private conclusions, and you disagree with them. Isn't it true his private conclusions are like his public conclusions here, that separate schools, if established on an equal basis, can solve the problem as far as giving equality of educational opportunity to the Negro students?

A I have come to the conclusion from discussions with him that his private conclusions are not that, but his public conclusions are probably motivated by the fact that we have separate schools, and if a Negro is going to get an education, he has to go to them until we get an integrated situation.

Q You are not positive about his private conclusions?

A No.

Q You wouldn't undertake to tell this Court the man has signed and printed something for the Government other than what he actually believes about it, would you?

A No, I wouldn't do that.

Q Now, as I understand, all of your testimony as to what you

have examined in the way of funds available for Negro students as compared with white students, up to the pending bill over here in the Legislature for this session, and Senate Bill 140, which is already enacted, had to do with past years, what had been done for Negroes in past years, as compared with white schools; is that correct?

A Up to 1947.

Q Up to 1947?

A That is right.

Q The school year 1946-1947?

A I might correct that. I was talking about H. B. 246, and it was ruled out this morning. I have gone into those proposals, and that was ruled out, and I didn't go into it.

Q Up to that time, and Senate Bill 140 that has passed, all of your testimony has been what has happened in the past?

A Yes.

Q You have read Senate Bill 140, the provisions setting up the new Texas State University for Negroes, have you not?

A Yes, I have read it. I wouldn't want to have to quote it, or give the substance of it.

Q You have, I suppose, in making your survey as to what is available down here in Texas for Negroes, you have made a survey of Houston College in Houston for Negroes, have you not?

A No, I haven't. You mean a personal survey?

Q Or the kind of survey which you made from the books of all of the other schools you have testified about?

A Houston College was included in some of the material which I gave. For example, I gave the number of students who had Master's Degrees and doing graduate work at Houston College.

Q I heard you mention Houston College once. When you were figuring the funds the State put into State schools for Negroes in Texas, you didn't include any money spent by the State on Houston College, did you?

A Yes, '43 or '44.

Q On Houston College. You have not examined those facilities of Houston College, the buildings and the 53 acres of land, have you?

A No, I have not.

Q I believe the amount of money that you gave as having been appropriated by Senate Bill 140 to maintain the new university and its various branches as one million dollars?

A For current expenses, it was five hundred thousand dollars for two years, which would make one million dollars. I believe that is correct.

Q Did you read the text of the bill where other funds were made available?

A Yes, I took that into account. As I counted it up, there were \$3,350,000.00 made available for various and sundry purposes for Negro higher education.

- Q Actually, then, it was \$1,350,000.00 for maintenance and support, instead of one million, wasn't it?
- A There were some items in there about Prairie View, something about some other institutions. It was scattered so through the bill it was practically impossible to tell exactly where the money was going, or how it was to be used.
- Q You mean impossible for you to tell?
- A Yes, for me to tell.
- Q You could tell the bill provided for two million dollars for the establishment of the University?
- A Yes, and I took that into account.
- Q At the beginning didn't you say Prairie View was the only separate Negro College maintained by State funds in Texas?
- A I think I did that.
- Q And wasn't quite a bit of your testimony based on Prairie View being the only State supported Negro college in Texas?
- A Not throughout.
- Q But quite a bit of it?
- A Here is what I understand, if I may explain. Up until 1945 I understand the Houston College for Negroes was a municipally owned and controlled institution. Around 1946, I understand it changed to some other status, which I couldn't find. I have taken into account the State's appropriation to Houston College for Negroes up until that time.
- Q In giving your total amount of money appropriated by the State

for 1945-1946 school years, that was a figure of \$72,790,000.00. You itemized it; look at your figures there. Did you put Houston College in it?

A No, sir.

Q You allowed no money in there for Houston College?

A No, nor did I have any for Texas Tech or the University of Houston.

Q I asked you about Houston College. You can get that in some other way.

A Pardon me.

Q You can make a note of it so that you can ask him. Do you know whether or not these amounts of money appropriated to Negro schools in Texas were sufficient to operate those schools in accordance with the number of students who applied to go to them? Do you know that of your own knowledge or not?

A Looking at Prairie View -- how about Prairie View? The amount of money that Prairie View had, or even if you gave them all of the money appropriated under S. B. 140, it wouldn't be sufficient to operate it on the basis on which it is supposed to operate.

Q Do you have the total figures on how many white students attended college in Texas during the years you have testified about on Negro students?

A You mean total students?

Q Total number of white students attending Texas colleges during the years you have testified about on Negro students?

A I think I have Negro students.

Q I am talking about State supported schools.

A 19 -- what is it, 1945 - 1946, that we are talking about now?

Q You gave several years. Let's take that one to begin with. You gave the total number of Negro students?

A At Prairie View there were 1,576 students in 1945-1946.

Q And how many students were attending all of the other State supported schools for whites?

A I could not tell you that. I can tell you some of the other institutions.

Q You have the available books for that, do you not?

A I suppose you could get it from the catalogue, or some place of that sort. All of them aren't available.

Q In other words, you have drawn no comparison as to the total number of white students as compared to the total number of Negro students in making your financial comparisons, have you?

A No.

Q The ratio you have used is strictly a ratio of State funds appropriated as compared with population of Negroes compared to the total population of the State; right?

A That is correct, and ----

Q That is the ratio you testified about here under your point number one on the amount of funds, and the ratio you have used all along here in determining the percentage that the Negro Schools would have been entitled to under said ratio; right?

A Yes.

Q You have not applied in this case the ratio of students attending, white students attending, as compared with Negro students actually attending school in the State, have you?

A Yes, but not all of the State, if I may explain, Your Honor.

Q Let me get my question. As I understood it a minute ago, you haven't even drawn the total of the white students attending State supported institutions for any one year you have testified about, have you?

A That is right.

Q Then you have not arrived at the ratio of expenditure, a ratio fixed by the number of white students attending school, total number attending State institutions as compared with the total number of Negro students attending, have you?

A No.

Q You mentioned a minute ago on direct examination Meharry Medical School in Tennessee, did you not?

A Yes.

Q You offered Meharry as an example of a medical school in Tennessee which was operating, and caused the State of Tenn-

esses to be far ahead of the State of Texas in the number of doctors and dentists per Negro -- per so many hundred Negro population; right? Meharry is a separate Negro school, is it not?

A Yes.

Q Are you acquainted with the -- what is the name of that senior college survey that you have in your pocket?

A The Senior Colleges for Negroes in Texas.

Q May I borrow it a minute? Are you acquainted with the Chairman of the Committee of this study, Dr. T. S. Montgomery, professionally?

A No, I am not.

Q Are you acquainted professionally with the reputation of Dean Pittenger?

A I know his reputation.

Q Is he a recognized authority in the same field in which you work?

A You mean in racial comparisons?

Q No, as an educator. You know his standing in the field of education, do you not?

A He is the Dean of the School of Education at the University of Texas.

Q You quoted several places from this book, from this study made by that committee, the Biracial Committee which studied senior colleges for Negroes. I will ask you if, in your

opinion that committee was, working over the long period of time that it worked to compile this volume, I will ask you if you do not believe they were in a better position to find out what is best for equality for the Negro students of this State, and in better position than you are from your short study of this particular State?

A I doubt if I could answer that. As I said a moment ago, I have given five or six weeks of intensive study to this subject. I don't know how much time they gave to the study which is involved there.

Q I would like to read you a conclusion from that study, and ask you whether or not you agree with it. On page 83 of the study that you have been reading from:

"Admission of Negroes to existing State universities for whites is not acceptable as a solution of the problem of providing opportunity for graduate and professional study for Negroes, on two counts: (1) Public opinion would not permit such institutions to be opened to Negroes at the present time; and (2) even if Negroes were admitted they would not be happy in the conditions in which they would find themselves."

I will ask you whether or not, first, you feel like you are in a position to agree or disagree with the conclusion therein drawn after having made only a five weeks' study of the

matter in Texas?

A I should say that I do not have enough facts to evaluate that opinion. I would want to know, have you made a poll of opinion of the people in Texas, number one. I would question the assumption underlying the statement, namely; that even if the poll showed that the opinion might be different, or it might be divided 60 to 40, or something of the sort, I don't think that is sufficient justification in itself in arriving at this conclusion, so I am not in a position to agree with the opinion, because you do not have enough facts stated there.

Q In other words, that is the point I am going to get to. The men who have made a longer study, and have more facts at hand on which to arrive at the opinion as to what can best furnish equality in Texas on this subject are certainly in a better position than you to judge the matter.

MR. MARSHALL: The question assumes that they had more opportunity, and had more facts.

THE COURT: I think it is rather sustaining himself, or failing to sustain himself, anyhow. He is probably going to recommend himself, if he testifies. I would.

MR. DANIEL: I doubt that he will.

THE COURT: An answer to that would either be to say that what you have been saying is well founded or it isn't well founded.

A Well, what I have been saying is well founded.

Q (By Mr. Daniel) In your opinion?

A In my opinion.

Q You read from this book here on several occasions, did you not, as to the study made by these men?

A Yes, sir.

Q Aren't you willing to admit, Dr. Thompson, that from the long study that they made on this matter over a period of years, if the evidence shows it took them a period of years, won't you admit they are in better position to judge what is best for the equality of opportunities?

A I don't want to appear immodest, Mr. Attorney General, or facetious, but I doubt it seriously. I have been in this field of race relations for some 25 years. Most of the difficulties involved in the situation are this; that we imagine things will happen. There has been no test to determine whether or not -- in fact, there has been a test, I understand, if you will allow me to give a hearsay example.

MR. MARSHALL: No.

A The attorney says no, but there has been no test to determine whether or not the time is ripe or not, as they say. I think so, coming in the State from other states, and that sort of thing, but I wouldn't say at all that I have any more basis for my opinion than they have for theirs.

Q I will ask you again whether or not you are willing to admit

these gentlemen, after years of study, if the evidence shows they have had years of study, would be in a better position to arrive at conclusions than you, after your five or six weeks in Texas?

A I would have to know what they studied.

Q I thought you had been reading it?

A Yes, I picked out facts, and not conclusions.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Thompson, you were questioned about this conclusion in this study of senior colleges for Negroes in Texas that "even if Negroes were admitted they would not be happy in the conditions in which they would find themselves." You have already testified you were born in Mississippi. Is that right?

A That is right.

Q Subsequent to that time you went to the University of Chicago, after attending a Negro school in Richmond, Virginia; is that correct?

A That is correct.

Q And the University of Chicago has all races; is that correct?

A Yes, sir.

Q You were in classes with other students of other races?

A That is correct.

Q What I want to ask you is, did you find that you "would not be happy in the conditions in which you found yourself?"

A No, I wasn't more unhappy; in fact, I was happier at the University of Chicago than I was at Virginia Institute.

Q You can testify to that of your own knowledge, can't you?

A That is correct.

Q The faculty at Howard University, is it restricted to one race, or is it all races?

A All races.

Q Is there any unhappiness among them?

A Well, I don't suppose any more than the average faculty, in any university.

Q On these studies showing that Negroes in the north who attend southern universities, is there any showing as to how long those Negroes were in the north before they went back south?

A I don't know of any-- I can't recall any information now.

Q What is your experience at Howard University as to students who come from most of the separate Negro schools in the south, as to their ability to shape up?

A They have pretty weak backgrounds, on the whole. I mentioned a case this morning, in the case of chemistry, where one of the chemistry departments of the Negro college doesn't have physical chemistry. They come to Howard University to take graduate work, and they have to take a year of physical

chemistry before they can begin the graduate work. You face deficiencies in any of them.

Q Isn't it true that many of the Negroes from southern schools are ineligible to attend a northern university; isn't that true?

MR. DANIEL: You are asking a leading question. We ask that you not lead him.

Q (By Mr. Marshall) Are there any Negro schools in the south that are unaccredited?

A Yes.

Q Can you get into an accredited university in the north if you come from an unaccredited school?

A You can get in, but you are conditioned.

Q Does a condition mean that you have to do more work?

A Yes. My own personal experience bears that out. I got a Bachelor's Degree at Virginia University, and when I went to the University of Chicago, I had to do more work to get another Bachelor there.

Q And you had already been to some kind of an academy in Mississippi, hadn't you?

A That is right.

Q Now, as to your experience in examining the relationship between the education in white and colored schools, on the question that was asked you on cross examination as to one applicant to a law school, I want to ask you if, in your

opinion, what, in your opinion, would be the same viewpoint of a governmental agency as to that one pupil applying for a law school ----

MR. DANIEL: We object to that. That would be a conclusion of the witness.

THE COURT: I don't see what a governmental agency would have to do with it.

MR. MARSHALL: I am speaking of the University of Texas, with the University of Texas, with one Negro student applying for the law school, and the duty of the University to conserve the funds of the taxpayers.

- A I believe it would be the same answer that I gave the Attorney General when he asked me the same question a while ago in a different form. It seems reasonable the student should be admitted to the University of Texas.
- Q The question was asked whether or not Meharry was a Negro school. You testified on direct examination as to both Meharry and Howard. I now ask you whether or not Howard is a mixed school, or a Negro school?
- A Howard University has no restrictions as to race. In fact, we have all types of races at Howard. At least, they have had during the 20 years that I have been there.
- Q Getting back to this question of comparing the schools, the population of schools, is the population of the school --

what determines the number of students a school can accommodate?

A Well, there are a number of things. Of course, your physical plant, the things I enumerated this morning, physical plant, the number of teachers you can get, the number of facilities that you can offer.

Q Even assuming that they are doing no better job than they are doing right now, could Prairie View accommodate any more students?

A I doubt it. I was there last week, and I understand they are overcrowded.

Q As to library facilities, you did compare Meharry as to individual schools and student body?

A Meharry?

Q I mean Prairie View.

A Yes.

Q And are you familiar with the approximate size of the State of Texas -- are you not?

A I thought I was until I came here. I doubt it.

Q What relationship to the number of students attending college is it to the fact that in one instance you have eleven schools scattered all over the state and in the other instance you have one school at the far -- one of the far sides of the state?

A Of course, geographically, it would be difficult, if Negroes

lived on the other side of the state, and would have to come to the other side of the state.

Q Does that have some determinative bearing as to the number?

A It probably would.

Q That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will take a recess for a few minutes.

{ Court was recessed at 3:15 p. m.,
{ until 3:40 p. m., May 15, 1947,
{ at which time proceedings were
{ resumed as follows:

MR. DANIEL: It is agreed that the following publications may be marked by the Court Reporter and left with him, and that he shall place in the record excerpts from such publications that may be requested by either of the parties.

MR. DURHAM: We want to be bound only by what portions we offer.

{ Thereupon, the following publications
{ were marked for the purposes above
{ stated as:

{ Exhibit A, 16th Census of the United
{ States, 1940.

{ Exhibit B, Accredited Higher Institu-
{ tions, 1944, Bulletin 1944, No. 3,
{ U. S. Office of Education.

{ Exhibit C, General Studies of Colleges
{ for Negroes, Misc. No. 6, Vol. II,
{ U. S. Office of Education.

(Exhibit D, Directory, Colleges and Universities offering Graduate Courses leading to Master's and Doctor's Degrees, 1940-1945.

(Exhibit E, Federal Government Funds for Education, 1944-1945 and 1945-46, Leaflet No. 77.

(Exhibit F, Biennial Survey of Education in the United States, 1942-44, Statistics of Higher Education, 1943-44.

(Exhibit G, Biennial Surveys of Education in the United States, 1938-40 and 1940-42, Statistics of Higher Education, 1939-40- and 1941-42.

(Exhibit H, Biennial Survey of Education in the United States, 1942-44, Statistics of State School Systems, 1943-44, Chapter II.

(Exhibit I, Federal Security Agency Biennial Survey of Education, 1936, 1938.

(Exhibit J, Statistics of Land Grant Colleges and Universities, year ended June 30, 1944

MR. DANIEL: We wish to take one in this group from which we read excerpts in the case.

MR. DURHAM: We object, first, that it hasn't been certified to, and that nobody has identified it as being the official document.

THE COURT: Well, I think I will let him offer it, as the Doctor has testified from it.

(Said instrument, the same being National Survey of the Higher Education of Negroes, a Summary, Misc.

{ Vol. IV, was admitted in evidence
{ as Respondents' Exhibit No. 15.

MR. DANIEL: Number sixteen will be the Report of Senior Colleges for Negroes. We will get that from Dr. Thompson tomorrow.

{ Said instrument, being "The Senior
{ Colleges for Negroes in Texas," was
{ admitted in evidence as Respondents'
{ Exhibit No. 16.

D O N A L D G . M U R R A Y, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give your full name.

A Donald G. Murray.

Q And your address?

A 424 Y Court, Baltimore, Maryland.

Q Your present occupation?

A Attorney.

Q Where did you go to college?

A Amherst College.

Q Where is that?

A Amherst, Massachusetts.

Q When did you finish Amherst?

A 1932.

Q And did you apply for admission to the University of Maryland Law School?

A I did.

Q First; and what happened to your application?

A It was refused.

Q On what grounds?

A On the grounds it was against the policy of the State of Maryland to admit Negroes to the University of Maryland Law School.

Q What happened thereafter?

A I consulted briefly with attorney Thurgood Marshall.

MR. DANIEL: We object to that as being irrelevant and immaterial, as to how he got in the school.

THE COURT: Tell me your purpose of it. I don't quite see.

MR. MARSHALL: The whole purpose of it is that in the State of Maryland they have segregation statutes similar to the State of Texas. He was refused admission, and a lawsuit was filed, and they said if he was admitted to the school it would wreck the University, and he was admitted, and everybody got along fine.

THE COURT: How is he going to prove what the State said except by hearsay?

MR. MARSHALL: We have here a document from the Court of Civil Appeals, and motion to advance a case, signed by

the Attorney General, and the Assistant Attorney General, from the State of Maryland. That is the only piece of evidence we are going to introduce in evidence as to what the State of Maryland said.

THE COURT: Might not that be the attorney's contention?

MR. MARSHALL: He was representing it as the official attorney of the State of Maryland.

THE COURT: I will let you have it on your bill. You can offer it on your bill.

MR. MARSHALL: Thank you, sir.

Q (By Mr. Marshall) Was a lawsuit filed as a result of your case?

MR. DANIEL: We object to that.

THE COURT: It is on his bill.

MR. DANIEL: The records would be the best evidence.

THE COURT: He can say whether it was filed or not.

Q (By Mr. Marshall) Did the Court of Appeals of Maryland in a decision reported in the official documents of the Court of Appeals of Maryland, and reported in the Atlantic Reporter, the title of which was Pearson against Murray, decide upon the case of which you were speaking?

A Yes, it did.

Q Now, I ask you as to whether or not you were admitted to the University of Maryland prior to the decision of the Court of

Appeals of Maryland?

A Yes, I was.

Q And prior to the decision of that case, I will ask you, did the Attorney General in Maryland, Herbert R. O'Connor, and the Assistant Attorney General, Charles T. LeViness, III, file a certain document with the Court of Appeals of Maryland concerning your case?

A Yes, they did.

MR. DANIEL: As I understand it, all of this is going into his bill of exception?

THE COURT: That is right.

Q (By Mr. Marshall) I show you this document entitled Raymond A. Pearson, President, and other names, versus Donald Murray, in the Court of Appeals of Maryland, with the certification from the archivist of the State of Maryland, and ask you if you can identify it?

A Yes, I can.

Q What is it?

A It is the notice to advance the hearing in the Court of Appeals of Maryland on the case Pearson, et al vs. Murray.

MR. MARSHALL: If Your Honor please -- you still have your objection to it?

MR. DANIEL: Yes, my objection is already in, and the Court sustained it.

THE COURT: Yes, and it is coming in on the bill of

exception.

{Thereupon counsel for relator had
the Reporter mark said instrument
above referred to as Relator's
Exhibit No. 7, and same was admitted
for the purpose of the Bill of Excep-
tion as such exhibit.

MR. MARSHALL: Thank you, sir.

Q Mr. Murray, the sum and substance of the relator's Exhibit No. 7 is the request to the Court of Appeals of Maryland to advance the hearing in this case from the October term on the theory that if you were admitted that dire results would come about at the University of Maryland; is that not correct?

A That is correct.

Q You were admitted in September, 1935, were you not?

A That is correct.

Q Will you tell briefly to the Court what, if anything, happened to bear out the predictions of the Attorney General of Maryland?

A Absolutely nothing happened.

Q Were you ostracized in any way?

A No, I was not.

Q Were you segregated in any way?

A No, I was not.

Q Were you mistreated in any way?

A No, I was not.

Q What was your experience, briefly?

A My experience, briefly, was that I attended the University of Maryland Law School for three years, during which time I took all of the classes with the rest of the students, and participated in all of the activities in the school, and at no time whatever did I meet any attempted segregation or unfavorable treatment on the part of any student in the school, or any professor or assistant professor.

Q Where is the University of Maryland Law School located?

A Baltimore, Maryland.

Q Are the public schools there mixed or separate, according to race?

A Separate.

Q Are housing conditions mixed or separate?

A Separate.

Q Are eating facilities mixed or separate?

A Separate.

Q With the exception of the separation of races on buses and trolley cars here in Austin, do you find any item of segregation that is not present in Baltimore, Maryland?

A As far as I have observed, I have observed none.

Q Attorney General Herbert O'Connor signed this motion to advance, did he not?

A Yes.

Q Who gave you your diploma when you graduated from the University of Maryland?

A Governor O'Connor.

Q The same man?

A Yes.

Q And Charles T. LeViness, III, signed that motion as Assistant Attorney General?

A Yes.

Q Who gave you your first job when you left the law school?

A Charles T. LeViness, III.

Q How did that come about?

A I applied for a position as inspector with the Board of Liquor License in Baltimore City. At the time Mr. LeViness was the Chairman of that Board, and in charge of the hiring of applicants. I applied and was accepted and worked for about eight months with him.

Q And then you went to the Army?

A No, I went in private practice.

Q Do you know of your own knowledge whether other negroes have attended the University of Maryland since your time?

A Yes, I do.

Q About how many are in there now?

A Nineteen.

Q Has there been any trouble of any kind since you have been there that you know of?

A Not that I know of.

Q Your witness.

MR. DANIEL: That is on the bill of exception. No questions.

(W i t n e s s E x c u s e d)

MR. DURHAM: Your Honor, we desire to offer a portion of the cross interrogatories of the witness L. E. Angell, and I will ask Mr. Nabrit to read the answers as I read the questions.

(Mr. Durham read the following cross interrogatories, and Mr. Nabrit read the answers, from Deposition of E. L. Angell.

E. L. A N G E L L. (Deposition)

- Q 3. How much money was expended in setting up this Law School for Negroes in Houston?
- A 3. I do not know.
- Q 4. Were books, equipment and supplies for this Law School for Negroes in Houston purchased for cash or by State requisition or vouchers?
- A 4. They were purchased by Prairie View University using their funds.
- Q 5. If purchased for cash, who paid for them and out of what fund was the money secured and on whose authority was the payment made?
- A 5. They were paid for from funds of Prairie View University

and on the authority of the Principal of the Prairie View University.

Q 20. How many rooms were there in this building or in these housing facilities and what was the floor area of each?

A 20. There was a suite of three rooms, but I do not know the floor area.

Q 30. State what was the academic rank of each of these teachers in the faculty of the Law School.

A 30. I do not know.

Q 32. How many lecture rooms or class rooms were provided in this building or in these housing facilities and what was the floor area of each? For identification purposes, number this room or rooms.

A 32. I do not know the disposition to be made of the suite of rooms that was rented.

Q 33. Was an office for the Dean provided in this building or in these housing facilities? If so, what was its floor area and its approximate distance from the lecture rooms? For identification purposes, number this room.

A 33. I do not know.

Q 34. Was an office for the registrar provided in this building or in these housing facilities? If so, what was its area and its approximate distance from the lecture rooms? For identification purposes, number this room.

A 34. The registrar for this court was the Registrar at the

Prairie View University, and I do not know if they provided any space in Houston for him or not.

Q 36. Into how many rooms was this Law Library divided and what was the floor area of each? For identification purposes, number each of these rooms.

A 36. See answer to Cross Interrogatory No. 35.

Q 37. What was the floor area of the main reading room in the Law Library? For identification purposes, number this room.

A 37. See answer to Cross Interrogatory No. 35.

Q 38. What was the floor area of the cataloguing and receiving room of the Law Library? For identification purposes, number this room.

A 38. See answer to Cross Interrogatory No. 35.

Q 39. Was there a librarian's office in the Law Library, if so, what was its approximate distance from the main reading room?

A 39. See answer to Cross Interrogatory No. 35.

Q 40. What was the approximate distance of the Law Library from the lecture rooms, the Dean's office and the registrar's office?

A 40. See answer to Cross Interrogatory No. 35.

Q 41. When was this library purchased and what was its purchase price?

A 41. Some 400 basic reference law books were made available

by the Texas A. & M. College library, and it was ascertained that books for first year law students, a list of which, was furnished by the Dean of the Law School of the University of Texas, could be delivered on short notice, and the authorities of Prairie View were ready to purchase these books if a student registered in the law course.

Q 42. How many library stacks or book cases were acquired and what kind?

A 42. These were to be furnished by the library of Prairie View University.

Q 45. Give the name and qualifications and salary of each of these officers of the Law School for Negroes in Houston:

- (a) Dean
- (b) Registrar
- (c) Librarian

A 45. The Dean and Registrar were officials of Prairie View University and Prairie View University was to furnish Librarian services at the Houston establishment.

Q 48. Give the budget for the Law School in Houston for Negroes for the first year. Itemize as follows:

- (a) Salaries - Instruction
- (b) Library.
- (c) Operation and maintenance.
- (d) Travel.

- (e) Publication.
- (f) Equipment.
- (g) Supplies and expenses.
- (h) Administration.
- (i) Scholarships and student aid.
- (j) Annuities.

A 48. No specific budget was approved, it being understood that if a student registered for the law course that the officials at Prairie View would then submit a budget.

Q 50. State whether announcements of the new school, its curriculum, its schedule of classes, its organizations, expenses and program was made. If written announcements were made, attach copies of the same to this deposition.

A 50. The only announcement that I know was made by the press.

Q 51. If oral, who issued them and how were prospective students to become aware of these verbal announcements?

A 51. I do not know.

Q 52. What officer of the Law School for Negroes in Houston made these announcements?

A 52. I do not know.

Q 53. Did the faculty of the School of Law for Negroes in Houston prepare the curriculum, schedule the classes and otherwise conduct the general educational work of the Law School?

A 53. It was understood that they would follow the courses

offerings of the University of Texas.

Q 54. How many meetings did the faculty of the Law School for Negroes in Houston hold? Attach copies of the minutes of these meetings to this deposition.

A 54. I do not know.

Q 55. Who was the Secretary of the Law School for Negroes in Houston. State the qualifications of the Secretary.

A 55. Prairie View University was to furnish secretarial assistance for the law course in Houston. I do not know the qualifications of the personnel.

Q 56. Attach copies of the application blanks or forms for admission to the Law School for Negroes in Houston to this deposition.

A 56. I have no copies, blanks or forms.

Q 57. Attach copies of each of the registration forms, blanks or cards used by the Law School for Negroes in Houston.

A 57. The registration forms would be those of Prairie View University. I haven't these forms available.

Q 58. Is this Law School for Negroes still in existence in Houston?

A 58. The facilities were rented until the 1st of March.

It was understood that if no student registered that the authorities of Prairie View would discontinue the offering of the course and make disposition of the equipment.

Q 59. If not, when was it closed and upon whose authority was it closed?

A 59. See answer to Cross Interrogatory No. 58.

J. B. RUTLAND, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give your full name, please.

A J. B. Rutland.

Q And your address?

A 4112 Duval.

Q And your occupation, sir?

A Director of Education for Negroes, State Department of Education.

Q And do you also have a position with the Scholarship Committee for Negroes?

A Executive Secretary of the Scholarship Committee.

Q And what is the Scholarship Committee for Negroes?

A It provides for out of state scholarships, scholarships to out of State institutions for Negroes in subjects that are not offered at Prairie View.

Q And when was that committee set up?

A In 1939.

Q And how much money did it have to operate on the first year?

A Twenty-five thousand.

Q And was that all for scholarships, or was part of that for administration?

A Part of it for secretarial.

Q Approximately how much was available for scholarships?

A About twenty-four hundred the first year.

Q Twenty-four hundred?

A Twenty-four thousand the first year.

Q And was that all contributed?

A I am not sure about the first year. I wasn't in the office at that time.

Q When did you take over?

A 1945.

Q 1945?

A Yes.

Q Do you have the records there for the previous years? Will you look at those records and let us know how much was actually expended in 1939? I am wondering if we might shorten this by giving him time to consider each year. The thing I am interested in is the amount of money and the number of subjects that were covered by the students, and the students for each year, and then he could present that. Do you have it?

A I have it for 1945-46 here.

Q We wanted it back a little ways, if we could. Do you have any other years there? Well, I think, if Your Honor please, I might ask one more question, and I might save you some time there. Is this 1945-1946 about the way it has been running since you have been there?

A Since I have been there, it is.

THE COURT: That is the one since you have been there, isn't it?

A Yes.

Q (By Mr. Marshall) Do you have a copy of the rules and regulations for the issuance of scholarships that you mail to the pupils?

A No.

Q Is this it?

A That is right.

Q That is it. May we have these two marked?

A 1943 and 1944 there was \$24,000.00 spent.

Q How many law school students were included in that year?

MR. DANIEL: Your Honor, we would like to make the same objection to this line of testimony that we made to the previous testimony about other schools. The relator here is asking only the Dean and the Registrar and the Board of Regents of the University of Texas to get into the University of Texas. He isn't concerned at all with out of state scholarships, didn't want one, and didn't apply for one. We

think it is irrelevant and immaterial to this case.

THE COURT: We will hear the testimony.

MR. DANIEL: Note our exception.

Q (By Mr. Marshall) Can you tell me how many law school students went in the year 1944 - 1945?

A Three.

Q And the previous year, can you go back?

A The total up to now is 11, since we have started.

Q The total is 11 in law schools?

THE COURT: Altogether.

A Altogether since the work started.

Q (By Mr. Marshall) When was the first year you had an applicant for a law school scholarship?

A In this 1939 to 1943 report we have eight law students.

Q You have eight law students in that report. You don't know what years they applied, do you?

A No, except during the years 1939 to 1943.

Q All right. Can we have the -- is that a mimeographed copy, or is that the only one?

A I have only the one copy.

MR. MARSHALL: Any objection?

MR. DANIEL: The same objection we made to all of them.

MR. MARSHALL: We are introducing as Exhibit 8 the report of the Scholarship Aid Fund for Texas Negro Graduate and Professional Students, 1945-1946.

(Said instrument was admitted
in evidence as Relator's Exhibit
No. 8.

MR. MARSHALL: And Relator's Exhibit No. 9, from the office of the Executive Secretary of the Texas Scholarship Aid Committee, State Department of Education, statement of policy and procedure. That is applicable, of course, to the Negro Scholarship Fund.

(Said instrument was admitted in
evidence as Relator's Exhibit
No. 9.

MR. MARSHALL: That is all.

MR. DANIEL: No questions.

(W i t n e s s E x c u s e d)

MR. DURHAM: Your Honor, the relator rests at this time, with the understanding, because of the order in which the testimony has been put on, he reserves the right to rebut any further testimony, under the agreement.

THE COURT: All right.

MR. DANIEL: Your Honor, I want to exchange the smaller picture for a larger picture, more equal to the size of the picture of the University Law School introduced by the relator, for this little picture we introduced yesterday.

MR. MARSHALL: We only object on the ground there is too much sky in it.

MR. DANIEL: For the record, in reply to that last

remark, we tried to take it about the same distance as the one introduced by the relator of the Texas University Law School.

{ Said photograph was marked by
the Reporter as Respondents'
Exhibit No. 14, and same is sub-
stituted for the instrument
originally introduced as such
exhibit.

HENRY DOYLE, a witness produced by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name.

A Henry Doyle.

Q Where do you reside?

A 1205 Leona Street.

Q Austin, Texas?

A Austin, Texas.

Q Did you reside here in Austin during the months of February and March of 1947?

A I did.

Q Were you acquainted with the opening of a Negro Law School here in Austin on March 10, 1947?

A Yes, sir.

Q Did you, prior to March 10, 1947, consider entering that law

school?

A I did.

Q Did you on the Saturday before March 10, 1947, attend a meeting in Dallas, Texas?

A I did.

Q Were other members of the Negro race at that meeting?

MR. DURHAM: Your Honor, the relator objects as to whether a meeting was held, or ten thousand meetings were held, unless it is shown they were held at the request and instance of relator.

THE COURT: We will see how it develops.

MR. DURHAM: Will you note our exception?

THE COURT: Well, I haven't ruled on it yet.

MR. DURHAM: All right, Your Honor.

Q (By Mr. Daniel) Do you know Maceo Smith?

A I do.

Q What position, if any, does he hold with the National Association of Colored People?

MR. DURHAM: Your Honor, we object to that. Any connection he has with the National Association for Colored People would not be binding, and any action he did would not be binding upon this relator.

THE COURT: I believe we will let him pursue it a little further.

A State the question again.

Q (By Mr. Daniel) What position does he hold with the National Association for the Advancement of Colored People?

A I am not familiar with his title.

Q Is he an officer in the Association?

A I am not sure. I know he works with them, but whether he holds an office or not, I don't know.

MR. DURHAM: We object to the last statement as not responsive.

THE COURT: Yes, just answer the questions.

Q (By Mr. Daniel) Was he at that meeting attended by you in Dallas on the Saturday before March 10, 1947?

A He was.

Q Did he make a talk or report of any kind at that meeting in Dallas the Saturday before March 10, 1947?

THE COURT: I am still holding that in abeyance.

A Again, will you ask it again, please?

Q (By Mr. Daniel) Did -- first, let's get this. Maceo Smith, was he at the meeting in Dallas?

A He was.

Q Did he make any kind of talk or report there at the meeting?

A I don't recall.

Q Were discussions held at the meeting by ----

MR. DURHAM: Your Honor ----

MR. DANIEL: I withdraw it.

THE COURT: I think it would be hearsay.

Q (By Mr. Daniel) How long did you stay there at the meeting in Dallas?

A I am not sure, approximately two hours.

Q Were other officers of the National Association for the Advancement of Colored People there?

MR. DURHAM: We object to that as assuming that he knows them.

THE COURT: Unless he knows of his own knowledge.

MR. DURHAM: We object to it for the reason that he presupposes that he knows, and it is an assumption not based upon any facts.

A I do not.

Q (By Mr. Daniel) You do not know. What was the name of the group that held that meeting?

MR. DURHAM: We object to that as assuming that he knows.

THE COURT: If he knows.

A I do not know.

Q (By Mr. Daniel) Who notified you to come to the meeting?

A I was notified by circular letter.

Q From whom?

A I don't recall the signature.

Q Was the support of this lawsuit pending here by the National Association for the Advancement of Colored People mentioned at that meeting by anyone?

MR. DURHAM: We object to that.

THE COURT: Of course, it would not be admissible unless the relator was there, and unless he made it.

MR. DURHAM: And unless it was by his authority, and we object to it as not being binding upon the relator, unless he shows that connection.

THE COURT: That is right.

Q (By Mr. Daniel) Did you see Heman Marion Sweatt there?

A I did not.

Q Did you see Mr. Durham, the man that just made the objection, any time during that meeting?

A I saw him.

Q Did he appear before the meeting?

A He did.

Q Before that meeting concluded, did you announce to that meeting that you would not enter the law school, Negro Law School on March 10, 1947?

MR. DURHAM: We object to that as being irrelevant and immaterial as to what he would do.

THE COURT: I believe I will let him answer it, in view of our prior rulings of that. We may strike it all later.

Q (By Mr. Daniel) Did you make such statement to the meeting before it adjourned?

A I said I was seeking information relative to making up my mind whether or not I would enter the law school.

Q Did you announce before the meeting was over that you would not enter the law school the next Monday morning?

A I did not.

Q Didn't you tell me that you did?

MR. DURHAM: We object to him arguing with his own witness.

THE COURT: That is right.

Q (By Mr. Daniel) Did you enter the Negro Law School on March 10, 1947?

A I did not.

Q That is all.

MR. DURHAM: That is all.

THE COURT: I think the testimony is perhaps not relevant.

MR. DURHAM: We ask that it be stricken.

THE COURT: All right.

MR. DANIEL: Note our exception.

(W i t n e s s E x c u s e d)

MR. DANIEL: That is all of the witnesses we have here now, Your Honor. We have two for in the morning. That is all we know about.

THE COURT: Then we will recess until nine o'clock in the morning.

(Court was recessed at 4:20 p. m.,
May 15, 1947, until 9:00 a. m.,
May 16, 1947.)

MORNING SESSION.

May 16, 1947.

9:00 A. M.

A. W. WALKER, JR., a witness produced by the respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.Questions by Mr. Greenhill:

Q Will you please state your name?

A A. W. Walker, Jr.

Q What is your occupation, Judge Walker?

A Professor of Law at the University of Texas Law School.

Q Would you please give us your educational background for that teaching?

A I received my B. A. Degree from the University of Texas in 1921 and my LLB in 1923. I took work at some other schools, graduate work at the Yale Law School, some extra graduate work at Columbia Law School.

Q Do you belong to any professional societies?

A Yes, the Association of American Law Schools, American Judicature Society, Texas Bar Association.

Q Have you been admitted to the practice of law in Texas?

A Yes.

Q When were you admitted?

A I was admitted in 1923.

Q State whether or not you have engaged in the private practice of law?

A I have.

Q When did you engage in the practice?

A I practiced in Dallas, Texas, from 1923 to 1925.

Q Would you state whether or not you have written any legal articles or books on the subject of law?

A I have written quite a few articles published in law reviews and some in trade magazines.

Q Would you please name some of the articles in the law reviews?

A I wrote a series of articles on the subject of the law of oil and gas which were published in The Texas Law Review, one in the Mississippi Law Review, and various articles also published in the Oil & Gas Journal, and other trade publications.

Q In what courts are you licensed to practice?

A The Supreme Court of Texas, the Supreme Court of the United States, the Federal Court for the Northern and Western Districts of Texas.

Q What subjects have you taught in the law school?

A That is quite a long list. My teaching has been primarily in the real property fields. I have taught courses in personal property, real property, conveyances, called future interests, oil and gas, domestic relations, wills, administration of estates.

100

197

128

~~325~~

216

541

Q What courses are you now teaching?

A At the present time I am teaching oil and gas and a real property seminar.

Q What system of law instruction do you use in your classes?

A The case book system.

Q How long have you been using that system?

A Since I have been teaching law, which is about 22 years.

Q Would you please describe briefly the nature of the case book system?

A The case book system is designed to cause your students to go to the primary sources of law, rather than to secondary sources of law for their information. In other words, they go to the decisions of the courts and study those and be prepared to recite upon them in class, and then to discuss them and the conclusion, with all questions that might be raised in regard to those cases.

Q In addition to the -- is there any additional feature of the system in addition to the recitation and discussion? Is there any other part of the case book system which you use?

A I don't know that I understand your question.

Q I mean, do you ever lecture to the class?

A Oh, yes. I would not call that a part of the case book system, but frequently there is material that you don't think that requires the detailed attention that the case book system necessitates, which you want the students to have, but where

you can cover the situation by simply a lecture covering that particular topic.

Q I will ask you whether or not in your opinion the case book system is flexible?

A A very flexible system.

Q How many students are in your classes, Judge Walker?

A Well, in my class in oil and gas at the present time, there is something over a hundred students. In my seminar class, it is restricted to fifteen.

Q How often does an individual student get called upon to recite in a class of a hundred?

A I would say that in a class of 100, for being called upon to recite on a case, that the average would not be called upon to recite more than one case.

Q In what period of time?

A During a course.

Q Three and a half months?

A Yes, about 100 cases. Possibly you might cover more than a hundred cases, but you wouldn't cover probably as many as 200 cases.

Q So, as I understand you, an individual student would be called on ----

A About one and a half cases.

Q One and a half times in a four and a half months course?

A That is right.

Q Have you taught any smaller classes than 100?

A Yes. Of course, at the present time I am teaching a seminar class which has fifteen students. In the past, before our law school got so large, in the summer time I suppose we had an attendance of about 150 students on the average, and the classes were relatively small. I have taught some of those classes where there were around 20 students to the class.

Q And what system of teaching did you use in those classes?

A The case book system.

Q I will ask you whether or not you think such system is adaptable to a small class?

A Yes, I think it is adaptable to a small class.

Q Could it be used by a class of ten?

A I think so, without question.

Q Would the students in that class receive the same or similar experience and education as those in the class of 100?

A In my opinion, they would receive better.

Q Would you please explain that answer?

A For the reason that they would be called upon more frequently.

They would take a more active part in the discussions. In a class of 100 students, many of them, realizing that under the law of averages their chances of being called upon are rather remote, are inclined not to take an active part in the discussion. There is always a certain group of such students. In a class of ten, all of the students are on their

toes all the time, because they realize they are apt to be called upon next.

Q Are you familiar with The Texas Law Review?

A Yes.

Q Have you been connected with the publication officially?

A Yes, I was the first student editor in chief, and I have acted as faculty adviser on two different occasions, of the publication of the review.

Q Do you know the nature of the legal existence of The Texas Law Review?

A It was organized in cooperation with the Bar of Texas as a corporation, and stock was sold, and it exists as a separate legal entity, a corporation.

Q Does it have any official connection with the School of Law?

A Not officially, no.

Q Who decides what articles may be published in the Texas Law Review?

A The faculty adviser.

Q I will ask you if in the past, and at the present time articles have been accepted by The Texas Law Review which have been written by students other than of the University of Texas, and faculty members of the University of Texas?

A Yes. I assume that it is considerably more than half of the articles. We make a distinction in the Review in what we call

articles and comments and case notes. Of the leading articles, more than half of them are prepared by outsiders. As to the comments, largely they have been prepared by our own students, but occasionally comments have been submitted by students of Baylor and S. M. U.

Q Do you know whether or not Baylor has a law review in connection with its law school?

A The last information I have on it, they do not have. I feel reasonably sure they have not organized it.

Q Do you know whether or not the Baylor Law School is an accredited Law School?

A Yes, it is an accredited law school.

Q Now, if a member of the Negro Law School should prepare and submit an article to the Texas Law Review, of merit, I would ask you if there is any reason why that should not be published in the Texas Law Review?

MR. DURHAM: We object to that as to whether or not there is any reason or not. It is too speculative, and not binding upon this relator. It has no bearing upon any issue.

Q I will withdraw the question. Do you know of any rule of The Texas Law Review or society which would prohibit its use in the law review?

A No, there is no such rule.

Q Did you hear the testimony of Dean Harrison, from the stand?

A Yes, I heard it.

Q Did you hear that portion of his testimony in which he cited with approval some sort of review, or otherwise, which divided law schools into large, medium size, and small?

A Yes.

Q Did you hear that portion of his testimony which intimated that the smaller schools would consist of schools wherein the student population was between 50 and 150?

A Yes.

Q Did you hear that portion of his testimony that the so-called smaller schools would be inferior in that they would not be in a position to offer equal educational advantages with larger or medium size schools?

A Yes.

Q I will ask you whether or not you know of any of the schools, law schools, that have a population of from 50 to 150 in their class rooms?

A Yes, there are quite a few.

Q Would you name some of those?

A I couldn't give you the figures of their enrollment at the present time. Most of them, of course, as you realize, are crowded because of the present situation. Prior to the war, schools like Duke University and North Carolina University had on the average about 100 students. Stanford University

had approximately 150, I believe 148 in 1941 -- in 1940-41, was their attendance.

Q Do you know the general reputation of these law schools?

A The three schools I have named are outstanding law schools with very high reputations.

Q Are they at least of equal reputation with the University of Texas?

A Yes.

Q Your witness.

CROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Professor Walker, in stating the courses which you have taught and which you now teach, you stated that you have taught real property courses primarily?

A That is correct.

Q Personal property, conveyances, and one of oil and gas, administration of estates, and similar courses, and that in teaching those courses you used the case method of teaching?

A That is right.

Q You also stated that in your class of a hundred you called on each student probably once during the semester?

A I said I called on them once for a principal case, once and a half, on the average, I would say.

Q And you stated that you have approximately 100 principal cases during the ----

A No, it would a little larger than that, one and a half times, about a hundred and fifty cases, I would say.

Q Yes. Now, is not one of the attributes of the case system that, as used by professors of law, that most of these principal cases are not covered by calling on the students, but rather by, especially in the larger classes, by having the students volunteer? Don't you have that in your classes?

A That isn't my system.

Q Your system is to go by the roll on each principal case?

A I call on a specific student for a case.

Q Do you ever call on a student out of order?

A I don't have a roll. I have a class seating chart with their names, and I skip from one seat to another, and the name of the student is there, so I never call on them in order.

Q You skip about over your chart?

A Over the room, yes.

Q Do you have some number or some method of indicating when you have been in that particular spot last?

A That is right.

Q After you have called on that particular student, let's say student "A", for a principal case, let's assume first that "A" gives the case. Then do you throw that case open for discussion, or do you make your comment? Give us what procedure is next.

A Of course, a generalization is all you can do here. It depends on the case, largely. Sometimes it may be a relatively simple case, and the student may have handled it satisfactorily, and you may not get any further discussion. Normally, however, the subject will be thrown open for general discussion, and the students will ask questions and raise points and take different viewpoints about the case, and general discussions.

Q So that if the student has some idea which he wants to present, or some question which he wishes to ask about that case, after this one student has given the case, he has that opportunity?

A Yes.

Q I will ask you, in the second place, in your courses, is each student supposed to brief these cases? I put it "supposed" because we understand then he is supposed to brief?

A That is correct.

Q So that if he has done that, and if he is called on he may recite from his brief?

A I try not to let them recite from the brief.

Q Let's say from his recollection of his work in briefing the case.

A That is right.

Q So that we have these 100 students supposedly having done that

spade work before they come, and one is chosen, and all participate?

A That is right.

Q Isn't one of the basic virtues of the case system just this, that spade work which all of the students do in preparing the case, and this wide discussion of getting the viewpoints of persons in the class who have a viewpoint, in future interests that may not be true, but over in oil and gas -- that may not be true. Let's take personal property or domestic relations. There might be a wide variety of opinion. Isn't that one of the virtues of the case system, that comment and explanation and oral argument about the case?

A Unquestionably that is one of the virtues, and the larger the class the more essential it is to have that, because, otherwise, you don't know whether your students are understanding the subject.

Q That is right. Now, if you had one student in a class, obviously that student would have to do his spade work every day or he couldn't come? We agree to that, don't we?

A He would get a very intensive course.

Q So that he would get that side of his law training thoroughly examined every day?

A Yes.

Q But he would miss the discussion of other class members,

would he not?

A He would.

I think so, and it would be the province of the instructor to try to supply that by asking questions himself.

Q But he begins to lose some of the merits of the system itself when he can't have this discussion which goes on in the class?

A There is a certain value to that.

Q Yes. Now, let's go from that just a moment to this law review at the University of Texas which has been -- do you consider the law review at the University of Texas an extraneous and unimportant feature?

A If I understand your question, extraneous -- do you mean foreign to teaching in the law school?

Q No, I mean as one of the assets of the University and a part of its reputation, and a part of its value to the student?

A I think work on the law review is of value to the student.

Q It is of such recognized value that it is a distinction to the student to state after he has graduated that he was a member of the law review staff, is it not?

A That is correct.

Q In the school it is an honor also to be known as one of the law review staff, is it not, for the student?

A That is correct.

Q Obviously, from the catalogue, the law review at the University

is incorporated, and I understand you to say that is a private corporation. Nevertheless, in your opinion, to all intents and purposes, is not the law review at the University of Texas under the supervision of the faculty and students at the University, in fact?

A It is so long as the corporation permits it.

Q I am assuming that they have not forbidden your supervision. It is to all intents and purposes under the supervision of the faculty and students?

A That is true of the content that goes into the review; the financial end of it, no.

Q I am just speaking of the control and operation of the law review as a legal publication, not as to its expenses or things of that sort. It is under the control and supervision of the faculty and students?

A That is correct, although there is a Board of Editors of outstanding lawyers who are appointed each year.

Q Yes.

A By the stockholders.

Q Yes.

A Who would have, if they cared to exercise it, complete authority, I assume.

Q Yes, but isn't it a matter of fact that they don't, they consider it an honor to be on there, and they leave it to the faculty?

A That has been the practice.

Q There is nothing strange at the University of Texas in operating The Texas Law Review from the way it is operated at other institutions, is there? By that I mean all other institutions, or most of the institutions, the students write the case notes and comments. You have some other comments and you might have some other professors writing case notes for articles by members of the faculty and by distinguished lawyers and jurists all over the state; isn't that the way the Texas Law Review operates?

A That is correct. It is different in that its set up is independent.

Q I am not talking about the corporation; I am talking about your testimony that most of your leading articles, a great many of them, were written by lawyers and distinguished men in the legal profession who were not at the University of Texas, and that those comments were solicited from other persons than the students and faculty. That is not strange in law reviews, is it?

A No.

Q It is an accepted practice?

A That is particularly true of our articles. I don't know that we have solicited any comments from outsiders, although they have been submitted and accepted. They were not solicited.

Q So that it operates just like the Columbia Law Review where you were, as far as that goes?

A I don't know what the policy of the Columbia Law Review on accepting outside articles is, or what is the students' portion.

Q I don't mean the students' portion. You have just stated the students would keep their portion, but Columbia accepts leading articles?

A Yes, articles.

Q So that you did not intend to give the impression that there is something peculiar about the way the Texas Law Review operated in that matter of articles?

A No, not in regard to articles.

Q Did you intend to give the impression about case notes?

A Case notes, I think there is a difference there, and I use the word "think" because I am not qualified to speak on the rules that the law reviews have in that respect, but we do on occasions accept contributions for what we call the students' portion of the review, to the comment and case note section from outside sources. As a matter of fact, we accept them from our own students who are not on the editorial staff of the review. In that respect, I don't know what the policy of other reviews has been, but that has been our policy. We have accepted contributions from students at S. M. U. and students at Baylor.

Q You spoke of Baylor a moment ago. What is the size of the law school at Baylor?

A At the present time?

Q Yes.

A They closed down during the war for want of students, and it was only reopened this fall. I am not sure what these figures are. It would be purely a guess.

Q Would you mind guessing?

A I would say 150 students.

MR. DANIEL: We object to the guess, Your Honor, because it is so far from the facts.

THE COURT: Of course, the guess wouldn't help any.

Q (By Mr. Nabrit:) In your opinion, Professor Walker, the law schools with 50 and 100 students, from your knowledge, do any of these law schools possess law reviews?

A Well, the three schools I named all possess law reviews, Duke and North Carolina and Stanford. I haven't checked to see whether there were others. I did check those three schools.

Q As a professor of law you are familiar with most of the law reviews, are you not?

A I am familiar with most of the law reviews, but I wouldn't be familiar, offhand, with the number of students in the various schools.

Q So you just know of these three schools?

A I simply checked those, because I happened to know those were small schools, and did have good law reviews.

Q Do you know how these law reviews operate, of your own knowledge?

A No, I don't.

Q Now, your experience with your seminar of 15 students, you don't teach a seminar in the same way in which you teach your regular classes, do you?

A No, I don't.

Q So that it would not illustrate the case system?

A Well, seminar courses are very flexible.

Q Yes.

A On some days we have two hour sessions, if needed, of the class, and sometimes we use the case book system on a certain topic, and other days we have students contribute their own research and discussion. It varies from class to class, the system we use.

Q In your opinion, and as a law professor, would you advise a prospective law student to attend a law school where he would be the only student?

A That depends, of course, on the law school, and the set up.

Q This law school would be one that was just opening.

A I would say that he would have an opportunity to get a wonderfully intensive course of study, being one student.

Q After you said that, what would you advise him, as a law professor?

A I believe I would.

Q You would advise him?

A I believe I would. I don't know of any student that would ever have that much care and attention given to his education.

Q You are assuming the care and attention. You don't think there is any value in having upper classmen in the law school, and you don't think it is of any value that he have discussion with fellow classmates?

A There are values and values, and you have got a lot of balancing to do. In a large law school the student misses a great deal. There are a great many disadvantages in a large law school, a large class. There are certain advantages. In a small class there are many advantages, and there are certain disadvantages. I would say you would have a balance there. I don't think that a one-man class would be a very desirable class from the teacher's standpoint, but I think from the student's standpoint he would have a wonderfully intensive course of instruction.

Q Well, you stated that it would not be advantageous for the teacher, and the teacher is the stimulating influence in a one-man law school, isn't he?

A Well, a lot would depend on your instructor. He could make it very, very interesting, if the instructor had the ability to do so.

Q We raise a lot of suppositions.

A You have to adjust your teaching to the size of the class.

You don't teach a 15 or 20 man class the same way you would teach a 100 or 150, and in some cases, I believe I have had over 200.

Q To teach a one-man class in a one-man law school would be a lot of adjusting from that, wouldn't it?

A Yes, it would be a rather marked adjustment.

REDIRECT EXAMINATION.

Questions by Mr. Greenhill:

Q Judge Walker, would you please state whether or not in your opinion the preparation in a small class for class room recitations would be as great or smaller than in a large class?

A The preparation -- are you talking about the students' preparation?

Q On the part of the student, yes.

A You mean on the average?

Q On the average, yes.

A Yes, I think it would be, because the chances of being called upon are just that much greater.

Q In other words, they would be greater?

A There would be more pressure on the student to keep his daily work up.

Q And if the student realized he was to be called on that day, he would probably bone a little harder, would he not?

A That would be the natural tendency.

Q Judge Walker, in the case book system, are all of the questions asked by the students?

A Oh, no, the instructor asks many.

Q Why does the professor ask questions?

A For many reasons. One, frequently, just to provoke discussion. Sometimes to feel out the class to see whether or not they understand the case. In other words, the instructor has had a report only from one student. He has 99 other students. He doesn't know just how much they know about that case, and frequently he will sample the class by questioning to bring out additional points, perhaps, and also to find out how well the class as a whole has understood the discussion.

Q Did I understand you to say that you had used the case book system in small classes?

A Yes.

Q Has that been used satisfactorily?

A Satisfactorily from my standpoint. As a matter of fact, I would much prefer to teach a small class than a large class.

Q And would you use the case book system?

A Yes.

Q Professor Walker, would you please state whether or not first year law students at the University of Texas are eligible to write for the law review?

A No.

Q Do you know any reason why a Negro law school could not

establish a law review?

A No.

Q Judge Walker, I will ask you whether or not you think it would be reasonable to assume that had the relator or some other student who was only one of 12 to 14 inquiries, had enrolled, that there would have been other students in this law class?

MR. DURHAM: We object to his reasoning and assumption, as not being binding, or as not being based upon any hypothesis.

MR. GREENHILL: I want to further qualify that question by saying if there had not been some outside influence to keep students from coming in.

THE COURT: I think there is no evidence of that, and I think it would be speculative on the part of the witness. He can state the effect of this man enrolling.

Q (By Mr. Greenhill) Have you noticed enrollments generally in the law schools?

A Over the United States?

Q In Texas?

A Yes, generally.

Q Do you have any idea of the number of actual applicants, or the relation that bears to the number of inquiries you have, that is, if you have, say, 14 inquiries, how many of those students would probably attend?

MR. DURHAM: We object to that. We don't mind the witness testifying. We certainly don't want the Assistant Attorney General testifying. We object to it as being leading and suggestive.

THE COURT: Let's let him answer.

A I don't know that I could answer that accurately. Normally a student doesn't inquire unless he is interested in enrolling. That is our experience in our Law School.

Q (By Mr. Greenhill) You would assume if 14 people made inquiry at the law school at least four or five of them would enroll?

MR. DURHAM: Your Honor, that is the assumption again.

THE COURT: I think that is an assumption again.

MR. GREENHILL: That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Professor Walker, are you aware of the fact that under the present crowded conditions of law schools and educational institutions that former G. I.'s, that have the benefits under that act, write to a large number of schools asking about the courses offered? Are you aware of that?

A I have personal knowledge of only one or two instances.

Q Do you handle enrollment at the University of Texas Law School?

A No.

- Q So that you are not in a position to state what the statistical experience is as to the number of inquiries and the number ----
- A I am not.
- Q Do you know of a law school in the United States with one student?
- A No, I don't know of any law school like that.
- Q Do you know of a law school in the United States with 10 students?
- A Not at the present time. During the war there were.
- Q During the war was abnormal, too, was it not?
- A That is right.
- Q Now, so far as a student is concerned, Professor Walker, is it not true that if he is to do the assignment of the instructor, he prepares as hard, under the case system, for his particular work as if he were in a class with 600? That is, that is true as far as each student is concerned; is that not true? That is, all he can prepare is what the assignment was, and excess work which he wishes to do, is that not true?
- A That is true as far as preparation of the case is concerned, but ----
- Q That is what I mean, just preparation of the cases.
- A In other words, there is a certain amount of work in preparing a case, if that is ----
- Q An "A" student does that, if he does the professor's

assignment?

A Assuming he does.

Q All right. If he doesn't have the incentive to do it, and the instructor doesn't give him the incentive to do it, then he doesn't do it; is that not the fact?

A Well, assuming all of your points, yes. There are other factors.

Q I am going to get to the other factors. You are postulating the proposition that the pressure of facing the professor every day with nobody to look around at to take that burden off of him will make him do more work. I am giving you a hypothesis that the discussion of his class mates will provoke viewpoints that he himself did not have the experience and capacity to bring forth. Do you agree that both of those are present in considering the case system of study?

A I agree to the raising of questions by the students and the discussion. I don't agree that you have to have a large class.

Q I didn't get to that yet. I am coming to that. Now, let's go to that. What would you suggest from your experience as the ideal size class in law under the case book system or method?

A That would be a difficult question to answer. It would be less than 25. I think after -- my experience has been after you get above 25 your class is getting a little bit unwieldy.

Q Unweildy. Do you mean that the ability to properly instruct them is declining in inverse proportion as the numbers accelerate or increase?

A The amount of attention that you can give to the student, and the kind of work he is doing, and you get to the feeling you don't know what the individual students are doing when the class gets large.

Q Are you saying as the classes at the University of Texas increase, the amount of training they get diminishes in quality?

A I think that is true of a considerable number of students.

Q Of the 886 out there, what percentage of those?

A The top ranking students would get a good legal education under almost any circumstances.

Q So you are talking about the bottom ranking students?

A Not necessarily the bottom, but those below the top, at least.

Q So that the best ----

A There is a grade in between there.

Q The best students at the University of Texas Law School are going to get a good legal education, no matter how poor you teach them, or how large the classes get?

A I am inclined to think that is virtually true.

Q You can have him.

REDIRECT EXAMINATION.

Questions by Mr. Greenhill:

Q Judge Walker, these thought provoking questions that counsel is asking you about; I will ask you whether or not it is not often that the professor himself asks these questions?

A Oh, yes.

Q That is all.

(W i t n e s s E x c u s e d)

- - - - -

D R . B E N J A M I N F L O Y D P I T T E N G E R .

a witness produced by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Greenhill:

Q Will you please state your name?

A Benjamin Floyd Pittenger.

Q What is your profession?

A I am Professor of Educational Administration at the University of Texas.

Q What is your educational background, Dean Pittenger?

A Well, I was educated in the public schools in Michigan, took my Bachelor's Degree, Bachelor of Arts Degree, from the Michigan State Normal College at Ypsilanti, in 1908.

A Master of Arts Degree from the University of Texas in 1912, and my Ph. D. from the University of Chicago in 1916.

Q Dean Pittenger, in your class room experience at Ypsilanti and the University of Chicago, would you state whether or not these classes were exclusively white, or exclusively colored, or mixed.

A I recall one Negro in the class which I attended at Ypsilanti and I recall two or three classes in which there were several colored persons at the University of Chicago.

Q How long have you been in the teaching profession, Dean Pittenger?

A Well, with the exception of the years spent in college, and two years in the Army, since 1904 -- since 1902.

Q Where have you taught?

A In the public schools in Michigan, in the University of Illinois, in the University of Minnesota, at the University of Michigan, at the University of Colorado, and, of course, the University of Texas, Teachers College in Colorado. That is all that I recall for the moment.

Q What positions have you held at the University of Texas?

A I came as what was then known as adjunct professor in the School of Administration and Education, and after two or three years in that service, after I came back from the Army, I became an associate professor of Education and Administration, and I was then advanced in a year or two to a professorship. In 1926 I became Dean of the School of Education, and I served in that capacity until February first of this

year. I also continued my professorship when I was Dean, and on February first I retired to my professorship.

Q When did you come to Texas?

A In 1911, for the first time.

Q That was after you had received your Bachelor's Degree, is that right?

A That is right.

Q So that when you came to Texas from Michigan, would you state whether or not you had an open attitude as to the Negro question at that time, as far as education is concerned?

A Well, I think that I could say that I reflected pretty much the attitude that had developed in Michigan in that community, and later in Kansas where I taught for three years at Fairmont College. I forgot to mention that a while ago, preceding my coming to Texas.

Q Did you teach any colored students in your classes, Dean Pittenger, at any of the places you taught?

A The only place I recall is the University of Colorado.

Q Are you a member of any professional societies in education?

A Yes, sir; I am a member of the American Association of Administrators, which is a branch of the National Educational Association, and a member of the Texas Teachers Association, and a life member of the Texas Association of School Administrators, and during the time I was Dean I was ex-officio member of the Association of Colleges and Departments of

Education.

Q Is that a national association?

A Yes.

Q Did you hold any office in that organization?

A I was President of that for three years.

Q Have you ever held any office in the Texas State Teachers Association?

A I was Chairman of the Committee on Finance for that organization for the period of probably 12 years, ending about 1936, and I was President of the Association in 1941 and 1942.

Q Have you had any dealings or association with higher education for Negroes in Texas?

A Yes, I have had.

Q What experience have you had?

A I think my first experience was as a member of the Board of Trustees, a local Board of Trustees of Tillotson College. Right after the war I participated in several school surveys. I do not recall that there were higher institutions involved, however, in the public schools, which would bring me in contact with Negro education. I visited one or two of the Negro colleges in Texas. I recall Bishop College at Marshall,, at the instance of the American Medical Association. That was probably 20 years ago. I consulted with the group at Prairie View during the development of the graduate program

of that institution. During the past summer, I was a member of a committee appointed by the Southern Association of Schools and Colleges to visit five, I believe it was, of the Negro colleges in Texas, to consider the continuation or the raising of the accreditation level which those colleges had with the Association.

Q Is Tillotson College a colored institution?

A Yes.

Q What Negro institutions did you visit in your tour for the Southern Association?

A Tillotson College, Wiley College, at Marshall, Jarvis College, which is in a rural community north of Tyler, Texas College, I believe it is called, at Tyler, and Prairie View.

Q Now, are you acquainted with any of the leaders of Negro education in Texas?

A Yes.

Q Would you name some of those with whom you are familiar?

A Well, I think my acquaintance probably is -- that I know best of all former Principal Banks of Prairie View. I also have known President Rhodes for a number of years. My recollection for names, unfortunately, is not very good.

Q Have you participated in discussions with those men on the subject of education for Negroes in Texas?

A Yes, I have. I don't recall that I participated in conversations with them as individuals to any great extent, but in

conferences at which they were present, and in which a number of other Negroes were also present.

Q I will hand you a pamphlet entitled "The Senior Colleges for Negroes in Texas," and ask you to examine it. Did you participate in the preparation of that booklet in any manner? That is, did you have anything to do with the existence of the book, in the first place?

A Yes.

Q What connection did you have with it?

A I was Chairman of a committee that was called a Steering Committee of the Biracial Conference on Negro Education, and this committee set up a survey, of which this is the report, and chose the persons who participated in the survey and in making the report.

Q Who called, or who assembled that group which you have mentioned there?

A Governor Stevenson. You mean the conference?

Q Yes, sir. Now, were the members of the conference there of mixed races?

A Yes, sir.

Q Would you name some of the people on that committee there?

A Well ----

Q And identify them as to white or colored, white or Negro?

A Dr. T. D. Brooks, Dean of the Graduate School of Texas A. & M. College, white; Principal W. R. Banks, of Prairie View,

colored; President J. J. Rhoades, of Bishop College at Marshall, colored; Mrs. Joe E. Wessendorf, past President of the Parents-Teachers Association, white; Dr. Thomas W. Currie, of the Austin Theological Seminary, white; -- Dr. Currie died shortly after the committee was set up, and became active, and Dr. T. S. Montgomery, head of the Department of Education of Sam Houston took his place, white. Dr. R. P. Hamilton, physician and surgeon in Dallas, was originally appointed. Dr. Hamilton was colored. He requested to be relieved because of his health, and Dr. H. E. Lee, of Houston, took his place, and Mr. Gordon Worley was Secretary of this Committee and was Director of Special Problems for Negro Education at that time.

Q Did you write the foreword to this booklet?

A Yes.

Q I will ask you to state whether or not you have been interested in the development and improvement of Negro education in Texas?

A Very much.

Q In your experiences in visiting the Negro colleges, and those colleges at which Negroes and whites attend, have you had the opportunity to observe the educational opportunities and advantages offered by these institutions?

A I have.

Q In your experience as an expert in the field of educational

administration, assuming the facilities of both colleges are equal, is it possible for a Negro to receive an equal education in a separate college?

MR. DURHAM: We object to the part of the question "is it possible." We have no objection to him expressing his opinion.

THE COURT: Yes.

Q (By Mr. Greenhill) In your opinion, Dean Pittenger?

A If by equal you do not mean exact duplicate, yes.

Q It would be substantially equal?

A That is right.

Q Assuming otherwise equal facilities or substantially equal facilities, would the mere fact that the college is composed exclusively of colored students, of itself, mean an inequality?

A With the same interpretation of inequality, it would not, in my judgment.

Q Now, in your judgment, are there advantages to the Negro in being taught in a separate institution?

A Yes.

Q What are they?

A Well, the reason that I made the statement that I did with respect to equality appears at this point. I think that the educational value of -- that the value of an education to a student at any level is determined by the total college

situation in which he carries on his college work. It isn't merely a question of class room teaching and study, or of laboratory activities or of library activities, but I think that a very large part, and an increasing part of the value of education at any level is in the total influence, the influence of the total contact of the student with the institution.

Q I will ask you whether or not you think the Negro student would have the same opportunity to develop leadership in a mixed institution, or at a separate institution?

A I think that normally, ordinarily, he would have a better opportunity to develop leadership in a separated institution than in a mixed institution, and I make that statement because the whole life of the institution would then be open to the Negro's participation. My judgment is that particularly in the south, that the Negroes' opportunities in institutions patronized in the great majority by whites would be limited to the class room facilities, and the regular educational activities almost wholly.

Q Now, Your Honor, I want to ask him the next question simply in rebuttal to testimony developed by the relator. It is our understanding that we did object to this line of testimony, but since it has been put in, we want to ask this question in reply to those statements of relator's witnesses. I will ask you, Dean Pittenger, in your opinion as an expert in the

field of Educational Administration, whether or not you think it would be to the best advantage of the State of Texas and of students to continue the policy of segregation in the schools and colleges of Texas?

MR. DURHAM: Just a minute. Now, Your Honor, they have objected to that form of testimony. I don't want to object to it, if I have got a right to reopen my testimony. I won't object, if I have got a right to tender certain testimony that the Court excluded yesterday.

THE COURT: Of course, if it is the same, if this is admissible in rebuttal, testimony on your side would be admissible.

MR. DURHAM: No objection.

MR. GREENHILL: Mr. Reporter, would you read him the question, please?

(The Reporter read to the witness
the last question set out above.)

A All of the consequences considered, I think so.

Q Would you please state your reasons for that answer?

A Part of it was included in the statement I made a moment ago that I believe a part of the value, a great part of the value of higher education, especially in the identification and development of leaders, gives more opportunity for participation in all of the activities of college to the extent that those are restricted to that extent, that essential value of higher education is lost, but my fundamental feeling

about the matter rests in what I conceive to be the effect of the elimination of segregation on the higher level upon segregation upon the lower level. Let me say that my experience as professor of school administration, and my training and my teaching have directed my attention more toward the public school level, the elementary and secondary level of teaching, than toward the higher level.

I function in a higher institution of learning, but my principal interest, and my principal work has been to try to advance and improve public education in Texas, especially in the elementary and secondary levels. So, I have been concerned with the school administration that functions at those levels.

I am unable to see how segregation could be constitutionally maintained below the college level and be unconstitutional at the college level, and so my feeling is that the -- my principal fear of the breakdown of segregation on the higher level is what I conceive to be the breakdown, the influence upon segregation in the lower level. I believe that the -- I believe that the development of the public school system in Texas historically was pretty much -- was pretty much aided by the early appearance of segregation in this state. To put it definitely, I think that the progress of public education in Texas would have been much more retarded than it is if we had not had segregation. I think that the

reasons that justified, as I say, the segregation in those days, still obtain. The public educational system of Texas is a long way from having reached anything like the national standard as a whole, and we are still in the formative period.

My judgment is that if segregation were abandoned in the lower level, that it would become as a bonanza to the private white schools of the State, and that it would mean the migration out of the schools and the turning away from the public schools of the influence and support of a large number of children and of the parents of these children, and that those migrants and their parents are necessary because there would be additional tuition involved coming from a group of citizens who are the largest contributors to the cause of public education, and whose financial and moral support is necessary for the continued progress of public education.

Now, the south has had to fight against the private school tradition since the beginning. Public education started later in the south, in the main, and advanced more slowly in the south, and it is today more backward in its development than elsewhere in the country, and that was due to the plantation system, of course, of economy, and to the English tradition that, with respect to education, the tradition that education was the prerogative of the home and the school. That was held by the influential people of that day. Now, the

fight for public education in this State has been to a very large extent the matter of the converting of people with that background to the support of public schools, and to the patronage of public schools.

The matter counts in another way, I think. There are some nine or ten thousand colored public school teachers in Texas. If segregation were abandoned, I can't help asking myself what would become of that body of Texas teachers, our colored teachers in Texas. If these teachers moved with the pupils into the public schools, it seems to me that that would mean that we would not only have the colored and white together as students, but that we would have rather indiscriminate assignment of teachers to classes, wholly irrespective of the merits of the feeling that exists and operates here as a fact. I believe that that bringing of colored teachers in the class rooms for white students would accentuate this movement of public schools.

However, that question, I have no means of knowing, but I think it is reasonable to believe that at the present time the attitude of Texas people being what it is to a very considerable degree, that the effect of the abandonment of segregation on the lower level would set back the public school movement in this state, and anyone who has devoted his life to an attempt to improve it, I can't regard that with equanimity. If the teachers are not moved with the students, then what becomes of the colored teaching profession in Texas?

The great majority of the colored teachers are employed in the colored public schools, both in Texas and elsewhere. Teaching is a principal outlet of service for the educated colored man and woman. There are somewhere between seventy-five and a hundred thousand colored teachers, I would estimate, in public schools in the south, and the implications of segregation for that group, in my judgment, are serious. Now, I think that that not only affects the question of segregation on the higher level, in that it would seem to me that the breaking of segregation on the higher level would move in that direction, but I think it also affects the efficiency of the education of the colored and white students in preparation for higher education. So, I think it has a double relation, and in my judgment, it would at least in that way come back and affect higher education adversely in this state.

Those, I think, are my principal reasons for the statement that I made.

MR. MARSHALL: May it please the Court, we have waited as we have been doing all along, to see just where the testimony was going. At this time we move to strike everything said about lower schools. The reason I do, sir, is that although Dr. Pittenger is an expert in the field, I think his original statement was assuming that you can't have unconstitutionality at the graduate level without affecting the lower

level, and he isn't a legal expert, and he doesn't have a right to draw that conclusion.

THE COURT: He doesn't have a right to draw a conclusion as to constitutionality.

MR. MARSHALL: All of his testimony was based on that, and we move to strike it.

MR. GREENHILL: Their witness yesterday on the stand testified that in his opinion ----

THE COURT: Are you abandoning your theory that it is only higher education and only one man involved in this case?

MR. GREENHILL: Oh, no, sir.

THE COURT: Then, this would not be admissible.

MR. GREENHILL: Sir?

THE COURT: This would not be admissible as to the others, would it?

MR. GREENHILL: On the stand yesterday, over our objection, their witness testified that the time was ripe now to just throw off segregation entirely from the graduate school to the kindergarten.

MR. MARSHALL: No, he didn't. He said just the opposite, that the time was ripe for the graduate school.

THE COURT: That is what I understood, was for the graduate school.

MR. DANIEL: Yesterday we objected to all of the

testimony concerning schools in general.

THE COURT: Yes.

MR. DANIEL: That was overruled, and we preserved a bill. We offer this simply in rebuttal to that, in case the Court allows that yesterday to stand.

THE COURT: In so far as any evidence has been received here affecting the secondary schools or less than graduate schools, I am not considering it.

MR. GREENHILL: We certainly do not waive our point that the case should be limited to the two schools in question.

Q Now, Dean Pittenger, I will read you a portion of this pamphlet from which relator's witness testified yesterday, entitled "The Senior Colleges for Negroes in Texas," on page 83, which is in the nature of a summary from all of the statistics drawn in this pamphlet.

MR. MARSHALL: We object to any reading of conclusions from that pamphlet. The witness can testify as to his conclusions.

MR. GREENHILL: I am going to ask him if these are his conclusions.

MR. MARSHALL: All right.

THE COURT: All right.

Q (By Mr. Greenhill) (Reading)

"Admission of Negroes to existing State Universities

for whites is not acceptable as a solution of the problem of providing opportunity for graduate and professional study for Negroes, on two counts:

(1) Public opinion would not permit such institutions to be opened to Negroes at the present time; and (2) even if Negroes were admitted they would not be happy in the conditions in which they would find themselves."

I will ask you to state to the Court whether or not these views are your views?

MR. MARSHALL: We object, if Your Honor please, because the testimony offered yesterday in the form of Donald Murray was directed to the point as to whether or not there was validity in the fact that if you attend a school you will be unhappy, and was stricken on the motion of the Attorney General. Either that goes in or nothing.

MR. GREENHILL: We would be very happy for all of the evidence offered throughout this book on all the State institutions and appropriations and their faculty to be stricken.

THE COURT: We are not concerned with that. The only question here resolves itself into legal administration of schools, and it is difficult for us to determine the condition of one's emotions when he enters any school, so I think we are concerned as to whether or not the first part

of that is his opinion, that it is to the best interest for this, for the abolition of segregation.

MR. GREENHILL: Did you sustain his objection?

THE COURT: Yes.

MR. GREENHILL: Note our exception.

THE COURT: Yes, sir.

Q Relator also brought over this "General Study of Colleges for Negroes," a publication, I believe, prepared by Mr. Caliver, in which it was stated, "negro students in northern universities do not, as a rule, participate fully and freely in the life of the institution." You having been educated in a northern school, and having taught there, do you believe that is a correct statement?

MR. MARSHALL: If Your Honor please, that was around 1911, I think it was. I think that is a little far back.

Q (By Mr. Greenhill) Have you made any study of that in recent years? Have you studied any of the recent scientific reports on this subject?

A Notto any great extent, no, sir. I would say this ----

MR. DURHAM: We object to that.

THE COURT: If he doesn't know that.

A The date 1911 is incorrect.

MR. MARSHALL: I apologize.

Q (By Mr. Greenhill) Do you know whether or not these are the facts?

MR. DURHAM: We object to that. He says he doesn't know, I believe.

Q (By Mr. Greenhill) When was your latest study of northern schools, Dean Pittenger?

A My latest contact was in a summer session at the University of Colorado in the middle thirties, I would say 1935 or 1936.

Q Well, now, at that time did you notice whether or not this statement that I have read here was the fact?

MR. DURHAM: We object to that as being a conclusion and opinion of the witness as to what the mental processes of the students were in that school.

THE COURT: Yes, you had better ask what he saw.

Q (By Mr. Greenhill) Did you observe whether or not the students were given a full opportunity to participate?

MR. DURHAM: We object to that as an assumption that he did observe.

THE COURT: Just what he did see.

Q (By Mr. Greenhill) What did you observe?

A I can relate one incident that occurred. In my class in school in finance at that institution, I taught a Negro principal from Houston, and since he was from the same part of the country I was, I stopped him after class and talked to him about his experiences in that institution.

Q Go right ahead, sir.

A I didn't inquire as to the extent of his participation in the

general college activities. I feel very certain as to the extent of it.

MR. DURHAM: We object to his feeling.

THE COURT: Yes, I think that is right. He would have to recite things he saw and observed.

A All right. I asked the principal where he was living, and he said that he was living at a small ----

MR. DURHAM: We object to that as hearsay, anything the principal said.

THE COURT: Of course, that is true.

Q (By Mr. Greenhill) That is correct. Would you just recite what you observed in connection with that student?

A Well, I didn't observe any participation by Negroes outside the class room.

Q Did you observe any activities on the part of that student outside of the class room which would have tended to develop leadership and other qualities?

MR. DURHAM: That is an opinion and conclusion.

THE COURT: He can testify what he observed.

MR. DURHAM: What it tended to do would certainly be a conclusion.

Q (By Mr. Greenhill) Have your observations of mixed groups at universities in the north, whenever there was revealed any discrimination there that would prevent full participation in the total college activities?

MR. DURHAM: We object to that because it is a wholesale question, at any period or any time, as being indefinite and uncertain.

THE COURT: He asked if he observed it. I will let him answer it.

A I didn't observe any participation ----

MR. DURHAM: We ask ----

A ---- outside of the class room.

MR. DURHAM: ---- that that be stricken as not responsive.

MR. GREENHILL: Read him the question.

(The Reporter read to the witness
(the question last set out above.

A No.

MR. DURHAM: We ask that it be stricken because he didn't ask him if he observed. If the Court please, he asked, "your observations," assuming he had observed.

THE COURT: I believe I will let it stand.

Q (By Mr. Greenhill) Dean Pittenger, I will ask you whether or not in your opinion as an expert in the field of Educational Administration, whether or not a Negro student can receive substantially an education, substantially equal, in a colored institution to that which he would receive in a white institution, or mixed, provided the facilities of both schools were substantially equal?

MR. DURHAM: We object to the word "can", and

substantially.

THE COURT: Does he have an opinion, is what we want. You can amend it by saying, does he have an opinion.

MR. DURHAM: Further, we think any testimony should be upon his conclusions, and not a conclusion of law that is the issue in this case.

Q (By Mr. Greenhill) What is your opinion on that point, Dean Pittenger?

A I confess that I am a little confused by the status of the question now. Will you clear me up on that?

Q I will ask you whether or not, based on your experience as an expert in the field of educational administration, assuming equal facilities in the schools involved, whether or not a Negro student can and will or could receive, I will say, could receive ----

THE COURT: Has the opportunity to receive.

Q (By Mr. Greenhill) Does he have the opportunity to receive an equal education in a school exclusively colored, as compared with that of mixed colored and white?

A That is one I am puzzled about. May I ask about that?

THE COURT: Yes.

A I am unable to think for the moment of colored institutions and white institutions which do have equal facilities with which I have been associated.

Q (By Mr. Greenhill) I understand that, Dean Pittenger. I am

asking you to assume equal facilities.

A And then you ask me does he ----

Q Did he have the same or equal opportunity?

A In my judgment, yes. He would have equal opportunity, as I defined equal opportunity a while ago, a total opportunity, but not the same.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Dean Pittenger, this Negro principal from Houston who was in Colorado when you were teaching; you testified that he didn't participate in any of the outside activities. I want to ask you a question as to how wide was your knowledge of what he did when he wasn't in class?

A Only what I got through conversations with him.

Q Only through conversation?

A That is right.

MR. MARSHALL: If Your Honor please, may we have that answer stricken?

THE COURT: He didn't answer anything.

MR. MARSHALL: I mean his original answer, not that answer.

THE COURT: It was based on his observations, and rather goes to the weight than to the admissibility.

MR. MARSHALL: All right, sir.

Q Do you know of any institution for college training -- I am speaking of college training, public or private, in the State of Texas, to which Negroes are admitted which is equal to any of the State supported schools operated exclusively for white students?

A There is only a range of merit in both. I believe that in total Wiley College is comparable with some of the smaller colleges for whites in Texas.

Q First of all, I will ask you, Wiley is a private institution, is it not?

A I beg your pardon?

Q I wanted to get that clear.

A It is. That is right.

Q Wiley College, in the first place, isn't a university, is it?

A No.

Q It is a mere four year college. Now, does, in your estimation, does Prairie View -- first of all, let me ask you this. Is Prairie View, to your mind, a university?

A No.

Q What is the highest classification you could give it, as an expert, as of today?

A Well, I think it is more than a college, and there is no intermediate term, so far as I know. I think I interpreted

your question. I don't regard Prairie View as a university in the sense that I would conceive of an efficient university. It is more than a college.

Q What makes it more than a college?

A The fact that it has graduate work. It offers graduate work.

Q But it has no professional schools?

A No.

Q Is not usually the term "university" applied to schools -- professional schools?

A Graduate work is generally regarded as professional.

Q Are there any other universities in the country that have only graduate work, and no professional work? By professional work, I mean law, engineering, dentistry, et cetera?

A I don't know of any. I could not answer that.

Q Can you name two State supported schools of higher learning, from college level up, that you compare Prairie View favorably with, in Texas?

A I think so.

Q Which ones?

A I believe that, in total, it would compare with one or two of the teachers colleges in Texas.

Q Could you give us any one of them?

A Well, a statement of this sort sounds derogatory, but I think that in total it is comparable for the purpose which it serves with perhaps the Teachers College at Alpine.

Q Are you familiar with the fact that the physical plant at Prairie View is less in value than any of the teachers colleges?

MR. DANIEL: Your Honor, we want, just for the purpose of the record, to renew our objection to all of this line of testimony as to other schools.

MR. MARSHALL: Your Honor, he said it was equal to----

MR. DANIEL: I want the record to show the point.

THE COURT: All right, you can save your point.

A No, sir; I have not compared the values of the plants of two institutions, but I have thought that that was probably the case.

Q When you say "equal", what do you mean by "equal"?

A Well, I mean in the total educational value of the services of the institution. Now, the institution at Prairie View is much more many-sided than the institution in Alpine, or almost any other of the Texas Teachers Colleges. It offers a much more varied program and much more varied opportunity to the Negroes of the State than does -- than do several of the teachers colleges, perhaps all of them, to the whites of that area. It is not -- so far as the equipment that it has, piece by piece, building by building, it is not the equal. There is more of it, and it serves a greater variety of purposes.

Q In your teaching of education and school administration, and

your general knowledge in the field, is it correct in educational, rather, in approved colleges you give credit for A.B. Degrees for mattress making in a college?

A No, I don't think it is.

Q Or for broom making? Do you know of any institution other than Prairie View where that is done? As a matter of fact, in your teaching, do you not teach, and in your administration, do you not recognize the fact that that is not a proper subject for credits in a college?

A I think that that might be a proper subject of instruction in a college which serves the functions of Prairie View. We have a great deal of vocational work offered in our white colleges for the services of people with different vocational objectives, and I would want to know more than I know about the quality of the work done, and the length of the course, and the things involved in a course of instruction of that sort.

Q Isn't it just general that such vocational subjects are usually taught in vocational high schools and regular high schools?

A No, they are becoming increasingly,-- it depends on the level of the work, and the quality of the work. That is the reason I say I would like to know more about the course, because I don't know.

Q I see. In going back to our comparing the quality of the

type of education offered at Prairie View, isn't the amount of money available to the school a value in arriving at the equality of the facilities offered?

A That is one measure, yes.

Q Isn't it true that Prairie View gets less operating funds than any of the other operating schools in the State?

A It did at the time this survey was made. I can't answer that question as of today.

Q Didn't your survey also point out the fact that because of its lack of money, Prairie View lost many of its good teachers?

A Yes.

Q Many with Ph. D.'s?

A Yes, sir.

Q So that we then get to the faculty of the school. Isn't that a basis for comparison?

A That is right.

Q As of the time your survey was made, did you find that the level of the faculty at Prairie View would compare with the other schools?

A Not on the average, no.

Q Now, isn't library facilities and library books, number and quality, a valid basis of comparison?

A Yes, that is right, and it would not compare.

Q It would not compare with any of the schools, would it?

A That is right.

Q If you compare it item by item, isn't it true that Prairie View is below any of the other schools; isn't that true?

A If you leave out the scope of its work, the scope of the institution, and take it up piece by piece and compare with other institutions, I think that is true. I think that it was true at that time.

Q Dr. Pittenger, you testified as to the college and graduate level to the effect that if Negroes were admitted to the University of Texas, or one of the other State supported schools, to sum it up, it wouldn't work; isn't that correct?

A I think that I testified that I didn't believe that the Negro would have the opportunity to participate in the activities of the school to the extent that he would have in a segregated school.

Q Is that based on your opinion as to what the students, the attitude the other students would take?

A Yes, in part.

Q Has anybody polled the students of the University of Texas to find out how they feel?

A Not to my knowledge.

Q Your opinion is just based on your own personal knowledge?

A Personal knowledge, yes; based on thirty years of contact.

Q Thirty years of contact. Do you know anything about the student body of the Law School?

A Very little.

Q Is there any factual basis you have for your opinion as to what would happen if a Negro was admitted to the Law School of the University of Texas?

A The only factual basis I have is what we -- would be the knowledge and understanding that I have of the attitude of the people in this section of the world.

Q You are aware, are you not, of the fact that members of the Bar of the State of Texas do not suffer from any segregation after they once pass the bar; are you aware of that?

A Yes.

Q What reason do you have that would make it so contrary to that principle to have the students to go to school together a week before they pass the Bar Examination?

A I don't think I understand that question.

Q Well, I started with the question that when they passed the Bar, the white and Negro lawyers practiced together. There is no friction at all among them. They take the Bar Examination together. What I am asking you is that why is it that if they can take the Bar Examination together and try cases together, that you make the assumption that they can't sit down in a class room one week before that, before they take the Bar Examination together?

A I think there is a difference between an experience of that sort and a three or four year association.

- Q I would be very interested in the difference, sir.
- A Well, in the first place, you have, by the time you get to the Bar Examination, you have your more serious students selected. In the second place, there is the interest of the group at that time, all very definitely centered on a final project, that of taking the Bar Examination. Over a three year college course you don't have the same selection of students. You have the activity going on on a general campus where there are not only law students, but thousands of others, and you have the opportunity for the cumulative feature.
- Q What I am trying to get at is that the Law School is in a separate building from the rest of the campus?
- A Yes, it is.
- Q It has its own library there, is that correct?
- A Yes.
- Q And is it not true that by the time you reach the stage of going to the Law School, you have a pretty staid objective then, don't you?
- A I think so, more so than the usual college freshman.
- Q Isn't it also true that there is, as I understand your testimony, there is just three years' difference in this matter. For example, do you think anything would happen, or any of the results you have testified would occur if a Negro transferred and entered for the first time the third year of Law School of the University of Texas, which is less than a year

before the time we were talking about?

A May I, -- I think that you have a wrong impression of my testimony, if I understand your question. I have not been intending to intimate that I thought something would happen.

Q I didn't mean that. I meant exactly what you testified to, to the effects of it on the students.

A My statement was, if I recall, that I thought that the opportunity of the colored student to participate in the activities, the total life of the mixed institution would be limited as compared with the opportunities on a segregated campus.

Q Get back to our question, then; since I understand you.

A Yes.

Q If the Negro was admitted to the third year law class, having gone to school in some other approved school for the other two years, would there be any effect on the student as to campus activities or anything else?

A I would think he would have less opportunity then than if he had gone in and spent three years.

Q Is there anything that you can name that would stand in the way of a Negro entering the Law School in the third year that would affect that student's legal education?

A I am not a professor of law.

Q I am just judging, on your other assumptions, as to what they wouldn't get in outside community life, as to that part of

it.

A But, if I understand you, you have restricted your question to legal education?

Q Yes, sir; that is what I was trying to do.

A And I started out with the assumption of education on every level, on the subject matter of education. It is the opportunity that the student has to mix and to develop in the whole college situation that must be considered, and it was from that point that I was talking. I can't answer a question with respect to legal education.

{ Court was recessed at 10:45 a. m.,
{ until 10:55 a. m., May 16, 1947,
{ at which time proceedings were re-
{ sumed as follows:

MR. MARSHALL: Your witness.

MR. GREENHILL: We have no further questions.

(W i t n e s s E x c u s e d)

MR. DANIEL: Before the State rests, we would like to be just understood, or have the right to at some time this afternoon before the case closes completely, to again present to the Court the testimony of Henry Doyle, and present to the Court certain authorities under which we believe that part of his testimony is admissible as circumstantial evidence as to the participation of the N. A. A. C. P.

THE COURT: I would be glad to hear any proposition you have to make.

MR. DANIEL: We rest, with the understanding we may present that a little later on.

MR. DURHAM: As I understand, the only matter the Attorney General will be permitted to present or bring up is the Doyle testimony?

MR. DANIEL: And any rebuttal testimony that we might have to your rebuttal testimony.

MR. DURHAM: I think we have a right to close this case.

THE COURT: You close, ordinarily.

MR. MARSHALL: At this time, for the purpose of the record, I want to first make a statement that as to the testimony of Donald Murray yesterday, and prior to that time, and the witness today, have both quoted from a statement, and his testimony is all to the effect that if a Negro is admitted to a Law School or to a University in the south that the student body will withdraw and go to private schools, and that is exactly the type of testimony that was given by Mr. Murray yesterday; that in an exactly similar situation, the exact statement made, that that didn't happen, and the students didn't withdraw and go to private schools, and we would like to re-tender that evidence which we put on in a bill of exception.

THE COURT: I am not going to consider either of those bits of testimony myself.

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MALCOLM P. SHARP, a witness produced by the relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Will you give your full name, please?

A Malcolm Pittman Sharp.

Q Your address?

A 5329 Greenwood Avenue, Chicago.

Q What is your present occupation?

A Professor of Law, University of Chicago.

Q Will you state briefly your legal education and your qualifications in general, in the field of law?

A I received my A.B. at Amherst in 1918, A. B. in Economics at the University of Wisconsin in 1920, L.L.B. at Harvard Law School in 1923, Doctor's Degree, Harvard Law School, in 1927. I did some teaching while I was still in college. Then I have been teaching law since 1925, at Iowa, Wisconsin, and the University of Chicago; a member of the New York Bar, -- counting a period for establishing residence, I practiced in New York City for about two years, served in

various advisory capacities in Wisconsin and Washington during the past years.

Q And are you a member of the Association of American Law Schools?

A I am.

Q And have you recently held any position on any committees of that association?

A I was Chairman of the Curriculum Committee that reported in 1942. Our work was somewhat disorganized by the war.

Q What was the purpose of that committee?

A The committee is appointed annually to consider the curriculum of member schools, recommend changes, improvements, make suggestions to member schools.

Q Now, as a result of your studies and your teaching experience, along with your experience in the Association of American Law Schools, would you state briefly the recognized purposes of a law school as of today?

A The purpose of a law school is, of course, first; to train for practice of the profession in the familiar way. The second purpose has been becoming more and more important, as all of the leading schools have recognized, training for positions of public service, as lawyers are called on to fill, to a marked extent, administrative agencies, the bench, legislative positions. The schools are paying more and more attention to training for that purpose. Of course, the training

of teachers and scholars in the field.

Q In the several items you have mentioned, what type of student body do you need in order to best accomplish that purpose?

A You need more than anything else, what I should call, a stimulating student body.

Q What is that?

A Where competition is great, lively; people from all walks of life. It is more important than your faculty. The most important thing a faculty does, perhaps, is to attract a stimulating, large student body.

Q Speaking of the student body, your testimony is that you need all walks of life. Are there any other factors you need as to individual students?

A You need to be well prepared, I should say, in so far as the group of students came from educational institutions whose standards were not up to the best that the others have. They would be a less stimulating group, to that extent. Their native capacity, and their training would not have been up to that of the other students.

Q What method do you use in teaching in the University of Chicago?

A We use the case method.

Q Will you explain that briefly?

A I agree with much of what Professor Walker and Dean Harrison have said. We have our individual differences. The case

system is designed to, in the first place, to bring out clearly the rules of law, partly by making discussions clear, working over discussions in class room; partly by practicing the application of the principles applied to cases.

I should say those particular advantages in a controlled situation starts the students off to what they are to do all through their careers at the bar. Of course, with practical problems, they have, perhaps they have heard of them in law school, and developed capacity for judgment, which is the mark of a good lawyer. I think in these days a very important addition to the case system is the seminar system which has been considered, and again, we give the students a chance to develop, present their own individual work, differ perhaps, and present it to the class mates for criticism, and hashing over in small groups.

Q Do you believe the seminar method can be used in a first year law class?

A I think it can be.

Q Under what conditions?

A This is a rather odd notion of my own. As a matter of fact, I think not many law teachers would agree with me, but we have had some success in our tutorial work in our first year students, not for the first year students to work right away at problems, if you are talking about the familiar first

year class. The use of the case system would be better than the most likely alternative, lecture. Seminar is theoretically possible for first year students, but as far as I know, it isn't used anywhere, and I haven't heard that that was suggested here in connection with the proposed new school.

Q Dr. Sharp, the other question I wanted to ask was -- first, I will ask you, is it possible to use the case system in a one-man class, with one man and a professor?

A Well, as a matter of words, but it wouldn't be what I call the case system.

Q And is it -- which system is the recognized system for teaching a law school today?

A The case system.

Q And as used in the progressive law schools of the country today, is it possible to use that same system with a one-man class?

A Not really, no, I think not.

Q Doctor, as a matter of fact, wouldn't it come mighty close to the lecture method?

A I think there would be a great danger that it would.

Q Do you believe that -- well, in your experience -- let me ask you this question. Assuming that the proposed Negro Law School is equal in all other respects to the Law School of the University of Texas, except in respect to the size of the

student body, and further assuming that the proposed Negro Law School has a student body which consists of one student; in your opinion, would the Negro Law School offer to that Negro student a legal education equal to that offered to any student at the University of Texas which has a student body of more than 800 students?

A Certainly not.

Q With the same hypothetical question put as to the Negro Law School, inserting the word "ten" for the word "one" student, would that change your answer at all?

A It seems to me still very clearly that the education there wouldn't be in any sense equal.

Q In your opinion, would it offer to that Negro student a legal education substantially equivalent to that offered to the students at the University of Texas?

A As far as I can visualize the situation, it would not.

Q Assuming that the Negro Law School is equal in all respects to that of the University of Texas, and had a sizable number of students, but all restricted to the Negro race, would that school give an education equal to that at the University of Texas, which accepts all students of all groups and all nationalities, other than Negroes?

A I do not see how it could, for many years, at least.

Q Will you give your reason for that?

A You are back to that point about competition. Not only does

it give you argument and give you the examination of the issues that you get in the class room, and having a pretty good class, some size, some opportunity for competition, but a great deal of the student's education occurs outside the class room, as we all know. There has been a saying in the teaching profession for some time that students at Harvard Law School got a good deal of their education by arguing on street corners and in restaurants, and bickering back and forth among themselves. The best thing a teacher can do is start that sort of arguing going, and let it go on all day, with intervals out for briefing cases; a good deal of discussion back and forth.

In view of the testimony that has been given about the character of Negro education at the lower levels ----

MR. DANIEL: We object to that. That isn't responsive.

THE COURT: I think not.

MR. MARSHALL: Very well. Go right ahead.

A Unless the education of the Negro group at all lower levels is equal to that of the white group, we can't expect the competition of the Negro Law School to be as stimulating as the competition in the white law school, which we have assumed to be equivalent in other respects. I should think that one very important function of legal training would be neglected in the Negro school. That is the function of

preparing law students for positions of responsibility as lawyers in Government. The experience of three colored lawyers whom I know particularly well ----

MR. DANIEL: We object to that.

MR. MARSHALL: I was going to ask him that anyhow.

Q Doctor Sharp, the University of Chicago, as to race, is the faculty of its law school mixed, or is it separate?

A It is mixed. We have just called back one of our colored graduates to take a position on our staff as Associate Professor, and Research Professor.

Q What about the student body?

A It is mixed. The first time I had had occasion to count the Negroes, I found we had 13 in a student body of about 300.

Q You mentioned the fact of the purpose of the law school to develop men and women for public service to the country. Well, in your experience at the University of Chicago, can you name any students who happen to be Negroes who have graduated from the Law School, and of your own personal knowledge, gave themselves to public service to the country?

MR. DANIEL: We believe that specific instances are irrelevant and immaterial. He has drawn his conclusions from it.

THE COURT: Yes. I think the conclusions are well taken, but I doubt if the special instances would assist us any.

MR. MARSHALL: May we have an exception?

THE COURT: Yes.

MR. DURHAM: You will have to let him answer the question.

THE COURT: To make the bill, he can answer the question.

Q (By Mr. Marshall) Answer for the bill of exception.

A There are a number of such cases. Three or four come to mind, particularly. Mr. Ming, who has just come back on our staff, has had a career of public service. Mr. Truman Gibson has had a distinguished public service career.

Q Would you mind giving that?

A I am coming back. I was just selecting. Judge Hasty is not one of our graduates, is one of the best I know.

Q Do you know which school he is from, law school?

A He is from Harvard; a different generation from mine, but I know of his career. Earl Bickerson, one of our graduates, served on the Council in Chicago. Mr. Charles Houston, a year ahead of me at the Harvard Law School, and on the Harvard Law Review with me, is a bills and notes expert. I can say a word about the career of two or three of these men particularly that seem to illustrate the importance of the point. We naturally think teaching is important. I see no reason for losing talent to the teaching profession on account of color. We are glad to have Mr. Ming back with

us, and it is an advantage to us and to the school that he was not trained in a separate school. He is an American, working on the problems of the State, public utility problems, in which he has had special experience, on cases of problems relating to the regulation of business by Government, which is an increasingly important problem for lawyers, and it is important, it seems to me, that he should be trained to think as a member of the total community. Particularly, he should be trained to think professionally as a member of the total community.

Mr. Gibson is a striking example. He was Special Assistant to the Secretary of War during the war, and was given a medal for his services, and is a member of the President's distinguished committee on public military training. He is a member of the National community, and it is of utmost importance that he was not trained at a segregated school.

Mr. Houston, another schoolmate at Harvard, is working in the field of labor, Government regulation and industrial regulation, working on problems of seniority in the law. He is sometimes able to point out the effects and the abuses of the labor organization practice.

Judge Hasty had a very distinguished career in the field of law ----

MR. DANIEL: We will agree in their bill of exception

they can write all of that out in there. We can agree they can write up everything he would have testified to about it.

MR. MARSHALL: We have just a few more.

THE COURT: Maybe you can conclude it here now.

Q (By Mr. Marshall) Will you give Judge Hasty's present position?

A Governor of the Virgin Islands.

Q In your experience with these and other students, do you believe that those students, excluding Hasty, whom you do not know personally, from personal contact with him, could any of those men you have named obtained their information that they have used for public service, in a segregated law school?

A That question of "could" again troubles me. There are distinguished graduates of Howard, which is not strictly a colored law school, but it is largely colored. I wouldn't want to be that sweeping in my statement.

Q Do you believe you can get equal value with training of other students, in a segregated law school?

A Other things being equal, I most emphatically do not.

Q You testified a while ago about the more competition ----

MR. DURHAM: We tender this as testimony outside of the bill of exception.

THE COURT: All right. I will give you your bill.

MR. DANIEL: That is the end of the bill?

MR. DURHAM: Yes.

Q (By Mr. Marshall) In your opinion, is it possible for one student or ten students entering the first year law class in the proposed Negro Law School that you have heard testified about here where there are no upper classmen, second and third year students, to secure equal or substantially equivalent of legal training to that received by first year law students at the University of Texas where there are hundreds of upper classmen?

A I think it is not possible for them to receive equal training.

Q Will you give your reason?

A What has been said about the competition among classmates, the emphasis has been on the competition of classmates so far. What has been said about that applies to the stimulation a man gets from the upper classmen, and the guidance. Sometimes loose guidance is very healthy, worried about one thing and encouraged about another, and the stimulus which comes from having a full complement of classes and full complement of upper classmen is a matter of first rating in any school. It is essential to the existence of what I should call an operating school.

Q Do you consider a law review as extraneous to a legal education?

A Certainly not. One of the most important devices, most

important instruments of legal education in a modern law school is the law review.

Q Is it of any value to a first year student?

A It is, in so far as the competition for that outstanding honor, as it is in most schools, makes itself felt all the way down the years. It sets the tone. The law review men are the people that set the tones.

Q Do you believe the Order of the Coif and other honors are extraneous to a legal education?

A No, I do not.

Q What do you classify them as, in your mind?

A Actually, I think those awards are next important to the law review. The law review is of first-rate importance, but all awards which recognize attainment help in the process of stimulating friendly competition. Competition and friendly association are not by any means incompatible. In fact, they go together, a part of the business in preparing people to deal with the community as a whole. All of these awards step up competition in what I regard as a healthy manner.

Q In your opinion, do you believe -- first of all, you know about the University of Texas and its accreditation?

A It is a thoroughly accredited school, a first-rate school in excellent standing, of course.

Q Do you believe that a Negro student could get an equal education in a law school that started in Houston, Texas in

February of this year, moved to Austin in March of this year ----

MR. DANIEL: We object to that part of the statement, because it is not in accordance with the facts of the case. They are entirely separate schools, Your Honor. There is no move of that school to Austin.

MR. MARSHALL: I will change the question.

THE COURT: I believe I will let you -- I believe I had better sustain his objection as to its moving.

MR. MARSHALL: Yes, sir.

Q Do you believe that a Negro could get a legal education in a law school which had been previously established in Houston, Texas, in February of this year, and was closed the same month, and another law school opened in Austin in March of this year, and the record further showing that that school would be moved to Houston in August of 1948; do you believe that a law school student, whether he be white or colored, could get an adequate education in a school, law school of that type?

A I don't see how he possibly could.

Q Well, of what importance is the stability of a law school?

A Well, it has a human importance which we all recognize. If you settle down to study, you want to stay at least a year, certainly at least a semester. Normally, when you start in, you plan to finish your course in the school that you select,

go right through. Occasionally there are occasions for moving, sometimes there are advantages. Certainly, the normal law student settles down to complete a course, and he can look three or four years ahead, depending on whether it is a three or four year course.

Q Is the reputation of a law school of any value to the student, its reputation in the legal field?

A To the student while he is a student?

Q To the student while he is a student?

A I think it is; it gives him confidence, pride, interest; it is a good deal of difference to the student if he feels he is in a good school, running well.

Q Is the reputation of a law school of any value to the student after he graduates?

A Well, we all know it may be of importance getting a job for a time. As one builds up a practice it may become of less importance, rank of the schools from which they come. Certainly, in the earlier stages of the lawyer's career, it may make a good deal of difference.

Q You have heard the testimony about the so-called Negro Law School. I will ask you if a school which opened on March 10th in a -- the ground floor of a building which had been leased for a period of one year, and in which there were three part-time professors to teach, and a library consisting solely of a hundred or two text reference books, could

give a Negro an education equal to that at the University of Texas?

A May I ask one question there?

THE COURT: Yes.

A May I ask what you mean by "opening" ?

Q (By Mr. Marshall) It opened on -- that the doors were opened, and there was a person to register other students?

A That is all you mean?

Q Yes, that is all.

A I don't see how it could, possibly.

Q Then, I will ask you the next question. Is it possible to get a legal education equal to that at the University of Texas in a law school consisting of one student?

A No, I should think not.

Q In a law school consisting of ten students?

A I think not.

Q In a law school consisting of a hundred students?

A One hundred students, how selected?

Q One hundred Negro students?

A No, certainly not.

Q Well, would that type of school with one, ten or a hundred Negro students give a legal education substantially equivalent to that obtained at the University of Texas?

A I should think not. I am a little troubled by your one hundred case, if you can imagine such a case, conditions

would be a good deal changed, but nothing I can visualize now would give substantial equality in any of the cases you supposed.

Q Dr. Sharp, assuming a law school established in the basement of a building, ground floor, rather, of a building, and with a library of ten thousand volumes, assuming that they met the requirements of the Association of American Law Schools, and with three part-time professors, and from one to ten students, would that give education substantially equivalent to that at the University of Texas, -- Negroes only?

A I should think not.

Q Dr. Sharp, a law school established in a building with three floors, assuming that the three floors are adequate in space, adequate in space to accommodate ten students, and assuming further that a total budget of a hundred thousand dollars is spent for reconditioning and stacks, et cetera, would that type of law school give an education substantially equivalent to the Negroes there as that given other students at the University of Texas?

A I think I have lost the trend of the question.

Q The difference between the two questions is that one we have one floor and the other we have three floors, plus a library of ten thousand books, plus a budget of a hundred thousand dollars.

A That budget is for repairs?

Q It is for everything.

A Salaries?

Q Including books, salaries, and everything else.

A I should think not, by any means.

Q Would your answer be changed if we added that there were four full-time professors there, and all Negro students, in the same situation?

A Well, if you got four most eminent professors in the United States, about whose names I would have to think a little before I decided who they were, it is perhaps conceivable that this select group of Negroes would get an education that was at any rate comparable to that which the boys got, sizable classes with competition and so forth, at Texas, but I should think even then it unlikely, and I suppose no one school can hope to have the four greatest teachers in the United States, least of all, a new school, and least of all, one established under these conditions.

Q Even with those circumstances, could you get the total community thinking in a school of that type?

A I wouldn't think so. It would take extraordinary teachers, indeed.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Sharp, would your answer to the questions just asked you

be changed if in the same situation you had two law schools, one for Negroes, one for whites, both law schools had exactly the same faculties, exactly the same facilities; by that, I mean the men of equal prominence and ability, and both of them had the same courses, the same number of students, the only difference between the two law schools being that the student body of one was made up of Negroes, the student body of the other made up of white students, the student bodies, however, being equal, I will ask you if, in your opinion it would be possible that the school for the Negroes would furnish substantially equal opportunities for training in law and procedure as the one for the whites?

A May I ask about one of the conditions?

Q Yes.

A Where does the faculty have their offices?

Q In exactly the same in one school as in the other?

A I don't understand that.

Q Sir?

A Where do they do the most of their work?

Q The same in the Negro school as in the white school. I am asking you a hypothetical question along the lines that you have had hypothetical questions on direct examination. In my question, everything concerning one school is the same as the other, identical, the only difference being that one is made up of white students, the other made up of Negro

students?

A Well, I can answer the question, but I have still a doubt in my mind as to the conditions. As a teacher, I visualize certain things about that condition. I can't imagine operating from two offices equally.

THE COURT: It would probably be different teachers of equal standing.

Q (By Mr. Daniel) Yes, sir, different faculty, but the total of the faculty such that even you would say that one was absolutely as good as the other?

A Well, I should still say no.

Q In other words, it is your opinion it is an absolute impossibility to set up a separate law school for Negroes, no matter how good a faculty, no matter how good a building, and no matter how good a library that would be equal to exactly the same kind of institution set up for whites?

A No, I think I have avoided saying that. I recognize that some point of extraordinary faculty, and perhaps extraordinary equipment, might turn the balance. It is a point that hasn't been suggested to me in any realistic way by the questions.

Q Where the faculty amounts to the same, you don't believe that the Negro school could furnish substantially equal opportunities as the white school, everything else being equal except that they are separate schools?

A No, for the reasons I have already explained.

Q Then I will ask you if it is also your opinion that on the basis of the reasons that you have testified about, that in higher education that a separate school for girls can furnish, being exactly with the same faculty and all facilities, can furnish substantially equal educational opportunities as exactly the same but separate schools set up for men?

A I thought you were -- you asked me about co-education. I haven't answered.

Q I believe that is the word.

A Are you asking me about new colleges? You asked me to contrast women's schools with co-educational colleges.

Q We are asking for the same opinion along the same lines we have been asking you about here this morning, where you have exactly equal facilities, as good a faculty, and all, in a separate women's college, separate from the men, whether or not in your opinion it would be possible, based on the reasoning that you have given here, for that school for girls to offer substantially equal opportunities for higher education as the separate school for men?

A That is, they are both segregated?

Q Segregation on each side.

A You are not asking me to compare co-education?

Q I am asking about separate.

A Everything else being equal, I see no reason why the

separate school for girls should not have the same advantages and disadvantages that the separate school for men has. I happen to think this; co-education, other things being equal, is better.

Q Let's take co-education. In your opinion, the mixed school, in so far as men and women are concerned, co-educational schools, in your opinion, can the separate schools for men and women furnish equal opportunities with the co-educational schools?

A First, of course, they can and actually do, because you have cases where we know like Harvard and Bryn Mawr, very distinguished staff, and where work is done on a very high level. Other things being equal, I should prefer the situation in Chicago. It has the advantages of a non-segregated school. I should prefer the situation like we have in Chicago, where we have co-education.

Q I am not asking what you prefer. I was asking if in your opinion substantially equal educational opportunities could be furnished in the separate school for women as could be furnished in co-educational schools, with all having the same type of faculty and facilities?

A Other things being equal, I should think not, not as desirable.

Q I asked you whether equal educational opportunities could be furnished. Is your answer the same on the opportunities that are afforded for equal education?

A Yes, other things being equal, the opportunities would not be equal in the segregated school as compared to the co-educational school.

Q Have you ever taught school in Texas or any other southern state?

A No.

Q Have you ever gone to school in the south?

A I trained in the south during the last war, taught flying in Miami, a teaching assignment.

Q I mean in schools of higher learning?

A No.

Q Have you made any study of the schools of higher education in the south?

A No, sir.

Q Have you made any study of the attitudes of the people of the south on the question of segregation, regardless of the merits of those attitudes, or how they came about? Have you made any thorough investigation of what those attitudes, good or bad, are?

A It depends on what you call study, or what you call thorough investigation. I haven't made the kind of study Dr. Thompson has made.

Q You are not, then, fully acquainted with the attitudes as they relate to the possibility of mixed schools, are you, in the south?

- A Not in the sense Dr. Thompson has.
- Q You don't feel qualified as an expert on whether or not the social attitudes in the south, good or bad, are such that mixed schools would work better than the separate schools, are you?
- A You are talking about schools at all levels?
- Q I am talking about higher levels, colleges; whether or not you are acquainted with those attitudes, or have made any study of those attitudes for the purpose of determining whether or not they would work better in the south, better in the separate schools, or in the mixed schools? In other words, are you willing to qualify as an expert on it? Do you feel like you have made the study necessary to give an expert opinion on that question?
- A I think I have made enough study of law schools and have spent enough time in them so that my opinion about mixed or segregated law schools ----
- Q In the south?
- A South or north.
- Q I am talking about whether or not you have made any study of the attitudes of the people of the south, if you have made a thorough enough study to be acquainted with those attitudes and the influence they would have on the success of a separate law school?
- A I think I have some acquaintance, but I have not made the

kind of technical study Dr. Thompson made.

Q You would not attempt to give this Court an expert opinion on that question today?

A The question of education generally.

Q The question of the attitudes of the people of the south as applied to the possibilities of the mixed schools being as successful as separate schools in higher education and fields of training?

A If -- I don't mean to fence with you, or be facetious, but I have not made any special study of race relations in the south.

Q Back to your point as to a stimulating student body being one of the requirements for, in your opinion, for a good law school, I will ask you, Dr. Sharp, if you will not agree that the attitudes of all of the members making up that student body, social attitudes, whether they be good or bad, or regardless of where they came from, if those social attitudes will not have some bearing on the stimulating study body that you are talking about?

A Surely.

Q Will those not also have some bearing on whether or not the student in a mixed school would have the same encouragement or help from upper classmen as he would receive in a separate school?

A Surely.

Q You will agree also that the attitudes, whether good or bad, of course, will have some bearing on the support of the institution involved in a southern state, won't you, the State support given to them, and the support of individual citizens?

A I think you have disqualified me to testify in this crowd. I am not an expert ----

Q I will ask you if you don't know enough about it in general to know that the social attitudes in any state will have some bearing on the support given a mixed school in that state?

A I do not know more about this subject than -- it is the same sort of general acquiring of knowledge that I have about race relations in the south. If you want me to speak about it on the same sort of qualifications, I am willing to, but I am not willing to leave the other question and ----

Q I will withdraw that question. Now, you talked about the various benefits of the case system, one of them being the chance, the opportunity for the student to recite, to report on the work that they have done on the particular cases assigned. That is one of them, is it not?

A One of them, only one.

Q Only one. Beginning with that one, all other things being equal, I will ask you if it isn't true that in a class made up of 125 students, that a smaller percentage of the students

will have an opportunity to recite and report on each case than in a class made up of ten students during a one hour period, the same period of time?

A In a very mechanical sense, that is true.

Q And is it not true that a greater percentage in the smaller class will have an opportunity to discuss and criticize the case and be heard from on the case than in the larger class?

A I would rather say no, not necessarily, but in a mechanical sense, it is conceivable, if you divide up the minutes you will get some such result as that, but I don't think that touches the real point.

Q On that one point, regardless of what you would rather say, the truth is that you would have to say yes, as far as the greater percentage of students having a chance to, the time in which to comment on each of the cases assigned?

A May I explain my qualification?

Q As soon as you answer the question.

A In a mechanical sense, yes.

Q Yes.

A But I don't know how you could with 30 or 40 fellows all wanting to be heard, which happens in a good class. They can't all talk. When you have a good class, you see all sorts of people ready to say something all at once. Of course, they can't all talk. That is the kind of class that goes well.

Q In a class of 125, they can't all talk, can they?

A No, but they can all be ready to, in a really good class.

Q They can all be ready to in a really good class. In a class of ten they can all be ready to, can't they?

A Yes, they can, but I am not so sure it is likely.

Q It is possible they can all be ready?

A Yes.

Q And it is possible to call on more of them than in a class of 125 during an hour's class?

A In a mechanical way, yes. It is a very good feeling for them all to want to talk.

Q From the standpoint of the professor?

A And the standpoint of the student.

Q You mentioned that with first year students you had found tutorial work to be successful?

A Yes.

Q What do you mean by tutorial work?

A Work which is conducted with us by a special staff of younger men in the preparation of papers on problems, the examination of those papers by the tutorial staff, and instruction in the art of writing, using language, as well as in the art of legal research, building up a case, doing some productive work on one's own.

Q Derived from the old tutor system of instruction?

A It has been used very successfully in the English universities.

Q And that system is applied to the individual student?

A Yes.

Q The tutor works with the individual student?

A Yes.

Q You have found that quite successful, you say, with first year students?

A In this form, this form of promoting the development of individual skills and talents and capacities by the assignment or awarding pieces of work.

Q That system, that tutor system that you have spoken of as being successful with first year students, comes much nearer to operating that law school with one student than any other system you have described here today, does it not?

A Oh, I think not. I think what I said about the value of competition in the class room, and outside the class room, applies to this sort of thing. Boys get together. We don't prohibit them from talking over their papers together. We desire it sometimes by groups.

Q In a law school with one law student, the type of instruction will be nearer the tutorial type than the lecture type, wouldn't it?

A Not necessarily, at all.

Q It could be, though, you will agree?

A I don't see any special likelihood of it. There is an equal likelihood that the student would begin to lean on the

one professor. It is quite as likely to develop into a rather casual lecture. It is easy to lecture one student.

Q It would be similar to your tutorial system with the one student?

A I think it would be very different. Our tutorial system depends on the work over an extended time, with particular problems, developing skills in a school of some size where there is enterprise. I see no real similarity between the essential character of the tutorial system and a school with one student.

Q No connection. On your question a minute ago, and your answer about a law school moving, you don't mean to state to the Court that in your opinion that if Harvard Law School moved to another city in the State of Massachusetts that that would cause any inequality to a one year law student who had been there only the year before the move, do you?

A If the move is in the middle of the year?

Q No. At the end of the year.

A The question was about the middle of the year.

Q Did you think Mr. Marshall's question a minute ago about the move of the proposed Negro Law School, that he meant that it would come in the middle of the year, school year?

A It came in a month, as I recall it, which is normally in the school year.

Q And your assumption is that that date was in the middle of

the school year; right?

A Yes, sir, on that, but I don't think that is the only factor in my answer.

Q Now then, if the Harvard Law School moved at the end of the school year, the student who had been there during his first year's work, only his one year, do you feel it would be any inequality to him at all if the school happened to move to another city in Massachusetts where he was allowed to continue his work under the same direction?

A I can hardly imagine such a move being made for anything but a good reason, and I don't imagine it would do the student any harm.

Q The same would be true of any other good law school that made a move at the end of the year, all other things being equal, that would cause no particular disadvantage to the student?

A The same thing would be true of any first-rate school.

Q I said, substantially equal.

A It is hard to visualize, but I can't imagine such a case.

Q We will imagine such a case. Is it your answer it would do him no harm, or furnish no inequality by such a move?

A Harvard goes from Cambridge to Northhampton, Massachusetts, leaving the University. It is a hard case to think of, but---

Q We have already effected the move. I am asking you about a move of any law school substantially equal to Harvard Law School, if it moved at the end of the school year to another

location, whether or not in your opinion that would cause any disadvantage or inequality to the first year law students who had been enrolled in that school?

A I suppose it would cause some inconvenience, all right, but no disadvantage.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Sharp, if Harvard should move this year, it would be after how many years at the same stand?

A About 120 years.

Q That is all.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will resume at two o'clock.

{ Court was recessed at 12 o'clock
noon, May 16, 1947, until 2
o'clock p. m., May 16, 1947.

AFTERNOON SESSION.

May 16, 1947.

2:00 P. M.

MR. DANIEL: You have rested?

MR. DURHAM: Yes.

MR. DANIEL: Now, Your Honor, I would like to present the authorities I have mentioned before going back to Henry Doyle's testimony. I do apologize for asking the Court to change its ruling on the matter, but I would like for the Court to consider the purpose.

THE COURT: All right.

MR. DANIEL: In the first place, it bears on the point that there are no students in the school. We really believe, Your Honor, that the relator has made quite an issue of the fact that no students are in there, and especially the situation where there is only one student there, all through this case.

We also think that there is no question that the evidence shows the National Association for the Advancement of Colored People are giving active assistance to relator, but I would like for the record certainly to show that we make no objection to it, and think that it is only proper that they do render that help, if they think relator's case is right.

The only thing we point out about the National Association for the Advancement of Colored People, and the

chain of evidence being in the attempt to show the discouragement given by that association to students in the school, given not only by the association, but by the attorney for relator, whose acts certainly do have a bearing, him being in that position with relator.

Now, we have direct evidence in the case, Your Honor, showing this. We have direct evidence in the case by the relator himself that when he received his notice about the school being open, that he didn't make up his own mind about whether he would attend, but went to his attorney in Dallas to make the decision. His attorney in Dallas testified that he did not make any investigation of this school down here, but he called Maceo Smith, and Maceo Smith was shown to be the Secretary for the National Association for the Advancement of Colored People here in Texas. That upon the report received within four or five days from Maceo Smith, Mr. Durham and the relator made up their minds that he would not enter. Therefore, we have the direct evidence of at least some influence.

We could not go into what the report was, but some influence of the association bearing on at least one student not going to the school, the relator here himself. We feel that any other evidence as to another prospective student, the fact that he was mentioning going, and he didn't go, even though it is circumstantial evidence, it would certainly have a bearing in this case.

Yet, Your Honor may not consider any of that evidence. If this case is appealed by whichever side loses the case, I am just thinking about if some other court might not wonder what about other students. We at least have one on whom we offer circumstantial evidence.

I would like to read from about three authorities on circumstantial evidence in cases of this kind. In the first place, quoting from two Texas cases by the Supreme Court of Texas, the general rule stated in those two cases is as follows:

"As a general rule, in the absence of direct evidence, evidence of any circumstance, however slight, which conduces or tends in any degree to establish a material fact, or which affords fair presumption or inference to the question in dispute is relevant and admissible."

And from Texas Jurisprudence I quote:

"It is not necessary that the fact sought to be proved should have direct reference to the main issue and however remote from the main issue, it is proper to submit such issue if the evidence refers to a fact relevant to a fact in issue."

And then from *Duke v. Houston Oil Company*, a recent case, this statement:

"Generally, any conclusion may be based upon

circumstantial evidence, and fact that evidence is circumstantial does not render it incompetent. Where it is sought to prove an ultimate fact by a chain of circumstances every circumstance should be considered."

And then I quote from McCormick and Ray on Evidence:

"A design, plan or intention may also be evidenced circumstantially by conduct showing it.

The kinds of conduct usable for this purpose are infinite in variety, but the decided cases deal with comparatively few of them. In general, however, it may be said that any act which under the circumstances and in the light of experience would indicate a probable design, is admissible."

We admit readily that we do not have direct evidence from Henry Doyle that the National Association for the Advancement of Colored People persuaded him to make up his mind not to enter the law school on March 10th, but we do feel like his evidence contains certain circumstances such as this that are important. First, for instance, where he resides, and that he was considering prior to March 10, 1947 this new law school, and entering it. That while he was still considering this school he attended a meeting of others of his race, including Maceo Smith, the Secretary-- shown by the evidence to be Secretary of the N. A. A. C. P., in Dallas, while still

considering whether or not he would attend this school, at that meeting. Mr. Durham, attorney for the relator, appeared before that meeting, and that the witness, Henry Doyle, on March 10th, did not enter the school. No direct evidence, but Your Honor, it does show that in making up his mind he was in a meeting with the same people, Mr. Durham and Maceo Smith, that made up the mind or helped influence one student not to go to the school, and we think those circumstances are at least, maybe only slight, but they bear in a way in explaining at least what one prospective student did in making up his mind, and the fact that he did not finally enter the school; that that conduct in the meeting in Dallas is admissible for the purpose of showing at least what one other student who did not enter did about considering the matter.

THE COURT: And you re-tender the evidence of Doyle?

MR. DANIEL: Yes, sir, we re-tender the evidence of Doyle, that particular portion of it that is on the point that I have outlined here to the Court. Some of it is not admissible, of course, but only the points that are not objectionable on some other ground.

THE COURT: I think I will give you your bill.

MR. DANIEL: Note our exception.

THE COURT: Have you anything further?

MR. DANIEL: That is all, Your Honor.

MR. MARSHALL: We are through.

TESTIMONY CLOSED.

RESPONDENTS' EXHIBIT NO. 1,

Page 1.

STANDARDS OF THE AMERICAN BAR ASSOCIATION

(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition to admission at least two years of study in a college.

(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course equivalent in the number of working hours, if they devote only a part of their working time to their studies.

(c) It shall provide an adequate library available for the use of the students.

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

(e) It shall not be operated as a commercial enterprise and the compensation of any officer or member of its teaching staff shall not depend on the number of students or on the fees received.

(f) It shall be a school which in the judgment of the Council of Legal Education and Admissions to the Bar

RESPONDENTS' EXHIBIT NO. 1,

Page 2.

possesses reasonably adequate facilities and maintains a sound educational policy; provided, however, that any decision of the Council in these respects shall be subject to review by the House of Delegates on the petition of any school adversely affected.

RESPONDENTS' EXHIBIT NO. 2,

Page 1.

R E S O L U T I O N.

Minute Order No. 203-46

ESTABLISHMENT OF LAW COURSE FOR NEGRO STUDENTS.

On motion by Mr. Buchanan, seconded by Mr. Reese, and approved by a majority vote of the Board, the following resolution is adopted.

WHEREAS, by Senate Bill No. 228 of the 49th Legislature the name of Prairie View State Normal and Industrial College at Prairie View was changed to Prairie View University; and

WHEREAS, the act further provides that whenever there is any demand for same the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide for a course in law at Prairie View University substantially equivalent to that offered at the University of Texas; (Other courses not pertinent to this order were also authorized.) and

WHEREAS, the Board of Directors of A. & M. College in cooperation with the University of Texas named a joint committee to study the obligations of these institutions in connection with Negro education and made a report to the Governor in connection therewith, said, (Minute Order No. 124-46), being attached to and made a part of this order; and

WHEREAS, The Board of Directors of the A. & M.

RESPONDENTS' EXHIBIT NO. 2,

Page 3.

College of Texas strongly reaffirms the position taken in the recommendations made to the Governor, particularly that part which urges the establishment of a first-class University for Negroes, preferably at Houston, Texas, under the supervision of the Board of Regents of the University of Texas; and

WHEREAS, it has been brought to the attention of the Board of Directors that at this time there is pending an application for admission to the University of Texas by one or more colored youth seeking to enroll in the School of Law, and this Board has been requested to make arrangements for these young men to embark on their legal studies pending final action by the Legislature on the recommendations made or to be made to its 50th session; and

WHEREAS, the Board of Directors has by investigation determined that arrangements may be made for standard courses of first-year law to be given in Houston, Texas with qualified Negro lawyers as teachers:

THEREFORE, be it resolved

1. That if the applicant and/or similar other applicants for first-year courses in law offer themselves to the Registrar at Prairie View University, bringing with them a suitable transcript and a certificate from the Dean of the Law School of the University of Texas that they are scholastically prepared for a course of law equivalent to that given

RESPONDENTS' EXHIBIT NO. 2,

Page 4.

at the University of Texas, they will be admitted to Prairie View University for the semester beginning February 1947.

2. The course will be offered in Houston, Texas and will be substantially the same approved course as is now offered by the University of Texas School of Law for entering students, and the qualifications of the personnel to teach the students will be determined by the State Board of Law Examiners, and they will be judged acceptable by it before instruction begins.

3. The Board of Directors of A. & M. College, through Prairie View University, will provide instruction in accordance with the requirements of the Supreme Court of Texas and the American Bar Association, and will provide or make available to the students such books or library material as are needed for the first-year course in which they will be enrolled. The Governor will be asked for a deficiency appropriation to provide the cost of instruction.

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CERTIFICATE.

I, E. L. Angell, certify that the foregoing is an exact copy of Minute Order No. 203-46 passed at the meeting of the Board of Directors of the Agricultural and Mechanical College of Texas held at Austin, Texas on November 27, 1946.

RESPONDENTS' EXHIBIT NO. 2,

Page 5.

IN WITNESS WHEREOF, I have hereunto affixed my hand
and seal of the said institution this 4th day of December
1946.

/s/ E. L. Angell

E. L. Angell, Secretary

Board of Directors

Agricultural and Mechanical

College of Texas

(Seal)

RESPONDENTS' EXHIBIT NO. 3,

Page 1.

RESOLUTION ADOPTED BY THE BOARD OF REGENTS
OF THE UNIVERSITY OF TEXAS

RE: THE TEXAS STATE UNIVERSITY FOR NEGROES

ADOPTED FEBRUARY 28, 1947.

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RESOLUTION-- RE: THE TEXAS STATE UNIVERSITY FOR
NEGROES.

Chairman Woodward presented the following resolution re The Texas State University for Negroes, as was proposed in Senate Bill No. 140, 50th Legislature of Texas, which resolution was adopted unanimously by the Board upon motion of Mr. Bullington, seconded by Mr. Kirkpatrick. The roll call reflected the following vote:

AYE:

NO:

Judge Woodward

Mr. Bullington

Mr. Kirkpatrick

Dr. Scherer

Mr. Schreiner

Mr. Tucker

Mr. Warren

WHEREAS, Senate Bill No. 140, being an Act to establish a University of the First Class to be styled "The Texas State University for Negroes" has been passed finally by

RESPONDENTS' EXHIBIT NO. 3,

Page 2.

both Houses of the Legislature of the State of Texas now in Session, and

WHEREAS, it is anticipated that said bill will be signed forthwith, and will, by its terms, become immediately effective, and

WHEREAS, Section 11 of the said Act provides that "The Board of Regents of The University of Texas is authorized and required to forthwith organize and establish a separate school of law at Austin for Negroes to be known as the 'School of Law of The Texas State University for Negroes' and therein provide instruction in law equivalent to the same instruction being offered in law at The University of Texas;" and

WHEREAS, The Board of Regents of The University of Texas desires to cooperate fully and immediately in carrying out in good faith all of the duties imposed upon it by said bill, and

WHEREAS, The Dean and the Members of the Staff of the School of Law of the University of Texas have signified their willingness and desire to cooperate fully in the establishment and conduct of said School of Law of The Texas State University for Negroes to the end that the instruction therein given may be in all respects equivalent to that currently and heretofore offered in the School of Law of The University of Texas; and

RESPONDENTS' EXHIBIT NO. 3,

Page 3.

WHEREAS, The Registrar of The University of Texas has signified his willingness and desire to cooperate in the organization and conduct of the School of Law of The Texas State University for Negroes as contemplated in said bill, now, therefore,

BE IT RESOLVED, That the Board of Regents of the University of Texas hereby assumes and undertakes to discharge promptly and in full compliance with the letter and the spirit of Section 11 of said bill all of the duties and responsibilities imposed upon or delegated to it by the terms thereof; and

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents of The University of Texas be, and he is hereby authorized, immediately upon said law taking effect, to take all steps necessary to acquire in the immediate vicinity of the State Capitol at Austin, Texas, quarters fully adequate for the conduct of the School of Law of The Texas State University for Negroes and to do all other acts and things, including the employment of necessary personnel, the acquisition of furniture and other facilities and utilities necessary to the full equipment and operation of said school;

BE IT FURTHER RESOLVED, That the first semester of said school begin on Monday, March 10, 1947, which is hereby designated as the final date for registration therein and that

RESPONDENTS' EXHIBIT NO. 3,

Page 4.

such semester extend through June 28, 1947, and

BE IT FURTHER RESOLVED, That the Dean of the School of Law of The University of Texas be, and he is hereby, requested and directed to discharge the duties of Dean of the School of Law of The Texas State University for Negroes.

BE IT FURTHER RESOLVED, That there shall be offered for students entering such school the identical courses now being taught the same classes in the Law School of The University of Texas, which courses shall be given by the same instructors or instructors of equivalent experience and ability with those now giving such courses in the Law School of The University of Texas;

BE IT FURTHER RESOLVED: That the Registrar of The University of Texas be, and he is hereby, requested and directed to discharge the duties of the Registrar of the School of Law of The Texas State University for Negroes and in that capacity to distribute forthwith to all persons who may be interested therein bulletins covering the work to be offered in the semester opening March 10, 1947, which bulletins shall contain the information customarily contained in bulletins issued by The University of Texas and which may be compiled by incorporating by reference material contained in the bulletins heretofore issued by The University of Texas;

BE IT FURTHER RESOLVED, That the Chairman of The

RESPONDENTS' EXHIBIT NO. 3,

Page 5.

Board of Regents of The University of Texas be, and he is hereby, authorized and directed to purchase for the account of The Texas State University for Negroes a library with necessary cases and appurtenances sufficient to meet the requirements of the American Law School Association and of the American Bar Association;

BE IT FURTHER RESOLVED, That pending receipt and installation of such library, the Dean of the Law School of The University of Texas be, and he is hereby, authorized to supply on a loan basis books from the Law Library of The University of Texas which may be needed in the efficient conduct of the School of Law of The Texas State University for Negroes;

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents be, and he is hereby, authorized to negotiate with the personnel of said proposed school such arrangements as may be required for its immediate organization and conduct, which arrangements shall be reported to the next meeting of the Board of Regents for confirmation and approval by it;

BE IT FURTHER RESOLVED, That the Board of Regents of The University of Texas extends to the Board of Directors of The Texas State University for Negroes, when it shall have been duly constituted, its best wishes and assurances of cooperation for the success of the undertaking committed to its care.

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RESPONDENTS' EXHIBIT NO. 3,

Page 6.

THE STATE OF TEXAS

COUNTY OF TRAVIS

I, Betty A. Thedford, Secretary of the Board of Regents of The University of Texas, do hereby certify that the foregoing is a true and correct excerpt from the minutes of a regular meeting of said Board of Regents held in Austin, Texas, on February 28 and March 1, 1947, at which a majority of the members were present and voted favorably on the motion contained therein.

Executed under my hand and the seal of The University of Texas this the 18th day of March, 1947.

/s/ Betty A. Thedford

Betty A. Thedford, Secretary
of the Board of Regents of The
University of Texas.

(Seal of the University of Texas)

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THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Betty A. Thedford, Secretary of the Board of Regents of the University of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the

RESPONDENTS' EXHIBIT NO. 3,

Page 7.

purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and the seal of office this the 18th day of March, A. D. 1947.

(Notary Seal)

/s/ Maryvenice E. Stewart.

Maryvenice E. Stewart, Notary

Public in and for Travis County,

Texas.

SCHOOL OF LAW, THE UNIVERSITY OF TEXAS, page 2.

Stumberg, G. W. -- Professor of Law. B. A. 1909, LL.B. 1912,
J.D. 1924. At Louisiana State Univer. Law School
1919-25. At U. T. since 1925.

Wade, John W. -- Visiting Professor of Law. A. B. 1932, LL.B.
1934, LL.M. '35, S.J.D. 1942. At Univ. of Mississippi,
1936-46. At U. T. 1946-47.

Walker, A. W., Jr. -- Professor of Law. B. A. 1921, LL.B. 1923.
At U. T. since 1925.

Williams, Howard R. -- Associate Professor of Law. A. B. 1937,
LL.B. 1940. At U. T. since 1946.

Williams, Jerre S. -- Associate Professor of Law. A. B. 1938,
LL.B. 1941. Instructor in Law Univ. of Iowa 1941-42.
Asst. Prof. of Law, Univ. of Denver 1946.
At U. T. since 1946.

Woodward, M. K.-- Associate Professor of Law. B.A. 1933, M.A.
1940, LL.B. 1943. Teacher in Texas public schools 1935-41.
At U. T. since 1946.

Part-time faculty members:

Hargrave, Miss Helen -- Instructor in Law and Law Librarian.
LL.B. 1926. At U.T. since 1930.

Patterson, W. W. -- Director of Legal Aid Clinic. LL.B. 1936.

Ynsfran, P. M. -- Lecturer in Law. Bachiller en Ciencias y
Letras, Escribano Publico. Lecturer in Law at U. T.
part time since 1945.

(fall of 1946 -- Tisinger, D. L. -- Lecturer in Law. A. B.
1935, LL.B. 1939. (lecturer in Law part-time since 1944.)

SCHOOL OF LAW, THE UNIVERSITY OF TEXAS.

Full-time faculty members:

- Bailey, E. W. -- Professor of Law. B.A. 1920, LL.B. 1928, S.J.D.,
1942 At UT since 1930.
- Davis, Kenneth C. -- Professor of Law. A. B. 1931, LL.B. 1934
At West Virginia 1935-40, at U.T. since 1940.
- Fritz, W. F., -- Asst. Professor of Law, B. A. 1935, M. A. 1938,
LL.B. 1946. Taught seven years in Texas High Schools,
at U.T. since 1946.
- Hodges, Gus M., -- Professor of Law, B.B.A. 1930, LL.B. 1932.
At U. T. since 1940.
- Hudspeth, C. M. -- Assistant Professor of Law. B. A. 1940, LL.
B. 1946. At U. T. since 1946.
- Huie, W. O., -- Asst. Dean and Professor of Law. B. A. 1932,
LL. B. 1935. At U. T. since 1936.
- Leary, Leo W. -- Associate Professor of Law. B. A. 1940, LL. B.
1945, LL.M. 1946. At U. T. since 1946.
- McCormick, C. T. -- Dean and Professor of Law. B. A. 1909, LL.
B. 1912.
At U. T. 1922-26. At North Carolina 1926-31. At North-
western 1931-40. At U. T. 1940 --
- Morris, Clarence -- Professor of Law. L.L.B. 1925, LL.M. 1926.
At Univ. of Wyoming 1926-40. At U.T. since 1940.
- Morris, S. T. -- Assistant Professor of Law, LL.B. 1946.
At U. T. since 1946.
- Stayton, R. W. -- Professor of Law. B. A. 1907, LL.B. 1927.
At U. T. since 1925.

RESPONDENTS' EXHIBIT NO. 6.

**(Attach copy of list of Faculty Members of
University of Texas School of Law.**

RESPONDENTS' EXHIBIT NO. 7,

Page 1.

ANNOUNCEMENT OF COURSES
FOR THE SPRING SEMESTER, 1947,
OF THE SCHOOL OF LAW OF
THE TEXAS STATE UNIVERSITY FOR NEGROES

The School of Law will begin its program of instruction March 10, 1947. It is located in the building at 104 East 13th Street, Austin, Texas, adjoining the grounds of the State Capitol.

For beginning students, the courses for the Spring Semester will be as follows:

Contracts, six hours per week. Instructor, Leo W. Leary, Associate Professor of Law, The University of Texas (A. B., LL. B., University of Wisconsin.) Casebook: Grismore's Cases on Contracts.

Torts: six hours per week. Instructor, Starling T. Morris, Assistant Professor of Law, The University of Texas, (LL.B., The University of Texas). Casebook: Thurston & Seavey, Cases on Torts.

Legal Bibliography, one hour per week. Instructor, Chalmers M. Hudspeth, Assistant Professor of Law, The University of Texas (A. B., Rice Institute; LL.B., The University of Texas.) Casebook: Brandt, How to Find the Law.

RESPONDENTS' EXHIBIT NO. 7,

Page 2.

All of these instructors are teaching or have taught the same courses in The University of Texas School of Law during the current school year, and the program of courses is identical with those offered to beginning students in that school who entered February 1, 1947.

Registration day for the Spring Semester is March 10, 1947. Classes will begin on that day. The semester ends June 28. Programs of work for the summer session and for the fall and subsequent semesters will be announced later and will conform, generally, to the programs and offerings of the Law School of The University of Texas.

The State Library, which includes the Library of the Supreme Court of Texas, located in the State Capitol, is for the time being designated as the Library of the School. This contains about 44,000 volumes of legal material and includes all of the statutes and reports of decisions of all the states and of the United States.

The reference books needed for immediate use in the classes are available in the school building, and any other books which may be required, if not available in the State Library, will be furnished as needed from the Library of the School of Law of The University of Texas. A collection of 10,000 carefully selected volumes meeting the requirements of the Association of American Law Schools, to constitute the

RESPONDENTS' EXHIBIT NO. 7,

Page 3.

nucleus of the permanent library of the School has been ordered.

Requirements for admission, fees, and regulations relating to the classification of students, class-work, and examinations, grades and credits, standards of work required, and degrees awarded, are the same as those contained in the attached Catalog of the School of Law, dated August 1, 1945, which is the latest published catalog of that school.

For further information apply to

Charles T. McCormick, Dean

or

E. J. Mathews, Registrar

School of Law

Texas State University for Negroes

Austin, Texas.

RESPONDENTS' EXHIBIT NO. 13.

Page 1.

THE SCHOOL OF LAW
of

THE TEXAS STATE UNIVERSITY FOR NEGROES

Box E, University Station,

Austin 12, Texas.

March 3, 1947.

MR. Heman Marion Sweatt

3402 Delano Street

Houston, Texas

Dear Sir:

Since our last correspondence concerning your application for admission to the University of Texas Law School, the Texas Legislature has authorized the Board of Regents of the University of Texas to establish and operate a separate school of law equal in all respects to the University School of Law.

I am pleased to advise that your qualifications heretofore established and your application heretofore made will entitle you to attend the new school now being opened at 104 East 13th Street, Austin, Texas.

The new school, known as The School of Law of the Texas State University for Negroes will open March 10, 1947, and the first semester will run until June 28, 1947. A summer

RESPONDENTS' EXHIBIT NO. 13,

Page 2.

session is being planned which will allow you to complete the same amount of work prior to the semester beginning in September as would be possible at the University of Texas.

Dean Chas. T. McCormick of the University of Texas Law School will serve as Dean of the newly established Law School and the courses and instructors will be identical with those available at the University of Texas Law School. I assure you that in accordance with the authority from the Legislature and the Board of Regents, the newly established school will offer the students thereof equal training and educational opportunities. The school is located directly across the street from the State Capitol Building. A library is being installed and full use of the State Library on the second floor of the Capitol building is available for research prior to the delivery of a complete law library now on order. This new library will include all books required to meet the standards of the American Association of Law Schools and the American Bar Association.

There is enclosed a copy of the current bulletin of the Law School of the University of Texas, which has been adopted as the bulletin and list of courses available at the new School of Law. The courses, texts, collateral reading, standards of instruction and standards of scholarship will be identical with those prevailing in the Law School of the

RESPONDENTS' EXHIBIT NO. 13,

Page 3.

University of Texas. Since your application is for a first year law course, I might add that in the University of Texas Law School first year students are eligible to take Contracts (6 hours weekly), Torts (6 hours weekly), and Legal Bibliography (1 hour weekly.) These same courses will be available to you by the same instructors.

If you desire to enter the semester beginning March 10, please advise me as soon as possible in order that arrangements may be made for you to interview Dean McCormick and determine your schedule of classes and textbooks which will be required.

Yours very truly,

/s/ E. J. Mathews

E. J. Mathews, Registrar.

RESPONDENTS' EXHIBIT NO. 14.

(Attach photo of New Negro Law School Building)

RELATOR'S EXHIBIT NO. 1.

Page 1.

(Cover Title, as follows:)

ASSOCIATION
OF
AMERICAN LAW SCHOOLS

1945

HANDBOOK.

(From page 259 of Handbook)

IV. ARTICLES OF ASSOCIATION.

(From Handbook, beginning at 7th paragraph on page 260, ending)
(last line on page 267.)

Sixth. Law Schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements:

(Amended 1925: see Proceedings, 1925, pp. 6 to 12.)

1. It shall be a school not operated as a

RELATOR'S EXHIBIT NO. 1,

Page 2.

commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received.

(Adopted 1922; see Proceedings, 1922, pp. 64-66.)

2. (a) It shall require of all candidates for any degree, other than special students, at the time of the commencement of their law study, the completion, in residence, of one-half of a four-year course of study acceptable for a Bachelor's degree at the State University of the state in which the pre-law work is taken, or in the event there is no State University then at a principal college or university located therein; except that not more than ten per cent of the credit presented for admission may include credit earned in non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music or other courses without intellectual content of substantial value.

Pre-legal work done in residence within the meaning of Article Sixth, Section 2 (a), shall mean work done in class in an approved college, or, if done off the campus of the college, it shall mean work done in a class meeting in regular sessions each week under the personal supervision and instruction of a member of the instructional staff of an approved college.

(Approved by the Association by mail vote,

RELATOR'S EXHIBIT NO. 1,

Page 3.

September, 1944.)

(b) A student's pre-legal work must have been passed with a scholastic average at least equal to the average required for graduation in the institutions attended, and this average shall be based on all the work undertaken by the student in his pre-law curriculum, exclusive of non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music, or other courses without intellectual content of substantial value.

(c) It shall require from each student admitted a written statement as to his previous attendance at other law schools, and as to his previous applications for admission to other law schools.

(Amended 1927; see Proceedings 1927, pp. 9-20, 53, 54. Amended 1935; see Proceedings 1935, pp. 11-13. Amended, 1937, see Proceedings, 1937, pp. 29-37.)

3. A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is required for the work of the school, shall be considered a full-time school. A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of classroom instruction in law.

RELATOR'S EXHIBIT NO. 1,

Page 4.

A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is not required for the work of the school, shall be considered a part-time school. A part-time school must maintain a curriculum which, in the opinion of the Executive Committee, is the equivalent of that of a full-time school. The action of the Executive Committee under this paragraph shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

Any school now or hereafter a member of the Association, that conducts both full-time and part-time curricula, must comply as regards each with the requirements therefore as set forth in the preceding paragraphs.

No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law designed to prepare students for admission to the Bar or for Bar examinations, save in conformity with the provisions of the preceding paragraphs.

No school shall be or remain eligible for membership if it accepts for credit toward the first degree in law,

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Page 5.

with or without examination in such school, work taken in another American law school which at the time the credit was earned was not either a member of this Association or approved by the American Bar Association; provided, however, that credit may be given for work taken in another American Law school within the two-year period immediately preceding its admission to this Association.

(Amended December 31, 1936. See Proceedings, 1936, pp. 27-31; 91-96. Amended December 29, 1938. See Proceedings, 1938, pp. 24-28.)

At the sixteenth annual meeting the Executive Committee reported as follows, concerning Article VI (2):

"Some doubts have arisen as to whether Article VI (2) requires the three years' study to be in residence. These doubts appear to have been caused in part by certain resolutions passed in 1907 and 1908 before subsection 2 was amended in its present form. In order to set at rest these doubts the Committee offers the following resolution:

"Resolved, That the period of study required by Art. VI (2) is to be interpreted as meaning resident study."
(The foregoing resolution was adopted. See Proceedings, 1916, p. 82.)

4. The conferring of its degree shall be conditioned

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upon the attainment of a grade of scholarship ascertained by examination.

"Resolved, That no student should be unconditionally advanced from one class to a higher one without passing satisfactory examination upon the studies previously pursued by the former class. (Adopted, Proceedings, 1902, p. 7.)

" It was the sense of the Committee that final examinations under the rule should not be considered as required in practice court and in courses involving the drafting of legal instruments, but that as to such courses as legal bibliography, a final examination might very well be expected. The general principle was declared to be that final examinations should be required in all courses reasonably susceptible thereto." (Exec. Com. Report, 1923.)

5. Students with less than academic credit required of candidates for the law degree by Section 2 of this article, may be admitted as "specials" provided:

a. They are at least twenty-three years of age,
and

b. There is some good reason for thinking that their experience and training have specially equipped them to engage successfully in the study of law, despite the lack of the required college credits, and

c. The number of such "specials" admitted each

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Page 7.

year shall not exceed ten per cent of the average number of students admitted by the school as beginning regular law students during the two preceding years.

(See Proceedings, 1927, pp. 55-59.)

In 1928 a ruling of the Executive Committee relative to Article VI (2d) was approved, under which the requirement of two years of college work was made to apply to summer sessions where credit is given to any student toward his law degree. (See rulings and annotations to Art. VI (2d).)

The following interpretation by the Executive Committee was approved:

In estimating the ten per cent to determine the number of special students that may be admitted, fractions are not to be counted. (See Proceedings, 1927, p. 9.)

In calculating the number of special students who may be admitted under Article Sixth, Section 5, it shall not be necessary to include members of the bar who are enrolled in courses without expectation of academic credit.

(Approved by the Association by mail vote, September, 1944.)

6. Commencing September 1, 1932, it shall own a law library of not less than ten thousand volumes, which shall be so housed and administered as to be readily available for use by students and faculty. Commencing September 1, 1940, it shall have, in addition to the four instructors specified

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in Section 7 of this Article, a qualified librarian, whose principal activities are devoted to the development and maintenance of an effective library service.

Commencing September 1, 1932, for additions to the library in the way of continuations and otherwise, there shall be spent over any period of five years at least ten thousand dollars, of which at least fifteen hundred dollars shall be expended each year. Commencing September 1, 1939, such library shall include substantially the following:

1. The published reports of appellate decisions of the state in which the school is located, together with commonly used editions of the statutes and digests.

2. The published reports prior to the Reporter System of decisions of the courts of last resort in at least one-half the states of the United States with reasonably up-to-date editions of statutes in one-fourth the states.

3. The published reports of the decisions of the United States Supreme Court with the generally used editions of federal statutes and digests.

4. The National Reporter System complete.

5. Leading up-to-date publications in the way of general digests, encyclopedias, and treatises of accepted worth.

6. At least ten legal periodicals of recognized

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worth, complete with current numbers.

7. The English reports covered by the so-called reprint, together with the law reports to date.

(Amended 1924, see Proceedings, 1924, pp. 50, 51; 1925, see Proceedings, 1925, pp. 85-87; 1930, see Proceedings, 1930, pp. 23, 25; 1937, see Proceedings, 1937, pp. 38-44.

The 1927 recommendations of the Executive Committee, as to content of the library, were incorporated in the Articles at the 1937 Meeting, with two changes, (1) decreasing the number of statutory editions required from those of one-half to those of one-fourth the states, and (2) increasing the number of legal periodicals from six to ten. (See Proceedings, 1927, p. 7, 1937; pp. 38-44.)

7. Commencing September 1, 1932, its faculty shall consist of at least four instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each one hundred students or major fraction thereof.

(Adopted December 29, 1916. See Proceedings, 1916, pp. 67-80. Amended in 1924, see Proceedings, 1924, pp. 51-64 and in 1930, see Proceedings, 1930, pp. 24, 25.)

At the Thirty-Third Annual Meeting the Executive Committee made the following recommendations which was adopted:

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Page 10.

"Resolved, That the first clause of Article Sixth, Section 7, applies in substance though not in letter to summer sessions where any credit is given to any student toward his law degree. Resolved further, that a faculty for any such summer session may comply substantially with the said clause although containing fewer than four full-time instructors, provided that no instructor is responsible for more courses, more hours of teaching per week, or more students than is the normal standard in the particular school, and that no larger percentage of part-time instruction is given than in the balance of the school year."

(See Proceedings 1935, p. 17-18.)

8. Each member shall maintain a complete individual record of each student, which shall make readily accessible the following data: Credentials for admission; the action of the administrative officer passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein, if any, and the credit value thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers.

(Adopted December 31, 1919. See Proceedings,

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1919, pp. 87,88.)

9. It shall be a school which possesses reasonably adequate facilities and which is conducted in accordance with those standards and practices generally recognized by member schools as essential to the maintenance of a sound educational policy

(Adopted December 29, 1930. See Proceedings, 1930, pp. 24,25.)

Seventh: Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirement.

Any member school which shall fail to be represented by some member of its faculty at the annual meeting at least once in any three-year period shall be deemed to have discontinued its membership.

(Amended 1925. See Proceedings, 1925, pp. 17-19.)

Eighth. The officers of this Association shall be a President, a President-Elect, and a Secretary-Treasurer. The President-Elect and the Secretary - Treasurer shall be chosen

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from among the delegates at each annual meeting. The President-Elect, upon the election of his successor, shall become the President and shall serve as such until the next election of a President-Elect. The Secretary-Treasurer shall hold office until his successor is elected. Provided, however, that, in event of the death or resignation of the President at any time during his term of office, the President-Elect shall immediately become the President, and shall serve as such until the second election of a President-Elect thereafter; and, in event of the death or resignation of the Secretary-Treasurer at any time during his term of office, the Executive Committee shall have the power and it shall be its duty without unnecessary delay, to appoint from among the teachers in the member schools a Secretary-Treasurer, who shall hold office as such until his successor is elected. At the annual meeting in 1937, in addition to the election of a President-Elect and a Secretary-Treasurer, a President shall be chosen from among the delegates and shall hold office until the next election of a President-Elect. The President-Elect shall have power to appoint committees and (in cases where the delegates at round table conferences do not elect councils) round table councils, to serve during his presidency; and he shall have no other power except that attaching to a member of the Executive Committee.

(Amended 1937, see Proceedings, 1937, pp. 45-51.)

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Ninth. At each annual meeting there shall be chosen from among the delegates two (or, if the Secretary-Treasurer is chosen also as the President-Elect, three) persons to be members of the Executive Committee, who with the President, the President-Elect and the Secretary-Treasurer shall form such Committee. The Secretary of the Association shall be Secretary of the Committee.

(Amended 1937, see Proceedings, 1937, pp. 45-51.)

Tenth: The Executive Committee shall have charge of the affairs of the Association and is especially intrusted with seeing that the requirements of Articles Sixth and Seventh are complied with. All complaints shall be addressed to the Executive Committee, and shall be filed at least ninety days before the annual meeting of the Association. The Committee shall investigate all complaints and report its findings, with such recommendations as it shall think proper, to the Association for its action and shall make a report at the annual meeting. This provision shall not, however, prevent any matter being taken up and passed upon by the Association, except that no Law School shall be excluded from the Association under the Seventh Article unless the Executive Committee has given it thirty days' notice that it has in the opinion of that Committee failed to comply with the provisions of the Sixth and Seventh Article. When the Executive Committee has ascertained

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that a member school has failed to maintain the requirements provided for in Article Sixth, or such standards as may be hereafter adopted by the Association, it may by a unanimous vote suspend such school from membership until the Association shall decide at the next general meeting whether the school shall be reinstated or definitely excluded.

(Amended 1935, see Proceedings, 1935, pp. 14-17.)

For discussion of the powers and duties of the Executive Committee under this section see Proceedings, 1906, pp. 114-129.

As to power of Executive Committee to pay expenses of committees, see Proceedings, 1921, pp. 136, 137.

Eleventh. Applications for membership shall be addressed to the Secretary, accompanied by evidence that the school applying has, for at least two years immediately preceding complied with the requirements as set forth in Articles Sixth and Seventh. The Executive Committee shall examine the application and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association.

(Amended 1923, see Proceedings, 1923, p. 49; and 1925, see Proceedings, 1925, pp. 6-11.)

Twelfth. The Executive Committee may conduct its

RELATOR'S EXHIBIT NO. 1,

Page 15.

business by correspondence.

Thirteenth. The officers may be re-elected and a retiring officer may be elected a member of the Executive Committee, but no person shall serve as an elected member of the Executive Committee in successive years, no school shall have an elected member of the Executive Committee in successive years, and no school shall have more than one member on the Executive Committee in any year. The term "elected member" in this Article does not include the President, the President-Elect or the Secretary-Treasurer.

(Amended 1936, see Proceedings, 1936, pp. 31-36.

Amended, 1937, see Proceedings, 1937, pp. 45-51.)

Fourteenth. The annual assessment on each school shall be sixty-five dollars, payable in advance, and any school which shall have failed to pay its assessments during the year shall be dropped from the Association but may be reinstated by vote of the Association upon payment of arrears.

Recommendation of the Executive Committee, April 18, 1915: " The committee voted to recommend that Article Fourteenth of the Articles of Association be amended by substituting the word 'twenty-five' for the word 'ten' so that it will read: 'Fourteenth. The annual assessment on each school shall be twenty-five dollars, payable in advance,' etc." This recommendation was modified at the December, 1915, meeting, by

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Page 16.

making the annual assessment twenty dollars. See Proceedings, 1915, p. 53. At the December, 1920, meeting, the annual assessment was fixed at thirty dollars. See Proceedings, 1920, p. 133. At the twentieth annual meeting 1922, the annual assessment was fixed at forty dollars. See Proceedings, 1922, p. 54. At the December, 1930 meeting, the annual assessment was fixed at sixty-five dollars. See Proceedings, 1940, p. 20.

A recommendation of the Executive Committee on September 28, 1931, that "the annual assessment on each school shall be one hundred dollars (\$100), payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears. The round-trip railway fare of one delegate from each school to the annual meeting shall be paid from the treasury of the Association, but such payment shall not be made for travel beyond the United States or in the Dominion of Canada, or where no delegate has been in attendance" was lost, on a vote on December 29, 1931, at the nineteenth annual meeting. (See Proceedings, 1931, pp. 31, 55-77.)

Fifteenth. These articles may be changed at any annual meeting, the vote on such change shall be by schools, and no change shall be adopted unless it is voted for by two-

RELATOR'S EXHIBIT NO. 1,

Page 17.

thirds of the schools represented, nor unless it is voted for by at least one-third of all the members of the Association; provided, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least sixty days before the meeting and a copy thereof sent forthwith by the Secretary to each member.

(As amended 1923. See Proceedings, p. 49.)

"Two-thirds of the schools represented" was held to mean, represented in the vote on the question before the convention. (Proceedings, 1922, pp. 96-98.)

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RELATOR'S EXHIBIT NO. 2.

**(Photograph of Negro Law School
(building))**

RELATOR'S EXHIBIT NO. 3.

(Photograph of Law Building)

(University of Texas)

RELATOR'S EXHIBIT NO. 4.

(Photograph of Law Building)

(University of Texas)

RELATOR'S EXHIBIT NO. 5.

(Envelope addressed to Heman Marion Sweatt)
(from E. J. Mathews, Registrar)

RELATOR'S EXHIBIT NO. 6.

(Photograph of entrance to)
(Negro Law School Building)

RELATOR'S EXHIBIT NO. 8.

(Report Scholarship Aid Fund for Texas)
(Negro Graduate and Professional)
(Students, 1945-1946)

RELATOR'S EXHIBIT NO. 9.

(Statement -- Dept. of Education Policy)
(and Procedure applicable to Negro Aid)
(Scholarship Fund)

REPORTER'S CERTIFICATE.


THE STATE OF TEXAS

COUNTY OF TRAVIS

I, Harry L. Wear, Court Reporter for the 126th Judicial District Court of Travis County, Texas, do hereby certify that the above and foregoing pages numbered 1 - 641, (the pages 357-366, inclusive, being skipped through typist's error) contain a full, true and correct transcript (in Question and Answer form) of the testimony adduced in the trial of said Cause No. 74,945, styled Heman Marion Sweatt, Relator vs. Theophilis Shickel Painter, et al, Respondents, in said 126th Judicial District Court of Travis County, Texas; together with all objections as to the admission or exclusion of evidence, the rulings of the Court thereon, and the exceptions reserved thereto.

I further certify that as to the documentary evidence admitted on the above trial, that said exhibits are incorporated in this Volume I, and in Volume II, a part hereof, and that Exhibits A through J, inclusive, accompany this record in original form, not bound in either Volume I or Volume II, and are a part of this Statement of Facts.

Witness my hand this the 5th day of June, A.D. 1947.


Harry L. Wear,
Court Reporter, 126th Judicial
District Court, Travis County,
T e x a s.

AGREEMENT OF COUNSEL.

We hereby agree that the foregoing pages numbered 1-641, inclusive, (noting that through typist's error pages 357-366 were skipped in numbering), constitute a full, true and correct transcript of all of the testimony in Question and Answer Form admitted in evidence by the Court upon the trial of Cause No. 74,945, styled Heman Marion Sweatt, Relator, vs. Theophilis Shickel Painter, et al, Respondents, in the 126th Judicial District Court of Travis County, Texas.

We further agree as to the documentary evidence admitted on the trial that this Volume I of the Statement of Facts, numbered pages 1-641, inclusive, also contains copies of Respondents' Exhibits Numbers 1, 2, 3, 7, 13, and copy of Relator's Exhibit No. 1; and also contains either original or photostatic copies of Respondents' Exhibits Numbers 6 and 14, and original or photostatic copies of Relator's Exhibits Numbers 2, 3, 4, 5, 6, 8 and 9.

We further agree that in Volume II of this Statement of Facts and accompanying same and being a part hereof, are contained original or photostatic copies of Respondents' Exhibits Numbers 4, 5, 6, 8, 9, 10, 11, 12, 15 and 16, and of Relator's Exhibit No. 7; and that Exhibits A, B, C, D, E, F, G, H, I, J, in original form accompany this Statement of Facts, not bound in Volume I or II, and are a part hereof.

We further agree that this Volume I of the Statement of Facts contains all objections to the admission or exclusion of testimony, the rulings of the Court thereon, and the

AGREEMENT OF COUNSEL, page 2.

exceptions reserved thereto.

And we further agree that this record shall be filed as the Statement of Facts and Bills of Exception (except such other and further Bills of Exception as may be filed separately) in this cause.

Dated this 4th day of August, A.D. 1947.

COUNSEL
FOR
RESPONDENTS

Price Daniel by JZ
Price Daniel, Attorney General of Texas.

Jackson Littleton
Jackson Littleton, Assistant Attorney
General of Texas.

Joe R. Greenhill by JZ
Joe R. Greenhill, Assistant Attorney
General of Texas.

COUNSEL
FOR
RELATOR

W. J. Durham
W. J. Durham,

Thurgood Marshall
Thurgood Marshall

James M. Nabrit, Jr.
James M. Nabrit, Jr.

E. B. Bunkley, Jr.
E. B. Bunkley, Jr.

NO. 74,945

HEMAN MARION SWEATT

VS.

THEOPHILUS SHICKEL PAINTER,
ET AL

IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS,
126TH JUDICIAL DISTRICT.

* * * * *

STATEMENT OF FACTS

* * * * *

Filed in the 126 District
Court of Travis County, Texas
at 10:30 A.M.

JAN 6 - 1947
Ben Lee Chote, District Clerk
By [Signature]
Deputy

(DUPLICATE)

STATEMENT OF FACTS.

No. 74,945

HEMAN MARION SWEATT

VS.

THEOPHILUS SHICKEL PAINTER,
ET AL

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS,

126th JUDICIAL DISTRICT.

B-e-f-o-r-e

HON. ROY C. ARCHER, Judge.

A-p-p-e-a-r-a-n-c-e-sTHURWOOD MARSHALL,
W. J. DURHAM,
C. B. BUNKLEY, JR.
H. M. BELLINGER,

Counsel for Relator.

GROVER SELLERS, Attorney General, of Texas,
CARLOS ASHLEY, Asst. Attorney General,
W. V. GEPPERT, Asst. Attorney General,
JACKSON LITTLETON, Asst. Attorney General,
Counsel for Respondents.

BE IT REMEMBERED, That upon the hearings held in the above entitled and numbered cause, before His Honor, Roy C. Archer, Judge of said Court, the first hearing being held on the 17th day of June, A. D. 1946, being one of the days of the Regular June Term of said Court, and said cause having been continued upon the Docket of the Court from term to term until a further hearing was held on the 17th day of December, A. D., 1946, being one of the Regular Days of the November Term of said Court, the following proceedings were had:

I N D E X.

<u>Witness</u>	<u>Page</u>
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AFTERNOON SESSION:

June 17, 1946.

HEMAN MARION SWEATT, relator,
having been called as a witness, and having been by the
Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Counselor Durham.

Q State your name, please.

A Heman Marion Sweatt.

Q You are the relator in this lawsuit?

A Yes, sir.

Q Now, you made an application for admission as a first year
law student in the law school of the University of Texas?

A I did.

Q Will you tell the Court why you made the application to the
University?

A Because I read the law as stipulated, and I didn't under-
stand it.

Q Did you know what type of demand was required from the read-
ing of the statute?

A No, sir, I did not.

Q Did you know from the provisions of the statute to whom that
demand should be made?

A No, I did not.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Ashley.

Q Mr. Sweatt, you state that you didn't know to whom the application should be made, and yet, at the time you made the application to the University of Texas you had the Attorney General's opinion?

A At the time I made the application I did not have it.

Q But before you brought the lawsuit that is pending in this Court you did have the copy of the Attorney General's opinion in which you were directed to apply to the Directors of A. & M. College, did you not?

A That is right.

Q That is all.

REDIRECT EXAMINATION.

Questions by Counselor Durham. .

Q But at the time you had made your application and prior thereto you had no opinion from the Attorney General or anyone else who directed you where to make the demand, did you?

A No.

Q That is all.

(Witness Excused)

THE COURT: If you will state to me what your stipulations are?

MR. ASHLEY: If Your Honor please, we have labored to get these stipulations in shape, and they are interlined, and some of them should be transcribed before they will be intelligible to the Court, I think.

THE COURT: I will tell you what I think we will do. I think I will let you ----

MR. ASHLEY: I would be glad to read them to the Court.

THE COURT: I think we will do that. I think I will let you prepare them -- suppose you read them.

(Thereupon Mr. Ashley read said stipulations as follows:

STIPULATION OF FACTS.

It is admitted by Relator and Respondent that the following facts are true and admitted in evidence upon the trial of this cause;

1.

That relator, Herman Marion Sweatt, is a resident citizen of the State of Texas, a citizen of the United States and in that he resides in the State of Texas, County of Harris.

2.

That on the twenty-sixth (26) day of February 1946 the Relator Heman Marion Sweatt made application for

admission as a first year student to the School of Law at the University of Texas.

3.

At the time that he made said application he was desirous of studying law for the purpose of preparing himself for the practice of law in the State of Texas.

4.

That at the time the Relator Heman Marion Sweatt made application for admission into the Law School of the University of Texas he was fully qualified scholastically for admission to the Law School of the University of Texas.

5.

That Relator made his application to Theophilus Shickel Painter the duly elected and acting President of the University of Texas, Charles Tilford McCormick, Dean of the School of Law of said University and Edward Jackson Matthews, Registrar and Dean of Admissions of the Law School of the University of Texas.

6.

That Dudley K. Woodward, Orville Bullington, E. E. Kirkpatrick, W. H. Scherer, W. Scott Schreiner, D. M. Strickland, C. O. Terrell, Edward B. Tucker and David M. Warren are the duly legal qualified and acting Regents of the University of Texas on the date of the trial of this Lawsuit and were such Regents on the date Relator made his said application for

admission as a first year student into the Law School of the University of Texas and at all times since that date.

7.

That on the fifteenth day of March 1946, Respondents refused Relator's application for admission into the Law School of the University of Texas and denied him the right to enter the first year law class in the University of Texas at its next regular session solely on the account of his race and color. ✓

8.

That Relator is of African descent and of Negro blood.

9.

That the School of Law at the University of Texas teaches the Rules of Procedure which regulate the Courts of Justice and the Government of Texas.

10.

That on the date Relator made application for admission as a first year student into the Law School of the University of Texas and at the time his application was refused as well as on the date of the trial of this case the School of Law of the University of Texas was the only school maintained by public funds in the State of Texas offering courses and teaching courses in law. ✓

11.

No person who is a member of the White or Caucasian

race desirous of studying law in a State school supported by public funds of the State of Texas and possessing the qualifications for admission to such school is required to make demands for the establishment of such school or courses before admission into such school supported by public funds.

12.

The Relator is required to make a demand upon an administrative agency of the State of Texas for the establishment of Law Courses and facilities for teaching such courses in law before he is provided with courses in law and the facilities for teaching the same.

13.

That there has never been in existence in the State of Texas a school supported by public funds except the Law School of the University of Texas offering and teaching subjects of law and that there is no other school supported by the public funds of the State of Texas teaching courses in law except the Law School of the University of Texas.

14.

That at the time Relator made application for admission into the School of Law of the University of Texas, he filed with the proper officials of the University of Texas an official transcript of his scholastic record and was willing, able and ready to pay all of the fees and money required of a first year law student.

15.

It has been the policy of the State of Texas through its administrative agencies to separate the white and colored races in all educational institutions of the State of Texas.

16.

That Respondents are the duly appointed and legal administrative officers and they have the authority to admit qualified applicants to the Law School of the University of Texas and had such authority on the date Relator's application for admission was made on the date his application was refused and on the date of the trial of this cause, and it was the duty of the Respondents, Edward Jackson Matthews and Theophilus Shickel Painter to pass on the eligibility of applicants who sought to enroll as students, and to admit qualified applicants into the said Law School.

17.

That the Board of Directors of the Agricultural and Mechanical College of the State of Texas since the enactment by the 49th Legislature of the State of Texas, 1945, Senate Bill 228, Chapter 308, page 506, pleaded by Respondents have not since the date of said enactment placed any facilities for the teaching of the courses of law in Prairie View University and have not prescribed any courses

of law to be taught at Prairie View University and have not employed any teachers on the Prairie View University faculty capable of teaching subjects of law.

18.

(Stricken on original draft.)

19.

That the State of Texas through an administrative agent of the State of Texas has appropriated money from the public funds of the State of Texas for instruction in law of students of African descent and Negro blood in institutions of learning outside of the State of Texas where said subjects were taught for more than five years prior to the date Relator made his application for admission into the law school of the University of Texas and at the time his application was denied and prior to the time of the trial of this cause.

20.

That there is not now any other school in the State of Texas supported by public funds equal to the University of Texas for the teaching of students of African descent and of Negro blood in the course of law.

21.

That the Legislature of the State of Texas has not expressly and specifically appropriated funds for the establishment of facilities and subjects of law to be taught persons of African descent and Negro blood at the University

of Prairie View.

22.

That there are now funds on hand in a total amount of approximately One Hundred Twenty-five Thousand and no/100 (\$125,000.00) Dollars which may be used under the laws of the State of Texas for the establishment of a Law School for the colored people of Texas at Prairie View University.

23.

Relator did not make any demand upon any Director or official of the Agricultural and Mechanical College of Texas for the establishment and the teaching of the subject of Law at the University of Prairie View or for the establishment of facilities of teaching the same prior to the date he made his application to the University of Texas and prior to the date he filed his lawsuit, and he has not since that date made any such demand or application.

24.

That on or about the 20th day of March, 1946, the Relator received a copy of Attorney General's opinion No. 0-7126 dated March 16, 1946, wherein it was held that Relator is required to make demand of the Board of Directors of the Texas Agricultural and Mechanical College as a condition precedent to the establishment of a course of law for Relator at Prairie View University.

- - - - -

{ This cause was continued upon the
{ Docket of the Court from term to
{ term, and a hearing was then held
{ on the 17th day of December, A. D.,
{ 1946.

MORNING SESSION:

December 17, 1946.

E. L. ANGELL, a witness produced by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton.

Q Your name is E. L. Angell?

A Yes, sir.

Q And you are the Secretary of the Board of Directors of A. & M. College?

A Yes, sir.

Q Were you present at the meeting of the Board on the 27th day of November, last?

A I was.

Q In your capacity as Secretary, you made a record of all of the proceedings of that meeting?

A I did.

Q Mr. Angell, I show you a copy of this Resolution, and ask

you if it is a true copy of the Resolution adopted at that Board meeting, and whether it appears in your Minutes Book?

A It does.

MR. LITTLETON: I offer this, Your Honor, as an exhibit.

{Said instrument was admitted in
evidence as Respondents' Exhibit
(No. 1.

MR. LITTLETON: That is all.

CROSS EXAMINATION.

Questions by Counselor Durham.

Q Mr. Angell, since the passing of that resolution, has any further step been taken with reference to that resolution?

A Well, I have been out of the state, and got back Sunday afternoon. I haven't discussed that matter with either the president or any of the Board members. I couldn't tell you.

Q As far as you know, nothing has been done save and except the passing of that resolution?

A Well, I could not say ----

Q I say, as far as you know.

A Yes, as far as I know.

Q And you are Secretary of the Board?

A Yes, sir.

MR. LITTLETON: If Your Honor please, I think as Secretary of the Board, he is only here to identify the instrument.

THE COURT: He has answered the question.

MR. LITTLETON: All right.

COUNSELOR DURHAM: That is all.

(Witness Excused)

THE COURT: Have you anything further, Mr.
Littleton?

MR. LITTLETON: No, we rest, Your Honor.

(TESTIMONY CLOSED.)

RESPONDENTS' EXHIBIT NO. 1. page 1.

MINUTE ORDER NO. 124-46

HIGHER EDUCATION FOR NEGROES IN TEXAS

On motion by Mr. Newton, seconded by Mr. Peeples, and approved by a majority vote of the Board, it was ordered that the following report of a Special Joint Committee of the A. & M. College of Texas and the Board of Regents of The University of Texas on "Higher Education for Negroes in Texas" be adopted:

The Board of Directors of The Agricultural
and Mechanical College of Texas
College Station, Texas.

The Board of Regents of the University of Texas
Austin, Texas.

Gentlemen:

The undersigned special committee, authorized by your joint meeting held at Fort Worth, Texas, January 13, 1946, to inquire into the respective responsibilities of The Agricultural and Mechanical College of Texas and The University of Texas concerning higher education for negroes in Texas respectfully recommends that steps be taken to accomplish the following:

1.

Re-establish at Prairie View, Texas the college for negroes offering instruction in agriculture and the mechanic arts, including engineering, and providing both

RESPONDENTS' EXHIBIT NO. 1. page 2.

undergraduate and graduate instruction in these fields, as well as certain other vocational courses and teacher training now being offered at this institution, and to conform to the requirements of the Land-Grant College Act.

2.

For all other instruction, both graduate and undergraduate, establish a first-class university for negroes, preferably at Houston, Texas, to be supervised by the Board of Regents of the University of Texas, if so determined by the Legislature; to the end that all courses of study offered at The University of Texas or The Agricultural and Mechanical College of Texas will be provided at one of the two institutions.

3.

To this end it is our opinion that our two Boards should petition the Governor of the State to appoint from its citizenship an outstanding biracial committee of such number as he may think appropriate for the purpose of reporting detailed plans for these schools to the Legislature for its consideration at the earliest practicable time.

Respectfully submitted,

/s/ T. D. Brooks

/s/ T.S. Painter

/s/ Scott Gaines

/s/ D. K. Woodward, Jr.

/s/ Henry Reese III

/s/ Gibb Gilchrist
Chairman

- - - - -

RESPONDENTS' EXHIBIT NO. 1, page 3.

I. E. L. Angell, certify that the foregoing is an exact copy of Minute No. 124-46 passed at the meeting of the Board of Directors of the Agricultural and Mechanical College of Texas held at Corpus Christi, Texas, on July 13, 1946.

In witness whereof, I have hereunto affixed my hand and seal of the said institution this 4th day of December, 1946.

/s/ E. L. Angell

E. L. Angell, Secretary
Board of Directors

Agricultural and Mechanical
College of Texas.

(Seal of Agricultural and Mechanical College of Texas)

RESPONDENTS' EXHIBIT NO. 1. page 4.

R E S O L U T I O N.

Minute Order No. 203-46

ESTABLISHMENT OF LAW COURSE FOR NEGRO STUDENTS.

On motion by Mr. Buchanan, seconded by Mr. Reese, and approved by a majority vote of the Board, the following resolution is adopted:

WHEREAS, by Senate Bill No. 228 of the 49th Legislature the name of Prairie View State Normal and Industrial College at Prairie View was changed to Prairie View University; and

WHEREAS, the act further provides that whenever there is any demand for same the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide for a course in law at Prairie View University substantially equivalent to that offered at the University of Texas; (other courses not pertinent to this order were also authorized.) and

WHEREAS, The Board of Directors of A. & M. College in cooperation with the University of Texas named a joint committee to study the obligations of these institutions in connection with Negro education and make a report to the Governor in connection therewith, said, (Minute Order No. 124-46), being attached to and made a part of this order; and

WHEREAS, the Board of Directors of the A. and M. College of Texas strongly reaffirms the position taken in the

RESPONDENTS' EXHIBIT NO. 1, page 5.

recommendations made to the Governor, particularly that part which urges the establishment of a first-class University for Negroes, preferably at Houston, Texas, under the supervision of the Board of Regents of the University of Texas; and

WHEREAS, it has been brought to the attention of the Board of Directors that at this time there is pending an application for admission to the University of Texas by one or more colored youth seeking to enroll in the School of Law, and this Board has been requested to make arrangements for these young men to embark on their legal studies pending final action by the Legislature on the recommendations made or to be made to its 50th session; and

WHEREAS, the Board of Directors has by investigation determined that arrangements may be made for standard courses of first-year law to be given in Houston, Texas with qualified Negro lawyers as teachers:

THEREFORE, be it resolved

1. That if the applicant and/or similar other applicants for first-year courses in law offer themselves to the Registrar at Prairie View University, bringing with them a suitable transcript and a certificate from the Dean of the Law School of the University of Texas that they are scholastically prepared for a course of law equivalent to that given at the University of Texas, they will be admitted to

RESPONDENTS' EXHIBIT NO. 1, page 6.

Prairie View University for the semester beginning February 1947.

2. The course will be offered in Houston, Texas and will be substantially the same approved course as is now offered by the University of Texas School of Law for entering students, and the qualifications of the personnel to teach the students will be determined by the State Board of Law Examiners, and they will be judged acceptable by it before instruction begins.

3. The Board of Directors of A. and M. College, through Prairie View University, will provide instruction in accordance with the requirements of the Supreme Court of Texas and the American Bar Association, and will provide or make available to the students such books or library material as are needed for the first-year course in which they will be enrolled. The Governor will be asked for a deficiency appropriation to provide the cost of instruction.

CERTIFICATE.

I, E. L. Angell, certify that the foregoing is an exact copy of Minute Order No. 203-46, passed at the meeting of the Board of Directors of the Agricultural and Mechanical College of Texas held at Austin, Texas on November 27, 1946.

RESPONDENTS' EXHIBIT NO. 1, page 7.

IN WITNESS WHEREOF, I have hereunto affixed my hand
and seal of the said institution this 4th day of December,
1946.

/s/ E. L. Angell

E. L. Angell, Secretary

Board of Directors

Agricultural and Mechanical

College of Texas.

(Seal of Agricultural and Mechanical College of Texas)

REPORTER'S CERTIFICATE.

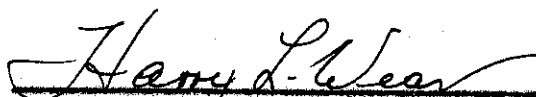
THE STATE OF TEXAS

COUNTY OF TRAVIS

This is to certify that the above and foregoing 21 pages contain a true, full and correct transcript in question and answer form of all of the testimony, as well as all documentary proof admitted in evidence by the Court on the trial of the above entitled and numbered cause.

I further certify that the foregoing statement of facts contains also all objections to the admission or exclusion of evidence, and the rulings of the Court thereon and the exceptions taken thereto, as shown by my shorthand notes, taken upon the hearings held in said cause on June 17, 1946 and December 17, 1946, in the District Court of Travis County, Texas, 126th Judicial District.

Witness my hand this the 28th day of December,
A. D. 1946.



Harry L. Wear, Shorthand Reporter,
126th JUDICIAL DISTRICT COURT OF
TRAVIS COUNTY, TEXAS.

AGREEMENT OF COUNSEL.

It is hereby agreed that the above and foregoing 21 pages contain a full, true and correct statement of all the facts in question and answer form, as well as all documentary proof admitted in evidence by the Court upon the trial of this cause, and we further agree that said statement of facts contains all objections to the admission or exclusion of testimony, and the rulings of the Court thereon, and the exceptions taken thereto.

And we further agree that this record shall be filed as the statement of facts and bills of exception (excepting such other bills of exceptions as may be filed separate and apart from this statement of facts) in said cause, No. 74,945, Heman Marion Sweatt vs. Theophilus Shickel Painter, et al, in the 126th District Court of Travis County, Texas.

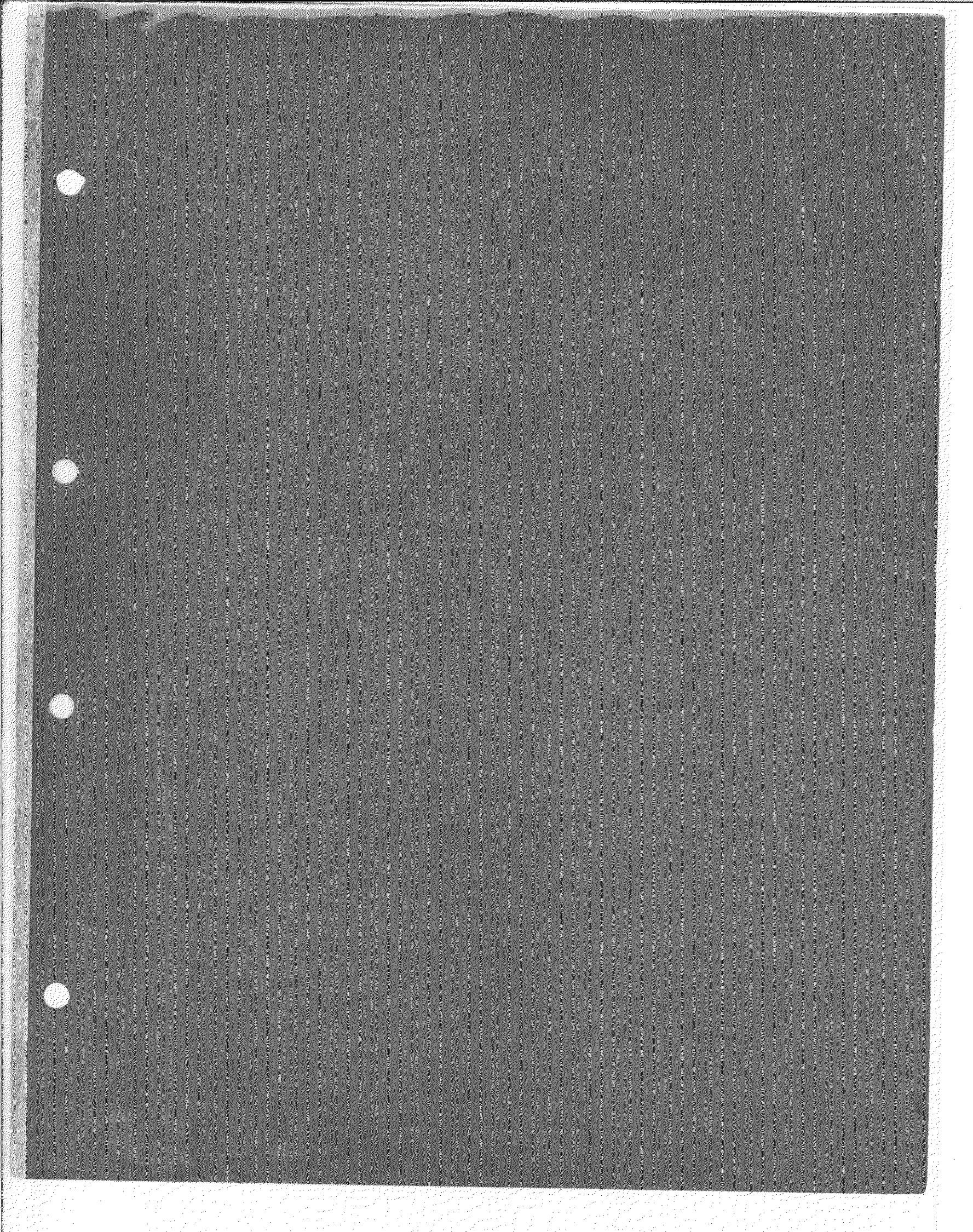
Dated this 30 day of December, A. D. 1946.



Counsel for Relator

Attorney General of Texas
by Jackson L. Jackson, Assistant

Counsel for Respondents



I. Physical Plant + Total Assets

200 Merrill 1110
 101 in 11/11/1947
 101 in 11/11/1947

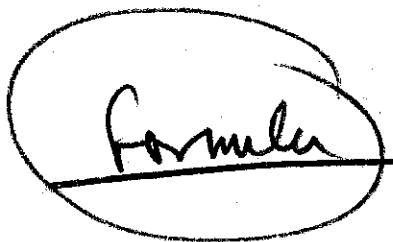
A. All 4-year state supported ^{higher} institutions, *
 except Texas Technological College.

1. List of schools -
2. Sources: latest available official
 audit reports (1945-1946), from
 State Auditor's office, Austin -

B. Plant assets

1. \$72,790,097 - all -
2. { Province View \$2,170,910
 2,000,000
 SB 140

Total Negro - \$4,170,910
 % " 5.72%



3. ~~Statement~~ of population formula

a. Total population 6,414,824
 b. Negro 924,391
 c % " 14.4%

White Population 1940
 5,490,433

Invested in white higher edu.

\$70,619,187

4. ~~Share~~ under formula;

\$10,481,773 -

Have \$6,310,763 less than ~~total~~
~~have~~ formula would give.

5. On the basis of population, \$12.88
 are invested in physical plants of white per
 every white person in population.

16th ~~U.S.~~ Census of the U.S.
 1940. Population, Second
 Series: Characteristics of the
 Population - Texas. Table 7.

(2)

Plants only

Negro pop. 1940:
924,391

Invested Negro plants

\$4,170,910

6. \$4.57 in Negro plants - per Negro

7. almost three (2.83) times in white ^{plants} on pop. formula

B. Total Institutional assets

1. \$162,039,628 - all

2. a. Prairie View - \$2,568,554

b. \$B140 - 3,350,000

c. Total Negro - \$5,918,554

3. \$28.66 for each white in pop.

4. \$6.40 " " Negro

5. Whites - almost $\frac{4.47}{28.66}$ (4.47) as much.

6. Negro - formula \$23,333,706 - \$12,415,152 ^{about}

C. Total assets of whites greater proportionately than plant assets, due to Texas U. enrollment.

1. \$61,277,162 from state -

2. Formula would give Negroes \$8,923,911 of this.

3. Prairie View, \$26,000 in U.S. Grant pecuniary.

D. Prairie View has received less in plant assets, proportionately than Negro public colleges as whole in 17 states + D.C., which maintain separate schools

1. 1937-38 (latest data) Total - 17 states \$370,234,125

2. white state plants - \$346,133,496

3. Negro " " \$24,100,679.

4. \$9.83 for each white pop. (35,197,765) - 1940

5. 2.36 " " Negro (10,149,005) - 1940

- ala
- ark
- del
- dc
- fla
- ga
- ky
- md.
- la
- miss
- nc.
- ohio
- sc.
- tenn
- tex
- va
- W. Va

Credit Reports

Texas - P. 4

A + M. P. 11

Biennial Survey of
Education 1936-38,
U.S. Office of Educ.,
Bull. 1940, no 2. Tab 22
pp. 280 ff.
U.S. Dept. of Education

3

Plant + Sustaining Assets

90 Sept 22.32

- 6. whites had over four times (4.16) per formula.
- 7. Texas - 1937-38: white \$63, 656, 100 (excluding public JCS)
- 8. Negro \$1, 698, 073 (including)
- 9. a. whites per population per capita - \$11.50
- b. whites per population per capita - \$1.72
- c. Negro in Texas
- d. whites over 6 1/2 (6.6) times as much per capita.

- 8. Investment, Negro plants, 17 states + D.C. \$2.36;
- in Negro plants, Texas, \$1.72 -- [1.37 times as much in 17 states + D.C. as Negro per capita in Texas.]
- 9. white plants in Texas just the reverse: \$11.50 -> \$9.83 - \$1.67 more per capita

II. Current Educational Funds

- A. About same as found in capital equipment + lib. assets
- 1. In 1943-44 (latest available complete statistics) showed:
 - a. Texas appropriated \$11, 071, 490 in state, county, + district funds to higher ed.
 - b. whites: \$10, 858, 018 -- \$1.98 each white pop.
 - c. Negroes: \$213, 472 -- .23 each Negro pop.
 - d. whites got 8 times (8.06) as much per capita

Plants
U. S. Office of
Education Man-
uscript Accounts

Session Goals

- House Journal
- Supp. to daily program
- * Forestry Service
- Fireman's Training
- Robert Control
- Chap. Extension
- Culture research
- 3 hospitals - med.
- Varner

- 2. Appropriations, 49th Legislature, 1946-1947.
 - a. Total* { \$11, 476, 519 - 1946
11, 469, 478 - 1947
 - b. white { 11, 066, 519 - 1946
11, 059, 478 - 1947
 - c. Negro { 410, 000 - 1946
410, 000 - 1947
 - d. On formula (Negro should have got \$1, 652, 618 (1946)
\$1, 651, 604 (1947)

49th Leg
June 5, 1945

④

Current Est. Funds

e. whites (1946) \$2.01 per cap. per cap.
f. whites (1947) \$2.01 " " " }

f. Negro (per year) .44 cents - whites 4 1/2 times as much.

g. Taking \$1,000,000 under SB 140 - 2 yrs 500,000,
assume it for 1947 - ~~Assume it for 1947~~
add it to 410,000 - total \$1,410,000;
Negro per cap. would be \$1.53 as against \$2.01 for whites.

3. Reports to U.S. Office of Education (1945-46, phone
same funds; ^{resident students}

"Statistics of Institutions
of Institutions of
Higher Education,
1945-46" 1947.

a. Prairie view, 1576, \$346,250 from state (CE)
b. East State (white), 1205, \$448,749 " "
c. East State got 30% (29.6%) more money than P.V.
which ~~has~~ ^{is} 30% more students.

d. Per student appropriation: East State 372.40;
Prairie view \$219.70.

e. East State per student appropriation from state 69.4%
larger than P.V. from state.

f. East State per student, from state, 45.8% larger than P.V.
from state + Federal grant.

P.V. state 346,000
F.G. 56,255
402,255

g. App. from state per student, fine Teachers coll. \$296.10 --
34.5% more money P.V. got per student

East State
Sul Ross
Southwest
Sam Houston
North State

4. Proposed apps. 1948 and 1949 - HB 246.

a. (after eliminating) Total
1948 - \$23,125,323
1949 - 27,389,545

5490 433

12,250,000
10,980,866

12691340

10980866

171044740

2.23

5

	1948	1949
b. total \rightarrow \$23,147,383		\$27,389,445
b. white	\$22,266,087	26,435,809
c. Prairie View	\$859,236	\$953,736
d. Formula P.V.	\$3,330,046	\$3,944,093
e. white schools - per white pop - (1948) \$4.24 (1949) \$4.45		
f. Prairie View per Negro (1948) .93 cents (1949) \$1.03		
g. whites $4\frac{1}{2}$ times in (1948) $4\frac{3}{4}$ times in (1949)		
h. Assume \$B140 for 1948 + 1949 -		
Negro pop. \$2.63 as against \$4.23 white - 1948		
" " " \$2.73 as against \$4.45 white 1949		

(929)

$\$3,350,000 \div 2$
 $\$1,575,000$
 1948: \$2,434,236
 1949: \$2,528,736

Perennial Survey of
 1938-40, 1940-42
 Statistics of Higher Educ.
 Vol. II Chap. 3 Table 48

total -
 \$71,757,970
 white
 \$67,171,362

Texas

5. Money available for current expenditures in Negro as for white schools in 17 states + D.C. greater on basis of formula than for P.V. (8 states) ... Ark. Fla. Ind. Mo. N.C. Okla. Tenn. W. Va.
- a. \$85,950,187 expenditures in all 17 states + D.C. 1939-40 - latest statistics -
- b. whites \$81,363,379; Negroes \$4,586,608 (17 states + D.C.)
- c. pop. white \$2.31; Negroes - .45 cents
- d. Texas white \$14,328,326 - N. \$352,266
- e. per pop white \$2.69 N - .30

6. Consequence of such differences in financial support - Negro has been ^{educationally} disadvantaged over the years.

9. First Place twice as many whites as negroes educated in state higher institutions -
 (See Senior Colleges - pp. 24-5)

2. differences in financial support paralleled by diff. educ. accomplishment.
 2. 16th Census - of persons 25 years old and older -

a. One to three yrs of college: white (218,225) $\frac{89\%}{}$
 Negro (11,704) $\frac{2\frac{1}{2}\%}{}$

b. over three times (3.2) white as Negro.

c. 4 or more yrs college: white (157,882) $\frac{5\%}{}$
 Negro (7,699) $\frac{1.2\%}{}$

d. over 3 times (3.25) as many again

2. Negroes disadvantaged - areas where college training required.
 Law - medicine - occupations -

3. Similar situation in professions

Doctors - U.S. as white W-160,845
 N-2,524
 Ratio: W-1 to 735; N-1 to 365

Texas Number - W-6076; N-164

Ratio: W-1 to 903; N-1 to 5637

More than 6 times (6.24) as many white

Texas, three times (2.8) Negro doctors as many - as Texas,

D.C. more than 5 (5.9) - Howard.

Dentists (male) - U.S. W-67,470; N-1,463
 Ratio: W-1 to 1752; N-1 to 8726.

almost five (4.9) times as many white

Texas: Number W-1901; N-81

Ratio W-1 to 2886, N-1 to 11,412

almost four (3.9) times as many.

Texas, twice as many Negro dentists as many Texas,
 D.C. four (3.9) Howard - four (3.9)

d. Engineers U.S. W-244,160; N-238
 Ratio: W-1 to 486; N-1 to 54,057
 111 times as many white -

a. Lawyers - U.S. W-176,475; N-1052
 Ratio: W-1 to 670; N-1 to 230
 18 times as many white - U.S.
 Texas - W-7701; N-23
 Ratio W-1 to 712; N-1 to 40,191
 56 times as many white

①

d. Engineering curricula

Texas: number - W- 8,961; N- 6
Ratio: W- 1-612; N- 1-154,065
Over 250 (251.7) times as many white.

~~D.C. 10 (9.9) as many Negro engineers as Texas.~~

III. The Curriculum

Curriculum, faculty, library, heart of educ. institution. Must have financial resources to provide them. Since wide diff. seen in financial support, corresponding diff. expected in these areas also.

A. General curriculum offerings - undergraduate

1. Specialization

1. Offerings in Negro public colleges invariably more limited than in white -

a. 17 States + D.C. White - 77 fields; N- 22 --
55 more ~~fields~~ or $3\frac{1}{2}$ times as many for white.

b. Texas (Survey) - 106 for white; 49 Negro -- Twice.

c. Tex A+M - 45 dept. specialization; P.V. 13 --
A+M. more than 3 times as many.

d. Engineering offered in four white schools; ~~starting~~ with 8 different ^{series} curricula.

e. No such curricula at P.V: Mech. Arts - Ind. Ed.

f. P.V. number of high school trades: Pattern-making and mallet making, auto mechanics, carpentry, foundrying + dry cleaning, plumbing, printing, radio repair, shoe repairing, tailoring, etc.

National Survey - vol II,
P. 10

Catalogs: 1946-47
A+M - P. 10
~~P.V. 11~~

P.V. Catalog - 1946-47

8

g. valuable courses, but not college. originates small funds P.V. now sets.

h. Facts help explain why ^{times as} ~~250~~ white engineers in Texas.

i. Chemistry - very important -

(not accredited by Am. Chem. Soc. -- ~~AT~~)
Repts at A + M, Texas are. Negro constitution

B. Graduate Fields - of recent origin in Negro public colleges.

Ala state; Fla. A + M;
Sewanee (now), NC. college
A + T, SC. state; P.V.
Tenn state, + Va state

1. Fall 1946 - 9 state negro colleges offered in 8 Southern states
some ~~work~~ graduate work in at least one field.

2. 1,111 ^{all} in public Negro grad. schools - regular term + summer 1945-46

3. in Texas, P.V. had 229 reg term + summer 1945-46,
Houston college, 308 - total 537.

4. Grad. work in all white 4-year state higher institutions;
also 8 white private schools in Texas give grad. work.

5. Regular term enrollment in white state grad. schools 1945-46:
2358*

6. 13 white state institutions gave - 2846 Masters, 212 doctorates
period 1940-45

7. P.V. gave 103 masters same period; 55 got masters
~~8~~ an scholarship fund and 6 doctorates 1939-43, total 159
Negro grad. degrees.

8. Range: greater in white schools, ^{Texas} - Summary with
65 fields for white and 5 for Negroes 1941;

Present: P.V. 13; A + M 45; ~~45~~ 45.

9. Texas gives 10 grad degrees in 40 fields;
P.V. M.S. in 13 fields.

Director: Colleges +
Universities offering graduate
work sending to members
and Masters degrees 1940-
1945. E.V. Hallis and
H.C. Meyer, U.S. office
of Ed. 1947

Reports to U.S. office for
1945-46
Secretary of Texas

Ph.D., Ed.D., M.A.
M.B.A., Ed.M., M.Jour.
M.M.S., M.S. (Home Ec)
M.Arch. M.Sc. Eng.

9

10. Texas.. 212 doctornates at A+M + Texas in period 1940-1945.

11. Negroes wishing doctornate, or even Master's in fields not given at P.V. have recourse only to an admittedly inadequate scholarship fund-

12. Inadequacies

a. Eligibility - Negro must be resident + graduate in state while student in A+M or Texas, only a resident.

b. amount: \$100 semester (\$150 mch.) + round trip at 3¢ a mile, less tuition at state institutions and less roundtrip cost to P.V. 10% to total amt.

c. Maximum grad. student \$165 yr tuition plus travel 3¢ per deduction. (See typical case scholarship committee April 1945-46.)

d. Cost Texas U. \$511 per student main Univ. 1945-46 and Texas A+M \$734 per student

Two ^{institutions} state spends \$200 to \$500 more on white graduate students than Negroes on scholarship.

13. Research Opportunities + support - important consideration in re graduate work.

a. Free state higher institutions in Texas expended \$2,753,809 for property organized and budgeted personnel in 1945-46.

b. P.V. received nothing during this year, as in previous years.

c. (Formula - pop. would have got \$396,547.)

d. P.V. ^{needed} \$10,000 in 1946, to set up Rmb. Ex. \$16,000

e. H-B 246 - gives P.V. \$25,000 for 1948 + 1949

f. Per capita share of Fed govt allotment (\$251,288) to P.V. would be \$36,185.

* The distribution of scholarship aid to Negro Negroes, white and Negro students during two Adj. sessions, 1944-45

\$7,838,175	Texas
15298	
Report to U.S. Office 1945-46	
A+M \$7,263,659	
3017 817	
\$4245842	
5783	

Report to U.S. Office of Education 1945-46:

North State	\$9,940
North Tex ag	17,646
Texas Tech	32,245
Tex A+M	1,632,642
Texas Univ.	1,061,336
	\$2,753,809

* Minute Order, Board of Directors July 13, 1946.

C. Professional Curricula.

(Altho 8 of 17 states + DC, make some provision for graduate work in public colleges of limited quantity and questionable quality, very few make any provision for professional work in them.)

National Survey
vol II p. 15

1. Provision - Negro - 17 states - DC
 - a) Law - Mo + N.C.
 - b) Behavior Science (NC)
 - c) Journalism (Mo.)
 - d) Mining (Texas + Fla)
- e. No provision for medicine, dentistry, pharmacy in Negro state colleges -

2. White - 17 states + DC
 - a) medicine - 15 (Texas)
 - b) dentistry - 5 (Texas)
 - c) Law - 16 (Texas)
 - d) Soc. work - 9 (Texas)
 - e) Lib. Science - 11 (Texas)
 - f) Pharmacy - 14 (Texas)

3. Medicine in Texas
 - a) 3 Class A med. schools -- 2 private (Baylor, S. Western), and one public - med. Branch Univ. of Texas.
 - b) Univ. of Texas - 353 students 1945-46; received \$644,165 year ending 1946 - per student cost \$1938.
 - c) Negro is only given opportunity through scholarship fund. [If he attended M. Sch., would get less than \$500.]
 - d) State spends \$1400 more on white than Negro in medicine.
 - e) ~~not comparing~~ ^{any} there are more than nine (6.24) times as many white as Negro doctors.

Colony 1945-46

\$199,540 -
136

4. Dentistry - Texas
 - a) Some thing - state pays around \$1500 per student.
 - b) Negro can not get more than \$400 from scholarship -- \$1000 or \$1100 more for white. (Explains 4 times (39) white dentists.)

11

5. Saw - 3 Accredited... 2 private (Payson + SMU);
Texas Univ. Saw School.

a) Similar story - as in graduate work - ~~per student~~ per student
East Texas Univ. (main campus) - \$11

b) Maximum Negro scholarship funds - less than \$300.

c) ~~State~~ Texas U. pays \$200 more for white law
student.

IV. Faculty - ^{one} basic conditions of good university is good Faculty.
(to recruit and build a good faculty salaries must be attractive,
and working conditions satisfactory)

A. Salaries of P.V. are too low in general to attract and
hold a sufficiently large number of good teachers; or to meet
the competition from other Negro colleges.

1. See Banks statement in Semin colleges, p. 36.

2. Statement on lower salaries - " " p. 38; salaries
generally lower than white teachers in white state colleges, p. 38

3. Same true of salaries in 1946-1947 budget - except one
white teacher in 13 white schools, comparable positions, highest
P.V. lower than lowest white (9 months basis)

4. Similar situation in H.B. 246, present legis. 1948-1949 -
only 3 props. in 13 have lower salaries than lowest Prop of P.V.

5. Prin. P.V. 1946, 1947. got salary, \$1000 less than
head of any 4-year white state institution -

6. H.B. 246 - demotes Prin. to a dean, on par with
two A + M Junior colleges - Tarleton + North Tex.

B. P.V.'s faculty as a whole is not adequately trained -
However, a few have excellent training and should be paid
Accordingly, ~~or get salary equal to whites with same~~
training and doing same or similar work.

Session Notes
+
House Journal Sept
June 5, 1948

1. Training:

Medical Supply 8.14
Senior College - 1.31
Catalog

- 1940-41: 8.33% doctors; 45.45% masters.
- 1942-43: 6% doctors; 52% masters
- 1945-46: 9.3% doctors; 52.3% masters

10 doctors
56 M A's
107 total

2. As noted, with one exception highest paid pay. (1 mos) lower salary than lowest pay. in 13 of 14 years white schools.

3. ~~As noted~~, P.V. will have to raise salaries ^{considerably} ~~unusually~~ ~~the 1948-1949 budget proposals~~ to compete with ~~other~~ other Reg 10 colleges.

~~4. The doctors at P.V.~~

V. Library - equal in importance to faculty and curriculum.
(It is the life blood of graduate work)

Library

A. Present Library holdings of P.V. are 25000 titles; 465 serials.

B. Holdings of ~~some~~ white state teachers college libraries larger than P.V., not to say anything about Texas U.

1. Holdings of 12 white four-year schools in 1945.

a. Range 28,357 (Tex. Coll Mkt + Ind.) to 750,974-74

b. North State had more books (144,426) than all Negro public + private colleges in Texas 1945, and still has.

2. East State (1205 students), 81,794 in 1945-46, as compared with P.V. in 1947 (161900) 25,000 vols.

3. South West (957 vol), 56,612 in 1945

4. Sam Houston (1401) 63,100 in 1945

Karl Braun

Am. Lib. Director

110,000 vol.

162,039,628
4,363,573

157,676,055
144

230704220
630704220
57676055

~~2,2704351920~~

(13)

5. 49th Seq. gave P.V. \$10,000 for books in 1946 and 1947, which has brought library up to 25000.

6. H.B. 246 - 50th gives \$25,000 for 1948+1949.

~~Seq.~~ P.V. would books at rate of \$25000 p. yr.

a) take 7½ years to reach East State's in 1945;

b) 16 (15A) years to reach North State's in 1945

c) P.V. would have to spend \$50,000 a year to catch up with North State by 1964

7. ^{State} Capacity of new W.R. Banks Sch. P.V. ~~is~~ is 44,426 volumes smaller than North State holdings in 1945.

Semin colleges
P.64

8. P.V. does not yet have a first class undergrad. college library, to say nothing about grad. work.

VI. Accreditation - not only indicates standing in educ. world, but denotes ability to do first class work. It is a sort of academic "Coin of the Realm".

A. Major accreditation

1. College, ~~university~~ Affiliated with Assn of Am. Univs.

~~a~~ ~~university~~ ~~member of Assn.~~

2. University - member of Assn of Am. Univs.

3. State school - Assn of Am. State Schools.

4. Medicine - AMA

14

5. Engineering - Engineer's Council for Professional

B. Accredited School Development -

1. Three white state schools - approved list - Assoc. of Am. Univs.

(A + M, North Tex State Teachers, & Tex. Coll. for Women.

2. Univ. of Texas is member, Assoc. of Am. Univs. list

3. No Negro institutions, including P.V. has such accreditation.

VII. Summary - Study shows that -

A. P.V. does not measure up to the four year white state higher institutions on any of the criteria used -

1. Physical Plant & Total institutional costs
2. Current educational funds
3. Curriculum
4. Faculty
5. Library
6. Accreditation

B. Finally, that even when the authorizations under S.B. 140, Negroes in Texas are not provided with substantially equal educational facilities as P.V. and Texas State Negro Univ. as are provided for whites in Texas.

RESOLUTION ADOPTED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS

RE THE TEXAS STATE UNIVERSITY FOR NEGROES

ADOPTED FEBRUARY 28, 1947

Resolutions 83

RESOLUTION RE THE TEXAS STATE UNIVERSITY FOR NEGROES.--Chairman Woodward presented the following resolution re The Texas State University for Negroes, as was proposed in Senate Bill No. 140, 50th Legislature of Texas, which resolution was adopted unanimously by the Board upon motion of Mr. Bullington, seconded by Mr. Kirkpatrick. The roll call reflected the following vote:

AYE

NO

Judge Woodward
Mr. Bullington
Mr. Kirkpatrick
Dr. Scherer
Mr. Schreiner
Mr. Tucker
Mr. Warren

WHEREAS, Senate Bill No. 140, being an Act to establish a University of the First Class to be styled "The Texas State University for Negroes" has been passed finally by both Houses of the Legislature of the State of Texas now in Session, and

WHEREAS, it is anticipated that said bill will be signed forthwith, and will, by its terms, become immediately effective, and

WHEREAS, Section 11 of the said Act provides that "the Board of Regents of The University of Texas is authorized and required to forthwith organize and establish a separate school of law at Austin for negroes to be known as the 'School of Law of The Texas State University for Negroes' and therein provide instruction in law equivalent to the same instruction being offered in law at The University of Texas;" and

WHEREAS, The Board of Regents of The University of Texas desires to cooperate fully and immediately in carrying out in good faith all of the duties imposed upon it by said bill, and

WHEREAS, The Dean and the Members of the Staff of the School of Law of The University of Texas have signified their willingness and desire to cooperate fully in the establishment and conduct of said School of Law of The Texas State University for Negroes to the end that the instruction therein given may be in all respects equivalent to that currently and heretofore offered in the School of Law of The University of Texas; and

WHEREAS, The Registrar of The University of Texas has signified his willingness and desire to cooperate in the organization and conduct of the School of Law of The Texas State University for Negroes as contemplated in the said bill, now therefore,

BE IT RESOLVED, That the Board of Regents of The University of Texas hereby assumes and undertakes to discharge promptly and in full compliance with the letter and the spirit of Section 11 of said bill all of the duties and responsibilities imposed upon or delegated to it by the terms thereof; and

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents of The University of Texas be, and he is hereby authorized, immediately upon said law taking effect, to take all steps necessary to acquire in the immediate vicinity of the State Capitol at Austin, Texas, quarters fully adequate for the conduct of the School of Law of The Texas State University for Negroes and to do all other acts and things, including the employment of necessary personnel, the acquisition of furniture and other facilities and utilities necessary to the full equipment and operation of said school;

BE IT FURTHER RESOLVED, That the first semester of said school begin on Monday, March 10, 1947, which is hereby designated as the final date for registration therein and that such semester extend through June 28, 1947, and

BE IT FURTHER RESOLVED, That the Dean of the School of Law of The University of Texas be, and he is hereby, requested and directed to discharge the duties of Dean of the School of Law of The Texas State University for Negroes.

BE IT FURTHER RESOLVED, That there shall be offered for students entering such school the identical courses now being taught the same classes in the Law School of The University of Texas, which courses shall be given by the same instructors or instructors of equivalent experience and ability with those now giving such courses in the Law School of The University of Texas;

BE IT FURTHER RESOLVED, That the Registrar of The University of Texas be, and he is hereby, requested and directed to discharge the duties of the Registrar of the School of Law of The Texas State University for Negroes and in that capacity to distribute forthwith to all persons who may be interested therein bulletins covering the work to be offered in the semester opening March 10, 1947, which bulletins shall contain the information customarily contained in bulletins issued by The University of Texas and which may be compiled by incorporating by reference material contained in the bulletins heretofore issued by The University of Texas;

BE IT FURTHER RESOLVED, That the Chairman of The Board of Regents of The University of Texas be, and he is hereby, authorized and directed to purchase for the account of The Texas State University for Negroes a library with necessary cases and appurtenances sufficient to meet the requirements of the American Law School Association and of the American Bar Association;

BE IT FURTHER RESOLVED, That pending receipt and installation of such library, the Dean of the Law School of The University of Texas be, and he is hereby, authorized to supply on a loan basis books from the Law Library of The University of Texas which may be needed in the efficient conduct of the School of Law of The Texas State University for Negroes;

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents be, and he is hereby, authorized to negotiate with the personnel of said proposed school such arrangements as may be required for its immediate organization and conduct, which arrangements shall be reported to the next meeting of the Board of Regents for confirmation and approval by it;

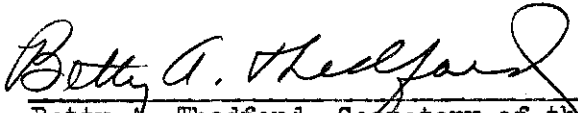
BE IT FURTHER RESOLVED, That the Board of Regents of The University of Texas extends to the Board of Directors of The Texas State University for Negroes, when it shall have been duly constituted, its best wishes and assurances of cooperation for the success of the undertaking committed to its care.

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Betty A. Thedford, Secretary of the Board of Regents of The University of Texas, do hereby certify that the foregoing is a true and correct excerpt from the minutes of a regular meeting of said Board of Regents held in Austin, Texas, on February 28 and March 1, 1947, at which a majority of the members were present and voted favorably on the motion contained therein.

Executed under my hand and the seal of The University of Texas this the 18th day of March, 1947.

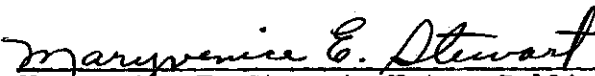

Betty A. Thedford, Secretary of the
Board of Regents of The University
of Texas.

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Betty A. Thedford, Secretary of the Board of Regents of The University of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and the seal of office this the 18th day of March, A.D. 1947.


Maryvenice E. Stewart, Notary Public
in and for Travis County, Texas.

*Respectfully,
J.H.C.*

ANNOUNCEMENT OF COURSES

FOR THE SPRING SEMESTER, 1947,
OF THE SCHOOL OF LAW OF THE

TEXAS STATE UNIVERSITY FOR NEGROES

The School of Law will begin its program of instruction March 10, 1947. It is located in the building at 104 East 13th Street, Austin, Texas, adjoining the grounds of the State Capitol.

For beginning students, the courses for the Spring Semester will be as follows:

Contracts, six hours per week. Instructor, Leo W. Leary, Associate Professor of Law, The University of Texas (A.B., LL.B., University of Wisconsin). Casebook: Grismore's Cases on Contracts.

Torts, six hours per week. Instructor, Starling T. Morris, Assistant Professor of Law, The University of Texas (LL.B., The University of Texas). Casebook: Thurston & Seavey, Cases on Torts.

Legal Bibliography, one hour per week. Instructor, ~~Chalmers~~ M. Hudspeth, Assistant Professor of Law, The University of Texas (A.B., Rice Institute; LL.B., The University of Texas.) Casebook: Brandt, How to Find the Law.

All of these instructors are teaching or have taught the same courses in The University of Texas School of Law during the current school year, and the program of courses is identical with those offered to beginning students in that school who entered February 1, 1947.

Registration day for the Spring Semester is March 10, 1947. Classes will begin on that day. The semester ends June 28. Programs of work for the summer session and for the fall and subsequent semesters will be announced later and will conform, generally, to the programs and offerings of the Law School of The University of Texas.

The State Library, which includes the Library of the Supreme Court of Texas, located in the State Capitol, is for the time being designated as the Library of the School. This contains about 44,000 volumes of legal material and includes all of the statutes and reports of decisions of all the states and of the United States.

The reference books needed for immediate use in the classes are available in the school building, and any other books which may be required, if not available in the State Library, will be furnished as needed from the Library of the School of Law of The University of Texas. A collection of 10,000

Announcement of Courses, page 2.

Carefully selected volumes meeting the requirements of the Association of American Law Schools, to constitute the nucleus of the permanent library of the School has been ordered.

Requirements for admission, fees, and regulations relating to the classification of students, class-work, and examinations, grades and credits, standards of work required, and degrees awarded, are the same as those contained in the attached Catalog of the School of Law, dated August 1, 1945, which is the latest published catalog of that school.

For further information apply to

Charles T. McCormick, Dean

or

E. J. Mathews, Registrar

School of Law
Texas State University for Negroes
Austin, Texas

Respectfully
E413
Wfe

THE SCHOOL OF LAW
of
THE TEXAS STATE UNIVERSITY FOR NEGROES
Box E, University Station
Austin 12, Texas

March 3, 1947

Mr. Heman Marion Sweatt
3402 Delano Street
Houston, Texas

Dear Sir:

Since our last correspondence concerning your application for admission to the University of Texas Law School, the Texas Legislature has authorized the Board of Regents of the University of Texas to establish and operate a separate school of law equal in all respects to the University School of Law.

I am pleased to advise that your qualifications heretofore established and your application heretofore made will entitle you to attend the new school now being opened at 104 East 13th Street, Austin, Texas.

The new school, known as The School of Law of the Texas State University for Negroes will open March 10, 1947, and the first semester will run until June 28, 1947. A summer session is being planned which will allow you to complete the same amount of work prior to the semester beginning in September as would be possible at the University of Texas.

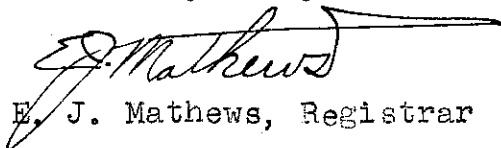
Dean Chas. T. McCormick of the University of Texas Law School will serve as Dean of the newly established Law School and the courses and instructors will be identical with those available at the University of Texas Law School. I assure you that in accordance with the authority from the Legislature and the Board of Regents, the newly established school will offer the students thereof equal training and educational opportunities. The school is located directly across the street from the State Capitol Building. A library is being installed and full use of the State Library on the second floor of the Capitol building is available for research prior to the delivery of a complete law library now on order. This new library will include all books required to meet the standards of the American Association of Law Schools and the American Bar Association.

Mr. Heman Marion Sweatt.....Page 2

There is enclosed a copy of the current bulletin of the Law School of the University of Texas, which has been adopted as the bulletin and list of courses available at the new School of Law. The courses, texts, collateral reading, standards of instruction and standards of scholarship will be identical with those prevailing in the Law School of the University of Texas. Since your application is for a first year law course, I might add that in the University of Texas Law School first year students are eligible to take Contracts (6 hours weekly), Torts (6 hours weekly), and Legal Bibliography (1 hour weekly). These same courses will be available to you by the same instructors.

If you desire to enter the semester beginning March 10, please advise me as soon as possible in order that arrangements may be made for you to interview Dean McCormick and determine your schedule of classes and textbooks which will be required.

Yours very truly


E. J. Mathews, Registrar

BIENNIAL SURVEY OF EDUCATION IN THE UNITED STATES
1942-44

STATISTICS OF STATE SCHOOL SYSTEMS, 1943-44

CHAPTER II

Eg 2

FEDERAL SECURITY AGENCY
U. S. Office of Education

**BIENNIAL SURVEY OF EDUCATION
IN THE UNITED STATES**

1942-44

**STATISTICS OF
STATE SCHOOL SYSTEMS**

1943-44

CHAPTER II

By DAVID T. BLOSE

Associate Specialist in Educational Statistics

Under the Direction of

EMERY M. FOSTER

Head, Reports and Analysis Section

Research and Statistical Service

FEDERAL SECURITY AGENCY—Watson B. Miller, *Administrator*

U. S. Office of Education—John W. Studebaker, *Commissioner*

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FOREWORD

THIS CHAPTER of the Biennial Survey of Education is a continuation of the series of periodic reports which have been prepared by the U. S. Office of Education for State school systems since 1871.

This report in two respects is transitional. In the first place, it is the last of the State school statistics chapters which were prepared under the exigencies of wartime conditions. The task of compiling recent and accurate statistics was handicapped by lack of clerical staff in the many State school systems which were loaded with additional wartime responsibilities of the public schools. In the second place, the U. S. Office of Education is launching a review of its statistical program and is planning a continuing study of the needs of the many consumers of Office of Education statistics and the types and frequency of statistical items reported.

A preliminary consideration of the entire statistical function of the Office of Education was made in the fall of 1945 by a conference called by Commissioner Studebaker on the U. S. Office of Education statistical program. The report of this conference is published as Bulletin 1945, No. 2, *Proposals Relating to the Statistical Function of the U. S. Office of Education*. The deliberations of conferees at this meeting urged upon the Office the consideration of its reporting cycle, and emphasized the necessity of considering which data are needed on a current basis, perhaps at least on an annual basis; and which might need reporting much less frequently, perhaps every 5 or 10 years. There are, therefore, some modifications from previous practice in the present report and it might well be that there will be further modifications growing out of continued study which the Office of Education is planning to make on its statistical reporting program.

FRANCIS G. CORNELL,
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STATISTICS OF STATE SCHOOL SYSTEMS, 1943-44

THIS CHAPTER presents data on public elementary and secondary schools in the 48 States, the District of Columbia, and the outlying parts of the United States, together with comparisons extending over the 74-year period of State school statistics (table 1).¹

Statistics in this chapter were reported by State departments of education to the U. S. Office of Education. The State reports were based upon data submitted by approximately 111,270 local school units in 1943-44. Hence, the combined report represents the cooperative effort of a great number of individuals and educational units.

State and Local Boards of Education

There are 39 States which have State boards of education with jurisdiction over public elementary and secondary education (table 2). The authority of these boards ranges all the way from that of serving in an advisory capacity to that of formulating policies and exercising administrative responsibilities. Some other States have vocational boards exercising control over vocational education, but the present tendencies are to have one board to control all forms and levels of elementary and secondary education.

Basic Administrative Units, by Educational Level

A basic administrative unit comprises all the area under a single system of school administration, that is, its schools are controlled by a board of education of which the executive head is usually the superintendent of schools. It generally constitutes a local taxing unit. Due to consolidations, the number of administrative units is continually becoming less. There were 117,000 of these units in 1939-40 and 111,273 in 1943-44, showing that consolidation has been taking place even in wartime.

Personnel in State Offices and Local School Systems **State Offices of Education**

The actual administration of State school systems is carried on by the personnel in State and local offices of education. There

¹ Roman numerals indicate text tables; arabic numerals, detail tables.

were 1,928 professional staff members in State departments of education in 1943-44. They included superintendents or commissioners of education and their deputies or assistants, directors of divisions, chiefs of organized services, and supervisory personnel of the 48 States and the District of Columbia (table 4).

Intermediate and Local School Systems

Intermediate units are county units that may have administrative authority over all local units or all except independent units, and other intermediate units such as unions, divisions, etc., in New Hampshire, New York, and Vermont. They form a link between State and local school administration. There were 2,355 superintendents and 2,162 professional staff members in these intermediate units in 1943-44 (table 2).

Local basic units consisting of county unit systems where there are no local systems, cities, towns, townships, villages, and other small units had 12,023 superintendents and 3,748 members of professional staff (table 2). The instructional staff consisted of 5,479 supervisors, 31,569 principals, and 827,990 teachers (table 5). Many States do not report the number of physicians, nurses, dentists, dental hygienists, transportation employees, janitors, engineers, carpenters, and recreational workers. There may be approximately a quarter of a million of these various types of employees in all the school systems.

The number of administrative units offering the more usual nonteaching services rendered by the schools are shown in table 7. Comparison can be made with the total number of administrative units in table 3 to see how nearly the service is universal throughout the States.

Pupils

Enrollments which had reached a total of 26,434,193 in 1933-34 had decreased to 23,266,616 or 12 percent, in 1943-44. This decrease was largely due to decreasing birth rates; but war jobs, enlistment in the service, etc., are contributing causes. If trends previous to the war had continued, there would have been approximately 100,000 more pupils in elementary school and three-quarters of a million more in high school in 1943-44 than there actually were.

TABLE I.—Percent change in enrollment for specified years, by State

State or District of Columbia	PERCENT INCREASE OR DECREASE IN—								
	Total enrollment			Elementary grades			Secondary grades		
	1929-30 to 1939-40	1939-40 to 1941-42	1941-42 to 1943-44	1929-30 to 1939-40	1939-40 to 1941-42	1941-42 to 1943-44	1929-30 to 1939-40	1939-40 to 1941-42	1941-42 to 1943-44
1	2	3	4	5	6	7	8	9	10
Continental United States.....	-1.0	-3.4	-5.3	-11.5	-3.5	-2.5	+50.1	-3.2	-13.1
Alabama.....	+10.2	-2.9	-3.7	+4.4	-3.7	-3.4	+64.3	+1.5	-5.2
Arizona.....	+6.2	+5.6	-13.0	-7	+5.5	-11.4	+45.8	+6.3	-19.3
Arkansas.....	+2.0	-5.2	-4.1	-4.2	-6.1	-8.4	+57.4	-8	-12.7
California.....	+11.3	+3.1	+6.3	-1.1	+4.7	+12.0	+55.9	-5	-7.6
Colorado.....	-7.9	-3.5	-5.4	-17.1	-2.7	-2.5	+34.1	-5.2	-13.8
Connecticut.....	-12.0	-5.1	-4.3	-24.7	-4.2	-1.1	+43.5	-7.0	-11.8
Delaware.....	+4.0	-3.5	-3.0	-9.4	-2.7	+3	+71.3	-5.6	-12.0
Florida.....	+6.6	(1)	-3.6	-3.1	-1.5	-2.0	+71.1	+5.5	-9.5
Georgia.....	+3.5	-3.4	-4.3	-3.3	-4.5	-3.8	+56.4	+2.3	-6.9
Idaho.....	(1)	-1.8	-6.3	-7.5	-1.9	-3.5	+26.0	-1.5	-14.8
Illinois.....	-10.5	-4.2	-6.0	-20.2	-3.1	-4.4	+24.8	-6.6	-9.8
Indiana.....	+6	-3	-3.6	-9.4	+3	-3	+36.9	-1.8	-11.7
Iowa.....	-9.2	-2.5	-6.4	-16.8	-1.9	-3.8	+18.9	-4.0	-13.2
Kansas.....	-12.7	-3.6	-5.6	-22.1	-2.7	-1.8	+22.3	-5.7	-14.9
Kentucky.....	-2.7	-4.8	-8.6	-3.6	-5.5	-7.0	+55.9	-1.0	-16.5
Louisiana.....	+8.9	-2.4	-6.3	-8	-3.7	-4.8	+71.9	+2.6	-11.8
Maine.....	+5.9	-3.4	-6.0	-7	-2.9	-3.0	+33.4	-4.9	-15.5
Maryland.....	+3.5	-1	-1.7	-6.7	-9	+9	+60.4	+2.5	-10.0
Massachusetts.....	-7.8	-6.2	-6.0	-19.0	-5.7	-2.6	+32.3	-7.3	-13.6
Michigan.....	-1	-5.8	-1.7	-15.5	-1.4	+1.7	+77.4	-16.2	-11.4
Minnesota.....	-7.2	-3.0	-7.3	-19.5	-3.1	-4.5	+49.3	-2.7	-14.1
Mississippi.....	-1	-2	-7.7	-4.0	(1)	-7.8	+40.3	-2.1	-7.0
Missouri.....	+6.8	-8	-9.1	+1.1	(1)	-7.9	+33.2	-3.3	-12.7
Montana.....	-10.8	-4.1	-10.8	-21.2	-3.3	-8.6	+29.0	-6.1	-16.2
Nebraska.....	-15.1	-6.9	-7.6	-23.9	-8.8	-4.3	+17.8	-2.3	-15.0
Nevada.....	+15.0	+15.7	+1.1	+4.4	+19.6	+5.0	+55.0	+5.5	-10.3
New Hampshire.....	+2.0	-4.2	-8.4	-10.1	-4.2	-6.7	+53.1	-4.3	-15.1
New Jersey.....	-9.5	-5.3	-7.0	-25.2	-6.0	-4.5	+78.0	-3.7	-12.6
New Mexico.....	+29.9	-9	-7.4	+22.1	-1.8	-6.1	+85.4	+3.2	-13.6
New York.....	+4.0	-4.6	-8.8	-11.7	-5.4	-6.0	+67.7	-2.7	-14.6
North Carolina.....	+2.3	-1.7	-5.3	-8.8	-2.6	+4.0	+73.0	+1.5	-35.3
North Dakota.....	-17.2	-4.9	-11.9	-24.2	-4.8	-10.2	+15.8	-5.4	-16.9
Ohio.....	-5.0	-4.1	-4.2	-16.8	-3.3	-2	+40.0	-5.8	-13.3
Oklahoma.....	-10.4	-16.6	-9.1	-18.4	-18.9	-6.6	+34.0	-8.9	-16.7
Oregon.....	-6.8	+3	+3.7	-17.5	+3.2	+9.8	+27.9	-5.6	-10.4
Pennsylvania.....	-4.4	-6.3	-9.6	-20.3	-7.3	-7.4	+83.0	-3.9	-14.7
Rhode Island.....	-3.8	-7.2	-8.5	-17.4	-8.9	-3.8	+75.5	-2.6	-20.5
South Carolina.....	+2.6	-1.4	-4.5	-5.2	-1.6	-4.1	+64.1	-3	-6.0
South Dakota.....	-17.6	-5.0	-10.3	-26.7	-4.3	-7.8	+21.3	-6.8	-17.0
Tennessee.....	+3.2	-1.9	-4.6	-3.2	-2.6	-2.8	+55.1	+1.5	-13.3
Texas.....	+1.6	-1.9	-4.6	-7.9	-2.7	-7	+44.5	+3	-15.5
Utah.....	-1.1	-1.4	+2.7	-11.4	+2.0	+5.7	+32.2	-8.8	-4.6
Vermont.....	-1.6	-6.8	-8.9	-5.9	-7.2	-8.3	+18.4	-5.2	-11.4
Virginia.....	+9	-2.1	-3.9	-7.2	-4.1	-3.3	+64.6	+6.1	-6.1
Washington.....	-3.9	+3.5	+6.7	-13.0	+7.0	+14.3	+23.7	-3.9	-11.2
West Virginia.....	+14.5	-2.1	-7.7	+4.1	-3.9	-6.0	+88.0	+4.9	-14.0
Wisconsin.....	-5.0	-7.9	-5	-17.8	-8.6	+1.5	+50.2	-6.3	-5.1
Wyoming.....	+3.1	-9	-5.9	-7.9	+1.3	-2.8	+45.8	-6.1	-14.0
District of Columbia.....	+18.8	+4	-4.5	+9.8	+1.5	-2	+54.1	-2.8	-17.1

1 Change less than 0.05 percent.

Elementary Schools

The peak enrollment of elementary schools, kindergartens, and grades 1 through 8, for the 48 States and the District of Columbia, was reached in 1929-30 with a total of 21,278,593 pupils (table II). Since that year each successive biennium has shown a decrease in the number of pupils enrolled in elementary grades till 1943-44 when the enrollment was 17,713,096, a 16.8 percent decrease for the 14-year period. We may expect a further decrease until 1945-46 after which year the increasing birth rates of the latter 30's and the early 40's will again greatly increase enrollments, and another 10 years will bring as great an enrollment as in 1929-30.

TABLE II.—Enrollment, by grade, in public day schools and percent change, for specified years

Grade	1929-30	1939-40	1941-42	1943-44	PERCENT INCREASE OR DECREASE—			
					1929-30 to 1939-40	1939-40 to 1941-42	1941-42 to 1943-44	1929-30 to 1943-44
1	2	3	4	5	6	7	8	9
Total.....	25,678,015	25,433,542	24,562,473	23,266,616	-1.0	-3.4	-5.3	-9.4
Elementary school pupils.....	21,278,593	18,832,098	18,174,668	17,713,096	-11.5	-3.5	-2.5	-16.8
Kindergarten....	723,443	594,647	625,783	697,468	-17.8	+5.2	+11.5	-3.6
First grade.....	4,150,919	3,018,463	2,930,762	2,878,843	-27.3	-2.9	-1.8	-30.6
Second grade....	2,802,914	2,333,076	2,215,100	2,220,739	-16.8	-5.1	+3	-20.8
Third grade.....	2,732,239	2,331,559	2,175,245	2,162,878	-14.7	-6.7	-6	-20.8
Fourth grade....	2,599,229	2,321,867	2,196,732	2,079,788	-10.7	-5.4	-5.3	-20.0
Fifth grade.....	2,382,491	2,247,692	2,166,018	2,018,635	-5.7	-3.6	-6.9	-15.4
Sixth grade.....	2,256,249	2,176,133	2,124,494	1,997,806	-3.6	-2.4	-6.0	-11.5
Seventh grade...-	2,029,736	2,107,667	2,060,752	1,964,997	+3.8	-2.2	-4.6	-3.2
Eighth grade....	1,601,373	1,700,994	1,679,782	1,693,942	+6.2	-1.2	+8	+5.8
Secondary school pupils.....	4,399,422	6,601,444	6,387,805	5,553,520	+50.1	-3.2	-13.1	+26.2
First year.....	1,626,823	2,011,341	1,927,040	1,774,593	+23.6	-4.2	-7.9	+9.1
Second year....-	1,192,185	1,767,312	1,705,746	1,519,638	+48.2	-3.5	-10.9	+27.5
Third year.....	879,525	1,485,603	1,450,788	1,230,168	+68.9	-2.3	-15.2	+39.9
Fourth year....-	700,889	1,281,735	1,273,141	1,009,611	+82.9	-7	-20.7	+44.0
Postgraduate....	-----	55,453	31,090	19,510	-----	-43.9	-37.2	-----

High Schools

Compared with the elementary enrollment peak in 1929-30, the high-school grades increased to a peak of 6,713,913 in 1940-41. The high-school enrollment decreased until 1943-44 when it was 5,553,520, a loss of 17.3 percent in 3 years. High-school enrollment will decrease in 1944-45, but even though the number of boys and girls of high-school age will continue to decrease till

about 1951 or 1952, the end of the war may bring small continuing increases until the recently increasing birth rates bring about rapidly increasing high-school enrollments. The percentage of all pupils enrolled in high schools decreased from 26 percent in 1941-42 to 23.9 percent in 1943-44. The percentage varied greatly among the States. Twenty-one States headed by New York had more than 25 percent of their total enrollments in the last 4 years of the school system; 17 States had between 20 and 25 percent; and 10 States had less than 20 percent.

TABLE III.—Enrollment in public high-school grades, by sex, for specified years

Year	ENROLLMENT			PERCENT	
	Total	Boys	Girls	Boys	Girls
1	2	3	4	5	6
1909-10	915,061	398,525	516,536	43.6	56.4
1919-20	2,200,389	992,664	1,207,725	45.1	54.9
1929-30	4,399,422	2,115,228	2,284,194	48.1	51.9
1931-32	5,140,021	2,530,790	2,609,231	49.2	50.8
1933-34	5,669,156	2,802,122	2,867,034	49.4	50.6
1935-36	5,974,537	2,948,765	3,025,772	49.4	50.6
1937-38	6,226,934	3,032,963	3,193,971	48.7	51.3
1939-40	6,601,444	3,250,952	3,350,492	49.2	50.8
1940-41	6,713,913	3,273,606	3,440,307	48.8	51.2
1941-42	6,387,805	3,089,434	3,298,371	48.4	51.6
1942-43	6,122,066	2,891,633	3,230,433	47.2	52.8
1943-44	5,553,520	2,553,356	3,000,164	46.0	54.0

High-School Graduates

In 1939-40 only 89.2 percent of the senior class graduated, but in 1943-44 this increased to 94.4 percent. This large increase may have been due to the fact that under war conditions those not likely to graduate left school before their senior year. During the year 1939-40, 47.1 percent of high-school graduates were boys, but in 1943-44 only 41.3 percent were boys. In States reporting during previous years the boys who graduated were older than the girls, but in 1943-44 this condition was reversed. The percentage of boys graduating who were under 18 years of age the first of September of the school year was 77, while only 72 percent of girls were of this age.

Ratio of Enrollment to Population and Attendance

During the year 1939-40, the ratio of enrollment to the number of children, 5-17 years, inclusive, was 85.3. This ratio decreased to 80.4 in 1943-44. The percentage of the entire population enrolled in public schools during the same period decreased from 19.3 percent to 16.9 percent. The percent of enrollment in average

daily attendance decreased from 86.7 in 1939-40 to 84.3 in 1943-44 (table IV), and the average number of days attended by each pupil enrolled decreased from 151.7 to 147.9 for the same period.

TABLE IV.—Average daily attendance in public day schools as a percent of enrollment for specified years

Year	Enrollment	Average daily attendance	Percent that average daily attendance is of enrollment
1	2	3	4
1909-10.....	17,813,852	12,827,307	72.0
1919-20.....	21,578,316	16,150,035	74.8
1929-30.....	25,678,015	21,264,886	82.8
1931-32.....	26,275,441	22,245,344	84.7
1933-34.....	26,434,193	22,458,190	85.0
1935-36.....	26,367,098	22,298,767	84.6
1937-38.....	25,975,108	22,298,200	85.8
1939-40.....	25,433,542	22,042,151	86.7
1941-42.....	24,562,473	21,031,322	85.6
1943-44.....	23,266,616	19,602,772	84.3

TABLE V.—Length of school term, 1937-38, 1939-40, 1941-42, and 1943-44

Length of school term in days	NUMBER OF STATES			
	1937-38	1939-40	1941-42	1943-44
1	2	3	4	5
Total.....	48	48	48	48
140-149.9.....	1	1	1	1
150-159.9.....	4	3	2	2
160-169.9.....	6	7	9	9
170-179.9.....	26	25	25	24
180 or more.....	11	12	11	12

TABLE VI.—Number of days attended per pupil enrolled. 1937-38, 1939-40, 1941-42, and 1943-44

Number of days attended per pupil enrolled	NUMBER OF STATES			
	1937-38	1939-40	1941-42	1943-44
1	2	3	4	5
Total.....	48	48	48	48
100-109.9.....	1	1	1	1
110-119.9.....	4	4	3	3
120-129.9.....	8	4	9	10
130-139.9.....	7	9	8	10
140-149.9.....	19	18	18	14
150-159.9.....	9	12	9	5
160-169.9.....				

Staff

Average Annual Salaries of Instructional Staff

The amount of salary paid teachers is an important factor in securing and holding capable teachers. Average salaries from the depression low of \$1,227 in 1933-34 have slowly increased to \$1,507 in 1941-42 and to \$1,728 in 1943-44.

TABLE VII.—Number of pupils in average daily attendance, per teacher, for specified years, by State

State, District of Columbia, or outlying parts	1939-40	1941-42	1943-44	State, District of Columbia, or outlying parts	1939-40	1941-42	1943-44
1	2	3	4	1	2	3	4
Continental U. S.	25.2	24.5	23.7	Continental U. S.	25.2	24.5	23.7
Alabama.....	29.2	28.8	27.1	North Carolina.....	32.2	31.2	29.7
Arizona.....	26.1	26.0	25.4	North Dakota.....	17.2	15.0	15.0
Arkansas.....	29.1	27.8	26.0	Ohio.....	25.7	26.4	25.5
California.....	27.6	25.9	26.2	Oklahoma.....	24.0	24.8	24.1
Colorado.....	22.3	21.0	20.5	Oregon.....	22.8	22.4	23.2
Connecticut.....	26.6	24.0	20.8	Pennsylvania.....	27.4	26.5	24.5
Delaware.....	24.1	23.1	22.3	Rhode Island.....	26.4	22.9	21.8
Florida.....	24.8	24.3	24.5	South Carolina.....	25.6	25.2	24.1
Georgia.....	25.6	26.4	23.9	South Dakota.....	15.3	14.6	13.7
Idaho.....	23.5	22.2	22.9	Tennessee.....	26.0	25.9	25.3
Illinois.....	23.8	23.2	22.3	Texas.....	24.7	23.1	23.4
Indiana.....	27.5	26.6	27.3	Utah.....	28.0	27.4	27.2
Iowa.....	19.5	18.8	18.1	Vermont.....	21.3	20.2	19.1
Kansas.....	19.6	19.3	18.1	Virginia.....	27.9	27.8	26.5
Kentucky.....	26.2	26.2	24.7	Washington.....	25.9	25.9	24.8
Louisiana.....	26.8	26.0	25.1	West Virginia.....	28.9	25.3	23.5
Maine.....	24.1	23.1	23.9	Wisconsin.....	23.7	23.1	22.3
Maryland.....	29.8	29.2	28.9	Wyoming.....	18.5	16.8	17.8
Massachusetts.....	25.4	23.9	21.6	District of Columbia.....	27.1	26.1	24.6
Michigan.....	26.3	26.6	26.0	Outlying parts of the U. S.	36.5	38.7	35.4
Minnesota.....	21.5	21.1	20.4	Alaska.....	17.4	18.5	17.9
Mississippi.....	32.1	29.7	28.9	Canal Zone.....	27.6	24.6	25.2
Missouri.....	22.7	22.8	22.4	Guam.....	32.2		
Montana.....	18.9	17.5	16.5	Hawaii.....	28.4		27.6
Nebraska.....	17.6	16.5	16.0	Puerto Rico.....	42.1	40.3	39.8
Nevada.....	20.1	21.0	20.9	Virgin Islands.....		27.8	23.9
New Hampshire.....	22.9	21.9	19.6				
New Jersey.....	23.5	22.4	21.1				
New Mexico.....	28.0	27.0	25.9				
New York.....	23.8	23.4	23.0				

Teachers and Other Instructional Staff

The instructional staff in the public schools is defined to include those persons whose services contribute directly to classroom activities, that is, persons who spend their time in instructing pupils and in offering services supplementary to instruction such as library work, study hall, advisory service, and health education.

During the school year 1943-44 there was a total of 865,038 members of the instructional staff consisting of 5,479 supervisors and assistants, 31,569 principals and assistants and 827,990 teachers (table 5). The total instructional staff compares with

911,835 in 1939-40 and 898,001 in 1941-42. This shows a decline for each succeeding period, but not at as rapid a rate as the decline in enrollments. The decrease has been in men teachers. The number of men and women teachers for the three periods were, respectively: 194,725 men and 680,752 women in 1939-40; 183,194 men and 675,694 women in 1941-42; and 126,672 men and 701,318 women in 1943-44. The percentages of the total who were men teachers for the three periods were 22.2, 21.3, and 15.3 percent, respectively. The number of pupils in average daily attendance per teacher for the same three periods were 25.2, 24.5, and 23.7, respectively (table VII).

Transportation of Pupils

Transportation of pupils to school has become an important service of public-school systems with the advent of consolidation. While the number of pupils enrolled decreased 5.3 percent, the number transported decreased approximately 2 percent. Expenditures for operation and maintenance of transportation equipment increased from \$92,922,000 in 1941-42 to \$107,754,000 in 1943-44, an increase of \$14,832,000, or 16 percent.

Public-School Finance

Since public-school property is valued at nearly 8 billion dollars, and annual expenditures are approximately 2½ billion dollars, finance data are presented in considerable detail.

Receipts

The annual receipts for State school systems are derived from: Appropriations from general funds, taxes levied for school purposes, income from permanent funds, leases of school lands, Federal aid, and miscellaneous sources. The total income from these sources in 1943-1944 amounted to approximately \$2,604,000,000. The total income from these sources in 1941-42 amounted to approximately \$2,417,000,000.

TABLE VIII.—Revenue receipts of State school systems, for specified years, by source

Source	1929-30		1939-40		1941-42		1943-44	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
1	2	3	4	5	6	7	8	9
Total...	\$2,088,556,837	100.0	\$2,260,527,045	100.0	\$2,416,579,569	100.0	\$2,604,322,427	100.0
Federal.....	7,333,834	0.4	39,810,339	1.7	34,305,190	1.4	35,885,601	1.4
State.....	353,670,462	18.9	684,364,085	30.3	769,992,998	31.5	859,183,105	33.0
County.....	216,746,764	10.4	151,096,506	6.7	150,223,047	6.2	146,243,375	5.6
Local and subsidies...	1,510,805,777	72.3	1,385,266,115	61.3	1,472,058,334	60.9	1,563,010,346	60.0

The State's financial share in the support of education continues to increase, while the county and local units' share continues to decrease. This increasing share in educational support by the State tends to equalize education for the less financially able units.

TABLE IX.—Percent of receipts from taxation and appropriation from State, county, and local sources, for specified years, by State

State or District of Columbia	STATE			COUNTY			LOCAL		
	1929-30	1939-40	1943-44	1929-30	1939-40	1943-44	1929-30	1939-40	1943-44
1	2	3	4	5	6	7	8	9	10
Continental United States	16.7	30.7	33.6	10.6	6.7	5.6	72.7	62.6	60.8
Alabama	43.7	58.6	66.5	29.7	22.8	18.6	26.6	18.6	14.9
Arizona	17.4	21.2	62.4	38.4	38.2	4.9	44.2	40.6	32.7
Arkansas	33.6	46.0	56.7	2.9	3.8	1.0	63.5	50.2	42.3
California	25.1	47.8	41.6	36.9	2.0	1.3	38.0	50.2	57.1
Colorado	.1	5.5	6.2	26.5	20.7	18.8	73.4	73.8	75.0
Connecticut	7.5	8.8	10.8				92.5	91.2	89.1
Delaware	88.1	92.7	89.4				11.9	7.3	10.6
Florida	21.6	51.8	41.9	29.6	17.0	30.1	48.8	31.2	28.0
Georgia	36.5	58.2	61.8	30.1	16.6	18.4	33.4	25.2	19.8
Idaho	.6	12.0	22.8	27.9	25.6	14.1	71.5	62.4	63.1
Illinois	4.5	10.2	11.9		.1	.2	95.5	89.7	87.9
Indiana	1.7	33.2	34.5		.6	.5	98.3	66.2	65.0
Iowa	3.3	1.1	2.7		2.6	.7	96.7	96.3	96.6
Kansas	.1	11.7	10.4		14.4	6.8	99.9	73.9	82.8
Kentucky	26.3	41.8	47.0	29.0	26.6		44.7	31.6	53.0
Louisiana	25.2	56.9	66.2	54.5	30.2	27.0	20.3	12.9	6.8
Maine	20.0	15.9	16.8				71.0	84.1	83.2
Maryland	17.3	21.9	30.6	34.3	31.3	31.8	48.4	46.8	37.6
Massachusetts	9.0	10.2	13.1				91.0	89.8	86.9
Michigan	19.9	46.0	42.9		.5	.6	80.1	53.5	56.5
Minnesota	17.3	35.2	29.3	5.0	1.6	.7	77.7	63.2	70.0
Mississippi	32.9	38.6	47.9	23.1	20.0	16.3	44.0	41.4	35.8
Missouri	10.7	35.8	36.0	4.2	.4	.2	85.1	63.8	63.8
Montana	3.7	8.4	13.5	43.2	20.4	23.3	53.1	71.22	63.2
Nebraska	.7	1.1	.7		1.0	2.1	99.3	97.9	97.2
Nevada	13.2	20.3	7.5	58.6	58.4	29.7	28.2	21.3	62.8
New Hampshire	8.8	5.5	6.6				91.2	94.5	93.4
New Jersey	21.0	5.7	12.4	.8	14.9	12.9	78.2	79.4	74.7
New Mexico	3.5	69.3	81.9	74.7	13.2	6.5	21.8	17.5	11.6
New York	28.6	33.9	32.5				71.4	66.1	67.5
North Carolina	1.4	71.2	76.8	61.2	20.7	17.0	37.4	8.1	6.2
North Dakota	2.8	14.4	11.8	7.8	8.7	6.9	89.4	76.9	81.3
Ohio	3.6	37.7	36.5	32.4	1.5	.5	64.0	60.8	63.0
Oklahoma	5.9	40.2	42.1	8.5	6.4	.8	85.6	53.4	57.1
Oregon		.4	31.5	18.5	25.9	15.5	81.5	73.7	53.0
Pennsylvania	14.0	21.2	28.4				86.0	78.8	71.6
Rhode Island	8.3	10.7	8.9				91.7	89.3	91.1
South Carolina	26.9	49.9	65.4	27.0	5.3	4.6	46.1	44.8	30.0
South Dakota	.5	8.5	5.2		3.5	5.6	99.5	88.0	89.2
Tennessee	23.7	34.3	36.0	35.6	49.6	46.6	40.7	16.1	17.4
Texas	35.9	41.3	46.1				64.1	58.7	53.9
Utah	32.1	41.3	48.1		35.5		67.9	23.2	51.9
Vermont	12.4	17.1	13.7				87.6	82.9	86.3
Virginia	28.5	34.7	41.3	31.5	37.7	32.2	40.0	27.6	26.5
Washington	26.2	61.3	69.2	16.1	5.5	2.9	57.7	33.2	27.9
West Virginia	7.7	52.4	56.3		47.6	43.7	92.3		
Wisconsin	16.2	18.7	24.5	8.6	9.6	7.0	75.2	71.7	68.5
Wyoming	1.3	5.9	6.5	25.7	27.6	23.5	73.0	66.5	70.0
District of Columbia	22.9	14.6	8.7				77.1	85.4	91.3

Expenditures

The total expenditures for public elementary and secondary full-time day schools, excluding capital outlay, debt retirement, and interest was about \$1,941,800,000 in 1939-40, \$2,068,000,000 in 1941-42, and \$2,293,000,000 in 1943-44 (table X). Including capital outlay and interest, but excluding payments on the principal of bonds and other debts, expenditures amounted to approximately \$2,331,000,000 in 1939-40, \$2,314,000,000 in 1941-42, and \$2,444,000,000 in 1943-44.

Current Expense

The current expense of State school systems includes administration costs at State, county, intermediate, and local levels. The percentage of expenditures for administrative purposes for 1939-40, 1941-42, and 1943-44 were, respectively, 4.7, 4.9, and 4.8 percent of the total current expense. Teachers salaries accounted for most of the increases in instructional expense. Due to war conditions under which needed supplies could not be secured, the expenditures for teaching supplies and other expenses decreased. Fixed charges increased due to the increase in teacher-retirement systems. The current expense per pupil in average daily attendance was \$88.09 in 1939-40, \$98.31 in 1941-42, and \$116.99 in 1943-44. Decreasing enrollments contributed to increases in per pupil costs.

TABLE X.—Total expenditures, excluding debt retirement of State school systems, for specified years, by purpose

Purpose	1929-30	1939-40	1941-42	1943-44
1	2	3	4	5
Total current expense.....	\$1,843,551,708	\$1,941,799,228	\$2,067,660,387	\$2,293,337,099
General control.....	78,679,502	91,570,594	101,463,403	110,630,693
Instruction.....	1,317,727,233	1,403,284,523	1,457,876,554	1,590,633,805
Operation.....	216,072,433	194,365,182	209,788,468	238,773,787
Maintenance.....	78,810,238	73,321,441	78,862,199	77,323,913
Auxiliary agencies.....	101,992,622	129,141,210	138,951,113	169,522,787
Fixed charges.....	50,269,630	50,116,278	80,718,650	106,452,114
Capital outlay.....	\$370,877,969	\$257,973,601	\$137,552,326	\$53,856,462
Interest.....	92,535,880	130,908,959	108,781,446	96,804,865

School Property

The reported value of all public-school property in the 48 States and the District of Columbia was \$7,635,000,000 in 1939-40, \$7,801,000,000 in 1941-42, and \$7,928,000,000 in 1943-44.

The number of school buildings has decreased from 222,660 in 1941-42 to 209,309 in 1943-44. During the same period one-room

schools decreased from 107,692 to 96,302, or 10.6 percent. The decreasing number of one-room schools is brought about chiefly by consolidation and the transportation of pupils.

TABLE XI.—One-room buildings as a percent of all buildings in use for specified years

Year	All buildings in use	One-room buildings		Year	All buildings in use	One-room buildings	
		Number	Percent of total			Number	Percent of total
1	2	3	4	1	2	3	4
1909-10.....	265,474	212,448	80.0	1933-34.....	242,929	138,542	57.0
1919-20.....	271,319	187,948	69.3	1935-36.....	237,816	130,708	55.0
1923-24.....	263,280	165,417	62.8	1937-38.....	229,394	121,178	52.8
1927-28.....	255,551	153,306	60.0	1939-40.....	226,762	113,600	50.1
1929-30.....	248,117	148,712	59.9	1941-42.....	222,660	107,692	48.4
1931-32.....	245,951	143,445	58.3	1943-44.....	209,309	96,302	46.0

Retirement Funds

By 1943-44 teacher-retirement funds had been set up in all but 8 States. State and local payments to these funds are included in fixed charges. The following totals are for the State retirement system in 37 States and the District of Columbia and most of the independent local teacher-retirement systems in 23 States reporting these items:

Balance on hand July 1, 1943.....	\$1,293,273,618
Amounts added during the year by—	
State	\$36,798,843
Local administrative units.....	42,794,272
Participants	58,100,649
Earnings and miscellaneous.....	49,383,769
	187,077,533
Total balances and receipts.....	1,480,351,151
Payments	80,290,184
Balance on hand July 1, 1944: Cash and investments	1,400,060,967

Indebtedness

School indebtedness reported for the year ending June 30, 1944, was: Bonds, \$2,253,012,000 and other forms of indebtedness \$120,-462,000, or a total indebtedness of \$2,373,474,000. This is a considerable decrease from \$2,677,078,000 in 1940 and \$2,561,878,000 in 1942. The indebtedness per pupil in average daily attendance was \$128.65 in 1940 and \$121.08 in 1944. This decreasing indebtedness is caused partly by the shortage of building material which in turn stops the issue of bonds for building purposes.

TABLE XII.—*School debt and interest payments per pupil in average daily attendance for specified years, by State*

State	SCHOOL INDEBTEDNESS			INTEREST PAYMENTS		
	1935-36	1939-40	1943-44	1935-36	1939-40	1943-44
1	2	3	4	5	6	7
Continental United States	\$136.47	\$128.65	\$121.08	\$5.96	\$5.94	\$4.94
Alabama	39.03	39.62	18.65	1.04	.87	.76
Arizona	134.37	106.09	74.32	7.74	5.77	3.42
Arkansas	67.02	63.42	65.16	2.60	2.83	2.41
California	199.68	172.71	136.12	9.53	8.22	6.36
Colorado	144.11	120.97	98.49	7.33	5.34	4.42
Connecticut	172.44	137.25	118.34	7.75	5.36	4.53
Delaware	50.53	58.87	64.21	1.60	1.58	1.26
Florida	184.47	155.56	145.33	9.14	7.32	6.74
Georgia	34.96	18.80	41.78	2.17	.96	.25
Idaho	84.81	81.78	71.68	4.57	3.60	2.45
Illinois	170.26	157.49	187.42	8.59	5.91	5.33
Indiana	76.43	70.06	50.47	3.51	3.05	1.99
Iowa	101.85	96.77	75.23	5.67	3.86	2.75
Kansas	78.48	78.85	50.45	6.90	5.24	5.66
Kentucky	38.29	36.07	31.62	1.40	2.12	1.34
Louisiana	70.13	73.15	70.05	4.54	4.09	3.30
Maine	36.98	34.98	32.40	1.44	1.29	1.09
Maryland	165.68	154.13	131.56	7.33	6.48	5.54
Massachusetts	70.40	64.34	37.97	2.75	2.14	1.26
Michigan	201.63	140.91	135.27	6.50	8.29	5.70
Minnesota	133.17	128.54	121.90	5.96	3.82	1.38
Mississippi	18.99	30.68	32.69	1.33	.52	.10
Missouri	89.85	85.40	68.34	4.03	3.44	2.62
Montana	79.51	77.63	51.68	2.56	1.82	.76
Nebraska	115.39	110.22	105.79	5.14	2.70	2.87
Nevada	114.14	107.43	70.77	4.66	5.10	2.74
New Hampshire	73.40	65.80	46.98	2.94	2.30	1.58
New Jersey	294.26	267.27	251.17	13.27	12.12	11.48
New Mexico	61.19	53.60	46.16	2.88	3.23	2.36
New York	303.89	335.67	326.58	12.76	13.04	13.37
North Carolina	118.50	76.92	66.57	4.51	3.53	2.97
North Dakota	105.56	83.62	42.25	5.64	5.82	4.32
Ohio	173.22	147.34	109.99	8.79	7.46	5.12
Oklahoma	111.50	107.34	125.39	4.90	4.86	2.30
Oregon	120.13	89.94	47.92	6.20	4.43	2.71
Pennsylvania	157.98	169.43	160.66	4.59	13.60	12.55
Rhode Island	270.01	291.33	329.84	11.14	11.36	12.16
South Carolina	48.88	47.16	29.06	2.69	2.97	2.32
South Dakota	107.98	91.12	62.71	4.65	5.21	2.79
Tennessee	62.97	60.35	62.13	3.09	1.32	.54
Texas	26.16	145.27	237.32	4.85	4.96	5.75
Utah	96.55	83.44	66.83	3.96	3.27	2.45
Vermont	44.76	52.40	57.60	2.03	1.12	.91
Virginia	62.23	61.74	61.11	2.74	2.47	1.17
Washington	94.23	74.93	39.35	4.62	3.25	1.99
West Virginia	30.64	32.24	27.77	1.65	1.54	1.06
Wisconsin	68.43	47.82	32.97	2.91	2.75	.66
Wyoming	129.28	122.95	117.72	4.87	1.48	.54

Schools for Negroes

Separate schools for white and Negro pupils are maintained by 17 Southern States and the District of Columbia. These States make a separate report to the U. S. Office of Education on schools for Negroes, but complete information is not always available for Negro schools (tables 32 to 40).

Enrollments

Although the total Negro population increased 13 percent between 1920 and 1940, the school population, ages 5 to 17, inclusive, decreased 2.5 percent. During this time enrollments in elementary schools for Negroes increased from 2,070,374 in 1919-20 to 2,266,913 in 1933-34, or an increase of 9.5 percent (table 36); and then decreased to 2,029,368 in 1943-44, a decrease of 10.5 percent for the 10-year period. High-school enrollment (the last 4 years of the school system) increased from 33,341 in 1919-20 to 273,183 in 1941-42, but then decreased to 247,374 during the year 1943-44.

During the 2-year period between 1941-42 and 1943-44 the enrollment of high-school boys decreased from 107,183 to 84,886 and girls decreased from 166,000 to 162,488, a decrease of 22,297 boys and 3,512 girls. High-school enrollments in 1943-44 in States having nonsegregated schools is 37.2 percent of the elementary school enrollment. High-school facilities for Negro pupils only would have to be increased to three times their present facilities to accommodate the same proportion of Negro elementary school pupils.

Attendance and School Term

In the 4 years from 1939-40 to 1943-44 the number of Negro pupils in average daily attendance has decreased, but at a slower rate than the decrease in enrollment. Between 1939-40 and 1943-44 (table 32) the percentage of enrollment in average daily attendance increased from 80.4 percent to 81.4; the average annual length of school term increased from 156 days to 164 days; and the average number of days attended by each pupil enrolled increased from 126 days to 133, all showing improving conditions during the 4-year period.

Teachers and Other Instructional Staff

Even though enrollments have decreased, the total number of instructional staff has increased. Salary data are not available for all States, but the average salary for Negro teachers in States reporting increased approximately 50 percent between 1939-40 and 1943-44.

The number of pupils enrolled per classroom teacher has been as follows: 1919-20, 55; 1929-30, 45; 1939-40, 38; and 1943-44, 35 pupils. The pupil-teacher ratio for the 31 States not having separate schools for Negroes is 27.5.

III.—Derivative statistics										
Percent school population is of total population.....	31.3	30.1	29.6	28.3	26.4	26.2	25.7	22.6	21.7	21.0
Percent of total population enrolled.....	17.82	19.67	20.32	20.51	19.37	20.4	20.9	19.3	18.2	18.9
Percent of children 5-17 years of age (inclusive) enrolled.....	57.00	65.50	68.61	72.43	73.49	77.8	81.3	85.3	84.2	80.4
Percent of pupils in high school.....	1.2	1.1	1.6	3.3	5.1	10.2	17.1	26.0	26.0	23.9
Percent of children enrolled attending each day.....	59.3	62.3	64.1	68.6	72.1	74.8	82.8	86.7	85.6	84.3
Average number of days schools were in session.....	132.2	130.3	134.7	144.3	157.5	161.9	172.7	175.0	174.7	175.5
Average number of days attended by each pupil enrolled.....	73.4	81.1	86.3	99.0	113.0	121.2	143.0	151.7	149.6	147.9
Average number of days attended by each child 5-17 years of age (inclusive).....	44.7	53.1	59.2	71.8	83.0	94.3	116.3	139.4	125.9	118.9
Percent of men teachers.....	38.7	42.8	34.5	29.9	21.1	14.1	16.6	22.2	21.3	15.3
Average annual salaries of all teachers.....	\$189	\$195	\$252	\$325	\$485	\$871	\$1,420	\$1,441	\$1,507	\$1,738
Percent of revenue derived from—										
Permanent funds and lands.....			5.4	4.2	3.2	2.7	1.3	1.0	1.1	1.0
State taxes.....			18.4	17.2	14.9	13.8	15.8	26.2	30.7	31.9
County and local taxes.....			67.9	68.0	72.1	78.2	78.8	65.9	64.7	63.2
All other sources.....			8.3	10.6	9.8	5.3	4.1	3.9	3.5	3.9
Percent of expenditures devoted to—										
Sites, buildings, etc.....			18.6	16.5	16.4	14.8	16.0	11.0	5.9	2.2
Salaries.....	59.7	71.6	65.4	64.0	59.6	59.2	55.9	58.4	61.8	63.2
All other purposes.....			16.0	19.5	24.0	26.0	28.1	30.6	32.3	34.6
Total expenditures per capita of population.....			\$2.24	\$2.84	\$4.64	\$9.80	\$18.87	\$17.77	\$17.25	\$17.76
Total expenditure per pupil.....	\$1.64	\$1.56								
Average expenditure per pupil.....	\$15.55	\$12.71	\$17.23	\$20.21	\$33.23	\$64.16	\$108.49	\$105.74	\$110.03	\$124.67
Average total expenditure per day for each pupil attending (cents).....	11.8	9.7	12.8	14.0	21.1	39.6	62.8	60.4	63.0	71.0

¹ United States Bureau of the Census.

² Data for 1870-71.

³ From reports of public high schools.

⁴ Computed for teaching positions only prior to 1919-20; since 1920 includes supervisors and principals.

⁵ Beginning with 1919-20 this item excludes evening, summer, and part-time and continuation schools when reported separately.

⁶ Includes 231 part-time teachers in Massachusetts.

TABLE 2.—Boards of education and administrative staffs of intermediate and local basic units, by State, 1943-44

State, District of Columbia, or outlying part	BOARDS OF EDUCATION						ADMINISTRATIVE STAFF												
	State			Members of intermediate boards of education			Local basic units			Intermediate units					Local basic units				
	Total members	Professional staff	Clerical assistants	Members of education	Members		Local school trustees	Total	Superintendent	Other professional staff	Clerical assistants		Total	Superintendent	Other professional staff	Clerical assistants			
					Boards of education	Other administrative boards					Full-time	Part-time				Full-time	Part-time		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	
Continental United States.....	333	307	9	17	4,233	347,470	1,019	33,128	5,782	2,355	2,162	1,034	231	22,981	12,023	3,748	6,726	484	
Alabama.....	11	11				558			0	0	0	0	0	458	110	85	263		
Arizona.....	8					1,113			41	14	14	13		92	69	23			
Arkansas.....	10	9				8,830			154	75	8	71		539	311	11	131	86	
California.....	10	10		1	375	9,469			652	57	395	173	27	1,099	415	166	518		
Colorado.....	3	3			285	6,180			63	63				120	120				
Connecticut.....	9	9				1,240	6		0	0	0	0	0	86	79	7			
Delaware.....	6	6				62		515	0	0	0	0	0	72	15	13	40	4	
Florida.....	5	5				210		2,153	0	0	0	0	0	383	67	67	225	24	
Georgia.....	11	10		1	665	447		3,561	452	133	319			207	81	126			
Idaho.....	6	6				3,957			64	44	20			104	95	9			
Illinois.....						38,584			243	102	91	50		743	528	215			
Indiana.....	10	9		1	1,283	522	1,013		198	92	61	45		658	162	186	310		
Iowa.....	7	7				21,077			207	99	79	17	12	1,046	888	6	152		
Kansas.....	9	8				19,200			197	105	80	2	10	302	302				
Kentucky.....				1		1,285			0	0	0	0	0	897	257	289	234	77	
Louisiana.....	11	11				640			0	0	0	0	0	252	67	53	130	2	
Maine.....						1,600			0	0	0	0	0	118	117	1			
Maryland.....	7	7				100		1,609	0	0	0	0	0	212	24	78	110		
Massachusetts.....	6	6				1,508			0	0	0	0	0	207	207				
Michigan.....	4	4				20,024			235	81	72	70	12	725	663	62			
Minnesota.....	5	5				24,649			178	86	27	44	21	310	309	1			
Mississippi.....	3	3				1,037		16,693	239	82	75	82		490	432		46	12	
Missouri.....	4	4				28,356			114	114				750	750				
Montana.....				3		5,570			122	56	10	56		192	192				
Nebraska.....	14	11				22,282			93	93				344	344				

Nevada.....	7	7	7	760	0	0	0	0	0	0	0	14	14	329	524	50
New Hampshire.....	8	8	8	830	98	48	2	35	13	0	0	14	14	329	524	50
New Jersey.....	10	10	10	4,840	111	21	59	31	0	0	0	14	14	329	524	50
New Mexico.....	7	7	7	3,171	141	21	10	0	0	0	0	14	14	329	524	50
New York.....	13	12	12	9,941	186	180	0	0	0	0	0	14	14	329	524	50
North Carolina.....	15	15	15	862	0	0	0	0	0	0	0	14	14	329	524	50
North Dakota.....	10	10	10	7,149	104	53	11	40	0	0	0	14	14	329	524	50
Ohio.....	11	7	7	8,197	114	88	26	0	0	0	0	14	14	329	524	50
Oklahoma.....	17	7	7	14,958	177	77	100	24	0	0	0	14	14	329	524	50
Oregon.....	7	7	7	5,593	63	34	5	0	0	0	0	14	14	329	524	50
Pennsylvania.....	10	10	10	13,378	216	66	80	55	15	15	15	14	14	329	524	50
Rhode Island.....	10	10	10	205	0	0	0	0	0	0	0	14	14	329	524	50
South Carolina.....	10	9	9	0	182	45	90	48	27	27	27	14	14	329	524	50
South Dakota.....	13	11	11	10,961	139	64	33	15	0	0	0	14	14	329	524	50
Tennessee.....	15	9	9	955	0	0	0	0	0	0	0	14	14	329	524	50
Texas.....	15	9	9	23,526	397	167	173	57	0	0	0	14	14	329	524	50
Utah.....	10	10	10	207	0	0	0	0	0	0	0	14	14	329	524	50
Vermont.....	5	5	5	63	224	44	105	2	73	73	73	14	14	329	524	50
Virginia.....	7	7	7	667	0	0	0	0	0	0	0	14	14	329	524	50
Washington.....	10	7	7	2,919	104	39	19	32	14	14	14	14	14	329	524	50
West Virginia.....	9	7	7	275	0	0	0	0	0	0	0	14	14	329	524	50
Wisconsin.....	7	7	7	19,929	328	72	195	54	7	7	7	14	14	329	524	50
Wyoming.....	7	7	7	1,275	46	23	3	20	0	0	0	14	14	329	524	50
District of Columbia.....	0	0	0	9	0	0	0	0	0	0	0	14	14	329	524	50
Outlying parts of the United States.....	23	23	23	60	0	0	0	0	0	0	0	14	14	329	524	50
Alaska.....	5	5	5	160	0	0	0	0	0	0	0	14	14	329	524	50
Hawaii.....	8	8	8	0	0	0	0	0	0	0	0	14	14	329	524	50
Puerto Rico.....	10	10	10	0	0	0	0	0	0	0	0	14	14	329	524	50
Virgin Islands.....	10	10	10	0	0	0	0	0	0	0	0	14	14	329	524	50

* Statistics, 1941-42.

* Statistics, 1939-40.

New Mexico ¹	1,730	1,542	14	174	0	0	0	0	0	1,730	1,542	14	174
New York	5,730	4,977	5	748	0	0	0	0	0	5,730	4,977	5	748
North Carolina	170	0	0	170	100	0	0	0	100	70	0	0	70
North Dakota	2,274	1,857	2	415	2	0	0	0	0	2,272	1,857	0	415
Ohio	1,605	534	0	1,071	0	0	0	0	0	1,605	534	0	1,071
Oklahoma	4,448	3,717	0	1,731	0	0	0	0	0	4,448	3,717	0	1,731
Oregon	1,726	1,504	89	133	6	2	2	4	4	1,720	1,504	87	139
Pennsylvania	2,504	1,348	0	1,156	0	0	0	0	0	2,504	1,348	0	1,156
Rhode Island	39	10	0	29	0	0	0	0	0	39	10	0	29
South Carolina	1,742	1,397	0	345	0	0	0	0	0	1,742	1,397	0	345
South Dakota	2,872	2,545	4	323	4	0	0	1	3	2,868	2,545	3	320
Tennessee	156	0	0	156	95	0	0	0	95	61	0	0	61
Texas	6,132	2,084	0	4,048	11	0	0	0	11	6,121	2,084	0	4,037
Utah	40	0	0	40	35	0	0	0	35	5	0	0	5
Vermont	268	25	0	243	0	0	0	0	0	268	25	0	243
Virginia	124	0	0	124	100	0	0	0	100	24	0	0	24
Washington	838	570	13	255	0	0	0	0	0	838	570	13	255
West Virginia	55	0	0	55	55	0	0	0	55	0	0	0	0
Wisconsin	6,401	5,841	75	483	0	0	0	0	0	6,401	5,841	75	483
Wyoming	396	302	10	84	0	0	0	0	0	396	302	10	84
District of Columbia	1	0	0	1	0	0	0	0	0	1	0	0	1
Outlying parts of the United States	142	54	58	30	57	0	57	0	0	85	54	1	30
Alaska	74	47	1	26	0	0	0	0	0	74	47	1	26
Canal Zone	1	0	0	1	0	0	0	0	0	1	0	0	1
Puerto Rico	57	0	57	0	57	0	57	0	0	0	0	0	0
Virgin Islands	10	7	0	3	0	0	0	0	0	10	7	0	8

¹ Statistics, 1941-42.² State except independent units.

Statistics, 1939-40.

TABLE 4.—Personnel in State offices of education, by State, 1943-44. (Regular and vocational)

State, District of Columbia, or outlying part	Total	State superintendents or commissioners of education	Deputy or assistant State superintendents or commissioners of education	Regional and district administrative and supervisory personnel	Directors, heads, and chiefs of service	Other professional staff	CLERICAL ASSISTANTS		Operation and maintenance employees
							Full-time	Part-time	
1	2	3	4	5	6	7	8	9	10
Continental United States.....	4,352	49	98	302	423	1,056	2,225	78	121
Alabama.....	71	1			4	28	38		
Arizona.....	35	1	1		4	7	22		
Arkansas.....	62	1	1	8	3	16	33		
California.....	156	1	9	16	12	9	90	19	
Colorado.....	48	1	1		15	5	19	7	
Connecticut.....	119	1		12	5	45	55	1	
Delaware.....	35	1	1		4	9	17	2	1
Florida.....	61	1			2	14	32	12	
Georgia.....	144	1	1	46	10	5	79		2
Idaho.....	31	1	1		3	16	10		
Illinois.....	139	1	10	12	10	33	73		
Indiana.....	43	1	1		10		29	2	
Iowa.....	76	1	1	10	3	12	48		1
Kansas.....	55	1	1		7	15	27		4
Kentucky.....	83	1	1	12	10	12	45		2
Louisiana.....	98	1			17	34	38	8	
Maine.....	41	1	4		7	3	25	1	
Maryland.....	28	1	1	4	9	1	11	1	
Massachusetts.....	249	1	7	1		48	192		
Michigan.....	203	1		1	18	63	120		
Minnesota.....	77	1	1		9	17	49		
Mississippi.....	38	1	1		6	17	13		
Missouri.....	79	1	1	10	11	19	34		3
Montana.....	52	1	1	4	8	7	31		
Nebraska.....	41	1	1		4	11	23	1	
Nevada.....	15	1	6		4		4		
New Hampshire.....	33	1	1			15	16		
New Jersey.....	72	1	5			25	38		
New Mexico.....	33	1	1	2	10	4	15		
New York.....	779	1	11		38	265	379		85
North Carolina.....	112	1		13	6	38	41		13
North Dakota.....	24	1	1		5	10	7		
Ohio.....	105	1	2			41	61		
Oklahoma.....	116	1	1	19	12	17	64		2
Oregon.....	42	1			4	12	17	8	
Pennsylvania.....	218	1	2	92	26	28	69		
Rhode Island.....	17	1	1		5		7	3	
South Carolina.....	66	1		8	20	6	31		
South Dakota.....	19	1	1		8	2	6	1	
Tennessee.....	79	1	1	6	15	14	36	1	5
Texas.....	81	1	1	12	13	6	42	4	2
Utah.....	24	1	1		10	1	11		
Vermont.....	30	1	1	2		4	13	1	
Virginia.....	110	1	1		5	58	45		
Washington.....	53	1			7	14	26	5	
West Virginia.....	41	1	1		15		23		1
Wisconsin.....	85	1	3	12	8	21	40		
Wyoming.....	26	1	2		10		12	1	
District of Columbia.....	108	1	9			29	69		
Outlying parts of the United States.....	317	6	11	66	19	63	134		13
Alaska.....	5	1	1		1		2		
Canal Zone.....	13	1	4		1		7		
Hawaii.....	60	1	2	9	10	8	30		
Puerto Rico.....	222	1	2	57	5	57	87		13
Virgin Islands.....	17	2	2		2	3	8		

TABLE 5.—Number of instructional staff and clerical assistants, by State, 1943-44

INSTRUCTIONAL STAFF																				CLERICAL ASSISTANTS																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																										
State, District of Columbia, or outlying part	Supervisors				Principals				Teachers								Total including undistributed items	Elementary	Secondary ¹	Total including undistributed items	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men</

TABLE 5.—Number of instructional staff and clerical assistants, by State, 1943-44.—Continued.

State, District of Columbia, or outlying part	INSTRUCTIONAL STAFF											CLERICAL ASSISTANTS											
	Supervisors			Principals			Teachers								Total including undistributed items	Elementary	Secondary ¹	Total	Elementary	Secondary	Total		
	Total instructional staff	Total including undistributed items	Elementary	Secondary	Total including undistributed items	Elementary	Secondary	Total			Elementary		Secondary										
								Total	Men	Women	Total	Men	Women	Total								Men	Women
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20				
Minnesota.....	19,495	100			381			19,014	2,412	16,602	12,015	222	11,793	6,999	2,190	4,809							
Mississippi.....	12,037				271	175	96	15,416	1,414	14,002	11,574	769	10,805	3,842	645	3,197							
Missouri.....	23,697							23,697	3,294	20,403	17,344	1,259	16,085	6,353	2,035	4,318							
Montana.....	4,802				63	0	63	4,739	3,729	4,010	8,383	193	3,183	1,353	536	817							
Nebraska.....	12,762	78	39	39	181	91	90	12,503	1,024	11,479	9,226	123	9,103	3,277	901	2,376							
Nevada.....	978	29	26	3	17	5	12	932	127	805	643	22	621	289	105	184							
New Hampshire.....	2,989	26	25		25	25		2,939	459	2,480	1,781	48	1,733	1,183	411	747							
New Jersey.....	26,661	339	254	85	800	545	255	25,522	4,072	21,450	15,928	718	15,210	9,594	3,354	6,240							
New Mexico.....	4,010	40			383			3,587	761	2,826	2,666	311	2,355	921	450	471							
New York.....	72,457	586	324	262	2,863	1,871	992	69,008	12,354	56,654	40,692	1,847	39,345	28,316	11,007	17,309							
North Carolina.....	25,929				1,376	476	900	24,553	2,231	22,322	19,279	1,040	18,239	5,274	1,191	4,083							
North Dakota.....	6,720							6,720	837	5,883	5,230	380	4,800	1,490	507								
Ohio.....	40,637	203	143	60	1,200	493	707	39,234	8,627	30,607	22,318	1,763	20,525	16,916	6,834	10,082							
Oklahoma.....	17,135	78	37	41	1,034	465	569	16,023	2,016	14,007	10,684	858	9,826	5,339	1,158	4,181							
Oregon.....	7,869	86			595			7,188	869	6,319	4,746	151	4,595	2,442	718	1,724							
Pennsylvania.....	59,141	845			2,250	1,380	870	56,046	11,271	44,775	32,824	2,483	30,341	23,222	8,788	14,434							
Rhode Island.....	3,937	73	43	30	158	90	68	3,706	525	3,181	1,938	27	1,911	1,768	498	1,270							
South Carolina.....	15,313				232	109	123	15,081	1,487	13,594	11,492	655	10,837	3,589	832	2,757							
South Dakota.....	7,169	7	7		39	39	39	7,123	1,696	5,427	5,516	149	5,367	1,607	547	1,060							
Tennessee.....	20,236	86	76	10	722	337	385	19,428	2,739	16,689	14,718	1,345	13,373	4,710	1,394	3,316							

Texas.....	45,102	119	91	28	2,070	935	1,135	42,913	4,763	38,150	28,197	1,207	26,990	14,716	3,556	11,160	128	5
Utah.....	4,716	54	43	11	156	68	88	4,506	1,405	3,101	2,483	285	2,198	2,023	1,120	903	18	13
Vermont.....	2,598	2	2	0	91	0	91	2,505	1,195	2,310	1,885	43	1,842	2,020	1,152	468	239	5
Virginia.....	18,240	246	51	60	874	416	227	17,320	1,840	15,480	12,086	775	11,311	5,234	1,085	4,169	229	13
Washington.....	11,994	111	51	60	643	416	227	11,240	1,795	9,445	7,063	350	6,713	4,177	1,445	2,732	239	13
West Virginia.....	15,324							15,324	3,531	11,793	10,191	1,803	8,328	5,133	1,668	3,465	165	23
Wisconsin.....	20,408	318	128	190	679	226	453	19,411	2,786	16,625	13,892	773	13,120	5,519	2,014	3,505	205	119
Wyoming.....	2,321	40	20	20	37	16	21	2,244	278	1,966	1,572	57	1,515	672	221	451	119	176
District of Columbia.....	3,328	27	3	24	147	86	61	3,154	359	2,795	1,579	32	1,547	1,575	357	1,218	66	24
Outlying parts of the United States.....	10,962	63	61	2	516	213	234	10,378	2,178	8,200	6,578	1,152	5,426	3,800	1,026	2,774	135	81
Alaska.....	305				19			286	41	245	200	19	181	86	22	64		4
Canal Zone.....	242	3	2	1	10	5	5	239	83	146	122	26	96	107	57	50	4	4
Hawaii.....	2,890	5			128	55	73	2,766	588	2,178	1,722	182	1,540	1,044	406	638	126	48
Puerto Rico.....	7,846	54	54		337	134	203	6,855	1,448	5,407	4,429	918	3,511	2,526	530	1,996	78	48
Virgin Islands.....	170	6	5	1	22	19	3	142	18	124	105	7	98	37	11	26	5	2

¹ Including personnel in junior, junior-senior, senior and regular and vocational high schools.

² Includes 2/4 undistributed. ³ Sex basis South Dakota.

TABLE 6.—*Health, transportation, custodial, and other employees in public day schools, by State, 1943-44*

State, District of Columbia, or outlying part	Total		Physicians and nurses		Dentists and dental hygienists		Transportation employees		Janitors, engineers, etc.		Carpenters, painters, etc.		Recreational and miscellaneous employees	
	Full- time	Part- time	Full- time	Part- time	Full- time	Part- time	Full- time	Part- time	Full- time	Part- time	Full- time	Part- time	Full- time	Part- time
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
States reporting	38,113	22,344	2,601	2,878	80	606	35,063	6,917	45,219	9,636	2,524	782	2,621	1,525
Alabama	996	259							996	259				
Arizona	573	119	52	3			87	34	386	76	26	2	22	4
Arkansas	2,365	891	13	4		2	1,523	266	810	607	11	11	8	1
California	5,822		164		21		398		4,521		453		265	
Connecticut	1,130	172					44	38	931	115	88	17	9	2
Delaware	267	337	20	5	2	3		228	153	51	20		62	50
Florida	2,134	540	20	21	4	2	1		892	248	101	28	1,116	241
Georgia	4,009						2,868		1,071		70			
Idaho	804		55		2		359		382		6			
Illinois	1,050	481	500	481			550							
Indiana	8,953		179				5,646		3,228					
Iowa	2,420						2,420							
Kentucky	2,546	278	12	24			1,381	81	1,153	173				
Louisiana	4,121	390	35	177	1	1	2,654		1,297	3	133		1	209
Maryland	1,082	684	150	75					932	609				
Michigan	4,737						1,628		3,080				29	
Minnesota	2,533	599	177	126	1	151	2,309						46	322
Mississippi	870	3,884						3,884	870				25	
Montana	775	210	150	123		60			750					
New Hampshire	43	130	42		1	7								
New Jersey														
Oregon	4,846	2,601	473	1,008	21	177	36	137	3,609	853	374	80	333	346
Pennsylvania	2,404	50					590		1,321				443	
Rhode Island	7,824	4,277	60	445	8	111	781	1,047	6,431	2,433	543	58	1	183
South Dakota	842	233	41	81		50	51	46	679	46	42	6	29	4
Tennessee	556	148					124	93	432	55				
Texas	2,834	260	17	13			1,704		1,026	247	87			
Utah	1,135		206				6,122		4,618		239			
Vermont	925	667	22	46	1	3	151	159	534	298	19	39	188	122
Virginia	212	1,409	2	2		14	45	347	165	806				
	3,461	949	59	16	2	10	1,936		1,307	495	135	41	32	40

West Virginia.....	3,828	2,774	41	11	6	1,105	2,475	2,262	189	500	12	1
Wisconsin.....	109	8	193	8	2	545	350					
Wyoming.....	905		10									
District of Columbia.....	876	44	108	29	8	15	760					
Outlying parts of the United States.....	962	49	33	9	27	12	873	7	2		23	14
Canal Zone.....	71	12	3				60				8	12
Hawaii.....	44		16		25		2		1			
Puerto Rico.....	833	30	11	9	2	12	802	7			15	2
Virgin Islands.....	14	7	3			1	9		1			

¹ Includes dentists.² Part and full time combined.

TABLE 7.—Administrative units providing indicated type of auxiliary service at public expense, by State, 1943-44

State, District of Columbia, or outlying part	Special classes		Part-time day and evening classes		Visiting teachers		Attendance service		Periodic physical examination		Periodic dental examination		Transportation		School libraries		Tuition	
	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
States reporting	992	326	576	637	497	49	8,719	2,805	27,359	18,424	12,039	6,452	18,299	11,751	34,780	25,123	8,316	4,021
Alabama	4	4	6	62	4	2	71	71	110	29	110	10	99	99	110	110	27	3
Arizona	6	6	3	23	4	3	69	19	62	29	19	10	203	49	237	58	82	288
Arkansas	4	23	4	27	2	3	25	16	233	73	125	40	566	522	784	390	79	90
California	38	4	4	48	100	1	148	69	159	73	115	99	115	16	16	16	40	90
Connecticut	4	1	1	1	1	1	16	16	16	16	16	16	16	16	16	16	16	16
Delaware	4	1	1	1	1	1	16	16	16	16	16	16	16	16	16	16	16	16
Florida	4	4	4	14	4	4	13	13	13	13	13	13	67	67	67	67	67	67
Georgia	2	3	3	4	4	4	214	214	10,661	10,661	10,661	118	771	771	10,661	10,661	771	771
Illinois	1	2	6	22	2	2	140	140	10,661	10,661	10,661	118	771	771	10,661	10,661	771	771
Indiana	1	2	6	22	2	2	257	257	257	257	257	152	202	152	202	152	152	152
Kentucky	1	2	6	22	2	2	257	257	257	257	257	152	202	152	202	152	152	152
Louisiana	2	1	2	3	1	1	3	3	3	3	3	3	65	22	67	67	21	19
Maryland	1	1	1	1	1	1	24	24	24	24	24	24	24	24	24	24	21	19
Massachusetts	123	38	166	61	38	38	38	38	38	38	38	38	38	38	38	38	38	38
Michigan	38	38	100	125	38	38	38	38	38	38	38	38	38	38	38	38	38	38
Minnesota	27	27	27	27	27	27	27	27	27	27	27	27	27	27	27	27	27	27
Mississippi	10	10	10	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Montana	10	10	10	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Nebraska	10	10	10	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Nevada	10	10	10	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10
New Hampshire	10	10	10	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10
New Jersey	97	97	10	22	150	551	551	189	525	189	161	84	122	343	14	94	120	354
New York	175	74	73	73	63	5,730	5,730	753	5,730	753	5,730	753	4,182	608	5,730	753	125	125
Ohio	74	74	121	121	37	150	150	419	419	140	100	100	708	708	779	451	36	36
Oklahoma	74	74	121	121	37	150	150	419	419	140	100	100	708	708	779	451	36	36
Oregon	136	136	65	65	5	852	852	2,504	2,504	1,156	39	39	1,552	1,552	16	909	1,552	1,552
Pennsylvania	136	136	65	65	5	852	852	2,504	2,504	1,156	39	39	1,552	1,552	16	909	1,552	1,552
Rhode Island	5	5	5	5	5	39	39	39	39	39	39	39	35	35	16	19	6	19

	2	1				12	12						1,005 2,845 675	2,872	327	2,703
South Dakota.....							12									
Texas.....	3	5				15	35	33				19	40	40	40	
Utah.....																
Vermont.....		3					85									
Virginia.....	92	92	2	42		35	17									
Washington.....	65			34												
West Virginia.....																
Wisconsin.....							8	8				3	55	55	55	
Wyoming.....	5		7										1,837	32		609
District of Columbia.....	1	1	1	1	1	1	1						1	1	1	
Ouling parts of the United States.....	2		53	17	49	49	6	16	155	1			9	9	28	
Canal Zone.....																
Hawaii.....				1			1	1								
Puerto Rico.....	2		56	14	47	47	2	3	143					1	1	
Virgin Islands.....			2	2	2	2	2		12	1			9	27	27	

TABLE 8.—Basic local administrative units, by number of teaching positions, by State, 1943-44

State, District of Columbia, or outlying part	Total units	Number of teaching positions	NUMBER OF TEACHING POSITIONS HELD—																
			1	2	3	4	5	6	7	8	9	10	20 to 29	30 to 39	40 to 49	50 to 99	100 to 149	150 to 199	200 or more
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
States reporting—	62,809	8,019	37,406	4,547	1,575	922	4,006	2,948	998	505	356	679	295	178	375				
Alabama.....	110	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Arizona.....	365	0	40	36	23	58	44	13	16	10	4	13	14	22	37				
Arkansas.....	2,451	35	1,265	146	86	244	184	143	66	30	14	12	3	9	21				
California.....	171	4	0	7	12	43	28	7	17	0	9	15	9	6	6				
Connecticut.....	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
Delaware.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0				
Florida.....	67	0	0	0	0	0	0	1	2	6	7	17	15	3	16				
Iowa.....	4,856	30	3,763	164	0	618	194	46	42	0	23	5	9	0	8				
Kentucky.....	257	0	0	0	0	28	0	0	29	17	24	66	25	12	9				
Louisiana.....	67	0	0	0	0	0	0	0	0	0	1	12	16	11	27				
Maryland.....	24	0	0	0	0	0	0	0	0	0	0	0	7	2	10				
Massachusetts.....	351	1	9	15	17	13	49	78	37	17	21	41	21	5	27				
Michigan.....	6,152	1,115	3,791	343	119	68	240	262	77	37	25	40	14	6	15				
Minnesota.....	7,681	1,596	5,151	304	91	48	169	200	49	21	14	24	7	3	4				
Missouri.....	8,627	1,171	5,963	562	157	24	363	235	73	30	12	17	9	3	5				
Nebraska.....	7,021	1,132	5,153	168	60	78	261	116	26	8	3	11	2	1	2				
Nevada.....	257	32	123	27	10	16	27	11	7	1	1	2	0	0	0				
New Hampshire.....	240	6	15	51	25	25	47	43	14	3	1	6	3	0	1				
New Jersey.....	563	26	10	18	30	27	112	101	62	38	22	62	20	7	28				
New York.....	5,730	1,555	2,651	404	141	82	212	207	165	118	57	85	19	11	23				
North Carolina.....	1,170	0	0	0	0	0	0	0	0	13	12	48	32	22	40				
Ohio.....	1,605	0	67	117	99	111	375	519	127	57	37	58	12	9	17				
Oklahoma.....	4,448	0	2,223	1,176	222	40	426	250	56	18	10	19	4	2	2				
Rhode Island.....	39	0	0	0	1	0	4	7	5	1	5	9	0	3	4				
South Dakota.....	3,418	546	2,017	265	180	104	207	67	16	6	4	3	2	0	1				
Utah.....	40	0	0	0	0	0	1	2	7	3	3	11	1	8	4				
Vermont.....	268	4	12	19	34	20	102	55	11	1	5	4	1	1	1				
Virginia.....	124	0	0	0	0	0	0	0	1	1	9	43	23	16	27				
Washington.....	838	111	220	105	49	38	113	97	33	22	12	21	8	13	6				
West Virginia.....	55	0	0	0	0	0	0	0	0	0	10	16	4	23	3				
Wisconsin.....	6,401	609	4,756	341	115	87	221	161	41	18	15	16	13	14	23				

Wyoming.....	396	46	94	59	31	23	86	36	7	6	1	5	1	1	0
District of Columbia.....	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Outlying parts of the United States.....	304	0	45	19	15	12	46	41	29	26	7	35	17	6	6
Alaska.....	62	0	33	5	5	2	9	4	1	3	0	0	0	0	0
Canal Zone.....	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Hawaii.....	184	0	12	14	10	10	37	37	28	23	7	6	0	0	0
Puerto Rico.....	57	0	0	0	0	0	0	0	0	0	0	29	17	6	5

TABLE 9.—Percentage of men teachers in public day schools at different dates, by State

State, District of Columbia, or outlying part	PERCENTAGE OF MEN TEACHERS									
	1870- 71 ¹	1879-80	1889-90	1899- 1900	1909-10	1919-20	1929-30	1939-40	1941-42	1943-44
1	2	3	4	5	6	7	8	9	10	11
Continental United States	41.0	42.8	34.5	29.9	21.1	14.1	16.6	22.2	21.3	15.3
Alabama	66.8	63.8	62.9	30.1	35.0	20.3	16.4	19.4	16.4	11.0
Arizona	—	47.5	38.8	27.3	17.0	10.8	16.9	27.5	25.4	18.5
Arkansas	75.6	78.4	68.5	59.7	47.0	31.2	27.3	28.1	23.5	16.0
California	40.0	33.6	21.4	17.8	13.8	12.2	16.1	20.0	20.0	23.4
Colorado	48.8	36.4	26.2	20.9	15.6	9.2	17.2	24.0	26.2	14.8
Connecticut	22.1	122.8	113.4	19.0	6.2	7.3	9.1	16.5	16.1	10.4
Delaware	29.9	46.6	31.0	25.3	13.7	10.8	13.7	21.1	22.1	15.0
Florida	65.7	61.6	48.0	38.9	25.7	15.8	13.5	15.5	14.4	8.5
Georgia	71.4	165.2	53.3	44.0	24.4	13.1	13.9	17.9	14.6	10.9
Idaho	64.3	57.4	33.4	31.2	25.5	14.8	23.3	34.7	36.4	19.4
Illinois	43.5	39.7	32.5	26.4	18.5	15.0	19.0	23.7	22.8	15.5
Indiana	60.5	57.5	51.1	46.2	35.7	16.9	25.3	30.3	29.9	23.2
Iowa	39.0	33.6	20.6	17.2	9.8	8.2	8.7	14.2	13.8	7.9
Kansas	47.2	45.1	40.8	32.7	18.0	12.1	18.1	20.3	19.5	11.2
Kentucky	66.0	64.6	49.8	45.5	41.7	21.0	20.9	29.9	23.8	13.6
Louisiana	50.9	46.1	44.7	47.9	21.4	13.7	14.3	20.0	18.3	12.2
Maine	24.4	127.2	116.0	116.4	11.2	8.5	14.2	19.1	18.1	13.1
Maryland	45.0	42.6	27.8	21.7	17.1	11.5	14.6	19.2	18.7	13.6
Massachusetts	12.7	13.2	9.8	8.8	9.1	8.6	14.7	18.8	19.4	18.6
Michigan	26.3	29.2	22.3	20.3	14.0	11.5	17.6	22.5	23.2	17.1
Minnesota	33.7	25.9	23.9	19.4	12.0	8.8	12.9	18.0	18.0	12.7
Mississippi	60.8	61.2	49.6	44.2	31.0	22.0	16.1	19.7	19.2	9.2
Missouri	65.3	58.1	44.4	37.6	26.4	18.2	18.2	26.1	21.0	13.9
Montana	60.3	38.5	22.9	16.6	12.0	10.7	12.8	23.5	23.9	15.4
Nebraska	51.9	40.7	27.1	21.8	11.9	7.3	10.8	15.3	14.2	8.2
Nevada	32.4	46.7	16.3	11.1	10.8	9.0	14.5	27.3	23.9	13.6
New Hampshire	15.0	16.8	9.8	8.9	7.1	8.3	12.6	20.6	21.0	15.4
New Jersey	32.5	28.5	18.4	12.9	12.3	10.5	12.0	19.6	20.2	16.0
New Mexico	91.7	78.0	62.2	55.2	34.4	20.6	21.5	21.6	21.6	18.5
New York	22.9	26.0	16.9	14.9	11.7	10.3	13.0	20.9	21.7	17.9
North Carolina	73.2	171.3	59.1	49.4	28.5	15.8	16.0	16.0	14.9	9.1
North Dakota	24.7	140.8	28.3	28.8	17.4	12.3	16.8	23.5	21.5	13.2
Ohio	43.2	47.8	43.1	40.4	31.1	18.0	20.0	29.2	29.0	22.0
Oklahoma	—	—	—	42.8	26.2	18.9	23.4	26.9	25.9	12.6
Oregon	51.7	48.3	43.3	28.4	19.4	12.8	11.8	20.9	18.9	12.1
Pennsylvania	42.8	45.5	34.2	32.0	22.6	16.3	17.4	26.3	25.8	20.1
Rhode Island	20.4	20.2	12.6	9.5	8.9	7.8	11.8	19.2	18.0	14.2
South Carolina	62.4	59.5	49.6	43.5	23.1	14.7	14.8	17.6	15.2	9.9
South Dakota	(?)	(?)	29.0	24.4	16.6	10.5	15.0	21.2	19.1	9.8
Tennessee	75.0	74.4	61.8	54.0	37.0	22.4	20.8	25.9	22.3	14.1
Texas	77.3	175.0	61.1	48.9	30.8	18.0	18.2	22.6	21.1	11.1
Utah	55.0	54.5	46.6	36.5	26.6	24.9	29.2	38.5	38.8	31.2
Vermont	16.5	16.8	12.0	13.6	8.9	3.7	8.6	11.7	12.3	7.8
Virginia	64.5	61.8	41.5	31.5	19.9	10.9	11.3	17.1	13.2	10.6
Washington	46.5	37.4	40.6	28.9	20.0	13.9	17.0	26.6	27.3	16.0
West Virginia	79.0	75.2	63.4	57.9	48.0	28.7	28.9	26.9	29.2	23.0
Wisconsin	28.8	28.9	19.8	18.4	11.8	8.9	15.3	21.6	22.6	14.4
Wyoming	28.6	44.3	22.4	15.6	12.8	11.0	14.8	21.7	20.3	12.4
District of Columbia	8.2	7.8	13.0	13.1	11.5	11.9	11.9	15.0	15.3	12.3
Outlying parts of the United States						53.0	48.4	19.9	21.5	31.0
Alaska						11.0	16.2	34.4	28.5	14.3
American Samoa							84.6			
Canal Zone						31.4	47.4	47.5	38.6	36.2
Guam							38.4	30.2		
Hawaii						11.1	16.9	20.7	20.0	21.3
Philippine Islands						60.6	55.0			
Puerto Rico						27.8	26.7	22.9	21.5	20.8
Virgin Islands							35.7	27.4	15.9	12.7

Estimated.

² Included in North Dakota.

TABLE 10.—*Personnel and expenditures in public, summer, night, adult, part-time, and continuation schools, by State, 1943-44*

State, District of Columbia, or outlying part	SUMMER			PART-TIME, CONTINUATION, AMER- ICANIZATION, EVENING, AND ADULT SCHOOLS		
	Teachers	Pupils	Expendi- ture when reported	Teachers	Pupils	Expendi- ture when reported
1	2	3	4	5	6	7
States reporting-----	1,999	56,161		24,096	1,659,681	
Alabama-----	143	3,493		856	24,162	294,943
Arizona-----				58	4,317	
Arkansas-----	27	427	4,218	657	41,976	1,609
California-----				1,133	535,697	
Colorado-----				208	18,295	
Connecticut-----				378	13,441	170,825
Delaware-----				74	1,981	19,215
Florida-----	9	116	4,410	417	16,399	62,713
Georgia-----				1,224	65,211	51,393
Idaho-----				70	1,743	
Illinois-----				503	20,621	
Indiana-----				313	21,025	
Iowa-----				498	24,989	
Kansas-----				340	10,045	
Kentucky-----				467	20,396	
Louisiana-----				450	22,780	40,612
Maine-----				64	1,423	23,812
Maryland-----	130	6,357	24,198	267	5,427	109,649
Massachusetts-----	76	1,405	10,786	758	20,512	811,019
Michigan-----				742	43,829	
Minnesota-----	35	1,879		288	9,573	
Mississippi-----				682	32,125	
Missouri-----				754	18,404	
Montana-----				97	2,388	
Nebraska-----				199	15,147	
Nevada-----				20	883	612
New Hampshire-----				24	393	
New Jersey-----	224	6,097	53,092	480	16,094	345,686
New Mexico-----				47	1,564	
New York-----				2,914	180,841	3,312,811
North Carolina-----				945	22,355	
North Dakota-----				102	2,302	
Ohio-----	444	12,775	115,563	791	25,030	261,273
Oklahoma-----				303	12,508	
Oregon-----				246	9,572	
Pennsylvania-----	197	6,406		904	32,826	
Rhode Island-----				111	2,886	28,490
South Carolina-----	27	691		898	58,171	38,000
South Dakota-----				37	1,244	
Tennessee-----				519	23,949	
Texas-----				1,139	89,564	
Utah-----				114	18,132	
Vermont-----				40	717	
Virginia-----	397	8,637	58,554	701	39,493	232,382
Washington-----				217	58,795	
West Virginia-----				195	5,683	
Wisconsin-----			68,299	1,597	61,914	2,288,561
Wyoming-----				18	531	
District of Columbia-----	290	7,878	41,048	237	2,323	108,847
Outlying parts of the United States-----	86	1,915	12,242	373	10,782	65,402
Canal Zone-----	4	154	587	80	1,500	14,000
Hawaii-----				65	3,077	
Puerto Rico-----	79	1,730	11,155	216	5,845	48,402
Virgin Islands-----	3	31	500	12	360	3,000

TABLE 11.—Original entries, by age, by State, 1943-44

State, District of Columbia, or outlying part	Total	YEARS OF AGE																		20 or over
		Less than 5	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20 or over	
States reporting—	7,227,371	35,435	258,269	585,315	589,300	601,644	591,899	599,184	614,687	630,549	655,235	641,683	612,654	474,622	262,803	60,323	11,278	2,491		
Arizona.....	101,239	450	3,935	9,621	8,802	7,727	7,876	7,282	7,613	7,716	8,016	8,049	7,400	6,377	4,419	929	185	47		
Connecticut.....	255,426	6,503	16,739	18,821	19,094	19,251	18,502	19,135	19,957	21,456	22,562	23,215	22,988	16,914	8,980	1,133	173		63	
Delaware.....	41,232	0	2,890	3,643	3,525	3,609	3,655	3,554	3,821	3,689	3,976	3,516	3,397	2,540	1,645	237	138			
Georgia.....	682,149	0	7,889	70,069	67,206	67,851	66,637	65,866	65,225	64,663	59,984	52,337	43,335	30,893	13,780	4,797	1,798			
Maryland.....	282,047	0	11,834	25,633	26,436	26,350	26,057	26,370	26,463	25,445	24,940	22,652	19,371	13,033	6,213	1,079	152	19		
Montana.....	91,770	0	1,043	8,802	8,299	7,876	7,727	7,282	7,613	7,716	8,016	8,049	7,400	6,377	4,419	929	185	47		
New Jersey.....	631,363	3,401	37,568	45,807	44,961	45,995	45,080	45,610	48,789	50,900	55,072	56,015	57,032	49,489	32,578	10,540	1,427	219		
New Mexico.....	121,567	0	3,246	10,767	11,479	11,690	11,407	10,985	11,041	11,490	10,903	10,106	9,885	8,443	4,326	1,502				
New York.....	1,938,062	24,033	112,795	130,238	130,432	133,020	134,308	142,448	151,169	160,869	178,392	192,450	201,558	152,525	77,522	13,373	1,744	386		
Ohio.....	1,115,630	0	41,831	90,317	91,663	90,694	87,639	86,746	89,558	92,633	98,664	96,670	97,252	82,628	55,664	12,022	1,514	235		
Rhode Island.....	96,936	907	3,441	6,790	7,161	7,373	7,288	7,457	7,889	8,021	8,524	8,366	8,500	7,116	4,443	2,337	1,015	288		
Texas.....	1,242,985	0	13,038	111,560	112,077	119,059	116,527	116,323	115,538	116,621	115,576	105,987	91,187	67,960	32,656	6,513	1,654	709		
Virginia.....	534,778	141	1,854	46,190	50,598	51,545	51,079	51,511	51,418	50,693	51,122	45,416	36,975	27,256	13,518	3,980	1,027	515		
District of Columbia.....	92,187	0	5,896	7,067	7,312	7,007	7,035	7,171	7,547	7,540	8,234	8,007	7,954	6,268	3,819	1,088	251			
Outlying parts of the United States—	392,083	0	650	16,765	33,353	43,954	46,179	44,816	44,749	39,692	35,513	27,773	24,762	16,779	10,518	4,373	1,537	670		
Hawaii.....	82,488	0	0	7,107	6,166	6,617	6,889	6,963	7,490	7,444	7,633	7,550	7,070	5,690	4,097	1,362	410	0		
Puerto Rico.....	209,595	0	650	9,658	27,187	37,337	39,290	37,853	37,259	32,248	27,880	20,223	17,692	11,089	6,421	3,011	1,127	670		

TABLE 12.—Enrollment, by grade, in public day schools, for specified years

Item	1932-33 ¹	1933-34	1934-35 ¹	1935-36	1936-37 ¹	1937-38	1938-39 ¹	1939-40	1940-41 ²	1941-42	1942-43 ²	1943-44
I		3	4	5	6	7	8	9	10	11	12	13
Total enrollment.....	26,354,817	26,434,193	26,400,646	26,367,098	26,171,103	25,975,108	25,704,325	25,433,542	25,296,138	24,562,473	24,155,146	23,266,616
Elementary schools.....	20,950,229	20,765,037	20,578,799	20,392,561	20,070,368	19,748,174	19,290,136	18,832,098	18,582,225	18,174,698	18,033,080	17,713,096
High schools.....	5,404,588	5,669,156	5,821,847	5,974,537	6,100,735	6,226,934	6,414,189	6,601,444	6,713,913	6,387,805	6,122,066	5,555,520
Number in each grade:												
Kindergarten.....	649,001	601,775	604,264	606,753	606,893	607,034	600,841	594,647	613,213	625,783	664,915	697,468
First.....	23,826,112	3,716,852	3,623,589	3,530,325	3,423,735	3,317,144	3,167,303	3,018,463	2,991,738	2,930,762	2,919,242	2,878,843
Second.....	2,704,053	2,631,728	2,594,659	2,557,589	2,522,070	2,486,550	2,409,813	2,333,076	2,285,614	2,215,100	2,228,945	2,220,739
Third.....	2,637,885	2,612,246	2,568,491	2,524,736	2,484,558	2,444,381	2,387,970	2,331,559	2,263,315	2,175,245	2,179,843	2,162,878
Fourth.....	2,581,054	2,573,010	2,535,875	2,498,741	2,450,679	2,402,617	2,362,242	2,321,867	2,270,749	2,196,732	2,148,889	2,079,788
Fifth.....	2,448,002	2,433,441	2,433,216	2,432,991	2,387,710	2,342,428	2,295,060	2,247,692	2,211,285	2,166,018	2,101,723	2,016,635
Sixth.....	2,282,982	2,288,051	2,303,760	2,319,470	2,286,096	2,252,722	2,214,428	2,176,133	2,155,538	2,124,494	2,071,396	1,997,806
Seventh.....	2,119,972	2,187,119	2,184,553	2,181,987	2,177,580	2,173,173	2,140,420	2,107,667	2,099,791	2,060,752	2,022,880	1,964,997
Eighth.....	1,701,168	1,720,315	1,730,392	1,739,969	1,731,047	1,722,125	1,711,559	1,700,994	1,680,982	1,679,782	1,695,247	1,693,942
First year high school.....	1,816,317	1,855,026	1,912,549	1,970,072	1,974,726	1,979,379	1,995,360	2,011,341	2,034,316	1,927,040	1,897,750	1,774,593
Second year high school.....	1,463,793	1,540,254	1,580,058	1,619,862	1,644,571	1,669,281	1,718,297	1,767,312	1,792,615	1,705,746	1,633,586	1,519,638
Third year high school.....	1,137,967	1,209,180	1,229,295	1,249,409	1,314,404	1,379,398	1,432,500	1,485,603	1,517,344	1,450,788	1,374,470	1,230,168
Fourth year high school.....	938,580	1,005,375	1,034,922	1,064,469	1,107,487	1,150,506	1,216,121	1,281,735	1,322,641	1,273,141	1,170,319	1,009,611
Postgraduate.....	47,931	59,821	65,023	70,726	59,547	48,370	51,911	55,453	46,997	31,090	25,941	19,510

TABLE 12.—Enrollment, by grade, in public day schools, for specified years.—Continued.

Item	1932-33 ¹	1933-34	1934-35 ¹	1935-36	1936-37 ¹	1937-38	1938-39 ¹	1939-40	1940-41 ²	1941-42	1942-43 ²	1943-44
1	2	3	4	5	6	7	8	9	10	11	12	13
Percent in each grade:												
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Kindergarten	2.5	2.3	2.3	2.3	2.3	2.3	2.3	2.3	2.4	2.6	2.7	3.0
First	14.5	14.0	13.7	13.7	13.1	12.8	12.3	11.9	11.8	11.9	12.1	12.4
Second	10.2	10.0	9.7	9.7	9.7	9.6	9.3	9.2	9.0	9.0	9.2	9.5
Third	10.0	9.9	9.6	9.6	9.5	9.4	9.3	9.1	9.0	8.9	9.0	9.3
Fourth	9.8	9.7	9.2	9.3	9.1	9.0	8.9	8.8	8.8	8.8	8.7	8.9
Fifth	8.3	8.2	8.7	8.3	8.7	8.7	8.6	8.6	8.5	8.5	8.6	8.7
Sixth	8.0	8.3	8.7	8.3	8.3	8.4	8.3	8.3	8.3	8.4	8.4	8.6
Seventh	8.0	8.3	8.3	8.3	8.3	8.4	8.3	8.3	8.3	8.4	8.4	8.6
Eighth	6.3	7.3	6.6	6.3	7.6	7.6	7.9	6.7	6.7	6.9	7.0	7.3
First year high school	6.9	5.3	7.2	7.3	6.4	6.4	6.7	7.0	8.1	7.9	7.9	7.6
Second year high school	4.3	4.8	4.7	4.7	3.3	3.3	3.6	3.9	3.1	3.9	3.8	4.3
Third year high school	3.6	3.9	3.9	4.0	4.2	4.4	4.7	5.0	5.2	5.2	4.9	5.3
Postgraduate	.2	.2	.3	.3	.2	.2	.2	.2	.2	.1	.1	.1

¹ Estimated.² Total elementary and high-school enrollment taken from special studies. Distribution, by grade, is estimated.³ The class in the first grade, 1932-33.

TABLE 13.—School census and pupils enrolled in public elementary and secondary full-time day schools, by State, 1943-44

State, District of Columbia, or outlying part	Estimated population 5-17 years, inclusive, July 1, 1944	TOTAL PUPILS			ELEMENTARY AND KINDERGARTEN PUPILS			SECONDARY PUPILS		
		Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls
1	2	3	4	5	6	7	8	9	10	11
Continental United States.....	28,930,000	23,266,616	11,634,626	11,631,990	17,713,096	9,081,270	8,631,826	5,553,520	2,553,356	3,000,164
Alabama.....	790,000	642,035	315,803	326,232	545,575	277,152	268,423	96,460	38,651	57,809
Arizona.....	143,000	101,239	51,143	50,096	82,148	42,235	39,914	19,077	8,895	10,182
Arkansas.....	488,000	400,897	198,405	202,492	337,731	171,358	166,376	81,366	26,880	36,286
California.....	1,482,000	1,303,008	659,245	643,763	970,521	489,901	480,620	332,487	152,434	173,143
Colorado.....	245,000	202,410	101,361	101,049	155,079	79,736	75,343	47,331	21,625	25,706
Connecticut.....	341,000	255,426	128,595	126,831	185,599	96,611	88,988	69,827	31,984	37,843
Delaware.....	37,000	41,232	20,613	20,619	31,265	16,251	15,014	9,967	4,362	5,605
Florida.....	482,000	385,652	173,576	180,076	281,840	143,845	137,995	73,812	31,731	42,081
Georgia.....	825,000	682,149	335,432	346,717	561,958	284,351	277,607	120,191	51,081	69,110
Idaho.....	120,000	111,331	56,166	55,165	82,602	42,599	40,003	28,729	13,567	15,162
Illinois ¹	1,504,000	1,124,921	569,385	555,536	808,229	415,878	392,351	316,692	153,507	163,185
Indiana.....	729,000	644,538	325,938	318,600	473,882	244,321	229,561	170,956	81,417	89,539
Iowa.....	501,000	398,741	231,702	228,039	343,404	176,852	166,552	116,277	54,850	61,427
Kansas.....	372,000	322,458	173,191	169,267	232,945	130,303	122,242	89,943	42,885	47,058
Kentucky.....	704,000	526,444	262,946	263,498	446,022	228,525	217,497	30,432	34,421	46,001
Louisiana.....	611,000	432,595	211,895	220,700	342,569	174,206	168,363	90,026	37,619	52,407
Maine.....	189,000	145,595	74,019	71,576	116,325	59,865	56,463	32,196	14,054	18,142
Maryland.....	127,000	282,047	140,094	141,953	213,396	122,080	106,787	62,580	23,224	34,356
Massachusetts.....	852,000	617,535	314,519	303,016	413,396	229,539	212,487	175,269	84,660	90,589
Michigan ²	1,186,000	896,589	446,560	450,029	683,421	347,312	336,109	213,168	98,248	113,920
Minnesota.....	556,000	460,762	230,738	230,024	387,761	175,187	162,574	123,001	55,541	67,460
Mississippi.....	505,000	347,592	269,366	278,226	480,518	242,531	238,287	166,774	26,865	39,909
Missouri.....	761,000	631,818	317,589	314,229	489,513	248,562	240,951	188,805	69,027	79,278
Montana.....	104,000	81,770	41,566	40,204	68,660	34,453	34,211	35,154	11,731	13,423
Nebraska.....	270,000	237,589	119,819	117,770	170,155	87,730	82,425	67,434	32,089	35,345
Nevada.....	27,000	24,255	12,261	11,994	18,734	9,626	9,108	5,591	2,635	2,886
New Hampshire.....	98,000	66,444	32,604	33,840	48,823	25,367	23,456	17,621	8,207	9,414
New Jersey.....	805,000	631,363	314,556	316,807	451,660	233,713	217,947	179,702	86,597	93,705
New Mexico.....	152,000	121,567	60,803	60,764	100,740	50,593	49,840	30,820	11,114	19,706
New York.....	2,402,000	1,938,062	979,076	958,986	1,346,368	696,164	650,204	591,694	282,912	308,782

TABLE 13.—School census and pupils enrolled in public elementary and secondary full-time day schools, by State, 1943-44.—Continued.

State, District of Columbia, or outlying part	Estimated population 5-17 years, inclusive, July 1, 1944	TOTAL PUPILS			ELEMENTARY AND KINDERGARTEN PUPILS			SECONDARY PUPILS		
		Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls
1	2	3	4	5	6	7	8	9	10	11
North Carolina.....	977,000	825,553	406,503	419,050	692,725	351,550	341,175	132,828	54,953	77,875
North Dakota.....	141,000	117,404	58,454	58,950	90,371	46,993	43,378	27,033	11,461	15,572
Ohio.....	1,418,000	1,115,680	559,980	555,700	811,921	418,578	393,343	303,709	141,402	162,307
Oklahoma.....	533,000	463,892	233,297	230,595	357,932	185,110	172,822	105,910	48,187	57,723
Oregon.....	223,000	196,407	99,174	97,233	144,832	75,080	69,752	51,575	24,094	27,481
Pennsylvania.....	2,082,000	1,568,865	786,944	781,921	1,121,187	571,937	549,250	447,678	215,007	232,671
Rhode Island.....	144,000	96,936	48,578	48,358	73,284	37,668	35,616	23,652	10,910	12,742
South Carolina.....	543,000	453,984	221,493	232,491	372,774	187,744	185,030	81,210	33,749	47,461
South Dakota.....	137,000	116,318	58,039	58,289	86,903	44,604	42,299	29,415	13,425	15,990
Tennessee.....	739,000	606,420	298,863	307,557	511,298	259,833	251,465	95,122	39,030	56,092
Texas.....	1,575,000	1,242,985	617,632	625,353	953,921	488,558	465,363	289,064	129,074	159,990
Utah.....	157,000	138,282	69,929	68,353	100,763	51,450	49,313	37,519	18,479	19,040
Vermont.....	75,000	59,099	27,183	27,916	43,562	21,935	21,627	11,537	5,248	6,289
Virginia.....	708,000	534,778	262,485	272,293	420,799	214,983	205,814	113,979	47,500	66,479
Washington.....	364,000	366,187	184,903	181,284	275,893	142,720	133,173	90,294	42,183	48,111
West Virginia.....	499,000	409,080	203,345	205,735	326,252	167,825	158,427	82,828	35,820	47,308
Wisconsin.....	660,000	490,796	243,985	246,811	348,774	179,840	168,934	142,022	64,145	77,877
Wyoming.....	56,000	52,431	26,272	26,159	39,277	20,176	19,101	13,154	6,096	7,058
District of Columbia.....	144,000	92,187	45,367	46,820	71,808	36,152	35,656	20,379	9,215	11,164
Outlying parts of the United States.....	5767,782	408,944	212,501	196,443	358,360	188,631	169,729	50,584	23,870	26,714
Alaska.....	20,322	6,608	3,400	3,208	5,309	2,786	2,523	1,299	614	685
American Samoa.....	2,801	6,448	3,321	3,127	5,196	2,704	2,492	1,252	617	635
Canal Zone.....	27,764	6,448	3,321	3,127	5,196	2,704	2,492	1,252	617	635
Hawaii.....	110,104	82,488	41,673	40,815	60,089	30,719	29,370	23,399	10,954	11,445
Puerto Rico.....	420,450	309,595	162,232	147,363	284,285	150,689	133,596	25,310	11,543	13,767
Virgin Islands.....	6,541	3,805	1,875	1,930	3,481	1,733	1,748	324	142	182

1 Sex estimated basis Illinois cities.

2 Sex estimated basis Arizona.

3 Sex estimated basis Washington.

Statistics, 1942.

TABLE 14.—Enrollment by grade in public day schools, by State, 1943-44

State, District or outlying part	Kindergarten and elementary pupils, by grade										Secondary pupils, by year						
	Grand total	Kin- der- garten	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Total	First	Second	Third	Fourth	Post- grad- uate	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Continental United States	23 256,616	17,713,096	697,468	2,878,843	2,220,739	2,162,878	2,079,788	2,016,635	1,997,806	1,964,997	1,693,942	5,553,520	1,774,593	1,519,638	1,230,168	1,009,611	19,510
	Alabama.....	642,035	545,575	108,593	73,593	71,614	68,973	64,511	60,847	53,672	43,772	96,460	36,890	26,119	17,859	15,592	
	Arizona.....	101,299	82,721	16,400	9,786	9,327	9,327	9,125	8,769	8,416	7,780	19,077	6,658	5,088	4,034	3,296	
	Arkansas.....	400,897	337,731	70,749	42,724	42,803	41,847	39,358	36,871	33,871	29,708	63,166	21,872	17,409	12,951	10,934	
	California.....	1,303,008	970,521	141,389	113,502	109,455	105,459	102,318	100,821	104,096	101,796	332,487	99,290	90,852	75,333	58,179	8,383
	Colorado.....	202,410	155,079	21,821	18,753	18,240	17,656	17,601	17,529	17,662	16,916	47,331	14,808	12,971	10,746	8,765	41
	Connecticut.....	255,426	185,599	22,992	20,363	20,061	19,779	20,106	20,741	22,309	21,875	69,827	22,104	19,237	15,429	12,949	111
	Delaware.....	41,222	31,265	4,555	3,624	3,956	3,756	3,691	3,698	3,982	3,442	9,867	3,293	2,795	2,061	1,818	
	Florida.....	355,652	281,840	49,366	37,487	35,557	34,680	32,766	32,154	31,582	27,864	73,812	23,894	20,974	16,067	12,877	
	Georgia.....	682,146	591,958	130,240	81,959	79,017	75,096	69,062	61,189	54,802	5,954	120,191	42,332	32,269	25,066	20,424	16
Idaho.....	111,331	82,602	12,030	11,081	10,462	10,019	9,777	9,634	9,943	9,556	28,729	8,841	7,671	6,602	5,599		
Illinois.....	1,124,921	808,229	112,664	96,018	92,345	90,680	86,523	91,524	90,047	95,538	316,692	96,973	86,531	71,489	61,104	565	
Indiana.....	644,838	473,882	69,418	59,125	57,251	54,831	54,190	55,197	56,089	64,057	170,956	32,601	43,570	37,852	33,946	1,097	
Iowa.....	459,741	343,464	31,704	40,306	38,899	37,352	36,874	36,856	37,671	36,716	116,277	32,782	30,146	27,812	25,471	66	
Kansas.....	342,488	252,545	12,366	33,102	30,636	30,055	29,163	29,103	29,486	28,937	89,943	26,481	24,073	20,804	18,522	361	
Kentucky.....	525,444	445,022	91,274	57,032	56,895	56,728	45,269	53,248	37,687	42,463	80,422	26,320	23,002	16,275	14,825		
Louisiana.....	432,595	342,569	3,026	77,199	51,670	48,951	45,782	42,709	38,555	35,047	90,026	31,623	32,768	19,081	15,231	323	
Maine.....	148,524	116,328	12,114	13,877	13,110	12,997	12,987	12,780	13,229	13,229	12,079	32,196	10,444	8,569	7,116	6,021	56
Maryland.....	282,047	198,467	7,086	36,052	30,835	28,660	28,579	27,068	26,130	24,765	102,982	62,380	21,375	16,741	13,438	11,015	11
Massachusetts.....	617,595	442,326	21,751	57,138	49,773	49,552	49,552	49,552	52,642	53,231	175,269	52,600	47,511	40,665	34,428	344	
Michigan.....	898,589	685,421	81,915	88,322	79,119	76,436	72,390	70,511	71,457	73,227	213,168	66,815	57,097	47,666	39,590	2,000	
Minnesota.....	460,762	337,761	19,599	45,269	41,142	39,347	38,480	37,713	38,409	38,951	38,851	123,001	35,264	32,500	28,641	26,450	146
Mississippi.....	547,592	480,818	0	129,466	61,784	61,772	57,949	51,591	45,768	38,884	33,574	166,774	23,457	18,202	13,908	11,207	
Missouri.....	631,818	483,513	16,468	70,908	59,914	59,554	58,482	59,580	55,862	59,000	43,175	145,806	49,266	37,456	34,915	26,668	
Montana.....	91,770	66,606	9,666	8,711	8,442	8,209	8,209	7,787	7,700	8,021	7,774	25,474	7,815	6,665	5,543	5,100	41
Nebraska.....	237,589	170,155	11,705	21,529	19,537	19,448	19,448	19,296	19,383	19,604	19,867	67,434	19,672	17,624	15,813	14,325	
Nevada.....	24,255	18,734	1,217	3,072	2,381	2,202	2,050	1,994	1,970	1,896	1,952	5,521	1,794	1,495	1,284	931	17
New Hampshire.....	66,444	48,823	1,129	6,494	5,978	5,999	5,741	5,786	5,914	5,949	5,833	17,621	5,460	4,818	3,925	3,418	

TABLE 14.—Enrollment by grade in public day schools, by State,¹ 1943-44.—Continued.

State, District of Columbia, or outlying part	Grand total	Kindergarten and elementary pupils, by years										Secondary pupils, by years					Post-grad-uate
		Total	Kindergarten	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Total	First	Second	Third	Fourth	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
New Jersey.....	631,362	451,660	34,893	64,714	48,277	48,273	47,422	49,100	51,809	54,761	52,411	179,702	57,768	49,030	39,334	33,401	169
New Mexico.....	121,567	100,747	8,103	16,379	13,104	12,605	11,776	11,202	10,483	9,762	8,443	20,820	7,284	5,767	4,301	3,468	---
New York.....	1,938,062	1,346,368	99,296	166,714	148,726	148,268	147,313	150,195	155,987	165,788	164,081	591,694	195,336	171,175	123,360	99,892	1,981
North Carolina.....	382,553	692,725	0	124,464	97,124	95,507	90,532	82,974	76,308	68,199	57,617	132,828	50,138	39,518	33,293	9,881	298
North Dakota.....	117,404	90,371	0	12,147	11,448	11,286	11,011	11,093	10,875	11,242	11,226	27,033	8,280	7,067	6,141	5,546	---
Ohio.....	1,115,630	811,921	27,998	103,206	98,858	98,858	91,465	90,316	91,971	97,080	94,644	303,709	92,628	83,348	69,135	58,598	---
Oklahoma.....	463,892	357,982	4,326	57,060	44,765	45,287	42,920	42,507	41,547	40,750	38,810	105,910	33,961	28,871	23,574	19,346	153
Oregon.....	196,407	144,832	4,777	21,634	18,091	17,182	17,026	16,005	16,445	16,952	16,720	51,575	16,090	14,070	11,901	9,514	---
Pennsylvania.....	1,598,865	1,121,187	85,723	145,649	133,383	130,317	128,784	130,317	133,383	142,582	141,049	447,678	137,983	125,718	101,187	82,100	690
Rhode Island.....	96,936	73,284	4,631	8,237	7,856	8,179	8,063	10,455	8,735	8,543	8,085	23,652	7,617	6,450	4,747	4,938	---
South Carolina.....	433,984	372,774	(3)	98,536	65,306	62,953	61,000	46,262	41,592	37,074	51	81,210	28,576	21,643	17,351	13,640	---
South Dakota.....	116,313	86,903	1,707	11,315	10,877	10,699	10,478	10,240	10,534	10,575	10,478	29,415	8,492	7,543	6,861	6,446	73
Tennessee.....	606,420	511,298	0	99,708	66,750	67,378	64,411	59,570	55,846	52,156	45,479	95,122	33,739	25,632	19,770	15,981	---
Texas.....	1,242,985	953,921	4,207	186,670	129,577	122,996	103,380	108,318	107,636	103,422	88,285	289,064	91,627	78,331	64,666	54,169	281
Utah.....	138,252	100,763	3,417	13,478	12,672	12,277	11,865	11,314	11,694	11,857	12,219	37,519	13,780	10,552	7,356	5,831	---
Vermont.....	55,059	43,562	337	6,576	5,667	5,639	5,282	5,318	5,074	4,970	4,609	11,537	3,609	3,086	2,524	2,266	23
Virginia.....	534,778	420,799	3,608	82,867	60,584	58,834	58,547	55,542	52,340	46,118	2,369	113,979	39,191	30,557	23,925	19,784	512
Washington.....	366,157	273,895	14,153	41,289	34,934	32,892	32,255	30,408	30,322	30,119	29,541	90,294	27,768	24,680	20,032	16,894	920
West Virginia.....	409,080	328,252	416	53,291	42,608	41,890	39,708	38,913	38,352	36,219	32,855	82,928	27,985	22,352	17,719	14,523	249
Wisconsin.....	496,796	343,774	32,603	44,850	40,284	38,741	38,102	37,612	38,800	39,043	38,728	142,022	41,506	37,583	33,471	29,337	124
Wyoming.....	54,431	38,277	1,289	3,912	6,098	4,801	4,673	4,613	4,262	4,362	4,307	13,154	4,022	3,493	3,060	2,543	36
District of Columbia.....	92,187	71,808	8,197	9,953	7,973	7,576	7,327	7,339	8,718	7,356	7,369	20,379	6,429	6,186	4,357	3,390	17

Outlying parts of the United States....	408,944	358,360	1,419	73,031	59,211	53,963	44,959	39,230	35,654	28,140	22,753	50,584	20,321	13,217	9,630	7,367	49
Alaska.....	6,608	5,309	254	942	714	652	624	585	513	552	472	1,299	456	327	298	213	7
Canal Zone.....	6,448	5,196	471	633	602	552	534	601	589	629	533	1,252	527	285	229	174	36
Hawaii.....	82,488	60,089	684	7,137	6,829	7,114	7,416	7,449	7,852	7,928	7,630	22,398	7,191	6,198	5,012	3,998	---
Puerto Rico.....	309,695	284,285	---	63,717	50,476	45,499	35,494	30,199	26,272	18,752	13,936	25,301	12,004	6,323	4,030	2,947	6
Virgin Islands....	3,805	3,481	---	602	590	506	541	396	388	279	179	3124	143	83	63	35	---

Excludes duplicates when so reported.

Changing from 11- to 12-grade system.

Columbia, S. C., reports 77.

TABLE 15.—Number, sex, and age of high-school graduates in public schools, by State, 1943-44

State, District of Columbia, or outlying part	Total gradu- ates	MALE GRADUATES, BY YEARS OF AGE								FEMALE GRADUATES, BY YEARS OF AGE							
		MALE GRADUATES, BY YEARS OF AGE								FEMALE GRADUATES, BY YEARS OF AGE							
		Total	15 or less	16	17	18	19	20	21 or more	Total	15 or less	16	17	18	19	20	21 or more
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Continental United States	953,254	393,418								559,836							
Alabama	13,764	4,583								9,181							
Arizona	2,967	1,153	15	214	669	217	24	7	7	1,814	35	388	883	373	95	23	8
Arkansas	10,239	3,814	50	461	1,724	1,234	242	79	24	6,425	72	894	2,702	1,912	638	182	58
California	84,640	23,148								31,492							
Colorado	8,531	3,477								5,054							
Connecticut ¹	12,415	5,090								7,325							
Delaware	1,671	677	1	54	411	181	26	34		994	1	74	632	234	44	30	
Florida	10,088	3,704								6,384							
Georgia	21,200	8,480								12,720							
Idaho	5,261	2,839								2,922							
Illinois	57,296	24,485								32,811							
Indiana	30,811	13,633								17,178							
Iowa	23,884	10,441								13,393							
Kansas	16,624	7,304								9,320							
Kentucky ²	12,680	4,732								7,948							
Louisiana	13,420	5,086								8,334							
Maine	6,281	2,220								4,011							
Maryland ⁴	10,275	4,012	491	1,551	1,644	284	35	6	1	6,263	854	2,689	2,116	517	81	4	2
Massachusetts	20,650	9,282								11,358							
Michigan ⁵	39,590	16,492								23,098							
Minnesota ⁶	24,395	9,693	32	572	3,416	4,936	591	102	44	14,702	52	1,013	5,313	7,212	971	114	27
Mississippi	9,720	3,261								6,459							
Missouri	24,382	10,323								14,059							
Montana	5,094	2,103	34	447	1,246	315	49	12		2,991	43	749	1,695	395	93	16	
Nebraska	13,944	6,216								7,728							
Nevada	825	347								478							
New Hampshire	3,280	1,269	19	428	732	72	13	4	1	1,961	20	632	1,085	201	19	3	1
New Jersey	30,892	13,486	83	1,790	7,107	3,842	561	83	20	17,406	153	3,133	9,500	3,996	552	64	8
New Mexico	2,939	1,066								1,873							
New York	89,155	38,204								50,951							

TABLE 16.—Number of school census children, by age, by State, 1943-44

State or outlying part	Total	Birth to 5, inclusive	Years of age																
			4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Total 17 States.....					929,635	946,394	956,686	930,479	940,869	950,062	990,505	1,001,294	999,829	998,478	1,001,467	951,968			
Alabama ¹	853,411				55,920	61,307	62,366	57,071	62,710	58,575	63,682	59,624	61,896	60,341	58,944	54,863	53,016	43,527	38,779
Arkansas.....	451,950				37,860	38,560	39,743	39,256	38,732	38,527	38,680	39,214	37,740	36,816	35,736	34,037			
Florida.....	757,491	133,835	35,115	33,868	32,892	32,530	32,741	33,913	36,639	36,089	40,342	40,208	38,632	36,868	38,150	36,805	40,280	37,576	37,325
Kentucky.....	704,190				54,951	58,409	58,633	58,739	57,711	57,525	59,773	57,878	56,656	58,203	60,646	59,955			
Maryland.....	402,476				23,366	23,428	23,545	23,481	23,965	30,476	31,033	31,123	30,739	29,945	28,083	25,871	21,338		
Michigan.....	1,400,135				90,333	90,842	90,284	83,980	87,956	88,746	94,863	95,173	92,669	97,543	98,694	99,359	99,528	96,609	
Minnesota.....	938,818	190,321	45,921	46,237	44,644	44,031	43,608	42,432	42,657	43,513	45,022	45,452	43,414	46,074	47,672	45,295	42,676	40,008	37,901
New York.....	3,370,252	748,665	169,316	180,569	178,907	174,457	174,348	173,709	179,897	186,913	184,733	197,158	200,411	204,871	207,074	199,134			
Ohio.....	1,344,641				83,178	108,430	104,181	102,870	103,297	98,902	107,012	109,123	110,819	109,832	109,942	104,242			
Oregon.....	280,510				15,498	17,325	17,580	17,823	17,631	17,147	17,631	18,299	18,474	18,323	18,430	18,656	18,008	16,891	15,503
Rhode Island.....	180,063				9,438	9,638	9,740	9,675	9,940	9,820	10,610	10,801	11,481	11,260	12,014	11,844	11,320	10,880	9,984
Texas.....	1,494,267				117,019	126,628	130,810	123,400	124,001	125,031	126,424	131,687	128,274	128,773	128,549	108,975			
Utah.....	151,194				12,864	12,949	13,130	12,544	12,548	12,384	12,669	13,060	12,238	12,533	12,588	12,207			
Vermont.....	67,887				1,496	5,323	5,391	5,496	5,512	5,583	5,584	5,609	5,431	5,349	4,460	4,461	2,102		
Virginia ²	1,030,787	173,911	48,888	48,425	49,946	54,009	54,269	52,510	56,074	53,779	57,666	56,335	56,382	57,067	57,517	53,422	52,510	47,867	
West Virginia.....	579,602				33,327	36,278	38,395	38,386	37,960	35,620	35,777	36,396	37,760	35,730	36,468	36,118	33,890	30,379	25,634
Wisconsin.....	784,654				44,226	50,159	48,801	49,188	48,624	47,238	48,430	50,466	51,203	52,244	51,087	51,729	49,873	47,027	45,617
Outlying parts of the United States.....																			
Puerto Rico.....	1,077,213	238,664	61,069	57,481	51,293	49,668	52,874	57,680	52,719	46,857	50,767	44,909	47,464	44,449	42,183	39,968	40,679	44,055	45,468

¹ Statistics, 1941-42. Taken from 1940 census.

TABLE 17.—Average daily attendance, by State, 1943-44

State, District of Columbia, or outlying part	Total	Reported as kindergarten and elementary schools	REPORTED AS REORGANIZED HIGH SCHOOLS			Reported as regular and voca- tional high schools
			Junior	Junior- senior	Senior	
1	2	3	4	5	6	7
Continental United States.....	19,602,772	14,017,981	666,900	1,132,696	544,764	3,240,431
Alabama.....	527,281	366,263	110,907	—	50,111	—
Arizona.....	87,201	70,782	—	—	—	16,419
Arkansas.....	320,449	237,234	12,415	50,655	7,963	12,182
California.....	1,047,413	782,330	—	—	—	265,083
Colorado.....	168,362	127,551	—	—	—	40,811
Connecticut.....	216,687	150,504	15,401	—	50,782	—
Delaware.....	35,727	22,311	4,160	6,004	2,227	1,025
Florida.....	313,155	208,137	60,716	—	37,768	6,534
Georgia.....	547,070	438,585	12,078	—	7,212	89,195
Idaho.....	90,746	63,798	3,857	1,258	—	21,833
Illinois.....	950,995	671,025	—	—	—	279,970
Indiana.....	569,016	406,525	—	—	—	162,491
Iowa.....	382,672	262,372	22,269	13,021	19,682	65,328
Kansas.....	282,858	184,071	26,351	—	—	72,436
Kentucky.....	414,457	318,627	9,736	49,642	11,337	25,115
Louisiana.....	361,183	286,162	—	—	—	75,021
Maine.....	140,281	110,873	—	—	—	29,408
Maryland.....	245,984	171,778	22,614	12,662	13,337	25,593
Massachusetts.....	517,849	316,347	82,471	—	73,239	45,792
Michigan.....	831,188	516,585	—	314,008	—	—
Minnesota.....	388,281	250,530	45,081	26,263	44,553	21,854
Mississippi.....	444,898	388,044	—	—	—	56,854
Missouri.....	530,696	392,624	—	—	—	138,072
Montana.....	78,168	56,456	—	—	—	21,712
Nebraska.....	200,253	139,426	—	—	—	60,827
Nevada.....	19,450	14,975	—	—	—	4,475
New Hampshire.....	57,615	42,350	—	—	—	15,265
New Jersey.....	539,761	380,798	34,505	12,349	22,873	109,236
New Mexico.....	92,856	76,462	—	—	—	16,394
New York.....	1,587,260	1,125,396	—	—	—	461,864
North Carolina.....	728,412	610,871	—	—	—	117,541
North Dakota.....	100,473	77,358	—	—	—	23,115
Ohio.....	1,000,544	632,426	70,367	144,594	52,350	100,807
Oklahoma.....	386,061	282,653	—	—	—	103,408
Oregon.....	166,801	118,386	7,951	—	—	40,464
Pennsylvania.....	1,371,950	873,542	—	1498,408	—	—
Rhode Island.....	80,974	48,121	15,363	3,237	10,575	3,678
South Carolina.....	364,033	295,938	—	—	—	68,095
South Dakota.....	97,559	71,791	—	—	—	25,768
Tennessee.....	491,833	399,349	11,749	—	—	80,735
Texas.....	1,005,994	764,170	—	—	—	241,824
Utah.....	122,414	72,412	22,547	—	27,455	—
Vermont.....	47,820	37,419	—	—	—	10,401
Virginia.....	458,191	354,296	—	—	—	103,895
Washington.....	279,276	189,219	29,338	—	18,556	42,163
West Virginia.....	360,271	248,583	29,321	—	82,367	—
Wisconsin.....	432,777	306,768	—	—	—	126,009
Wyoming.....	39,832	29,166	—	—	—	10,666
District of Columbia.....	77,745	46,592	17,703	—	12,377	1,073
Outlying parts of the United States.....	367,257	230,635	41,491	1,029	12,553	193
Alaska.....	5,112	—	—	—	—	—
Canal Zone.....	5,770	3,579	1,158	335	505	193
Hawaii.....	76,244	—	—	—	—	—
Puerto Rico.....	276,734	224,420	40,266	—	12,048	—
Virgin Islands.....	3,397	2,636	67	694	—	—

¹ Includes all forms of reorganized schools.

TABLE 18.—Aggregate number of days attended, by State, 1943-44

State, District of Columbia, or outlying part	Total	Reported as kindergarten and elementary schools	REPORTED AS REORGANIZED HIGH SCHOOLS			Reported as regular and vocational high schools
			Junior	Junior- senior	Senior	
1	2	3	4	5	6	7
Continental United States	3,440,876,724	2,446,270,509	117,642,987	204,765,084	96,191,057	576,007,096
Alabama	88,751,488	61,087,345	18,970,008		8,694,135	
Arizona	14,672,489	11,819,714				2,852,775
Arkansas	51,110,417	37,002,133	2,151,525	8,543,450	1,364,409	2,048,900
California	184,763,653	136,907,750				47,855,903
Colorado	29,495,588	22,284,149				7,211,439
Connecticut	39,003,627	27,090,805	2,772,115		9,140,707	
Delaware	6,485,994	4,030,768		1,092,920	412,023	184,335
Florida	53,631,164	35,646,321	10,397,906		6,467,904	1,119,033
Georgia	93,869,780	74,559,450	2,149,884		1,283,736	16,876,710
Idaho	15,381,239	10,813,761	653,762	213,231		3,700,486
Illinois	177,663,853	124,902,681				52,751,172
Indiana	89,852,508	65,413,475				24,438,033
Iowa	67,473,692	46,228,653	3,963,414	2,341,186	3,499,848	11,440,591
Kansas	48,832,561	31,371,048	4,652,244			12,809,269
Kentucky	66,347,306	49,499,924	1,810,727	8,649,260	2,037,756	4,349,639
Louisiana	61,823,180	48,429,960				13,393,220
Maine	24,917,961	19,624,521				5,293,440
Maryland	45,918,568	32,063,342	4,259,216	2,367,163	2,508,131	4,720,716
Massachusetts	91,490,916	55,689,545	14,636,405		13,016,813	8,148,153
Michigan	149,613,858	92,985,318		56,628,540		
Minnesota	66,978,372	42,963,966	7,918,084	4,478,450	7,806,398	3,811,474
Mississippi	65,844,904	57,430,512				8,414,392
Missouri	97,224,743	71,047,605				26,177,138
Montana	13,717,958	9,895,537				3,822,421
Nebraska	35,300,733	24,524,520				10,776,213
Nevada	3,456,640	2,655,200				801,440
New Hampshire	10,062,168	7,404,586				2,657,582
New Jersey	98,461,277	65,807,847	6,317,249	2,220,851	4,162,896	19,952,434
New Mexico	16,714,080	13,763,160				2,950,920
New York	288,809,379	204,905,497				83,903,882
North Carolina	131,041,319	109,895,693				21,145,626
North Dakota	16,979,974	12,819,274				4,160,700
Ohio	179,394,492	112,930,399	12,704,836	26,106,599	9,451,848	18,200,810
Oklahoma	65,464,990	47,824,888				17,640,102
Oregon	29,374,103	20,823,072	1,370,617			7,180,414
Pennsylvania	251,260,250	159,728,521		91,540,738		
Rhode Island	14,575,248	8,661,780	2,765,232	582,695	1,903,410	662,130
South Carolina	61,786,096	49,726,688				12,059,408
South Dakota	16,931,942	12,426,998				4,504,944
Tennessee	82,171,517	65,768,855	2,083,138			14,319,524
Texas	173,755,171	131,810,127				41,945,044
Utah	20,884,232	12,338,976	3,853,430		4,691,826	
Vermont	8,539,155	6,625,371				1,913,784
Virginia	82,473,660	63,772,740				18,700,920
Washington	49,818,975	33,752,934	5,239,622		3,292,535	7,542,884
West Virginia	62,040,910	42,724,521	5,075,219		14,241,170	
Wisconsin	75,902,978	53,339,956				22,563,022
Wyoming	7,144,362	5,329,007				1,815,355
District of Columbia	13,668,245	8,121,607	3,141,406		2,215,512	189,720
Outlying parts of the United States	69,442,906	43,854,955	7,912,676	187,371	2,378,488	36,365
Alaska	891,732					
Canal Zone	1,172,332	737,773	249,614	59,348	89,332	36,365
Hawaii	14,181,319					
Puerto Rico	52,579,375	42,639,715	7,650,504		2,239,156	
Virgin Islands	618,148	477,467	12,658	128,023		

* Includes all forms of secondary schools.

TABLE 19.—Length of school term and school attendance in public day schools, by State, 1930-44

State, District of Columbia, or outlying part	Average number of days schools were in session								Average number of days attended by each pupil enrolled 1943-44	Percent of pupils enrolled attend- ing daily, 1943-44
	1929-30	1939-40	1943-44							
			Total	Kinder- garten and elemen- tary schools	Reorganized schools			Regular and voca- tional schools		
					Junior	Junior- senior	Senior			
1	2	3	4	5	6	7	8	9	10	11
Continental United States	172.7	175.0	175.5	174.5	176.4	180.8	176.6	177.8	147.9	84.3
Alabama	150.0	153.5	168.3	166.8	171.0		173.5		138.2	82.1
Arizona	175.1	168.9	168.3	167.0				173.7	144.9	86.1
Arkansas	149.4	158.6	156.5	156.0	173.3	168.7	171.3	168.2	127.5	79.9
California	178.3	176.6	176.4	175.0				180.5	141.8	80.4
Colorado	180.0	171.9	175.2	174.7				176.7	145.7	83.2
Connecticut	183.7	183.1	180.0	180.0	180.0		180.0		152.7	84.8
Delaware	183.0	182.1	181.5	180.7	184.1	182.0	185.0	179.8	157.3	86.6
Florida	184.4	187.5	171.3	171.3	171.3		171.3	171.3	150.8	88.1
Georgia	148.0	162.2	171.6	170.0	178.0		178.0	178.0	137.6	80.2
Idaho	162.6	174.5	169.5	169.5	169.5	169.5		169.5	138.2	81.5
Illinois	188.4	186.4	186.8	186.1				188.4	157.9	84.5
Indiana	173.4	170.0	157.9	160.9				150.4	139.3	88.2
Iowa	175.9	176.6	176.3	176.2	178.0	179.8	177.8	175.1	146.8	83.2
Kansas	169.8	172.4	172.6	170.4	176.5			176.8	142.6	82.6
Kentucky	165.0	159.1	160.1	155.4	186.0	174.2	179.7	173.2	126.3	78.9
Louisiana	151.0	169.0	171.2	169.2				178.5	142.9	83.5
Maine	179.0	177.7	177.6	177.0				180.0	167.8	94.5
Maryland	186.1	187.6	186.7	185.7	188.3	187.0	188.1	184.5	162.8	87.2
Massachusetts	183.3	179.7	176.7	176.0	177.5		177.7	177.9	141.1	83.8
Michigan	185.6	183.0	180.0	180.0		180.0			166.5	92.5
Minnesota	180.1	172.8	172.5	171.7	175.6	170.5	175.2	174.4	145.4	84.3
Mississippi	183.4	145.7	148.0	148.0				148.0	120.2	81.2
Missouri	180.5	179.1	183.2	181.0				189.6	153.9	84.0
Montana	173.5	171.8	175.5	175.3				176.1	149.5	85.2
Nebraska	175.2	176.0	176.3	175.9				177.2	148.6	84.3
Nevada	178.9	174.1	177.7	177.3				179.1	142.5	80.2
New Hampshire	179.0	176.2	174.6	174.8				174.1	151.4	86.7
New Jersey	188.4	185.2	182.4	182.4	183.1	180.0	182.0	182.7	156.0	85.5
New Mexico	172.2	175.0	180.0	180.0				180.8	137.5	76.4
New York	187.5	184.3	181.9	182.1				181.7	149.0	81.9
North Carolina	154.3	164.3	179.9	179.9				179.9	158.7	88.2
North Dakota	165.7	172.7	169.0	165.7				180.0	144.6	85.6
Ohio	179.2	180.5	179.3	178.6	180.6	180.6	180.6	180.6	160.8	89.7
Oklahoma	173.3	175.6	169.6	169.2				170.6	141.1	83.2
Oregon	182.9	174.3	176.1	175.9	172.3			177.5	149.6	84.9
Pennsylvania	181.2	181.6	183.1	182.9		183.7			160.1	87.4
Rhode Island	175.3	180.0	180.0	180.0	180.0	180.0	180.0	180.0	150.4	83.5
South Carolina	147.0	163.0	169.7	168.0				176.3	136.1	80.2
South Dakota	178.5	174.9	173.6	173.1				174.8	145.6	83.9
Tennessee	163.2	166.3	167.1	164.7	177.3			177.4	135.5	81.1
Texas	146.0	171.9	172.7	172.5				173.5	139.8	80.9
Utah	172.5	174.8	170.6	170.0	170.9		170.9		151.0	88.5
Vermont	172.1	179.2	178.6	177.1				184.0	155.0	86.8
Virginia	164.1	180.2	180.0	180.0				180.0	154.2	85.7
Washington	179.4	178.7	178.4	178.4	178.3		177.4	178.9	136.0	76.3
West Virginia	165.7	176.1	172.2	171.9	173.1		172.9		151.7	88.1
Wisconsin	179.2	180.3	175.4	173.9				179.1	154.7	88.2
Wyoming	161.3	176.7	179.3	182.7				170.2	136.2	76.0
District of Columbia	173.6	178.8	175.8	174.3	177.5		179.0	176.8	148.3	84.3

TABLE 19.—Length of school term and school attendance in public day schools, by State, 1930-44.—Continued.

State, District of Columbia, or outlying part	Average number of days schools were in session								Average number of days attended by each pupil enrolled 1943-44	Percent of pupils enrolled attend- ing daily, 1943-44
	1929-30	1939-40	1943-44							
			Total	Kinder- garten and elemen- tary schools	Reorganized schools			Regular and voca- tional schools		
					Junior	Junior- senior	Senior			
1	2	3	4	5	6	7	8	9	10	11
Outlying parts of the United States	190.7	189.5	189.1	190.1	190.7	182.1	189.5	188.4	169.8	89.8
Alaska.....	176.2	186.4	174.4	-----	-----	-----	-----	-----	134.9	77.4
American Samoa.....	142.0	-----	-----	-----	-----	-----	-----	-----	-----	-----
Canal Zone.....	207.6	204.2	203.2	206.0	215.0	177.0	177.0	188.4	181.8	89.5
Guam.....	203.0	189.0	-----	-----	-----	-----	-----	-----	-----	-----
Hawaii.....	169.0	180.0	186.0	-----	-----	-----	-----	-----	171.9	92.4
Puerto Rico.....	191.2	192.0	190.0	190.0	190.0	-----	190.0	-----	169.8	89.4
Virgin Islands.....	190.0	-----	182.0	181.1	188.9	184.5	-----	-----	162.5	89.3

TABLE 20.—Number of buildings and schools, and transportation data, by State, 1943-44.

State, District of Columbia, or outlying part	NUMBER OF—				Number of one- teacher elementary schools	Percent of teachers in one- teacher schools	Number of pupils transported at public expense	Vehicles operated at public expense	Expenditures of public funds for transportation (excluding capital outlay)	Average cost per pupil trans- ported	Percent of pupils enrolled trans- ported	Percent trans- portation cost is of current expense
	Schools			Buildings used for school purposes								
	Total	Elementary	Secondary ¹									
1	2	3	4	5	6	7	8	9	10	11	12	13
Continental United States.....	209,309	198,878	169,905	28,973	96,302	11.6	4,410,362	91,927	\$107,754,467	\$24.42	19.0	4.7
Alabama.....	4,808	5,103	3,925	1,178	1,409	7.2	220,435	2,942	2,700,029	\$12.24	34.3	9.5
Arizona.....	1,071	553	466	67	123	3.6	23,032	539	431,766	18.75	22.8	4.1
Arkansas.....	5,426	4,613	3,894	719	2,182	17.7	96,268	1,797	1,614,062	16.78	24.0	9.6
California.....	8,720	4,593	4,005	588	1,108	2.3	122,215	2,722	3,602,036	29.47	9.4	2.0
Colorado.....	2,318	2,313	1,955	358	1,154	14.1	27,785	1,063	897,924	32.32	13.7	4.2
Connecticut.....	920	944	808	136	152	1.5	40,075	730	1,260,502	31.45	15.3	3.8
Delaware.....	255	217	168	49	68	4.2	9,665	228	311,064	32.18	23.4	6.6
Florida.....	2,541	2,424	1,750	674	551	4.3	90,339	1,398	1,695,350	18.77	23.4	6.5
Georgia.....	5,478	5,015	3,613	1,402	2,117	9.3	168,590	2,701	2,849,054	16.90	24.7	9.3
Idaho.....	1,198	1,204	1,012	192	409	10.3	22,983	596	787,411	34.26	20.5	8.5
Illinois.....	11,652	12,804	11,366	1,438	8,361	19.6	40,988	575	2,308,823	56.28	3.6	1.5
Indiana.....	2,907	3,534	2,598	936	636	3.0	218,538	5,646	6,630,904	30.34	33.9	10.5
Iowa.....	9,455	9,963	8,982	981	7,563	35.8	64,215	2,442	2,029,643	31.61	14.0	4.6
Kansas.....	8,058	6,373	5,653	720	5,280	33.7	123,407	1,274	1,269,525	54.24	7.3	3.9
Kentucky.....	7,592	6,692	5,785	907	3,792	22.6	99,725	1,671	1,961,947	19.57	19.0	6.3
Louisiana.....	4,653	3,074	2,521	553	951	6.6	149,340	2,651	3,389,131	22.69	34.5	10.4
Maine.....	1,796	1,926	1,704	222	1,024	17.4	35,919	1,452	1,024,770	28.53	24.2	8.8
Maryland.....	1,087	1,179	966	213	1,244	2.9	74,039	1,111	1,602,561	21.63	26.3	5.9
Massachusetts.....	2,327	2,434	1,887	547	2,176	0.7	54,550	1,100	1,996,853	36.60	8.8	2.4
Michigan.....	7,286	8,853	8,000	853	3,791	11.9	82,440	1,638	3,057,674	37.09	9.2	3.0
Minnesota.....	7,208	7,284	6,630	654	5,409	28.4	76,139	2,430	3,525,853	46.31	16.5	6.8
Mississippi.....	5,037	4,945	4,280	665	2,463	16.1	167,481	3,884	3,230,384	10.29	30.6	17.2
Missouri.....	9,497	7,507	6,675	832	5,782	24.4	100,643	2,322	4,270,391	42.43	15.9	8.0
Montana.....	2,557	1,803	1,611	192	922	19.5	23,415	487	1,237,293	52.84	23.5	9.9
Nebraska.....	6,179	6,588	5,958	628	5,161	41.0	38,000	297	458,821	57.35	3.4	2.0
Nevada.....	257	257	211	46	123	13.1	3,007	80	131,995	43.90	12.4	4.5
New Hampshire.....	661	1,723	1,584	139	237	8.1	13,747	719	610,481	44.41	20.7	8.8
New Jersey.....	1,933	1,994	1,594	330	1,664	0.4	91,621	1,617	2,740,807	29.91	14.5	2.7
New Mexico.....	1,197	869	717	152	293	8.2	28,432	1,045	1,216,162	42.80	23.4	11.5
New York.....	7,153	7,861	6,671	1,190	2,651	3.8	186,189	5,361	7,329,790	39.37	9.6	2.5

TABLE 20.—Number of buildings and schools, and transportation data, by State, 1943-44—Continued

State, District of Columbia, or outlying part	NUMBER OF—				Number of one- teacher elementary schools	Percent of teachers in one- teacher schools	Number of pupils transported at public expense	Vehicles operated at public expense	Expenditures of public funds for transportation (excluding capital outlay)	Average cost per pupil trans- ported	Percent of pupils enrolled trans- ported	Percent trans- porta- tion cost is of current expense
	Buildings used for school purposes	Schools		Total								
		Elementary	Secondary ¹									
1	2	3	4	5	6	7	8	9	10	11	12	13
North Carolina.....	3,937	4,493	3,513	980	889	3.4	311,249	4,825	2,696,491	8.66	37.7	5.7
North Dakota.....	3,794	4,216	3,767	449	3,141	46.7	18,070	41,386	752,907	41.67	15.4	6.3
Ohio.....	4,260	5,244	4,003	1,241	640	1.6	276,155	6,498	7,028,384	25.45	24.7	5.6
Oklahoma.....	6,697	4,945	3,997	948	2,223	13.9	105,292	2,903	2,656,873	25.23	22.7	7.7
Oregon.....	3,806	1,648	1,376	272	647	9.0	40,617	913	1,247,398	30.71	20.7	5.6
Pennsylvania.....	9,716	9,851	8,579	1,272	4,070	7.3	231,505	4,103	6,269,502	27.08	14.8	3.5
Rhode Island.....	380	382	322	60	33	0.9	9,254	132	273,863	29.59	9.5	2.3
South Carolina.....	3,662	4,085	3,594	491	1,133	7.5	74,530	1,528	1,419,102	19.04	16.4	6.7
South Dakota.....	4,141	4,478	4,141	337	3,599	50.5	10,417	6,959	411,295	39.48	9.0	3.2
Tennessee.....	5,373	5,624	5,067	557	2,393	12.3	124,136	1,704	2,050,277	16.52	20.5	6.7
Texas.....	11,998	9,755	7,175	2,580	2,005	4.7	334,590	6,054	6,286,567	18.79	26.9	7.1
Utah.....	638	536	376	160	40	0.9	33,208	418	600,154	18.07	24.0	4.4
Vermont.....	1,048	1,125	1,035	90	752	30.0	10,174	864	332,604	31.81	18.5	6.0
Virginia.....	4,478	3,978	3,402	576	1,552	9.0	181,764	2,341	2,702,596	14.87	34.0	7.8
Washington.....	1,867	1,523	1,158	365	1,220	2.0	102,412	1,794	2,345,578	22.90	28.0	5.7
West Virginia.....	4,917	4,812	4,421	391	2,811	18.3	131,445	1,181	1,995,627	15.18	32.1	5.9
Wisconsin.....	6,211	6,238	5,733	505	5,055	26.0	39,828	1,748	1,876,681	47.12	8.1	3.4
Wyoming.....	1,121	1,264	1,161	103	1,907	40.4	12,314	658	629,491	51.12	23.5	10.5
District of Columbia.....	178	131	96	35	1	-----	126	10	15,271	121.20	1	1
Outlying parts of the United States.....	2,592	2,160	1,809	351	1,151	10.7	1,596	40	\$56,399	\$41.60	.5	.5
Alaska.....	98	87	62	25	33	11.5	736	27	51,119	69.46	11.1	4.7
Canal Zone.....	42	26	16	10	-----	-----	-----	-----	-----	-----	-----	-----
Hawaii.....	184	184	143	41	-----	5	-----	-----	-----	-----	-----	-----
Puerto Rico.....	2,411	1,841	1,569	272	1,114	16.0	785	10	14,050	17.90	2	1
Virgin Islands.....	41	22	19	3	4	2.8	75	3	1,230	16.40	2.0	.6

¹ Includes junior high schools.² Statistics, 1942.³ Statistics, 1940.⁴ Statistics, 1936.⁵ Statistics, 1938.

TABLE 21.—Balance on hand from school year 1942-43 and receipts from permanent school funds and leases of school lands, by State, 1943-44

State or District of Columbia	Balance on hand from school year, 1942-43	Receipts from—		Receipts from permanent funds and leases of school lands—			
		Permanent funds	Leases of school lands	State	County and local	Total Amount	Per pupil enrolled
1	2	3	4	5	6	7	8
Continental United States ..	\$421,633,752	\$22,041,506	\$2,942,541	\$22,843,922	\$2,140,125	\$24,984,047	1.07
Alabama	2,041,467	201,743	778	202,521	—	202,521	.32
Arizona	1,934,982	132,725	262,347	395,072	—	395,072	3.90
Arkansas	2,198,179	93,277	81,626	93,277	81,626	174,903	.44
California ¹	60,333,547	722,259	—	722,259	—	722,259	.55
Colorado	8,928,876	795,435	—	795,435	—	795,435	3.93
Connecticut	—	139,969	—	—	139,969	139,969	.55
Delaware	1,607,521	72,000	—	72,000	—	72,000	1.75
Florida	9,934,517	114,000	—	114,000	—	114,000	.32
Georgia	2,496,215	—	—	—	—	—	0
Idaho ²	2,720,856	471,388	—	471,388	—	471,388	4.23
Illinois	59,447,397	359,123	—	57,000	302,123	359,123	.32
Indiana	24,093,236	296,203	—	296,203	—	296,203	.46
Iowa	19,562,722	141,530	—	141,530	—	141,530	.31
Kansas	8,931,569	354,311	—	354,311	—	354,311	1.03
Kentucky	2,295,217	141,148	—	141,148	—	141,148	.27
Louisiana	5,614,427	118,467	415,357	118,467	415,357	533,824	1.23
Maine	511,242	94,947	—	22,321	72,626	94,947	.64
Maryland	1,028,532	—	—	—	—	—	0
Massachusetts	—	184,874	—	184,874	—	184,874	.30
Michigan	22,822,506	407,109	—	407,109	—	407,109	.45
Minnesota	8,678,959	3,068,954	—	3,068,954	—	3,068,954	6.66
Mississippi	—	62,190	—	62,190	—	62,190	.11
Missouri	15,609,804	747,646	—	190,705	556,941	747,646	1.18
Montana	6,089,847	² 1,382,864	—	² 1,382,864	—	² 1,382,864	15.07
Nebraska	7,815,110	1,171,808	—	1,171,808	—	1,171,808	4.93
Nevada	687,591	401,421	—	401,421	—	401,421	16.55
New Hampshire	464,556	38,432	—	—	38,432	38,432	.58
New Jersey	10,866,328	529,970	—	529,970	—	529,970	.84
New Mexico	2,453,763	1,326,078	—	1,326,078	—	1,326,078	10.91
New York	24,908,196	—	—	—	—	—	0
North Carolina	4,449,419	63,850	—	63,850	—	63,850	.08
North Dakota	8,518,182	881,678	—	881,678	—	881,678	7.51
Ohio	20,784,119	156,074	—	156,074	—	156,074	.14
Oklahoma	949,524	1,231,198	—	1,231,198	—	1,231,198	2.65
Oregon	4,671,480	338,235	—	338,235	—	338,235	1.72
Pennsylvania	15,748,799	63,995	—	63,995	—	63,995	.04
Rhode Island	2,653,784	42,581	—	29,980	12,601	42,581	.44
South Carolina	2,340,069	—	—	—	—	—	0
South Dakota	8,126,778	917,593	—	917,593	—	917,593	7.89
Tennessee	1,951,992	150,750	—	150,750	—	150,750	.25
Texas	1,369,540	² 2,875,117	² 939,516	² 3,294,183	² 520,450	² 3,814,633	3.07
Utah	270,866	210,155	70,000	280,155	—	280,155	2.03
Vermont	42,331	52,749	—	52,749	—	52,749	.96
Virginia	3,664,603	—	—	—	—	—	0
Washington	7,354,542	1,208,777	145,716	1,354,493	—	1,354,493	3.70
West Virginia	3,795,165	—	—	—	—	—	0
Wisconsin	15,171,178	278,883	—	278,883	—	278,883	.57
Wyoming	1,362,514	—	1,027,201	1,027,201	—	1,027,201	19.59
District of Columbia ..	1,731,705	—	—	—	—	—	0

¹ Data for junior colleges has been omitted as far as possible.² Statistics, 1941-42.

TABLE 22.—Income from appropriation and taxation, by State, 1943-44

State, District of Columbia, or outlying part	Total	State ¹	County ²	Local
1	2	3	4	5
Continental United States.	\$2,478,466,811	\$831,968,626	\$140,059,742	\$1,506,438,443
Alabama.....	29,785,489	19,815,742	5,547,218	4,422,529
Arizona.....	9,817,080	6,126,578	481,702	3,208,800
Arkansas.....	19,459,990	11,037,101	190,977	8,231,912
California ³	185,743,246	77,317,234	2,421,203	106,004,809
Colorado.....	23,759,784	1,477,253	4,467,683	17,824,848
Connecticut.....	33,532,450	3,023,433	0	29,909,017
Delaware.....	4,980,486	4,454,163	0	526,323
Florida.....	30,978,036	12,981,908	9,311,806	8,684,322
Georgia.....	28,158,173	17,382,803	5,188,933	5,586,437
Idaho.....	10,166,718	2,315,720	1,438,071	6,412,927
Illinois.....	134,843,018	16,052,339	229,948	118,560,731
Indiana.....	69,796,143	24,069,252	350,000	45,376,891
Iowa.....	50,744,778	1,385,617	347,281	49,011,900
Kansas.....	32,889,472	2,242,963	2,382,670	28,263,839
Kentucky.....	30,749,338	14,464,067	-----	16,285,271
Louisiana.....	33,521,133	22,172,997	9,061,872	2,286,264
Maine.....	11,804,739	1,981,775	0	9,822,964
Maryland.....	31,443,841	9,632,155	9,987,797	11,823,889
Massachusetts.....	32,622,672	10,795,452	0	71,827,220
Michigan.....	115,553,616	49,575,238	747,911	65,230,467
Minnesota.....	50,061,543	14,692,165	341,180	35,028,198
Mississippi.....	18,675,792	8,947,341	3,041,543	6,686,908
Missouri.....	58,972,131	21,258,780	111,750	37,601,601
Montana.....	11,987,650	1,614,302	42,799,754	7,573,594
Nebraska.....	20,239,004	140,215	431,420	19,667,369
Nevada.....	2,898,207	217,284	862,178	1,818,745
New Hampshire.....	7,351,999	488,874	0	6,863,125
New Jersey.....	117,141,378	14,569,709	15,111,869	87,459,800
New Mexico.....	8,659,556	7,092,773	566,783	\$1,000,000
New York.....	339,767,083	110,448,984	-----	229,318,099
North Carolina.....	52,158,215	40,050,373	8,871,951	3,235,891
North Dakota.....	12,997,201	1,528,065	890,989	10,578,147
Ohio.....	138,403,054	50,424,520	724,820	87,253,714
Oklahoma.....	32,840,545	13,815,410	281,952	18,743,183
Oregon.....	22,556,737	7,103,276	3,500,332	11,953,129
Pennsylvania.....	205,285,547	58,198,592	0	147,086,955
Rhode Island.....	12,264,406	1,093,258	0	11,171,148
South Carolina.....	23,040,482	15,075,167	1,056,694	6,908,621
South Dakota.....	13,182,487	679,669	746,455	11,756,363
Tennessee.....	31,077,819	11,198,107	14,482,680	5,397,032
Texas.....	111,741,043	51,552,698	0	60,188,345
Utah.....	14,657,249	7,048,803	0	7,608,446
Vermont.....	5,787,762	791,901	0	4,995,861
Virginia.....	36,627,278	15,106,198	11,805,352	9,715,228
Washington.....	49,517,662	34,288,273	1,409,135	13,820,254
West Virginia.....	36,450,555	20,515,600	15,934,955	-----
Wisconsin.....	55,527,162	13,628,435	3,893,958	38,004,769
Wyoming.....	4,465,160	292,039	1,048,440	3,124,681
District of Columbia.....	13,781,902	1,204,025	0	12,577,877
Outlying parts of the United States	\$17,780,680	\$15,824,663	\$384,340	\$1,571,677
Hawaii.....	7,372,162	6,987,822	384,340	-----
Puerto Rico.....	10,408,518	8,836,841	-----	1,571,677

¹Includes receipts for State office, cost of free textbooks when furnished by State and the amount paid by the State towards teacher retirement.

²Includes county appropriation for the support of county superintendent's office.

³Data for junior colleges have been omitted as far as possible.

⁴Statistics, 1942.

⁵Approximate amount.

TABLE 23.—Income from miscellaneous revenue sources, Federal Government, educational foundations, and total revenue, by State, 1943-44

State, District of Columbia, or outlying part	Receipts from revenue sources other than those designated in tables 21 and 22					Total revenue receipts						
	Total	State	County	Local	Total	Subsidies from educational foundations	Federal			State	County	Local
							Reimburse- ment for vocational education	Other (excluding defense projects)				
1	2	3	4	5	6	7	8	9	10	11	12	
Continental United States.	\$64,712,347	\$4,370,557	\$4,817,288	\$55,524,502	\$2,604,322,427	\$273,621	\$17,374,404	\$18,511,197	\$859,183,105	\$146,243,375	\$1,562,736,725	
Alabama.....	590,243	48,624	221,923	319,696	31,829,044	11,047	472,099	767,645	20,065,887	5,769,141	4,742,225	
Arizona.....	133,366	0	0	10,661	10,661	0	87,183	228,422	6,521,650	481,702	3,342,166	
Arkansas.....	200,547	8,974	943	190,630	20,514,211	14,818	364,961	298,992	11,139,852	191,920	8,504,168	
California.....	100,267	100,267	0	0	194,115,726	0	582,067	6,967,887	78,130,760	2,421,203	106,004,809	
Colorado.....	1,279,828	451	1,279,377	0	25,996,646	0	146,167	15,432	2,273,139	5,739,060	17,824,848	
Connecticut.....	577,477	0	0	577,477	34,704,265	2,049	186,125	286,195	3,623,433	0	30,626,463	
Delaware.....	10,263	0	0	10,263	5,169,749	0	68,030	28,970	4,526,198	0	636,686	
Florida.....	410,312	9,616	105,982	294,714	32,175,729	4,067	240,769	419,555	13,106,524	9,417,788	8,979,036	
Georgia.....	507,867	1,957	383,534	119,376	29,234,804	26,573	543,191	0	17,384,760	5,575,467	5,706,813	
Idaho.....	281,395	0	0	281,395	11,004,817	0	85,316	0	2,787,108	1,438,071	6,694,322	
Illinois.....	4,734,881	1,120,155	0	4,734,881	140,813,295	0	876,273	0	16,109,339	229,948	123,597,735	
Indiana.....	1,486,127	88,376	0	365,972	72,152,489	0	474,566	99,450	25,485,610	360,000	46,742,963	
Iowa.....	418,684	15,857	14,337	388,470	51,831,673	0	355,766	170,915	1,543,004	361,618	49,400,370	
Kansas.....	1,355,563	31,864	0	1,323,699	34,849,702	0	250,356	0	2,629,138	2,382,670	29,887,538	
Kentucky.....	649,976	0	0	649,976	32,108,755	10,584	461,117	96,592	14,605,216	0	16,936,247	
Louisiana.....	272,668	144,283	128,385	0	34,716,111	12,444	376,042	0	22,435,747	9,605,614	2,886,264	
Maine.....	89,376	88,376	0	0	12,098,273	0	110,211	0	2,082,472	0	9,895,890	
Maryland.....	175,265	433	51,518	128,314	31,905,102	813	144,073	141,110	9,632,588	10,039,315	11,947,203	
Massachusetts.....	2,160,274	0	0	2,160,274	85,376,888	0	409,068	0	10,980,326	74,987,494	73,987,494	
Michigan.....	5,033,752	0	0	5,033,752	122,768,659	0	662,952	1,111,230	49,982,347	747,911	70,264,219	
Minnesota.....	1,753,037	3,474	0	1,753,037	55,442,356	9,315	366,001	175,506	17,761,119	341,180	36,786,235	
Mississippi.....	3,474	0	0	3,474	19,364,608	11,009	440,887	171,556	9,013,005	3,041,643	6,686,908	
Missouri.....	3,664,120	216,472	0	3,448,648	63,924,721	0	540,824	0	21,664,957	642,288	41,176,652	
Montana.....	0	0	0	0	13,622,748	25,000	96,161	31,073	2,997,166	2,769,754	7,673,694	
Nebraska.....	726,327	689,807	0	36,520	22,349,115	0	211,976	0	2,001,830	431,420	19,704,889	
Nevada.....	2,437	2,487	0	0	3,509,855	0	37,948	109,822	621,192	862,178	1,818,745	
New Hampshire.....	68,721	6,664	0	62,157	7,662,294	0	63,214	32,923	486,438	0	6,963,713	
New Jersey.....	685,866	11,143	0	674,723	118,928,645	9,764	372,619	191,055	15,110,822	15,111,869	88,132,623	
New Mexico.....	2,719	0	0	2,719	10,109,696	0	92,504	29,039	8,421,570	366,783	9,000,000	
New York.....	4,020,501	761,902	0	3,258,599	345,184,653	0	1,397,069	0	111,210,886	232,576,698	232,576,698	

TABLE 24.—Nonrevenue receipts and total of all receipts, by State, 1943-44

State, District of Columbia, or outlying part	Nonrevenue receipts from—					Total revenue and nonrevenue receipts, excluding balance on hand						County	Local
	Total	Loans and bond sales	Sales of property and insurance adjust- ments	Other	Total	Subsidies from educational founda- tions	Federal			State			
							Reimburse- ment for vocational education	Other (Less defense projects)					
1	2	3	4	5	6	7	8	9	10	11	12		
Continental United States	\$94,753,528	\$48,142,677	\$5,828,560	\$40,781,791	\$2,699,075,955	\$273,621	\$17,374,404	\$78,511,197	\$359,183,854	\$153,285,689	\$1,650,447,190		
Alabama	403,206	32,771	278,649	90,786	32,232,250	11,047	472,099	767,645	20,066,887	6,131,539	4,753,033		
Arizona	78,603	6,609	71,994		10,739,736		87,183	238,422	6,522,399	6,481,702	3,420,020		
Arkansas	525,808	258,815	266,983		21,040,019	14,818	964,961	268,992	11,139,352	191,920	9,029,976		
California	3,011,737	180,000		2,831,237	197,127,463		682,067	6,967,887	78,139,780	2,421,203	109,016,546		
Colorado	86,769	94,900	30,869		26,082,415		146,167	15,432	2,273,139	5,737,060	17,910,617		
Connecticut	245,962	245,962			34,950,227	2,049	188,125	266,195	3,623,433		30,872,425		
Delaware	25,376		5,600	19,776	5,185,125		68,030	28,970	4,528,163		661,962		
Florida	633,523	36,001	88,026	513,496	32,809,252	4,057	249,769	419,555	13,105,524	9,558,862	9,471,485		
Georgia	1,634,059	1,634,059		1,047,418	31,916,281	25,573	543,191		17,884,760	7,983,466	6,029,261		
Idaho	394,236	255,703	43,622	94,910	11,399,052		85,316		2,787,108	1,438,071	7,088,557		
Illinois	26,380,658	12,917,958	583,840	12,878,860	167,193,963		876,273		16,109,339	229,948	149,978,393		
Indiana	5,712,848	3,696,430	272,413	1,744,983	77,865,337		474,566	99,450	26,485,610	350,000	51,455,711		
Iowa	914,810	71,032	32,965	810,813	52,746,483		355,766	170,915	1,543,004	361,618	50,315,180		
Kansas	124,582	124,582			34,974,284		250,356		2,629,138	2,382,670	29,712,120		
Kentucky	2,061,495	1,756,883	294,612		34,160,260	10,584	461,117	96,592	14,605,215		18,986,742		
Louisiana	1,262,650	140,121	164,030	958,499	35,978,761	12,444	376,042		22,435,747	10,868,264	2,286,264		
Maine	129,246	129,246			12,237,519		110,211		2,092,472		10,024,836		
Maryland	252,886	203,884	29,002		32,137,988	813	144,073	141,110	9,632,588	10,272,101	11,947,303		
Massachusetts				7,415,067	86,376,888		409,088		10,960,326		73,957,494		
Michigan	9,750,750	1,996,380	339,313		132,519,409		662,952	1,111,230	49,982,347	747,911	80,014,969		
Minnesota	4,360,642	1,877,698		2,482,944	59,802,998	9,315	369,001	175,506	17,761,119	341,180	41,145,377		
Mississippi					19,364,608	11,009	440,587	171,565	9,013,005	3,041,543	6,686,908		
Missouri	357,014				64,281,735		540,824		21,654,957	542,288	41,533,666		
Montana	1,675,756	484,104	69,619	1,152,033	15,198,504	25,000	96,161	31,073	2,897,166	2,769,754	9,249,360		
Nebraska	396,931	143,223	127,332	126,176	22,746,046		211,976		2,001,830	431,420	20,100,820		
Nevada	26,173	26,173			3,536,058		37,948	169,822	621,192	862,178	1,844,918		
New Hampshire	100,280	2,248	13,116	84,916	7,662,574		63,214	39,928	495,438		7,063,994		

TABLE 24.—Nonrevenue receipts and total of all receipts, by State, 1943-44.—Continued.

State, District of Columbia, or outlying part	Nonrevenue receipts from—					Total revenue and nonrevenue receipts, excluding balance on hand					
	Total	Loans and bond sales	Sales of property and insurance adjust- ments	Other	Total	Subsidies from educational founda- tions	Reimburse- ment for vocational education	Federal Other (Less defense projects)	State	County	Local
1	2	3	4	5	6	7	8	9	10	11	12
New Jersey.....	569,112	469,556	99,556	—	119,497,757	9,754	372,619	191,053	15,110,822	15,111,869	88,701,635
New Mexico.....	—	—	—	—	10,109,696	—	92,304	28,039	8,421,570	566,783	1,000,000
New York.....	5,232,269	1,276,349	542,819	3,413,101	350,416,922	—	1,397,069	—	111,210,886	—	237,808,967
North Carolina.....	659,378	82,390	303,014	274,014	58,114,452	12,399	630,619	1,796,331	40,168,427	11,058,507	4,448,259
North Dakota.....	529,888	76,842	452,986	—	14,936,260	—	78,993	—	2,409,743	890,989	11,556,535
Ohio.....	7,732,182	5,972,649	718,329	1,041,204	157,229,779	—	763,897	2,083,489	50,590,594	728,042	103,071,757
Oklahoma.....	—	—	—	—	34,817,029	1,800	387,711	355,775	15,046,608	281,952	18,743,183
Oregon.....	575,768	437,736	138,032	—	26,974,647	—	157,708	—	7,441,511	3,500,332	15,875,096
Pennsylvania.....	12,108,387	12,108,387	—	—	220,950,852	—	1,120,644	—	58,262,887	—	170,597,621
Rhode Island.....	44,000	44,000	—	—	12,502,934	—	84,973	—	1,122,238	—	11,294,773
South Carolina.....	443,197	171,596	73,756	197,845	24,110,788	11,333	353,499	—	15,075,342	1,056,694	7,613,920
South Dakota.....	424,769	102,000	111,239	211,530	14,718,123	—	83,653	77,008	1,607,699	798,639	12,181,132
Tennessee.....	708,754	290,351	107,091	306,312	32,557,624	4,091	507,863	—	11,367,323	15,145,694	6,532,663
Texas.....	—	—	—	—	116,528,238	—	998,958	—	54,860,485	520,450	60,188,345
Utah.....	237,438	53,603	84,215	99,617	15,980,556	—	88,500	337,952	7,330,058	—	8,233,046
Vermont.....	307,832	—	—	307,832	6,234,465	5,000	81,102	—	7,844,650	—	5,303,713
Virginia.....	2,292,989	244,572	480,200	1,598,127	39,538,151	94,899	455,245	67,740	15,106,198	13,501,864	10,312,215
Washington.....	7,000	7,000	—	—	56,750,382	7,636	239,927	1,694,082	35,748,741	1,979,581	17,079,815
West Virginia.....	74,420	—	74,420	—	36,893,068	—	265,001	—	20,522,850	16,107,217	40,520,588
Wisconsin.....	1,203,202	182,213	363,750	657,239	38,673,740	—	40,230	—	14,800,964	3,893,958	3,305,268
Wyoming.....	45,556	22,707	22,849	—	6,209,672	—	53,360	482,069	1,320,505	1,048,440	—
District of Columbia.....	—	—	—	—	14,062,465	—	75,494	193,744	1,204,025	—	12,589,202
Outlying parts of the United States.....	\$1,199,949	—	\$63,900	1,136,049	\$20,584,302	—	\$435,823	\$340,936	\$16,685,304	\$1,550,562	\$1,571,677
Canal Zone.....	—	—	—	—	826,914	—	—	—	826,914	—	—
Hawaii.....	1,193,949	—	63,900	1,136,049	8,991,467	—	78,420	340,936	7,021,549	1,550,562	—
Puerto Rico.....	—	—	—	—	10,763,921	—	357,403	—	8,836,841	—	1,571,677

TABLE 25.—Current expense for general control and instruction, by State, 1943-44.

State, District of Columbia, or outlying part	GENERAL CONTROL, INCLUDING STATE INTER-MEDIATE AND LOCAL UNITS						INSTRUCTION								Teaching supplies	Other supplies and expense
	Salaries and per diem					Supplies travel and other expense	Total instruction	Instructional staff salaries					Salaries of clerical assistants	Free text-books		
	Total general control	Mem- bers of boards of edu- cation	Admin- istrative and pro- fessional staff	Clerical assist- ants				Total	Super- visors when sepa- rately reported	Principals when separately reported	Teachers and other instruc- tional staff	11				
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
Confidential United States	\$110,630,693						\$1,590,633,805	\$1,494,506,929				\$11,294,551	\$23,987,277	\$43,528,515	\$17,316,533	
Alabama	1,107,305	34,099	628,123	352,120	92,963	20,788,728	20,155,035	197,800	980,359	18,955,876		229,506	404,187			
Arizona	586,950	184	348,687	165,468	74,611	7,401,981	6,874,214	123,302	460,920	6,288,992	71,453	244,813	64,457	47,024		
Arkansas	1,836,841	423	916,090	195,373	224,455	11,145,613	10,555,170	29,390	258,866	10,266,914	63,809	843,954	192,680			
California	1,876,807					122,263,516	108,800,202					704,871	11,792,443			
Colorado	1,096,750	136,067	523,135	168,936	268,612	14,437,961	13,647,055					195,512	694,794			
Connecticut	1,273,725		709,940	378,504	135,281	22,978,767	21,730,012	430,098	1,476,215	10,823,999	223,900	366,386	435,280	172,289		
Delaware	275,135	1,800	146,243	93,823	33,269	3,420,755	3,194,726	98,814	132,487	2,763,623	25,631	74,798	48,760	66,790		
Florida	1,049,697	120,813	380,733	300,101	248,050	19,620,293	18,636,085	216,387	1,261,185	17,158,514	290,256	417,665	206,887	90,300		
Georgia	1,664,937	58,708	911,455	361,391	362,387	22,287,488	21,374,135	190,278	738,722	20,400,135	157,809	407,154	139,737	209,153		
Idaho	871,513					6,125,790	5,662,692					125,992	335,106			
Illinois	6,294,024					96,372,540	91,197,543					1,484,239	2,983,992	707,166		
Indiana	1,766,097					32,821,624	31,538,842	1,116,196	3,037,495	37,206,151			1,550,687			
Iowa	2,817,062	79,956	1,526,708	89,493	1,120,905	30,748,246	29,197,559						869,414			
Kansas	1,811,406					23,520,605	22,631,191									
Kentucky	1,796,336	62,672	1,098,831	261,491	373,542	22,020,964	20,893,558			1,722,977	19,170,581	617,141	432,199	78,066		
Louisiana	1,534,163	106,957	537,292	318,947	570,947	21,718,118	20,732,841	349,878		20,382,963		547,496	320,337	117,444		
Maine	464,541					7,414,014	6,908,655					293,351	312,908			
Maryland	866,873	34,471	472,592	169,732	200,078	19,327,652	18,457,484	336,568	952,466	17,168,430	127,228	312,751	250,757	179,432		
Massachusetts	3,119,209					58,707,400	55,858,798					882,929	2,235,733			
Michigan	5,760,398	654,855	3,055,526	292,380	1,746,637	72,671,211	67,785,973	831,866	3,295,321	63,658,796		861,083	1,379,029	2,655,126		
Minnesota	3,072,643					33,608,220	30,554,217					916,031	1,181,837	966,135		
Mississippi	969,222	25,069	668,516	151,807	144,530	12,732,364	12,392,366					75,000	161,975	96,846		
Missouri	2,705,736					36,419,287	33,402,849					1,629,126	1,387,812			
Montana	1,080,263					7,540,964	6,977,125	180,488	213,115	6,583,522		199,985	298,580	65,274		

TABLE 25.—Current expense for general control and instruction, by State, 1943-44.—Continued.

State, District of Columbia, or outlying part	GENERAL CONTROL, INCLUDING STATE INTER-MEDIATE AND LOCAL UNITS						INSTRUCTION								
	Total general control	Salaries and per diem				Supplies travel and other expense	Total instruction	Instructional staff salaries					Free text-books	Teaching supplies	Other supplies and expense
		Mem- bers of boards of edu- cation	Admin- istrative and pro- fessional staff	Clerical assist- ants				Total	Super- visors when sepa- rately reported	Principals when sepa- rately reported	Teachers and other instruc- tional staff	Salaries of clerical assistants			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
Nebraska.....	1,567,068	269,832	1,040,081	44,965	212,190	16,348,043	14,785,626	174,831	634,026	13,986,769	97,744	382,942	470,125	611,606	
Nevada.....	146,734	43,928	88,338	2,498	11,970	1,994,198	1,834,559					57,944	19,719	81,976	
New Hampshire.....	523,541	46,151	311,908	41,146	123,356	4,376,193	4,082,860					96,126	145,359	51,868	
New Jersey.....	4,293,023		2,318,267	1,189,267	815,489	67,198,133	62,740,243	1,217,150	3,288,413	58,264,680	1,305,674	986,660	1,913,346	251,910	
New Mexico.....	705,877					6,093,264	5,839,219	68,049	773,195	4,997,975		215,000	39,045		
New York.....	11,896,266	1,108,398	4,271,496	3,455,217	3,061,175	209,267,855	197,535,068	2,396,102	11,894,402	183,244,564	4,803,180	1,571,200	3,027,660	2,330,747	
North Carolina.....	1,716,048	81,097	823,554	467,779	343,608	35,566,550	34,803,252		2,945,110	31,858,142	65,682	112,005	361,638	223,972	
North Dakota.....	636,389	249,009	191,757	54,535	141,088	8,334,450	7,113,348					205,528	308,156	707,418	
Ohio.....	4,667,729	842,295	2,335,017	881,668	908,749	82,062,418	77,702,909	735,074	4,133,641	72,834,194	1,049,320	1,574,655		2,335,534	
Oklahoma.....	1,746,348					28,120,444	24,483,067						637,377		
Oregon.....	566,126	250	370,952	302,874	232,040	15,522,263	14,232,194		1,157,125	13,075,069	170,777	376,155	376,590	366,547	
Pennsylvania.....	10,475,311					125,874,997	116,638,768	2,207,569	5,029,936	109,401,263	1,586,131	2,750,632	3,633,832	1,266,234	
Rhode Island.....	487,335	20,510	304,183	111,588	51,054	5,735,973	5,037,891	175,234	428,289	7,431,418	112,615	127,752	413,966	46,865	
South Carolina.....	1,023,659	1,155	684,708	51,030	285,766	15,323,529	14,894,233		408,031	14,486,202			320,663	108,583	
South Dakota.....	1,122,046	1,236	560,786	67,603	465,921	8,890,639	8,303,861	15,930	106,892	8,181,039		291,700	181,054	114,024	
Tennessee.....	1,390,780	55,720	538,480	255,006	541,574	23,115,904	21,435,817	180,139	576,601	20,729,077	107,284	360,650	355,565	806,578	
Texas.....	6,648,607	20,350	4,713,471	898,640	1,018,146	61,554,068	59,954,608	338,508	4,267,326	55,348,774		1,600,000			
Utah.....	554,882	27,891	268,201	105,912	162,677	9,313,050	8,448,972	145,037	441,505	7,862,430	111,946	202,741	301,700	247,691	
Vermont.....	339,751	26,644	223,151	38,311	62,637	3,648,448	3,026,284	4,100	214,673	2,807,611	19,430	74,485	508,005	20,244	
Virginia.....	1,304,244	57,759	684,388	408,311	231,790	24,822,168	23,850,807	527,311	2,850,678	20,472,818	210,885	100,674	288,095	371,707	
Washington.....	2,155,526	412,788	1,366,821	113,440	232,771	27,254,145	26,174,746	312,331	1,940,686	22,621,529		611,096	856,406	612,867	

West Virginia.....	1,279,277	56,525	564,730	338,090	319,332	23,770,944	23,112,333	462,361	1,653,495	32,673,979	135,199	216,438	217,440	89,484
Wisconsin.....	2,539,161	312,581	1,045,847	414,401	766,332	37,400,084	34,739,835	199,629	1,653,495	32,673,979	449,369	812,766	208,222	1,138,892
Wyoming.....	564,360	29,027	371,204	86,918	67,211	3,679,075	3,414,530	104,776	559,721	8,020,544	114,493	93,147	99,021	72,377
District of Columbia	293,542	196,856	75,376	21,310		9,170,433	8,685,041					147,797	205,758	17,344
Outlying Islands of the United States	\$1,076,960	\$400	\$553,338	\$315,945	\$208,177	\$14,037,025	\$13,311,809	\$159,219	\$770,878	\$12,381,712	\$198,825	\$129,372	\$280,387	\$126,632
Alaska.....	37,490	11,600	4,500	21,390		797,378	753,784		194,500	559,284		11,036	32,558	
Canal Zone.....	61,486	29,644	18,003	13,239		532,353	482,455	9,126	27,616	445,723	9,126	14,789	21,931	4,043
Hawaii.....	211,834	109,128	76,326	26,380		4,177,850	3,804,651	60,741	189,107	3,584,803	187,458	18,637	119,131	77,893
Puerto Rico.....	735,855	389,017	208,670	138,168		8,369,312	8,124,670	88,871	351,673	7,684,126	10,494	84,660	105,852	43,636
Virgin Islands.....	30,295	400	13,949	9,000		160,132	146,239	10,451	27,982	107,776	11,748	230	915	1,000

¹ Data for junior colleges has been excluded as far as possible.

TABLE 26.—Current expense for operation, maintenance, and auxiliary services, by State, 1943-44

State, District of Columbia, or outlying part	OPERATION OF PLANT						MAINTENANCE (upkeep, replacement and repairs)	AUXILIARY SERVICES					Community services not chargeable to pupils
	Total	Salaries	Fuel, light, water, and power	Supplies	Other	Total		School services chargeable to pupils					
								Health	Trans- portation	Other school services	Public libraries under board of education		
												Other community services	
1	2	3	4	5	6	7	8	9	10	11	12	13	
Continental United States	\$238,773,787					\$77,323,913	\$169,522,787	\$21,922,956	\$107,754,467	\$13,106,157	\$2,474,894	\$24,264,403	
Alabama	1,351,196	540,736				1,090,633	2,745,607	28,570	2,700,029				
Arizona	1,102,429	690,952	273,699	76,377	810,460	376,515	614,364	119,077	431,766		19,008	36,427	
Arkansas	1,241,517	496,162			745,356	421,622	1,718,208	(1)	1,616,062	27,094			
California	17,963,706					5,599,433	8,341,051	4,759,015	3,602,030	102,146			
Colorado	2,056,137					538,517	1,871,505	117,431	897,924	856,150			
Connecticut	3,644,916	2,082,620	1,353,912	208,384	1,134,078	1,763,627	1,783,627	435,151	1,260,502			67,674	
Delaware	469,518	254,469	173,607	24,250	17,192	116,269	732,569	40,662	311,064		3,479	7,364	
Florida	1,607,570	967,593	403,454		146,523	870,600	1,846,393	118,643	1,695,350	32,400			
Georgia	1,129,274	583,304	417,867	62,482	65,621	744,607	4,182,803	37,835	2,849,054	1,038,716	104,907	152,291	
Idaho	1,245,168					216,025	4,942,275		787,411	154,864			
Illinois	19,784,524	13,353,075	5,353,301		1,078,148	6,766,020	15,313,764	937,515	2,306,823			12,066,426	
Indiana	7,600,216	4,020,480	2,803,592	458,332	287,812	2,141,875	7,431,264	473,063	6,630,904		327,267		
Iowa	5,772,251					1,730,238	2,544,673		2,029,643	515,030			
Kansas	3,903,719					1,122,436	1,928,541		1,695,525	659,016			
Kentucky	2,046,855	994,728	872,239	132,795	47,063	1,745,158	3,526,763	89,987	1,961,947	499,556		975,273	
Louisiana	1,777,442	1,087,313	550,692	121,042	18,395	974,525	5,249,950	167,710	3,389,131	1,641,909		51,200	
Maine	1,473,082	758,558	714,224			389,583	1,660,717	635,947	1,020,770				
Maryland	2,363,619	1,299,426	917,088	91,362	55,743	731,967	2,141,770	510,161	1,602,561	15,450		13,598	
Massachusetts	9,772,310					2,663,403	3,976,833	1,264,263	1,996,853	4,587		710,980	
Michigan	13,833,469	8,463,183	5,018,546		351,740	3,968,844	5,789,807	376,751	3,087,674	569,246	692,458	1,203,678	
Minnesota	7,337,065	3,832,525	2,216,517	1,287,963		1,742,327	4,777,488	558,563	3,525,833		693,072		
Mississippi	894,736	375,606	436,922	82,298		3,540,044	3,341,889		3,230,354	111,505		230,354	
Missouri	6,283,160					2,302,250	4,982,633	712,282	4,270,391		69,659	183,191	
Montana	1,506,511	787,181	719,330			361,872	1,577,639	87,466	1,237,293				
Nebraska	2,646,672	1,263,225	1,142,463	174,259	69,735	652,301	1,697,072	106,267	1,468,821			131,984	

Nevada.....	371,822	188,036	128,726	31,662	23,398	106,679	190,817	21,740	131,995	37,082		
New Hampshire.....	823,227	407,567	415,660			3,690,143	6,091,889	1,777,758	610,481	59,948		
New Jersey.....	11,351,830	7,217,480	3,890,435	487,980	255,935	3,690,143	1,314,223	1,777,758	2,740,607			1,578,524
New Mexico.....	1,742,664					8,477,341	13,963,614	3,833,837	1,216,162	98,061		
New York.....	27,227,579	16,081,143	8,873,182	997,889	675,365	8,477,341	13,963,614	3,833,837	7,329,790	1,440,626		1,398,361
North Carolina.....	2,453,811	1,096,227	1,173,899	150,162	33,523	1,606,515	3,542,119	58,166	2,696,491	787,452		
North Dakota.....	1,311,086	613,731	752,784	125,071	19,450	4,000,807	12,450,186	14,134	762,907	74,376		
Ohio.....	15,866,715	9,024,808		6,841,907		4,489,970	2,450,186	572,697	7,028,384			4,840,803
Oklahoma.....	3,109,160					1,355,651	2,814,713	187,840	2,656,873			
Oregon.....	2,527,203	1,480,349	817,267	100,540	69,047	1,687,335	1,758,679	122,051	1,247,398			383,600
Pennsylvania.....	19,472,704	11,547,979	6,253,794	1,011,831	659,190	5,112,815	9,512,889	1,793,229	6,269,502	904,183		539,875
Rhode Island.....	1,623,477	979,289	559,103	58,045	37,037	373,730	2,440,589	123,104	273,863	43,602		
South Carolina.....	1,080,363	477,705	602,838			578,819	2,701,965		1,342,854			
South Dakota.....	1,618,648	590,345			1,093,305	383,145	541,747		1,411,295	130,452		
Tennessee.....	2,102,961	942,275	1,160,686	(*)	(*)	352,034	2,272,221	50,265	2,050,277	171,679		
Texas.....	6,025,960	3,849,956	1,227,850	576,985	370,169	2,801,531	6,797,955	511,418	6,286,537	706,051		13,384
Utah.....	1,306,633	758,312	431,956	29,848	23,537	1,353,720	1,353,720	54,131	600,154			28,799
Vermont.....	1,685,501	929,282	345,872	27,431		392,839	3,378,928	58	323,604			
Virginia.....	2,469,974	1,221,663	1,068,445	157,631	131,045	1,981,885	3,378,928	215,322	2,702,666	337,326		
Washington.....	4,424,794	2,646,470	1,385,850	272,719	118,745	1,705,150	2,965,231	267,519	2,346,578	342,134		
West Virginia.....	2,932,697	1,536,883	1,183,794	201,404	10,616	1,471,360	2,325,152	83,626	1,935,627	136,882		109,017
Wisconsin.....	6,742,470	3,246,214	2,601,013	447,085	28,158	2,015,451	2,571,815	228,827	1,876,881	7,761		461,546
Wyoming.....	672,727	319,171	220,270	45,208	88,078	128,014	892,282	202,741	628,491			
District of Columbia.....	1,777,520	1,293,472			484,048	540,013	204,255	133,214	15,271	55,770		
Outlying parts of the United States.....	\$976,296					\$735,965	\$2,080,753	\$1,252,733	\$145,869	\$496,382	\$11,110	\$174,659
Alaska.....	162,779					20,625	63,697		51,119	12,478		
American Samoa.....	813,517					46,411	134,519					134,519
Canal Zone.....	45,363	24,820	6,079	4,669	9,746							
Hawaii.....	417,787	331,729	37,768	45,933	2,347	471,702	617,240	104,328	79,470	406,635		26,807
Puerto Rico.....	343,791	304,258	14,904	18,779	5,850	194,600	1,261,907	1,146,145	14,050	77,289		13,333
Virgin Islands.....	6,586	3,960	100	1,505	1,021	2,627	3,480	2,260	1,230			

* Included with other school services.

† Included in with fuel, light, and power.

* Data for junior colleges have been excluded as far as possible.

TABLE 27.—Current expense for fixed charges, total current expense, average cost per pupil in average daily attendance, and average salary per number of instructional staff, by State, 1943-44

State, District of Columbia, or outlying part	FIXED CHARGES					CURRENT EXPENSE							Average salary per member of instruc- tional staff
	Total	Chargeable to pupils					Not charge- able to pupils (Refunds of taxes etc.)	Total current expense in full-time day schools	Total not chargeable to pupils	Net chargeable to pupils	Net cost per pupil in average daily attend- ance		
		State con- tributions to retire- ment funds	School board contri- butions to retire- ment funds	Insurance and judg- ments	Rent	Other							
1	2	3	4	5	6	7	8	9	10	11	12	13	
Continental United States.....	\$106,452,114						\$316,575	\$2,293,337,099	\$27,055,782	\$2,266,281,317	\$115.61	\$1,728	
Alabama.....	1,481,389	983,658	14,834	410,937	16,198	37,895	17,847	28,564,838	36,855	28,527,983	54.10	1,009	
Arizona.....	390,171	123,433	145,219	100,262	19,507	1,730		10,472,410	36,427	10,435,983	119.68	1,903	
Arkansas.....	916,074	574,349		341,725	(¹)	(¹)		16,779,375		16,779,375	62.36	845	
California.....	2,971,692	299,973	2,527,462			6,844,267		172,604,204		172,604,204	164.79	2,616	
Colorado.....	1,116,020		271,193			845,427		21,120,490		21,120,490	135.45	1,600	
Connecticut.....	1,943,358	1,324,165	372,753	210,664	18,859	16,917		32,738,471	67,974	32,670,497	150.77	2,019	
Delaware.....	35,187		18,480	36,695				4,699,446	10,843	4,688,603	131.23	1,932	
Florida.....	920,385	121,960		338,253	22,016	437,166		25,914,938		25,914,938	82.76	1,390	
Georgia.....	433,458		94,968	290,155	32,082	16,253		30,472,567	257,198	30,215,369	55.23	923	
Idaho.....	168,383							8,267,154		8,267,154	102.12	1,379	
Illinois.....	5,759,960	2,419,200	2,094,280	558,242	1,306,480			150,280,832	12,069,426	138,211,406	145.33	2,018	
Indiana.....	2,031,544	1,299,491			123,814	59,997		63,313,220	527,267	62,785,953	110.69	1,533	
Iowa.....	898,904		70,446					44,421,274		44,421,274	116.09	1,289	
Kansas.....	622,811	68,573						32,409,278		32,409,278	114.58	1,313	
Kentucky.....	1,032,085	650,000		275,810	105,721	30,554		31,198,361	975,273	30,223,088	72.92	1,158	
Louisiana.....	1,458,781	1,044,840		373,414	15,324	25,203		32,712,969	51,200	32,661,769	90.43	1,427	
Maine.....	264,615	143,373		121,242				11,667,752		11,667,752	83.17	1,188	
Maryland.....	1,785,008	1,293,001	338,931	106,039	8,948	5,189		27,184,879	13,598	27,171,281	110.46	2,069	
Massachusetts.....	5,136,780	2,801,556	2,334,924	645,462	88,157	117,529		83,375,790	710,960	82,664,810	159.63	2,219	
Michigan.....	1,230,148	385,000						103,239,877	1,796,136	101,443,741	122.05	2,013	
Minnesota.....	1,605,328	319,648	638,105	440,983	206,502			52,143,011	693,072	51,449,939	132.51	1,567	
Mississippi.....	315,625							18,795,570		18,795,570	42.25	790	
Missouri.....	681,009							53,379,145		53,379,145	100.58	1,410	

Montana.....	370,213	154,000	4,926	202,430	8,857	12,437,462	281,707	12,175,755	155.77	1,453
Nebraska.....	515,554	178,712	178,712	52,727	48,893	22,429,710	180,877	22,248,833	111.10	1,159
Nevada.....	92,578	44,630	35,472	13,476	141,667	2,903,828	141,667	2,903,828	149.30	1,876
New Hampshire.....	248,850	28,044	78,039	112,634	141,667	6,894,178	141,667	6,752,511	117.20	1,366
New Jersey.....	7,271,110	6,332,780	55,884	37,300	112,634	99,896,128	1,573,524	98,322,604	182.16	2,353
New Mexico.....	145,020	140,450	4,576	277,737	289,594	10,540,917	1,488,672	10,540,917	113.52	1,456
New York.....	23,009,376	193,260	20,611,567	1,538,407	99,311	293,842,551	383,600	292,383,879	184.21	2,726
North Carolina.....	2,850,088	1,917,659	136,993	465,241	19,733	47,465,131	539,875	47,465,131	65.16	1,342
North Dakota.....	219,626	34,200	118,337	25,038	41,851	11,943,725	4,849,104	11,943,725	118.87	1,059
Ohio.....	4,495,399	3,553,431	515,652	90,670	335,646	124,932,416	383,600	120,083,212	120.02	1,912
Oklahoma.....	100,000	100,000	202,183	238,562	101,735	34,246,216	383,600	34,246,216	88.71	1,429
Oregon.....	730,430	4,076,016	3,498,018	302,786	173,333	179,915,281	539,875	179,375,406	130.75	1,972
Pennsylvania.....	9,466,475	339,600	43,851	1,326	173,333	12,054,867	539,875	12,054,867	148.87	2,042
Rhode Island.....	384,777	325,279	325,279	1,326	173,333	21,193,805	539,875	21,193,805	58.22	973
South Carolina.....	205,635	392,366	265,948	24,668	101,735	12,762,860	539,875	12,762,860	130.82	1,158
South Dakota.....	784,717	3,623,989	1,094,809	134,719	101,735	30,598,617	539,875	30,598,617	62.21	1,062
Texas.....	4,853,517	422,313	92,764	19,151	3,796	88,683,208	13,384	88,683,208	88.15	1,329
Utah.....	538,024	27,500	1,957	16,611	16,611	13,694,266	28,799	13,694,266	111.76	1,792
Vermont.....	120,320	1,080,375	1,080,375	33,456	40,602	5,325,487	28,799	5,325,487	111.37	1,165
Virginia.....	1,419,380	1,076,693	265,147	33,456	40,602	34,502,986	40,932,069	34,502,986	76.30	1,308
Washington.....	2,435,923	1,300,000	62,175	227,771	45,493	40,932,069	109,017	40,932,069	146.56	2,099
West Virginia.....	1,748,638	3,133,222	33,794	18,206	13,199	33,419,051	496,307	33,419,051	92.76	1,508
Wisconsin.....	3,827,138	588,024	588,024	18,206	683,916	56,096,119	496,307	54,626,812	126.22	1,705
Wyoming.....	117,122	16,810	14,361	10,123	9,858	5,981,530	496,307	5,981,530	150.17	1,471
District of Columbia.....	588,024	588,024	588,024	18,206	683,916	12,573,787	496,307	12,573,787	161.73	2,610
Outlying parts of the United States.....	\$198,273	\$16,810	\$14,361	\$11,021	\$16,775	\$19,105,272	\$185,769	\$18,919,503	\$51.52	\$1,214
Alaska.....	5,927				5,927	1,087,796	134,519	1,087,796	212.79	2,471
Canal Zone.....	1,258			360	360	820,122	26,807	820,122	118.82	1,994
Hawaii.....	190,098	16,810	14,361	10,123	9,858	5,897,671	26,807	5,897,671	77.00	1,312
Puerto Rico.....	990			138,946	9,858	11,095,563	24,443	11,095,563	40.01	1,106
Virgin Islands.....				990	990	204,120		204,120	60.09	1,860

¹ Included with insurance and judgments. Data for junior colleges excluded as far as possible.

TABLE 28.—Capital outlay and per capita cost of education, by State, 1943-44

State, District of Columbia, or outlying part	CAPITAL OUTLAY											PER CAPITA COST OF EDUCATION— FULL-TIME DAY SCHOOLS ONLY		
	Total (including undistributed items)	Sites and buildings					Equipment				Annual cost per pupil in average daily attendance	Daily cost per pupil in average daily attendance		
		Sites where not included with buildings	New buildings	Additions to buildings	Improvements to buildings	Library books	Laboratory equipment furniture and fixtures	Busses	Current expense and interest	Capital outlay				Current expense and interest
1	2	3	4	5	6	7	8	9	10	11	12	13		
Continental United States.....	\$53,856,462	\$2,410,336	\$13,967,688	\$2,851,377	\$1,921,691	\$1,753,961	\$7,287,090	\$2,531,689	\$121.93	\$2.74	\$0.694	\$0.016		
Alabama.....	1,115,742	22,834	615,227	149,128	27,877	38,848	108,115	245,272	54.93	2.12	326	.013		
Arizona.....	333,732	22,834	152,107	2,439	27,877	38,848	75,957	13,670	123.51	3.83	734	.023		
Arkansas.....	753,868	37,501	319,189	151,934	22,881	38,848	109,794	173,001	54.77	2.35	343	.015		
California.....	14,594,613	37,501	38,680	15,432	22,881	38,848	136,533	206,575	171.15	4.39	970	.025		
Colorado.....	457,602	37,501	38,680	15,432	22,881	38,848	136,533	206,575	129.86	2.72	741	.016		
Connecticut.....	313,002	64,000	47,430	62,377	62,377	38,848	139,195	155.01	153.01	1.44	865	.008		
Delaware.....	65,459	64,000	47,430	62,377	62,377	38,848	16,481	731	132.79	1.83	731	.010		
Florida.....	1,084,438	150,340	423,342	83,762	36,361	83,392	156,311	150,930	89.49	3.45	523	.020		
Georgia.....	733,813	150,340	227,697	89,852	36,361	83,392	416,264	55.95	55.95	1.34	326	.008		
Idaho.....	203,045	150,340	227,697	89,852	36,361	83,392	104,57	104.57	104.57	2.24	617	.013		
Illinois.....	4,183,909	182,887	3,156,191	322,652	66,306	249,441	467,869	18,644	163.35	4.40	874	.024		
Indiana.....	1,060,778	182,887	325,072	325,072	66,306	249,441	467,869	18,644	113.26	1.86	717	.012		
Iowa.....	899,943	182,887	325,072	325,072	66,306	249,441	467,869	18,644	118.83	2.35	674	.013		
Kansas.....	1,010,798	182,887	325,072	325,072	66,306	249,441	467,869	18,644	120.24	3.57	965	.021		
Kentucky.....	1,403,209	182,887	325,072	325,072	66,306	249,441	467,869	18,644	76.62	3.39	479	.021		
Louisiana.....	785,886	30,923	322,652	103,631	76.62	213,245	213,245	76.62	93.87	2.18	548	.013		
Maine.....	502,148	30,923	322,652	103,631	76.62	213,245	213,245	76.62	84.26	3.58	474	.020		
Maryland.....	449,456	110,437	468,400	25,936	25,936	249,441	7,812	4,670	116.03	1.83	622	.010		
Massachusetts.....	444,819	110,437	223,432	1,617	43,221	17,647	48,412	4,670	116.03	1.83	622	.010		
Michigan.....	3,203,206	283,417	828,950	284,200	284,200	284,200	1,625,410	181,229	162.26	3.86	918	.005		
Minnesota.....	806,460	283,417	828,950	284,200	284,200	284,200	1,625,410	181,229	129.91	3.85	722	.021		
Mississippi.....	210,441	283,417	828,950	284,200	284,200	284,200	311,283	135.67	135.67	2.08	787	.013		
Missouri.....	1,182,868	283,417	828,950	284,200	284,200	284,200	42,34	42.34	42.34	.02	286	.000		
Montana.....	257,520	283,417	828,950	284,200	284,200	284,200	103.20	103.20	103.20	2.23	563	.012		
							159.87	159.87	159.87	3.29	.911	.019		

TABLE 29.—Summary of expenditures, debt service, and outstanding indebtedness in public schools, by State, 1943-44

State, District of Columbia, or outlying part	1	2	3	4	5	6	7	Debt service			Outstanding indebtedness	
								8	9	10	Bonds	Other forms of school indebtedness
		Total current expense for full-time day schools	Outlays for new buildings, sites and new equipment	Interest	Total current expense for day schools	Expenditure for summer, adult evening and part-time continuation schools when separately reported	Total all schools	Payment of bonds and short-term loans from current and sinking funds	Transfers to sinking funds	Other debt service		
Continental United States.....	2,293,337,099	53,856,462	96,804,865	2,443,998,426	8,532,610	2,452,581,036	191,415,422	25,587,769	1,466,343	2,253,012,947	120,461,703	
Alabama.....	28,564,838	1,115,742	309,905	30,080,485	294,943	30,375,428	1,343,023	1,128,546		9,831,762		
Arizona.....	10,479,410	333,732	297,901	11,104,133		11,104,133	832,180			6,480,830		
Arkansas.....	16,770,376	753,882	772,397	18,303,440	5,827	18,311,467	1,578,384			19,999,848		
California.....	179,604,204	4,694,615	6,663,347	183,860,554		183,860,554	11,366,228		9,975	142,680,524		
Colorado.....	21,120,490	467,602	743,781	22,331,873		22,331,873	2,890,861			15,496,091		
Connecticut.....	32,738,471	313,002	980,851	34,032,324	170,825	34,203,149	2,598,964			25,466,140		
Delaware.....	4,699,446	64,453	44,865	4,808,770	23,625	4,833,395	2,181,182		2,676	2,294,169		
Florida.....	25,914,938	1,084,438	2,110,266	28,109,642	62,713	28,172,355	2,848,268		67,863	44,563,648		
Georgia.....	30,472,567	738,812	136,801	31,346,171	51,393	31,394,664	1,763,298		98,522	12,865,224		
Idaho.....	9,267,154	203,043	222,339	9,692,736		9,692,736	965,368			6,332,802		
Illinois.....	150,280,832	4,182,909	5,066,947	159,530,738	159,530,738	159,530,738	7,492,582	239,745		93,323,822		
Indiana.....	63,313,220	1,860,778	1,133,288	65,407,286	65,407,286	65,407,286	7,245,781			27,979,896		
Iowa.....	44,421,274	890,943	1,052,632	46,374,749	46,374,749	46,374,749	3,123,260		267,121	28,786,909		
Kansas.....	32,409,276	1,010,798	1,600,000	35,019,076	35,019,076	35,019,076	2,300,000			14,271,454		
Kentucky.....	31,198,561	1,463,209	507,562	33,168,922		33,168,922	1,782,515		394,283	12,832,630		
Louisiana.....	32,712,969	785,886	1,190,109	34,688,964	40,612	34,729,576	1,897,634			24,113,127		
Maine.....	11,667,762	502,148	1,152,603	12,322,503	33,812	12,346,315	426,432		48,194	4,366,680		
Maryland.....	27,184,870	440,456	1,357,747	28,982,082	123,847	29,126,929	2,573,984		31,273	32,343,150		
Massachusetts.....	83,375,790	444,819	2,651,226	84,471,835	821,865	85,236,640	3,174,760		92,023	3,19,668,900		
Michigan.....	103,299,877	3,203,206	4,795,663	111,180,046		111,180,046	11,083,742		1,131,408	109,414,779		
Minnesota.....	52,143,011	806,460	535,797	53,485,268		53,485,268	3,126,500			44,762,289		
Mississippi.....	18,795,570	410,441	43,337	19,640,348		19,640,348	3,877,500			3,14,544,588		
Missouri.....	53,379,145	1,182,868	1,389,730	55,961,743		55,961,743	3,815,482			36,104,331		
Montana.....	12,437,462	267,520	59,204	12,754,186		12,754,186	4,997,289			4,023,217		
Nebraska.....	22,429,710	319,828	573,516	23,323,354		23,323,354	1,469,823		72,492	20,765,913		

Nevada.....	2,903,828	65,827	53,353	3,023,008	612	3,023,620	201,651	1,354,900	21,858
New Hampshire.....	6,894,178	90,509	91,186	7,071,873	7,071,873	7,071,873	448,916	2,642,115	64,612
New Jersey.....	98,865,128	711,316	6,198,310	106,805,754	398,778	107,204,532	11,119,900	136,570,715	
New Mexico.....	10,540,917	93,725	219,377	10,854,019	3,312,811	10,854,019	11,170,723	4,286,884	
New York.....	298,842,551	7,763,841	21,216,601	322,822,993	3,312,811	326,135,804	29,190,563	513,371,852	
North Carolina.....	47,465,131	1,655,346	2,154,029	51,284,508		51,284,508	4,554,340	48,463,769	
North Dakota.....	11,043,725	668,690	433,923	13,035,238		13,035,238	1,485,746	3,890,461	
Ohio.....	124,932,416	1,707,587	5,118,894	131,768,897	376,836	132,135,733	16,584,077	110,051,942	
Oklahoma.....	34,245,216	1,090,965	1,887,016	36,224,197		36,224,197	2,128,432	143,800,000	
Oregon.....	22,177,086	614,378	432,256	23,243,670		23,243,670	1,019,708	7,366,480	
Pennsylvania.....	178,915,281	2,151,993	17,221,811	196,319,085		196,319,085	33,134,212	207,796,096	
Rhode Island.....	12,064,867	88,535	965,007	13,128,409		13,128,409	894,041	24,544,000	
South Carolina.....	21,198,805	786,512	844,931	22,825,248	28,480	22,853,248	1,418,927	10,873,012	
South Dakota.....	12,762,860	205,072	272,473	13,240,405	38,000	13,240,405	615,063	4,673,809	
Tennessee.....	30,598,617	526,907	4,267,622	31,393,146		31,393,146	4,664,594	30,558,666	
Texas.....	88,683,208	3,501,052	5,781,244	97,965,504		97,965,504	4,042,269	237,645,990	
Utah.....	13,694,266	379,874	300,408	14,374,548		14,374,548	539,082	8,092,700	
Vermont.....	5,354,487	151,051	43,369	5,545,907		5,545,907	385,481	2,078,775	
Virginia.....	34,502,986	1,030,257	536,785	36,070,028	290,936	36,360,964	1,918,482	28,000,000	
Washington.....	40,932,069	1,609,712	556,238	43,098,019		43,098,019	2,092,981	10,990,849	
West Virginia.....	33,528,068	1,189,711	333,254	35,101,033		35,101,033	451,458	10,003,900	
Wisconsin.....	55,096,119	1,161,917	284,043	56,542,079	2,356,860	58,898,939	2,264,327	14,267,681	
Wyoming.....	5,981,530	296,670	21,651	6,293,851		6,299,851	61,493	4,689,000	
District of Columbia.....	12,573,787	118,632		12,692,419	149,895	12,842,314			
Outlying parts of the United States.....	19,105,272	333,548		19,438,820	77,644	19,516,464			
Alaska.....	1,087,796	8,167		1,095,963		1,095,963			
Canal Zone.....	820,122	7,280		827,402		827,402			
Hawaii.....	5,897,671	252,148		6,149,819	14,587	6,149,819			
Puerto Rico.....	11,095,563	65,953		11,161,516	59,557	11,221,073			
Virgin Islands.....	204,120			204,120	3,500	207,620			

* Statistics, 1941-42.

* Cities only.

* Statistics, 1939-40.

* Incomplete.

TABLE 30.—Value of public property used for school purposes, by State, 1943-44

State, District of Columbia, or outlying part	VALUE OF—				AVERAGE VALUE OF SCHOOL PROPERTY	
	Total including undistributed items	Sites, when reported separately	Buildings ¹	Equipment furniture, libraries, apparatus, etc.	Per pupil in average daily attendance	Per pupil enrolled
1	2	3	4	5	6	7
Continental United States.	\$7,928,129,584				\$404	\$341
Alabama	66,711,240	7,189,117	52,807,951	6,714,172	127	104
Arizona ²	23,655,763	2,021,777	18,375,420	3,258,566	271	234
Arkansas	47,248,818	3,192,304	39,233,347	4,823,167	147	118
California ³	439,066,705				419	337
Colorado	69,615,789		62,361,535	7,254,254	413	344
Connecticut	105,845,779				488	414
Delaware	19,496,922				546	473
Florida	89,232,874	13,528,564	66,949,145	8,755,165	285	251
Georgia	85,503,326	5,895,843	70,194,138	9,413,345	156	125
Idaho	30,117,943		25,753,328	4,364,615	332	271
Illinois	595,573,993		531,214,699	64,359,294	626	529
Indiana	213,805,217	15,193,670	180,932,024	17,679,523	376	332
Iowa	143,889,187				376	313
Kansas	125,229,339		111,628,419	13,600,920	443	366
Kentucky	87,702,470		80,352,287	7,350,183	212	167
Louisiana	84,158,399	4,790,093	70,224,847	9,143,459	233	195
Maine	39,630,088		35,352,632	4,277,456	283	267
Maryland	90,810,298				369	322
Massachusetts ²	320,384,220				619	519
Michigan	386,455,865	33,559,863	306,737,513	46,158,489	465	430
Minnesota	209,959,687	13,201,981	172,340,762	24,416,924	541	456
Mississippi	72,000,000				162	131
Missouri	187,243,349		169,580,231	17,663,118	353	296
Montana ²	39,093,812		33,951,336	5,142,476	500	426
Nebraska	83,029,810		74,638,274	8,391,536	415	349
Nevada	8,409,152				432	347
New Hampshire	24,995,125		22,498,799	2,496,326	434	376
New Jersey	366,494,723	37,383,050	302,866,809	26,244,855	679	580
New Mexico	23,950,057		21,279,006	2,671,051	258	197
New York	1,215,034,897	151,473,602	956,478,728	107,082,567	765	627
North Carolina	128,895,790		114,505,965	14,389,825	177	156
North Dakota	39,298,250				391	335
Ohio ²	448,014,729	47,168,442	369,339,871	31,506,416	448	402
Oklahoma ²	97,731,069				253	211
Oregon	74,057,367	6,632,639	59,683,384	7,741,344	444	377
Pennsylvania	672,999,057		616,854,490	56,144,567	491	429
Rhode Island	51,333,757		47,221,345	4,112,412	634	530
South Carolina	57,566,521	4,312,055	48,078,831	5,175,635	158	127
South Dakota	42,779,257		37,539,598	5,239,659	438	368
Tennessee ²	70,500,000				143	116
Texas	307,782,848	26,751,970	237,208,893	43,771,985	306	248
Utah	44,847,838		40,385,232	4,462,606	366	324
Vermont	15,630,000				327	284
Virginia	99,037,288		87,453,335	11,583,953	216	185
Washington	113,954,050		100,621,681	13,332,369	408	311
West Virginia	93,755,427	9,885,469	71,058,740	12,311,218	260	229
Wisconsin ²	204,710,402		183,169,882	21,540,520	473	417
Wyoming ²	16,738,636		14,787,249	1,951,387	420	319
District of Columbia ²	54,202,471	7,744,682	41,794,103	4,663,686	697	588
Outlying parts of the United States.	\$40,108,666				\$110	\$98
Alaska	2,247,703				440	340
Canal Zone	2,537,390				440	394
Hawaii	18,261,983				240	221
Puerto Rico	17,061,590	1,446,023	13,845,991	1,769,576	62	55

¹Includes value of sites when not separately reported.²Statistics, 1942.³Statistics, 1940.

TABLE 31.—*Personnel and financial data for public schools, by educational level, by State, 1943-44*

A. ELEMENTARY DAY SCHOOLS, INCLUDING KINDERGARTEN

State, District of Columbia, or outlying part	INSTRUCTIONAL STAFF			Average daily attendance	Number of pupils in average daily attendance per instructional staff member	Instructional staff cost per pupil in average daily attendance
	Number	Combined salaries	Average salaries			
1	2	3	4	5	6	7
Total	297,089	\$395,490,019	\$1,331	6,818,331	25	\$54
Alabama.....	12,802	11,061,383	864	366,263	29	30
Arizona.....	2,711	4,896,771	1,806	70,782	26	69
Arkansas.....	8,734	6,359,868	728	237,234	27	27
Connecticut.....	7,457	13,135,896	1,762	150,504	20	87
Delaware.....	876	1,564,126	1,786	22,311	25	70
Florida.....	8,101	11,276,072	1,392	208,137	26	54
Georgia.....	16,415	12,823,043	781	418,593	25	31
Kentucky.....	12,448	13,187,895	1,050	318,627	26	41
Louisiana.....	10,279	13,076,237	1,272	286,162	28	46
Maryland.....	5,479	10,607,957	1,936	171,778	31	62
Massachusetts.....	13,549	27,643,904	2,040	316,247	23	87
Mississippi.....	11,876	7,422,963	625	388,044	33	19
Montana.....	3,386	4,737,636	1,399	56,456	17	84
Nebraska.....	9,356	9,507,566	1,016	139,426	15	68
New Hampshire.....	1,881	2,475,656	1,316	42,350	23	58
New Jersey.....	16,727	36,568,564	2,186	360,798	22	101
North Carolina.....	19,755	25,289,275	1,280	610,871	31	41
Ohio.....	22,954	39,794,166	1,734	632,426	28	63
Oklahoma.....	11,186	15,355,478	1,373	282,653	25	54
Rhode Island.....	2,071	3,722,043	1,797	48,121	23	77
South Carolina.....	11,601	10,107,893	871	295,938	26	34
South Dakota.....	5,523	5,256,908	952	71,791	13	73
Tennessee.....	15,131	15,173,683	1,003	396,678	26	38
Texas.....	29,223	35,149,475	1,203	354,296	29	46
Virginia.....	12,285	16,404,834	1,340	354,296	29	46
Washington.....	7,530	14,874,338	1,975	189,219	25	79
Wisconsin.....	14,477	22,116,317	1,528	306,768	21	72
Wyoming.....	1,608	2,149,764	1,337	29,166	18	74
District of Columbia.....	1,668	3,690,308	2,212	46,592	28	79
Outlying parts of the United States	4,876	\$5,315,817	\$1,900	230,635	47	\$23
Canal Zone.....	130	237,094	1,824	3,579	28	66
Puerto Rico.....	4,617	4,982,972	1,079	224,420	49	22
Virgin Islands.....	129	5,751	742	2,636	20	36

B. SEPARATELY ORGANIZED JUNIOR HIGH SCHOOLS

Total	19,832	\$41,372,883	\$2,086	376,975	22	\$97
Arkansas.....	378	394,658	1,044	12,415	33	32
Connecticut.....	769	2,124,169	2,762	15,401	20	138
Delaware.....	149	336,970	2,261	4,160	28	81
Florida.....	2,455	3,393,070	1,382	60,716	25	56
Georgia.....	404	467,208	1,156	12,078	30	39
Maryland.....	978	2,386,931	2,441	22,614	23	106
Massachusetts.....	4,000	8,780,643	2,195	82,471	21	106
New Jersey.....	1,946	4,778,561	2,456	34,349	18	139
Ohio.....	2,940	7,126,705	2,424	70,367	24	101
Rhode Island.....	841	1,829,170	2,175	15,363	18	119
Texas.....	2,924	4,912,603	1,680	29,338	23	97
Washington.....	1,262	2,832,479	2,244	17,703	23	114
District of Columbia.....	786	2,009,716	2,557	17,703	23	114

TABLE 31.—*Personnel and financial data for public schools, by educational level, by State, 1943-44—Continued*

B. SEPARATELY ORIGINAL JUNIOR HIGH SCHOOLS—(Continued)

State, District of Columbia, or outlying part	INSTRUCTIONAL STAFF			Average daily attendance	Number of pupils in average daily attendance per instructional staff member	Instructional staff cost per pupil in average daily attendance
	Number	Combined salaries	Average salaries			
1	2	3	4	5	6	7
Outlying parts of the United States	2,303	\$2,627,042	\$1,141	41,491	18	\$63
Canal Zone	57	77,926	1,367	1,158	20	67
Puerto Rico	2,240	2,543,971	1,136	40,266	18	63
Virgin Islands	6	5,145	858	67	11	77

C. JUNIOR-SENIOR HIGH SCHOOLS UNDER ONE ORGANIZATION

Total	24,034	\$35,858,524	\$1,492	486,349	20	\$74
Alabama	7,182	9,093,652	1,266	161,018	22	56
Arkansas	2,306	2,598,892	1,127	50,655	22	51
Delaware	437	812,190	1,858	6,004	14	135
Kentucky	5,592	7,705,663	1,378	95,830	17	80
Maryland	544	1,084,590	1,994	12,662	23	86
New Jersey	716	1,572,365	2,196	12,349	17	127
Ohio	7,093	12,687,453	1,789	144,594	20	88
Rhode Island	164	303,719	1,852	3,237	20	94
Outlying parts of the United States	56	\$107,233	\$1,915	1,029	18	\$104
Canal Zone	21	65,832	3,135	335	16	197
Virgin Islands	35	41,401	1,183	694	20	60

D. SEPARATELY ORGANIZED SENIOR HIGH SCHOOLS

Total	18,643	\$45,351,353	\$2,433	309,259	19	\$133
Arkansas	318	442,204	1,391	7,963	25	56
Connecticut	2,535	6,470,847	2,553	50,782	20	127
Delaware	131	351,617	2,684	2,227	17	158
Florida	2,669	3,708,184	1,389	37,768	14	98
Georgia	379	473,828	1,250	7,212	19	66
Maryland	648	1,884,331	2,908	13,337	21	141
Massachusetts	4,013	11,199,140	2,791	73,239	18	153
New Jersey	1,365	3,889,788	2,850	22,873	17	170
Ohio	2,250	6,713,629	2,984	52,350	23	128
Rhode Island	639	1,724,860	2,699	10,575	16	163
Texas	1,984	4,265,365	2,150			
Washington	947	2,134,996	2,254	18,556	20	115
District of Columbia	765	2,092,564	2,735	12,377	16	169
Outlying parts of the United States	518	\$688,156	\$1,328	12,553	24	\$55
Canal Zone	29	90,429	3,118	505	17	179
Puerto Rico	489	597,727	1,222	12,048	25	50

TABLE 31.—*Personnel and financial data for public schools, by educational level, by State, 1943-44—Continued*

E. REGULAR AND VOCATIONAL HIGH SCHOOLS

State, District of Columbia, or Outlying part	INSTRUCTIONAL STAFF			Average daily attendance	Number of pupils in average daily at- tendance per instruc- tional staff member	Instruc- tional staff cost per pupil in average daily attendance
	Number	Combined salaries	Average salaries			
1	2	3	4	5	6	7
Total	85,467	\$145,038,493	\$1,697.	1,325,508	18	\$98
Arizona	902	1,977,443	2,192	16,419	18	120
Arkansas	751	759,548	1,011	12,182	16	62
Delaware	61	129,823	2,128	1,025	17	127
Florida	182	258,760	1,422	6,534	36	40
Georgia	5,556	6,636,055	1,194	80,790	14	82
Louisiana	4,252	7,656,604	1,801	75,021	18	102
Maryland	1,273	2,493,675	1,959	25,593	20	97
Massachusetts	3,485	7,965,051	2,286	45,792	13	174
Mississippi	3,603	4,969,403	1,379	56,854	16	87
Montana	1,416	2,239,489	1,582	21,712	15	103
Nebraska	3,406	5,278,060	1,550	60,827	18	87
New Hampshire	1,158	1,607,194	1,388	15,265	13	105
New Jersey	5,907	15,930,979	2,697	109,236	18	146
North Carolina	6,174	9,513,977	1,541	117,541	19	81
Ohio	5,400	11,378,956	2,107	100,807	19	113
Oklahoma	5,949	9,127,589	1,534	103,408	17	88
Rhode Island	222	458,099	2,064	8,678	16	124
South Carolina	3,712	4,786,390	1,289	68,095	18	70
South Dakota	1,646	3,046,953	1,851	25,768	16	118
Tennessee	5,105	6,312,134	1,236	95,155	19	66
Texas	10,971	15,627,165	1,424			
Virginia	5,328	7,385,973	1,386	103,895	19	71
Washington	2,255	5,332,933	2,365	42,163	19	126
Wisconsin	5,931	12,673,518	2,137	126,009	21	100
Wyoming	713	1,264,766	1,774	10,666	15	118
District of Columbia	109	227,956	2,091	1,073	10	212
Outlying part of the United States	5	\$11,184	\$2,237	193	39	\$58
Canal Zone	5	11,184	2,237	193	39	58

TABLE 32.—*Statistical summary of Negro public elementary and secondary schools in 17 Southern States and the District of Columbia, 1919-20, 1929-30, 1939-40, and 1943-44*

Item	1919-20	1929-30	1939-40	1943-44
1	2	3	4	5
Total Negro population ¹	9,090,532	9,585,417	10,275,347	(2)
Negro children 5-17 years of age, inclusive.....	2,899,246	2,902,657	2,827,565	(2)
Pupils enrolled in elementary grades:				
Total.....	2,070,374	2,169,992	2,174,262	2,029,368
Boys.....	992,401	1,039,227	1,072,281	1,004,789
Girls.....	1,077,973	1,130,765	1,101,981	1,024,579
Pupils enrolled in high-school grades:				
Total.....	33,341	112,586	254,580	247,374
Boys.....	12,392	40,533	102,678	84,886
Girls.....	20,949	72,053	151,902	162,488
Pupils enrolled in elementary and high-school grades:				
Total.....	2,103,715	2,282,578	2,428,842	2,276,742
Boys.....	1,004,793	1,079,760	1,174,959	1,089,675
Girls.....	1,098,922	1,202,818	1,253,883	1,187,067
Average daily attendance.....	1,416,206	1,645,518	1,953,401	1,852,950
Total number of days attended by all pupils enrolled.....	168,414,206	217,754,344	305,344,350	303,802,159
Average number of days attended, by each pupil enrolled during the year.....	80	97	126	133
Average length of school term in days.....	119	132	156	164
Percent of school population enrolled.....	72.6	78.6	85.9	(2)
Percent of enrolled pupils in daily attendance.....	67.3	72.1	80.4	81.4
Percent of pupils in high-school grades.....	1.6	4.9	10.5	10.9
Instructional staff (Total).....	38,560	51,278	64,476	66,553
Elementary schools.....	37,625	46,047	54,544	55,223
Supervisors.....	(2)	(2)	198	264
Principals.....	(2)	(2)	365	516
Teachers.....	37,625	46,047	53,981	54,443
Men.....	6,398	6,246	7,883	4,489
Women.....	31,227	39,801	46,098	49,954
High schools.....	935	5,231	9,222	11,330
Supervisors.....	(2)	(2)	34	34
Principals.....	(2)	(2)	599	789
Teachers.....	935	5,231	9,299	10,507
Men.....	457	2,395	4,575	3,658
Women.....	478	2,836	4,724	6,849
High-school graduates:				
Total.....			30,009	31,180
Boys.....			11,014	8,338
Girls.....			18,995	22,842

¹ United States Bureau of the Census.² Data not available.³ Included with teachers.

TABLE 33.—*White and Negro school population, July 1, 1940, and enrollment and instructional staff¹ in public day schools in 17 Southern States and the District of Columbia, 1943-44*

State or the District of Columbia	Estimated population 5-17 years of age inclusive, July 1, 1940 ²		Percent distribution of school population		Enrollment in elementary and secondary schools		Instructional staff	
	White	Negro	White	Negro	White	Negro	White	Negro
1	2	3	4	5	6	7	8	9
Total	8,915,305	2,827,565	76.0	24.0	6,893,598	2,276,742	245,629	66,553
Alabama.....	514,005	291,934	63.8	36.2	413,567	228,468	13,983	6,001
Arkansas.....	402,269	132,572	75.2	24.8	300,898	99,999	9,833	2,654
Delaware.....	46,376	8,112	85.1	14.9	34,356	6,876	1,401	253
Florida.....	303,267	123,157	71.1	28.9	257,004	98,648	10,066	3,341
Georgia.....	528,192	309,803	63.0	37.0	426,126	256,023	15,524	7,642
Kentucky.....	710,666	49,534	93.5	6.5	488,278	37,166	16,628	1,412
Louisiana.....	387,646	232,324	62.5	37.5	269,347	163,248	10,171	4,360
Maryland.....	320,078	74,315	81.2	18.8	222,800	59,247	7,165	1,757
Mississippi.....	296,961	314,787	48.5	51.5	275,097	272,495	9,188	6,499
Missouri.....	762,649	50,256	93.8	6.2	584,004	47,814	22,137	1,560
North Carolina.....	718,053	308,944	69.9	30.1	568,919	256,634	18,519	7,410
Oklahoma.....	564,974	45,852	93.5	6.5	427,418	36,474	15,660	1,475
South Carolina.....	293,714	268,479	52.2	47.8	249,042	204,942	9,306	6,007
Tennessee.....	634,303	122,989	83.8	16.2	503,686	102,734	17,256	2,980
Texas.....	1,368,091	236,668	85.3	14.7	1,043,438	199,547	38,512	6,590
Virginia.....	499,443	191,991	72.2	27.8	391,937	142,841	13,870	4,370
West Virginia.....	494,790	29,703	94.3	5.7	383,549	25,531	14,325	999
District of Columbia.....	69,828	36,145	65.9	34.1	54,132	38,055	2,085	1,243

¹ Includes supervisors, principals, and teachers.² United States Bureau of the Census.TABLE 34.—*Length of school term, attendance, and average annual salary of white and Negro instructional staff¹ in 17 Southern States and the District of Columbia, 1943-44*

State or the District of Columbia	Length of school term in days		Average number of days attended by each pupil enrolled		Percent of pupils attending daily		Average annual salary per unit of instructional staff	
	White	Negro	White	Negro	White	Negro	White	Negro
1	2	3	4	5	6	7	8	9
Total	173.5	164.0	145.0	133.4	83.6	81.4	(?)	(?)
Alabama.....	169.6	166.1	138.4	137.9	81.6	83.0	\$1,158	\$661
Arkansas.....	165.3	141.8	132.7	111.8	80.3	78.8	924	555
Delaware.....	181.5	181.7	158.4	152.0	87.3	83.6	1,953	1,814
Florida.....	172.4	168.2	152.7	145.3	88.7	86.4	1,530	970
Georgia.....	175.3	165.0	143.9	127.2	82.1	77.1	1,123	515
Kentucky.....	159.2	171.6	125.4	138.0	78.8	80.4	-----	-----
Louisiana.....	180.0	156.7	149.8	131.5	83.2	83.9	1,683	828
Maryland.....	186.7	188.5	164.4	156.8	88.0	84.1	2,085	2,002
Mississippi.....	165.5	130.0	135.8	104.6	82.1	80.3	1,107	3a2
Missouri.....	182.4	193.9	154.0	152.5	84.4	78.7	1,397	1,590
North Carolina.....	179.9	179.9	161.4	152.7	89.7	84.9	1,380	1,249
Oklahoma.....	169.0	175.8	140.3	150.4	83.0	85.6	1,428	1,438
South Carolina.....	176.9	160.4	145.9	124.2	82.5	77.4	1,203	615
Tennessee.....	166.7	169.0	134.6	139.7	80.8	82.6	1,071	1,010
Texas.....	173.9	166.2	141.9	128.6	81.6	77.4	1,395	946
Virginia.....	180.0	180.0	155.3	151.1	86.3	84.0	1,364	1,129
West Virginia.....	172.1	173.7	151.3	157.1	87.9	90.5	-----	-----
District of Columbia.....	175.0	177.0	146.2	151.1	83.6	85.4	2,610	2,610

¹ Includes supervisors, principals, and teachers.² Average salary for 15 States and District of Columbia: White, \$1,349; Negro, \$895.

TABLE 35.—Enrollment of Negro pupils, by grade, in 17 Southern States and the District of Columbia, 1943-44

State or District of Columbia	Grand total	Kindergarten and elementary school pupils, by grade										Secondary school pupils, by year					Post- grad- uate
		Total	Kindergarten	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Total	First	Second	Third	Fourth	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Total.....	2,276,742	2,029,368	8,515	539,762	282,170	271,737	254,872	225,511	196,298	163,629	86,874	247,374	99,148	68,404	47,695	31,989	138
Alabama.....	228,468	207,947	0	55,374	28,700	27,552	25,944	23,068	20,381	15,493	11,435	20,521	8,927	5,399	3,428	2,787	0
Arkansas.....	90,999	93,031	0	26,733	11,938	11,393	11,111	10,077	8,989	7,213	5,577	6,998	2,989	1,923	1,193	863	0
Delaware.....	6,876	6,930	77	1,040	761	753	733	685	672	663	646	946	395	299	180	92	0
Florida.....	98,648	86,236	162	18,499	12,237	11,594	11,082	9,796	9,000	7,783	6,245	12,412	4,535	3,451	2,434	1,882	0
Georgia.....	256,023	232,157	162	72,501	34,437	32,297	29,167	24,794	20,182	16,594	1,983	23,566	9,749	6,500	4,553	3,084	0
Kentucky.....	37,166	31,281	0	6,356	3,738	3,903	3,903	3,691	3,616	3,130	2,894	5,885	2,091	1,670	1,191	983	0
Louisiana.....	193,248	146,479	21	44,491	23,438	20,546	18,596	16,086	12,798	10,495	1,731	16,769	7,013	4,520	3,109	2,087	40
Maryland.....	59,247	50,478	1,522	9,513	7,078	6,868	6,885	6,096	5,475	4,710	1,493	8,769	3,846	2,340	1,784	1,329	0
Mississippi.....	272,495	260,150	0	87,515	34,048	34,207	31,234	25,982	20,553	16,118	11,493	12,348	5,380	3,698	2,020	1,597	0
Missouri.....	47,814	39,966	2,538	7,223	5,089	5,115	4,794	4,672	4,285	3,980	2,570	7,848	3,422	1,983	1,338	1,106	0
North Carolina.....	256,634	228,041	0	53,124	32,440	31,846	28,288	25,217	22,077	18,994	15,055	28,593	11,293	8,593	6,505	2,985	27
Oklahoma.....	36,474	30,876	0	6,999	3,751	3,682	3,607	3,559	3,423	3,222	2,603	8,598	2,034	1,458	1,193	1,193	0
South Carolina.....	204,942	184,066	0	52,838	27,415	25,747	24,175	20,922	17,778	13,191	7,061	20,876	8,602	5,892	3,942	2,810	0
Tennessee.....	102,734	90,470	0	19,697	11,775	12,011	11,504	10,537	9,405	8,080	7,061	12,264	4,623	3,311	2,331	1,944	0
Texas.....	199,547	169,066	169	39,825	21,462	21,228	20,282	19,568	18,205	16,159	12,168	30,491	11,473	8,541	6,309	4,168	0
Virginia.....	142,841	120,794	1,126	28,607	16,873	16,703	16,892	15,010	13,248	11,165	365	22,047	8,893	5,841	4,130	3,116	67
West Virginia.....	25,531	20,291	0	3,568	2,399	2,536	2,353	2,493	2,352	2,305	2,245	3,250	1,915	1,472	961	398	4
District of Columbia.....	38,055	32,129	2,910	4,839	3,836	3,756	3,522	3,468	3,841	3,034	2,903	5,926	2,548	1,903	1,024	651	0

TABLE 36.—Enrollment, by grade, in Negro public day schools, and percentage in each grade in 17 Southern States¹ and the District of Columbia, 1932-33 through 1943-44

Item	1932-33	1933-34	1934-35	1935-36	1936-37	1937-38	1938-39	1939-40	1940-41	1941-42	1942-43	1943-44
1	2	3	4	5	6	7	8	9	10	11	12	13
Total enrollment.....	2,391,709	2,430,098	2,434,540	2,438,981	2,425,474	2,411,967	2,420,404	2,428,842	2,407,657	2,386,471	2,331,607	2,276,742
Elementary schools.....	2,242,126	2,266,913	2,258,479	2,250,045	2,227,064	2,204,083	2,189,172	2,174,262	2,143,775	2,113,288	2,071,328	2,029,368
High schools.....	149,583	163,185	176,061	188,936	198,410	207,884	231,232	254,580	263,882	273,183	280,279	287,374
Number in each grade:												
Kindergarten.....	4,784	4,765	5,567	6,369	6,227	6,085	6,853	7,621	7,480	7,339	7,927	8,515
First.....	791,079	796,765	765,083	733,301	709,271	685,241	658,854	632,468	612,919	593,369	566,566	539,762
Second.....	334,586	334,780	335,064	335,348	328,378	321,408	316,407	311,405	303,079	294,753	288,461	282,170
Third.....	299,471	302,803	303,830	304,856	303,585	302,313	298,675	295,038	287,511	279,985	275,861	271,737
Fourth.....	266,167	269,866	272,624	275,383	275,069	274,755	274,588	274,420	265,633	256,845	255,859	254,872
Fifth.....	214,279	217,090	222,125	227,160	227,599	228,039	233,118	238,193	236,259	234,320	229,915	225,511
Sixth.....	166,102	170,382	175,549	180,716	183,208	185,700	191,967	198,234	198,054	197,874	197,086	196,298
Seventh.....	121,570	125,391	131,471	137,550	141,035	144,520	151,997	159,475	165,724	171,974	167,802	163,629
Eighth.....	44,083	45,071	47,216	49,302	52,692	55,022	56,713	57,403	57,116	76,829	81,851	86,874
First year high school.....	60,475	65,473	70,955	76,436	78,396	80,355	89,724	99,094	101,017	102,939	101,044	99,148
Second year high school.....	40,439	43,335	47,333	51,431	53,883	56,335	62,790	69,244	71,758	74,272	71,338	68,404
Third year high school.....	28,020	31,050	33,293	35,536	37,903	40,270	44,785	49,300	51,899	54,495	51,097	47,695
Fourth year high school.....	20,610	23,255	24,322	25,389	27,532	29,676	32,942	36,208	38,354	40,500	36,244	31,989
Postgraduate.....	39	72	108	144	696	1,248	991	734	854	974	556	138

TABLE 36.—Enrollment, by grade, in Negro public day schools, and percentage in each grade in 17 Southern States¹ and the District of Columbia, 1932-33 through 1943-44.—Continued.

Item	1932-33	1933-34	1934-35	1935-36	1936-37	1937-38	1938-39	1939-40	1940-41	1941-42	1942-43	1943-44
1	2	3	4	5	6	7	8	9	10	11	12	13
Percent in each grade:	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Total.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Kindergarten.....	0.2	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.4
First.....	33.1	32.8	31.4	30.1	29.3	28.4	27.2	26.0	25.5	24.9	24.3	23.7
Second.....	14.0	13.8	13.5	13.8	13.5	13.3	13.1	12.8	12.6	12.4	12.4	12.4
Third.....	12.5	12.5	12.5	12.5	12.5	12.5	12.3	12.1	11.9	11.7	11.8	11.9
Fourth.....	11.1	11.1	11.2	11.3	11.3	11.4	11.4	11.3	11.0	10.8	11.0	11.2
Fifth.....	8.9	8.9	9.1	9.3	9.4	9.5	9.6	9.8	9.8	9.8	9.9	9.9
Sixth.....	6.9	7.0	7.2	7.4	7.6	7.7	7.9	8.2	8.2	8.3	8.4	8.6
Seventh.....	5.1	5.2	5.4	5.6	5.8	6.0	6.3	6.6	6.9	7.2	7.2	7.2
Eighth.....	1.8	1.7	1.9	2.0	2.2	2.3	2.3	2.4	2.8	3.2	3.5	3.8
First year high.....	2.5	2.7	2.9	3.1	3.2	3.3	3.7	4.1	4.2	4.3	4.3	4.4
Second year high.....	1.7	1.8	2.0	2.1	2.2	2.3	2.6	2.9	3.0	3.1	3.1	3.0
Third year high.....	1.2	1.2	1.4	1.5	1.6	1.7	1.9	2.0	2.2	2.3	2.2	2.1
Fourth year high.....	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9
Postgraduate.....	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0	.0

¹ See table 35 for States included.² Estimated.³ The class entering the first grade, 1932-33.

TABLE 37.—Negro instructional staff, attendance, and unit cost in 17 Southern States and the District of Columbia, 1943-44

State or District of Columbia	INSTRUCTIONAL STAFF													Average daily attend- ance	Cost per pupil in average daily attend- ance
	Total	Super- visors	Prin- cipals	Teachers			Elementary teachers			Secondary teachers¹			Percent of men teachers		
				Total	Men	Women	Total	Men	Women	Total	Men	Women			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Total	66,553	298	1,305	64,950	8,147	56,803	52,265	3,898	48,367	12,685	4,249	8,436	12.5	1,852,950	34.00
Alabama	6,001	49	55	5,897	618	5,279	4,514	183	4,331	1,383	435	948	10.5	189,724	25.65
Arkansas	2,654	1	26	2,627	430	2,197	2,160	242	1,898	467	168	299	16.4	78,845	25.81
Delaware	253	5	5	248	44	204	175	14	161	73	30	43	17.8	5,750	47.44
Florida	3,341	29	69	3,243	298	2,945	2,336	77	2,259	907	221	686	9.2	85,228	47.44
Georgia	7,642	40	21	7,581	684	6,897	6,224	184	6,040	1,357	500	857	9.0	197,303	23.63
Kentucky	1,412	---	122	1,290	185	1,105	609	61	548	681	124	557	14.3	29,888	40.25
Louisiana	4,380	36	---	4,324	461	3,863	3,707	248	3,459	617	213	404	10.7	136,988	90.82
Maryland	1,757	26	53	1,678	258	1,420	1,209	93	1,116	469	165	304	15.4	49,828	11.96
Mississippi	6,499	---	26	6,473	732	5,741	6,029	603	5,426	444	129	315	11.3	219,165	---
Missouri	1,580	---	---	1,560	298	1,262	1,184	108	1,076	376	190	186	19.1	37,613	---
North Carolina	7,410	---	291	7,119	861	6,258	6,077	522	5,555	1,042	339	703	12.1	217,840	50.07
Oklahoma	1,475	---	87	1,388	216	1,172	1,005	94	911	333	122	281	15.6	31,218	95.21
South Carolina	6,007	---	77	5,930	677	5,253	5,234	416	4,818	696	281	435	11.4	184,691	26.89
Tennessee	2,980	33	22	2,925	452	2,443	2,346	266	2,080	579	216	353	16.5	84,899	---
Texas	6,590	---	279	6,311	897	5,414	4,847	344	4,503	1,464	553	911	14.2	154,435	---
Virginia	4,370	72	119	4,179	578	3,601	3,306	324	2,982	873	254	619	13.8	119,929	---
West Virginia	999	---	---	999	247	752	628	76	552	371	171	200	24.7	23,094	---
District of Columbia	1,243	12	53	1,178	181	997	675	23	652	503	158	345	15.4	32,512	---

¹ Includes all teachers in junior, junior-senior, senior, and regular high schools.² Average cost for 10 States enumerated.

TABLE 38.—Number, sex, and age of Negro high-school graduates in 17 Southern States and the District of Columbia, 1943-44

State or District of Columbia	Total graduates	MALE GRADUATES, BY YEARS OF AGE								FEMALE GRADUATES, BY YEARS OF AGE							
		15 or less	16	17	18	19	20	21 or more	Total, including undis- tributed	15 or less	16	17	18	19	20	21 or more	Total, including undis- tributed
		4	5	6	7	8	9	10		12	13	14	15	16	17	18	
1	2	3															
Total	31,180	8,338															22,842
Alabama	2,496	707															
Arkansas	754	201	7	29	53	66	25	14	7	11	54	145	168	97	60	18	
Delaware	104	35	0	2	6	18	8	1	0	0	0	26	25	10	3	0	
Florida	1,372	320															
Georgia	12,557	768															
Kentucky	806	261															
Louisiana	1,883	358															
Maryland	1,191	418															
Mississippi	1,335	184															
Missouri	1,075	322															
North Carolina	5,236	1,344															
Oklahoma	1,722	250															
South Carolina	1,677	428															
Tennessee	1,612	397															
Texas	4,171	1,283	139	373	502	187	61	15	6	361	942	907	452	163	44	19	
Virginia	2,818	658	48	193	254	111	42	7	3	191	548	690	456	204	52	19	
West Virginia	726	184		26	67	61	15	11	4	14	65	162	191	72	29	9	
District of Columbia	645	240															405

(1) Estimated on the basis of the enrollment in the senior year.

TABLE 39.—Expenditures for Negro public day schools in 15 Southern States and the District of Columbia, 1943-44

State or District of Columbia	General control	INSTRUCTION			OPERATION OF PLANT				Main-tenance	AUXILIARY AGENCIES			
		Total	Salaries of instructional staff	Pay-ments for text-books	Other expense of in-struction	Total including undivided items	Wages of janitors, etc.	Fuel, light, power, and janitors' supplies		Total, including undivided item	Pro-motion of health	Trans-portion of pupils	Other auxiliary agencies
1	2	3	4	5	6	7	8	9	10	11	12	13	14
Total of States reporting all current expense items.....	\$1,383,141	\$38,276,122	\$37,943,898	\$486,217	\$746,007	\$2,234,304	\$585,324	\$708,770	\$1,418,748	\$2,583,048	\$120,175	\$1,349,834	\$317,444
Alabama.....	187,998	4,104,564	3,969,425	46,350	88,789	165,683	---	---	186,454	179,927	---	179,927	---
Arkansas.....	126,008	1,547,555	1,473,663	44,370	29,522	140,866	43,423	97,173	66,524	117,869	---	107,083	10,816
Delaware.....	---	---	458,980	---	---	---	---	---	---	---	---	---	---
Florida.....	148,908	3,400,568	3,239,480	92,236	68,853	168,264	83,047	85,217	126,983	116,283	8,503	106,168	1,612
Georgia.....	63,422	4,131,815	3,935,788	78,388	117,689	152,722	86,426	66,266	98,480	173,106	4,077	71,523	100,506
Louisiana.....	199,413	3,766,213	3,611,392	95,264	59,567	315,372	---	---	184,918	795,595	---	231,846	6,610
Maryland.....	15,264	3,663,486	3,516,798	55,264	91,424	397,619	214,401	183,128	114,418	330,037	91,542	60,000	21,974
Mississippi.....	70,441	2,309,435	2,225,455	37,500	1,46,480	79,588	---	---	61,783	81,974	---	---	---
Missouri.....	---	---	2,480,388	---	---	---	---	---	---	---	---	---	---
North Carolina.....	424,262	9,410,738	9,253,334	36,845	120,559	434,893	157,937	276,966	245,155	392,157	---	392,157	---
Oklahoma.....	107,709	2,198,821	2,121,301	0	77,520	230,977	---	---	223,201	211,502	19,063	192,449	---
South Carolina.....	39,716	3,742,927	3,697,273	0	45,655	148,592	---	---	115,832	184,568	---	8,681	175,887
Tennessee.....	---	---	3,010,196	---	---	---	---	---	---	---	---	---	---
Texas.....	43,052	---	6,232,142	---	---	---	---	---	---	---	---	---	---
Virginia.....	---	---	4,931,676	---	---	---	---	---	---	---	---	---	---
District of Columbia.....	---	---	13,244,230	---	---	---	---	---	---	---	---	---	---

1 Estimated.

TABLE 40.—Current expense, capital outlay, debt service, and value of property in Negro public schools in 12 Southern States, 1943-44

State	Fixed charges	Total current expense for full-time day schools	CAPITAL OUTLAY			Interest	Total current expense, capital outlay and interest for day schools	Expenditures for summer, evening, adult, and part-time schools when separately reported	Total, all schools	Debt service (payment of bonds and short-time loans)	Value of property used for school purposes
			Total, including undivided items	New buildings, sites, and alterations	New equipment						
1	2	3	4	5	6	7	8	9	10	11	12
Total States reporting	\$520,195	\$46,415,558	\$856,896								
Alabama	42,632	4,867,258	168,684			40,700	5,076,642	56,964	5,133,606	95,851	6,716,200
Arkansas	36,071	2,034,653	54,158	34,706	19,452	53,091	2,141,902	(1)	2,141,902	87,570	4,258,466
Florida	82,494	4,043,500	130,123	108,784	21,339	(1)	4,175,623	2,249	4,175,623	(3)	6,025,265
Georgia	47,862	4,662,107	52,174	27,001	25,173	10,620	4,724,901	(1)	4,724,901	(1)	9,241,947
Louisiana	252,271	5,513,782	77,063			(1)	5,590,345	13,880	5,604,725	(3)	8,209,374
Maryland	4,697	4,525,421	19,174	11,959	7,215	(3)	4,544,595	44,387	4,588,982	(2)	9,698,443
Massachusetts	18,858	2,622,077	(3)			(3)	2,622,077	(1)	2,622,077	(3)	(4)
North Carolina	(3)	10,907,205	289,764	269,208	20,556	(3)	11,196,969	(1)	11,196,969	(3)	17,527,182
Oklahoma	(4)	2,972,210	15,256			(3)	2,987,466	(1)	2,987,466	(3)	(5)
South Carolina	35,710	4,267,345	50,500	38,583	11,917	17,304	4,335,149	(1)	4,335,149	(4)	7,824,577
Texas											17,261,050
Virginia											12,219,891

Not reported separately for Negro schools.

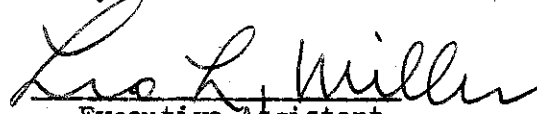
(1) Data not available.

(2) Included in other expenditures.

MAY 12 1947

Pursuant to the provisions of Section 1601, Chapter 10, Title 42, United States Code, I hereby certify that the annexed publication entitled Biennial Survey of Education in the United States, 1942-44, Statistics of State School Systems, 1943-44, is an official publication of the United States Office of Education, Federal Security Agency.

IN WITNESS WHEREOF, I have hereunto set my hand,
and caused the seal of the Federal Security Agency
to be affixed on the day and year first above written.
By direction of the Federal Security Administrator.


Executive Assistant

The latest standards are set out
on page 1.

STANDARDS
OF THE
AMERICAN BAR ASSOCIATION
FOR
LEGAL EDUCATION

FACTORS BEARING ON THE APPROVAL
OF LAW SCHOOLS BY THE
AMERICAN BAR ASSOCIATION

Published by
THE SECTION OF LEGAL EDUCATION
AND ADMISSIONS TO THE BAR
of the
AMERICAN BAR ASSOCIATION

November 1, 1943

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November 1, 1943

AMERICAN BAR ASSOCIATION

1140 North Dearborn Street

CHICAGO, ILLINOIS

Resolutions 41

He

STANDARDS OF THE AMERICAN BAR ASSOCIATION

(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition to admission at least two years of study in a college. ✓

(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course equivalent in the number of working hours, if they devote only a part of their working time to their studies. ✓

(c) It shall provide an adequate library available for the use of the students. ✓ 7500

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body. (3 full time) ✓

(e) It shall not be operated as a commercial enterprise and the compensation of any officer or member of its teaching staff shall not depend on the number of students or on the fees received. ✓

(f) It shall be a school which in the judgment of the Council of Legal Education and Admissions to the Bar possesses reasonably adequate facilities and maintains a sound educational policy; provided, however, that any decision of the Council in these respects shall be subject to review by the House of Delegates on the petition of any school adversely affected. ✓

(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subjected to an examination by public authority to determine his fitness.

(3) The Council of Legal Education and Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not and to make such publications available so far as possible to intending law students.¹

¹The standards were adopted by the American Bar Association in 1921, with the exception of 1f, which was adopted in 1938.

850
400
Classrooms 3
Bldg 1907

12
floor space
more per student

average
classroom
150 -

FACTORS BEARING ON THE APPROVAL OF LAW SCHOOLS BY THE AMERICAN BAR ASSOCIATION

PREPARED BY THE
COUNCIL OF THE SECTION OF LEGAL EDUCATION AND ADMISSIONS
TO THE BAR

IN 1921 the Council of Legal Education and Admissions to the Bar was instructed by the American Bar Association to prepare and publish a list of law schools which complied with certain standards. These standards and the specific interpretations of them made by the Council, together with additions which have been adopted by the Association from time to time, have constituted a guide in the approval of law schools. Their provisions were more quantitative than qualitative and dealt with the admission requirements of the school, its length of course, the number of usable books in the library, the physical equipment, the number of full-time teachers and its operation on a non-commercial basis. While schools which met these physical standards were also guided toward higher qualitative standards, it was difficult to withhold approval where a school had made formal compliance with quantitative requirements. This resulted in the adoption of a new standard in 1938 which read as follows:

"An approved school shall be a school which, in the judgment of the Council of Legal Education and Admissions to the Bar, possesses reasonably adequate facilities and maintains a sound educational policy; provided, however, that any decision of the Council in these respects shall be subject to review by the House of Delegates on the petition of any school adversely affected."

Approval is granted or withdrawn by the House of Delegates of the American Bar Association upon recommendation of the Council of the Section of Legal Education and Admissions to the Bar.

No school will be given provisional approval unless in the judgment of the Council it is found to be meeting the minimum standards of the American Bar Association. A provisionally approved school will be considered for full approval when it is pursuing a sound educational policy on a basis which assures continued compliance with the letter and spirit of the standards. Provisional or full approval may be withdrawn at any time when in the judgment of the Council a school is not continuing to meet the standards.

As of October 1, 1943, of approximately 150 law schools, 101 have been fully approved and 9 have been provisionally approved, making a total of 110 schools on the approved list.

In order to fulfill adequately its responsibilities the Council has made a careful reappraisal of the factors to be taken into consideration in approving law schools, and for its own guidance and that of the schools, it has listed these factors with some explanation where that is needed.

The standards set forth certain minimum requirements which must be met in all cases. In addition, the Council has set forth some requirements which it regards as essential. A school which meets these requirements will then be judged in reference to the picture which it presents as a whole. The general component parts of the picture are grouped in the following outline under these headings:

1. Connection with a recognized university.
2. Financial condition of the school.
3. Physical plant.
4. Library content and administration.
5. Admission requirements.
6. Administrative and teaching personnel.
7. Teaching methods.
8. Curriculum.
9. Scholarship standards.
10. Degree requirements.
11. Availability and completeness of records.
12. Quality and characteristics of student body.
13. Additional means and methods of law training.
14. Bar examination success of graduates.
15. Administrative policies.

I. BACKGROUND AND ORGANIZATION

A. *When connected with a university.*

By reason of the fact that the organization of a school cannot but influence the quality of the institution profoundly, the question as to whether the law school is connected with a university, and if so, the kind and quality of the university, is one of importance in connection with law school approval. A connection with an established university of good standing is highly desirable both because it guarantees a certain stability to the law school and because it is a factor in the maintenance

of the proper academic standards. However, it is the opinion of the Council that such a connection should not be a requirement for Association approval.

If there is a university connection, all the following items should be taken into account:

1. The extent of the connection—*i. e.*, is it more than formal or nominal?
2. The extent to which the law school is autonomous.
3. Size and character of the university of which the law school is a part.
4. Number, size and general standards of other undergraduate non-professional colleges of the university of which the law school is a part.
5. Source and size of income of the university of which the law school is a part, and of its other schools and colleges.
6. Accreditation of other colleges and schools in the university by accepted accrediting agencies.
7. Attitude of the governing authority of the university toward the law school.

B. *When not connected with a university.*

As has been stated, a university connection is not necessary for approval. Without it, however, a burden rests upon a school to show not only that it is not a commercial enterprise operated for profit and that the compensation of any officer or member of its teaching staff does not depend on the number of students or on the fees received, but also that it has sufficient income from tuition or endowment so that its academic policies will not be influenced by commercial motives. Furthermore, it must demonstrate sufficient stability to give a reasonable assurance of continued operation under satisfactory standards and educational policies. The following factors are pertinent in this connection:

1. Manner in which the school is incorporated—*i. e.*, profit or non-profit corporation.
2. Disposition of surplus, if any, and manner of fixing salaries of officers and faculty.

3. If connected with an organization such as the Y. M. C. A. or Knights of Columbus, the nature of the connection and the extent to which the law school is autonomous.
4. The structure of the law school, the composition of its governing board, etc.
5. Control exercised over law school funds by any parent organization.
6. Attitude of the governing authority of any parent organization toward the law school.
7. Need of the community for such a school as related to future permanence and stability of the institution.

II. FINANCIAL CONDITION OF THE SCHOOL

The financial condition of a law school is a factor of great importance and one which reflects itself in a number of other areas of interest in regard to approval, such as faculty personnel, scholarship and admission practices, library and physical plant. The school's financial condition must be such that reasonably adequate facilities and a sound educational policy can be maintained. Whether or not the school meets these requirements is judged in the light of the facilities and standards of other approved schools. It is highly desirable that a school have some source of revenue other than tuition receipts. The following items are considered:

1. General financial condition.
2. Source and amount of annual income, endowment funds, or other available institutional resources.
3. Character and amount of annual expenditures.
4. Disposition of funds other than those used for law school purposes, if any.
5. Availability of funds for research, faculty professional travel, etc.
6. Character and extent of advertising in so far as this bears on attitude of school toward financial problems.
7. Manner of meeting an operating deficit.
8. Amount of tuition and other fees per student.
9. Financial provision for extra curricular professional activities, such as law review, moot court, student briefing service, etc.
10. Funds available for scholarships, fellowships and student loans.

III. PHYSICAL PLANT

A law school's plant and physical facilities should be reasonably adequate for the needs of its program so as to promote efficient work on the part of both students and faculty. Differing local conditions will produce different kinds of physical requirements. Utility, not luxury, should be the standard, and it should be kept in mind that surroundings influence conduct and attitude. It is important that there be a physical separation of the law school from other departments or schools of the university in order to create a proper professional atmosphere. It is important that each full-time member of the faculty have a separate office which, wherever possible, should be situated near the library. Not only does this give him a place of his own in which to work and in which to consult students, but it also adds to his own self-respect and to his conception and that of the students regarding the importance of the work he is doing. In determining the adequacy of the physical plant the following factors are relevant:

1. Location and type of building.
2. Classroom facilities.
3. Library facilities and their accessibility.
4. Facilities for faculty—separate offices, location relative to library, etc.
5. Facilities for extra curricular professional activities, such as law review, moot court, briefing services, etc.
6. Classroom and library furnishings.
7. Heat, light, ventilation and maintenance.
8. Accommodations for seminar work and individual research.
9. Club rooms, student lounge or other common meeting place.

IV. LIBRARY CONTENT AND ADMINISTRATION

It is a basic principal of legal education that the library is the heart of a law school and is a most important factor in training law students and in providing faculty members with materials for research and study. Therefore, it is a cardinal requirement of the American Bar Association that an adequate library be maintained, consisting of not less than 7,500 well-selected, usable volumes, not counting obsolete material or broken sets of reports, kept up to date and owned or controlled by the law school with which it is connected.

In order to maintain the library, it is required that a five-year average expenditure of \$1,500.00 per year on library additions be made with a minimum expenditure of \$1,000.00 in any one year.

The content of the library is of importance and will be considered in connection with approval.² The following factors are of importance in evaluating a law library and its administration:

1. Quantity and quality of the content of the library.
2. Average amount expended annually on additions, binding and repairs.
3. Adequacy of physical facilities.
4. Cataloguing system.
5. Administration of the library:
 - (a) Training, experience and effectiveness of the librarian.
 - (b) Size and training of the library staff.
 - (c) Average amounts expended for administration of the library.
 - (d) Degree of autonomy.
6. Students' use of the library.
7. Other library facilities of the college or university.

V. ADMISSION REQUIREMENTS

Admission requirements and the manner in which they are applied by a particular school are factors bearing on approval. Careful selection of law students, as well as the rejection of applicants clearly unfit to study law, is highly desirable.

The following is required to be incorporated in the admission policy of a school before approval will be accorded:

"It shall require as a condition of admission at least two years of study in a college."

An approved law school shall require that all college work submitted for admission be done in residence in a college whose work, for the purpose of the evaluation of transcripts, has been given a rating in the Annual Report compiled by the American Association of Collegiate Registrars, and it shall accept work from that college only to the extent

²In the building of a small law school library the consideration of the following articles is recommended: Moylan, *A Selected List of Books for the Small Law School Library*, (Nov. 1939) 32 LAW LIBRARY JOURNAL 399; Long, *A Selected List of Treatises for the Small Law School Library*, (July 1942) 35 LAW LIBRARY JOURNAL 233.

credit is recognized for it in that report, provided that the Council reserves the right to make its own independent rating. It shall further require of all candidates for any degree, other than special students, at the time of the commencement of their law study the completion of one-half of the work acceptable for a bachelor's degree granted on the basis of a four-year period of study either by the state university or a principal college or university in the state where the law school is located. No more than ten per cent of the credit presented for admission shall be in non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music, or courses without intellectual content of substantial value.

A student's pre-legal work must have been passed with a scholastic average at least equal to the average required for graduation in the institutions attended, and this average shall be based on all the work undertaken by the student in his pre-law curriculum, exclusive of non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music, or courses without intellectual content of substantial value; provided, however, that under exceptional circumstances, and where the student has completed at least three-fourths of the number of hours required by that school for a degree, the required average may be based upon a selection of courses constituting one-half of the work acceptable for a bachelor's degree. Many schools are requiring pre-legal scholastic attainment in excess of the minimum requirement. This policy is recommended by the American Bar Association.

An approved school shall require from each student admitted a written statement as to his previous attendance at other law schools, and as to his previous applications for admission to other law schools. Each school shall have in its records, within twenty days after the registration of a student, credentials showing that such student has completed the required pre-legal work. It is recommended as a matter of good policy that a school have a record of these credentials in its files before it registers the student.

Work done in residence as applied to the law-school admission requirements shall mean work done in class in an approved college, or if done off the campus of the college, it shall mean work done in a class meeting in regular sessions each week under the personal supervision and instruction of a member of the instructional staff of an approved college; provided that, after the minimum requirements for admission under the standards of the American Bar Association have been met, correspondence

work acceptable by a recognized college may be counted toward such further entrance requirements as the particular school may set up.

Students who do not have the required preliminary education shall be classed as special students, and shall be admitted to approved schools only in exceptional cases. The number of special students admitted to approved schools in any year shall not exceed ten per cent of the average number of beginning law students admitted during each of the two preceding years. No student shall be admitted as a special student except where special circumstances, such as the maturity and the apparent ability of the student, seem to justify a deviation from the rule requiring at least two years of college work.

The following classes of students are to be considered as special students unless the law school in which they are registered has on file credentials showing that they have completed the required pre-legal work:

1. Those transferring from another law school either with or without advanced standing in law.
2. Those taking a limited number of subjects either when registered in another department of the university or when on a purely limited time basis.

Any school admitting special students must advise them that such admission does not relieve them of the necessity of meeting bar admission requirements as to pre-legal college education in the state where they intend to practice.

Advanced standing for credit earned in another law school in the United States shall be given only when such work has been taken in a school approved by the American Bar Association. However, an approved school may accept credits for advanced standing even though the credits were earned in an approved school before the date of approval, provided the applicant for advanced standing was taking work in the school at the time of provisional approval, and, provided further, that the student fulfills the pre-law requirements of the American Bar Association.

Students previously disqualified on account of low scholarship in another law school shall not be admitted to an approved school, except in cases where the dean or faculty of the admitting school has reason to believe that the failure was occasioned by factors other than lack of capacity. Before the admission of a student dropped on account of scholarship from another school, it is good practice to secure from the

dean of the school from which the student was dropped a statement that he is eligible for readmission to that school or a statement of facts and circumstances indicating his ability to carry standard work.

In considering schools for approval, the following factors will be weighed:

1. Pre-legal requirements and the manner in which they are administered.
2. Credit given for law study in other schools.
3. Previous record of transfer students.
4. Admission of special students.

VI. ADMINISTRATIVE AND TEACHING PERSONNEL

The American Bar Association believes that, on the whole, law school teaching can be most effectively done by those teachers who devote their entire time to teaching and legal scholarship. It is therefore required that each school shall have a minimum of three full-time instructors and not less than one for each 100 students or major fraction thereof. A full-time teacher is defined as one who devotes his entire time to teaching and legal scholarship, and who has no office or business connections outside his teaching, although he may take an occasional case or write an occasional brief. Practicing lawyers are a desirable part of a law school faculty but should be used as a supplement to the full-time faculty, usually in courses of which adjective law forms an important part. The American Bar Association believes that the faculty personnel of any school is the most important item in the evaluation of the quality of a school. It is not the purpose of the Association to attempt to standardize faculty personnel, but it is believed that each member of the faculty should have the proper training, carry a reasonable teaching load, be paid a fair salary under the circumstances, should engage in some research in a field in which he is interested, and should be an effective teacher.

The dean should devote his full time to the law school, and in addition to having qualifications as a law teacher, should also be an executive and administrator of ability. The following factors will be considered in reference to the dean and members of the faculty:

1. Training record and degrees.
2. Experience in practice.
3. Experience in teaching.

4. Research, including books written, articles published and special work.
5. Teaching load, teaching ability and interest in work.
6. Salary.
7. Number and percentage of full-time teachers in the school.
8. Professional or non-professional connection of full-time faculty members with any law office or business (official or unofficial).
9. Attendance at professional meetings.
10. Reputation with the local bar.

VII. TEACHING METHODS

The American Bar Association does not desire to require any one method of presentation of legal materials. The one definite restriction in the standards is that a school shall not, as a part of its regular course, conduct instruction in law designed to coach students for bar examinations. In general it may be said that teaching in approved schools is based fundamentally but not exclusively on the case method, and participation by the students in classroom discussion is a usual and desirable method of stimulating interest and work. Every effort will be made to determine the extent to which a school is working out the problem of employing the most effective means to teach legal subjects. The following information will be sought:

1. Size of classes.
2. Books specified for student use.
3. Teaching methods—*i. e.*, case method, text method, lecture method, combination of these.
4. Student participation in classroom discussion.
5. Experimentation with new methods.
6. Types and content of examinations.
7. Courses designed as preparation for the bar examinations.
8. Punctuality of student attendance and regularity of class sessions.

VIII. CURRICULUM

The American Bar Association makes no attempt to dictate the law school curriculum. Its standards merely provide that the schedule of

work of a full-time course shall be so arranged that substantially the full working time of students is required for a period of three years of at least thirty weeks each, while part-time courses shall cover a period of at least four years of not less than thirty-two weeks each year. The awareness of a school as to changes which are taking place in the law may be judged to some extent by its curriculum, by the changing content of the courses offered, and by the changes which have taken place in the curriculum. The following items are worthy of consideration in evaluating the work of a school:

1. Description, content and length of courses offered.
2. Required courses and elective courses.
3. Number of class periods per week.
4. Number of class periods required per unit of credit for classroom work.
5. Seminar courses.
6. Alternating courses.³
7. Significant changes which have taken place in the curriculum, particularly in recent years.

IX. SCHOLARSHIP STANDARDS

The importance of maintaining high scholarship standards cannot be overestimated. In any attempt at relative evaluation of factors, the maintenance of such standards must assume a place of prime importance.

One approach to the accomplishment of this objective lies in the method and care employed in the selection and elimination of students.

The American Bar Association recommends selective admission to law school with the view to rejection of those applicants who are unqualified to become lawyers, before they begin law study. In the approval of law schools by the Association, the standard of care and the method adopted by a school will be noted and evaluated, in order to ascertain whether a sincere effort is being made to accept only those students who, because

³Care should be taken in the scheduling of alternating courses to see that no student is deprived of the opportunity to take a fundamental course through its omission in a particular year. No first year course should be omitted in any year and the policy should be followed of not giving any course only in alternate years where the background of students with one year of training as opposed to a background of those with two years of training would tend to create a decided difference in the ability of the two classes of students to comprehend the subject matter of the course.

of past scholastic performance or otherwise, give reasonable assurance of success in the study of law.

The extent of compliance of each school with its rules governing admission and dismissal of students is a factor which will be considered.

Fairness to the student himself requires that the unfit student be eliminated when such unfitness becomes manifest. The need for elimination in a particular school will be determined to a large extent by the degree of selectivity exercised in admitting students. However, experience has indicated that generally the schools admittedly doing the better work in legal education have shown the greater percentage in elimination, particularly at the end of the first year's work. Such indication should not be ignored.⁴

Factors to be taken into account under this heading include:

1. Selection of students.
2. Dismissal of students.
3. Student body attitude toward professional studies.
4. Classroom standards.
5. Record of success of special students compared with regular students.
6. Regulations governing the elimination of students on account of poor scholarship.
7. Regulations governing scholarship, advancement to a succeeding grade, probation, etc.
8. Faculty responsibility for passing on action to be taken in case of poor scholarship.
9. Number of conditions and failures.
10. Examination results and grade distribution.

X. DEGREE REQUIREMENTS

While a minimum of units as a prerequisite to the granting of a degree in law may appear desirable the difficulty of fixing a precise minimum is apparent. However, a school should possess and observe degree require-

⁴A clear distinction should be made between voluntary withdrawals and eliminations on account of poor scholarship. The latter are the result of a definite rule, and action taken as a result of the rule should be officially recorded on the student's record.

ments which are not substantially less or inferior to those being maintained by the majority of approved schools.

At least one year of resident classroom study should be required by the law school granting the degree.

The Council approves postgraduate work leading to a master's degree. This degree may be awarded for additional work similar in kind to the undergraduate courses. It should represent a higher level of scholarship than is required for a first degree in law.

The doctor's degree (J.S.D. or S.J.D.) should be awarded only for work which gives the candidate an opportunity to demonstrate unusual scholarly ability. It should be granted only after the completion of a satisfactory dissertation. Only a few schools have the faculty and library facilities for work leading to the doctor's degree. The majority of schools are not qualified to and do not offer work leading to this degree.

Satisfactory completion of work equivalent to an academic year should be the minimum requirement for any postgraduate degree in law.

An approved school shall admit as candidates for graduate degrees in law only those persons who have received the first degree in law from an approved school.

XI. AVAILABILITY AND COMPLETENESS OF RECORDS

Complete records of all students should be kept. These records should contain the following information: credentials for admission; the action of the administrative office passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein, if any, and the credit value thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers. It is particularly important that any action taken in reference to the student because of poor scholarship or discipline should be noted fully upon his record.

XII. STUDENT BODY

The make-up of the student body and its objectives are pertinent con-

siderations in the evaluation of other factors heretofore set out. Information will be asked for under the following headings:

1. Number of students.
2. Average age of students.
3. Predominant objectives of students—*i. e.*, preparation for practice, for business, for government positions, etc.
4. Amount of time devoted by students to outside work or activities.
5. Principal sources of pre-legal study.
6. Percentage of students full time and part time.

XIII. ADDITIONAL MEANS AND METHODS OF LAW TRAINING

In addition to the regular courses in the curriculum, many schools use additional means to train their students. Some schools also make a definite effort to bring their students in contact with practicing lawyers during the period of their law school course. What a school does along these lines may be an important indication as to its progressiveness and the results which it achieves. Activities to be inquired into include the following:

1. Law review.
2. Legal aid clinic.
3. Law clubs.
4. Student bar association.
5. Student briefing service.
6. Part-time law clerk service to judiciary.
7. Sponsorship system.
8. Tutorial system.

XIV. BAR EXAMINATION SUCCESS OF GRADUATES

The percentage of success in the bar examinations of the graduates of a school is an important factor to be considered. The bar examination is an objective test of the effectiveness of the law school. The cumulative results of the bar examinations over a period of years may indicate the quality of the students admitted as well as the quality of the teaching.

Each applicant and approved school will be requested to furnish the Council with data covering such period of time as it shall specify, show-

ing the percentage of success by school which the graduates of such school shall have achieved in the bar examinations in the state where the school is located.

XV. ADMINISTRATIVE POLICIES

The administrative policies of a law school have an important bearing on the kind of training which it gives. The following factors will be inquired into:

1. Autonomy of the law school and its relationship to the university or parent body.
2. Relationship of the law school to a separate board of trustees as in the case of an independent law school.
3. Extent of the authority of the dean over such matters as admissions, dismissals, readmissions, employment of the faculty and determination of the curriculum.
4. Function of the faculty with reference to action taken on account of poor scholarship, applications for admission, for advanced standing, etc.
5. Frequency of regular faculty meetings, agenda of such meetings and record of proceedings.
6. Policy of school as to tenure of teaching staff.
7. Preparation and approval of annual budget.
8. Secretarial aid to dean and faculty.
9. Policy as to sabbatical leaves.
10. Scholarships and fellowships.

MERGERS AND SUSPENSIONS

The merger of an approved school with another school, approved or unapproved, may involve issues touching the standards of the American Bar Association. Before concluding negotiations for merger, their terms should be submitted to the Council for approval. Such negotiations, if brought to a conclusion without the Council's approval, may result in censure of a participating approved school, and, in an extreme case, the withdrawal of its approved status.

The decreased enrollments due to the war have caused some schools

to suspend. On March 28, 1943, the Council adopted the following resolution defining their status:

"Any approved or provisionally approved school which suspends instruction during the war, must, in order to retain its approved or provisionally approved status, on reopening, meet all the standards of the American Bar Association, and, in addition, must be able to show that at least \$1,000 per year was expended on its library during the period of suspension of instruction."

PROCEDURE FOR SECURING APPROVAL

A school may request advice or help from the Council without incurring any obligation. An inspection will be made on request for a fixed fee plus traveling and living expenses of the inspector.

There is no formality concerning application for approval by the American Bar Association. A letter to the acting adviser will bring a copy of a questionnaire to be filled out, and information on any particular points. The usual course is for the school wishing to be approved to send in the questionnaire and request a visit from an inspector. This is arranged for at a mutually satisfactory time. An inspection usually requires at least two days, as classes are visited, records and transcripts inspected, the library canvassed and information given in the questionnaire checked. Following the inspection, a report is sent to each of the twelve members of the Council before the next Council meeting.

The Council always meets immediately before the annual meeting of the American Bar Association, and usually immediately before the mid-winter meeting of the House of Delegates. If a school is recommended by the Council for approval, such recommendation is immediately sent to the House of Delegates. No publicity is given to an application for approval which is not favorably acted on, but a school which applies for approval but is not recommended by the Council has a right of appeal to the House of Delegates.⁵

To the end that the American Bar Association standards shall be maintained, approved schools will be expected from time to time to give any information requested by the Council of the Section of Legal Education and Admissions to the Bar and will be subject to reinspection at the pleasure of the Council.

⁵See page 2 for the definitions of provisional and full approval.

Under item three of the standards of the American Bar Association the Council of Legal Education and Admissions to the Bar is directed to publish from time to time the names of those law schools which comply with the Association's standards and those which do not. Following this instruction the Council, at intervals, has published such a list. The most recent complete list may be found in the *1942 Review of Legal Education*.

A list of the approved schools is included in this pamphlet.

APPROVED LAW SCHOOLS

The following schools have been approved by the American Bar Association upon the recommendation of the Section of Legal Education and Admissions to the Bar:

ALABAMA	University of Alabama, School of Law, University, Ala.
ARIZONA	University of Arizona, College of Law, Tucson, Ariz.
ARKANSAS	University of Arkansas, School of Law, Fayetteville, Ark.
CALIFORNIA	University of California, School of Jurisprudence, Berkeley, Calif. Loyola University, School of Law, Los Angeles, Calif. University of Southern California, School of Law, Los Angeles, Calif. Stanford University School of Law, Stanford, Calif. Hastings College of the Law, San Francisco, Calif. University of San Francisco, School of Law, San Francisco, Calif. University of Santa Clara, College of Law, Santa Clara, Calif.
COLORADO	University of Colorado, School of Law, Boulder, Colo. University of Denver, School of Law, Denver, Colo.
CONNECTICUT	University of Connecticut, School of Law, Hartford, Conn. Yale University, School of Law, New Haven, Conn.
DISTRICT OF COLUMBIA	The Catholic University of America, The School of Law, Washington, D. C. *Columbus University, School of Law, Washington, D. C. Georgetown University, The School of Law, Washington, D. C. The George Washington University Law School, Washington, D. C. Howard University, School of Law, Washington, D. C. *National University, School of Law, Washington, D. C. Washington College of Law, Washington, D. C.
FLORIDA	*The University of Miami, School of Law, Coral Gables, Fla. John B. Stetson University, College of Law, De Land, Fla. University of Florida, College of Law, Gainesville, Fla.
GEORGIA	University of Georgia, School of Law, Athens, Ga. Emory University, Lamar School of Law, Atlanta, Ga. Mercer University, Law School, Macon, Ga.

*Provisionally approved.

IDAHO	University of Idaho, College of Law, Moscow, Idaho
ILLINOIS	Chicago-Kent College of Law, Chicago, Ill. De Paul University, College of Law, Chicago, Ill. Loyola University, School of Law, Chicago, Ill. Northwestern University, School of Law, Chicago, Ill. University of Chicago, Law School, Chicago, Ill. University of Illinois, College of Law, Urbana, Ill.
INDIANA	Indiana University, School of Law, Bloomington, Ind. *Indiana Law School, Indianapolis, Ind. University of Notre Dame, College of Law, Notre Dame, Ind. Valparaiso University, School of Law, Valparaiso, Ind.
IOWA	Drake University, The Law School, Des Moines, Iowa State University of Iowa, College of Law, Iowa City, Iowa
KANSAS	University of Kansas, School of Law, Lawrence, Kans. Washburn Municipal University, School of Law, Topeka, Kans.
KENTUCKY	University of Kentucky, College of Law, Lexington, Ky. University of Louisville, School of Law, Louisville, Ky.
LOUISIANA	Louisiana State University Law School, Baton Rouge, La. Loyola University, School of Law, New Orleans, La. Tulane University of Louisiana, College of Law, New Orleans, La.
MARYLAND	University of Maryland, School of Law, Baltimore, Md.
MASSACHUSETTS	Boston College Law School, Boston, Mass. Boston University, School of Law, Boston, Mass. Harvard University, Law School of, Cambridge, Mass. *Northeastern University, School of Law, Boston, Mass.
MICHIGAN	University of Michigan, Law School, Ann Arbor, Mich. *Detroit College of Law, Detroit, Mich. University of Detroit, School of Law, Detroit, Mich. Wayne University, Law School, Detroit, Mich.
MINNESOTA	University of Minnesota, Law School, Minneapolis, Minn. St. Paul College of Law, St. Paul, Minn.
MISSISSIPPI	University of Mississippi, School of Law, Oxford, Miss.
MISSOURI	University of Missouri, School of Law, Columbia, Mo. University of Kansas City, School of Law, Kansas City, Mo. *Lincoln University School of Law (Colored), St. Louis, Mo. St. Louis University, School of Law, St. Louis, Mo. Washington University School of Law, St. Louis, Mo.

*Provisionally approved.

MONTANA	Montana State University School of Law, Missoula, Mont.
NEBRASKA	University of Nebraska, College of Law, Lincoln, Nebr. The Creighton University School of Law, Omaha, Nebr.
NEW JERSEY	*University of Newark, School of Law, Newark, N. J.
NEW YORK	Union University, Albany Law School, Albany, N. Y. University of Buffalo, School of Law, Buffalo, N. Y. Cornell University, Law School, Ithaca, N. Y. Columbia University, School of Law, New York, N. Y. Fordham University, School of Law, New York, N. Y. New York University, School of Law, New York, N. Y. St. John's University, School of Law, New York, N. Y. St. Lawrence University, Brooklyn Law School, New York, N. Y. Syracuse University, College of Law, Syracuse, N. Y.
NORTH CAROLINA	University of North Carolina, School of Law, Chapel Hill, N. C. Duke University School of Law, Durham, N. C. Wake Forest College, School of Law, Wake Forest, N. C.
NORTH DAKOTA	University of North Dakota, School of Law, Grand Forks, N. Dak.
OHIO	*Ohio Northern University, W. G. Harding College of Law, Ada, Ohio University of Cincinnati, College of Law, Cincinnati, Ohio Western Reserve University, Law School, Cleveland, Ohio Ohio State University College of Law, Columbus, Ohio University of Toledo, College of Law, Toledo, Ohio
OKLAHOMA	University of Oklahoma, School of Law, Norman, Okla.
OREGON	University of Oregon, School of Law, Eugene, Ore. Willamette University, College of Law, Salem, Ore.
PENNSYLVANIA	Dickinson College, Dickinson School of Law, Carlisle, Pa. Temple University, School of Law, Philadelphia, Pa. University of Pennsylvania Law School, Philadelphia, Pa. University of Pittsburgh, School of Law, Pittsburgh, Pa.
SOUTH CAROLINA	University of South Carolina, School of Law, Columbia, S. C.
SOUTH DAKOTA	University of South Dakota, School of Law, Vermillion, S. Dak.
TENNESSEE	University of Tennessee, College of Law, Knoxville, Tenn. Vanderbilt University School of Law, Nashville, Tenn.
TEXAS	University of Texas, School of Law, Austin, Texas Southern Methodist University, School of Law, Dallas, Texas Baylor University School of Law, Waco, Texas

*Provisionally approved.

UTAH	University of Utah, School of Law, Salt Lake City, Utah
VIRGINIA	University of Virginia, Department of Law, Charlottesville, Va. Washington and Lee University, School of Law, Lexington, Va. University of Richmond, T. C. Williams School of Law, Richmond, Va. William and Mary in Virginia, School of Jurisprudence, Williamsburg, Va.
WASHINGTON	University of Washington School of Law, Seattle, Wash.
WEST VIRGINIA	West Virginia University, College of Law, Morgantown, W. Va.
WISCONSIN	University of Wisconsin Law School, Madison, Wis. Marquette University Law School, Milwaukee, Wis.
WYOMING	University of Wyoming, Law School, Laramie, Wyo.

ANNOUNCEMENT OF COURSES
FOR THE SPRING SEMESTER, 1947,
OF THE SCHOOL OF LAW OF THE
TEXAS STATE UNIVERSITY FOR NEGROES

The School of Law will begin its program of instruction March 10, 1947. It is located in the building at 104 East 13th Street, Austin, Texas, adjoining the grounds of the State Capitol.

For beginning students, the courses for the Spring Semester will be as follows:

Contracts, six hours per week. Instructor, Leo W. Leary, Associate Professor of Law, The University of Texas (A.B., LL.B., University of Wisconsin). Casebook: Grismore's Cases on Contracts.

Torts, six hours per week. Instructor, Starling T. Morris, Assistant Professor of Law, The University of Texas (LL.B., The University of Texas). Casebook: Thurston & Seavey, Cases on Torts.

Legal Bibliography, one hour per week. Instructor, Chalmers M. Hudspeth, Assistant Professor of Law, The University of Texas (A.B., Rice Institute; LL.B., The University of Texas.) Casebook: Brandt, How to Find the Law.

All of these instructors are teaching or have taught the same courses in The University of Texas School of Law during the current school year, and the program of courses is identical with those offered to beginning students in that school who entered February 1, 1947.

Registration day for the Spring Semester is March 10, 1947. Classes will begin on that day. The semester ends June 28. Programs of work for the summer session and for the fall and subsequent semesters will be announced later and will conform, generally, to the programs and offerings of the Law School of The University of Texas.

The State Library, which includes the Library of the Supreme Court of Texas, located in the State Capitol, is for the time being designated as the Library of the School. This contains about 44,000 volumes of legal material and includes all of the statutes and reports of decisions of all the states and of the United States.

The reference books needed for immediate use in the classes are available in the school building, and any other books which may be required, if not available in the State Library, will be furnished as needed from the Library of the School of Law of The University of Texas. A collection of 10,000

Announcement of Courses, page 2.

carefully selected volumes meeting the requirements of the Association of American Law Schools, to constitute the nucleus of the permanent library of the School has been ordered.

Requirements for admission, fees, and regulations relating to the classification of students, class-work, and examinations, grades and credits, standards of work required, and degrees awarded, are the same as those contained in the attached Catalog of the School of Law, dated August 1, 1945, which is the latest published catalog of that school.

For further information apply to

Charles T. McCormick, Dean

or

E. J. Mathews, Registrar

School of Law
Texas State University for Negroes
Austin, Texas

H E N R Y D O Y L E , a witness produced by the Relators, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION

Questions by Mr. Daniel:

Q State your name.

A Henry Doyle.

Q Where do you reside?

A 1205 Leona Street.

Q Austin, Texas?

A Austin, Texas.

Q Did you reside here in Austin during the months of February and March of 1947?

A I did.

Q Were you acquainted with the opening of a negro law school here in Austin on March 10, 1947?

A Yes, sir.

Q Did you prior to March 10, 1947, consider entering that law school?

A I did.

Q Did you on the Saturday before March 10, 1947, attend a meeting in Dallas, Texas?

A I did.

Q Were other members of the negro race at that meeting?

(OBJECTION BY COUNSEL FOR RELATOR, UPON WHICH THE COURT
WITHHELD RULING)

Q (By Mr. Daniel) Do you know Maceo Smith?

A I do.

Q What position, if any, does he hold with the National Association of Colored People?

(OBJECTION BY COUNSEL FOR RELATOR)

A State the question again.

Q What position does he hold with the National Association for the Advancement of Colored People?

A I am not familiar with his title.

Q Is he an officer in the association?

A I am not sure. I know he works with them, but whether he holds an office or not, I don't know.

(OBJECTION BY COUNSEL FOR RELATOR TO LATTER PORTION OF ANSWER, WHICH WAS SUSTAINED BY THE COURT)

Q Was he at that meeting you attended in Dallas on the Saturday before March 10, 1947?

A He was.

Q Did he make a talk or report of any kind at that meeting in Dallas the Saturday before March 10, 1947?

THE COURT: I am still holding that in abeyance.

A Again, please. Will you ask it again, please?

Q Did -- First, let's get this. Maceo Smith, was he at the meeting in Dallas?

A He was.

Q Did he make any kind of talk or report there at the meeting?

A I don't recall.

Q Were discussions held there at the meeting by --

COUNSELOR DURHAM: Your Honor --

MR. DANIEL: I will withdraw it.

THE COURT: I think it would be hearsay.

Q (By Mr. Daniel) How long did you stay there at the meeting in Dallas?

A I am not sure, approximately two hours.

Q Were other officers of the National Association for Advancement of Colored People there?

COUNSELOR DURHAM: We object to that as assuming that he knows them.

THE COURT: Unless he knows of his own knowledge.

COUNSELOR DURHAM: We object to it for the reason that he presupposes that he knows, and it is an assumption not based upon any facts.

A I do not.

Q (By Mr. Daniel) You do not know. What was the name of the group that held that meeting?

COUNSELOR DURHAM: We object to that as summing that he knows.

THE COURT: If he knows.

A I do not know.

Q (By Mr. Daniel) Who notified you to come to the meeting?

A I was notified by circular letter.

Q From whom?

A I don't recall the signature.

Q Was the support of this law suit pending here today by the National Association for the Advancement of Colored People mentioned at that meeting by anyone?

(OBJECTION BY COUNSEL FOR RELATOR)

Q (By Mr. Daniel) Did you see Heman Marion Sweatt there?

A I did not.

Q Did you see Mr. Durham, the man that just made the objection any time during that meeting?

A I saw him.

Q Did he appear before the meeting?

A He did.

Q Before that meeting concluded, did you announce to that meeting that you would not enter the law school, negro law school on March 10, 1947?

COUNSELOR DURHAM: We object to that as being irrelevant and immaterial as to what he would do.

THE COURT: I believe I will let him answer it, in view of our prior rulings on that. We may strike it all later.

Q (By Mr. Daniel) Did you make such statement to the meeting before it adjourned?

A I said I was seeking information relative to making up my mind whether or not I would enter the law school.

Q Did you announce before the meeting was over that you would not enter the law school the next Monday morning?

A I did not.

Q Didn't you tell me that you did?

COUNSELOR DURHAM: We object to him arguing with his own witness.

THE COURT: That is right.

Q (By Mr. Daniel) Did you enter the negro law school on March 10, 1947?

A I did not.

Q That is all.

COUNSELOR DURHAM: That is all.

THE COURT: I think the testimony is perhaps not relevant.

COUNSELOR DURHAM: We ask that it be stricken.

THE COURT: All right.

MR. DANIEL: Note our exception.

RELATOR'S EXHIBITS:

~~1~~ ~~2~~ ~~3~~ 4 5 6 ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ 17 18
19 20 21 22 23 24 25 26 27 28 29 30

RESPONDENTS' EXHIBITS:

~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ 10 11 12 13 14 15 16 17 18
19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34

CIRCUMSTANTIAL EVIDENCE
(Civil Cases Only)

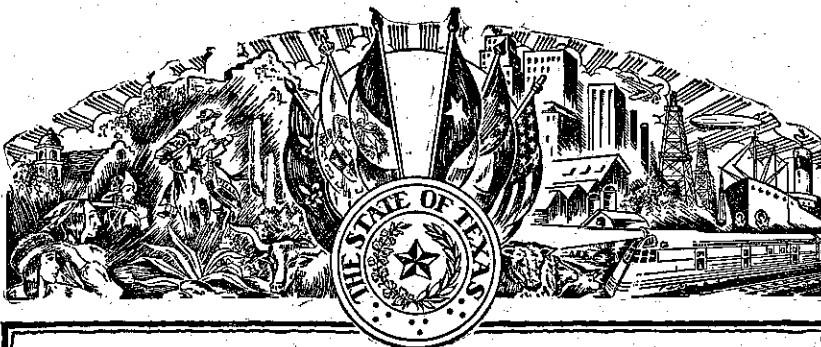
1. "Great latitude is allowed in the reception of indirect or circumstantial evidence."
Tex. Juris., Sec. 117
2. "Matters that are not admissible as direct evidence of a fact may become proper evidence when they are sought to be considered as evidence tending to prove that fact."
Tex. Juris., Sec. 117
3. "As a general rule, in the absence of direct evidence, evidence of any circumstance, however slight, which conduces or tends in any degree to establish a material fact, or which affords fair presumption or inference to the question in dispute is relevant and admissible."
Davis v. Terrell 63 Tex. 105
Goldman v. Blum 58 Tex. 630
(Many cases and authorities)
4. "It is not necessary that the fact sought to be proved should have direct reference to the main issue and however remote from the main issue, it is proper to submit such issue if the evidence refers to a fact relevant to a fact in issue."
17 Tex. Juris., Sec. 117
HuntersvLewis 18 SW 201
5. "Generally, any conclusion may be based upon circumstantial evidence, and fact that evidence is circumstantial does not render it incompetent. . . .
Where it is sought to prove an ultimate fact by a chain of circumstances every circumstance should be considered."

Duke v. Houston Oil Co.
128 S.W. 2nd 480
6. "A design, plan or intention may also be evidenced circumstantially by conduct showing it. The kinds of conduct usable for this purpose are infinite in variety and the decided cases deal with comparatively few of them. In general, however, it may be said that any act which under the circumstances and in the light of experience would indicate a probable design is admissible. Thus a notation on A's desk calendar of an important conference in the city of X on a certain date is relevant to show that he planned to go there on that day. The purchase or possession of the means of doing the act, such as burglary tools, a pistol or poison, is some evidence of a probable design to use them. Where a person seeks information it is reasonable to infer that he intends to use it. Thus an inquiry as to the use and effect of a certain drug in procuring an abortion may evidence a plan to procure one.

A more difficult question arises, however, where the conduct which is offered to show the design,

plan or intention is itself a criminal act.
For reasons of convenience this question is discussed in a later section where the use of similar evidence to prove Intent and Knowledge is treated."

McCormick & Ray on Evidence
Sect. 689, p. 885



1947

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**50th LEGISLATURE
REGULAR SESSION**

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Governor's Message

TO MEMBERS OF THE FIFTIETH LEGISLATURE OF THE STATE OF TEXAS:

Let me first thank you for your courtesy in making it possible for me to deliver this message in person. In coming before you I am happy in the knowledge of the old friendships which I enjoy with so many members in the Legislature, and in the pleasant contemplation of new associations.

We stand upon common ground, bearing a joint burden of service to the State. It is my hope that this will form the basis of a strong comradeship, both personal and official—a comradeship which will redound to the lasting benefit of Texas.

Coming fresh from the people as we do, honored with their trust, what men and women standing in our position could lack the vision and the desire to see Texas move forward?

In a World growing more and more complex, in a civilization organizing itself into more intricate and complicated patterns, there is raised the question of how free men can best retain their liberty. Our wisest political philosophers give us the answer in one word—cooperation. It is in a spirit of cooperation and with feelings of warm cordiality that I here seek to establish the official relationship between our two branches of the State Government.

All of us who now serve the common interest are fully conscious, I am sure, of the high expectations of the people of Texas.

To use the language of the gridiron—upon which the youth of Texas have won so much glory—they must function together as a team. Without teamwork there can be no progress. Old man Texas—that tall, rawboned personification of good citizenship as pictured by the State's great cartoonist, John Knott—has already given us the signals and the plays.

We have been honored by the Democratic Party of Texas. Upon us has been placed the responsibility of putting the Party's platform of principles into effect. We must be guided by this platform which marks out the course chosen by our people.

We have reason to be proud of our State Government and the progress that has been made in its development, but as in the case of every human agency, it has its imperfections, and no matter how far its standards may be advanced, we can always make it a little better.

The legislative and administrative branches must join together in making the State Government more responsive to the six million and more Texans.

Aside from the administrative details, whatever is to be accomplished in the next two years for the State must be accomplished by the laws of this Legislature.

GOVERNOR'S MESSAGE

The existence of this body—this parliament of a free people—should give comfort and reassurance to all Texans of our times; for this Legislature is the living embodiment of that great principle of democracy which makes ours a government of law and not of men. We have seen the brutal despotism of personalized government. Fundamentally, the great war from which we have just emerged was a conflict between government by law and government by men.

Thus, it is with respect and a sense of deference that I establish official relations with the Legislature of the State of Texas—the fountainhead of law which governs our free and sovereign people.

The Constitution has given the Executive the privilege and duty of making recommendations to the Legislature. This I shall do, expressing to you my views and recommendations upon matters that concern the State; but I hope that this will not remain a one-sided relationship between us—that you will feel free to visit the Executive Department at any time to offer your recommendations and observations concerning the administrative branch of the State Government.

I am glad to see among you so many splendid young men who are veterans of World War Two. Texas can well be proud that she has so many veterans in her Legislature. It is a wholesome and gratifying thing to see the hand that so recently wielded a sword in national defense now being put to the plow for the State's progress.

Your presence here indicates not only the gratitude of your constituents for your patriotic service in time of war, but also speaks well for their judgment in choosing young men who are schooled in realities and who believe in action. Having had the privilege of serving overseas in our first World War, I hope that I am one with you in that great confraternity of men who have had the honor of bearing arms for their country.

Those of us who have served in the Army learned an important lesson. The Army teaches that there are usually several sound and workable solutions to almost every military problem. Resolute and intelligent men can always find a good solution. Teamwork and determined action get the job done.

That is pretty much my attitude toward the State Government and its problems. I am sure that reasonable men and women, working in a spirit of cooperation, can find worthwhile solutions to all of our problems.

In a very practical way the Army divides its campaigns into immediate objectives and long range objectives. May I suggest that we might well adapt this method to the problems which lie before us. There are remedial measures for some of our problems upon which general agreement can be reached without delay. These could be immediate objectives. Fact finding and planning should be set in motion for the final solution of those problems which must be considered in long range perspective.

Whatever the method pursued, I am confident that the results will be greatly beneficial for Texas. I am convinced that there is not a man or woman

GOVERNOR'S MESSAGE

in the Texas Legislature who is not earnestly desirous of achieving something worthwhile for the State, and I predict that the deliberations of such a high-minded and purposeful membership cannot fail to make the Fiftieth Legislature one of the greatest in the annals of Texas law making.

With your indulgence, I here respectfully set forth for your consideration what, in my opinion, should be done for the betterment of our people.

* * * * *

I have the grave duty of reporting to you that we are now confronted with the serious threat of a foot-and-mouth disease epidemic on the Texas border. Reports indicate that the disease is rampant in Mexico, having spread already to ten Mexican States and into the Federal District of Mexico. The latest outbreak is within a few hundred miles of our border. Time is of the essence in combating this most disastrous of livestock diseases. This virus has a germination period of from two to seven days. As the disease spreads in geometric progression, it is impossible to exaggerate the importance of time in our fight to check it. An economic loss of millions of dollars will result if this disease gains a foothold in Texas. The Department of Agriculture estimates that six million head of domestic livestock as well as millions of wild animals would have to be destroyed to eradicate this plague if it becomes widespread in this country.

When this matter came to my attention, I requested an immediate conference with representatives of the six State departments who can be helpful in the effort to save our livestock industry from this threatened danger. These representatives met immediately. Participating were officials of the Livestock Sanitary Commission, the Texas Department of Public Safety, the Attorney General's Department, the Game, Fish and Oyster Commission, the Department of Agriculture, and the State Health Department. The Texas and Southwestern Cattle Raisers' Association and the American Jersey Cattle Club were also represented. Each of these agencies outlined its facilities for facing the crisis, and all agreed to pool their resources in a joint effort to be coordinated through the Executive Department.

A report on this threatening situation was sent to the President of the United States with the request that the Bureau of Animal Industry declare a state of emergency and use its facilities to prevent the spread of the disease. The Governors of California, Arizona, and New Mexico were also notified and their cooperation solicited. The Texas Senators and Representatives in Congress have also been appraised of the threatening epidemic.

Encouraging responses have already been received to those messages, and I am heartened with the spirit of helpfulness shown by all. The administrative branch of the State Government will exert its best efforts in meeting this crisis.

The Livestock Sanitary Commission will present for your consideration its recommendations for strengthening the quarantine laws to meet this emergency.

Under the authority of Section 5 of Article III of the Constitution, I submit this problem to you as a matter requiring emergency consideration. I

GOVERNOR'S MESSAGE

recommend an emergency appropriation of one hundred fifty thousand dollars (\$150,000) to the Livestock Sanitary Commission to be spent in preventing the spread of the foot-and-mouth disease.

The increased cost of living has imposed severe hardships upon our indigent old people, dependent children, and the needy blind. Action to alleviate this condition should be taken immediately.

I am sure that you will agree that the great State of Texas should not be niggardly with those unfortunate persons who are in genuine distress.

Therefore, under the authority of Section 5 of Article III of the Constitution, I submit for your consideration the subject of emergency appropriations for public welfare.

I recommend that the Legislature make an emergency appropriation of a sufficient amount to bring the current welfare appropriations up to the constitutional maximum of thirty-five million dollars (\$35,000,000). It is estimated that this would require an appropriation of three million, six hundred sixty-three thousand, three hundred thirty-one dollars (\$3,663,331) for the remainder of this fiscal year.

I also recommend that seven million, six hundred eighty thousand dollars (\$7,680,000) additional be appropriated for each year of the next biennium to maintain the public welfare appropriations at the maximum constitutional ceiling.

More than seven hundred fifty thousand gallant young Texans fought in World War Two. Some six hundred eighty thousand victorious veterans have returned to their homes in Texas. We hold in reverent and grateful memory those brave Texans who will never come back.

The State must make an effort to discharge, in a small measure at least, the great debt of gratitude which it owes to its veterans. With this in view, I have advocated the creation of a State Veterans' Affairs Commission, an agency which would coordinate and facilitate the handling of veterans' affairs, safeguard their interests, and promote their welfare.

A statewide conference of representatives of all veterans' organizations and of all agencies concerned with veterans' affairs was convened in Austin several weeks ago to consider this subject. A committee of that conference drafted proposals for the establishment of a State Veterans' Affairs Commission.

There is need for further study of this subject, and I trust that you will give it earnest consideration. Because they are peculiarly fitted to do so, I hope the veterans in the Legislature will undertake the drafting of a proper law to meet the needs of Texas veterans. An appropriation not to exceed two hundred sixty thousand dollars (\$260,000) a year for the operation of the proposed Veterans' Affairs Commission is recommended.

The Veterans' Administration has asked the Executive Department to undertake the responsibility of surveying and certifying Texas employers who

GOVERNOR'S MESSAGE

desire to qualify for on-the-job training of veterans. Some thirty-five thousand applications of employers now are on file.

All salaries and travel expenses of supervisors, inspectors and secretarial or administrative help will be borne by the Federal Government. In order that the work may be initiated shortly, I am asking that a sum equal to the estimated monthly cost of this service be appropriated as a working fund to pay the cost of operation for the first month. This sum will be returned to the State Treasury when the Federal reimbursement for this service is received.

On-the-job training will benefit thousands of Texas veterans. It is the duty of the State to see that this training is established and maintained on a standard which will provide the maximum benefits for the veteran trainees. This program, if properly developed, will increase the usefulness of the veteran as an employee and help him to establish himself on a sound economic footing. It is estimated that the sum of fifty-five thousand dollars (\$55,000) will be needed to start this work.

Therefore, under the authority of Section 5, Article III of the Constitution, I submit for your consideration as an emergency matter an appropriation to the Adjutant General's Department for the Governor's Committee on Supervision of On-the-Job Training.

The State Government now has the duty of putting into operation the so-called Veterans' Land Amendment to the Constitution which was adopted last November. An enabling act of the Legislature is necessary to put this amendment into effect. I trust that great care will be exercised in the enactment of such legislation.

If the purposes of the amendment are properly carried out, great benefits will result to those worthy veterans who desire to become farmers and ranchers. The agricultural economy of the State will be benefitted by having more vigorous young men engaged in agricultural pursuits.

It will be generally recognized that, in most instances, farm land is now too high in value for the State to buy advantageously for resale to veterans. It would be desirable, however, for the Board which is to administer the act to be given authority at an early date to purchase Army camps which are now being decommissioned and other Federal lands. For this reason, I recommend an early and careful consideration of the subject by the Legislature.

The employees of the State Government are urgently in need of a "cost-of-living" adjustment in their salaries for the remainder of this fiscal year. We are losing many efficient employees because we are not paying enough. It is a sound business practice to keep good employees who are trained to do a particular job.

Accordingly, I recommend an emergency appropriation of one million, one hundred thousand dollars (\$1,100,000) to raise the salaries of State employees during the remainder of the current fiscal year. For the next biennium, I recommend an additional appropriation of two million, two hundred thousand dollars

GOVERNOR'S MESSAGE

(\$2,200,000) a year from the General Revenue Fund to give the State employees permanent increases in pay.

Commensurate raises in pay should be appropriated for those State employees now being paid from special funds. There are ample surpluses in all special funds for the pay increases.

Our State colleges and universities now have the greatest enrollments in their histories. Thousands of veterans have taken advantage of the educational benefits provided under the so-called G.I. Bill of Rights. This is a splendid thing for the State and will do much to raise the general levels of education and culture in Texas.

Our colleges are in need of more funds for faculty salaries and for expenses attendant to their expanding enrollments. Accordingly, I recommend the appropriation of ten million dollars (\$10,000,000) more per year for this purpose. This sum, when added to the liberal subventions made by the Federal Government for the tuition of veterans, plus local funds, should be adequate for the immediate needs of our universities and colleges. A program for financing the construction of new college buildings will be laid before you in a special message.

I am in favor of lump sum appropriations for these institutions in order that their boards and administrators may spend the funds to the best advantage.

The Legislature now appropriates local funds in a lump sum. An over-all lump sum bill would be particularly advantageous to small colleges which do not have sufficient local funds with which to make the adjustments which have to be made to provide for the orderly function of the institutions.

Naturally, I think the basis of all lump sum appropriations should be a projected itemized budget, and at the end of the biennium the Legislature will have the opportunity to see how the money has been spent. In this way, the Legislature can exercise proper controls if the school administration has not been wise in its expenditures. Further, the requirement of annual audits should be continued.

The greatest human problem that confronts the South today is that of the Negro. The status of the Negro also presents a great economic problem and burden to the South. Those of us in the South have lived close to the Negro problem and have had a sympathetic though realistic understanding thereof. The sense of mutual responsibility of the white man and the colored man, each for the other, has done more toward helping the colored race than has any theoretical panacea advanced by social theorists who have little understanding of actualities.

The time has come, however, when the State must do more. It can no longer be an individual problem of neighbor for neighbor. We have all resented the impertinent and presumptuous meddling of Northern theorists who have glibly advanced plans for the advancement of the colored race that are based largely on an idea of revolution. We must dismiss the efforts of these misguided theorists as bad manners and worse philosophy.

GOVERNOR'S MESSAGE

We must stop resenting and start acting. Let us apply our best efforts to this problem, being guided by sympathetic understanding and Christian principles.

Anyone who has made an honest and objective study of the subject realizes that there is no worthwhile solution to the problem which can be achieved overnight. But I think you will agree that about the best thing we can do for our Negro citizen is to help him help himself. Therefore, we must provide greater educational advantages and opportunities to the young Negro men and women who are capable of serving their people.

The Forty-ninth Legislature saw the wisdom of such a policy when it voted to expand the facilities of Prairie View University. The Bi-Racial Commission appointed by Governor Coke R. Stevenson has done some splendid work in surveying the needs for professional education of the Negro youth. Let me commend the report of the able men who made up that Commission for your earnest consideration.

The Negroes need more doctors. The general health standards of the colored race can be lifted measurably by the training of more Negro doctors in Texas.

I favor the establishing of a first class medical school for Negroes. It must be located near a hospital and clinical center, where all facilities will be available for equipping the graduates with well-rounded medical instruction and research. At the same time, nurses, technicians and others must be trained to take their places on the staffs of our colored medical institutions. Similar provisions must be made for the dentists and other professional men.

Let us build for the Negro youth of this State a University worthy of the name Texas, a University in which colored boys and girls may develop themselves according to their talents and ambitions.

This is an emergency matter, and under the authority of Section 5, Article III, of the Constitution, I respectfully submit this project for your consideration. An emergency appropriation of seven hundred fifty thousand dollars (\$750,000) from the General Revenue Fund is recommended to initiate the proposed expansion of professional education for the Negro youth of Texas.

I also recommend that the additional sum of two million dollars (\$2,000,000) be appropriated for this development in the next biennium.

This will be in addition to other building funds which may be made available to Prairie View University.

Many public spirited citizens, both white and colored, have made generous offers toward the development of this worthy project. I recommend that the Legislature authorize the State to accept such gifts as may be suitable for the expansion of educational opportunities for the Negro youth of Texas.

The State must never relax in its efforts to combat crime and rehabilitate the criminal. Every well-informed citizen has been made aware of what is called the "postwar crime wave." I have recommended an increase of 200 men in

GOVERNOR'S MESSAGE

the State police force. This extra force will serve the double purpose of curbing crime and of reducing the murderous toll of highway traffic accidents.

The peace officer has often complained, and many times justifiably so, that his law enforcement work has been sabotaged in the courthouse. Far too many criminals escape punishment through technicalities of law. There have been many suggestions for reforms in our Code of Criminal Procedure. This Legislature has in its membership some splendid lawyers. Let me recommend that the Fiftieth Legislature solicit the counsel of district attorneys, peace officers, and the judges of the Court of Criminal Appeals, and then enact legislation to reform the Code of Criminal Procedure.

Many of those who have dealt with the complex problem of rehabilitating the criminal have become weary and cynical. Some peace officers become openly hostile to clemency when they see law enforcement deteriorate because of mistakes made in the granting of clemency to convicts.

Society must ever maintain an attitude of hope and optimism in dealing with the problem of rehabilitation. The State must be ready to gamble on human nature where it is evident that there is a strong probability that a criminal can be rehabilitated into a good citizen.

But lives and property must not be jeopardized because of maudlin sentimentality, or the failure to apply adequate attention to the process of rehabilitation.

Here we should remember the words of Woodrow Wilson, who said: "The firm duty of government is justice, not pity."

You are well aware, I am sure, that the State Board of Pardons and Paroles is now burdened with the extremely difficult job of carrying out its functions without the benefit of any definite law.

Despite the ambiguities of law and inadequate investigative and supervisory facilities, the Board of Pardons and Paroles has achieved a high percentage of success in the granting of paroles; although a few of its mistakes have been notorious.

The writing of an adequate clemency law should not be done hastily. I would like to recommend that the proper committees of the House and Senate conduct joint hearings to obtain as much expert opinion as possible from peace officers, penologists, sociologists, and the various officials who have had long experience in administration of clemency. In particular, the counsel of former governors should be obtained.

Reform is needed, but it should not be hasty, or ill-considered reform.

There is scarcely a single person in this State who has not had the tragic experience of having a friend or relative killed or maimed in a highway accident. The number of traffic deaths has mounted with the increased flow of postwar traffic. The motorist travels the highway today at his peril.

GOVERNOR'S MESSAGE

Texas cannot permit the continued slaughter of 2,000 persons each year, the injury of 50,000 other persons and an annual economic loss from traffic accidents of seventy-five million dollars (\$75,000,000).

Better policing of the highway is urgently needed.

Today we have more cars and trucks, being driven more miles, than ever before in Texas. Our Highway Patrol, operating under appropriations passed while the war was in progress, is handicapped not only by inadequate manpower but by a lack of funds which severely curtails its efforts to police the highways.

Last year the Highway Patrol ran out of operating funds. Traffic deaths were on the increase then, but patrol cars had to be limited to 100 miles of travel a day.

The same thing is about to happen again. The Highway Patrol today is training 41 men to fill vacancies created during the war years. But there is no money available for their operating expenses, equipment, and repairs. Unless these funds are provided, the new patrolmen will not be able to do their work.

An emergency appropriation of seventy-five thousand dollars (\$75,000) will be necessary to keep the Highway Patrol operating at full efficiency. I recommend this appropriation for your consideration as an emergency matter.

This would bring the patrol up to its authorized maximum strength of 250 privates, which of course is too few men to control the drunken and dangerous drivers who speed over 26,000 miles of Texas highways. Traffic law enforcement is a good investment. California has found that it pays to keep 900 Highway Patrolmen on her highways. Pennsylvania can afford 1,600, New York 800. The Texas Highway Patrol has shown what improved highway policing can do to reduce accidents and apprehend criminals.

We must give our highway police force more men and more equipment.

To provide at least 200 more highway patrolmen and 100 more police patrol cars, I recommend an additional appropriation of one million, three hundred thousand dollars (\$1,300,000) per year to the State Department of Public Safety during the next biennium. The additional highway police force will greatly aid in curbing crime and in apprehending law breakers. Adequate highway policing will do much to hold the postwar crime wave in check.

There are two funds from which the cost of this additional police can be paid. It can be paid from the General Revenue Fund or from the State Highway Fund. The constitutional amendment adopted last November stipulated that part of the gasoline tax revenues could be used for highway policing. Highway user groups have agreed that the cost should be absorbed by the State Highway Fund.

This Legislature will, I am sure, give serious consideration to proposals for highway safety legislation.

GOVERNOR'S MESSAGE

The traffic laws of Texas should be modernized by the repeal of obsolete and invalid statutes, and by the enactment of uniform traffic regulations.

Dangerous traffic congestion from roadside entry upon our main highways must be eliminated through a Controlled Access Highway Law which will permit the building of modern traffic engineering controls.

Texas has a sound Driver License Law, but its administration should be made effective through additional personnel and operating funds. Driver license revenue is sufficient for such an appropriation and should be allocated to that purpose, and for use in operation of the Highway Patrol.

Modernization and expansion of our eleemosynary Institutions are badly needed. Fortunately, the State Board of Control has been able to alleviate the overcrowded conditions somewhat by the acquisition of the Prisoner of War Camps at Mexia and Brady. Senile women from all of the State hospitals and the Austin State School are being moved into the Mexia Camp. This Camp is also being used for feeble minded children. The Brady Camp is being used for the detention of delinquent Negro girls. Efforts are under way to acquire North Camp Hood for training of spastic children.

Emergency legislation is needed by the State Board of Control to complete its plans for the acquirement of army camps to be used as tuberculosis sanatoriums. Accordingly, I respectfully submit this subject for your immediate consideration under authority of Section 5, of Article III of the Constitution.

I also recommend an emergency appropriation of two hundred thousand dollars (\$200,000) for use by the State Board of Control for repairs and remodeling work in the eleemosynary institutions, and for the adaptation of army camp facilities.

The Board of Control is now in the process of acquiring some 225 buildings and 750 acres out of the decommissioned Moore Army Airfield in the Rio Grande Valley. The airfield itself will be retained for use as the Tri-Cities Airport, but the public-spirited citizens of the Valley are making it possible for the State to acquire a large section of the reservation for a badly needed tuberculosis sanatorium. When acquired and adapted for use, this sanatorium will have sufficient facilities for 1,000 patients. Legislative authority is needed for the Board to obtain clear title from the War Assets Corporation.

Another tuberculosis sanatorium is badly needed in East Texas. The Board of Control is attempting to meet this need by acquirement of an army camp in that area.

All of our eleemosynary institutions are in great need of improvements and modernization. Accordingly, I recommend an increased appropriation to these institutions of seven million, seven hundred and nineteen thousand, six hundred eighty-six dollars (\$7,719,686), of which four million, seven hundred forty-eight thousand, two hundred fifty-seven dollars (\$4,748,257) should be spent in the first year of the next biennium, and two million, nine hundred seventy-one thousand, four hundred twenty-nine dollars (\$2,971,429) in the second year.

GOVERNOR'S MESSAGE

Here I would like to say a word in reverent tribute to the memory of the late Judge Weaver Baker who served as Chairman of the State Board of Control for several years until his untimely death in an automobile accident last year. The State owes a great debt to Judge Baker. He worked untiringly on behalf of those many unfortunates who are wards in our eleemosynary institutions. I hope this Legislature will see fit to honor his services in some appropriate way.

There is no problem more important in Texas today than the need of farm-to-market roads. Farm-to-market roads are more than an economic aid to farmers and a convenience to our rural citizens. Impassable roads lower school attendance in rural areas. Good roads will bring hospitals and medical service within convenient reach of our rural citizens.

Nothing can do more to revitalize agriculture than a well developed system of farm-to-market roads. We must make rural life more attractive. There are far too many vacant farmhouses and idle farms today. Urban crowding in a large measure is caused by rural immigration. I am sure that we are all agreed that far-reaching benefits for the State will result from the construction of a great system of farm-to-market roads.

I have been keenly interested in this subject for several years, and I have devoted much study to the problem. After having conferred with our State Highway Commission, I am happy to report that a splendid program for development of a system of farm-to-market roads is already well under way.

During 1946, Texas led the nation in mileage of road improvements put under contract. The Texas total of 4,650 miles included 2,073 miles of farm-to-market roads, and this is way out in front of Pennsylvania's 1,715 total mileage and California's 1,025 miles. In dollar volume of contracts awarded, Texas ranked third in the nation with fifty-two million, five hundred thousand dollars (\$52,500,000) against Pennsylvania's fifty-seven million, seven hundred thousand dollars (\$57,700,000) and California's fifty-three million, seven hundred thousand dollars (\$53,700,000).

Since VJ Day the Department has awarded contracts for more than sixty-one million dollars (\$61,000,000) and today has more dollar volume of construction work going on than at any other time in its history.

Texas farm-to-market mileage put under contract is greater than the combined mileage of all programs of any other State.

I should like to report to you in some detail on the splendid three-year road building program which has been planned for Texas. First, let me review for you the financial background of this tremendous construction program.

As you know, part of the surplus money in the Treasury when the war ended was a nest-egg of some thirty million dollars (\$30,000,000) in the State Highway Fund. This money was accumulated during the war years when the building of highways was just out of the question.

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Now, we are using this money, plus an unprecedented increase in revenues from the motor fuel tax and from automobile license fees, to carry out the postwar road program so wisely planned by the State Highway Department during the war years.

I am told that, with present rates, we can expect an average income for the next five years from revenues now allocated to the State Highway Fund of over fifty million dollars (\$50,000,000) per year. This does not mean that we will have that much next year, but it is an averaged figure. Nor does this include the money which is allocated to retire the bonds of the counties and districts whose roads were taken into the State Highway System.

This income, compared with prewar income, indicates that we will have available at least fifteen million dollars (\$15,000,000) more per year during the next five years than we had as late as 1941, the last normal year.

And understand, this does not include any Federal money. This is money from State sources only.

The Federal Highway Act of 1944, which became effective at the end of the war, was devised and planned not only to aid the states in building roads, but to cushion the postwar conversion to peacetime economy.

The Act appropriates out of the Federal Treasury half a billion dollars per year for three years. This five hundred million dollars (\$500,000,000) per year is divided as follows: Two hundred twenty-five million dollars (\$225,000,000) for projects on the Federal aid highway system, one hundred fifty million (\$150,000,000) for projects on farm or secondary and feeder roads, and one hundred twenty-five million (\$125,000,000) for projects on the Federal aid system in urban areas.

The formula for apportioning this money out among the states favored Texas more than any other state. This was because the formula was based mainly on area, population, and mileage of highways.

Texas was first in the United States on the amount allocated for primary highways, first on the amount allocated for farm-to-market roads, and eighth on amount for building urban projects, such as routes through and around cities.

The formula for the apportionment for farm roads was made on the following basis: One-third on the ratio which the state's rural population bears to the national rural population, one-third on the ratio which the state's area bears to the total area, and one-third on the ratio which the mileage of the state's rural delivery and star routes bears to the total mileage of such routes.

Now this money furnished by the Federal Government must be matched by the state on a fifty-fifty basis.

Out of the total of half a billion dollars per year, Texas is to receive approximately twenty-nine million dollars (\$29,000,000), or a total of eighty-seven million dollars (\$87,000,000) during the three years. This means that during the three-year program a total of one hundred seventy-four million dollars (\$174,000,000) will be spent in building roads in Texas.

1947
·VERNON'S
TEXAS SESSION LAW
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50th LEGISLATURE
REGULAR SESSION

LAWS 1947

January 14 — March 3, 1947

CUMULATIVE TABLES AND INDEX

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OFFICIALS
OF
THE STATE OF TEXAS

GOVERNOR - - - - - Beauford Jester - - - - Corsicana
LIEUTENANT GOVERNOR - - Allan Shivers - - - - Port Arthur
SECRETARY OF STATE - - - Paul H. Brown - - - - Harlingen
ATTORNEY GENERAL - - - Grover Sellers - - Sulphur Springs

SENATE

PRESIDENT - - - - - Allan Shivers
 PRESIDENT PRO TEMPORE - - - - - Ben Ramsey
 SECRETARY OF THE SENATE - - - - - Claude Isbell

<i>Name</i>	<i>District</i>
Aikin, A. M., Jr. - - - - - Paris - - - - -	8
Brown, Buster - - - - - Temple - - - - -	21
Bullock, Pat - - - - - Colorado City - - - - -	24
Carney, Howard - - - - - Atlanta - - - - -	1
Chadick, T. C. - - - - - Quitman - - - - -	7
Cousins, W. R. Jr. - - - - - Beaumont - - - - -	4
Crawford, A. B. - - - - - Granbury - - - - -	12
Hardeman, Dorsey B. - - - - - San Angelo - - - - -	25
Harris, Fred Red - - - - - Dallas - - - - -	11
Hazlewood, Grady - - - - - Amarillo - - - - -	31
Jones, Chas. R. - - - - - Bonham - - - - -	9
Kelley, Rogers - - - - - Edinburg - - - - -	27
Kelly, Keith - - - - - Fort Worth - - - - -	28
Knight, Roger A. - - - - - Madisonville - - - - -	5
Lane, Wardlow W. - - - - - Center - - - - -	2
Mauritz, Fred - - - - - Ganado - - - - -	18
Moffett, George - - - - - Chillicothe - - - - -	23
Morris, G. C. - - - - - Greenville - - - - -	10
Parrish, Sterling J. - - - - - Lubbock - - - - -	30
Phillips, Jimmy - - - - - Angleton - - - - -	17
Proffer, R. L. - - - - - Justin - - - - -	22
Ramsey, Ben - - - - - San Augustine - - - - -	3
Stanford, James A. - - - - - Austin - - - - -	20
Stewart, W. Lacy - - - - - Houston - - - - -	16
Strauss, Gus - - - - - Hallettsville - - - - -	15
Taylor, James E. - - - - - Kerens - - - - -	6
Tynan, Walter - - - - - San Antonio - - - - -	26
Vick, Kyle - - - - - Waco - - - - -	13
Weinert, R. A. - - - - - Seguin - - - - -	19
Winfield, H. L. - - - - - Fort Stockton - - - - -	29
York, J. Alton - - - - - Bryan - - - - -	14

*

SENATE STANDING COMMITTEES

AERONAUTICS COMMITTEE

Hazlewood, Grady, *Chairman*
Kelly, Keith F., *Vice Chairman*

Aikin, A. M., Jr.	Mauritz, Fred
Brown, Buster	Proffer, R. L. (Bob)
Jones, Chas. R.	York, J. Alton
Kelley, Rogers	

AGRICULTURE COMMITTEE

Hazlewood, Grady, *Chairman*
Moffett, George, *Vice Chairman*

Brown, Buster	Mauritz, Fred
Bullock, Pat	Parrish, Sterling J.
Crawford, A. B.	Proffer, R. L. (Bob)
Jones, Chas. R.	Strauss, Gus. J.
Kelley, Rogers	

BANKING COMMITTEE

Vick, Kyle, *Chairman*
Aikin, A. M., Jr., *Vice Chairman*

Brown, Buster	Stanford, James A.
Bullock, Pat	Strauss, Gus J.
Kelly, Keith F.	Winfield, H. L.
Lane, Wardlow	

CIVIL JURISPRUDENCE COMMITTEE

Carney, Howard A., *Chairman*
Morris, G. C., *Vice Chairman*

Aikin, A. M. Jr.	Ramsey, Ben
Chadick, T. C.	Tynan, Walter
Cousins, W. R., Jr.	Vick, Kyle
Hardeman, Dorsey B.	Weinert, R. A.
Kelley, Rogers	York, J. Alton
Lane, Wardlow	

SENATE STANDING COMMITTEES

COMMERCE AND MANUFACTURING COMMITTEE

Ramsey, Ben, *Chairman*
Strauss, Gus J., *Vice Chairman*
Crawford, A. B. Phillips, Jimmy
Jones, Chas. R. Stanford, James A.
Morris, G. C.

CONGRESSIONAL DISTRICTS COMMITTEE

Proffer, R. L. (Bob), *Chairman*
Mauritz, Fred, *Vice Chairman*
Chadick, T. C.
Knight, Roger A.
Stewart, Lacy

CONSTITUTIONAL AMENDMENTS COMMITTEE

Kelley, Rogers, *Chairman*
Hardeman, Dorsey B., *Vice Chairman*
Aikin, A. M., Jr. Proffer, R. L. (Bob)
Chadick, T. C. Stanford, James A.
Cousins, W. R., Jr. Vick, Kyle

CONTINGENT EXPENSE COMMITTEE

Aikin, A. M. Jr., *Chairman*
Harris, Fred Red, *Vice Chairman*
Carney, Howard A. Weinert, R. A.
Taylor, James E. Winfield, H. L.

COUNTIES AND COUNTY BOUNDARIES COMMITTEE

Jones, Chas. R., *Chairman*
Bullock, Pat, *Vice Chairman*
Cousins, W. R., Jr. Stewart, Lacy
Knight, Roger A. Strauss, Gus J.
Mauritz, Fred Vick, Kyle
Morris, G. C.

CRIMINAL JURISPRUDENCE COMMITTEE

Lane, Wardlow, *Chairman*
Hazlewood, Grady, *Vice Chairman*
Carney, Howard A. Stewart, Lacy
Knight, Roger A. Tynan, Walter
Morris, G. C. York, J. Alton
Phillips, Jimmy

SENATE STANDING COMMITTEES

EDUCATION COMMITTEE

Bullock, Pat, *Chairman*

Proffer, R. L. (Bob), *Vice Chairman*

Aikin, A. M., Jr.

Brown, Buster

Carney, Howard A.

Harris, Fred Red

Knight, Roger A.

Mauritz, Fred

Stanford, James A.

Strauss, Gus J.

Tynan, Walter

ENGROSSED BILLS COMMITTEE

Phillips, Jimmy, *Chairman*

York, J. Alton, *Vice Chairman*

Taylor, James E.

ENROLLED BILLS COMMITTEE

Stewart, Lacy, *Chairman*

Winfield, H. L., *Vice Chairman*

Proffer, R. L. (Bob)

FEDERAL RELATIONS COMMITTEE

Hardeman, Dorsey B., *Chairman*

Vick, Kyle, *Vice Chairman*

Knight, Roger A.

Morris, G. C.

FINANCE COMMITTEE

Taylor, James E., *Chairman*

Aikin, A. M., Jr., *Vice Chairman*

Carney, Howard A.

Hardeman, Dorsey B.

Hazlewood, Grady

Kelley, Rogers

Knight, Roger A.

Moffett, George

Morris, G. C.

Parrish, Sterling J.

Phillips, Jimmy

Proffer, R. L. (Bob)

Ramsey, Ben

Stanford, James A.

Strauss, Gus J.

Tynan, Walter

Weinert, R. A.

Winfield, H. L.

York, J. Alton

GAME AND FISH COMMITTEE

Carney, Howard A., *Chairman*

Parrish, Sterling J., *Vice Chairman*

Crawford, A. B.

Harris, Fred Red

Jones, Chas. R.

Kelley, Rogers

Lane, Wardlow

Weinert, R. A.

Winfield, H. L.

SENATE STANDING COMMITTEES

HIGHWAY AND MOTOR TRAFFIC COMMITTEE

Morris, G. C., *Chairman*
Jones, Chas. R., *Vice Chairman*

Aikin, A. M., Jr.	Mauritz, Fred
Bullock, Pat	Phillips, Jimmy
Crawford, A. B.	Ramsey, Ben
Hazlewood, Grady	Tynan, Walter
Kelley, Rogers	Vick, Kyle
Kelly, Keith F.	York, J. Alton

INSURANCE COMMITTEE

York, J. Alton, *Chairman*
Stanford, James A., *Vice Chairman*

Brown, Buster	Phillips, Jimmy
Harris, Fred Red	Stewart, Lacy
Jones, Chas. R.	Tynan, Walter
Kelly, Keith F.	Vick, Kyle
Morris, G. C.	

INTERNAL IMPROVEMENTS COMMITTEE

Knight, Roger A., *Chairman*
Cousins, W. R., Jr., *Vice Chairman*
Bullock, Pat

INTERSTATE COOPERATION COMMITTEE

Stanford, James A., *Chairman*
Harris, Fred Red, *Vice Chairman*

Brown, Buster
Hazlewood, Grady
Moffett, George

JUDICIAL DISTRICTS COMMITTEE

Ramsey, Ben, *Chairman*
Bullock, Pat, *Vice Chairman*

Carney, Howard A.	Moffett, George
Kelley, Rogers	Morris, G. C.
Lane, Wardlow	

LABOR COMMITTEE

Knight, Roger A., *Chairman*
Tynan, Walter, *Vice Chairman*

Aikin, A. M., Jr.	Phillips, Jimmy
Cousins, W. R., Jr.	Ramsey, Ben
Harris, Fred Red	Stewart, Lacy
Jones, Chas. R.	Winfield, H. L.
Kelly, Keith F.	

SENATE STANDING COMMITTEES

MILITARY AFFAIRS COMMITTEE

Crawford, A. B., *Chairman*
Kelly, Keith F., *Vice Chairman*

Cousins, W. R., Jr.	Phillips, Jimmy
Hardeman, Dorsey B.	Tynan, Walter
Moffett, George	

OIL, GAS AND CONSERVATION COMMITTEE

Winfield, H. L., *Chairman*
Chadick, T. C., *Vice Chairman*

Carney, Howard A.	Moffett, George
Cousins, W. R., Jr.	Parrish, Sterling J.
Hardeman, Dorsey B.	Stewart, Lacy
Harris, Fred Red	Strauss, Gus J.
Hazlewood, Grady	Taylor, James E.
Kelley, Rogers	Tynan, Walter
Lane, Wardlow	Weinert, R. A.
Mauritz, Fred	

NOMINATIONS OF GOVERNOR COMMITTEE

Brown, Buster, *Chairman*
Stewart, Lacy, *Vice Chairman*

Aikin, A. M., Jr.	Mauritz, Fred
Chadick, T. C.	Proffer, R. L. (Bob)
Cousins, W. R., Jr.	Stanford, James A.
Crawford, A. B.	Taylor, James E.
Kelley, Rogers	

PENITENTIARIES COMMITTEE

Lane, Wardlow, *Chairman*
Phillips, Jimmy, *Vice Chairman*

Aikin, A. M., Jr.	Ramsey, Ben
Carney, Howard A.	Weinert, R. A.
Crawford, A. B.	York, J. Alton
Knight, Roger A.	

PRIVILEGES AND ELECTIONS COMMITTEE

Cousins, W. R., Jr., *Chairman*
Knight, Roger A., *Vice Chairman*

Bullock, Pat	Lane, Wardlow
Chadick, T. C.	Stanford, James A.
Hardeman, Dorsey B.	Weinert, R. A.
Harris, Fred Red	

SENATE STANDING COMMITTEES

PUBLIC BUILDINGS AND GROUNDS COMMITTEE

Tynan, Walter, *Chairman*
Crawford, A. B., *Vice Chairman*

Kelly, Keith F.	Strauss, Gus J.
Mauritz, Fred	Vick, Kyle
Parrish, Sterling J.	

PUBLIC DEBTS, CLAIMS AND ACCOUNTS COMMITTEE

Chadick, T. C., *Chairman*
Phillips, Jimmy, *Vice Chairman*

Hardeman, Dorsey B.
Morris, G. C.
Strauss, Gus J.

PUBLIC HEALTH COMMITTEE

Mauritz, Fred, *Chairman*
Tynan, Walter, *Vice Chairman*

Brown, Buster	Kelley, Rogers
Bullock, Pat	Kelly, Keith F.
Carney, Howard A.	Moffett, George
Chadick, T. C.	Parrish, Sterling J.
Cousins, W. R., Jr.	Proffer, R. L. (Bob)
Crawford, A. B.	Ramsey, Ben
Jones, Chas. R.	York, J. Alton

PUBLIC LANDS AND LAND OFFICE COMMITTEE

Kelly, Keith F., *Chairman*
Hardeman, Dorsey B., *Vice Chairman*

Winfield, H. L.

PUBLIC PRINTING COMMITTEE

Strauss, Gus J., *Chairman*
Brown, Buster, *Vice Chairman*

Crawford, A. B.

REPRESENTATIVE DISTRICTS COMMITTEE

Parrish, Sterling J., *Chairman*
Hazlewood, Grady, *Vice Chairman*

Chadick, T. C.	Proffer, R. L. (Bob)
Kelley, Rogers	Stewart, Lacy
Moffett, George	Vick, Kyle

SENATE STANDING COMMITTEES

RULES COMMITTEE

Harris, Fred Red, *Chairman*

Taylor, James E., *Vice Chairman*

Aikin, A. M., Jr.
Brown, Buster
Lane, Wardlow

Ramsey, Ben
Weinert, R. A.

SENATORIAL DISTRICTS COMMITTEE

Kelley, Rogers, *Chairman*

Parrish, Sterling J., *Vice Chairman*

Chadick, T. C.
Hardeman, Dorsey B.
Hazlewood, Grady
Proffer, R. L. (Bob)

Stewart, Lacy
Vick, Kyle
Winfield, H. L.
York, J. Alton

STATE AFFAIRS COMMITTEE

Moffett, George, *Chairman*

Ramsey, Ben, *Vice Chairman*

Aikin, A. M., Jr.
Carney, Howard A.
Chadick, T. C.
Cousins, W. R., Jr.
Harris, Fred Red
Hazlewood, Grady
Kelley, Rogers
Kelly, Keith F.
Lane, Wardlow

Mauritz, Fred
Morris, G. C.
Parrish, Sterling J.
Stewart, Lacy
Taylor, James E.
Vick, Kyle
Weinert, R. A.
Winfield, H. L.

STATE INSTITUTIONS AND DEPARTMENTS COMMITTEE

Stanford, James A., *Chairman*

York, J. Alton, *Vice Chairman*

Bullock, Pat
Jones, Chas. R.
Knight, Roger A.

STOCK AND STOCK RAISING COMMITTEE

Parrish, Sterling J., *Chairman*

Winfield, H. L., *Vice Chairman*

Hardeman, Dorsey B.
Kelley, Rogers
Moffett, George

SENATE STANDING COMMITTEES

TOWNS AND CITY CORPORATIONS COMMITTEE

Jones, Chas. R., *Chairman*
Lane, Wardlow, *Vice Chairman*
Brown, Buster
Bullock, Pat
Parrish, Sterling J.

VETERAN'S AFFAIRS COMMITTEE

Crawford, A. B., *Chairman*
Kelly, Keith F., *Vice Chairman*
Cousins, W. R., Jr.
Hardeman, Dorsey B.
Harris, Fred Red
Kelley, Rogers
Moffett, George
Phillips, Jimmy
Tynan, Walter

HOUSE OF REPRESENTATIVES

SPEAKER - - - - - W. O. Reed
CHIEF CLERK - - - - - Clarence Jones

<i>Name</i>	<i>District</i>
Abington, W. H. (Bill) - - - - - Fort Worth - - - - -	101-2
Atkinson, H. L. - - - - - Beeville - - - - -	70
Aynesworth, J. K. - - - - - Waco - - - - -	97-2
Barber, W. A. - - - - - Linden - - - - -	2
Bean, Woodrow W. - - - - - El Paso - - - - -	90f
Bell, John J. - - - - - Cuero - - - - -	68
Bell, Marshall O. - - - - - San Antonio - - - - -	78-4
Berry, J. O. - - - - - Commerce - - - - -	42f
Blankenship, Dallas A. - - - - - Dallas - - - - -	50-5
Blount, R. E. - - - - - Big Spring - - - - -	91
Bracewell, Searcy - - - - - Houston - - - - -	19-3
Brooks, Jack B. - - - - - Beaumont - - - - -	16-1
Callaway, Claude - - - - - Crowell - - - - -	114
Cannon, O. E. - - - - - Corpus Christi - - - - -	71
Celaya, Augustine - - - - - Brownsville - - - - -	72
Chapman, E. O. - - - - - Sulphur Springs - - - - -	39
Clifton, Davis - - - - - McKinney - - - - -	43
Collie, T. M. - - - - - Eastland - - - - -	106
Colson, Mrs. Neveille H. - - - - - Navasota - - - - -	27f
Conner, Chas. M. - - - - - Haskell - - - - -	113
Cowen, Warren C. - - - - - Fort Worth - - - - -	102f
Cox, Jack - - - - - Breckenridge - - - - -	108
Craig, William J. (Bill) - - - - - Miami - - - - -	124
Crawford, Carlton - - - - - Palacios - - - - -	21
Crosthwait, John L. - - - - - Dallas - - - - -	50-1
Davis, Gordon - - - - - Waco - - - - -	97-1
Edwards, Britton T., Jr. - - - - - LaPryor - - - - -	77
Elliott, George - - - - - Odessa - - - - -	88
Etheredge, M. B., Jr. - - - - - Huntsville - - - - -	29
Evans, Roger Q. - - - - - Denison - - - - -	45f
Fant, J. P. - - - - - Jefferson - - - - -	3f
Fertsch, Marvin D. - - - - - Hallettsville - - - - -	23
Flanagan, Alford H. - - - - - Talco - - - - -	35
Fleming, Joe B. - - - - - Henderson - - - - -	8
Fly, William S. - - - - - Victoria - - - - -	69
Ford, John - - - - - Paris - - - - -	38f
Gandy, Joe W. - - - - - Winnsboro - - - - -	126f
Gardner, C. C. - - - - - Gainesville - - - - -	46
Gathings, D. D. - - - - - Cleburne - - - - -	99

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Gilmer, C. H. - - - - -	Rock Springs - - - - - 86
Godard, Louie D. - - - - -	Texas City - - - - - 17f
Green, A. N. - - - - -	Cameron - - - - - 64
Gregory, Sid, Jr. - - - - -	Gatesville - - - - - 94
Guffey, Lloyd M. - - - - -	Wharton - - - - - 22
Hanna, Sam - - - - -	Dallas - - - - - 50-3
Heatly, W. E. - - - - -	DeLeon - - - - - 104
Heflin, J. M. - - - - -	Houston - - - - - 19-4
Heideke, H. A. - - - - -	Seguin - - - - - 80
Helpinstill, Jewell - - - - -	Nacogdoches - - - - - 9
Henderson, A. R. (Robin) - - - - -	Groesbeck - - - - - 61
Holstein, L. L. - - - - -	Pandora - - - - - 79
Holt, I. B. - - - - -	Olton - - - - - 120
Horany, Jimmy P. - - - - -	Archer City - - - - - 110
Hughes, Edward P., Jr. - - - - -	Newton - - - - - 13
Hydrick, Isom P. (Bill) Jr. - - - - -	Marshall - - - - - 5
Isaacks, S. J. - - - - -	El Paso - - - - - 89-1
Jackson, Robert Hal - - - - -	Denton - - - - - 49
James, Andy M. - - - - -	Hillsboro - - - - - 59
Jameson, William S. - - - - -	El Paso - - - - - 89-2
Johnson, J. Pearce - - - - -	Austin - - - - - 82-1
Jones, Albert M. - - - - -	Valley Mills - - - - - 98f
Jones, Fred J. - - - - -	Lone Oak - - - - - 40
Jones, Obie - - - - -	Austin - - - - - 82-2
Kazen, Abraham, Jr. - - - - -	Laredo - - - - - 75
Kennington, Joe Thomas - - - - -	Texarkana - - - - - 1
Kilgore, Joe M. - - - - -	McAllen - - - - - 73
King, Leslie - - - - -	Harrold - - - - - 112f
Kirkpatrick, Ray - - - - -	Trenton - - - - - 41
Lanier, Gus M. - - - - -	Marquez - - - - - 56
Latimer, O. E. - - - - -	San Antonio - - - - - 78-5
Lee, Otis - - - - -	Port Arthur - - - - - 16-2
Lehman, Henry G. - - - - -	Giddings - - - - - 65f
Lewis, Don A. - - - - -	Midlothian - - - - - 100-2
Lightfoot, C. G. - - - - -	Timpson - - - - - 10
Lock, Ottis E. - - - - -	Lufkin - - - - - 12
Luedemann, J. A. - - - - -	Brenham - - - - - 24
McClain, Sidney - - - - -	Sherman - - - - - 44-2
McDaniel, Vernon - - - - -	Wichita Falls - - - - - 111-2
McFarland, C. M. - - - - -	Wichita Falls - - - - - 111-1
McLellan, C. S. - - - - -	Eagle Lake - - - - - 25
McVey, Elmer - - - - -	Teague - - - - - 57
Mahan, Sheffy - - - - -	Childress - - - - - 121
Manford, Durwood - - - - -	Smiley - - - - - 67
Mangum, Preston P. - - - - -	Dallas - - - - - 51f
Markle, Donald M. - - - - -	Galveston - - - - - 18

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Martin, Tom - - - - -	Fredericksburg - - - - - 85
Miller, Wm. A. (Bill), Jr. - - - - -	Houston - - - - - 19-5
Moore, Carlton, Sr. - - - - -	Houston - - - - - 19-2
Moore, Charles B. III - - - - -	Del Rio - - - - - 87
Moore, Grady - - - - -	Clarksville - - - - - 36
Moore, W. T. (Bill) - - - - -	Bryan - - - - - 26
Murphy, Charles A., Jr. - - - - -	Houston - - - - - 19-1
Nokes, George O., Jr. - - - - -	Corsicana - - - - - 58
Oltorf, Frank C., Jr. - - - - -	Marlin - - - - - 62
Overton, A. J. (Jack), Jr. - - - - -	Palestine - - - - - 55
Parkhouse, George - - - - -	Dallas - - - - - 50-4
Pearson, L. R. - - - - -	Ranger - - - - - 107f
Peters, Donald - - - - -	Cotulla - - - - - 76
Pyle, Joe - - - - -	Fort Worth - - - - - 101-1
Rampy, W. H. - - - - -	Winters - - - - - 92
Read, David - - - - -	Silsbee - - - - - 14
Reams, Sam G. - - - - -	Falfurrias - - - - - 74
Reed, W. O. - - - - -	Dallas - - - - - 50-2
Richards, William George - - - - -	Lockhart - - - - - 81-1
Ridgeway, Jack F. - - - - -	San Antonio - - - - - 78-3
Sadler, Harley - - - - -	Sweetwater - - - - - 117
Sallas, J. B. - - - - -	Crockett - - - - - 30
Sellers, Sam C. - - - - -	Waco - - - - - 96f
Senterfitt, R. E. - - - - -	San Saba - - - - - 93
Shackelford, Lesta - - - - -	Livingston - - - - - 28
Shannon, J. W. (Bill) - - - - -	Stephenville - - - - - 105
Sharp, Thomas Harris - - - - -	Beckville - - - - - 7
Slimp, L. C., Jr. - - - - -	Decatur - - - - - 48
Smith, Max C. - - - - -	San Marcos - - - - - 81-2
Smith, N. F. (Dick) - - - - -	Jacksboro - - - - - 109
Smith, Preston E. - - - - -	Lubbock - - - - - 119
South, Chas. L. - - - - -	Coleman - - - - - 125
Spacek, R. B. - - - - -	Fayetteville - - - - - 66
Sparks, James T. (Jim) - - - - -	Sherman - - - - - 44-1
Spencer, James C. - - - - -	Athens - - - - - 54
Still, Mrs. Rae Files - - - - -	Waxahachie - - - - - 100-1
Stockard, Jerry T. - - - - -	Frost - - - - - 60f
Storey, Cecil - - - - -	Longview - - - - - 6f
Stump, William R. - - - - -	Georgetown - - - - - 84f
Suiter, Miss Elizabeth - - - - -	Winnsboro - - - - - 34
Svadlenak, Frank - - - - -	Thrall - - - - - 83
Swanson, F. G. - - - - -	Tyler - - - - - 33f
Teague, William B. - - - - -	Anson - - - - - 115
Templeton, R. L. - - - - -	Wellington - - - - - 122
Thomas, M. K. - - - - -	Wills Point - - - - - 53

HOUSE OF REPRESENTATIVES

<i>Name</i>	<i>District</i>
Timmons, J. Blake - - - - -	Amarillo - - - - - 123
Tippen, W. K. (Bill) - - - - -	Abilene - - - - - 116
Turner, Surry - - - - -	Gilmer - - - - - 4
Waggonseiler, Wayne W. - - - - -	Fruitland - - - - - 47
Walker, Miller B. - - - - -	Beaumont - - - - - 15f
Wallace, John L. (Red) - - - - -	Fort Worth - - - - - 101-4
Ward, J. F. - - - - -	Rosenberg - - - - - 20
Watson, George W. - - - - -	Paris - - - - - 37
Whitworth, Harry - - - - -	Smithville - - - - - 127
Williams, Eugene C. - - - - -	San Antonio - - - - - 78-2
Williams, Sterling - - - - -	Snyder - - - - - 118
Williamson, W. A. (Cap) - - - - -	San Antonio - - - - - 78-1
Willis, Doyle - - - - -	Fort Worth - - - - - 101-3
Willis, Philip L. - - - - -	Kaufman - - - - - 52
Wilson, Paul S. - - - - -	Geneva - - - - - 11
Wiseman, Pat - - - - -	Jacksonville - - - - - 31
Wood, Bill - - - - -	Tyler - - - - - 32
Wright, Jim - - - - -	Weatherford - - - - - 103
Yezak, Herman - - - - -	Bremond - - - - - 63
Zivley, Lamar - - - - -	Temple - - - - - 95

HOUSE STANDING COMMITTEES

AERONAUTICS COMMITTEE

Bell, John J., *Chairman*
Lanier, Gus, *Vice Chairman*

Blankenship, Dallas
Blount, R. E.
Celaya, Augustine
Chapman, E. O.
Cowen, Warren C.
Elliott, George
Horany, Jimmy P.
James, Andy M.
Johnson, Pearce
Jones, Albert M.

King, Leslie
Mangum, Preston
Miller, Wm. A.
Moore, Carlton, Sr.
Ridgeway, Jack F.
Teague, William B.
Templeton, R. L.
Watson, George W.
Wiseman, Pat

AGRICULTURE COMMITTEE

Gandy, Joe W., *Chairman*
Yezak, Herman, *Vice Chairman*

Barber, W. A.
Evans, Roger Q.
Holstein, L. L.
Holt, I. B.
James, Andy M.
Kennington, Joe Thomas
King, Leslie
Lewis, Don A.
Leudemann, Dr. J. A.
Mahan, Sheffy

McClain, Sidney
McVey, Elmer
Spacek, R. B.
Stump, William R.
Teague, William B.
Wagonseller, Wayne W.
Whitworth, Harry
Wilson, Paul S.
Wright, Jim

APPROPRIATIONS COMMITTEE

Gilmer, Claude, *Chairman*
McLellan, C. S., *Vice Chairman*

Bean, Woodrow W.
Callaway, Claude
Etheredge, M. B., Jr.
Gardner, C. C.
Godard, Louie D.
Helpinstill, Jewell
Jackson, Robert Hal
Johnson, Pearce
Kennington, Joe Thomas
Kirkpatrick, Ray

Lee, Otis
Miller, Wm. A.
Moore, Charles B. III
Moore, W. T.
Parkhouse, George
Pyle, Joe
Rampy, W. H.
Richards, William George
Smith, Preston E.

HOUSE STANDING COMMITTEES

BANKS AND BANKING COMMITTEE

Green, A. N., *Chairman*

Atkinson, H. L., *Vice Chairman*

Berry, J. O.	Sadler, Harley
Brooks, Jack B.	South, Chas. L.
Cannon, O. E.	Sparks, James T.
Gardner, C. C.	Still, Rae Files
Lightfoot, C. G.	Svadlenak, Frank
McDaniel, Vernon	Wallace, John L.
Miller, Wm. A.	Watson, George W.
Moore, Grady	Williamson, W. A.
Nokes, George O., Jr.	Wood, Bill
Richards, William George	

CLAIMS AND ACCOUNTS COMMITTEE

Colson, Mrs. Neveille H., *Chairman*

Ford, John, *Vice Chairman*

Bell, John J.	Mangum, Preston
Bell, Marshall O.	Sellers, Sam C.
Flanagan, Alford H.	Walker, Miller B.
Heflin, J. M.	Ward, J. F.
Lehman, Henry G.	

COMMERCE AND MANUFACTURES COMMITTEE

Crawford, Carlton, *Chairman*

Williams, Sterling W., *Vice Chairman*

Bean, Woodrow W.	Spacek, R. B.
Green, A. N.	Timmons, J. Blake
Hydrick, Isom P.	Wallace, John L.
Jones, Fred J.	Zivley, Lamar
McClain, Sidney	

COMMON CARRIERS COMMITTEE

Rampy, W. H., *Chairman*

Heflin, J. M., *Vice Chairman*

Abington, W. H.	Guffey, Lloyd M.
Aynesworth, J. K.	Helpinstill, Jewell
Brooks, Jack B.	Hydrick, Isom P.
Conner, Chas. M.	Jameson, William S.
Cox, Jack	Jones, Obie
Fant, J. P.	Kennington, Joe Thomas
Flanagan, Alford H.	King, Leslie
Fleming, Joe B.	Mangum, Preston
Ford, John	Watson, George W.
Godard, Louie D.	

HOUSE STANDING COMMITTEES

CONGRESSIONAL AND LEGISLATIVE DISTRICTS COMMITTEE

Smith, Preston E., *Chairman*
McVey, Elmer, *Vice Chairman*

Collie, T. M.	Peters, Donald
Flanagan, Alford H.	Senterfitt, Reuben
Helpinstill, Jewell	Shackleford, Lesta
Jameson, William S.	Sharp, Thomas Harris
Kilgore, Joe M.	Spencer, James C.
Latimer, O. E.	Templeton, R. L.
Lightfoot, C. G.	Timmons, J. Blake
Moore, Charles B. III	Tippen, W. K.
McDaniel, Vernon	Wright, Jim
Pearson, L. R.	

CONSERVATION AND RECLAMATION COMMITTEE

Jones, Albert M., *Chairman*
Kilgore, Joe M., *Vice Chairman*

Callaway, Claude	McVey, Elmer
Cox, Jack	Read, David
Guffey, Lloyd M.	Thomas, M. K.
Holstein, L. L.	Timmons, J. Blake
Holt, I. B.	Turner, Surry
Hughes, Edward P.	Wagonseller, Wayne W.
Kazen, Abraham, Jr.	Ward, J. F.
Lewis, Don A.	Wright, Jim
Moore, W. T.	Zivley, Lamar
McLellan, C. S.	

CONSTITUTIONAL AMENDMENTS COMMITTEE

Smith, Max C., *Chairman*
Bean, Woodrow W., *Vice Chairman*

Abington, W. H.	Markle, Donald M.
Bell, John J.	Parkhouse, George
Bracewell, Searcy	Pearson, L. R.
Fertsch, Marvin	Smith, Preston E.
Hanna, Sam	Sparks, James T.
Heideke, H. A.	Spencer, James C.
Isaacks, S. J.	Timmons, J. Blake
Kazen, Abraham Jr.	Whitworth, Harry
Latimer, O. E.	Zivley, Lamar
McFarland, C. M.	

HOUSE STANDING COMMITTEES

CONTINGENT EXPENSES COMMITTEE

Ward, J. F., *Chairman*
Elliott, George, *Vice Chairman*
Crosthwait, John L.
Jackson, Robert Hal
Kirkpatrick, Ray

COUNTIES COMMITTEE

Moore, Grady *Chairman*
Pyle, Joe, *Vice Chairman*

Bracewell, Searcy	Lewis, Don A.
Clifton, Davis	Lightfoot, C. G.
Conner, Chas. M.	Moore, Carlton, Sr.
Fant, J. P.	Shannon, J. W.
Heideke, H. A.	

CRIMINAL JURISPRUDENCE COMMITTEE

Storey, Cecil, *Chairman*
Richards, William George, *Vice Chairman*

Cannon, O. E.	Nokes, George O., Jr.
Clifton, Davis	Ridgeway, Jack F.
Collie, T. M.	Shackleford, Lesta
Ford, John	Sharp, Thomas Harris
Godard, Louie D.	South, Chas. L.
Heflin, J. M.	Stump, William R.
Jameson, William S.	Templeton, R. L.
McClain, Sidney	Watson, George W.
Manford, Durwood	Williams, Sterling W.
Mangum, Preston	

EDUCATION COMMITTEE

Still, Rae Files, *Chairman*
Chapman, E. O., *Vice Chairman*

Barber, W. A.	Overton, A. J.
Colson, Mrs. Neveille H.	Slimp, L. C., Jr.
Edwards, Britton T., Jr.	Spacek, R. B.
Gregory, Sid	Stockard, Jerry T.
Heatly, W. E.	Suiter, Miss Elizabeth
Horany, Jimmy P.	Wagonseller, Wayne W.
McClain, Sidney	Willis, Phillip L.
Mahan, Sheffy	Wiseman, Pat
Miller, Wm. A.	Wright, Jim
Nokes, George O., Jr.	

HOUSE STANDING COMMITTEES

ENGROSSED BILLS COMMITTEE

Thomas, M. K., *Chairman*
Wood, Bill, *Vice Chairman*

Berry, J. O.
Hughes, Edward P.
Jackson, Robert Hal

ENROLLED BILLS COMMITTEE

Fant, J. P., *Chairman*
Slimp, L. C., Jr., *Vice Chairman*

Atkinson, H. L.
Barber, W. A.
Heatly, W. E.

EXAMINATION OF COMPTROLLERS AND TREASURER'S ACCOUNTS COMMITTEE

Lightfoot, C. G., *Chairman*
Sharp, Thomas Harris, *Vice Chairman*

Conner, Chas. M.	Shannon, J. W.
Ford, John	Sparks, James T.
Gregory, Sid	Turner, Surry
Heatly, W. E.	Wagonseller, Wayne W.
Jackson, Robert Hal	

FEDERAL RELATIONS COMMITTEE

Gathings, D. D., *Chairman*
Kennington, Joe Thomas, *Vice Chairman*

Clifton, Davis	Shackleford, Lesta
Collie, T. M.	Sharp, Thomas Harris
Johnson, Pearce	Still, Rae Files
Kirkpatrick, Ray	Tippen, W. K.
Moore, Grady	

GAME AND FISHERIES COMMITTEE

Martin, Tom, *Chairman*
Murphy, Charles A., *Vice Chairman*

Celaya, Augustine	Peters, Donald
Crawford, Carlton	Read, David
Crosthwait, John L.	Reams, Sam G.
Evans, Roger Q.	Ridgeway, Jack F.
Fly, William S.	Smith, Max C.
Gathings, D. D.	Smith, N. F.
Jones, Fred J.	Storey, Cecil
Kazen, Abraham, Jr.	Walker, Miller B.
Markle, Donald M.	Wood, Bill
Moore, Carlton, Sr.	

HOUSE STANDING COMMITTEES

HIGHWAYS AND ROADS COMMITTEE

Lock, Ottis E., *Chairman*

Holt, I. B., *Vice Chairman*

Callaway, Claude

Clifton, Davis

Colson, Mrs. Neveille H.

Edwards, Britton T., Jr.

Fertsch, Marvin

Flanagan, Alford H.

Gandy, Joe W.

Gathings, D. D.

Heatly, W. E.

Heideke, H. A.

James, Andy M.

Lewis, Don A.

Manford, Durwood

Sharp, Thomas Harris

Smith, N. F.

Wagonseller, Wayne W.

Wallace, John L.

Wilson, Paul S.

Wright, Jim

INSURANCE COMMITTEE

Lehman, Henry G., *Chairman*

Blankenship, Dallas, *Vice Chairman*

Berry, J. O.

Brooks, Jack B.

Collie, T. M.

Cowen, Warren C.

Crosthwait, John L.

Davis, Gordon

Godard, Louie D.

Green, A. N.

Henderson, A. R.

James, Andy M.

Jameson, William S.

Jones, Fred J.

Moore, Carlton, Sr.

Moore, W. T.

Sellers, Sam C.

Stump, William R.

Svadlenak, Frank

Timmons, J. Blake

Williams, Eugene C.

INTERSTATE COOPERATION COMMITTEE

Nokes, George O., Jr., *Chairman*

Guffey, Lloyd M., *Vice Chairman*

Isaacks, S. J.

McVey, Elmer

Still, Rae Files

JUDICIAL DISTRICTS COMMITTEE

McFarland, C. M., *Chairman*

Teague, William B., *Vice Chairman*

Flanagan, Alford H.

Henderson, A. R.

Holt, I. B.

Rampy, W. H.

Reams, Sam G.

Smith, Preston E.

South, Chas. L.

Stockard, Jerry T.

Wood, Bill

HOUSE STANDING COMMITTEES

JUDICIARY COMMITTEE

Isaacks, S. J., *Chairman*

Suiter, Miss Elizabeth, *Vice Chairman*

Blankenship, Dallas
Bracewell, Searcy
Fertsch, Marvin
Gilmer, Claude
Hughes, Edward P.
Johnson, Pearce
Kazen, Abraham, Jr.
Kilgore, Joe M.
King, Leslie
Lock, Ottis E.

Mahan, Sheffy
Manford, Durwood
Markle, Donald M.
Pearson, L. R.
Senterfitt, Reuben
South, Chas. L.
Storey, Cecil
Williams, Eugene C.
Willis, Doyle

LABOR COMMITTEE

Manford, Durwood, *Chairman*

Hydrick, Isom P., *Vice Chairman*

Barber, W. A.
Bell, John J.
Craig, William
Edwards, Britton T., Jr.
Etheredge, M. B., Jr.
Gregory, Sid
James, Andy M.
Kennington, Joe Thomas
Latimer, O. E.
Lee, Otis

Murphy, Charles A.
Oltorf, Frank C.
Parkhouse, George
Senterfitt, Reuben
Shackleford, Lesta
Stockard, Jerry T.
Ward, J. F.
Willis, Doyle
Wilson, Paul S.

LIQUOR REGULATION COMMITTEE

Celaya, Augustine, *Chairman*

Hanna, Sam, *Vice Chairman*

Bean, Woodrow W.
Bell, John J.
Callaway, Claude
Crawford, Carlton
Elliott, George
Gardner, C. C.
Guffey, Lloyd M.
Heideke, H. A.
Holstein, L. L.
Latimer, O. E.

Luedemann, Dr. J. A.
Martin, Tom
Murphy, Charles A.
Pyle, Joe
Shannon, J. W.
Smith, Max C.
Svadenak, Frank
Walker, Miller B.
Whitworth, Harry

HOUSE STANDING COMMITTEES

LIVESTOCK AND STOCK RAISING COMMITTEE

Holstein, L. L., *Chairman*

Ridgeway, Jack F., *Vice Chairman*

Atkinson, H. L.	Reams, Sam G.
Blount, R. E.	Smith, N. F.
Elliott, George	South, Chas. L.
Fly, William S.	Stump, William R.
Horany, Jimmy P.	Tippen, W. K.
Luedemann, Dr. J. A.	Turner, Surry
Martin, Tom	Williams, Sterling W.
Mahan, Sheffy	Willis, Doyle
Moore, Charles B. III	Zivley, Lamar
Overton, A. J.	

LOCAL AND UNCONTESTED BILLS COMMITTEE

Abington, W. H., *Chairman*

Walker, Miller B., *Vice Chairman*

Chapman, E. O.	Lock, Ottis E.
Gilmer, Claude	McLellan, C. S.
Hanna, Sam	

MILITARY AND VETERANS AFFAIRS COMMITTEE

Senterfitt, Reuben, *Chairman*

Spencer, James C., *Vice Chairman*

Berry, J. O.	Richards, William George
Clifton, Davis	Ridgeway, Jack F.
Cowen, Warren C.	Shackleford, Lesta
Evans, Roger Q.	Slimp, L. C., Jr.
Horany, Jimmy P.	Teague, William B.
Hughes, Edward P.	Tippen, W. K.
Hydrick, Isom P.	Watson, George W.
Jackson, Robert Hal	Willis, Phillip L.
Kazen, Abraham, Jr.	Yezak, Herman
Kirkpatrick, Ray	

MOTOR-TRAFFIC COMMITTEE

Helpinstill, Jewell, *Chairman*

Mahan, Sheffy, *Vice Chairman*

Atkinson, H. L.	Kilgore, Joe M.
Aynesworth, J. K.	Latimer, O. E.
Bracewell, Searcy	Luedemann, Dr. J. A.
Cannon, O. E.	Moore, W. T.
Cowen, Warren C.	Sallas, J. B.
Davis, Gordon	Sellers, Sam C.
Gathings, D. D.	Smith, Preston E.
Godard, Louie D.	Tippen, W. K.
Hydrick, Isom P.	Williamson, W. A.
Jones, Obie	

HOUSE STANDING COMMITTEES

MUNICIPAL AND PRIVATE CORPORATIONS COMMITTEE

Sallas, J. B., *Chairman*

Parkhouse, George, *Vice Chairman*

Aynesworth, J. K.	Hanna, Sam
Bell, Marshall O.	Jones, Albert M.
Berry, J. O.	Manford, Durwood
Cannon, O. E.	Oltorf, Frank C., Jr.
Celaya, Augustine	Overton, A. J. (Jack), Jr.
Cowen, Warren C.	Sellers, Sam C.
Fly, William S.	Slimp, L. C., Jr.
Ford, John	Storey, Cecil
Green, A. N.	Williams, Eugene C.
Gregory, Sid, Jr.	

OIL, GAS AND MINING COMMITTEE

Pearson, L. R., *Chairman*

Craig, William J. (Bill), *Vice Chairman*

Bell, Marshall O.	Miller, Wm. A. (Bill), Jr.
Blount, R. E.	Moore, Charles B. III
Cannon, O. E.	Peters, Donald
Celaya, Augustine	Richards, William George
Cox, Jack	Sadler, Harley
Crosthwait, John L.	Smith, N. F. (Dick)
Fleming, Joe B.	Swanson, F. G.
Jameson, William S.	Walker, Miller B.
King, Leslie	Willis, Doyle
Lanier, Gus M.	

PENITENTIARIES COMMITTEE

Sellers, Sam C., *Chairman*

Moore, Carlton, Sr., *Vice Chairman*

Abington, W. H. (Bill)	Parkhouse, George
Davis, Gordon	Reams, Sam G.
Etheredge, M. B., Jr.	Shannon, J. W. (Bill)
Fly, William S.	Slimp, L. C., Jr.
Gandy, Joe W.	Spacek, R. B.
Holstein, L. L.	Stockard, Jerry T.
Hughes, Edward P., Jr.	Turner, Surry
Jones, Fred J.	Willis, Phillip L.
Lanier, Gus M.	Yezak, Herman
Overton, A. J. (Jack), Jr.	

HOUSE STANDING COMMITTEES

PRIVILEGES, SUFFRAGES AND ELECTIONS COMMITTEE

Markle, Donald M., *Chairman*

Fertsch, Marvin D., *Vice Chairman*

Barber, W. A.	McLellan, C. S.
Craig, William J. (Bill)	Peters, Donald
Davis, Gordon	Pyle, Joe
Edwards, Britton T., Jr.	Read, David
Etheredge, M. B., Jr.	Smith, N. F.
Fant, J. P.	Suiter, Miss Elizabeth
Gregory, Sid, Jr.	Templeton, R. L.
Lee, Otis	Williams, Eugene C.
Lehman, Henry G.	Wilson, Paul S.
McDaniel, Vernon	

PUBLIC HEALTH COMMITTEE

Williamson, W. A. (Cap), *Chairman*

Jones, Fred J., *Vice Chairman*

Davis, Gordon	Nokes, George O., Jr.
Evans, Roger O.	Oltorf, Frank C., Jr.
Guffey, Lloyd M.	Rampy, W. H.
Heatly, W. E.	Sallas, J. B.
Heflin, J. M.	Shannon, J. W. (Bill)
Henderson, A. R. (Robin)	Swanson, F. G.
Jones, Obie	Willis, Doyle
Lehman, Henry G.	Willis, Phillip L.
McClain, Sidney	Zivley, Lamar
McFarland, C. M.	

PUBLIC LANDS AND BUILDINGS COMMITTEE

Swanson, F. G., *Chairman*

Edwards, Britton T., Jr., *Vice Chairman*

Bean, Woodrow W.	Murphy, Charles A., Jr.
Blount, R. E.	Oltorf, Frank C., Jr.
Callaway, Claude	Pyle, Joe
Conner, Chas. M.	Sadler, Harley
Craig, William J. (Bill)	Spencer, James C.
Gathings, D. D.	Templeton, R. L.
Jones, Albert M.	Thomas, M. K.
Jones, Obie	Wiseman, Pat
Lewis, Don A.	Yezak, Herman
Moore, Grady	

HOUSE STANDING COMMITTEES

PUBLIC PRINTING COMMITTEE

Read, David, *Chairman*

Wallace, John L. (Red), *Vice Chairman*

Blount, R. E.

Fleming, Joe B.

Horany, Jimmy P.

Kirkpatrick, Ray

Lee, Otis

Martin, Tom

Moore, W. T.

McVey, Elmer

Wood, Bill

REPRESENTATION BEFORE THE LEGISLATURE COMMITTEE

Moore, Charles B. III, *Chairman*

Cox, Jack, *Vice Chairman*

Elliott, George

Fly, William S.

Wiseman, Pat

REVENUE AND TAXATION COMMITTEE

Svadlenak, Frank, *Chairman*

Mangum, Preston P., *Vice Chairman*

Abington, W. H. (Bill)

Aynesworth, J. K.

Bell, Marshall O.

Blankenship, Dallas A.

Bracewell, Searcy

Collie, T. M.

Cox, Jack

Craig, William J. (Bill)

Crawford, Carlton

Fleming, Joe B.

Heideke, H. A.

Henderson, A. R. (Robin)

Jones, Obie

Kilgore, Joe M.

Martin, Tom

McFarland, C. M.

Sadler, Harley

Sallas, J. B.

Ward, J. F.

RULES COMMITTEE

Sparks, James T. (Jim), *Chairman*

Whitworth, Harry, *Vice Chairman*

Blankenship, Dallas A.

Brooks, Jack B.

Gilmer, C. H.

Isaacks, S. J.

Lock, Ottis E.

McLellan, C. S.

Sadler, Harley

Suiter, Miss Elizabeth

Swanson, F. G.

HOUSE STANDING COMMITTEES

SCHOOL DISTRICTS COMMITTEE

Gardner, C. C., *Chairman*
Spacek, R. B., *Vice Chairman*

Aynesworth, J. K.	Peters, Donald
Conner, Chas. M.	Turner, Surry
Lee, Otis	Wilson, Paul S.
McDaniel, Vernon	Yezak, Hermian
Oltorf, Frank C., Jr.	

STATE AFFAIRS COMMITTEE

Bell, John J., *Chairman*
Crosthwait, John L., *Vice Chairman*

Brooks, Jack B.	Smith, Max C.
Colson, Mrs. Neveille H.	Sparks, James T. (Jim)
Crawford, Carlton	Storey, Cecil
Hanna, Sam	Suiter, Miss Elizabeth
Heflin, J. M.	Swanson, F. G.
Lanier, Gus M.	Wallace, John L. (Red)
Lehman, Henry G.	Whitworth, Harry
Lock, Ottis E.	Williams, Sterling
Murphy, Charles A., Jr.	Williams, Eugene C.
Sallas, J. B.	

STATE ELEEMOSYNARY AND REFORMATORY INSTITUTIONS COMMITTEE

Wiseman, Pat, *Chairman*
Evans, Roger Q., *Vice Chairman*

Chapman, E. O.	Reams, Sam G.
Colson, Mrs. Neveille H.	Spencer, James C.
Etheredge, M. B., Jr.	Stockard, Jerry T.
Fleming, Joe B.	Stump, William R.
Gandy, Joe W.	Teague, William B.
Holt, I. B.	Thomas, M. K.
Johnson, J. Pearce	Williams, Sterling
Lightfoot, C. G.	Williamson, W. A. (Cap)
Luedemann, J. A.	Willis, Phillip L.
McDaniel, Vernon	

CONSTITUTION

Amendments Adopted Nov. 7, 1946

ARTICLE III

LEGISLATIVE DEPARTMENT

Precede Sec. 24.

The Legislature is authorized to appropriate so much money as may be necessary, not to exceed Seventy-five Thousand (\$75,000.00) Dollars, to pay claims incurred by John Tarleton Agricultural College for the construction of a building on the campus of such college pursuant to deficiency authorization by the Governor of Texas on August 31, 1937.

Sec. 49-b.

There is hereby created a Board to be known as the Veteran's Land Board, which shall be composed of the Governor, the Attorney General, and the Commissioner of the General Land Office. The Legislature shall provide by law for the issuance by said Board of not to exceed Twenty-five Million Dollars (\$25,000,000) in bonds or obligations of the State of Texas for the purpose of creating a fund to be known as the Veteran's Land Fund. Such bonds shall be executed by said Board as an obligation of the State of Texas in such form, denominations, and upon such terms as shall be prescribed by law, provided, however, that said bonds shall bear a rate of interest not to exceed three per cent (3%) per annum.

In the sale of any such bonds a preferential right of purchase shall be given to the administrators of the various teacher retirement funds, the Permanent University Funds, and the Permanent Free School Funds; such bonds to be issued only as needed, in the opinion of the Veteran's Land Board under legislative authorization.

The Veteran's Land Fund shall be used by the Board for the sole purpose of purchasing lands suitable for the purpose hereinafter stated, situated in this State (a) owned by the United States, or any governmental agency thereof; (b) owned by the Texas Prison System, or any other governmental agency of the State of Texas; or (c) owned by any person, firm, or corporation.

All lands thus purchased shall be acquired at the lowest price obtainable, be paid for in cash, and shall be a part of the Veteran's Land Fund.

The lands of the Veteran's Land Fund shall be sold by the State to Texas Veterans of the present war or wars, commonly known as World War II, in such quantities, and on such terms, and at such prices and such rates of interest, and under such rules and regulations as may be prescribed by law; provided, however, that any such lands remaining unsold at the expiration of eight (8) years after the effective date of this Amendment may be sold to anyone as shall be prescribed by law.

All moneys received and which have been received and which have not been used for repurchase of land as provided herein by the Veteran's Land Board from the sale of lands and for interest on deferred payments

CONSTITUTION AMENDMENTS

shall be credited to the Veteran's Land Fund for use in purchasing additional lands to be sold to Texas Veterans of World War II, in like manner as shall be provided for the sale of lands purchased with the proceeds from the sales of the bonds, provided for herein, for a period of eight (8) years from the effective date of this Amendment; provided, however, that so much of such moneys as may be necessary to pay interest on the bonds herein provided for shall be set aside for that purpose. After eight (8) years from the effective date of this Amendment, all moneys received by the Veteran's Land Board from the sale of the lands and interest on deferred payments, or so much thereof as may be necessary, shall be set aside for the retirement of said bonds and to pay interest thereon, and any of such moneys not so needed shall be deposited to the credit of the General Revenue Fund to be appropriated to such purposes as may be prescribed by law.

ARTICLE VIII

TAXATION AND REVENUE

Sec. 7-a.

Subject to legislative appropriation, allocation and direction, all net revenues remaining after payment of all refunds allowed by law and expenses of collection derived from motor vehicle registration fees, and all taxes, except gross production and ad valorem taxes, on motor fuels and lubricants used to propel motor vehicles over public roadways, shall be used for the sole purpose of acquiring rights-of-way, constructing, maintaining, and policing such public roadways, and for the administration of such laws as may be prescribed by the Legislature pertaining to the supervision of traffic and safety on such roads; and for the payment of the principal and interest on county and road district bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund under existing law; provided, however, that one-fourth ($\frac{1}{4}$) of such net revenue from the motor fuel tax shall be allocated to the Available School Fund; and, provided, however, that the net revenue derived by counties from motor vehicle registration fees shall never be less than the maximum amounts allowed to be retained by each County and the percentage allowed to be retained by each County under the laws in effect on January 1, 1945. Nothing contained herein shall be construed as authorizing the pledging of the State's credit for any purpose.

ARTICLE XVI

GENERAL PROVISIONS

Sec. 62.

(a) The Legislature shall have the right to levy taxes to provide a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the State; provided that the amount contributed by the State to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the State, and shall in no one year exceed the sum of One Hundred and Eighty Dollars (\$180) for any such person.

CONSTITUTION AMENDMENTS

All funds provided from the compensation of such person, or by the State of Texas, for such Retirement, Disability and Death Compensation Fund, as are received by the Treasury of the State of Texas, shall be invested in bonds of the United States, the State of Texas, or counties or cities of this State, or in bonds issued by any agency of the United States Government, the payment of the principal of and interest on which is guaranteed by the United States, provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amount likely to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and provided that the recipients of benefits from said Fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the State, is released to the State of Texas as a condition to receiving such other pension aid.

(b) Each county shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the county; provided same is authorized by a majority vote of the qualified voters of such county and after such election has been advertised by being published in at least one newspaper of general circulation in said county once each week for four consecutive weeks; provided that the amount contributed by the county to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the county, and shall in no one year exceed the sum of One Hundred and Eighty Dollars (\$180) for any such person.

All funds provided from the compensation of each such person, or by the county, for such Retirement, Disability and Death Compensation Fund, as are received by the county, shall be invested in bonds of the United States, the State of Texas, or counties or cities of this State, or in bonds issued by any agency of the United States Government, the payment of the principal of and interest on which is guaranteed by the United States, provided that a sufficient amount of said funds shall be kept on hand to meet the immediate payment of the amount likely to become due each year out of said Fund, such amount of funds to be kept on hand to be determined by the agency which may be provided by law to administer said Fund; and provided that the recipients of benefits from said Fund shall not be eligible for any other pension retirement funds or direct aid from the State of Texas, unless the Fund, the creation of which is provided for herein, contributed by the county, is released to the State of Texas as a condition to receiving such other pension aid.

†

TEXAS SESSION LAWS 1947

GENERAL AND SPECIAL

Fiftieth Legislature, Regular Session

LEGISLATURE—MILEAGE AND PER DIEM—CONTINGENT EXPENSES

CHAPTER 1

H. B. No. 1

An Act making an appropriation of the sum of Three Hundred and Fifty Thousand Dollars (\$350,000), or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to pay the contingent expenses, and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Fiftieth Legislature, and to pay any unpaid accounts or expenses of the Forty-ninth Legislature; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated, the sum of Three Hundred and Fifty Thousand Dollars (\$350,000), or so much thereof as may be necessary, to pay the contingent expenses and to pay the mileage and per diem of Members and the per diem of officers and employees of the Regular Session of the Fiftieth Legislature, and to pay any unpaid accounts or expenses of the Forty-ninth Legislature.

Sec. 2. The certificate of the Secretary of the Senate, approved by the President of the Senate, or the certificate of the Chief Clerk of the House of Representatives, approved by the Speaker thereof, shall be sufficient evidence to the Comptroller upon which to audit the claims for mileage and per diem of Members and the salaries and per diem of officers and employees of the Regular Session of the Fiftieth Legislature, and the unpaid accounts or expenses of the Forty-ninth Legislature; and he shall issue the necessary warrants for same upon the Treasury of the State of Texas.

Sec. 3. The certificate of the Chairman of the Committee on Contingent Expenses of the Senate, approved by the President of the Senate, or the certificate of the Chairman of the Committee on Contingent Expenses of the House of Representatives, approved by the Speaker of the House, as the case may be, shall be sufficient authority to the Comptroller to issue warrants upon the State of Texas for the payment of accounts for contingent expenses of either House.

Sec. 4. Providing, however, that a record of all moneys appropriated in this Bill shall be made available for public inspection the same as any other public records in this State. The Senate and House shall each publish an itemized account of expenditures in its own Journal and state

the amount spent by each Member of each House, as the Senate and House may direct.

Sec. 5. The fact that the Regular Session of the Fiftieth Legislature of the State of Texas is now in session, and public policy requires that the appropriations made by this Act shall be made immediately available, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the House, January 15, 1947: Yeas 135, Nays 0; passed the

Senate, January 16, 1947: Yeas 23, Nays 0.

Approved Jan. 16, 1947.

Effective Jan. 16, 1947.

OATHS, AFFIDAVITS AND AFFIRMATION—ADMINISTRATION

CHAPTER 2

H. B. No. 2

An Act to amend Article 26, Title 1, Revised Civil Statutes, as amended by Chapter 331, Acts, Regular Session, Forty-ninth Legislature, so as to authorize judges, clerks, and commissioners of courts of record within this State to administer oaths, affidavits, and affirmations; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Article 26, Title 1, Revised Civil Statutes of Texas, as amended by Chapter 331, Acts, Regular Session of the Forty-ninth Legislature in 1945, be and is hereby amended¹ so as to read as follows:

"Article 26. By whom administered:

"1. All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by:

"a. A judge, clerk, or commissioner of any court of record;

"b. A notary public;

"c. A justice of the peace;

"d. Any member of any board or commission created by the laws of this State, in matters pertaining to the duties thereof.

"2. Such oath, affidavit, or affirmation made without this State and within the physical limits of the United States and its territories may be administered and a certificate of fact given by:

"a. A clerk of any court of record having a seal;

"b. A commissioner of deeds duly appointed under the laws of this State;

"c. A notary public.

"3. Such oath, affidavit, or affirmation made without the physical limits of the United States and its territories may be administered and a certificate of fact given by:

"a. A minister, a commissioner, or charge d'affaires of the United States, resident and accredited to the country where the oath, affidavit, or affirmation is made;

"b. A consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States, resident in the country where the oath, affidavit, or affirmation is made;

"c. A notary public.

¹ Vernon's Ann.Civ.St., art. 26.

"4. In addition to the methods above provided, any such oath, affidavit, or affirmation made by a member of the Armed Forces of the United States of America or any Auxiliaries thereto, may be administered by any commissioned officer in the Armed Forces of the United States of America or in the Auxiliaries thereto, and a certificate of such fact may be made by such officer.

"In the absence of pleading or proof to the contrary it shall be presumed, when any certificate of an oath, affidavit, or affirmation is offered in evidence, that the person signing such as a commissioned officer was such on the date signed, and that the person making such oath, affidavit, or affirmation, to which such officer certifies, was one of those with respect to whom such action is hereby authorized.

"No oath, affidavit, or affirmation administered in accordance with the provisions of this sub-section 4 of this Act shall be held invalid by reason of the failure of the officer certifying to such oath, affidavit, or affirmation to attach an official seal to the certificate thereto."

Sec. 2. The fact that judges, clerks, and commissioners of appellate courts are now without authority to administer oaths, affidavits, or affirmations within this State creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and same is hereby suspended, and this Act shall take effect and be in full force and effect from and after its passage, and it is so enacted.

Passed the House, January 15, 1947: Yeas 138, Nays 0; passed the Senate, January 16, 1947: Yeas 23, Nays 0.

Approved Jan. 16, 1947.

Effective Jan. 16, 1947.

LIVESTOCK—FOOT AND MOUTH DISEASE—QUARANTINES

CHAPTER 3²

H. B. No. 19

An Act authorizing the Livestock Sanitary Commission of Texas to establish quarantines against other States, territories and foreign countries and portions and subdivisions of the State of Texas in order to prevent an outbreak of Foot and Mouth Disease, and to establish such quarantines in such form and manner as may appear to be necessary or advisable to said Commission; to give notice of such quarantines to prohibit the movement of livestock, commodities and goods as shall be specified; to establish rules and regulations for the enforcement of this Act, prescribing penalties for a violation of quarantines against Foot and Mouth Disease established by the Livestock Sanitary Commission as prescribed by this Act, making an appropriation for the enforcement of this Act, and providing for an accounting of such funds and the conditions under which they shall be expended; and providing that this Act shall not be construed as abridging or in anywise conflicting with any Federal rule or regulation or any treaty between the United States and any foreign countries but is supplemental thereto; providing a savings clause; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be the duty of the Livestock Sanitary Commission to establish quarantines against other States, territories and foreign countries and portions thereof, and against certain areas of the territory of the State or subdivisions thereof whenever, in the judgment of the Commission, such quarantines may be necessary or advisable to pre-

² Vernon's Ann. Pen. Code, art. 1525f.

vent an outbreak of Foot and Mouth Disease in Texas, and to otherwise establish quarantines within the State of Texas in such form and manner as to said Commission may appear to be necessary or advisable, in order to prevent an outbreak of Foot and Mouth Disease, or to prevent a spread of said disease. The Livestock Sanitary Commission may in such quarantines, establish in relationship to Foot and Mouth Disease, forbid and prohibit all movement of livestock of any character or description and commodities and other goods and articles as shall in the order establishing such quarantine be specified. Notice of such quarantine, when so established, shall be given as now provided by law for other quaranties established by the Livestock Sanitary Commission.

Sec. 2. The Livestock Sanitary Commission shall establish all necessary rules and regulations pertaining to quarantines against Foot and Mouth Disease to the same extent and in the same manner now provided by law for quarantines against other infectious, contagious and communicable livestock diseases.

Sec. 3. Any person, firm or corporation who shall violate any quarantines established by the Livestock Sanitary Commission in relation to Foot and Mouth Disease, by any movement moving in violation of the quarantine, or by any movement moving any of the livestock or other commodities or goods and articles forbidden to be moved out of said quarantined area, shall upon conviction thereof be punished by a fine of not exceeding Five Thousand Dollars (\$5,000) nor less than Five Hundred Dollars (\$500), or by imprisonment in the County Jail for any length of time not exceeding six (6) months, or by both such fine and imprisonment. And in the event of a second conviction for violation of such quarantine by the same person, firm or corporation such person, firm or corporation shall be deemed guilty of a felony and shall be confined in the penitentiary for any term of not less than two (2) years nor more than five (5) years, and by a fine of any amount not more than Ten Thousand Dollars (\$10,000).

Sec. 4. In order that the provisions of this Act may be effectively carried out and administered and in order to prevent an outbreak of Foot and Mouth Disease within the State of Texas there is appropriated as an emergency appropriation from the General Revenue Fund of the State of Texas the sum of One Hundred and Fifty Thousand Dollars (\$150,000), which sum shall be and is made available from and after the passage of this Act to the Livestock Sanitary Commission to be used for the specific purpose of carrying out the provisions of this Act in the prevention or spread of an outbreak of Foot and Mouth Disease in this State; this appropriation to be available to the Livestock Sanitary Commission for and only for the purpose of quarantines, or such other measures that may be adopted by the Livestock Sanitary Commission for the prevention and spread of an outbreak of Foot and Mouth Disease, and, if and when, in the opinion of the Livestock Sanitary Commission there no longer remains a threat or danger of an outbreak or spread of Foot and Mouth Disease in Texas, said Commission shall so certify and the unused portion of this appropriation shall thereupon revert to the General Revenue Fund of the State. The Livestock Sanitary Commission is hereby authorized to use any or all of the money appropriated by this Act in any manner it deems necessary for the carrying out of the provisions of this Act; in the expenditure of the funds appropriated by this Act the Livestock Sanitary Commission shall not be bound by the limitations contained in Senate Bill 317, Acts of the Regular Session of the Forty-ninth Legislature.

The Chairman of the Livestock Sanitary Commission is directed and hereby required under oath to report monthly, not later than the tenth of

each month for the preceding month, to the State Auditor, giving an itemized account of all moneys that have been expended and authorized to be expended out of the moneys appropriated by this Act; which report shall include the salaries and compensation paid to veterinarians, inspectors, and all other persons employed by said commission, together with their traveling expenses, if any; and shall also contain an itemized statement of all moneys expended for disinfectants, quarantine signs, public notices, and all other expenditures made out of the funds appropriated by this Act; and such other information as may be requested by the State Auditor.

Sec. 5. It is not the intention by this Act to abridge the authority of the Federal Government or to violate the provisions of any treaty, pact, or agreement between the United States and any foreign country, and it is hereby especially provided that this Act shall be limited and subordinated to any treaty, pact or agreement between the United States and any other Government and to any rights between Texas and States bordering thereon.

Sec. 6. Should any section, sentence, clause, phrase or word of this Act be held invalid by a Court of competent jurisdiction, it is hereby declared to be the legislative intent that the remaining portions of the Act shall not be affected thereby but shall remain in full force and effect after omitting such invalid section, sentence, clause, phrase or word.

Sec. 7. Foot and Mouth Disease is recognized as being a livestock disease that is highly infectious, contagious and communicable and a disease that is highly dangerous and destructive to livestock and the livestock industry of Texas and to the general economy of the Nation, and the fact that a serious outbreak of Foot and Mouth Disease exists in the adjoining Republic of Mexico and the fact that an outbreak of such disease in this State would result in the loss of many millions of dollars as well as other great hardships to our citizens, and the fact that the Livestock Sanitary Commission of Texas has not sufficient funds to establish, maintain and enforce the necessary quarantines against said disease, create an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read on three separate days in each House, and the same is by this Act suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the House, January 29, 1947: Yeas 131, Nays 0; House refused to concur in Senate amendments, January 30, 1947, and requested appointment of a Conference Committee to consider the differences between the two Houses; House adopted Conference Committee Report, January 30, 1947: Yeas 121, Nays 0; passed the Senate, with amendments, January 30, 1947: Yeas 27, Nays 0; at request of House, Senate appointed a Conference Committee to consider the differences between the two Houses; Senate adopted Conference Committee Report, January 30, 1947: Yeas 28, Nays 0.

Approved Jan. 30, 1947.

Effective Jan. 30, 1947.

STATE DEPARTMENTS—TRAVELING EXPENSES

CHAPTER 4

S. B. No. 2

An Act making appropriation for an increase in, and supplementing, the amounts of money set out and appropriated for the various State Departments for traveling expenses provided for in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, beginning with the effective date of this Act and ending on August 31, 1947; and amending Subsection g. of Section 2 of Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, so as to limit the traveling expenses of all state employees for meals and lodging at Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated to each of the State Departments of Government of the State of Texas mentioned in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, out of any moneys in the State Treasury in the General Revenue Fund or Special Funds as are set out in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, an amount of money equal to twenty-five per cent (25%) of the money spent for meals and lodging by such Department for traveling expenses for the fiscal year ending August 31, 1946; it being the purpose of this appropriation to increase the appropriation made by Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, for traveling expenses for each of the State Departments of Government of the State of Texas out of the General Revenue Fund or such Special Funds as are set out in such Bill, for the remainder of the fiscal year ending August 31, 1947.

It is the further purpose of this appropriation to increase the limit of all expenses for meals and lodging of all employees of the State of Texas traveling under the expense of the State of Texas to the amount of Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; that the moneys herein appropriated shall be set aside and used for the payment of meals and lodging only.

Sec. 2. That Subdivision g. of Subsection (11) of Section 2, of Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, be and the same is hereby amended to read hereafter as follows:

"g. All employees traveling at the expense of the State are hereby limited to the amount of Five (\$5.00) Dollars per day expenses for meals and lodging; it being specifically provided that the employees shall obtain receipts for all amounts expended for all items of lodging and other expenses except meals, and shall file said receipts with their expense accounts, which expense accounts must be duly itemized and sworn to; and the State Comptroller is hereby expressly prohibited from paying any expense accounts which are not itemized and sworn to and accompanied by receipts as herein provided; provided, however, that the restrictions and limitations imposed by this Act shall not apply to any elected or appointed official whose qualification as such official requires confirmation of the Senate."

Sec. 3. The fact that the amount of money allowed state employees for meals and lodging while traveling for the State of Texas on official business is grossly inadequate to reimburse such state employees for such expenses; and the fact that the salaries of state employees are also grossly inadequate and are not sufficient for such employees to bear a large portion of their expenses for meals and lodging while upon official

business, which makes it difficult to keep competent help in the various state departments; and the fact that the great increase in the cost of living and traveling expenses has worked an undue and unjust burden upon state employees traveling on official business; and the further fact of the crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 28, Nays 0; passed the House, February 10, 1947: Yeas 137, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

JUDICIARY—TRAVELING EXPENSES

CHAPTER 5

S. B. No. 3

An Act making appropriation for an increase in, and supplementing, the amounts of money set out and appropriated for the Judiciary of the State of Texas for traveling expenses provided for in House Bill No. 215, Acts of the Regular Session of the 49th Legislature, beginning with the effective date of this Act and ending on August 31, 1947; so as to limit the traveling expenses of all state employees for meals and lodging at Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated to the Judiciary of the State of Texas mentioned and/or designated in House Bill No. 215, Acts of the Regular Session of the 49th Legislature, out of any moneys in the State Treasury in the General Revenue Fund or Special Funds as are set out in House Bill No. 215, Acts of the Regular Session of the 49th Legislature, an amount of money equal to Twenty-five per cent (25%) of the money spent for meals and lodging by such Judiciary for traveling expenses for the fiscal year ending August 31, 1946; it being the purpose of this appropriation to increase the appropriation made by House Bill No. 215, Acts of the Regular Session of the 49th Legislature, for traveling expenses for the Judiciary of the State of Texas out of the General Revenue Fund or such Special Funds as are set out in such bill, for the remainder of the fiscal year ending August 31, 1947.

It is the further purpose of this appropriation to increase the limit of all expenses for meals and lodging of all employees of the State of Texas traveling under the expense of the State of Texas to the amount of Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; that the moneys herein appropriated shall be set aside and used for the payment of meals and lodging only.

Sec. 2. The fact that the amount of money allowed state employees for meals and lodging while traveling for the State of Texas on official business is grossly inadequate to reimburse such state employees for such expenses; and the fact that the salaries of state employees are also grossly inadequate and are not sufficient for such employees to bear a large portion of their expenses for meals and lodging while upon official business, which makes it difficult to keep competent help in the various state departments; and the fact that the great increase in the cost of living and traveling expenses has worked an undue and unjust burden

upon state employees traveling on official business; and the further fact of the crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29, Nays 0; passed the House February 10, 1947: Yeas 138, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

ELEEMOSYNARY AND REFORMATORY INSTITUTIONS— TRAVELING EXPENSES

CHAPTER 6

S. B. No. 4

An Act making appropriation for an increase in, and supplementing, the amounts of money set out and appropriated for the various Eleemosynary and Reformatory Institutions for traveling expenses provided for in House Bill No. 206, Acts of the Regular Session of the 49th Legislature, beginning with the effective date of this Act and ending on August 31, 1947; so as to limit the traveling expenses of all state employees for meals and lodging at Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated to each of the State Eleemosynary and Reformatory Institutions of the State of Texas mentioned in House Bill No. 206, Acts of the Regular Session of the 49th Legislature, out of any moneys in the State Treasury in the General Revenue Fund or Special Funds as are set out in House Bill No. 206, Acts of the Regular Session of the 49th Legislature, an amount of money equal to twenty-five per cent (25%) of the money spent for meals and lodging by such institution for traveling expenses for the fiscal year ending August 31, 1946; it being the purpose of this appropriation to increase the appropriation made by House Bill No. 206, Acts of the Regular Session of the 49th Legislature, for traveling expenses for each of the State Eleemosynary and Reformatory Institutions of the State of Texas out of the General Revenue Fund or such Special Funds as are set out in such bill, for the remainder of the fiscal year ending August 31, 1947.

It is the further purpose of this appropriation to increase the limit of all expenses for meals and lodging of all employees of the State of Texas, traveling under the expense of the State of Texas, to the amount of Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; that the moneys herein appropriated shall be set aside and used for the payment of meals and lodging only.

Sec. 2. The fact that the amount of money allowed state employees for meals and lodging while traveling for the State of Texas on official business is grossly inadequate to reimburse such state employees for such expenses; and the fact that the salaries of state employees are also grossly inadequate and are not sufficient for such employees to bear a large portion of their expenses for meals and lodging while upon official business, which makes it difficult to keep competent help in the various Eleemosynary and Reformatory Institutions; and the fact that the great increase in the cost of living and traveling expenses has worked an

undue and unjust burden upon state employees traveling on official business; and the further fact of the crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29, Nays 0; passed the House, February 10, 1947: Yeas 132, Nays 1.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

EDUCATIONAL INSTITUTIONS—TRAVELING EXPENSES

CHAPTER 7

S. B. No. 5

An Act making appropriation for an increase in, and supplementing, the amounts of money set out and appropriated for the various Educational Institutions, for traveling expenses provided for in House Bill No. 173, Acts of the Regular Session of the 49th Legislature, beginning with the effective date of this Act and ending on August 31, 1947; and amending Subsection (6) of the General Provisions of House Bill No. 173, Acts of the Regular Session of the 49th Legislature, so as to limit the traveling expenses of all state employees for meals and lodging at Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated to each of the Educational Institutions of Government of the State of Texas mentioned in House Bill No. 173, Acts of the Regular Session of the 49th Legislature, out of any moneys in the State Treasury in the General Revenue Fund or Special Funds as are set out in House Bill No. 173, Acts of the Regular Session of the 49th Legislature, an amount of money equal to twenty-five per cent (25%) of the money spent for meals and lodging by such institution for traveling expenses for the fiscal year ending August 31, 1946; it being the purpose of this appropriation to increase the appropriation made by House Bill No. 173, Acts of the Regular Session of the 49th Legislature, for traveling expenses for each of the State Educational Institutions of Government of the State of Texas out of the General Revenue Fund or such Special Funds as are set out in such bill, for the remainder of the fiscal year ending August 31, 1947.

It is the further purpose of this appropriation to increase the limit of all expenses for meals and lodging of all employees of the State of Texas traveling under the expense of the State of Texas to the amount of Five (\$5.00) Dollars per day beginning with the effective date of this Act and ending August 31, 1947; that the moneys herein appropriated shall be set aside and used for the payment of meals and lodging only.

Sec. 2. That Subsection (6) of the General Provisions of House Bill No. 173, Acts of the Regular Session of the 49th Legislature, be and the same is hereby amended to read hereafter as follows:

Subsection (6). Traveling Expenses. No traveling expenses shall be incurred by board members, heads of institutions, or by any employees of any of the schools, or other agencies named herein, inside or outside of the boundaries of the State of Texas, except for state business or for the formal presentation of original researches by an employee, if before a national learned society approved in advance by the adminis-

trative head of the school, and no travel shall be performed outside the state except upon the written consent of the school's Board of Regents or Directors. All persons employed in any capacity by these state educational institutions and agencies, except heads of the institutions named in this Act and members of the boards who do not receive an annual or monthly salary, who travel at the expense of the state are limited to the amount of Five (\$5.00) Dollars per day expenses for meals and lodging; it being specifically provided that the employees shall obtain receipts for all amounts expended for lodging and other expenses except meals, local telephone and taxi fare, and shall file such receipts with their expense accounts as provided for employees of the State Department; and the Comptroller and local disbursing officers shall require the same method of claim presentation and forms. The expenses of Regents or Directors shall be approved by the Comptroller of the State and the presiding officer of the governing board, and the expenses of all other employees shall be approved by the Comptroller of the State, the President or Chief Financial Officer, and the Auditor of the college or institution.

It is provided further that any officer or employee who travels on official state business, and who uses his own car while so doing, shall be reimbursed for the use of said car on the basis of the total mileage traveled during any calendar month at the following rate: Five (5¢) cents a mile for the first thousand miles traveled; Four (4¢) cents a mile for the second thousand miles traveled; Three (3¢) cents a mile for the third thousand miles traveled; and Two (2¢) cents a mile for each mile traveled in excess of three thousand miles. Before the Comptroller or disbursing officer of the educational institutions hereinbefore named shall issue any such warrant for reimbursement, the said officer or employee shall file an affidavit with the Comptroller or disbursing officer showing the point of origin and the point of destination of his trip and the mileage actually traveled. If the Comptroller or disbursing officer is of the opinion that said officer or employee did not take the shortest practicable route to the point of destination and return, the Comptroller or disbursing officer shall have the authority and it shall be his duty to compute the mileage of the shortest practicable route between the point of origin and destination and return, and he shall issue his warrant in reimbursement therefor on the basis aforesaid.

Sec. 3. The fact that the amount of money allowed state employees for meals and lodging while traveling for the State of Texas on official business is grossly inadequate to reimburse such state employees for such expenses; and the fact that the salaries of state employees are also grossly inadequate and are not sufficient for such employees to bear a large portion of their expenses for meals and lodging while upon official business, which makes it difficult to keep competent help in the various state educational institutions; and the fact that the great increase in the cost of living and traveling expenses has worked an undue and unjust burden upon state employees traveling on official business; and the further fact of the crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29, Nays 0; passed the House, February 10, 1947: Yeas 135, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

STATE OFFICERS AND EMPLOYEES—INCREASE IN SALARIES

CHAPTER 8

S. B. No. 6

An Act making appropriation for an increase in salaries of state officials and state employees for the period beginning with the effective date of this Act and ending on August 31, 1947, supplementing the salaries designated and/or provided for in House Bill No. 215, Acts of the Regular Session of the 49th Legislature; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated in the General Revenue Fund, or such Special Funds as are set out in House Bill No. 215, Acts of the Regular Session of the 49th Legislature, an amount to increase the salaries of state officials and state employees designated and/or provided for in said House Bill No. 215 by fifteen per cent (15%); provided, however, that for any salary in excess of Three Thousand Six Hundred (\$3,600.00) Dollars per annum, the amount hereby appropriated for such salary shall be as follows:

For the first Three Thousand Six Hundred (\$3,600.00) Dollars of any salary, the amount hereby appropriated is fifteen per cent (15%); for the amount in excess of Three Thousand Six Hundred (\$3,600.00) Dollars but less than Five Thousand and One (\$5,001.00) Dollars there is hereby appropriated an amount to increase that portion of such salary by five per cent (5%); that portion of all salaries above Five Thousand (\$5,000.00) Dollars per annum shall not be increased by this appropriation.

It is the purpose of this appropriation to increase the current salaries of state officials and state employees holding positions as of the effective date of this Act and who may hold such positions between said effective date and August 31, 1947, by the amounts above specified, supplementing the appropriations made and/or designated for such salaries by House Bill No. 215, Acts of the Regular Session of the 49th Legislature, and that such increases shall be paid monthly from the effective date of this Act, until and including the 31st day of August, 1947, after which time this appropriation law shall be non-operative. Provided, however, that these increases shall be based upon the salary schedule in effect at September 1, 1945, so that if certain salaries have been increased since said date, regardless of the source from which such increase may have been provided, the increase herein provided shall be limited to the difference between the scale herein provided and the increase in effect subsequent to September 1, 1945; and provided further, that these increases shall not apply to any salary for any state official or employee fixed by the Constitution of this State.

The payment and disbursements of the funds provided for herein shall be governed by the same rules and riders as are contained herein and contained in House Bill No. 215, herein mentioned.

No increases shall be participated in by any of the state officials or employees on payrolls from funds other than state appropriations, wholly or in part, except that said increases may be paid ratably from state appropriated funds and the balance of said increases herein provided, if paid, shall come from such funds other than state appropriations. Provided, further, that the increases hereunder are to be calculated on the basis of full-time employment; part-time salaries to be increased in the ratio they bear to like full-time employment.

An employee who receives a salary supplement from such other sources as set out in said House Bill No. 215 shall receive from the General Revenue Fund or such Special Funds under this Act only such part of the increase provided herein as the ratio that his salary in said House Bill No. 215 bears to his total salary.

Sec. 2. The fact that there have been no adequate salary raises for state officials and state employees over the past several years; and the fact that many efficient state employees are leaving the state service for higher salaries in private industry, making it difficult to keep competent help in the various State Departments; and the fact that the late war conditions have so increased the cost of living that it is impossible for the state employees, under present wage scales, to meet such increase in the cost of living; and the further fact of a crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29, Nays 0; passed the House, February 10, 1947: Yeas 138, Nays 3.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

STATE OFFICERS AND EMPLOYEES—INCREASE IN SALARIES

CHAPTER 9

S. B. No. 7

An Act making appropriation for an increase in salaries of state officials and state employees for the period beginning with the effective date of this Act and ending on August 31, 1947, supplementing the salaries designated and/or provided for in House Bill No. 173, Acts of the Regular Session of the 49th Legislature; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated in the General Revenue Fund, or such Special Funds as are set out in House Bill No. 173, Acts of the Regular Session of the 49th Legislature, an amount to increase the salaries of state officials and state employees designated and/or provided for in said House Bill No. 173 by fifteen per cent (15%); provided, however, that for any salary in excess of Three Thousand Six Hundred (\$3,600.00) Dollars per annum, the amount hereby appropriated for such salary shall be as follows:

For the first Three Thousand Six Hundred (\$3,600.00) Dollars of any salary the amount hereby appropriated is fifteen per cent (15%); for the amount in excess of Three Thousand Six Hundred (\$3,600.00) Dollars but less than Five Thousand and One (\$5,001.00) Dollars there is hereby appropriated an amount to increase that portion of such salary by five per cent (5%); that portion of all salaries above Five Thousand (\$5,000.00) Dollars per annum shall not be increased by this appropriation.

It is the purpose of this appropriation to increase the current salaries of state officials and state employees holding positions as of the effective date of this Act and who may hold such positions between said effective date and August 31, 1947, by the amounts above specified, supplementing the appropriations made and/or designated for such salaries by House

Bill No. 173, Acts of the Regular Session of the 49th Legislature, and that such increases shall be paid monthly from the effective date of this Act, until and including the 31st day of August, 1947, after which time this appropriation law shall be non-operative. Provided, however, that these increases shall be based upon the salary schedule in effect at September 1, 1945, so that if certain salaries have been increased since said date, regardless of the source from which such increase may have been provided, the increase herein provided shall be limited to the difference between the scale herein provided and the increase in effect subsequent to September 1, 1945; and provided further, that these increases shall not apply to any salary for any state official or employee fixed by the Constitution of this State.

The payment and disbursements of the funds provided for herein shall be governed by the same rules and riders as are contained herein and contained in House Bill No. 173, herein mentioned.

No increases shall be participated in by any of the state officials or employees on payrolls from funds other than state appropriations, wholly or in part, except that said increases may be paid ratably from state appropriated funds and the balance of said increases herein provided, if paid, shall come from such funds other than state appropriations. Provided, further, that the increases hereunder are to be calculated on the basis of full-time employment; part-time salaries to be increased in the ratio they bear to like full-time employment.

An employee who receives a salary supplement from such other sources as set out in said House Bill No. 173 shall receive from the General Revenue Fund or such Special Funds under this Act only such part of the increase provided herein as the ratio that his salary in said House Bill No. 173 bears to his total salary.

Sec. 2. The fact that there have been no adequate salary raises for state officials and state employees over the past several years, and the fact that many efficient state employees are leaving the state service for higher salaries in private industry, making it difficult to keep competent help in the various State Departments; and the fact that it is impossible for the state employees, under present wage scales, to meet such increase in the cost of living; and the further fact of a crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 28, Nays 0; passed the House, February 10, 1947: Yeas 136, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

STATE OFFICERS AND EMPLOYEES—INCREASE IN SALARIES

CHAPTER 10

S. B. No. 8

An Act making appropriation for an increase in salaries of state officials and state employees for the period beginning with the effective date of this Act and ending on August 31, 1947, supplementing the salaries designated and/or provided for in House Bill No. 206, Acts of the Regular Session of the 49th Legislature; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated in the General Revenue Fund, or such Special Funds as are set out in House Bill No. 206, Acts of the Regular Session of the 49th Legislature, an amount to increase the salaries of state officials and state employees designated and/or provided for in said House Bill No. 206 by fifteen per cent (15%); provided, however, that for any salary in excess of Three Thousand Six Hundred (\$3,600.00) Dollars per annum, the amount hereby appropriated for such salary shall be as follows:

For the first Three Thousand Six Hundred (\$3,600.00) Dollars of any salary the amount hereby appropriated is fifteen per cent (15%); for the amount in excess of Three Thousand Six Hundred (\$3,600.00) Dollars but less than Five Thousand and One (\$5,001.00) Dollars there is hereby appropriated an amount to increase that portion of such salary by five per cent (5%); that portion of all salaries above Five Thousand (\$5,000.00) Dollars per annum shall not be increased by this appropriation.

It is the purpose of this appropriation to increase the current salaries of state officials and state employees holding positions as of the effective date of this Act, and who may hold such positions between said effective date and August 31, 1947, by the amounts above specified, supplementing the appropriations made and/or designated for such salaries by House Bill No. 206, Acts of the Regular Session of the 49th Legislature, and that such increases shall be paid monthly from the effective date of this Act, until and including the 31st day of August, 1947, after which time this appropriation law shall be non-operative. Provided, however, that these increases shall be based upon the salary schedule in effect at September 1, 1945, so that if certain salaries have been increased since said date, regardless of the source from which such increase may have been provided, the increase herein provided shall be limited to the difference between the scale herein provided and the increase in effect subsequent to September 1, 1945; and provided further that these increases shall not apply to any salary for any state official or employee fixed by the Constitution of this state.

The payment and disbursements of the funds provided for herein shall be governed by the same rules and riders as are contained herein and contained in House Bill No. 206, herein mentioned.

No increases shall be participated in by any of the state officials or employees on payrolls from funds other than state appropriations, wholly or in part, except that said increases may be paid ratably from state appropriated funds and the balance of said increases herein provided, if paid, shall come from such funds other than state appropriations. Provided further, that the increases hereunder are to be calculated on the basis of full-time employment; part-time salaries to be increased in the ratio they bear to like full-time employment.

STATE OFFICERS AND EMPLOYEES—INCREASE IN SALARIES Ch. 11

An employee who receives a salary supplement from such other sources as set out in said House Bill No. 206 shall receive from the General Revenue Fund or such Special Funds under this Act only such part of the increase provided herein as the ratio that his salary in said House Bill No. 206 bears to his total salary.

Sec. 2. The fact that there have been no adequate salary raises for state officials and state employees over the past several years; and the fact that many efficient state employees are leaving the state service for higher salaries in private industry, making it difficult to keep competent help in the various State Departments; and the fact that the late war conditions have so increased the cost of living that it is impossible for the state employees, under present wage scales, to meet such increase in the cost of living; and the further fact of a crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29; Nays 0; passed the House, February 10, 1947: Yeas 133, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

STATE OFFICERS AND EMPLOYEES—INCREASE IN SALARIES

CHAPTER 11

S. B. No. 9

An Act making appropriation for an increase in salaries of state officials and state employees for the period beginning with the effective date of this Act and ending on August 31, 1947; supplementing the salaries designated and/or provided for in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated in the General Revenue Fund or such Special Funds as are set out in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, an amount of money sufficient to increase the amount appropriated for the salaries of state officials and state employees designated and/or provided for in said Senate Bill No. 317 by fifteen per cent (15%); provided, however, that for any salary in excess of Three Thousand Six Hundred (\$3,600.00) Dollars per annum, the amount hereby appropriated for such salary shall be as follows:

For the first Three Thousand Six Hundred (\$3,600.00) Dollars of any salary, the amount hereby appropriated is fifteen per cent (15%); for the amount in excess of Three Thousand Six Hundred (\$3,600.00) Dollars but less than Five Thousand and One (\$5,001.00) Dollars there is hereby appropriated an amount to increase that portion of such salary by five per cent (5%); that portion of all salaries above Five Thousand (\$5,000.00) Dollars per annum shall not be increased by this appropriation.

It is the purpose of this appropriation to increase the current salaries of state officials and state employees holding positions as of the effective date of this Act, and who may hold such positions between said effective date and August 31, 1947, by the amounts above specified, sup-

plementing the appropriations made and/or designated for such salaries by Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, and that such increases shall be paid monthly from the effective date of this Act, until and including the 31st day of August, 1947, after which time this appropriation law shall be non-operative. Provided, however, that these increases shall be based upon the salary schedule in effect at September 1, 1945, so that if certain salaries have been increased since said date, regardless of the source from which such increase may have been provided, the increase herein provided shall be limited to the difference between the scale herein provided and the increase in effect subsequent to September 1, 1945; and provided further, that these increases shall not apply to any salary for any state official or employee fixed by the Constitution of this State.

The payment and disbursements of the funds provided for herein shall be governed by the same rules and riders as are contained herein and contained in Senate Bill No. 317, herein mentioned.

No increases shall be participated in by any of the state officials or employees on payrolls from funds other than state appropriations, wholly or in part, except that said increases may be paid ratably from state appropriated funds and the balance of said increases herein provided, if paid, shall come from such funds other than state appropriations. Provided further, that the increases hereunder are to be calculated on the basis of full-time employment; part-time salaries to be increased in the ratio they bear to like full-time employment.

An employee who receives a salary supplement from such other sources as set out in said Senate Bill No. 317 shall receive from the General Revenue Fund or such Special Funds under this Act only such part of the increase provided herein as the ratio that his salary in said Senate Bill No. 317 bears to his total salary.

Sec. 2. The fact that there have been no adequate salary raises for state officials and state employees over the past several years, and the fact that many efficient state employees are leaving the state service for higher salaries in private industry, making it difficult to keep competent help in the various State Departments; and the fact that the late war conditions have so increased the cost of living that it is impossible for the state employees, under present wage scales, to meet such increase in the cost of living; and the further fact of a crowded condition of the present calendar, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 3, 1947: Yeas 29, Nays 0; passed the House, February 10, 1947: Yeas 140, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

APPROPRIATION—TEACHERS—SUPPLEMENTAL SALARY

CHAPTER 12

S. B. No. 21

An Act amending Section 2 of Article 3, Senate Bill No. 167, Acts of the Regular Session, 49th Legislature, relating to state aid to public schools; providing for a supplement to the salary of teachers in equalization aid schools for the last four months of the school year 1946-1947; repealing all laws in conflict therewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Article I

Section 1. Amend Section 2 of Article III, of Senate Bill No. 167, Acts of the Regular Session of the 49th Legislature, 1945, so as to hereafter read as follows:

"Section 2. Salary Schedule and the length of Term. The base pay for classroom teachers in unaccredited schools shall be One Hundred Thirty-five (\$135.00) Dollars per month for eight (8) months. The base pay for classroom teachers in accredited schools shall be One Hundred Thirty-five (\$135.00) Dollars per month for nine (9) months. The base pay for Home Economics teachers shall be One Hundred Thirty-five (\$135.00) Dollars per month for ten (10) months. The base pay for Vocational Agriculture teachers, and Trades and Industries teachers shall be One Hundred Seventeen and 50/100 (\$117.50) Dollars per month for twelve (12) months. Three (\$3.00) Dollars per month shall be added for each year of college credit over one year, not to exceed Fifteen (\$15.00) Dollars. One and 50/100 (\$1.50) Dollars per month shall be added for each year of teaching experience; provided such amount added for experience shall not exceed Fifteen (\$15.00) Dollars per month.

"Administrative Salaries. Additional allowances for teachers serving as principals in unaccredited schools shall be Five (\$5.00) Dollars per month per teacher, but in no instance to exceed Forty (\$40.00) Dollars per month.

"Allowances for high school principals in accredited schools shall be Twelve (\$12.00) Dollars per month in schools with nine (9) to eleven (11) teachers; twelve (12) to nineteen (19) teachers, Thirty (\$30.00) Dollars per month; twenty (20) to twenty-nine (29) teachers, Thirty-five (\$35.00) Dollars per month; thirty (30) or more teachers, Forty (\$40.00) Dollars per month. Salaries for high school principals in accredited schools shall be paid for ten months. Superintendents in schools having five (5) teachers shall receive an additional allowance of Forty-five (\$45.00) Dollars per month; six (6) to seven (7) teachers, Fifty (\$50.00) Dollars per month; eight (8) to eleven (11) teachers, Fifty-five (\$55.00) Dollars per month; twelve (12) to nineteen (19) teachers, Seventy-five (\$75.00) Dollars per month; twenty (20) to twenty-nine (29) teachers, Ninety-five (\$95.00) Dollars per month; thirty (30) or more teachers, One Hundred Five (\$105.00) Dollars per month. Salaries of superintendents shall be paid for twelve (12) months. No school with less than nine (9) teachers can have both principal and superintendent. Principals of accredited elementary schools in a district which does not include a high school shall receive an additional allowance of Six (\$6.00) Dollars per month per teacher, not to exceed Fifty-four (\$54.00) Dollars per month.

"Elementary and Junior High School principals in a school district having a four year high school, may receive an additional allowance of two and 50/100 (\$2.50) Dollars per month for each elementary teacher

under his supervision, if the school in which he is teaching is located in a building apart from the high school building, or if he devotes fifty per cent (50%) or more of his time to supervision and the school employs nine (9) or more teachers; but in no event shall he receive more than Fifty (\$50.00) Dollars per month additional.

"The annual salary of teachers in accredited schools shall be the monthly salary multiplied by nine (9). The annual salary of teachers in unaccredited schools shall be the monthly salary multiplied by eight (8). The annual salary of superintendents of accredited schools with eight (8) or more recognized affiliated credits and entitled to five (5) teachers or more under Section 1 of this Article, Vocational Agriculture teachers, and Trades and Industries teachers, shall be the monthly salary as determined by schedule stated herein multiplied by twelve (12). The annual salary of Home Economics teachers shall be the monthly salary as determined by said schedule multiplied by ten (10). All such authorized salaries may be paid in twelve (12) equal payments, which shall not exceed the contract of the salary schedule beginning with September 1st of each year. Salaries of superintendents and Vocational teachers may begin on July 1st rather than September 1st. All schools of the accredited class receiving aid shall provide a term of approximately nine (9) months, and schools of the unaccredited class receiving aid shall provide a term of approximately eight (8) months. An accredited school is one teaching either the elementary grades, the elementary grades plus two (2) years of high school, or the elementary grades and four (4) years of high school and recognized by the State Department of Education as doing standard work. It is further provided as a temporary method to more adequately compensate teachers and administrators in state aid schools for the school year 1946-1947, that in addition to the base salary, increments, and allowances, authorized in this Section, there shall be paid to teachers and administrators teaching in state aid schools, an amount not to exceed Seventy-five (\$75.00) Dollars at the end of each of the last four (4) school months of the school year 1946-1947."

Article II

Sec. 2. Repealing Clause. All laws or parts of laws in conflict herewith are hereby repealed; and in the event any provision of this Act is declared unconstitutional or invalid by any court of common jurisdiction, the remainder of this Act shall nevertheless remain in full force and effect.

Article III

Sec. 3. Emergency Clause. The fact that salary schedules fixed in Senate Bill No. 167, Acts of the 49th Legislature, 1945, would prohibit the teacher in state aid schools receiving benefits to their salaries by reason of an increase in the per capita apportionment; and the further fact that it is not the desire of the Legislature to discriminate against these schools, create an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each House be, and it is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

Passed the Senate, January 29, 1947: Yeas 26, Nays 0; passed the House, February 10, 1947: Yeas 133, Nays 0.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

STATE DEPARTMENT OF EDUCATION—SUPPLEMENTAL
APPROPRIATION

CHAPTER 13

S. B. No. 44

An Act making an appropriation out of any moneys in the General Revenue Fund in the State Treasury, not otherwise appropriated, to supplement the regular appropriation to the State Department of Education for the benefit of the Main Office, so that said department may be able to maintain administration of school lunch funds, inspection of school plants of this state for safety and design, for secretarial and clerical hire, contingent expense, equipment and machines; Board of Examiners for seasonal examiners, stationery, printing, supplies and contingent expense, totaling Thirty-seven Thousand Five Hundred Seventy-one (\$37,571.00) Dollars for the remainder of the fiscal year ending August 31, 1947; providing that the general emergency salary increase for the remainder of the current biennium shall not apply to the salaries herein appropriated and that none of said appropriation should be expended until approval of a budget therefor by the Legislative Audit Committee; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated out of any moneys in the General Revenue Fund, not otherwise appropriated, in the State Treasury, the amounts placed opposite the items designated herein to the State Department of Education to supplement the regular appropriation made by the Regular Session of the 49th Legislature and to be allocated as indicated in the detailed listing for the purpose of transacting normal and regular business of the Department of Education with its additional duties imposed by Federal requirements of the school lunch program as follows, but any general salary increase heretofore or hereafter voted by the Regular Session of the 50th Legislature shall not apply to the salary items listed below:

MAIN OFFICE

Stationery, printing, supplies, postage and contingent expense	\$15,000.00
Equipment and machines	2,600.00
Total	\$17,600.00
Director of School Lunch Program at \$300.00 per month for seven months	\$ 2,100.00
Secretary to the Director at \$165.00 per month for seven months	1,155.00
Bookkeeper at \$200.00 per month for seven months	1,400.00
Two clerks at \$149.00 each per month for seven months	2,086.00
Seven clerks at \$145.00 each per month for seven months	7,105.00
Director of School Plant at \$300.00 per month for seven months	2,100.00
Two stenographers at \$150.00 each per month for seven months	2,100.00
One stenographer (half salary) at \$75.00 per month for seven months	525.00
Total	\$18,571.00

BOARD OF EXAMINERS

Examiners, seasonal	\$ 300.00
Stationery, printing, supplies and contingent expense	500.00
Postage	600.00
Total	\$ 1,400.00

The appropriation herein made shall be subject to all the riders and restrictions regulating the expenditures of moneys by Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature. It is further provided that the Act shall be in no further force and effect from and after August 31, 1947. None of the appropriations herein made shall be expended until a budget therefor has been approved by the Legislative Audit Committee of the State of Texas.

Sec. 2. The fact that the Federal Government has required the State of Texas to administer the Public School Lunch Program; the fact that the Governor has assisted and designated the Department of Education as the agency for administering this program, has placed on the Department of Education for the past four months of the fiscal year the necessity of exhausting its regular appropriations to maintain this program; has brought about an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 5, 1947: Yeas 28, Nays 0; February 11, 1947, Senate concurred in House amendments: Yeas 24, Nays 1; passed the House February 10, 1947, with amendments: Yeas 133, Nays 1.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

PUBLIC ASSISTANCE—ALLOCATION OF FUNDS

CHAPTER 14

S. B. No. 107

An Act to amend Subsections (1), (2), and (4), Section 2, Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, and any amendments thereto; providing for the allocation of funds from the "Clearance Fund" to the "Blind Assistance Fund", the "Children's Assistance Fund", and the "Old Age Assistance Fund"; providing a limitation and restriction of expenditure of state funds for aid to the blind, for aid to dependent children, and for old age assistance; making an appropriation of the "Blind Assistance Fund", the "Children's Assistance Fund", and the "Old Age Assistance Fund" for the remainder of the fiscal year ending August 31, 1947; providing for administrative expenses for the Aid to the Blind, the Aid to Dependent Children, and the Old Age Assistance Programs for the remainder of the fiscal year ending August 31, 1947; providing a saving clause; repealing all laws in conflict; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Subsection (1), Section 2, Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, and any amendments thereto,³ is hereby amended so as to hereafter read as follows:

³ Vernon's Ann. Civ. St., art. 7083a.

"(1) There shall be appropriated and allocated, transferred and credited to the special fund in the Treasury known as the "Blind Assistance Fund" for the purpose of providing and administering assistance to the blind in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, such part of One Million (\$1,000,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1947 bears to the entire fiscal year. The funds now on hand in, or hereafter deposited to the credit of the "Blind Assistance Fund" are hereby appropriated for the uses and purposes prescribed by law; subject, however, to the provisions of this Act. This appropriation is for the remainder of the fiscal year ending August 31, 1947. There shall be transferred and credited to such fund for the purpose of providing assistance to the blind in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, the sum of One Million (\$1,000,000.00) Dollars for each fiscal year thereafter, said amount to be provided on a basis of equal monthly payments payable on the first day of each calendar month."

Sec. 2. Subsection (2), Section 2, Article XX of House Bill No. 8, Chapter 184, Acts of the 47th Legislature, Regular Session, and any amendments thereto, is hereby amended so as to hereafter read as follows:

"(2) There shall be appropriated and allocated, transferred and credited to the special fund in the Treasury known as the "Children's Assistance Fund" for the purpose of providing and administering assistance to dependent and destitute children in the manner as authorized by Senate Bill No. 36, Acts of the 46th Legislature, 1939, and any amendments thereto, such part of Three Million (\$3,000,000.00) Dollars as the effective period of this Act for the fiscal year ending August 31, 1947 bears to the entire fiscal year. The funds now on hand in, or hereafter deposited to the credit of the "Children's Assistance Fund" are hereby appropriated for the uses and purposes prescribed by law; subject, however, to the provisions of this Act. This appropriation is for the remainder of the fiscal year ending August 31, 1947. There shall be transferred and credited to such fund for the purpose of providing assistance on behalf of dependent children as defined and in the manner as authorized by Senate Bill No. 36, Acts of the Regular Session, 46th Legislature, 1939, and any amendments thereto, the sum of Three Million (\$3,000,000.00) Dollars for each fiscal year thereafter, said amount to be provided on the basis of equal monthly payments payable on the first day of each calendar month."

Sec. 3. Subsection (4), Section 2, Article XX of House Bill No. 8, Chapter 184, Acts of the Regular Session of the 47th Legislature, and any amendments thereto, is hereby amended so as to hereafter read as follows:

"(4) After the above allocations and payments have been made from such "Clearance Fund", there shall be appropriated and allocated, transferred and credited to the special fund in the Treasury known as the "Old Age Assistance Fund" for the purpose of providing and administering assistance to the needy aged in the manner as authorized by Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, and any amendments thereto, such sum as is required, when taken together with any other funds received from any other sources by reason of other State laws still in effect, which will total Thirty-one Million (\$31,000,000.00) Dollars for the fiscal year; provided, however, that this allocation and appropriation shall be effective from the effective date of this Act, and such part of this allocation and appropriation, as the effective period of this Act for the fiscal year bears to the entire fiscal year, shall be allocat-

ed and appropriated for the remainder of the fiscal year ending August 31, 1947; said allocation and appropriation to be provided in monthly installments, one installment being payable on the first day of each calendar month. Provided further that there shall be transferred and credited to such fund for the purpose of paying assistance to the needy aged such sum as is required, when taken together with any other funds received from any other sources by reason of other state laws still in effect, which will total Thirty-one Million (\$31,000,000.00) Dollars for each fiscal year thereafter; said allocation to be provided in monthly installments, one installment being payable on the first day of each calendar month.

"Provided further, that none of the money herein appropriated for old age assistance payments, aid to the blind payments, or aid on behalf of needy children shall be used for the purpose of paying assistance to any person who disposes of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still available, would affect either eligibility or the amount of the assistance payment."

Sec. 4.⁴ If, on the first day of any calendar month, the amount on that day transferred from the "Clearance Fund" to the "Blind Assistance Fund", the "Children's Assistance Fund", and the "Old Age Assistance Fund" is not sufficient to provide the allocation from state funds as herein provided for that month, then in that event, there shall be deposited to the credit of the "Blind Assistance Fund", the "Children's Assistance Fund", or the "Old Age Assistance Fund" from the first revenues collected after the first day of the month, which would otherwise go into the General Revenue Fund, such sum, as with the balance on hand in the fund plus the payment from the "Clearance Fund", will make available in the various funds the total amount of state funds for that month as is herein provided.

The allocations shall be and are in lieu of all other state allocations for aid to the blind, aid to dependent children, and old age assistance, and such allocations and appropriations shall not include any funds received from the Federal Government. Provided further, that the administrative expenses of all kinds out of state funds for the remainder of the biennium ending August 31, 1947 shall be in accordance with the provisions contained in the Departmental Appropriation Bill, being Senate Bill No. 317, Chapter 378, Acts of the Regular Session of the 49th Legislature.

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or application thereof to any person or circumstance, is held invalid, such holding shall not affect the validity of the remaining portion of this Act; and the Legislature hereby declares it would have passed such remaining portion despite such invalidity.

Sec. 6. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

Sec. 7. The fact that within the past two years since the last appropriation for public assistance was made there has been a marked increase in the cost of living; the fact that since the last appropriation was made the people of the State of Texas indicated their desire that assistance payments be increased by adopting the Constitutional Amendment providing for increased grants and permitting additional appropriations for payments; the fact that the needy aged, blind, and dependent children are not properly clothed and fed because of the inadequacy of their grants; the fact that since the termination of the war many persons who were formerly employed, enabling them to supplement their meager

⁴ Vernon's Ann. Civ. St., art. 7083a.1.

assistance grants, are now unemployed; the fact that servicemen's allowances formerly received by many aged dependent parents are no longer received; and the crowded condition of the calendar, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House, and the Constitutional Rule requiring bills to take effect and go into force ninety days after the adjournment of the session be, and the same are hereby suspended; and this Act shall take effect and be in force from and after its passage; and it is so enacted.

Passed the Senate, January 30, 1947: Yeas 26, Nays 4; February 10, 1947, Senate concurred in House amendments: Yeas 25, Nays 2; passed the House, with amendments, February 5, 1947: Yeas 136, Nays 4.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

DISTRICT ATTORNEY—28TH JUDICIAL DISTRICT—SALARY

CHAPTER 15

S. B. No. 133

An Act appropriating Two Thousand Six Hundred Sixty-six and 66/100 (\$2,666.66) Dollars out of the General Revenue to pay the salary of the District Attorney of the Twenty-eighth Judicial District for the term beginning January 1, 1947, and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated out of the General Revenue Fund of the State of Texas Two Thousand Six Hundred Sixty-six and 66/100 (\$2,666.66) Dollars for the purpose of paying the salary of a District Attorney of the Twenty-eighth Judicial District for the term beginning January 1, 1947, and ending August 31, 1947. The Comptroller is hereby directed to issue warrants to the District Attorney of the Twenty-eighth Judicial District in monthly installments as other District Attorneys of the State of Texas are paid.

Sec. 2. The fact that the Regular Session of the 49th Legislature by House Bill No. 574 provided that from and after the 1st day of January, A.D. 1947, the Twenty-eighth Judicial District of Texas shall be composed of the Counties of Nueces, Kleberg and Kenedy, and that the District Attorney for the Criminal District Court for Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall serve the Twenty-eighth Judicial Court as designated by said House Bill No. 574 and shall thenceforth be known as the District Attorney for the Twenty-eighth Judicial District of Texas; and for the further fact that the 49th Legislature failed to make provisions for the salary of the District Attorney of the Twenty-eighth Judicial District of Texas leaves the Twenty-eighth Judicial District without any funds to compensate the District Attorney of said District from January 1, 1947, to August 31, 1947, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 4, 1947: Yeas 28, Nays 0; passed the House, February 10, 1947: Yeas 130, Nays 1.

Approved Feb. 12, 1947.

Effective Feb. 12, 1947.

25TH JUDICIAL DISTRICT—TERMS OF COURT

CHAPTER 16

S. B. No. 25

An Act amending Subdivision 25 of Article 199, Title 8, Revised Civil Statutes of Texas; fixing the length of terms and times of holding court in the 25th Judicial District of Texas; providing that as many sessions may be held during any term as is deemed proper by the Judge; validating and continuing all processes, writs, bonds and recognizances and making them returnable to the terms of court in the several counties in said District as herein fixed; validating the summoning of grand and petit jurors under the present law so as to render available under this Act; enacting proper provisions relative to any term of court that may be in session when this Act takes effect; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Subdivision 25 of Article 199, Title 8 of the Revised Civil Statutes be, and the same is hereby amended⁵ so as to read as follows:

"Section 25. The 25th Judicial District shall be composed of the Counties of Gonzales, Colorado, Lavaca and Guadalupe, and the terms of the District Court in each of said counties shall be held therein each year as follows:

"In the County of Gonzales on the first Mondays in January and June.

"In the County of Colorado on the first Mondays in February and September.

"In the County of Lavaca on the first Mondays in April and November.

"In the County of Guadalupe on the first Mondays in May and December.

"Each term of court in each of such counties shall continue until 10:00 A. M. of the Monday herein fixed for the beginning of the next succeeding term thereof.

"The Judge of said court in his discretion may hold as many sessions of court during any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

"All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

"If any court in any county of said District shall be in session at the time this Act takes effect, such court shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein."

Sec. 2. The fact that the docket of the District Court of Colorado County is now congested, and the length of the terms of court as now fixed are insufficient for the dispatch of business in said District and results in unnecessary delay in litigation, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and said Rule is hereby suspended, and said Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, January 29, 1947: Yeas 25, Nays 0; passed the House, February 5, 1947: Yeas 134, Nays 0.

Approved Feb. 17, 1947.

Effective Feb. 17, 1947.

⁵ Vernon's Ann.Civ.St., art. 199, dist 25.

TURKEYS—COMAL AND GUADALUPE COUNTIES

CHAPTER 17 ⁶

S. B. No. 99

An Act providing that it shall be unlawful to kill wild turkey in Comal and Guadalupe Counties for a period of five (5) years from and after the passage of this Act; repealing all conflicting laws; providing a suitable penalty; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful from and after the passage of this Act, for a period of five (5) years, to kill or attempt to kill, take or attempt to take, any wild turkey in Comal and Guadalupe Counties.

Sec. 2. All laws or parts of laws insofar as they conflict with this Act, shall be and the same are hereby repealed.

Sec. 3. Any person who violates any provision of this Act, shall be fined in a sum of not less than Twenty-five (\$25.00) Dollars, nor more than Two Hundred (\$200.00) Dollars.

Sec. 4. The fact that there is a scarcity of wild turkey in that portion of the state to which this Act applies, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, January 30, 1947, by a viva voce vote; passed the House, February 6, 1947: Yeas 133, Nays 0.

Approved Feb. 17, 1947.

Effective 90 days after date of adjournment.

CONTRIBUTIONS BY COUNTIES AND POLITICAL
SUBDIVISIONS FOR PUBLIC ROADSCHAPTER 18 ⁷

S. B. No. 177

An Act authorizing counties or any political sub-divisions of counties to make, and the State Highway Commission to accept, voluntary contributions of funds for expenditures by the State Highway Commission in the development of public roads in such counties or political sub-divisions; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Any county or political sub-division of any county in this state, acting through its governing agency, may make, and the State Highway Commission, in its discretion, may accept, voluntary contributions of available funds from such county or political sub-division, for expenditure by the State Highway Commission in the development of the public roads of such county, or political sub-division.

Sec. 2. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Sec. 3. The fact that many counties and their political sub-divisions are anxious to contribute available funds to the state to speed up the

⁶ Vernon's Ann.Rev.Code, art. 978j note.

⁷ Vernon's Ann.Civ.St., art. 6674c-1.

development of the roads of such county or political sub-division and thus improve local economic conditions, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in both Houses be suspended, and such Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 12, 1947: Yeas 25, Nays 0; passed the

House, February 14, 1947: Yeas 102, Nays 0, 2 present not voting.

Approved Feb. 19, 1947.

Effective Feb. 19, 1947.

APPROPRIATION—SCHOOL AID

CHAPTER 19

S. B. No. 37

An Act to amend Article II, Section 2, and Article IV, Section 2, Senate Bill No. 167, Acts of the 49th Legislature, relative to filing date of applications; repealing all laws and parts of laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Amend Article II, Section 2, of Senate Bill No. 167, Acts of the 49th Legislature, Regular Session, to read as follows:

"Section 2. **FILING DATE.** All applications for any type of aid authorized herein, except tuition aid, shall be on file with the State Department of Education in Austin not later than January 31st of each scholastic year for which aid is asked. Schools whose applications for state aid are filed later than January 31st of each year for which aid is asked, shall be ineligible for any type of aid. The grant of salary for Superintendent and/or Principal of any school whose application is filed later than October 1st of each scholastic year shall be reduced to the extent of one month's salary."

Sec. 2. Amend Article IV, Section 2, of Senate Bill No. 167, Acts of the 49th Legislature, Regular Session, to read as follows:

"Section 2. **APPLICATION FOR TUITION AID.** It shall be the duty of the county superintendent to receive and check all tuition applications to determine the following facts: age of pupil, the district in which he was enumerated, the district in which he lives, the district in which he attends school, the grade in which the pupil is classified in the receiving district, the highest grade taught in the home district of the pupil, and the amount of time the pupil was in actual attendance at the receiving school. When such application has been reviewed and checked as herein provided, same shall be properly sworn to by said county superintendent, the president and/or secretary of the school board of the sending district of the pupil, and the superintendent of the receiving school, before said application is transmitted to the Director of Equalization at Austin, Texas, for his rejection, modification, or approval of the Legislative Accountant; and no such application shall be considered by the Director of Equalization unless same has been duly deposited with him at Austin, Texas, within one hundred and twenty (120) days after his request for same, and in no instance later than August 15th, of the current school year."

Sec. 3. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Sec. 4. The fact that the existing laws of Texas do not permit schools

fulfilling the provisions of Article II, Section 2, and Article IV, Section 2, of Senate Bill No. 167, Acts of the 49th Legislature, Regular Session, as amended by this Act to qualify for aid, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and it is hereby suspended, and this Act shall take effect and be in full force and effect from and after its passage, and it is so enacted.

Passed the Senate, January 29, 1947: Yeas 27, Nays 0; passed the House, February 11, 1947: Yeas 136, Nays 5.

Approved Feb. 21, 1947.

Effective Feb. 21, 1947.

COMPENSATION OF EL PASO COUNTY JUDGE

CHAPTER 20

H. B. No. 231

An Act to amend Article 1970-138, Revised Civil Statutes of Texas, 1925, being the Acts of 1917, Chapter 93, Section 11, as amended by the Acts of 1918, Fourth Called Session, Chapter 14, Section 4, as amended by the Acts of 1927, Chapter 191, Section 1, so as to provide that the salary of the Judge of the County Court at Law of El Paso County shall be Fifty-five Hundred Dollars (\$5500) annually; repealing all laws and parts of laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the Acts of 1917, Chapter 93, Section 11, as amended by the Acts of 1918, Fourth Called Session, Chapter 14, Section 4, as amended by the Acts of 1927, Chapter 191, Section 1, the same being Article 1970-138 of the Revised Civil Statutes of Texas, 1925, be so amended^s as to read:

"Article 1970-138.

"The Judge of the County Court at Law of El Paso County, Texas, shall be entitled to the following compensation for his services as Judge of the County Court at Law; there shall be taxed and collected by the El Paso County Court at Law the same fees provided by the law for County Judges in similar cases, all of which shall be paid by the Clerk monthly into the County Treasury and the Judge of said Court shall receive a salary of Fifty-five Hundred Dollars (\$5500) annually, to be paid monthly out of the Treasury upon the order of the Commissioners Court."

Sec. 2. All laws and parts of laws in conflict herewith are by this Act repealed.

Sec. 3. The fact that the Salary of the Judge of the County Court at Law of El Paso County, Texas, considering the qualifications required of such Judge, is inadequate for the services rendered and less than the County Officers of El Paso County, some of whom have far less important and responsible duties to perform than the Judge of the County Court at Law, and the crowded condition of the calendar, create an emergency and an imperative public necessity requiring that the Constitutional Rule providing that bills shall be read on three separate days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed by the House, February 11, 1947: Yeas 136, Nays 0; passed by the Senate, February 19, 1947: Yeas 26, Nays 0.

Approved Feb. 21, 1947.

Effective Feb. 21, 1947.

^s Vernon's Ann.Civ.St. art. 1970-138.

TEXAS NATIONAL GUARD ARMORY BOARD—APPROPRIATION

CHAPTER 21

S. B. No. 106

An Act making an emergency appropriation for the Texas National Guard Armory Board for the balance of the fiscal year beginning the 22nd day of February, 1947, and ending August 31, 1947, being an appropriation available immediately; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. There is hereby appropriated out of any moneys in the General Revenue Fund, not otherwise appropriated, the sum of One Hundred Forty Thousand Four Hundred Twenty-three and 38/100 (\$140,423.38) Dollars for the balance of the fiscal year beginning the 22nd day of February, 1947, and ending August 31, 1947, in the amounts to be expended as follows by the Texas National Guard Armory Board, which shall be located in the Adjutant General's Department in Austin.

Salaries

1. Director	\$ 2,177.50
2. Secretary to Director (was clerk)	1,072.50
3. Stenographer	966.88
Total Salaries	\$ 4,216.88

Maintenance and Miscellaneous

4. Traveling expenses of members and employees	3,250.00
5. Postage, telephone, telegraph, office supplies and equipment, contingent expense	1,300.00
6. Armory rentals, including headquarters, offices, and motor vehicle storage; available either to pay rentals contracted to be paid by the Armory Board, and/or to pay rentals on property leased by said Board to the State of Texas under authority of law; and/or to build Armories as contracted by the state	79,201.50
7. Armory maintenance—monthly pro-rata to each company, troop, battery, squadron, separate bands, and detachment occupying armories not owned by either the state or the Armory Board	49,987.50
8. Repair, upkeep, and maintenance, including utilities, of state-owned buildings, used as armories at Camp Mabry	1,950.00
9. Repair, upkeep and maintenance of Houston Light Guard Armory (H.C.R. 30, 46th Legislature) non transferable	517.50
Total Maintenance and Miscellaneous	\$136,206.50
GRAND TOTAL	\$140,423.38

Provided, however, that any general salary increase heretofore or hereafter voted by the Regular Session of the 50th Legislature shall not apply to the salary items listed herein.

Sec. 2. The fact that on May 8, 1935, as a result of an Act of the 44th Legislature, The Texas National Guard Armory Board was created to "have charge of the acquisition, construction, rental, control, main-

tenance and operation of all Texas National Guard Armories, including stables, garages, rifle ranges, hangars and all other property and equipment necessary or useful in connection therewith, and the said Board shall possess all powers necessary and convenient for the accomplishment of such duty"; and the further fact that the Armory Board has carried out these functions since the above date; and the fact that under the provisions of the National Defense Act of 1916 as amended, the several states are obligated to furnish armory facilities for National Guard Units maintained within their borders by the Federal Government, and that the Federal Government is responsible for the provision of the necessary clothing and equipment and for the pay of the officers and men for attendance at armory drills and the annual field training period, and that the State Government through the medium of the Adjutant General's Department is responsible for the administration of the units; and due to the further fact that there is an acute shortage of adequate facilities; and due to the further fact that the troop allocation which the State of Texas has accepted for the post-war National Guard consists of the 36th Infantry Division, the 49th Armored Division, the 58th Wing of the Air National Guard, and a number of non-divisional units and that the authorized strength of these units is 30,098 officers and men organized into 288 units and detachments, including 255 ground force units and 23 air force units, and due to the fact that the Armory Board is embarking upon a greatly enlarged program after a lapse of several years of comparative inactivity during the late war and that funds for these essentials of operation are vitally necessary and must be provided in order to meet the military requirements of the State of Texas, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 4, 1947: Yeas 26, Nays 0; February 19, 1947, Senate concurred in House amendments: Yeas 25, Nays 0; passed the House, with amendments, February 19, 1947: Yeas 126, Nays 4.

Approved Feb. 26, 1947.

Effective Feb. 26, 1947.

VETERANS' STATE SERVICE OFFICE—APPROPRIATION

CHAPTER 22

S. B. No. 155

An Act appropriating moneys out of the General Revenue Fund, not otherwise appropriated, to the Veterans' State Service Office for the purpose of supplementing the appropriations and increasing the personnel made by Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature, for the term beginning with the effective date of this Act and ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That the following sums of money are hereby appropriated out of the General Revenue Fund in the State Treasury, not otherwise appropriated, to the Veterans' State Service Office for the purpose of supplementing the appropriations and increasing the personnel made by Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature for the term beginning with the effective date of this Act

and ending August 31, 1947; but any general salary increase heretofore or hereafter voted by the Regular Session of the 50th Legislature shall not apply to the salary items listed below:

**EMPLOYEES PAID FROM DEFICIENCY FUNDS
PRIOR TO JANUARY 14, 1947:**

No.	Title	Monthly Salary	Total for Seven Months
2	First assistant service officers, each at a monthly salary of	\$316.00	\$ 4,424.00
1	Secretary, at a monthly salary of	165.00	1,155.00
12	Stenographers, each at a monthly salary of	149.00	12,516.00
1	Mimeograph operator, at a monthly salary of	149.00	1,043.00
	Total		\$19,138.00

**ADDITIONAL EMPLOYEES NEEDED TO ADEQUATELY CARRY ON
THE DUTIES OF THE VETERANS' STATE SERVICE OFFICE:**

No.	Title	Monthly Salary	Total for Seven Months
McCloskey Hospital (Temple)			
1	Assistant service officer, at a monthly salary of	\$230.00	\$ 1,610.00
1	Secretary, at a monthly salary of	165.00	1,155.00
AUSTIN OFFICE			
1	Chief accountant, at a monthly salary of	230.00	1,610.00
Regional Offices; Houston, Dallas, Waco, San Antonio, and Lubbock:			
5	Assistant service officers, each at a monthly salary of	230.00	8,050.00
5	Secretaries, each at a monthly salary of	165.00	5,775.00
	Total		\$18,200.00

**ADDITIONAL APPROPRIATION NEEDED FOR MAINTENANCE
AND MISCELLANEOUS FROM FEBRUARY 1, 1947,
THROUGH AUGUST 31, 1947:**

Travel Expense	\$ 4,000.00
Postage	12,000.00
Telephone & telegraph, messenger service	\$ 3,000.00
Office supplies, equipment, stationery & printing	10,000.00
Insurance, bond premiums and contingent expenses	4,000.00
Total	\$33,000.00

The moneys herein appropriated shall be expended in compliance with the riders and restrictions contained in Senate Bill No. 317, Acts of the Regular Session of the 49th Legislature; and provided further, that the appropriation herein made shall expire and become of no effect from and after August 31, 1947.

Sec. 2. The fact that the termination of World War II has brought home numerous disabled veterans of said War requiring additional and

heavy duties to be exerted by the Veterans' State Service Office, and the further fact that said Veterans' State Service Office is now operating on a deficiency basis, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 11, 1947: Yeas 26, Nays 0; passed the

House, February 19, 1947: Yeas 131, Nays 3.

Approved Feb. 26, 1947.

Effective Feb. 26, 1947.

FISHING—SAN SABA COUNTY

CHAPTER 23⁹

H. B. No. 271

An Act to prohibit fishing or the taking of fish in San Saba County, Texas, by means of a trotline having more than twenty (20) hooks; prescribing a penalty; repealing all laws and parts of laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It shall be unlawful for any person to fish or to take fish in San Saba County, Texas, by means of a trotline having more than twenty (20) hooks.

Sec. 2. Any person found guilty of the violation of any provision of this Act shall be fined not less than Five Dollars (\$5), nor more than One Hundred Dollars (\$100).

Sec. 3. All laws or parts of laws in conflict herewith are expressly repealed.

Sec. 4. The fact that the fishing season is now at hand and it is necessary to regulate the taking of fish in San Saba County creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed by the House, February 6, 1947: Yeas 130, Nays 0; passed by the Senate, February 13, 1947: Yeas 24, Nays 0.

Approved Feb. 26, 1947.

Effective Feb. 26, 1947.

STATE BOARD OF HAIRDRESSERS AND COSMETOLOGISTS—APPROPRIATION

CHAPTER 24

S. B. No. 73

An Act making certain emergency appropriations for the State Board of Hairdressers and Cosmetologists for the remainder of the current fiscal year ending August 31, 1947; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That in addition to the monies heretofore appropriated to the State Board of Hairdressers and Cosmetologists, there is hereby

⁹ Vernon's Ann. Pen. Code, art. 978j note.

appropriated to said Board, for the purposes stated below, the several sums of money herein specified, or so much thereof as may be necessary, out of any monies in the Hairdressers and Cosmetologists Fund in the State Treasury not otherwise appropriated, but any general salary increase heretofore or hereafter voted by the Regular Session of the 50th Legislature shall not apply to the salary items listed below:

1. Seasonal help for the remainder of the current fiscal year ending August 31, 1947	\$1,500.00
2. For stationery, printing, office equipment, postage, telephone, telegraph, messenger service, and miscellaneous office expense for the remainder of the current fiscal year ending August 31, 1947	2,750.00
3. For porter for the remainder of the current fiscal year ending August 31, 1947	600.00
Total	\$4,850.00

Sec. 2. The fact that additional help is needed by said Board for the remainder of the current fiscal year in order to properly fulfill its functions; the fact that additional stationery, printing, office supplies and equipment, postage, telephone, telegraph, messenger service, and miscellaneous office expense are badly needed by said Board in order to properly discharge its legal functions; and the further fact that a porter is needed by said Board in order to handle the heavy work, such as unloading supplies and moving heavy equipment for the proper functioning of said Board, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall be in force and effect from and after its passage; and it is so enacted.

Passed the Senate, February 13, 1947: Yeas 26, Nays 0; passed the House, February 26, 1947: Yeas 130, Nays 1.

Approved Feb. 28, 1947.

Effective Feb. 28, 1947.

TEXAS HIGHWAY PATROL DIVISION— EMERGENCY APPROPRIATION

CHAPTER 25

S. B. No. 119

An Act making an emergency appropriation out of the State Highway Fund for the operation of the Texas Highway Patrol Division of the Department of Public Safety; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The sum of Sixty-five Thousand (\$65,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the State Highway Fund to the Department of Public Safety for the period from the effective date of this Act to the end of the fiscal year ending August 31, 1947, for the purpose as set out in Item 84, page 912, for the Texas Highway Patrol Division, under Senate Bill No. 317, Chapter 378, Acts of the 49th Legislature, Regular Session, 1945, and to supplement the appropriation made in said Act.

Sec. 2. The sum of Ten Thousand (\$10,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the State

Highway Fund to the Department of Public Safety for the period from the effective date of this Act to the end of the fiscal year ending August 31, 1947, for the purpose as set out in Item 83, page 912, for the Texas Highway Patrol Division, under Senate Bill No. 317, Chapter 378, Acts of the 49th Legislature, Regular Session, 1945, and to supplement the appropriation made in said Act.

Sec. 3. The fact that the money appropriated for the above mentioned items will become exhausted before the end of the fiscal year and the sum of Seventy-five Thousand (\$75,000.00) Dollars, is needed, to cover the expense of motor equipment, parts, gasoline, oil, tires, tubes, other equipment and supplies, telephones, telegraph, stamps, stationery, surety bonds, various necessary expenses and traveling expense of the State Highway Patrol, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 4, 1947: Yeas 29, Nays 0; passed the House, February 26, 1947: Yeas 127, Nays 0.

Approved Feb. 27, 1947.

Effective Feb. 27, 1947.

SCHOOL DISTRICTS—VALIDATION OF CONSOLIDATION

CHAPTER 26¹⁰

S. B. No. 23

An Act validating the consolidation of certain common and independent school districts where a majority of the qualified voters of each of the affected districts approved such consolidation at an election held for such purpose; validating the bonds of such consolidated districts and the proceedings had authorizing same after such attempted consolidation; providing such validation shall not apply to districts now in litigation; repealing all laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. All consolidations, or attempts at consolidation, of one or more common school districts with one or more independent school districts after an election was held and a majority of the legally qualified voters in each of such districts voting in such election voted in favor of such consolidations, are hereby in all things validated and declared to be duly and legally consolidated or established as though they had been so consolidated or established in the first instance, and shall include such attempted consolidations where the election proceedings call for the consolidation of one or more common school districts with an independent school district, but did not provide for the consolidation of each common school district with each other common school district.

Sec. 2. All proceedings had by any such consolidated districts authorizing the issuance of bonds after such attempted consolidation are hereby in all things validated, and the bonds authorized by such proceedings are in all respects validated.

Sec. 3. The provisions of this Act shall not apply in any instance where the consolidation or consolidations, or the proceedings authorizing the issuance of any bonds or such bonds, are in litigation in any of the courts of this state at the time of the passage of this Act.

¹⁰ Vernon's Ann.Civ.St., art. 2815g—35.

1 TEX.SESS.L. '47—3

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Sec. 5. The fact that certain common and independent school districts have attempted by a majority vote of the electors in each district to consolidate for school purposes, and some defects in the manner of calling and holding of such elections may have occurred, and some question might therefore remain as to the validity of bonds of such districts, creates an emergency and an imperative public necessity requiring that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, January 27, 1947: Yeas 30, Nays 0; passed the

House, February 20, 1947: Yeas 137, Nays 0.

Approved Feb. 28, 1947.

Effective Feb. 28, 1947.

FOX—GUADALUPE COUNTY

CHAPTER 27¹¹

H. B. No. 70

An Act declaring open season on fox in Guadalupe County, Texas, and making it lawful to kill any number of fox in Guadalupe County, Texas, at all times; repealing all laws in conflict herewith; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. It is hereby declared an open season for the killing of fox in Guadalupe County, Texas, and it shall be lawful to take or kill any number of fox in Guadalupe County, Texas, at any time.

Sec. 2. All laws, or parts of laws, in conflict herewith are hereby repealed.

Sec. 3. The importance of this Act and the fact that there is dissatisfaction among the inhabitants of Guadalupe County, Texas, with the existing game laws on fox and the crowded condition of the legislative calendar create an emergency and an imperative public necessity that the Constitutional Rule requiring Bills to be read on three several days in each House be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in full force from and after its passage, and it is so enacted.

Passed by the House, February 10, 1947: Yeas 134 Nays 0; passed by the Senate, February 12, 1947: Yeas 24, Nays 0.

Approved Feb. 28, 1947.

Effective Feb. 28, 1947.

¹¹ Vernon's Ann. Pen. Code, art. 978j note.

COLLARED PECCARY OR JAVELINA—CERTAIN COUNTIES

CHAPTER 28

H. B. No. 123

An Act amending Section 1a, of Acts, 1939, Forty-sixth Legislature, Special Laws, page 831, as amended by Acts, 1941, Forty-seventh Legislature, page 445, Chapter 281, Section 1, and Acts, 1945, Regular Session, Forty-ninth Legislature, Chapter 110, page 158, by thereto adding the Counties of Frio, La Salle, Medina, McMullen, Uvalde and Zavala to make it therein lawful to capture, shoot or kill collared peccary or javelina at any time; providing sale of collared peccary or javelina or any part of same in said Counties; retaining Webb, Starr, Zapata, and Dimmitt Counties in the provisions thereof; prescribing penalty for violation of any provision of this Act; repealing conflicting laws or parts thereof; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 1a of Acts, 1939, Forty-sixth Legislature, Special Laws, page 831, as amended by Acts, 1941, Forty-seventh Legislature, page 445, Chapter 281, Section 1 and Acts, 1945, Regular Session, Forty-ninth Legislature, Chapter 110, page 158, is hereby amended ¹² to read as follows:

"Sec. 1a.

"Provided, however, that it shall be lawful to take, capture, shoot, or kill collared peccary or javelina in the Counties of Dimmit, Frio, La Salle, Medina, McMullen, Starr, Uvalde, Webb, Zapata and Zavala, Texas, at any time, and an open season for collared peccary or javelina in such Counties is hereby declared. Provided further, that it shall be unlawful in such Counties to have or take any collared peccary or javelina, or any part of same, in possession for the purpose of barter or sale, or to sell or to offer for sale any collared peccary or javelina, or any part of same, and any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten Dollars (\$10) nor more than Fifty Dollars (\$50); and each collared peccary or javelina, or any part thereof, taken or possessed or offered for sale or possessed for the purpose of sale, or sold, in violation of this Act shall constitute a separate offense."

Sec. 2. All laws or parts of laws in conflict with this Act are hereby repealed.

Sec. 3. The fact that javelina populations in Frio, La Salle, Medina, McMullen, Dvalde and Zavala Counties are threatening domestic crops creates an emergency and an imperative public necessity that the Constitutional Rule requiring that bills be read on three several days in each House be and the same is hereby suspended, and this Act shall become in full force and effect from and after its passage, and it is so enacted.

Passed by the House, February 6, 1947: Yeas 130, Nays 0; passed by the Senate, February 12, 1947, by a viva voce vote.

Approved Feb. 28, 1947.

Effective 90 days after date of adjournment.

¹² Vernon's Ann.Pen.Code, art. 379g-2a.

STATE UNIVERSITY AND COLLEGE FOR NEGROES

CHAPTER 29¹³

S. B. No. 140

An Act providing for the establishment, support, maintenance and direction of a University of the first class for the instruction and training of colored people of this state, to be known as "The Texas State University for Negroes", and to be located at Houston, Harris County; and providing for an Agricultural and Mechanical College for colored students to be known as "The Prairie View Agricultural and Mechanical College", as same is now located at Prairie View, Waller County; providing for establishment of equivalent courses during the interim by the Agricultural and Mechanical College and Texas University governing boards; making appropriations therefor; repealing laws or parts of laws in conflict; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. The Legislature of Texas deems it impracticable to establish and maintain a college or branch of the University of Texas for the instruction of the colored youths of this state without the levy of taxes and the use of the general revenue for the establishment, maintenance and erection of buildings as would be required by Section 14 of Article VII of the Constitution of Texas, if such institution were established as a college or branch of the University of Texas. Further, the Legislature of Texas deems that establishment of a negro university with such limitations as to funds and operation would be unfair and wholly inadequate for the purpose of providing an equivalent university of the first class for negroes of this state. Therefore, it is the purpose of this Act to establish an entirely separate and equivalent university of the first class for negroes with full rights to the use of tax money and the general revenue fund for establishment, maintenance, erection of buildings and operation of such institution as provided in Section 48, Article III of the Constitution of the State of Texas.

Sec. 2. To provide instruction, training, and higher education for colored people, there is hereby established a university of the first class in two divisions: the first, styled "The Texas State University for Negroes" to be located at Houston, Harris County, Texas, to be governed by a Board of Directors as provided in Section 3 hereof; the second, to be styled "The Prairie View Agricultural and Mechanical College of Texas" at Prairie View, Waller County, Texas, formerly known as Prairie View University, originally established in 1876, which shall remain under the control and supervision of the Board of Directors of The Agricultural and Mechanical College of Texas. At the Prairie View Agricultural and Mechanical College shall be offered courses in agriculture, the mechanic arts, engineering, and the natural sciences connected therewith, together with any other courses authorized at Prairie View at the time of the passage of this Act, all of which shall be equivalent to those offered at The Agricultural and Mechanical College of Texas. The Texas State University for Negroes shall offer all other courses of higher learning, including, but without limitation, (other than as to those professional courses designated for The Prairie View Agricultural and Mechanical College), arts and sciences, literature, law, medicine, pharmacy, dentistry, journalism, education, and other professional courses, all of which shall be equivalent to those offered

¹³ Vernon's Ann.Civ.St., art. 2643b.

at The University of Texas. Upon demand being made by any qualified applicant for any present or future course of instruction offered at The University of Texas, or its branches, such course shall be established or added to the curriculum of the appropriate division of the schools hereby established in order that the separate universities for Negroes shall at all times offer equal educational opportunities and training as that available to other persons of this state. The Board of Directors of The Agricultural and Mechanical College of Texas in administering The Prairie View Agricultural and Mechanical College of Texas shall in all respects have the same powers and perform the same duties in reference to this college as those conferred upon it by statute with reference to the government of The Agricultural and Mechanical College of Texas.

Sec. 3. The government of the Texas State University for Negroes is hereby vested in a Board of Directors to be composed of nine (9) persons and to consist of both white and negro citizens of this state. They shall elect a chairman and a Vice-chairman from their number, who shall serve at the pleasure of the Board, and the Board shall appoint a secretary. The State Treasurer shall be the treasurer of said institution. The Board shall have the right to make and use a common seal and may alter the same at pleasure. Each member of the Board shall be a qualified voter of this state, and shall be selected from different portions of the state. One-third of the membership of such Board shall be biennially nominated by the Governor and appointed by and with the advice and consent of the Senate, and shall hold their offices for a term of six (6) years, respectively, except as to the first Board appointed hereunder. They shall take the official oath of office prescribed in the Constitution of Texas for public officials. Of the first Board to be appointed, the terms of three (3) members shall be for a period of two (2) years, to expire on February 1, 1949; the terms of the next three (3) members shall be for four (4) years, to expire on February 1, 1951; and the terms of the remaining three (3) members shall be for six (6) years, to expire on February 1, 1953; and the respective terms of the first members appointed hereunder shall be designated by the Governor so appointing them. After the first Board, the term of each member shall be for six (6) years from the date of the respective appointment, and the appointment shall be so made and their terms arranged in such manner that three (3) of said members shall retire on the first day of February biennially; and the Governor shall fill such vacancies by the appointment of three (3) members biennially on the first day of February.

Sec. 4. The reasonable expenses incurred by the members of the Board in the discharge of their duties shall be paid from any available funds of the institution. All expenditures shall be made by order of the Board, and the same shall be paid on warrants to be issued by the Comptroller of Public Accounts of the State of Texas based on vouchers to be approved by the chairman of the Board or some other officer of the University to be designated by him in writing to the Comptroller, and to be countersigned by the secretary of the Board, or by some other officer of the University to be designated by said secretary in writing to the Comptroller.

Sec. 5. The Directors are hereby given the power and authority to select a site for the location of said University at the City of Houston, and are given the power, for and in behalf of the state, to acquire, take, appropriate, hold, and enjoy the title to such land and other property as they may deem necessary for this purpose, either by purchase or otherwise; and to that end they shall have the right to exercise the

power of eminent domain and to condemn such land for such uses and purposes, in the manner prescribed in Title 52, Revised Civil Statutes of Texas of 1925, as amended; and the taking of such property is hereby declared to be for the use of the state, and said Directors shall not be required to deposit a bond or the amount equal to the award of damages by the Commissioner as provided in Section 2 of Article 3268, Revised Civil Statutes of Texas of 1925; provided that before exercising the power of eminent domain hereunder, said Board shall by order or resolution duly passed and entered on its minutes, define and describe the land needed for this purpose.

Sec. 6. As soon as a site for the location of said University is determined upon and acquired, it shall be the duty of the Directors to proceed with the construction of all necessary buildings and other permanent improvements thereon. For this purpose it shall procure the services of a competent architect or architects, who shall make necessary plans and designs for such building and other permanent improvements and shall superintend the construction thereof. After such plans and specifications of such buildings and improvements have been adopted, the Directors shall proceed as soon as practicable to the erection and equipping of the same. It shall be the duty of the Directors to advertise for bids for the construction of said improvements and to let contracts therefor, but they may reject any and all bids. The contracts for such construction shall be awarded to the lowest responsible bidder, who shall enter into a good and sufficient surety bond payable to and to be approved by the Directors in such sum as said Directors may determine, conditioned for the faithful compliance with and the performance of the contract. The Directors are hereby authorized and required to organize said University as soon as practicable and to take such action as may be deemed necessary in perfecting the organization of said institution as a University of the first class for the instruction and training of the colored people of this state. The Directors shall also have the authority to make proper arrangements by contract with other educational institutions, hospitals, and clinics at Houston for the use of such facilities and the services of qualified personnel as they may deem necessary and expedient for the proper training and education of students in professional courses.

Sec. 7. The Directors shall establish the several departments in said University, determine the offices, professorships, and other positions at said institution, appoint a President, appoint the professors and other officers and employees and prescribe their duties, and fix their respective salaries; and they shall enact such by-laws, rules and regulations as may be deemed necessary for the successful management and government of the institution. They shall have the power, by and with the advice of the faculty, to prescribe and regulate the course or courses of instruction to be given at said institution, and to confer such degrees and to grant such diplomas as are now or may hereafter be granted by The University of Texas or any of its branches. The Directors shall have the power to remove any professor, instructor, tutor, or other officer or employee connected with the institution when, in their judgment, the best interests and proper operation of the institution shall require it.

Sec. 8. The Directors are hereby authorized to accept, for and in behalf of the state, in connection with said University for Negroes, grants or gifts of property or money for the use of said institution from other than state sources.

Sec. 9. There is hereby appropriated out of the State Treasury from any moneys not otherwise appropriated, the sum of Two Million (\$2,000,-

000.00) Dollars or so much thereof as may be necessary, to be expended in the acquisition of land and other property as a site for and in the establishment of the Texas State University for Negroes and for the construction, erection, acquisition, and equipping of buildings and other permanent improvements. There is further appropriated the sum of Five Hundred Thousand (\$500,000.00) Dollars or so much thereof as may be necessary, for the support, operation, and maintenance of such institution, including the payment of salaries of its officers and employees, for each of the fiscal years of the biennium ending August 31, 1949.

Sec. 10. In the interim between the effective date of this Act and the organization, establishment and operation of the Texas State University for Negroes at Houston, upon demand heretofore or hereafter made by any qualified applicant for instruction in any course (except law) offered at the University of Texas or any of its branches, the Board of Directors of the Agricultural and Mechanical College of Texas, acting as the governing board of the Prairie View Agricultural and Mechanical College, is authorized and required to provide forthwith such instruction, through courses, equivalent to the same instruction being offered at the University of Texas or any of its branches.

There is hereby appropriated, as an emergency appropriation, the sum of One Hundred Thousand (\$100,000.00) Dollars, or so much thereof as may be necessary, to be expended by the Board of Directors of the Agricultural and Mechanical College of Texas in order to make immediately available the facilities and personnel necessary to carry out the requirements of this section. Such emergency appropriation is for the remainder of the fiscal year ending August 31, 1947.

At the end of the first term or semester of any course offered hereunder, after the organization and establishment of the Texas State University for Negroes and the equivalent organization and establishment of such courses of instruction therein as may be offered during the interim at the Prairie View Agricultural and Mechanical College in accordance with the provisions of this Act, the direction, conduct, operations, location and property purchased hereunder for such courses shall be transferred to the Texas State University for Negroes, and its Board of Directors shall thenceforth continue such course as a part of the curriculum of such University and discharge all responsibility therefor.

Regardless of the other provisions of this Act, the requirement for establishment of interim courses at the Prairie View University by the Board of Directors of the Agricultural and Mechanical College of Texas shall terminate on September 1, 1947. In the meantime, the Board of Directors of the Texas State University for Negroes shall make necessary temporary or permanent provisions to offer such courses beginning not later than September 1, 1947. For this purpose, and to cover all other expenses that may be necessary in the prompt establishment of the above and all other interim courses and the permanent establishment of such courses, as well as the organization and establishment of the Texas State University for Negroes, there is hereby appropriated as an emergency appropriation the sum of One Hundred Fifty Thousand (\$150,000.00) Dollars, or so much thereof as may be necessary, to be expended by the Board of Directors of the Texas State University for Negroes during the remainder of the fiscal year ending August 31, 1947.

Sec. 11. In the interim between the effective date of this Act and the organization, establishment and operation of the Texas State University for Negroes at Houston, upon demand heretofore or hereafter made by any qualified applicant for instruction in law at the University of

Texas, the Board of Regents of the University of Texas is authorized and required to forthwith organize and establish a separate school of law at Austin for negroes to be known as the "School of Law of the Texas State University for Negroes" and therein provide instruction in law equivalent to the same instruction being offered in law at the University of Texas. The Board of Regents of the University of Texas shall act as the governing board of such separate law school until such time as it is transferred to the control of the Board of Directors of the Texas State University for Negroes.

There is hereby appropriated, as an emergency appropriation, the sum of One Hundred Thousand (\$100,000.00) Dollars, or so much thereof as may be necessary, to be expended by the Board of Regents of the University of Texas in order to establish and operate the separate law school. The total of such emergency appropriation is for the remainder of the fiscal year ending August 31, 1947 and for the fiscal year ending August 31, 1948, or for such lesser time as the school is operated prior to the transfer hereinafter provided for. Students of the interim School of Law of the Texas State University for Negroes shall have use of the State Law Library in the Capitol Building in addition to other special library facilities which shall be made available, but the entire school shall be operated separately and apart from the campus of the University of Texas as provided in the Texas constitutional requirement of separate schools for white and colored youths.

At the end of the first term or semester of any law course offered in said school after the organization and establishment of the Texas State University for Negroes at Houston, and the equivalent organization and establishment of a law course by such University for Negroes, the direction, conduct, operation, location, the unexpended balance of this appropriation, and all property purchased for the separate school out of the appropriation hereunder, shall be transferred to the Texas State University for Negroes at Houston, and its Board of Directors shall thenceforth continue such law courses as a part of the curriculum of such University and discharge all responsibility therefor. After such transfer the separate law school for negroes shall no longer operate in Austin or as a function of the Texas University Board of Regents, it being deemed impracticable to continue such operation in Austin after establishment of an equivalent school in Houston.

Sec. 12. The term "qualified applicant" as used in this Act shall mean any colored person who meets the educational requirements for entrance to the same course or courses in the University of Texas or any of its branches. The term "colored person" has the same meaning as contained in the provisions of the Texas Constitution requiring separate schools, being the same interpretation placed thereon by the Legislature and administrative officials of this state since 1876, to-wit: a negro or person of African descent.

Sec. 13. Chapter 308, Acts of the 49th Legislature, 1945, same being Senate Bill No. 228 of said 49th Legislature, is hereby repealed.¹⁴ All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Sec. 14. The fact that the people of Texas desire that the state meet its obligation of equal educational opportunities for its negro citizens from state supported institutions, and the fact that a separate and equivalent university of the first class for negroes cannot be established and maintained under the limitations and restrictions contained in Section 14, Article VII of the Constitution of Texas if such institution were

¹⁴ Vernon's Ann. Civ. St., art. 2643a.

made a college or branch of the University of Texas, and the fact that the only means of establishing an equivalent university of the first class for negroes with use of tax money and the general revenue is to create a separate university entirely independent of the University of Texas, and the fact that interim courses must be established immediately by existing schools for the education of negroes prior to the establishment and operation of said separate university of the first class for negroes, creates an emergency and imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate, February 24, 1947: Yeas 25, Nays 2; March 3, 1947, Senate concurred in House amendments: Yeas 23, Nays 3; passed the House, February 27, 1947, with amendments: Yeas 122, Nays 12.

Approved March 3, 1947.

Effective March 3, 1947.

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191	270	1	27	331	544	1	2
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—	831	1a	35				

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GOVERNOR'S MESSAGE

This total amount will be divided as follows: Eighty-seven million dollars (\$87,000,000) for primary highways, sixty million dollars (\$60,000,000) for secondary or farm-to-market highways, and twenty-seven million dollars (\$27,000,000) for urban projects.

What does this mean when expressed in the number of miles of highways to be constructed? It will build 2,150 miles of primary or cross-country highways, 7,500 miles of farm-to-market roads, and complete many miles of roads through cities and towns.

Your State Highway Department was ready to inaugurate this program when the war was over. It had the plans drawn and the contracts ready to be executed on projects of first importance so that there was no delay in getting the program under way.

For example, the Highway Department has already completed 24 farm-to-market projects totaling $176\frac{1}{3}$ miles at a total cost of one million, one hundred eighty-five thousand, two hundred fifty-nine dollars (\$1,185,259), an average cost of about sixty-five hundred dollars (\$6,500) per mile. These are all-weather, hard-surfaced roads and will be maintained by the State as part of the State Highway System. The cost of sixty-five hundred dollars (\$6,500) per mile is less than the eight thousand dollars (\$8,000) estimated before the program was inaugurated.

I think that it is needless for me to tell you that the very size of Texas handicaps us from the standpoint of road building. There are just more miles of roads to be built in Texas than in other states.

Due to the large number of miles of roads in Texas, we have had a tremendous task in just getting Texas "out of the mud." We are not entirely out of the mud yet. But when we finish this three-year program, we will have an all-weather road within one mile of 62 percent of all farm dwellings. We will have an all-weather road within two miles of 74 percent of all farm dwellings. And I think that is quite a record.

One way in which we can build more farm-to-market roads is to make it possible for the State, the counties, and road districts to pool their resources. In many instances, counties and road districts do not have sufficient funds nor equipment with which to complete a local system of roads. It should be possible for these subdivisions, if they so desire, to pool their funds with State Highway Department funds for the construction of lateral roads.

The voluntary supplementing of State funds with local road and bridge funds would speed up the development of our farm-to-market road system. It is estimated that more than 750 miles of additional farm-to-market roads could be built in the next year through the operation of this plan. Therefore, I recommend that the Legislature enact a law which will enable local subdivisions of government to pool their funds with State Highway Department funds for the construction of farm-to-market roads.

The enactment of a simple law by this Legislature could insure that still another 750 miles of additional farm-to-market roads would be built every

GOVERNOR'S MESSAGE

year. There will be surplus of approximately five million, five hundred thousand dollars (\$5,500,000) in the County and Road District Highway Fund on September 1, 1947. Under the present statute which controls the distribution of this Fund, the State Highway Department will receive one-half of this surplus and the other half will be distributed among the various counties on a formula composed of three factors—population, number of motor vehicles licensed, and mileage of roads not in the State Highway System. Under the law, the counties are supposed to use their share in the building of lateral roads. The Highway Department may use its half of the surplus as it chooses.

I recommend that the entire surplus from the County and Road District Highway Fund be dedicated to the exclusive purpose of building and maintaining farm-to-market roads. The surplus in this Fund, which receives one cent of the gasoline tax revenues, is continuing to grow as gasoline tax revenues increase and as more and more road bonds are retired from the Fund.

In our haste to expand farm-to-market roads, we must guard against waste and false economy. What we build we must build well. Cheap roads, poorly constructed, mean excessive maintenance costs and quick deterioration. We must not be penny wise and pound foolish, to quote the old adage.

Road building is a highly technical business. Expert engineering and organization are required if the job is to be done well. Our State Highway Department is second to none in the nation. It has established some standards for farm-to-market roads. It is building two-lane, dustless roads with bridges capable of standing the stress of fifteen-ton trucks. The average cost of these roads will be less than eight thousand dollars (\$8,000) a mile. But these roads will last longer and will require less maintenance. These roads are being built into an integrated system.

It is highly important that the State have a well-balanced motor transportation system. The State Highway Department is the one agency competent to maintain proper balance between farm-to-market roads, urban expressways, and the major highways.

Because of the great importance of farm-to-market road construction, let me recommend that the Fiftieth Legislature invite members of the Highway Commission and the State Highway Engineer to bring before it their plans for farm-to-market road building. The representatives of the people should have complete information on this vital subject. The Legislature might also find it expedient to create a joint committee for long-range surveys and planning for the development of an integrated motor transportation system for Texas.

Texas is filling up with population. The State has developed greatly in the last quarter of a century. Texas will continue to grow, but the dead hand of the past is retarding progress.

There is an imperative need for a redistricting of the State to provide for equality of representation in the Legislature, and to provide for an equitable distribution of the work load among the district courts.

GOVERNOR'S MESSAGE

Our interest in the expansion of Texas should outweigh consideration of local pride. The progress of Texas benefits us all. The fact that other legislatures have failed to carry out the Constitutional mandate for legislative redistricting should not be the basis for predictions that the Fiftieth Legislature will be unable to accomplish this needed reform.

Some of our district courts are greatly burdened with litigation. Others are very little occupied with their case loads. As a simple matter of justice and as a means of speeding up litigation, the judicial districts of the State should be redrawn to meet the needs of the population being served.

The post-war period is one of change and readjustment. There could be no better time for redistricting.

The roots of Texas' well-being are in the soil. Our destiny depends upon how well, and how intelligently, we use our soil and its products.

Much of our valuable soil has been eroded; much more has become unproductive from continuous crop use. Too many of our products from the farm and ranch are sent out of the State for processing. Our agricultural and industrial research and experimentation should be increased. There must be an encouragement of industries which will offer new outlets for agricultural surplus or waste products.

But one of the most important things we can do for agriculture is to help the farmer help himself. We need to expend the splendid work being done by the Extension Service of Texas A. & M. College. Our county agents and home demonstration agents need more support. If the productive efficiency of every farm and ranch in Texas could be raised as much as five percent, which is not an unreasonable expectation, think of the tremendous economic gain for the State. The Extension Department is showing the farmer and rancher the way to increased production.

Because of the great benefits which will accrue to the agricultural economy and rural life of Texas, I recommend that the appropriation for the Texas A. & M. College Extension Service be increased one hundred thousand dollars (\$100,000) a year during the next biennium.

We must undertake more research to be directed toward developing new crops and the establishment of new industries based on agricultural products. Scientific research costs very little, relatively speaking, but the results sometimes are of tremendous benefit. I recommend that the sum of two hundred thousand dollars (\$200,000) be appropriated to the University of Texas and Texas A. & M. College for expenditure during the next biennium for agricultural and related industrial research. The research to be undertaken should be coordinated with the research projects already under way at the two schools.

Culture and education cannot be advanced without adequate library facilities. The State Library Association has long advocated a project to make books available to three million Texans who do not have library facilities. You will find this project worthy of support, I am sure. To put this plan into effect, I

GOVERNOR'S MESSAGE

recommend an additional appropriation of two hundred thousand dollars (\$200,000) a year to be expended by the State Library and Historical commission.

The problem of paying adequate salaries to our school teachers weighs heavily upon the conscience of Texas. We can be proud that Texas has some of the finest schools in the nation, but it is to our shame that we have some of the worst. The art of teaching has always been the most beneficial to mankind. It is recognized as fundamental that the enlightenment of our youth forms the very bedrock of our democratic civilization.

Today we find many schools, particularly those in rural districts, paying inadequate salaries to classroom teachers. The increased cost of living and the allurements of better-paying jobs are threatening to deplete seriously the teaching force of the State.

Simple justice and the proper recognition of the public service rendered by the teaching profession have always been an ample justification for well-paid teachers, but now there is a necessity!

Remedial measures must be the joint responsibility of the local school districts and the State Government. The State must take action, but in doing so it must not lose sight of the rights and prerogatives of local school administration. We must hold to the fundamental principle that the education of our youth, particularly younger children, must always be administered under the watchful eye of parents, and thus we have maintained local administration of our schools. Local responsibility for education must not be diminished. The main function of the State in the field of primary education has been that of maintaining standards and equalizing educational opportunities. The immediate duty of the State is one of equalization. Let me urge the need of immediate action in supplementing the salaries of teachers in our equalization or rural aid schools.

At least a third of the teachers who teach in the rural aid schools are suffering a hardship because of the maximum salary limitations in the present Rural Aid Appropriation Bill. This Bill appropriated fourteen million dollars (\$14,000,000) a year to pay the deficits of those districts which had insufficient funds from the Available School Fund apportionment and from local maintenance tax revenues to pay the costs of operation. The maximum salary limitations imposed on the schools receiving the equalization aid are so low that a large unexpended balance in the rural aid appropriation is scheduled to be left at the end of this fiscal year. These rural aid schools were unable to benefit from the increased apportionment of six dollars (\$6.00) per scholastic which was paid after the close of the last school year, and which is being used this year. As you know, the amount of money available for expenditure from the apportionment this school year will be forty one dollars (\$41.00) per scholastic.

It is estimated that the unexpended balance in the rural aid appropriation is sufficient to pay each of the rural aid school teachers seventy-five dollars

GOVERNOR'S MESSAGE

(\$75.00) per month more for the last four months of this school year. It will require only an amendment to the present Rural Aid Appropriation Bill. These teachers need more money immediately, and I am sure that you will see that justice is done.

I have long advocated that we should bring the salaries of our public school teachers up to an average of two thousand dollars (\$2,000) per year. It has been estimated that the average salary being paid during this school year is one thousand, seven hundred and eighty-five dollars (\$1,785). Therefore, it would require an additional two hundred and fifteen dollars (\$215.00) to make the average salary two thousand dollars (\$2,000) per year.

Fortunately, many of our teachers are receiving adequate salaries. Certainly it would be a rank injustice to raise the salary of any teacher in this category before adequate provision has been made for those in the lowest pay brackets.

Since the paramount duty of the State is to provide equalization of educational opportunities, our efforts in the immediate future should be toward raising the salary levels of the poorest paid teachers.

For the next biennium, I recommend that an additional ten million dollars (\$10,000,000) of the surplus money available in the General Revenue Fund be appropriated for payment of salaries to school teachers. This sum, plus the apportionment from the Available School Fund, plus maintenance funds from Local school taxes, should be adequate to provide a decent livelihood for all our teachers during the next biennium. This amount is, of course, in addition to the present fourteen million dollar (\$14,000,000) equalization appropriation from the General Fund.

It is well to note that many school districts are not now levying local taxes based on their ability to pay. It cannot be contended, however, that every district has sufficient values upon which to levy taxes to produce a proportionate share of the revenues needed for the operation of first-class schools. But there are some school districts which levy no local maintenance taxes.

The immediate requirements for this school year and the needs for the next biennium should not cause us to neglect long range plans for the improvement of our educational system. Serious thought should be given to measures for obtaining the maximum values from the money which is invested in public education. Many local school districts might like to effect large savings by the purchase of big items through a centralized purchasing agency such as the State Board of Control. As an example, a huge saving could be made in the buying of school buses.

Many school administrators have deplored the excessive number of school districts in Texas. Consolidations would make for economy and efficiency. Let me recommend that serious study be made of proposals for the administration of schools by county units.

GOVERNOR'S MESSAGE

The last report of the State Auditor shows more than eighteen million, five hundred thousand dollars (\$18,500,000) in delinquent school taxes alone. I recommend that you take steps now, in prosperous times, to provide for the collection of all delinquent taxes.

Health education is a must if we are to raise the public health standards of Texas. Equally as important is the enforcement of public health and sanitation laws throughout the State.

I am strongly in favor of our State Health Department being expanded so it can carry out a statewide health education and health law enforcement campaign.

Enforcement is best achieved through education. The recent outbreak of poliomyelitis struck fear into the heart of every parent. When people are shown, for example, that many polio cases are the result of poor sanitation, they will want to take the necessary steps to remedy poor water supplies, inadequate sewerage disposal facilities, and other menaces to public health.

A large appropriation for an adequate State health program is necessary if Texas is to raise its public health standards to levels comparable with those of other states. While Texas leads in many fields, she is far behind in matters of public health.

Tuberculosis is taking a heavy toll in Texas. There has been a heavy incidence of this disease upon our Latin-American and Negro populations. Here is where education and prevention can do much to curb the "white plague" in Texas.

I recommend an appropriation of three million dollars (\$3,000,000) a year for our State Health Department. This would be about two million, two hundred seventy thousand dollars (\$2,270,000) more each year than we are now spending. I suggest that half a million dollars of this amount be earmarked for research and the development of preventive measures to combat communicable diseases and disease hazards.

The three million dollar appropriation for the Health Department would represent an expenditure of approximately 50¢ per capita—little enough for public health insurance.

One of the most pressing needs of the State Government is that of housing for some of its departments. The various agencies of the government have long since outgrown the Capitol Building and the several State office buildings. For too long a time, the State has followed the poor business practice of renting quarters in widely scattered places in the City of Austin. In many instances, these rented quarters have been inadequate.

To provide adequate office space for the needs of the State, I recommend the appropriation of two million dollars (\$2,000,000) during the next biennium for the construction of a State office and Courts Building or buildings.

Texas is growing in industrial might. We have already witnessed heavy migration of industry to our State. The benefits of our continued industrial

GOVERNOR'S MESSAGE

development will be tremendous. Texans are eager for industrial expansion, but having seen great labor strife in the North and East, they are concerned that this blight will migrate with industry. While Texas has experienced some labor troubles, she has been spared the bloody strife which has characterized many of the industrial disputes in other sections of the country. Our chief need, then, is one of prevention. We must act now to prevent Texas from becoming a battleground in the future between the forces of capital and labor.

For a State policy on labor we might do well to consider the words of Woodrow Wilson. During the postwar labor strife in 1919 President Wilson had this to say:

"Labor not only is entitled to an adequate wage, but capital should receive a reasonable return upon its investment and is entitled to protection at the hands of the government in every emergency. No government worthy of the name can 'play' these elements against each other, for there is a mutuality of interest between them which the government must seek to express and to safeguard at all cost.

"The right of individuals to strike is inviolate and ought not to be interfered with by any process of government, but there is a predominant right, and that is the right of the government to protect all of its people and to assert its power and majesty against the challenge of any class. The government, when it asserts that right, seeks not to antagonize a class, but simply to defend the right of the whole people as against the irreparable harm and injury that might be done by the attempt by any class to usurp a power that only government itself has a right to exercise as a protection to all

Surely there must be some method of bringing together in a council of peace and amity these two great interests, out of which will come a happier day of peace and cooperation, a day that will make men more hopeful and enthusiastic in their various tasks, that will make for more comfort and happiness in living and a more tolerable condition among all classes of men. Certainly human intelligence can devise some acceptable tribunal for adjusting the differences between capital and labour . . .

"There are those in this country who threaten direct action to force their will upon a majority. Russia to-day, with its blood and terror, is a painful object lesson of the power of minorities. It makes little difference what minority it is; whether capital or labour or any other class; no sort of privilege will ever be permitted to dominate this country. We are a partnership or nothing that is worth while. We are a democracy, where the majority are the masters, or all the hopes and purposes of the men who founded this government have been defeated and forgotten . . .

"The road to economic and social reform in America is the straight road of justice to all classes and conditions of men. Men have but to follow this road to realize the full fruition of their objects and purposes. Let those beware who would take the shorter road of disorder and revolution. The right road is the road of justice and orderly process." (End of quotation.)

GOVERNOR'S MESSAGE

In the light of the Wilsonian ideal, we must endeavor to establish simple justice between management and labor in Texas. The rights of labor and management must be recognized and respected, but we must establish the superior right of the public interest. Labor must be made legally responsible. It must be made to assume the same legal obligations and responsibilities to which management is now subject.

No thoughtful person can begrudge the recognition and dignity to which labor is entitled, but I say this: . . . Labor can have no dignity without responsibility. The dignity of the free man is that he stands equal with all others before the law, without special privileges or immunities. Is it asking too much that labor be made to stand equal before the law with capital? Those who enter the public service have a large measure of responsibility to the public. The right to strike against the government or any political subdivision thereof cannot be recognized. Those who enter the employ of the State or local subdivisions of government are bound by an implied contract. The strike against government is sabotage of government and closely akin to sedition. Therefore, I urge that the Legislature outlaw strikes against the State or any of its political subdivisions.

The State must be prepared to lend its assistance in adjusting and mediating the differences between management and labor. An impartial fact-finding agency, backed by the moral suasion of informed public opinion, could effect settlements in a large number of labor-management disputes. We now have a Bureau of Labor Statistics. This bureau does not serve as a conciliation agency, but for too long a time it has been regarded as the exclusive political property of organized labor. I recommend that the Legislature replace this bureau with a Department of Labor and Industry, to be operated under the direction of a commission which would have equal representation as between employers and labor and a larger representation for the public. This new commission, with enlarged powers, could replace the State Industrial Commission, which is now dormant.

Further, I recommend that the Legislature consider the enactment of a Labor Conciliation Act similar in purpose to those of Minnesota and Wisconsin.

Texas must not admit herself incapable of settling industrial disputes by means of peaceful processes.

The proud military traditions of Texas stem largely from the glorious record of our Texas National Guard. The importance of our Guard in the national defense has been given signal recognition by the War Department. Texas has been given a troop strength of 30,098 men. The rapid reorganization and expansion of the Guard will require additional employees and expenses.

The State-owned military reservations—Camp Hulen, Camp Mabry and Camp Wolters—will require additional expenditures. The Texas National Guard Armory Board will require additional funds for armories to house the increased number of Guard units.

GOVERNOR'S MESSAGE

Accordingly, I recommend an emergency appropriation of one hundred forty six thousand, eight hundred and six dollars (\$146,806) for the Adjutant General's Department and one hundred forty thousand, four hundred twenty-three dollars (\$140,423) to be expended by the Texas National Guard Armory Board. I have asked Brigadier General Arthur B. Knickerbocker, the Adjutant General of Texas, to come before the proper committees of the Legislature and outline in detail the needs of the National Guard.

We come now to the budgetary aspect of the State's finances. In this message I have recommended increased appropriations from the General Revenue Fund totaling eighty-eight million, one hundred forty thousand, seven hundred eighty-nine dollars (\$88,140,789). Since these items represent greatly increased expenditures over the present cost of the State Government, you may well ask, "How are these to be financed?"

The answer is simple:—from the present surplus in the General Revenue Fund, and from the anticipated increases in all State revenues during the coming biennium.

In accordance with the pay-as-you-go Constitutional Amendment, the Comptroller of Public Accounts must furnish an estimate of revenues accruing to each fund in the State Treasury. This estimate is prepared in advance of each session of the Legislature, and no money can be appropriated unless the Comptroller certifies that the money is on hand or in sight.

Each of you has been furnished with a copy of the Comptroller's "Biennial Revenue Estimate." This report shows that there will be available for appropriation out of the General Revenue Fund the huge sum of one hundred eighty-nine million, one hundred twenty-seven thousand, eight hundred and seven dollars (\$189,127,807). This is the official figure.

When you deduct from this figure the amount of present spending from the General Fund, indicated by the Comptroller to be eighty-eight million, two hundred thirty thousand dollars (\$88,230,000) for the biennium, you find the sum of one hundred million, eight hundred ninety-seven thousand, eight hundred and seven dollars (\$100,897,807) of new money available for appropriation. It is from this amount that I recommend the increased spending program which would total eighty-eight million, one hundred forty thousand, seven hundred eighty-nine dollars (\$88,140,789).

These computations are made by adding all of the figures opposite the General Revenue accounts shown on page 15 of the "Comptroller's Biennial Revenue Estimate", which amounts to the one hundred eighty-nine million, one hundred twenty-seven thousand, eight hundred seven dollars (\$189,127,807). On page 18 of the report, you will find the estimated disbursements from the General Revenue Fund during the current fiscal year to be forty-four million, one hundred fifteen thousand dollars (\$44,115,000). This figure is doubled to arrive at an estimate of biennial spending. The total of eighty-eight million, two hundred thirty thousand dollars (\$88,230,000) is deducted from the total of the General Revenue figures on page 15. Thus, we arrive at the sum of one hundred

GOVERNOR'S MESSAGE

million, eight hundred ninety-seven thousand, eight hundred and seven dollars (\$100,897,807) in new money available for expenditure by this Legislature.

This additional money is available because of the accelerated pace of post-war reconversion, producing increased tax revenues from all sources. In addition, a large surplus has been built up in recent years by the sound fiscal policies followed by the Legislature and my predecessor in office. The Comptroller states that in his anticipation of increased revenues, he has made allowances for the possibility of a shallow recession in business activity over a short period of time.

There has been some incredulity expressed over the State's splendid financial condition. The attitude seems to be that this is too good to be true. My own original estimate of the amount of new money to be available was approximately seventy-four million dollars (\$74,000,000), which was based on the outlook ten months ago. This estimate was far too conservative.

There is attached hereto a statement showing the amount of additional spending recommended from the General Revenue Fund. This statement shows the amount recommended as emergency appropriations for the remainder of this fiscal year and the additional spending recommended for each year of the biennium.

Emergency appropriations, plus the estimated cost of the Legislature, total six million, nine hundred thousand, five hundred sixty dollars (\$6,900,560).

Additional spending from the General Fund for the first year of the biennium totals forty-one million, seven thousand, seven hundred eighty dollars (\$41,007,780), which is 93 percent more than was spent for this fund last year, and forty million, two hundred thirty-two thousand, four hundred forty-nine dollars (\$40,232,449) for the second year of the biennium, which is 91 percent more than was spent last year. The total additional cost of the program for State betterment which I have recommended is eighty-eight million, one hundred forty thousand, seven hundred eighty-nine dollars (\$88,140,789), to be spent from the one hundred million, eight hundred ninety-seven thousand, eight hundred and seven dollars (\$100,897,807) in new money available for appropriation. A balance of twelve million, seven hundred fifty-seven thousand, and eighteen dollars (\$12,757,018) will be left over in the General Revenue Fund on the basis of these estimates.

Within a relatively short period of time the State Government of Texas has become big business.

Its functions have expanded to the extent that the cost has reached a total of over two hundred thirty-eight million dollars (\$238,000,000) per year. This is more than 125 percent increase within the past fifteen years. It is about a 27 percent increase over the last previous year.

Demands for further increases have already been made. Requests for expanded spending by the various departments and agencies of the Government of Texas show that they are asking for more than double the present rate of spending.

GOVERNOR'S MESSAGE

The right to tax is a grant from the people. This grant of power is permissive. But, the people of Texas have spoken. They have indicated in a most impressive manner that they do not want this Legislature to place additional burdens upon them in the form of taxes since they know we have a huge surplus in the General Fund.

We are in the best financial condition we have ever enjoyed in the entire history of Texas, both as an independent republic and as a part of the United States.

My opposition to the levying of any new taxes is well known. The taxpayer must bear three heavy burdens of taxation—Federal, State, and local. We fought the greatest war in history on credit, and now we must pay for it. The national debt has mounted to three hundred billion dollars. On a population basis, the Texas share of that debt would be about fourteen and a half billion dollars, and that means the proportionate share for each person in Texas is two thousand, two hundred forty-four dollars (\$2,244).

The people of Texas paid more Federal taxes in the last four years than anybody thought possible ten years ago. For the fiscal year ending June 30, 1945, Texans paid more than one billion, one hundred fifty million dollars in Federal taxes. In each of the last two years we have paid fifteen times more Federal taxes down here in Texas than we did ten years ago.

We are all painfully familiar with the heavy burden of local taxation. Moreover, there is a growing need for more tax revenue by local divisions of government. Our cities are in need of more revenues to meet the demands of increasing populations. It is elementary that if we are to adhere to the principle of local self-government, we must not starve local government by taking a disproportionate share of the available tax dollar.

The revenues now available to this Legislature for appropriation will be more than adequate to provide the State with a well-rounded program without the necessity of placing any new tax burdens on the already overburdened taxpayer. The taxpayer is entitled to have his hard-earned money administered prudently and spent wisely for needed services.

This legislature has before it unprecedented demands for appropriations. Never in the history of Texas have the requests for public funds been so numerous and so large. Manifestly, it is impossible for you to grant all of these requests. You do have sufficient revenues available, however, to provide the State with a balanced program of betterment. The State Government cannot afford to be lavish and wasteful in its expenditures. If excessive expenditures are made for a few purposes of government, it will necessarily be at the expense and to the detriment of the other needs of government.

Let us, therefore, try to do justice to all and avoid undue favoritism to any agency of the government. Let us make progress, but let it be measured progress.

* * * * *

GOVERNOR'S MESSAGE

We stand upon the threshold of a significant anniversary in Texas history. The First Legislature of the State of Texas was organized in February of 1846.

Those first legislators of our State builded well for the century of greatness that was to come. They, and the long line of men to whom the destiny of Texas was entrusted, have handed down to us a great heritage. You and I have been given this heritage in keeping. We must be worthy of the trust. More, we must meet the challenge of a new century—a century in which the magnitude and renown of Texas will be multiplied many fold.

One hundred years ago the pioneers who composed the State Government met the trying problems of the times with staunch courage and with a sure vision for the destiny of Texas. Today, with problems in nowise so desperate, we must do no less. Therefore, let us with reverence for our glorious past, but with firm resolution for the new century, take up the task!

* * * * *

January 28, 1947

Respectfully submitted,

Beauford H. Jester
Governor of Texas

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Harry Ware
Reporter, 126th Dist Court

Sweatt Case.

About

Dr. Thompson's testimony -- ~~stated~~
and objection to his " " sustained
in the judgment -- want to have that
reflected in the Statement of Facts

The Texas State University for Negroes

PURCHASE ORDER

Univ. No. UN-1

Austin, Texas

1

B. of C. No.

TO: Purchasing Division

State Board of Control

DATE March 3, 1947

SHIP VIA

WEST- 19783 19788 - CARSWELL
 F. SHEPARD- 19784 19789 - LAWYERS COOP.
 AMERICAN- 19785 19790 - BANDROFT-WHITNEY
 E. THOMPSON- 19786 19791 - DENNIS
 19787 19792 - BENDER

PLEASE SUPPLY THE FOLLOWING ITEMS, TO BE DELIVERED TO:

The Texas State University
for Negroes, Austin, Texas

DEPARTMENT

ROOM NO.

BUILDING

19892 - CENTRAL
19893 - JOHN MARR

PRICES F. O. B.

AS PER

QUANTITY	ITEMS	PRICE	AMOUNT
	Law books as per attached list	19894 - GAMMEL 19895 - THOMAS 19896 - BOBBS-MERRILL 19897 - SMITH 19898 - MICKIE	
TOTAL			

APPROVED BY THE
BOARD OF CONTROL

19

B. OF C. NO.

SIGNED

G. B. Hardew.

FOR THE BOARD OF CONTROL

DIRECTIONS: RENDER ALL INVOICES IN QUINTUPPLICATE AND MAIL IMMEDIATELY UPON SHIPMENT OF GOODS, TO
 OFFICE OF COMPTROLLER, UNIVERSITY OF TEXAS, AUSTIN 12, TEXAS.
 ALL INVOICES AND CORRESPONDENCE MUST REFER TO UNIVERSITY ORDER NUMBER.

AFFIDAVIT: OUR STATE LAW REQUIRES THE ORIGINAL BILL TO BE SWORN TO BEFORE A NOTARY
 PUBLIC. YOUR ACCOUNT CANNOT BE AUDITED FOR PAYMENT UNTIL THIS PROVISION IS COMPLIED WITH.

THE TEXAS STATE UNIVERSITY FOR NEGROES

Chairman, Board of Regents of the University
of Texas

APPROPRIATION:

BIDS
RE-
CEIVED

DEPT. REQ. NO.

The Texas State University

Requisition

~~XXXXXXXXXXXX~~ for Negroes
~~XXXXXXXXXXXX~~
~~XXXXXXXXXXXX~~

PURCHASE

~~XXXXXXXXXXXX~~

Univ. No. UN-1

1

B. of C. No. _____

TO Purchasing Division
State Board of Control

DATE March 3, 1947

SHIP VIA: 19783 19788 - CARSWELL
WEST - 19784 19789 - LAMMIE'S CO. OF
F. SAMPSON - 19785 19790 - BUCKLEY - WHITMAN
AMERICAN - 19786 19791 - DENNIS
E. THOMPSON - 19787 19792 - BENDER

PLEASE SUPPLY THE FOLLOWING ITEMS, TO BE DELIVERED TO:

DEPARTMENT The Texas State University
for Negroes, Austin, Texas

ROOM NO. _____ BUILDING 19890 - CENTRAL TEXAS
19893 - JAMES MARR

PRICES F. O. B.

AS PER

QUANTITY	ITEMS	PRICE	AMOUNT
	Law books as per attached list	19894 - GAMMEL	
		19895 - THOMAS	
		19896 - BOBBS-MERRILL	
		19897 - SMITH	
		19898 - MICHIE	
	TOTAL		

Ref. to list & No. 9
[Signature]

Rec'd 4:30 pm
MAR 2 1947

APPROVED BY THE
BOARD OF CONTROL

19

B. OF C. NO.

SIGNED

J. B. Harden.

FOR THE BOARD OF CONTROL

DIRECTIONS: RENDER ALL INVOICES IN QUINTUPPLICATE AND MAIL IMMEDIATELY UPON SHIPMENT OF GOODS, TO OFFICE OF COMPTROLLER, UNIVERSITY OF TEXAS, AUSTIN 12, TEXAS.
ALL INVOICES AND CORRESPONDENCE MUST REFER TO UNIVERSITY ORDER NUMBER.
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~~THE UNIVERSITY OF TEXAS~~ **TEXAS STATE UNIVERSITY**
FOR NEGROES
~~XXXXXXXXXXXX~~
[Signature]
Chairman, Board of Regents of The University of Texas

APPROPRIATION:

DEPT. REQ. NO.

BIDS
RE
CEIVED

Relates 48

SCHOLARSHIP AID FUND

FOR TEXAS NEGRO GRADUATE AND PROFESSIONAL STUDENTS

1945 - 1946

Due to inadequate funds the following figures are based on tuition and travel grants which were insufficient to cover actual costs. For example, the tuition charged at Teachers College Columbia University for 15 points of work is \$470.00 per long session; roundtrip travel is \$96.00. This, less the tuition charged at Prairie View University and less roundtrip travel from applicant's home to Prairie View University, makes the differential \$508.44. However, the amount of the grant allowed is \$235.00 - \$165.00 tuition for both semesters and \$70.00 roundtrip travel, leaving \$273.44 to be paid by the applicant.

REGULAR APPROPRIATION 1945-1946:

Long Session Grants	\$14,843.66
Summer Session Grants	9,559.51
Secretarial Salary	480.25
Supplies	<u>116.58</u>
Total	\$25,000.00

DEFICIENCY APPROPRIATION 1945-1946:

Warrants issued on August 2, 1946	\$5,749.75
Warrants issued on August 29, 1946	779.71
Warrants to be issued	<u>590.68</u>
Total as of October 9, 1946	<u>7,120.14</u>
TOTAL FOR THE YEAR 1945-1946	\$32,120.14 *

* The Deficiency Appropriation was made on July 26th, 1946 when it was too late for a large number of applicants to attend school. Had the Deficiency Appropriation been made earlier, more than \$40,000.00 would have been required for the year 1945-1946.

Financial Statement as of May 1, 1946

SCHOLARSHIP AID FUND

1945 - 1946

SCHOLARSHIP AID FUND.....\$ 25,000.00

AMOUNTS ENCUMBERED AS OF MAY 1ST, 1946

Long Session Grants (1945-1946).....	\$ 14,717.10
Postage, Supplies and Secretarial Salary (approx).....	<u>534.17</u>
Total Amount Encumbered.....	15,251.27
BALANCE ON HAND.....	9,748.73 *

ACTUAL AND APPROXIMATE AMOUNTS NEEDED FOR SUMMER SESSION

Old Applications completed (actual).....	\$ 13,255.51
New Applications completed (actual).....	4,590.68
Incomplete Applications (New & Old Appr).....	<u>6,752.02</u>
Total needed for summer, 1946.....	\$ 24,598.21
Total amount on hand.....	<u>\$ 9,748.73</u>

DEFICIT.....\$ 14,849.48

* It should be noted that the balance on hand as of January 31, 1947 is only \$8,915.33 indicating that there will be a greater deficit this year.

STATISTICS CONCERNING APPLICATIONS FOR TEXAS SCHOLARSHIP AID

1945 - 1946

APPLICATIONS RECEIVED

Long Session	108
Summer Session	<u>360</u>

Total Applications 1945-1946 School Year..... 468

COMMITTEE ACTION

Applications Approved:

Long Session	93
Summer Session	<u>231</u>

Total applications approved.....324 *

Applications Disapproved
(Work available at Prairie View..... 20

Incomplete applications.....124

*Of this number 65 withdrew their applications or failed to attend because grants could not be assured.

SCHOOLS ATTENDED BY TEXAS SCHOLARSHIP AID RECIPIENTS
1945 - 1946

	<u>Long Session</u>	<u>Summer Session</u>
Atlanta University	9	11
Boston University	2	4
University of California	1	3
University of Southern California	2	19
Catholic University of America	1	1
Chicago Musical College	0	1
Chicago School of Art	0	1
Chicago University	2	12
Colorado A. & M. College	1	0
Colorado State College	0	9
Colorado University	1	14
Columbia University	7	30
Cornell University	0	3
University of Denver	0	4
University of Detroit	1	0
Fisk University	0	1
Margaret Hague Maternity Hospital	0	1
Howard University	12	0
Indiana State Teachers College	0	1
Indiana University	1	1
Iowa State College	2	3
Iowa State University	4	6
Kansas State College	2	4
Loyola University	1	0
Meharry Medical College	18	0
University of Michigan	5	30
Michigan State College	1	0
New England Conservatory	1	0
University of New Mexico	0	1
New York University	2	1
Northwestern University	0	9
Ohio State College	0	3
University of Pennsylvania	0	3
University of Pittsburgh	0	1
Robert H. Terrell Law School	1	0
Tuskegee Institute	3	0
Washington University	0	1
Wayne University	1	2
Western Reserve	0	1
University of Wisconsin	1	6
Xavier University	0	1
TOTAL		188

SUBJECTS TAKEN BY TEXAS SCHOLARSHIP AID RECIPIENTS
1945 - 1946

	<u>Long Session</u>	<u>Summer Session</u>
1. Art (Including Fine Arts)	0	2
2. Business Administration	2	0
3. Education		
(1) Admin. & Supervision	3	22
(2) Education	0	26
(3) Educational Guidance	0	19
(4) Educational Psychology	1	1
(5) Health & Physical Education	3	11
(6) Rural Education	0	3
4. Languages		
(1) English	2	9
(2) French	1	0
(3) Spanish	1	3
5. Library Science	3	7
6. Mathematics	1	5
7. Music	3	11
8. Professions		
(1) Dentistry	12	0
(2) Dental Surgery	1	0
(3) Dental Technology	2	0
(4) Engineering (Mechanical)	1	0
(5) Law	3	0
(6) Medicine	13	0
(7) Medical Technology	1	0
(8) Pharmacy	2	1
(9) Veterinary Medicine	5	0
9. Sciences		
(1) Chemistry	1	3
(2) Physiology	1	1
(3) Natural Science	0	1
10. Social Science		
(1) Economics	1	1
(2) History	0	7
(3) Psychology	1	1
(4) Social Science	0	1
(5) Social Service	0	1
(6) Social Work	9	14
(7) Sociology	2	1
(8) Public Health	0	7
11. Speech	0	4
12. Vocations		
(1) Agriculture	1	9
(2) Home Economics & Child Care	6	16
(3) Trade & Industries	0	1

TOTAL

82

188

Financial Statement as of January 31, 1947

SCHOLARSHIP AID FUND

1946 - 1947

AMOUNTS ENCUMBERED AS OF JANUARY 31, 1947

Scholarship Aid Fund - 1946-1947		\$25,000.00
Long Session Grants	\$18,223.37	
Withdrawals	<u>2,429.85</u>	
	\$15,793.52	
Secretarial Salary	227.50	
Supplies	<u>63.65</u>	
Amount encumbered as of January 31, 1947		<u>16,084.67</u>
BALANCE ON HAND		\$ 8,915.33

Relatus 49

Office of Executive Secretary
TEXAS SCHOLARSHIP AID COMMITTEE
STATE DEPARTMENT OF EDUCATION
Austin, Texas

STATEMENT OF POLICY AND PROCEDURE

(Adopted by the Committee on Scholarship Aid for Negro Residents of Texas Attending Graduate and Professional Schools Outside the State)

I. To be eligible for scholarship aid:

1. The applicant must be a resident of Texas and must have resided in Texas for eight years or more.
2. If desiring to do graduate study, the applicant must hold a Bachelor's degree from an institution approved by the Southern Association of Colleges and Secondary Schools, or by an equivalent agency.
3. If desiring to do professional study, the applicant must clearly meet the requirements for admission to such professional school work. If selection is necessary, preference will be given to college graduates. There are few fields of study that can be considered "professional" that do not require some college work in preparation.
4. The applicant must file an application on blank supplied by the Committee, and must file with it, or have sent to the Executive Secretary complete transcripts of all college or university work done, together with three testimonials and a letter stating the purpose of the study; and must complete the questionnaire form giving full details.
5. No grant will be made to applicants who plan to work for the Master's degree in fields in which such work, of approved quality and standard, is provided at Prairie View University.
6. Each applicant is required to submit, as a part of his application, a letter from the Dean of the Graduate School certifying that he is eligible for admission to Graduate School with not more than eight semester hours of undergraduate work to be made up.
7. To be eligible for a renewal grant, the student must write a letter requesting consideration for the grant and must be certain that a transcript of the last work done by him under the last grant of the Committee has been sent to the office of the Executive Secretary. For a renewal grant the student is not required to file a **complete** new application, but only the letter, supplementary transcript, and questionnaire form referred to above.
8. Students who are eligible to receive G. I. Scholarship Aid or Rehabilitation Aid may not receive State Scholarship Aid during the period of eligibility for G. I. Scholarship Aid or Rehabilitation Aid.

II. The Grants:

1. Each grant will be planned to compensate the student for the increased costs of tuition and travel necessary to secure graduate or professional instruction, not provided by a publicly supported institution for Negroes in Texas, in an out-of-State school.
2. In determining the amount of the grant, the Committee will include the following:
 - a. Actual tuition charged the student by the out-of-State institution, but not to exceed \$100 for a semester (except that in approved medical institutions the tuition may be \$150 for the semester), less in each case \$25 per semester, the tuition charged residents in State supported Texas institutions.
 - b. For the Long Session the cost of one round trip, at 3¢ per mile, by the shortest rail route from the student's home to the location of the approved institution, **less** the round trip cost at the same rate from the student's home to Prairie View University, will be provided.
 - c. The amount of travel grant to be allowed Summer School students will be determined by the length of time to be devoted to study.
 - d. An addition of not to exceed 10 per cent of the allowance made on the foregoing bases, to cover incidental increased expense.(Each applicant should note that the grants cannot take into account other phases of expense than those mentioned.)
3. All grants will be paid to the recipients in the following manner:
 - a. A State warrant payable to the student, in an amount determined by one-half the travel plus the tuition for the first semester or term (each as allowed for in the grant) with a proportionate addition as provided in 2-d above, will be forwarded to the chief financial officer of the institution approved for the student, to be delivered to the student on completion of registration.
 - b. In the same way, warrants similarly covering the allowance for tuition for the subsequent semesters or terms will be forwarded to the financial officer of the institution just prior to the tuition payment periods.

- c. A final warrant covering the return travel cost will be sent to the financial officer for delivery to the student just prior to the close of the session or other approved period of study.
(Those who receive grants should note that no part of the grant can be made available to them until they have reached the institution and completed registration.)

III.

1. Students who receive grants from this Committee will be required to carry a normal schedule as students. They may accept any scholarship or employment from the institution they attend, to which their merit may entitle them, without reduction of the grant, provided the duties incident to such scholarship or employment do not prevent registration for and satisfactory completion of a normal schedule of work.
2. Any grant made by this Committee will be terminated after any report period in which it appears that the student is not succeeding in his studies.

N1513-645-2m

Res. 124-46

R E S O L U T I O N

Minute Order No. 203-46

ESTABLISHMENT OF LAW COURSE FOR NEGRO STUDENTS

On motion by Mr. Buchanan, seconded by Mr. Reese, and approved by a majority vote of the Board, the following resolution is adopted:

WHEREAS, by Senate Bill No. 228 of the 49th Legislature the name of Prairie View State Normal and Industrial College at Prairie View was changed to Prairie View University; and

WHEREAS, the act further provides that whenever there is any demand for same the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide for a course in law at Prairie View University substantially equivalent to that offered at the University of Texas; (Other courses not pertinent to this order were also authorized.) and

WHEREAS, the Board of Directors of A. and M. College in cooperation with the University of Texas named a joint committee to study the obligations of these institutions in connection with Negro education and made a report to the Governor in connection therewith, said, (Minute Order No. 124-46), being attached to and made a part of this order; and

WHEREAS, the Board of Directors of the A. and M. College of Texas strongly reaffirms the position taken in the recommendations made to the Governor, particularly that part which urges the establishment of a first-class University for Negroes, preferably at Houston, Texas, under the supervision of the Board of Regents of the University of Texas; and

WHEREAS, it has been brought to the attention of the Board of Directors that at this time there is pending an application for admission to the University of Texas by one or more colored youth seeking to enroll in the School of Law, and this Board has been requested to make arrangements for these young men to embark on their legal studies pending final action by the Legislature on the recommendations made or to be made to its 50th session; and

WHEREAS, the Board of Directors has by investigation determined that arrangements may be made for standard courses of first-year law to be given in Houston, Texas with qualified Negro lawyers as teachers:

THEREFORE, be it resolved

✓

1. That if the applicant and/or similar other applicants for first-year courses in law offer themselves to the Registrar at Prairie View University, bringing with them a suitable transcript and a certificate from the Dean of the Law School of the University of Texas that they are scholastically prepared for a course of law equivalent to that given at the University of Texas, they will be admitted to Prairie View University for the semester beginning February 1947.

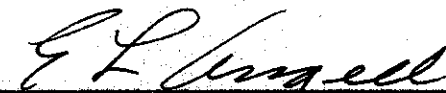
2. The course will be offered in Houston, Texas and will be substantially the same approved course as is now offered by the University of Texas School of Law for entering students, and the qualifications of the personnel to teach the students will be determined by the State Board of Law Examiners, and they will be judged acceptable by it before instruction begins.

3. The Board of Directors of A. and M. College, through Prairie View University, will provide instruction in accordance with the requirements of the Supreme Court of Texas and the American Bar Association, and will provide or make available to the students such books or library material as are needed for the first-year course in which they will be enrolled. The Governor will be asked for a deficiency appropriation to provide the cost of instruction.

C E R T I F I C A T E

I, E. L. Angell, certify that the foregoing is an exact copy of Minute Order No. 203-46 passed at the meeting of the Board of Directors of the Agricultural and Mechanical College of Texas held at Austin, Texas on November 27, 1946.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of the said institution this 4th day of December 1946.


E. L. Angell, Secretary
Board of Directors
Agricultural and Mechanical
College of Texas

✓

NO.

NAME

Herman Marion Swarth v. T.S. Partridge, Chap

DATE

Leatherette
BRAND
MANILA FILE FOLDER
No. 102CM 9½ x 14¾
MADE IN U.S.A.

NO. 74,945

HEMAN MARION SWEATT,

RELATOR.

VS.

THEOPHILIS SHICKEL

PAINTER, ET AL,

RESPONDENTS.

IN THE DISTRICT COURT

OF

TRAVIS COUNTY, TEXAS,

126TH JUDICIAL

DISTRICT.

STATEMENT OF FACTS.

Filed in the 126 District
Court of Travis County, Texas

at 10:00 A.M.

JUN 16 1947

Ben Lee Chote, District Clerk

By P. L. M. Richter
Deputy

Filed in the 126 District
Court of Travis County, Texas
at 1:30 P. M.

AUG - 4 1947

Ben Lee Chote
Ben Lee Chote, District Clerk

By _____
Deputy

(CARBON COPY.)

NO. 74,945

HERMAN MARION SWEATT,

RELATOR.

VS.

TRISOPHILIS SHICKEL
PAINTER, ET AL,

RESPONDENTS.

IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS,
126TH JUDICIAL DISTRICT.

STATEMENT OF FACTS.

B-e-f-o-r-e

HON. ROY C. ARCHER, J u d g e.

A-p-p-e-a-r-s-a-n-d-r-e-s-p-o-n-d-s.

MR. W. J. DURHAM,

MR. THURGOOD MARSHALL,

MR. E. B. BUNKLEY, JR.,

MR. JAMES M. NABBIT, JR.,

COUNSEL

FOR

RELATOR.

MR. PRICE DANIEL, Attorney General of Texas,

MR. JACKSON LITTLETON, Asst. Atty. Gen. of Texas,

MR. JOE GREENHILL, Asst. Atty. Gen. of Texas,

COUNSEL FOR RESPONDENTS.

BE IT REMEMBERED that on Monday, May 12, 1947,
and succeeding days, all in the Regular March Term of said
Court, there came on to be heard the above entitled and
numbered cause; whereupon the Court admitted into evidence
the following:

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12.--	List of books attached to Request for Bids, (Exhibit 12, attached to Exhibit 11)-----	256	--- Orig. Vol.II.
13.--	Letter from E. J. Mathews, Registrar, Texas State University for Negroes, to Herman Marion Sweatt, dated March 3, 1947 -----	262	--- 614
14.--	Photograph of building at 104 East 13th St., Austin, Texas, site of Negro Law School -----	273 494	--- 617
15.--	National Survey of the Higher Education of Negroes, A SUMMARY, Misc., No. 6, Vol. IV.-----	475	--- Orig. Vol.II.
16.--	"The Senior Colleges for Negroes in Texas"-----	476	--- Orig. Vol.II.

INDEX TO DOCUMENTARY EVIDENCE.FOR THE RELATOR.

<u>Exhibit Number</u>	<u>Description</u>	<u>INTRODU- CED PAGE</u>	<u>SET OUT PAGE</u>
1.--	Title Cover, excerpt page 259, and pages 260-267, incl., of Association of American Law Schools, Handbook, 1945-----	152	618
2.--	Photograph of Negro Law School Building -----	206	635
3.--	Photograph of Law Building at University of Texas -----	208	636
4.--	Photograph of Law Building at University of Texas -----	208	637
5.--	Envelope addressed to Roman Marion Sweatt, from E. J. Mathews, Registrar -----	265	638
6.--	Photograph of entrance of Negro Law School --	274	639
7.--	Certified copy of Petition to Advance case for an immediate hearing in Pearson v. Murray in Maryland Court of Appeals (On Bill of Exception) -----	480	Orig. Vol.II.
8.--	Report of Scholarship Aid Fund for Texas Negro Graduate and Professional Students, 1945-1946 -----	492	640
9.--	Department of Education Statement of Policy and Procedure applicable to Negro Aid Scholarship Fund -----	493	641

INDEX TO DOCUMENTARY EVIDENCE.

Exhibit Number	Description.	INTRODUC-	SET OUT
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Note:-- The following exhibits, in original form
accompany the Statement of Facts, not
being bound in Volume I or Volume II.

A.--	16th Census of the United States, 1940-----	474	-- Orig.
B.--	Accredited Higher Institutions, 1944, Bulletin 1944, No. 3, U.S. Office of Education -----	474	-- Orig.
C.--	General Studies of Colleges for Negroes, Misc. No. 6, Vol. II, U.S. Office of Education -----	474	-- Orig.
D.--	Directory, Colleges and Universities Offering Graduate Courses leading to Master's and Doctor's Degrees, 1940-1945 -----	475	-- Orig.
E.--	Federal Government Funds for Education, 1944- 1945 and 1945-1946, Leaflet No. 77 -----	475	-- Orig.
F.--	Biennial Survey of Education in the United States, 1942-44, Statistics of Higher Educa- tion, 1943-44 -----	475	-- Orig.
G.--	Biennial Surveys of Education in the U.S., 1938-40 and 1940-42, Statistics of Higher Edu- cation, 1939-40 and 1941-42 -----	475	-- Orig.
H.--	Biennial Survey of Education in the United States, 1942-44, Statistics of State School Systems, 1943-44, Chapter II -----	475	-- Orig.
I.--	Federal Security Agency Biennial Survey of Education, 1936-1938 -----	475	-- Orig.
J.--	Statistics of Land Grant Colleges and Univer- sities, year ended June 30, 1944 -----	475	-- Orig.

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AFTERNOON SESSION.

May 12, 1947

2:00 P.M.

THE COURT: It seems this morning that perhaps I wasn't as clear in making a statement of this trial as perhaps I should have been. This case was tried here on stipulations and on some testimony other than stipulations and went to our Court of Civil Appeals, and by agreement of all parties, the Court of Civil Appeals entered an order in which this cause was remanded generally to this Court for further proceedings, without prejudice to the rights of any party to this cause. I think we needed that additional explanation. If we are ready now, we may go ahead.

MR. DURHAM: Relator is ready, Your Honor.

THE COURT: Are you ready, Mr. Attorney General?

MR. DANIEL: Yes.

{ Thereupon counsel for relator and
counsel for respondents presented
to the Court a statement of their
respective pleadings in this cause.

THE COURT: I think with the trial being had before the Court we will be able to hear your testimony and at the same time bear in mind your exceptions on either side. So, for the time being, I am just going to carry your exceptions along in the trial of this case. If at a later time it requires a little more time on your part to prepare to meet issues that may be raised, which might be somewhat of a surprise to you, the Court

will give you that time.

MR. DURHAM: To save time, I thought we could go on with our testimony, we could go on this evening, and maybe talk about the stipulations after Court adjourns.

MR. DANIEL: Just so it is understood, we have no stipulations at this time.

MR. DURHAM: That is right, we have no stipulations at this time.

THE COURT: I haven't heard it if you have.

MR. DURHAM: It is agreed that respondents will put their testimony on first, and then we will put our testimony on, but in the record as it is made up, the relator's testimony will come first in the record.

THE COURT: All right.

{ Reporter's Note:- By agreement of
counsel later, this statement of facts
was ordered prepared setting out the
testimony and proceedings in chronolog-
ical order.

MR. DANIEL: Your Honor, we have a witness that we want to put on out of order, and I believe it is agreed we may do that.

THE COURT: All right.

- - - - -

D. A. SIMMONS, a witness produced by Respondents, having been by the Court first duly sworn as a witness testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name.

A D. A. Simmons.

Q Where do you reside, Mr. Simmons?

A Houston, Texas.

Q What profession are you in?

A Attorney at law.

Q Do you hold a law degree?

A I do.

Q From what school?

A The University of Texas Law School.

Q Do you hold any other law degrees?

A I have an Honorary Doctor of Law degree from the University of Montreal and an Honorary Doctor of Law degree from Loyola University in New Orleans.

Q How long have you practiced law?

A Twenty-seven years.

Q Have you during that time had any official association with The American Bar Association?

A I have.

Q Would you please state your official connection with the American Bar Association?

A Well, if I may, I would like to go just a little back of that, because I understand I am called -- I know nothing about the case, but I am called on as a witness on certain phases

of the American Bar standards.

THE COURT: Yes.

A I have been President of the Houston-Galveston Bar Association, 1932 and 1933. I was President of the Texas Bar Association in 1937 and 1938. I was President of the American Judicature Society in 1940 and 1942. For the record, I would like to state the American Judicature Society is the second largest national organization of lawyers in the country, and I was President of the American Bar Association in 1944 and 1945, having heretofore been on the Board of Governors for five years.

Q Have you in your American Bar Association work had occasion to be on any boards that inspected law schools or passed upon the requirements of whether or not certain law schools met requirements of the American Bar Association?

A The standards of the American Bar Association are set by the House of Delegates. They are recommended by the Board of Governors and the Section of Legal Education. I have been a member of the Board of Governors in 1937 to 1940, and 1944 to 1946. I have been a member of the House of Delegates representing the lawyers of Texas, 1936 until today. I am still a member.

Q In your experience with the American Bar Association, I will ask you if you have ever had occasion to study the standards of the American Bar Association as far as law schools are

concerned?

A Yes, sir, I am familiar with them. I was a member of the House when they were voted.

Q You are acquainted with the standards as they exist today?

A Yes, sir.

Q Are you acquainted with the physical facilities, the faculty, library, courses of instruction, and other matters related to the University of Texas School of Law?

A Well, I would say that since I was graduated there in 1920, my late visits, I have not counted the law books. I know they have a very substantial law library. I do not know how many books, and I know a good many of the professors, and I am familiar in a general way with the course of instruction.

Q Do you know whether or not the University of Texas Law School meets the standards of the American Bar Association for an accredited law school?

A It is an approved school.

MR. DURHAM: We object to that because it is an assumption of what those standards are. The witness hasn't testified what the standards are. It is assuming what the standards are.

THE COURT: I believe I will let him proceed, Counselor, along this line. You will save your point, and maybe we will get back to it.

A My answer is: It is an approved law school. It has been

inspected and approved by the House of Delegates of the American Bar Association as having complied with the standards.

Q (By Mr. Daniel) Are you acquainted ----

A I can say what the standards are, briefly.

Q Will you briefly state what the standards are?

MR. MARSHALL: I think the standards are the best evidence.

A I think so.

THE COURT: The standards are.

A I assume that counsel on both sides have them.

MR. MARSHALL: Unfortunately, if Your Honor please, we do not have them, except that one person on our staff has them, and he is not in the court room at this time.

THE COURT: All right.

Q (By Mr. Daniel) I will ask you if this page contains the standards of the American Bar Association with reference to approved schools?

A That is the copy of the standards as approved by the House of Delegates of the American Bar Association.

MR. DANIEL: We wish to offer it. We offer from page 1. It is headed, "Standards of the American Bar Association."

Q I believe your testimony was that the University of Texas Law School has been approved as having met those standards?

(Said instrument was admitted
(in evidence as Respondents'
(Exhibit No. 1.

A That is correct.

Q Now, I will ask you, Mr. Simmons, at my request, whether or not you have inspected the law school for the State University for Negroes here, adjoining the Capitol grounds in Austin?

A Dean McCormick, of the Texas University Law School, took me when the Court recessed this morning, to the building just north of the Capitol, where on the ground floor I found three rooms and a hall and toilet facilities. The first room had three or four or five study desks, a law book case or two with approximately, I would say, one hundred and fifty to two hundred books, and there were two class rooms the Dean pointed out, one with students' study desks; the other one he said was a reserve room in case more than eight or ten students applied. I saw that. I know where that is. I walked over to the Capitol. I was informed, from the reading of the pleadings this morning, which is all I know about that phase of it. I learned that the Supreme Court Library was made available by the statutes. I have a little familiarity with that from twenty years ago as First Assistant Attorney General. I went back, and the books seemed to have been kept up to date, and it is about a hundred or a hundred and fifty yards from this school.

Q You are speaking now of the State Library and the Supreme

Court Library?

A Yes, sir; on the second floor on the north side in the Capitol Building.

Q And that was about how far from the school?

A The north entrance of the Capitol, I would say, was a hundred yards. This is on the second floor immediately above the north entrance.

Q How many volumes of law books are required by the American Bar Association for a library that meets its standards?

A Well, the standards themselves call for an adequate library. The interpretation of that, to get it down to actuality, has been seventy-five hundred well-selected books with cases, in complete sets.

Q I would like to ask you if the Supreme Court Library, with which you say you are familiar, and the State Library there in the Capitol Building, has been kept up to date, and if the evidence shows there are over 40,000 books in that library, -- would it meet the requirements of the American Bar Association for a law school library?

A Well, I glanced over some of the sets. They are up to date. Whether there are 40,000, I would rather leave to the librarian, but obviously there are a great deal more than 7,500 books, and they are books of a character that would afford an adequate legal education.

Q Now then, did you in talking with Dean McCormick acquaint

yourself as to the courses of instruction that are being offered to the law school of the Texas State University for Negroes?

A Well, I was merely informed from the set-up, and from the books on the shelves that the freshmen, first year law school courses are the courses that would be available at this time, and that they were the identical books and the identical courses given the first year law students at the University of Texas Law School.

Q I will ask you a hypothetical question. If the evidence in this case shows that in the building that you have already inspected, the University of Texas law faculty, the same faculty members, offered the same courses in law in that building, and with the library facilities of the Supreme Court Library that we have mentioned, and if the requirements for entrance are the same, the requirements for graduation are the same, as the Texas University Law School, if the evidence shows that the requirements for classroom study and all requirements contained in the catalogue of the University of Texas Law School must be met in the law school of the State University for Negroes, if the evidence shows what I have recited, in your opinion, will Texas University for Negroes Law School offer equal educational opportunities in law as that offered by the University of Texas?

MR. MARSHALL: If Your Honor please, assuming he is an

expert, and assuming all that is in the hypothetical question, I don't think this witness is entitled to give a conclusion as to what the law is in the case. I think that is your job.

THE COURT: I think he hasn't asked him a law question. I think he is asking him if, as an expert, it is substantially the same.

MR. MARSHALL: The question was whether it furnishes the equality required.

THE COURT: Well, he wouldn't say whether there is an equality or not.

MR. MARSHALL: May we have an exception, please, sir?

THE COURT: Yes, sir.

Q (By Mr. Daniel) You may answer, please.

A In my opinion, the facilities, the course of study, with the same professors, would afford an opportunity for a legal education equal or substantially equal to that given to the students at the University of Texas Law School.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Mr. Simmons, what is the purpose of accreditation from the American Bar Association, of law schools?

A To make standards -- pardon me. Would you mind telling me your name?

Q Thurgood Marshall.

A And you are from where?

Q Originally from Baltimore, and now from New York.

A I like to know who I am talking to.

Q Good.

A The purpose of any standards are to set a goal. The American Bar Association standards are to assure adequate legal education to those who are going to represent the public as lawyers. They are merely recommendations, and as -- and your name?

MR. DURHAM: Durham.

A As Mr. Durham suggested a while ago, the American Bar Association is a private association of lawyers, about 40,000, and it set up these standards as a guide to the law schools, because when the standards were set up there were a great many law schools in the United States, mainly night schools, that were giving courses that were deemed to be inadequate, inadequate to prepare the lawyers of the future generation.

Q And isn't it true that many studies have been made by the American Bar Association and the officials, including several past presidents, concerning the inferior education obtained in small, part-time law schools? Isn't that true?

A The Association has been concerned with legal education since 1896, and it has made many studies. That part is entirely correct. We are now beginning to engage in a study

that used to be done by the Carnegie Foundation. They used to make an annual survey of legal education, and Mr. Reed of that Foundation, I think, was assigned other duties about ten years ago, and the American Bar Association has taken over that officially.

Q Are you using Mr. Reed officially?

A No, sir; I happen to know him personally.

Q Have you read any of his studies?

A I have many of them in my library.

Q You are familiar with his viewpoint on part-time law schools?

A I would prefer to answer mine. I have studied at night part time law schools myself. I have studied law in every form, I think. I studied in my father's office as a boy. I came to the University of Texas not having funds to proceed through. I stopped for a couple of years and went to night law school, working in Houston, an unapproved part-time school, with no books except those you could borrow, and I came back after the First World War and came back here, and I believe I am familiar with the office study and small part-time school and the approved law school, and sympathetic with all three.

Q As a matter of fact, as of the present time, isn't the American Bar Association opposed to part-time law schools?

A No.

Q Hasn't the American Bar ----

A For the night school, what they want is legal education for the future lawyers, and as the small school or the night school obviously can't give as much time to the student as a day school, full-time, they require that they give four years of three hours in the evening instead of three years like the regular approved schools, but many of the part time schools are approved.

Q Do you mean approved by the American Bar Association?

A Yes, as having complied with these standards.

Q There is another accrediting agency, the Association of American Law Schools?

A Yes.

Q Isn't this true; their standards are higher than the American Bar Association's?

A In some instances, I think they are more stringent.

Q Isn't it a fact that there are some schools approved by the American Bar Association that are not approved by the Association of American Law Schools?

A I think that is true in some instances. I believe Lincoln University in St. Louis is approved, on our lists ----

Q It is on both of the sections?

A That is the law school, I think. My last check, I think it had 35 students.

Q Counting the faculty?

A Take Howard -- that is a colored law school at St. Louis. Howard School of Law in Washington, the last time I had occasion to go to that, I believe it had -- just before the war, I believe they had about 67 students. It is a fully approved school.

Q Both associations?

A I think so.

Q Yes, sir. Is it not true that accreditation by the American Bar Association is an asset to the school and the pupil and the community?

A We hope so.

Q And it is your opinion that it is of value to any school?

A Yes, sir.

Q And would you not, therefore, say that attendance at an unapproved school does not give equal education to attendance at an approved school?

A No, I wouldn't say that, because any school, -- all of these schools we have named at one time were on the unapproved list. They had to prove how the facilities may be equal, but the student body, after all, is the one that is going to determine the standing of that school, and if the student body takes advantage of the facilities offered, and by the State Bar examination, which has no relationship to the school itself, passed the State Bar examination, and the students of that school, as many in proportion, upheld the

teaching of that school, it is likely, of course, to be approved more readily than one where the product does not stand the gaff of the State examination.

Q The American Bar Association waits and watches what the school is doing before they approve it?

A Yes, sir.

Q They always do that, don't they?

A Yes, sir.

Q But you think in the meantime the school still should be giving the same training as an accredited school?

A Absolutely. The training is for the individual.

Q I understand ----

A It has got to be from the inside, what the man develops himself, what he can absorb himself. If he has the books and curriculum and physical facilities, the light, the books, the professors, I would venture to say that a student who had, -- let's say that school had ten students, with four professors teaching ten students, that the ten students should absorb a great deal more law than with ten instructors teaching seven or eight hundred students.

Q They approve the school, the curriculum and the plant?

A And the product.

Q You don't just approve it on the product?

A No, these standards should show there are seven or eight hundred well-chosen volumes and should have professors who

are full time professors in the field of law.

Q Did you know that these proposed professors for the Negro school are to be part time professors? Did you know that?

A I understood they were full time law teachers.

Q Did you understand their work there was to be part time?

A I would say that with ten students, it would have to be.

Q I don't know what you mean by that.

A I was advised by the Dean of the Texas University Law School they will be the same men that teach at the Texas University Law School. They are full time teachers, of course, employed by the State of Texas to teach students in law.

Q But we are talking about the so-called Negro school. As to that school, they are part time?

A Yes, sir, that is true. They would also be part time at the University of Texas.

Q Did you find out where their offices are?

A At the other school, but they have a desk here. I was pointed out, -- all I know is what I was told this morning, and I told you who told me. I was pointed out the books, the desks, the chairs, and the rooms, and the distance from the State Supreme Court Library, and I went over there to see if it was where it used to be.

Q Do your standards of the American Bar Association, in accrediting a school, -- isn't it limited to what is in the school? To be specific ----

A Until students come, this isn't a school.

- Q Thank you, sir; but the other question is this. If you have a school, for example; you are familiar with the fact, are you not, that the library in the Library of Congress is one of the best in the country? Are you not familiar with that?
- A Yes, sir.
- Q If you had a university in Washington with no law library, but access to the Library of Congress, would you accredit that school?
- A You are talking to me. I am only one of 185 delegates in the House of Delegates. I do not personally accredit anybody. If the law school you are talking about had trained professors, set up by Congress across the street, a hundred yards from that library, and the Act of Congress said this library shall be the library of that school, I would say, so far as I was concerned, I would say they had been furnished an adequate library, all of the books they could hope to read or study.
- Q I didn't say the library was made a part of the school. I said "made available", like it is to everybody else.
- A Yes.
- Q Because it is available, would you, therefore, use that as a part of the accrediting of the school?
- A Having used this one myself, I know there are not so many people there but what you can always find table space and

all of the books you want to study or read. We are trying to get some law and the standards of the law into the mind and soul of the individual student. I am not trying to build a building for you, or law books. We are trying to build lawyers with character.

Q But you do require the building with the law books?

A We require, as I said before, we require that a certain number of certain proper law books be available.

Q What do you mean by "available"?

A You are the one that asked me, -- you said a while ago, questions on availability. I will say that any time you have a law library a hundred yards away from your school, and that the Legislature says these books are for the use of that school, that these books are available.

Q I think you are familiar with the statute that says they shall be available. Isn't that the language?

A I will let the Judge pass on the statute.

Q You are quoting from it?

A You were talking about Congress, if the Law Library of Congress was available, and I am trying to define what I mean by available.

Q Do you know of any other school the American Bar Association approved that didn't have a library in the building where the school was?

A All I can say is I haven't inspected over about eight law

schools personally.

Q You have been passing on law schools for how many years?

A Personally?

Q Yes, on the Committee?

A On the House of Delegates since it was established in Boston in 1936, and three years before that as a member of the General Council from Texas.

Q During that period, has that body approved a law school that did not have a library in the building where the law school was?

A I can't answer that.

Q To your knowledge?

A All we have ever passed on were ----

Q Can we first get an answer to that; and then you can go ahead? Do you know, to your knowledge, that ----

A I can answer that like lawyers do, either way. I don't know, because the practice is this. Mr. Demuth, of the University of Colorado, and Mr. Sullivan, from the University of Illinois, inspect the schools, and they come back and report to the House of Delegates of the American Bar Association, "We have inspected Lincoln University Law School. It has an adequate available library." Nobody has ever said there is one in the building across the street, in all of the years that I have acted as one of those that have passed on it. In the eight schools that I have inspected, they all had

libraries either in the building, or in adjacent buildings.

Q That is the purpose of having libraries in the law schools?

A In the school?

Q Yes.

A To make books available so that the student can study and learn the principles of law.

Q Don't your requirements also require that you have a trained, competent librarian?

A Someone should be familiar with the books. He doesn't need to be a full time librarian.

Q Do you require that you have a full time dean?

A The interpretation that has been made by the Committee before they are recommended to the House of Delegates, the school should have at least one full time professor or dean for each one hundred or fraction thereof, of pupils. We don't require a full time dean, as you quite well know, Mr. Marshall.

Q I don't know anything about what the American Bar Association requires, because I am not a member of it for one reason.

A May I go ahead?

Q You may proceed.

THE COURT: Until somebody stops you, you can proceed.

A This is quite interesting to me. Are you a member of the Lawyers' Guild?

Q (By Mr. Marshall) One of the founders of it, and a member

of the Board of Directors.

A Are you a member of the National Bar Association of Colored Lawyers?

Q I am a former Secretary for four years of it.

A That is a national association of colored lawyers?

Q No, sir; it is an association of American lawyers that has no bars as to race, creed, or color.

A Is there a single white lawyer in it?

Q Yes, sir; Martin Popper, and two or three others that I can name.

A Of course, we have colored lawyers in the American Bar Association.

Q You had one up until two years ago?

A Bill Lewis. That is purely aside. We can go on with the questions. I helped organize The Texas State Bar. We have colored lawyers in that. We have colored lawyers in the American Judicature Society, if that has any place in the record.

Q Getting back to the law library, and the American Bar Association. They do require that we have at least one full time dean or full time professor for each one hundred students?

A There must be one full time man.

Q I will ask you a hypothetical question. If there is a law school established here in Texas for Negroes that has not

a single full time professor or dean, would you say that that gives the type of education that would meet the approval of the American Bar Association?

A Well, I am going to have to assume that this law school has some students and there are ----

Q Assume not less than one hundred.

A Lincoln, say, with thirty-one. I would say if, as, and when this school has enough students to require through the business facilities, the efforts of a full time man, they should certainly have one.

Q Could that school be approved by the American Bar Association without any full time teacher or dean?

A Yes, sir, it could.

Q It could be?

A Yes, sir; the requirement of one full time professor for each one hundred students isn't in the standards. It is an interpretation made by the Committee as a recommendation to the House of Delegates.

Q So, it would vary?

A If the Committee found it was adequate. What is the purpose of having one instructor for each one hundred, or less? The purpose is stated in the standards to be so that the professor will be acquainted with the needs and the studying of the student body. I would assume, and would so state, that if this school has less than 25 students, that three or four

professors who are full time professors, not part time, would certainly seem to be adequate.

Q What would be -- and maybe you can't answer this -- what would be the minimum number of full time teachers, deans, that you would need?

A At this time?

Q Yes, sir.

A With how many students?

Q Well, assume we have one.

A Well, I wouldn't see the slightest need for a full time professor to give his full time to this one student.

Q And -- then could that one student get the same type of education that other students get by having only the viewpoint of one professor?

A I didn't understand that was to be the case. I understood they were to assign four.

Q And you wouldn't need any full time, then?

A I wouldn't think so. I would think; if he had the same capacity, he could get a better grasp of the principles of law than if he were one of eight hundred students with ten professors.

Q Don't you require, in accrediting schools, that you have a full time professor, or professors, for the purpose of being available to the students during the regular day, throughout the day, for consultation? Isn't that true?

- A No, the purpose, as I stated before, is so that there will be a sufficient number of instructors so that they will personally know each student and be available to encourage and teach him how to study law. Some of them don't know how to study law.
- Q I think we are talking about class room work. I am talking about after class. Isn't that the reason for a full time professor, so that he will be available in the afternoon for consultation?
- A No; so that they will have some chance to individually and personally know the students.
- Q And another question; do you know the difference between a law library and a teaching law library?
- A I don't know what you have in mind, if that is what the answer is.
- Q I will explain it. For example, under the requirements, the types of books that you have to have in a law school library aren't the books that are required, for example, in a Supreme Court Library?
- A Well, I don't think so. They lay more stress on the law reviews and things of that kind than the practicing lawyer does; or, I might say, used to, but the Supreme Court Library here has about everything a general practitioner would need.
- Q Does it have what a law school needs?

- A I would say that depends on the course of study. I have known some law schools to give,-- I think there is one that gives a course in patent law. I question whether that one would have facilities for teaching much patent law.
- Q A few others, too. The point I am trying to get at is that the law library is an important feature of a law school, a very important feature?
- A That is right.
- Q And the University of Texas Law Library has one of the best; isn't that true?
- A It has a very good library.
- Q And isn't it fully accredited by every association?
- A As far as I have heard.
- Q And does it not have a librarian and an assistant librarian?
- A Well, they had a librarian when I was there.
- Q And isn't it the only library in this section of the country that has microfilm reports of the records of the Supreme Court?
- A You had better ask the dean.
- Q If you are going to compare the two; aren't you forced to compare the two libraries?
- A I said, in my opinion, the Supreme Court Library, which is one hundred yards from your school, has more than any one, or twenty-five students, would possibly absorb in three years; and if he absorbed that, he would be competent

to start practicing.

Q The answer is that the important thing is that it is not the number of books necessarily, but the right books that you will need?

A Yes.

Q And obviously, there are books at the University of Texas that are not in the library of the Supreme Court?

A I can't answer that.

Q There is a larger percent ----

A I will say that all I have read that qualifies me, if I am qualified to practice law, are in the Supreme Court Library.

Q Do I understand you to say that the basis of your testimony is that the individual student can get as much in an inferior school as he can get in a superior school, if he is smart enough?

A The inferior and superior are your words. I said, with the same instructors in the two schools, and the law books available in the Supreme Court Law Library, a hundred yards across the street, he can get an adequate legal education; at least as good as that of the student, one of seven or eight hundred, getting the similar courses out at the University of Texas Law School.

Q But you don't think it is a mistake to put all of those books at the University of Texas Law School, do you?

A That is not up to me to judge that. I haven't read all of

them.

- Q I don't imagine the librarian has. If the standards of the Association of American Law Schools are higher or more stringent than those of the American Bar Association, as you stated, as a member of the board, how could a student be said to be offered equal educational facilities in the basement across the street as he would at the University of Texas, assuming that the Association of American Law Schools requires a minimum of four full time teachers, irrespective of the number of students?

MR. DANIEL: We object to that question as argument; presuming the requirement of the American Association of Law Schools there, and for the same reason they objected to the requirements of the American Bar Association, we object to that question.

THE COURT: I think he can answer it.

- A It is a little involved. Break it down, if you can.
- Q (By Mr. Marshall) You stated before the requirements of the Association of American Law Schools were obviously more stringent?
- A I said they were slightly different. They require ten thousand, and the American Bar, seventy-five hundred. In the average case that has no meaning. The student won't study over 200 books in his courses.
- Q Have you ever taught school?

- A I have lectured a few times.
- Q But you have never been a full time professor?
- A No, that is correct. I have been a practicing attorney.
- Q You have been a practicing lawyer?
- A Twenty-seven years.
- Q Are you familiar with the teaching curriculum now used in law schools?
- A Somewhat.
- Q Are you familiar with the teaching methods now, for instance, the case book, and the old outline method?
- A Yes, sir. The case book gives more stress to the work done by the student himself in reading, instead of the professor reading and the student making notes, like he used to do twenty-five years ago.
- Q And he takes the case book ----
- A And studies it himself.
- Q And he goes up in the library and reads the footnotes?
- A Yes, sir; and the law reviews.
- Q Incidentally, how many law reviews did you see in this library over here?
- A In the ----
- Q At the Capitol?
- A I couldn't say. I have gone through a good many of them when I was in the Attorney General's Office.
- Q I am talking about today.

A I didn't see them. I am sure they are there.

Q You don't know how many are there now?

A No.

Q Assuming the requirements of the Association of American Law Schools are more strict than those of the American Bar Association, and the University of Texas is a member of both, I think we can assume that is a fact. The Association of American Law Schools required a minimum of four full time professors, irrespective of the number of students. Would you say a student at that school would get equal educational opportunity with the University of Texas?

A I didn't qualify as an expert on law schools, and I, perhaps, as a practicing lawyer, do not lay as much stress on having as many full time law professors as most people. I think an occasional practicing lawyer mixed up in the faculty is a fine thing. The fact that the American Association of Law Schools wants more full time professors than the American Bar Association doesn't change my view. What we are talking about, affording the opportunity to a student, assisted by a preceptor who knows some law, can learn the principles of law and certainly one student, or ten, or twenty-five, assisted by four preceptors in law would have a better opportunity, if he has it within himself to develop, than one who was asked an occasional question every thirty days or so.

Q The important thing is that if this proposed school used in

the first hypothetical question did not, and could not under those facts, meet the requirements of the Association of American Law Schools, and the University of Texas does meet them; would you say that that is giving equal facilities?

A It wouldn't have the slightest effect on the student, whether he was a trained lawyer when he left the school or not.

Q Would that be equal?

A Equal facilities for what? For him to acquire a legal education?

Q No, sir.

A Whether they were a member of the Association would be utterly immaterial.

Q The question would be whether that would be facilities equal to the facilities at the University of Texas.

A If you are talking about physical facilities ----

Q I am talking about the whole law school -- both. Would you say that that law school that you saw today, even with the opportunity to use the Capitol library, afforded facilities equal to that that you have seen repeatedly at the University of Texas?

A To one student?

Q No, not limited to one student for this question. You may go back to one student next time.

A Someone once said that Mark Hopkins, long-time professor at

Williams College, sat on the end of a log and taught a student on the other end of the log. It depends on the student and instructor, and what they are talking about. Whether they belong to an association or have complied with the standards, in my opinion, for this purpose, is utterly immaterial. If you have competent instructors with adequate books to teach that student, he can get his legal education.

Q Mr. Simmons, let's start with ----

A I couldn't see how he could fail to get that if there were one or ten, where he couldn't get a better education than any ten you would get in the other school, because half of them, I regret to say, look out the window. It gets humid, as it is here in the court room, and he would get a little sleepy, and he looks out the window, and he couldn't do that if there were one or ten.

Q Are you opposed to large law schools?

A I am not advocating them. I am not impressed much by numbers, Mr. Marshall.

Q Since you say we get equal facilities, in your opinion ----

A I didn't say that. I said he had an equal opportunity to get a legal education, is what I said.

Q Could he get an equal opportunity to get a legal education in a law office?

A I think so. The finest lawyers I have ever known, that picture of that one over there, for instance (referring to

photograph hanging in court room.)

Q Mr. Simmons, if we can stay on the facilities ----

A All right.

Q The best way to get on it is to take the concrete ones. In your mind, is there any comparison in value of the building where the University of Texas Law School is with the building across the street where the Negro school is supposed to be?

A I think both of them could well be improved. The Texas Bar Association has been trying for years to get them to tear down the one at the University and build an adequate one.

Q What do you mean by "adequate?"

A For the number of students. It was built in 1907.

Q Is the one across the street equal in monetary value?

A Certainly not.

Q Certainly not. Approximately how many professors do they have at the University of Texas Law School?

A I don't know. The school has changed from fifty year before last to eight hundred and something now. I couldn't tell you.

Q Is the library at the University of Texas Law School larger than the library at the Capitol, and the one in the Negro law school together?

A Each one of them have, in my judgment, fifty thousand volumes, approximately. I don't know how many more.

Q Fifty thousand in that law school over there?

A At the Supreme Court, approximately, I say.

Q Approximately how many in the basement of that building?

A I couldn't say. The Texas University Law School ----

Q No, the Negro law school?

A They had about 200 books, I would say.

Q What kind of books?

A They seemed to have some books on torts and contracts and legal bibliography and Texas Law Review, and a few miscellaneous books of that character. They didn't have any books that I saw, on equity, or on courses that you would give to post-graduates or seniors. These seemed to be, as far as these books were concerned, they seemed to be limited strictly to beginners.

Q Did you see the American Digest there?

A In this ground floor of the Colored Law School Building?

Q Yes.

A No, they were not there.

Q The United States Supreme Court Reports?

A They were not there.

Q Any state reports?

A They were not there.

Q There were no reports there?

A No.

Q There were some case books and text books?

A Yes, and the Law Review. It was The Texas Law Review. I suppose they are partial to that one.

Q Is that the only one?

A That is all I saw. I wouldn't say the only one.

Q Do you know the type of books required in an approved law school to be used in the first year courses?

A These same books on torts, contracts and legal bibliography are the same ones used at the University of Texas.

Q Don't they teach legal bibliography in the library, and use all of the books in the library?

A That is where you learn it.

Q Do you not teach legal bibliography in the library?

A I couldn't answer that. Not when I went to school. They taught it in the class rooms.

Q We are comparing these facilities as of today.

A I have outlined at some length what I saw, and in my opinion, if a man wants to become a lawyer, so far as the books, the curriculum, and the professors are concerned, he can become a lawyer with what is offered him here. Some people want a big law library and a big school. I happen to have studied in night school and a law office, and this school. Perhaps I am not as impressed with a big school as some other people.

Q I understand, but as one point in this case, the State makes an allegation that they are affording equal educational facilities, not equal opportunity to learn, necessarily.

A All I understood was that the State was required to furnish substantially equal facilities and opportunity to acquire a legal education. I am not arguing the law. I am not a lawyer in this case. I was just passing through the city. By reason of having been president of the lawyers from Houston to the United States, they asked me to talk about the standards. If you want me to argue about whether these facilities are worth as much as something else, you had better get somebody else.

Q Hasn't the American Bar Association taken a specific stand urging the abolishment of all law schools not set up as parts of universities?

A Well, they have taken a stand that they do not in general approve what they call the commercial law schools. I recall no resolution saying that they must be part of a university.

Q You set all of the standards or ultimate goals?

A They are recommendations.

Q Didn't the American Bar Association cooperate with the Dallas Bar Association in taking all of the small law schools in Dallas and centering them at Southern Methodist University, the American Bar Association?

A Some of our men, I am sure, helped with that. The schools there were commercial schools, the night schools, as I recall. I might add there is some movement on foot to do the same thing in Houston.

Q Go right ahead.

A I have been asked by the President of the University of Houston if I won't discuss with them means by which they could take over one or two night schools in Houston, and those are commercial schools. The Houston Law School is a night school which I attended back thirty years ago. I would be very happy to see them a part of a university, personally.

Q Do you know what hours the Capitol Library is open?

A Not right now. I studied there many times, day and night.

Q Do you know the hours?

A I do not know.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Mr. Simmons, the two smaller law schools that you mentioned which are recognized by the American Bar Association and the American Association of Law Schools, Howard University and Lincoln University, are they separate Negro law schools?

A That is my understanding.

Q As to the facilities, in your opinion, are the three class rooms that you have inspected, for the Negro law school, based on from one to ten students, equal as far as the opportunities for study and class room work are concerned, with three class rooms at the University of Texas for 850 students?

A Well, we have seats, and the professor could do very nicely

here teaching ten or fifteen students. He certainly, I think, could get more into their heads than sitting with 300, and in the back row.

Q Referring back to the question asked on cross examination as to whether you knew of any accredited law school that had its law library in a separate building, are you acquainted with the University of Michigan Law School?

A I have been there many times.

Q Are you acquainted with the location of the library building?

A It is in the same quadrangle. It is in the W. W. Cook Library Building, across the quadrangle from the Law School. As a matter of fact, I at one time had an office in Hutchens Hall, a part of that building. Hutchens is President of the American Judicature Society.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Isn't there a connecting alcove between the Law Library and the Law School at the University of Michigan?

A It is a large school, and it is a beautiful quadrangle of buildings. Hutchens Hall and W. W. Cook Library are very close.

Q The same is true at Yale?

A I am not so familiar there.

Q When you say Howard University is a Negro university or school, do you know that of your own knowledge?

A All I say is that it was accredited as a colored law school.

Q Do you know whether or not there are any other students prevented from attending there?

A I don't know anything about it. All I know is that in the accredited law schools, Lincoln and Howard are listed as colored law schools.

Q That is in the American Bar Association listing?

A That is what I was being asked about. Would you like to see that?

Q No. I was there when it was accredited. How long will it be, assuming your hypothetical school here, -- I mean, involved in the hypothetical question ----

A Don't say my hypothetical school.

Q I withdraw that. That school that you went in today over here across the street?

A I don't think anything is a school until it has got some students. The building where I was today?

Q That the building, if it should be opened as a school, how long would it have to operate before the American Bar Association would be in a position to accredit it?

A I think preferably it ought to wait and operate long enough to see if the student body was seriously interested in studying law, or if they had some other purpose, and then if

it complied with the standards, it would be given a provisional approval.

Q Can we stop there and see about how long that would be?

A I can't say. I have known of instances where, for instance, I believe St. John's University in New York, Brooklyn, was kept on provisional approval for two years; and I believe the University of Georgia Law School was put on provisional approval when it had some difficulty with a gentleman named Talbot.

Q How long after the provisional approval until you get it on the entire approval?

A I would say two years.

Q That is all.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

- - - - -

MR. DANIEL: I would like to make a statement as to the order of our evidence, now that we have Mr. Simmons excused. You will excuse him?

MR. MARSHALL: Certainly.

MR. DANIEL: We first wish to offer the -- call the attention of the Court to Senate Bill 228, which authorized A. & M. College to set up a law school at Prairie View, and then to offer the resolution on that college, authorizing the establishment of it, and a deposition showing what was

done under the bill, in order that the record might be complete, since the filing of this suit, as to how the State has attempted to meet its obligation; and then we will go into the new school here in Austin.

At this time we offer the resolution of the Board of Directors of A. & M. College, dated November 27, 1946.

MR. DURHAM: That is the same resolution that was introduced on the trial before.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 2.

MR. DANIEL: We next wish to offer from the deposition of E. L. Angell the agreement of counsel as to waiver of formalities in the taking of this deposition, and I will ask Mr. Littleton if he will read the direct answers. I will propound the questions that were submitted by the State, by the Respondents, to Mr. Angell.

{ The following agreement of counsel
{ ordered copied into the record at
{ this point.

- - - - -

No. 74, 945

HEMAN MARION SWEATT		IN THE 126th DISTRICT
VS.		COURT OF TRAVIS COUNTY, TEXAS.
THEOPHILUS SHICKEL PAINTER		
CHARLES TILFORD McCORMICK, EDWARD		
JACKSON MATHEWS: BOARD OF REGENTS		

DUDLEY K. WOODWARD, JR., E. E. KIRKPATRICK, |
W. SCOTT SCHREINER, C. O. TERRELL, EDWARD |
B. TUCKER, DAVID N. WARREN, WILLIAM E. DAR- |
DEN, MRS. MARGARET BATTIS TOBIN, AND JAMES W. |
ROCKWELL |

The parties to the above entitled and numbered cause, through their attorneys of record, agree that the deposition of Respondents' witness, E. L. Angell, who resides at Bryan, Brazos County, Texas, may be taken without the filing with the clerk of said court of notice of intention to apply for commission to take the answers of such witness to interrogatories attached to such notice, or service of copy thereof, and of the attached interrogatories, or five days' time before issuance of commission, as otherwise required by law, and further agree that a commission to take such deposition shall be issued by such clerk immediately, and that such deposition shall be taken as provided by law in accordance with such commission and the attached direct and cross interrogatories by any officer authorized thereto by law at any place where the witness may be found and returned in the statutory manner for use as evidence in the trial of such cause, and further agree that when such deposition is returned it may be so used, subject to all other legal objections, at the trial of such cause.

Price Daniel,

Attorney General of Texas

By /s/ Jackson Littleton

Jackson Littleton

Assistant Attorney General

Attorneys for Respondents.

By /s/ W. J. Durham

W. J. Durham

Attorney for Relator.

{ The following was read into the
 { record, Mr. Daniel reading the
 { Direct Interrogatories, and Mr.
 { Littleton reading the answers, from
 { Deposition of E. L. Angell.

E. L. ANGELL. (Deposition)

Direct Interrogatories to be propounded to E. L. Angell, Secretary of the Board of Directors of the Agricultural and Mechanical College, a witness for Respondents in the above entitled and numbered cause, for the taking of his deposition:

Q 1. What is your name?

A 1. E. L. Angell.

Q 2. Where do you live?

A 2. College Station, Texas.

Q 3. What is your position or employment?

A 3. Assistant to the President of the A. & M. College and Secretary to the Board of Directors.

Q 4. How long have you held such position?

A 4. Assistant to the President since June of 1941, with the exception of about two years in the Army. Secretary to the Board since January of 1946.

Q 5. State whether you are the same E. L. Angell who testified in a hearing of the case, Sweatt v. Painter, on December 17, 1946.

A 5. I am.

Q 6. State whether you are familiar with the provisions of a resolution adopted by the Board of Directors of the Agricultural and Mechanical College on the 27th day of November, 1946, being Minute Order No. 203-46, and entitled The Establishment of Law Course for Negro Students.

A 6. I am.

Q 7. State if you are the same E. L. Angell who certified to said resolution by testimony in the hearing of the case of Sweatt v. Painter on December 17, 1946.

A 7. I am.

Q 8. State who, if anyone, was assigned the responsibility of carrying out the purpose of the resolution.

MR. DURHAM: Just a minute. We object to that answer for the reason that the resolution would be the best evidence of its contents. The resolution is in evidence before this Court.

THE COURT: I think that is true.

Q 9. State what, within your knowledge, was done to carry out the provisions of said resolution.

MR. DURHAM: Your Honor, we want to ask that, until I make my objection, Mr. Littleton be asked to stop at the word "renovated."

MR. LITTLETON: Do you mean as to all of the other paragraphs?

MR. DURHAM: We have no objection to any portion of it down to there.

{ Counsel and the Court conferred
off the record regarding said
answer.

MR. DANIEL: Just read it to the Reporter, and let him get exactly what you say.

A 9. A suite of rooms in an office building at 409 1/2 Milan Street, Houston, Texas, was secured. These rooms were completely renovated. This suite of rooms was furnished with new furnishings purchased for that purpose.

The services of Attorney William C. Dickson were secured as a teacher for the law courses

Immediately available were some 400 basic law reference books. A list of books required for first year law students was furnished by the Dean of Law at the University of Texas. It was ascertained from a law book firm that these books could be delivered to Houston on 24 hours' notice.

The immediate supervision was under the direction of the Principal of Prairie View University, Dr. E. B. Evans.

Q 10. State whether any building or housing facilities were acquired.

A 10. Yes; suite of offices at 409 1/2 Milam Street, Houston, Texas.

Q 11. If you have stated that building and housing facilities were acquired, state the location of such facilities, and describe them fully.

A 11. Suite of three rooms at 409 1/2 Milam Street, Houston, Texas, which was an office building.

Q 12. State whether anything was done to secure professors for the instruction of the law courses mentioned in the resolution.

A 12. William C. Dickson was employed.

Q 13. If you have stated that anything was done, then state what arrangements were made, and the names of individuals with whom they were made.

A 13. William C. Dickson was employed, to teach the law courses, the supervision of the establishment was under the direction of Dr. E. B. Evans, Principal of the Prairie View University.

Q 14. If you have stated that any instructors and professors for the law courses mentioned were secured, then state

the names of those secured and the qualifications of each.

A 14. William C. Dickson was employed to teach the law courses. He is a practicing attorney in Houston. His training includes Bachelor of Arts degree from Pomona College of California, the Bachelor of Law degree from Harvard University, and the Master of Law from Boston University. In case of need of an additional teacher Dickson's partner, H. S. Davis, Jr., was available. He holds an A. B. degree from Morehouse College, Atlanta, Georgia, and a J. D. degree from Northwestern University.

Q 15. State whether any library facilities were obtained.

A 15. Yes, as stated in answer to Interrogatory No. 9.

Q 16. If you have stated that library facilities were obtained, then describe fully the kind of facilities secured.

A 16. Yes, as stated in answer to Interrogatory No. 9.

Q 17. If you have stated that a law school or law courses were provided pursuant to the resolution of November 27, 1946, then state when they were provided.

MR. DURHAM: Your Honor, we object to that as not being responsive to the question asked. He asked him when it was established, and he said available. He doesn't answer that question.

THE COURT: Yes, I think that is right.

MR. DANIEL: All right, sir. We withdraw that Question 17.

Q 18. If you have stated that a law school or law courses were provided, then state whether such school or courses were open for registration to qualified applicants.

MR. DURHAM: Your Honor, we object to that answer for the reason the answer is "the law course was available." He gives no dates or time, and it is not responsive to that question. It isn't even intelligible.

THE COURT: It doesn't seem to be responsive, or even helpful.

MR. DANIEL: Your Honor, it says whether or not it was open for registration of qualified applicants. I don't know if the fact that it was available ----

THE COURT: He could have said yes or no.

MR. DANIEL: Yes, he could.

Q 19. If you have stated that such school or courses were open for registration to qualified applicants, then state the dates that such registration was opened and closed.

A 19. It was opened on the 1st of February, 1947, and closed on the 14th day of February, 1947, ----

MR. DURHAM: Follow it on out; " * * * which was

four days longer * * *-----"

THE COURT: That portion of it isn't responsive.

Q 20. If you have stated that registration for a law school or law courses was opened and have given the dates, then state whether during such period any applications for registration were made.

A 20. No qualified applicants applied.

MR. DANIEL: That is all we wish to offer until we see what you are going to offer on cross.

THE COURT: You spoke about some stipulations you will work out. Perhaps you will be able to work out something on that.

MR. DURHAM: We don't intend to offer the crosses at this time.

MR. DANIEL: We wish to offer some of them, then. From the deposition of Mr. Angell we wish to offer the following questions and answers from Cross Interrogatories propounded by Relator.

(Mr. Daniel read Cross Interrogatories, and Mr. Littleton read answers, from Deposition of E. L. Angell, as follows:

Q 1. By what authority was a Law School for Negroes in Houston set up?

MR. DURHAM: When he gets down to the word "and" I want to object to it. The resolution is the best evidence.

THE COURT: That is right.

MR. DANIEL: You are asking him for it at this time.

THE COURT: I believe he can state the law, and the resolution. The resolution is in.

- A 1. The law course for Negroes was established under authority of Senate Bill No. 228 of the 49th Legislature, and a Resolution of the Board of Directors of the A. & M. College of November 27, 1946.
- Q 2. What action, if any, did Prairie View University take in accordance with said resolutions in setting up a Law School for Negroes in Houston?
- A 2. The Principal of Prairie View University, Dr. E. B. Evans, was charged with details of setting up the law course.
- Q 3. How much money was expended in setting up this Law School for Negroes in Houston?
- A 3. I do not know.
- Q 4. Were books, equipment and supplies for this Law School for Negroes in Houston purchased for cash or by State requisition or vouchers?
- A 4. They were purchased by Prairie View University, using their funds.
- Q 26. What salary agreement was made with each teacher? If the agreement was written, attach a copy of the same to

this deposition.

A 26. Dickson was to be paid at the rate of \$5,000.00 per year. The agreement was made by Dr. E. B. Evans of Prairie View University and I do not have a copy of the agreement.

Q 27. What salary was paid each of these teachers?

A 27. He was paid at the rate of \$5,000.00 per year.

Q 29. How much time was each teacher required to give to the work of the Law School, that is, state whether the teachers were to give part time or full time and if part time, exactly how many hours per day, per week.

A 29. Full time if necessary.

Q 41. When was this library purchased and what was its purchase price?

MR. DURHAM: We want to object to that word "available". He asked him what he purchased, and it is not responsive.

THE COURT: Let me read it.

MR. DURHAM: We object to the entire part of it after we leave the word "made", -- "Some 400 basic reference law books were made * * *"

THE COURT: Let him put the question again.

(Mr. Daniel read Question 41 as set out above.

THE COURT: I don't believe that is responsive.

Q 42. How many library stacks or book cases were acquired,

and what kind?

MR. DURHAM: We object to that as not being responsive.

THE COURT: It is not responsive.

Q 45. Give the name and qualifications and salary of each of these officers of the Law School for Negroes in Houston:

- (a) Dean
- (b) Registrar
- (c) Librarian.

MR. DURHAM: We object to that for the reason the answer is not responsive.

THE COURT: He doesn't appear to answer it at all. I will give you your bill on it.

MR. DURHAM: Is that No. 45, Your Honor?

THE COURT: Yes, I am giving you your point on that.

MR. DURHAM: We object to that for the reason it is not responsive. He doesn't name anybody.

THE COURT: I think perhaps if you will break it up a little, it might be responsive. He might say the dean and registrar were officials of Prairie View University. It is going to be difficult to understand. I will give your point on it.

A 45. The Dean and Registrar were officials of Prairie View University and Prairie View University was to furnish

librarian services at the Houston establishment.

Q 49. State what courses of instruction were offered in the Law School for Negroes in Houston in detail, as follows:

- (a) Name of course.
- (b) Case book and text book used.
- (c) Hours per week classes scheduled to meet.
- (d) Time of day each class scheduled to meet and the number of the room in which it was to meet.
- (e) The number of semester or quarter hours credit to be given for each course.

MR. DURHAM: We object to that as being a conclusion of the witness.

THE COURT: And it isn't responsive either.

MR. DURHAM: And it isn't responsive.

Q 53. Did the faculty of the School of Law for Negroes in Houston prepare the curriculum, schedule the classes and otherwise conduct the general educational work of the law school?

MR. DURHAM: We object to that. It isn't responsive.

THE COURT: I think it isn't responsive.

Q 58. Is this Law School for Negroes still in existence in Houston?

MR. DURHAM: We object to that. That isn't responsive.

THE COURT: The first sentence ends it; yes.

MR. DURHAM: The first sentence.

A 58. The facilities were rented until the 1st of March.

- - - - -

MR. DANIEL: All right, that is all. We wish to call the attention of the Court to Senate Bill No. 140 of the 50th Legislature, and briefly to review that before we put on the evidence that follows that.

THE COURT: I think we will take that up in the morning.

{ Court was recessed at 4:30 p. m.,
{ May 12, 1947, until 9:00 a. m.,
{ May 13, 1947.

- - - - -

MORNING SESSION.

May 13, 1947.

9:00 A. M.

MR. DANIEL: May it please the Court, I would like to call attention of the Court to Senate Bill No. 140 of the 50th Legislature, which became effective March 3, 1947. Rather than read the sections that have to do with the establishment of the State University for Negroes in Houston, Texas, I will go over those paragraphs and summarize them, if that is all right with the Court.

{ Counsel at this point summarized
{ portions of said bill.

I would like to call Mr. D. K. Woodward.

- - - - -

D. K. WOODWARD, JR., a witness produced
by the Respondents, having been by the Court first duly
sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name, please, sir.

A D. K. Woodward, Jr.

Q Where do you live, Mr. Woodward?

A Dallas, Texas.

Q And what is your business?

A I am a lawyer.

Q What, if any, official capacity do you have with the University of Texas?

A I am a member of the Board of Regents, and Chairman of that Board.

Q How long have you been Chairman of the Board of Regents of the University of Texas?

A Since the end of November, 1944.

Q Have you, since becoming Chairman of the Board of Regents of the University of Texas, acquainted yourself with the matter of education for Negroes in Texas?

A To the best of my ability, yes, sir.

Q Are you acquainted with Senate Bill No. 140, which I have

just outlined to the Court?

A Yes, sir, I am.

Q I will ask you if you had anything to do with the preparation of the bill, and especially the part that the University of Texas -- as relates to the University of Texas?

MR. DURHAM: We object to it unless he shows he is a member of the Legislature.

THE COURT: I think that would be correct.

Q (By Mr. Daniel) Were you acquainted with the terms embodied in that bill before they were actually enacted by the Legislature?

A I was.

Q Have you studied the terms of this bill, when the bill was pending in the Legislature, and before final passage of it?

MR. DURHAM: We object to that as being immaterial.

THE COURT: I think it is immaterial what he did about it.

MR. DANIEL: Your Honor, we are simply leading up to show the University Board met in anticipation of the final passage of this law, and began their actions a few days before the law became effective.

THE COURT: He can tell what his Board did.

MR. DURHAM: We don't think that anything that a citizen did would be construed, or the Court could presume it would influence the Legislature. I think that would be a reflection

upon the Legislature.

THE COURT: I sustain the objection.

Q (By Mr. Daniel) Did that Board have a meeting prior to the time that this bill was finally passed by the Legislature?

A Yes, the Board met the 28th of February.

Q 1947?

A Yes.

Q Had the Senate Bill 140 already passed one branch of the Legislature?

A Two branches, both.

Q Both branches?

A It had passed in the Senate on the 24th, the House on the 27th, with certain amendments, and it was in that state that the bill was laid before the Board at its meeting on the 28th of February.

Q Did you as Chairman lay the bill before the Board?

A I did.

Q Did the Board of Regents of the University of Texas on the 28th of February study the requirements made of you by the bill?

A Yes.

Q What, if anything, -- did you pass any resolutions at that time?

A We did.

Q Do you have a copy of the resolutions?

A I have.

Q Is this a true and correct copy of the resolution passed by the Board of Regents on the 28th of February?

A It is.

Q We wish to offer it.

(Said instrument was admitted
(in evidence as Respondents'
(Exhibit No. 3.

Q Now, Mr. Woodward, in accordance with that resolution, I will ask you whether or not you proceeded to establish the separate law school therein called for?

A We did.

Q Where was it established?

A On East 13th Street, in the City of Austin, immediately adjoining the Capitol grounds on the north. I think the number is 104 East 13th.

Q What kind of building do you have there, as far as classrooms are concerned? How many classrooms do you have in the building where the law school is located?

A Presently available we have four buildings -- four rooms, three of moderate size, and a fourth small room for a reception room, and the small toilet facilities.

Q Did you, in accordance with that resolution, give certain instructions to Dean McCormick, Dean of the University School of Law?

A I did.

Q Will you state to the Court what instructions you gave him as to his part in this school?

A I requested through the Dean of the entire personnel of the Law School an expression as to their willingness or not to teach in the proposed new law school. It was reported to me that they were unanimous----

MR. DURHAM: We object to that.

THE COURT: Yes. That would be hearsay. We will sustain the objection to whatever was reported to him. He can testify to what he knows.

A All right. I had a conference -- a number of conferences -- with Dean McCormick concerning the establishment of the law school and requested him to give us the, provide the curriculum and the instructors called for in carrying out the resolution.

Q As to the location of the law school of the State University for Negroes, the building that you have spoken of, how far is that from the Capitol grounds?

A It is about a hundred yards from the north door of the Capitol.

Q You are talking now about the Capitol Building?

A Yes, -- from the Capitol grounds?

Q Yes.

A I would say 20 feet. It is a very narrow street there, East 13th Street.

Q Between the location of the law school and the Capitol grounds?

A Yes.

Q You mentioned something about another distance, as between the door of the separate law school and the State Capitol Building. If you know, how far is that?

A I would estimate it to be a hundred yards, 300 feet.

Q Where is the law school located with reference to the University of Texas?

A Well, the University of Texas lies north of 21st Street in the City of Austin, covers a considerable area out there. That would be eight blocks north of the new law school on 13th Street.

Q Then your new law school is located between the State Capitol Building and the University of Texas Campus?

A That would be right.

Q Where is -- state how the new law school is located with reference to the business district of Austin; is it nearer the business district than the University of Texas Law School or not?

A Yes, sir; eight blocks nearer.

Q Is your new law school nearer the banks of Austin and other business facilities than the University of Texas?

A It is eight blocks nearer.

Q Are you acquainted with the State Library called for in this bill, in the Capitol Building?

A I am.

Q Are you acquainted with the location of that library?

A I am, the second floor of the Capitol Building, north wing.

Q Are you acquainted with the space therein, and desks, as to availability of the space and working room in that library for students?

A I am, and have been for many, many years. I have frequented it myself.

Q That is on the second floor of the Capitol Building?

A Yes.

Q Are you acquainted with the Texas University Library and the facilities thereof?

A No, I am not, not as closely as I should be. I know in a general way what it is.

Q Are you acquainted with the working room at the University of Texas Law School Library, not the books?

A I couldn't say that I am with any degree of accuracy. I know they are sorely pressed for space.

MR. DURHAM: We object to that as not being responsive.

THE COURT: Yes.

Q (By Mr. Daniel) This resolution calls for the establishment of the same courses, a curriculum consisting of the same courses in law as those offered at the University of Texas?

A It does.

Q Did you or not give instructions to the Dean of the University

of Texas Law School to establish such a curriculum?

A I did.

Q The resolution also calls for the use of the same faculty members. I will ask you if you gave instructions in accordance with the resolution to the Dean of the University of Texas Law School with reference to the use of the University of Texas Law School faculty members?

A I did.

Q Was the new law school placed in readiness for operations on March 10, as called for in the resolution?

MR. DURHAM: We object to that as a conclusion and opinion.

THE COURT: He can say what was done.

Q (By Mr. Daniel) Will you just state to the Court what was done with reference to having the school ready for registration, as far as you know?

A By March 10th?

Q Yes.

A The premises were put in order for it, cleaned up, painted, and the desks and chairs and certain law books placed in there, and an attendant placed in charge, and notices were sent as directed in the resolution to all persons interested, and there was considerable newspaper publicity given so that we did everything that ----

MR. DURHAM: When he said he did everything ----

THE COURT: Yes. He can say what he did.

A Yes. All of the actions called for in that resolution, to the best of our ability ----

Q (By Mr. Daniel) They were accomplished by March 10th, were they?

A That is correct.

Q The resolution authorizes you to purchase a permanent law library for the school which will meet the standards set by the American Association of Law Schools?

A Yes, sir.

Q I will ask you what you did in accordance with that provision of the resolution?

A I made requisition on the Board of Control of the State of Texas on March 1st, I think it was, either February 28th, or March 1st. The document itself would show the exact date, calling for bids at the earliest practicable date for a list of books purporting to be a complete list as called for by the American Association of Law Schools.

Q Who did you have prepare that list to meet the standards of the American Association of Law Schools?

A The Dean of the Law School of the University of Texas, Dean McCormick.

Q The list that was prepared by him, or under his direction, then, was turned over to you?

A It was presented to me in the regular course for the execution

and delivery of a requisition on the State Board of Control, as required by law, for the purchase of public property.

Q Did you execute that requisition?

A I did, immediately on either the 28th of February or the 1st of March; executed that and filed it with the Board of Control.

Q I believe that is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Judge Woodward, as long as you have been a member of the Board of Regents of the University of Texas, has it or has it not been the policy and custom of the University of Texas not to admit Negroes to any branch thereof?

A There has been no custom of that kind, within my knowledge. The application of the relator in the spring of 1945 is the first application that I can recall, and I have been connected with the University one way or another for fifty years this coming fall.

MR. DANIEL: 1946, wasn't it?

A 1946, the fall or spring of the year, whenever it was that he made his application, 1946, I believe it was.

Q (By Mr. Marshall) Do you know anything about the application of one George Allen to take accounting, between the years 1938 to 1940?

A I do not.

- Q Well, why was the application of Neman Marion Sweatt to attend the Law School of the University of Texas refused?
- A Under the provisions of Section 7, Article 7 of the Constitution of Texas, pursuant to the advice of the Attorney General of Texas.
- Q And on that basis his application was refused; is that correct?
- A Correct.
- Q Is it or is it not the policy of the regents of the University of Texas to follow that section of the Constitution?
- A It certainly is, as long as it remains in the Constitution.
- Q Have you been over to this new law school?
- A I have.
- Q How much -- how was the building obtained, by lease?
- A Under lease from the -- through the Board of Regents of the University.
- Q And when was it leased?
- A It was leased around the end of February or the first of March of this year.
- Q For how long was it leased?
- A For the period ending August 31, 1947, August 31st of this year. I may say, if you are interested, that we are negotiating now and have the refusal of the building for the year ending August 31, 1948.
- Q When you say the building, as a matter of fact, you don't have

the whole building leased, do you?

A We do not at the present time. We have a refusal of the remainder of the building when need for it arises. We have the first floor leased.

Q The first floor is the ground floor, isn't it?

A That is right.

Q And there are comparatively, for classroom purposes, they are small rooms, are they not?

A It depends on the size of the class.

Q If you use the whole building that you do not now have, but if you obtained the whole building, could you put the library of the Law School of the University of Texas in that whole building?

A Certainly not.

Q So, that brings us to the next question. Where are you going to put your library?

A When the library is acquired, it will consist of ten thousand volumes. The library of the Law School of the University of Texas consists of approximately 65,000 volumes, of which about half of them are duplicates. Nobody in his right mind would undertake to assemble 65,000 volumes in a law library in a building or law school just started. There is ample space in the building on which we have the refusal in which to store and provide the use of ten thousand volumes we have under order. We can put them there.

Q Then I understand you can put the 10,000 volumes in the present building?

A That would be my judgment, yes.

Q Well, now, as to these standards of the Association of American Law Schools, do you have enough space to give the amount of space required for library use of students?

A As to that, I wouldn't be qualified to say because I don't know what the requirements are. We have with the -- under the provisions of the statute, with the law library we have under order and with the accessibility to the Supreme Court Library of the State of Texas, we have abundantly sufficient library facilities and working space for the relator's pursuit of his course of law.

Q Now, have you taught law?

A Yes.

Q When?

A I would say it was about, must have been 20 or 25 years ago. I was for a short time a member of the law faculty of the University of Texas.

Q And since that time have you done any teaching?

A No.

Q Are you familiar with the modern methods of teaching in law schools?

A I believe I am, with what you term the modern methods. I happen to be a graduate of the University of Chicago Law

School in the class of 1907. I went there at the time it was being organized. Joseph Henry Beal, a great educator from Harvard, came out and established the case system, and it was because of the establishment of that system, in part, that I took my three years of law work there.

Q What I am getting at, Judge Woodward, is that when you make the statement that he can get an adequate legal education on the facilities that have been provided, I want to know whether or not you are talking as an expert in the field of education.

A I am talking as a man familiar with what it takes to provide a thorough training in law in the State of Texas, and I stated the facts within my own personal knowledge, that the facilities which the Board of Regents of the University set up in accordance with Senate Bill 140 are such as to provide for the relator in this case the opportunity for the study of law unsurpassed any time elsewhere in the State of Texas, and fully equal to the opportunity and instruction we are offering at the University any day.

Q Are the facilities in that school equal to those in the Law School of the University of Texas?

A Do you mean the physical facilities?

Q First, the physical facilities?

A They are not identical.

Q Are they equal?

A For the purpose they are, yes, sir.

Q What is the value of the Law Building at the University of Texas?

A It is an old building. I would say it was constructed 40 years ago. I don't know whether you are talking about the replacement value or original cost, but, of course, the leasehold there has no relation to the physical value of the University of Texas Law School proper.

Q What I wanted to know was in dollars and cents, using whichever method you want to use, original purchase price, or price to reproduce. Is it not true that you can not even compare the value of those two buildings?

A Well, they don't bear any relationship to each other. One is a leasehold adequate for the purpose for which it was obtained, and the other is a property in fee. You are correct in this, that there is no fair comparison in monetary value.

Q Next, as to the library that you have on requisition, does that compare in value with the library facilities at the University of Texas Law School?

A The library on order, and the library made available by law to the relator, had he entered the school, compare very favorably with the library at the University of Texas. You will understand that there may be a few more volumes at the University of Texas, but an examination would reflect that there are many, many duplicates, as there would have to be

with a student body of eight hundred or so.

Q Do you not also know that several of the sets of books required under the rules of the American Association of Law Schools are now out of print?

A I wouldn't know.

Q You don't know anything about those standards?

A I don't claim to be an expert on that. I don't admit complete ignorance about them.

Q Didn't you testify, or rather, I will ask you the question; will this law school set up over here for Negroes meet the requirements of the American Association of Law Schools?

A Well, it will do that, in my judgment, in the process of its development. The facilities and instruction presently provided in contemplation of the registration of the relator were made in accordance with the requirements of the American Association of Law Schools, as I understood it. You will understand, of course, that I rely upon Dean McCormick, who is a very well known and eminent legal educator, as to matters of that kind. I depended on him for that. I have no reason to question his ability as an advisor in that regard.

Q These 10,000 volumes; do you have a copy of that requisition with you?

A No, I don't have it. It is available. It is at the Board of Control, or may be in the court room. I filed the original with the Board of Control.

Q What has happened to that requisition?

A The notices were sent out in the regular way. I am speaking now from recollection as to dates, and the bids were to have been opened on some date in April, and for some reason they were -- of course, you understand, I have got to tell you now what was reported to me about it. If you object, I won't tell you.

Q That is all right, sir.

A It was reported to me that for some reason, in the machinery of the purchase, they had to be delayed. You will understand further that once the authorities of an educational institution file a requisition as required by law, that its execution then rests with another department, the Board of Control. That is part of our Texas administrative system. I have every reason to believe that those books have been, or will be purchased in the immediate future. It is quite possible that the Board of Control has already purchased them.

Q Are they in the law school now?

A No.

Q They are not there as of today?

A No, sir, neither is the relator.

Q They were not there on March 10th, were they?

A No.

Q As a matter of fact, how many books were there on March 10th?

A Oh, I would judge in that ----

Q First of all, did you see the place March 10th?

A Either that, or a day or two before.

Q All right, sir. How many books were there?

A I would estimate 150 or 200.

Q And what volumes were they, generally?

A I don't know. I have a great many things to do, you will understand, counsel; that we had taken the precaution of making the entire library of the Law School of the University of Texas, eight blocks away, available on a loan basis, so that if the relator had come, as we hoped he would, he could have had access through loan immediately to any books in the Law Library of the University of Texas; the Library of the Supreme Court of Texas, for any course he wanted to pursue.

Q Isn't it true that the students of the University of Texas Law School also have access to the Capitol Law Library?

A I think that they, in common with every citizen in Texas, have a right to go in there.

Q So that there is nothing special about that, is there?

A Yes, there is; for this reason ----

Q What is the special thing?

A The Legislature of Texas, which is the policy making body of the State of Texas, saw fit in setting up this general plan for Negro education, to provide specifically that the students there should have the use of that library for the purpose of attending classes at the law school. Now, I, and

every other citizen in the State have to have the use of that library for general purposes, but I do not have it for use as a student in that law school. So as to relieve any question about it, that provision was put in the bill.

Q But as the situation now stands, the right granted by that bill is the same right which every other citizen has?

A Well, if you think that as a lawyer, that is all right. It is not the case. If that is your judgment as a lawyer, that may be good New York law, but it is not good Texas law.

Q For the record, may it be stated that I am not a member of the New York Bar.

A Whatever bar you are a member of, that is not true in Texas.

Q Let's get this straight. In Texas, Sweatt can go over and use the library now, and he isn't a student in any school; isn't that correct?

A Yes, sir.

Q Can't anybody in this court room go over and use that library, regardless of what school he is in; isn't that correct?

A He can go over and use it for the purposes as an ordinary citizen of the State.

Q What peculiar purpose does a student use a law library for that any other person does not?

A Withdrawing books to study.

Q Is there anything in the statute which gives him the right

to withdraw books?

A I think the Legislature wouldn't have considered that necessary when they gave them the right to use it as students.

Q Is there any provision in the statute which specifically gives the students of that school the right to withdraw books?

A I think there is not.

Q And the students of the University of Texas can use that library?

A Oh, yes, just as any other citizen can.

Q And as I understand, the plan is proposed that if any other books are wanted, they can be brought over from the University of Texas Law Library on a loan basis?

A At any time they are needed.

Q How are they going to bring them over there?

A Well, the University of Texas has facilities to do what it is required by law to do. We brought the other books down there. There is nothing difficult about that. We transact a very large amount of practical business, and that would be a very insignificant task.

Q You brought down the 150 books when the school was opened?

A I think so.

Q As a matter of fact, wasn't it just five book shelves?

A I think it was two of those racks of cases. I am not sure about it.

Q Is there any office space in there for professors in the present building?

A You mean private offices?

Q Yes, sir.

A I wouldn't say there is any private office.

Q Is there any private office for the Dean?

A No.

Q Are there any working rooms where students can work and confer with library books?

A You mean work with the library? There will be plenty of room for that when the library is installed there, because we will have the remainder of the building.

Q You say there were four rooms, three moderate size, and one small one?

A As I recall, yes. I have a plan of it. I can tell you in a minute how many there were, and what size, if you are interested.

Q I am quite interested.

A All right. The building faces south. The entrance hall with the administrative desk in it is immediately to the west of a reading room and office, which is 15 feet, 7 inches, by 19 feet, 10 inches. To the north of the entrance hall there is a class room 11 feet, 6 inches by 16 feet, 6 inches, and on the northwest corner of the building is a class room 12 feet by 12 feet, 8 inches. There is, in addition, a toilet

facility in the building. Those are the four rooms currently under lease.

Q Do you have any objection to us putting that in evidence?

A None whatever.

Q May we see it?

A I didn't make it myself. It was made under the -- if you are willing to accept it as accurate. It is accurate.

Q May we look at it a minute?

MR. DANIEL: Yes.

Q (By Mr. Marshall) You don't propose to get 10,000 volumes in that space, do you?

A Certainly not.

Q And whether or not you will have space for the 10,000 volumes depends on whether or not you renew your lease, and whether or not you get the balance of the building; isn't that true?

A Yes, we would have -- the provision for that has already been arranged. I have arranged to renew the lease, the lease on the present quarters for the coming year ending August 31, 1948, and to secure the remaining portion of the building when needed, for the period ending August 31, 1948.

Q When did you say the Law School at the University of Texas was built, about?

A I think about 1906 or 1907.

Q Approximately how many students were going to the law school

the first year?

A I could not tell you to save my life.

Q It was a very small number, wasn't it?

A It was a relative number. You had better get somebody who knows. The Registrar can tell you, because I could not tell you at all what the registration in the law school there was at that time. Of course, the records show it for each year.

Q Do I understand correctly that the law school as it appeared on March 10th obviously did not meet the requirements of the Association of American Law Schools?

A Well, that would call for a conclusion, depending on a great many things; the number of students, the work that they undertook, and a good many other considerations. You will see, after all, the regulations of the American Association of Law Schools and the American Bar Association have to be construed with some degree of regard for the facts. What we set up there was a plant fully adequate to give the very best of legal instruction for the only man of the Negro race who had ever applied for instruction in law at the University in about 63 years of the life of the school. We are practical people. We made that provision fully adequate for that purpose.

Q What do you mean by "practical"? You mean within the money you had available?

A No, here is what we were trying to do, Counsel. We were

trying very hard to, and are still trying to set up for Negro population of the State of Texas a University really of the first class, which down through the years will develop and grow to what we hope to be the greatest University for Negroes in the world. We have the assets with which to do it, and the determination to do it, and that was a part of the plan to provide here at the threshold of this undertaking opportunity identical with that which was afforded at the University, eight blocks away.

Q Well, you didn't get the idea and that plan until after this lawsuit was filed, did you?

A It happens you are mistaken about that.

Q I would like to know.

A On the 13th of January, 1946, the Board of Directors of the University of Texas, and the Board of Trustees, -- Board of Regents of the University of Texas, and A. & M. College met in joint session at Ft. Worth, Texas. They are the governing boards of the two principal State supported schools. One of the questions on that agenda of that meeting was the consideration of the responsibility of those two schools for providing a comprehensive plan of higher education for members of the Negro race in Texas.

Q Did that Board meeting discuss the very wide publicity, including the paper in your home town, the Dallas Morning News, concerning a meeting of Negroes who were insisting on their

equal right to an education?

A When was that? What meeting do you have reference to?

Q The meeting held in Dallas at the Y. M. C. A.

A What date? Do you mean, held on the 8th of March of this year?

Q No, prior to January of 1946.

A I do not -- that meeting was not considered at all, and it was not in any way the occasion for our holding the joint session, or discussing that program. We knew, of course, -- what we knew was this, that we have approximately 1,200,000 members of the Negro race in Texas. There has been a very great change in the economic situation, and in the educational opportunities or ambitions in the last 15 or 20 years of the Negro race. Members of those two boards felt as officers and directors of the State's leading educational institutions that they owed it as a public duty to devise some means of providing for what they thought was a real need for members of the Negro race, and they implemented that by appointing a committee of six, three from each school, to make a study of that. That committee worked diligently for about six months, made its report to the Governor of Texas, the Hon. Coke R. Stevenson, who in turn appointed the Bi-racial Committee, with which I am sure you are familiar. It filed its report, and that report was the basis of Senate Bill 140. So that the undertaking of those two boards

ante-dated the filing of the suit by the relator here, and was not actuated by any extent by the meeting, whatever meeting it was, one that I never heard of, in Dallas, though I live there.

Q Judge, how old is the University of Texas?

A We think of it as having started in 1883.

Q Is it not true it is one of the finest schools in the country?

A It continues to try to be.

Q About how long do you think it would take to build for Negroes a university equal to that?

A It would depend to a greater extent on the response of the members of the Negro race than anything else.

Q Isn't it true that when you set up new departments at the University of Texas, you start off with a few students and end up with a lot when they find out it is running?

A It depends on the course you set up.

Q And it depends on the value of the course you have to the students?

A Will you repeat that, please?

Q When you first offer or open up a new course in the University of Texas, you usually have a small number of students, and year by year the course usually gets more students?

A Normally that would be true. It varies with reference to the course and the public interest in the course. It can happen, and sometimes does happen, that what might be called

a flash interest in some subject, and there may be a very great registration, and they will find it wasn't what they wanted and it decreases, but ordinarily this is true in the University and every other educational institution, that it grows as the worth of the instruction is demonstrated. I think you may conclude that is true.

Q Judge Woodward, the other point I wanted to ask is that you are familiar, are you not, with the supposed law school in Houston, Texas for Negroes?

A What do you have reference to, the Texas State University ?

Q No, sir, the one that was, according to the minute entry, was established in February?

A You mean the one that was provided for by the Act of the 49th, Senate Bill 228, they referred to?

Q Isn't it true that they did set up facilities for Negro training in law in Houston?

A I couldn't say because I had nothing whatever to do with it.

Q Isn't it true that this law school you are about to set up can't possibly run more than a year?

A No, sir.

Q What happens to it at the end of the year?

A Well, at the end of the year from now, on the 13th of next March, if the relator or any other good faith student comes along, it will be operated.

Q Isn't it true that under the statute and resolution, it is

supposed to be turned over within a year ----

A No, it can run through August 31, 1948, and if you will permit me to tell you, I will say that the Board of Directors of Texas State University for Negroes at its first meeting passed a resolution----

Q I will have to object to that. The resolution is the best evidence.

A We will get it, if you want it. Under the provisions of the statute which permits us to operate until August 31, 1948, and by arrangement with the Texas State University for Negroes, the Law School will be in operation a year from now if there are any students, if the relator or anybody else offers to use those facilities. You have reference to the clause in there, I am sure, if I remember it correctly, directing that at the end of any term we be required to turn it over, if they are ready for it.

Q At the end of the first term?

A What clause do you have reference to?

Q I think it is this one, at the end of the first term.

A May I read it? (Reading) "At the end of the first term or semester of any law course offered in said school after the organization and establishment of the Texas State University for Negroes at Houston, and the equivalent organization and establishment of a law course by such university for Negroes, the direction, conduct, operation, location, the unexpended

balance of this appropriation, and all property purchased for the separate school out of the appropriation hereunder, shall be transferred to the Texas State University for Negroes at Houston, and its Board of Directors shall thenceforth continue such law courses as a part of the curriculum of such university, and discharge all responsibility therefor." Was that the clause you had in mind?

Q Yes. Do you intend to keep the law school here or move it to Houston?

A At the present time we intend to keep it here until August 31, 1948.

Q Does it go then?

A It is assumed that by that time the Texas State University for Negroes at Houston will have established the equivalent work, and the establishment of a law course by such University for Negroes at Houston. In other words, it is contemplated that by the expiration of, roughly, an 18 months period from this date the University at Houston will have had an opportunity to fully equip itself as a law school, meeting all of the requirements of a first class law school, and our duties will be over.

Q What assurance would Sweatt have that the law school would be here until he finished it three years from now?

A Until he finishes three years from now? There is no assurance that it would be here three years, nor has he or

any other citizen of the State of Texas the right to require the State of Texas to provide education at any particular place. The State has to provide for him or any other citizen education in law fully equal to that provided at the University of Texas. That, it is prepared to do.

Q Do you consider it a good educational policy for students to have to shift from town to town in going through a law course?

A I think my opinion on that wouldn't be very enlightening to the Court. I don't think it is contemplated at all by the facts in the case.

Q Do the students of the University of Texas have to go from city to city, or isn't it true that since 1907 the school has been situated in the same spot?

A The Law School has been in Austin for a great deal longer than that. However, we maintain a Medical College at Galveston, a part of the University of Texas. Pre-medical training is given here, and the medical training is given at the University branch in Galveston.

Q How long has it been there?

A Oh, it ante-dates the opening of the University here. It is many, many years old.

Q It has been in the one spot a long time?

A Yes.

Q What I am trying to get at is whether or not it is not true

that it is poor educational policy for a student not to know where he is going to get his education the next year?

A I would say as to that, that would depend on the circumstances of each individual case. I can not think that it would be the least hardship to a citizen of Houston, as the relator styles himself to be, to have to return to Houston in August of 1948 and complete the final year of his course there.

Q You don't think so?

A You asked my opinion. I certainly do not.

Q The question I am trying to get at is, and I want to ask it one more time, if you will permit it. Isn't it a poor educational policy, speaking from educational policy, you have been on the Board of Regents for quite some time, and you are familiar with good educational policies. Isn't it poor educational policy to have a student going to a school when he doesn't know where the school will be the next year?

A Well, if he hasn't the acumen to find out where it is going to be the next year, he hasn't any business in the school. It couldn't possibly be any matter of inconvenience or uncertainty to a man of ordinary intelligence, where the school will be conducted the following year. He knows now it would be here until August 31, 1948. He knows that.

Q Judge Woodward, can I ask you one question?

A Any number.

Q Do you know where it will be in 1948?

A With reasonable certainty, I do, based on the obligations of the State officials to carry out their duties, and upon the presumption that they will carry them out, it will be in Houston, in Harris County, Texas, an integral part of the State University for Negroes, on August 31, 1948.

Q Depending on the establishment of that University prior to that time?

A The University is now established.

Q Where is it established?

A In Houston, Texas.

Q And who is the dean of it?

A You mean the Dean of the Law School?

Q No, the dean of a university that has been established?

A I can tell you the members of its governing board. They were appointed last week. If they have selected the officers of the University I haven't been advised of it.

Q Wasn't that their first meeting last week?

A It was. They were appointed and confirmed and met the same day.

Q But the school hasn't been established yet, has it?

A That is a conclusion. My conclusion is, as a matter of law that the Texas State University for Negroes has now been established.

Q Are there any buildings?

A There is another statute which I think has been finally passed which provides for the Texas State University for Negroes acquiring 53 acres of land and the buildings on it as a site for the Texas State University for Negroes. That land is located within the City of Houston, about mid-way between Rice Institute and the Houston University, which is a very large university.

Q What I am trying to get at ----

MR. DANIEL: Let him finish.

Q (By Mr. Marshall) All right.

A I have every reason to believe that that building, which is the equivalent of any building on our campus at the University of Texas, modern construction and very adaptable for university purposes, will come into control of the Board of the Texas State University for Negroes within the next few days.

Q What I am trying to get is, -- you said a minute ago that the school was in existence?

A I said it was established. That is my judgment as a lawyer.

Q Was established?

A Yes.

Q As I understand your testimony, all of this you have testified will happen; is that correct?

A That is right. That is my best judgment. I am not a prophet. I am informed as to the facts, and that is my deliberate

judgment.

Q Is that your judgment, that the Law School will be in Houston in August, 1948, and that is based on your assumption that this University will be in existence at that time?

A Based on my knowledge of the whole situation and my knowledge of the laws that provide for that, and my knowledge of the laws which require public officials to do their duty.

Q How many schools are there set up in this Negro University?

A You mean separate schools of instruction?

Q Like up at the University of Texas? As I understand, it is to be equal.

A Are you talking about its prospective curriculum?

Q What is there now?

A The Texas State University for Negroes, you want to know how many schools have been set up there now?

Q Yes, sir.

A I would say that I think it improbable that any one has been set up.

Q So that it is at the present time still on paper, is it?

A Well, if you wish to put it that way. Every step in its organization thus far contemplated by law has been taken, and \$2,350,000.00 in money is in the bank to pay for its operation during the next two fiscal years. That is substantial paper.

Q And, of course, the statute says two million, or whatever it

is, or as much thereof as might be needed?

A That is the customary language in our appropriation bills.

Q That is the custom. As the Chairman of the Board of Regents of the University of Texas, have you deemed it your responsibility during the whole time you have been on the Board of Regents to give equal educational facilities to all citizens of the State of Texas?

A My -- as far as it is within my power, yes. It happens to be that I actually believe in education, and I think one of the very most forward-looking things the State of Texas could do would be to provide a comprehensive plan of higher education for members of the Negro race.

Q But prior to this year the University of Texas has done what to provide education for Negroes?

A Well, you will understand that the University of Texas is governed by the Constitution of the State, and that we have done exactly what the Constitution authorizes us to do in the conduct of the University of Texas, which is the school set up for the education of children of the white race, but we are, rightly or wrongly, the University is regarded as the head of the educational system of Texas, and as Chairman of the Board, I have conceived it to be my duty to do what I could to promote within the provisions of the law the best of educational facilities for all of the citizens of Texas.

Q What provision have you made for Negroes prior to 1946?

A Prior to 1946. I came on the Board at the end of 1944. The Legislature, the 49th Legislature, met in January following and there was no opportunity under conditions then existing at the University and elsewhere in the State for me to take any part in the deliberations of the 49th Legislature, other than as related immediately to the University of Texas. I attended to that. No member of the University of Texas, so far as I know, and no member of the governing board of officers of A. & M. College was consulted about the passage of Senate Bill 228, as far as I know. That is the Act that undertook to make Prairie View a university.

Q A university?

A When I got squared away, when the picture as a whole began to take shape, it was rather obvious to me that Senate Bill 228 had to be materially supplemented, if there was to be created in Texas a comprehensive program of higher education for members of the Negro race, which I thought was highly desirable.

Q Isn't it true that prior to that time, as a matter of fact, the University of Texas had no facilities of any kind where Negroes were in attendance?

A It is true today, and it has been true every day since the University of Texas was organized, that it could not lawfully extend the use of its facilities to members of the Negro race. That is a matter of constitutional limitation.

We had nothing to do with bringing it about at this time. It was passed in 1876. That is the reason, if you want a reason, why we haven't done anything of that kind; it is because we are prohibited by law, and naturally we can not conduct a public institution otherwise than in compliance with public law.

Q You had no hesitancy in having the -- first, are the professors of law at the University of Texas white?

A Yes, sir.

Q There was no hesitancy in arranging for them to teach Negro students, was there?

A None at all, as a branch of the Texas State University for Negroes. We had a legal right to do that, and I was extremely proud of their cooperation in doing it.

Q But although the teachers had no objection to teaching Negroes, the Board of Regents couldn't admit the Negroes to the Law School?

A You understand it perfectly, I am sure. You understand why we can't. We are bound -- as good a lawyer as you are, you are bound to know that we operate under the Constitution of the State of Texas. Your associate here knows it.

Q Is it not true, since we want to get straight what the two of us know about it, that the Constitution of Texas is, of course, dependent as to its validity on the interpretation of the Constitution of the United States? We agree on that,

don't we?

A Absolutely, yes.

Q All right. When compared with the advantages offered the students of law at Texas University, is there any measure of equality in a set-up which forces a Negro to begin a law course which will be shifted to another institution, the professorship has not been selected, the quality and quantity of instruction, of which is not at the present time known?

A What is your question? Is there any measure of equality?

Q Yes, sir.

A Well, if the relator was in school it would be a little easier to answer that. I will say this, that where the policy of the State of Texas has been established by the adoption of a statute by more than two-thirds of the vote of both branches of the Legislature, with liberal appropriation made for its support, that there is no discrimination whatever, and no uncertainty, against a student who undertakes to avail himself of instruction in the law under the provisions of that statute. I don't think he is discriminated against in the least. I know as a practical matter that the opportunities which would have been afforded the relator, had he seen fit to enter the Law School, the opportunities for instruction in law in the school we set up on East 13th

Street would have been fully equal to that had he been permitted to enter the University of Texas. That may or may not answer your question.

Q That doesn't answer the question.

A I would be glad to make another try at it.

Q The question in sum and substance is, working on this theory of equal facilities, separate but equal, do you consider it equal for a Negro student to go to a school, knowing full-well that on next year he doesn't know where his school will be, who the professors will be, or anything about the school? Is that equal to the Law School that was established at the beginning of the century.

A Under the conditions existing, it affords him fully equal opportunity. You have not stated the question correctly, so that I will have to qualify it by "under the conditions existing". You have failed to state in your question that the Law School is established by the University of Texas, now established on 13th Street for the period ending August 31, 1948. You have forgotten to state that Senate Bill 140 provides for the establishment of this university, not at any uncertain place, but at Houston in Harris County, Texas, and directs that it be conducted as a University of the first class in Houston. These are the qualifications; my knowledge of the facts which may control my judgment in the case, my knowledge of the class of instructors he would

have here, and the opportunity he would have if he would avail himself of it, leads me to say that he is under no discrimination, if he availed himself of the training the State of Texas had made available for his legal education.

Q He spends two or three hours a day in class?

A I wouldn't know.

Q What do you use as a basis for your statement ?

A I went to the University of Chicago Law School when it was small, and had the benefit of association with men like Mr. Meachem, and Mr. Hall and Mr. Bigelow, and relations with them which a man going there today as a member of a class of five or six hundred would not have. That is the reason that I know that the relator or any other members of his race, if they came to that school which we have established on 13th Street and in good faith undertook to complete their legal education, they would receive instruction and conferences and experiences which they would not have anywhere else today. I know that, because I know the men who would be teaching. Those men are men who have devoted their lives to teaching. They are all full time professors in the Law School.

Q Which ones are you talking about now?

A Because they would come down there,-- I am talking about all of the members of the faculty of the University of Texas.

Q All of them?

A We haven't, as far as I know, unless it be an emergency matter, have none other than full time instructors.

Q Do you consider it necessary to have full time instructors?

A Well, I think it is desirable to have them, where you have an institution that can employ them all of the time. There are certain fields in which part time instructors are desirable, just as in my University of Chicago days we had Julian W. Mack, whom you will remember was the Professor of Federal Procedure, Horace Kent Penney, who was a great lawyer and Professor of Pleading and Practice.

Q Isn't it generally accepted that law schools should have full time professors?

A I believe that is the current view, and I think it is a sound one. That is the reason that we provide here that the full time professors from the University of Texas should be made available here.

Q They can't be full time at both places, can they?

A We feel we can't be prejudiced by having them full time on 13th Street, and give them up at the University of Texas.

Q They are all part time at the 13th Street law school?

A It isn't a question of part time, in the sense that they are people engaged in the practice. They are, every one of them, State employees, engaged for their full time in the instruction in the science of law. The fact that they spend part of their time in one institution and part in another

doesn't make them part time, in the sense that a practicing lawyer would be. At the time I foolishly undertook to part time lecture in the law school it didn't work out for me or the law school, because I was a part time man, and that wasn't good, but if I had been able to be a professor in the Law School at the University, and spent part of my time on 13th Street, I would be none the less a full time employee.

Q I am talking about part time law professors within the meaning of the standards of the American Association of Law Schools.

A How do you define it?

Q A teacher that isn't in the school full time.

A In that specific school. I wouldn't say that made any material difference, if he was in fact a trained professor and was in a school as much as the -- as was required for the number of students who were there.

Q Isn't it true that the reason for full time professors is to have someone available at all times of the day, whenever the students want to see them?

A I really wouldn't know whether that is the reason for it.

Q And the Dean of the school, Dean McCormick of the University of Texas, who will be at this school part time?

A Whenever he was needed he would be there.

Q Where would his office be?

A At the University of Texas, except when he came down there.

There would be space there when he had occasion to confer with anybody down there.

Q Could these students go to see him at the University of Texas?

A Without doubt. If they had occasion to, I imagine Dean McCormick would not object to conferring with a student anywhere.

Q I am reading to you from Senate Bill 140, sir, the section of the statute which says:

"The entire school shall be operated separately and apart from the campus of the University of Texas."

A That is right.

Q You say that despite that provision?

A Yes, sir, certainly. With the school operating there, the fact that a student may see Dean McCormick in this court room or on the street or in his office at the University of Texas wouldn't militate against the operation of the school apart from the campus of the University of Texas.

Q So that if a student at the University of Texas wants to see him at the University he walks across the hall and there he is?

A Yes, sir, in accordance with the hours of appointments.

Q And the 13th Street student would have to go eight blocks?

A Yes. It looks like to me you are magnifying things that any

student in good faith in attempting to get an education would not consider a hardship at all.

Q I am basing mine on, not on what I think students do. I am basing mine on the rules of the Association of American Law Schools.

A It looks like you are magnifying things of little moment compared to the scheme as a whole.

Q I am not obliged to argue with you at this time. The final thing I want to get is that you are not familiar with the standards of the American Association of Law Schools.

A Not other than in a casual way.

Q Can you name any of them?

A Not without reference to them, I wouldn't undertake it.

Q You are not familiar with the standards of accreditation of the American Bar Association, are you?

A Only in a general way.

Q So that all of your testimony is based on your own personal observations and your own personal beliefs, is that correct?

A It is based on my personal knowledge of the relevant facts over many, many years, over my experience -- on my experience as a student in the University in its academic department and in the Law School of the University of Chicago, and upon the general information that I naturally have to acquire in the discharge of my duties.

Q Your primary livelihood is practicing law?

A That happens not to be the fact.

Q It isn't legal education, is it? That isn't your field?

A The position I occupy, of course, carries with it no compensation whatever. It is -- I serve as a matter of public service without compensation at all, and naturally what information I acquire about educational matters comes merely from the discharge of my public duties, and not at all as a paid agent, or function of the State.

Q Do you consider a school that is unapproved by either the Association of American Law Schools or the A. B. A. as equal to a school that is approved by both of them?

A That, again, would depend on the circumstances under which the school was operated. You apparently are trying to draw a comparison between the provisions which the State of Texas has made upon the occasion of the first application ever made to it by a member of the Negro race for education in law. Now, we have laws on our books that have been here for a great many years, within the terms of which we must operate, and do operate. The advisors of the State of Texas have set up a plan here, which, when carried out according to the provisions of the statute, which it must be presumed will be complied with, will entitle this law school to accreditation anywhere.

Q Judge Woodward ----

A So that there is in my mind not the least discrimination

involved in providing the type of education which we have provided, as compared to that which is provided at the University of Texas, no discrimination. I don't think that a student studying law here and graduating from this school that we have set up would be prejudiced at all by reason of the fact that the school in its initial stages had not been accredited by these organizations.

Q Are you familiar with the fact that in some states you can not take the bar unless you came from an accredited school?

A No.

Q Would you consider that a handicap?

A The only handicap ----

MR. DANIEL: We object to that question as to other states. He has alleged only that he wishes to prepare himself to practice here.

THE COURT: I think he has answered the question, anyway.

Q (By Mr. Marshall) The last question I asked, I am limiting him to the present time, not the future, as of March 10, or as of today.

A Which time, now?

Q Take March 10th.

A All right.

Q With the facilities in the 13th Street school available there, and without considering the books that are on order

that are not there, do you say that that furnishes facilities equal to the facilities offered all other students at the University of Texas Law School?

A An answer to that question would be wholly without value, because it would not take into consideration the facts as they existed at that time.

Q I am talking about everything that was in that school at that time?

A I will say this. I will answer your question this way, that the provisions which you relate, plus those definitely and certainly available, provided for the relator, if he had applied, facilities fully equal to those then provided at the University of Texas Law School.

MR. MARSHALL: If Your Honor pleases, I hate to insist on this, but I think the question is material and we are entitled to an answer to the question alone.

THE COURT: Wasn't the last part an answer to it?

MR. MARSHALL: No, he said taking that into consideration.

THE COURT: That may be the best he can answer it. I don't know.

MR. MARSHALL: He has testified all along, if Your Honor please, that this set-up furnishes equal facilities. I think I have a right to test him as to what he means by it.

THE COURT: You can ask him.

MR. MARSHALL: And I want to find out what is in this law school they are talking about. I am not interested in what is outside. We have gone into that. I am talking about what is in existence.

THE COURT: Perhaps you can limit it to the first of March.

MR. MARSHALL: The 10th, sir.

Q Judge Woodward, the question is that on March 10th, as to that date, which is the date the school was to open, considering all of the facilities that are available, in existence in the law school building at 13th Street, do you say that that furnishes educational facilities equal to the facilities offered at the University of Texas to all other students?

A Beyond any question, it does. I will call your attention to that ----

MR. MARSHALL: If Your Honor please ----

THE COURT: He has answered it.

MR. DANIEL: I believe he has a right to explain his answer.

THE COURT: He can. He has answered it, however.

A My answer is, beyond any question, it does.

Q (By Mr. Marshall) Go ahead.

A I wanted to tell you why I am so firmly of that opinion.

The third from the last paragraph of the resolution of the Board of Regents of the University, then in effect, reads as

follows:

"Be it further resolved that pending receipt and installation of such library the Dean of the Law School of the University of Texas be, and he is hereby authorized to supply on a loan basis books from the law library of the University of Texas which may be needed in the efficient conduct of the School of Law of the Texas State University for Negroes."

That provision, together with the library of the State of Texas within 100 yards of that school would meet the most exacting of requirements of any good faith student in the University.

Q My question was, was it equal?

A Yes, sir, fully equal.

Q Do you mean equal, or do you mean if you use both of them you can get the same thing? Isn't that what you really mean?

A I mean this, that the educational opportunity offered re-lator by those facilities at that date was fully equal to those offered on the same day in the Law School of the University of Texas eight blocks away. That is exactly what I mean, because that is a fact.

Q Do you know the curriculum of the law school of the University of Texas?

A In a general way. It is identical in both schools.

Q Do they have the Law Club set up in this school?

A A Law Club is set up by the students. Perhaps if the relator came and other representatives of his race came, you could form one.

Q You can't form it with one student, and you can't have moot court with one student, can you?

A No, you couldn't do it.

Q And you couldn't have any of the interchange common in law schools with one student?

A I presume if there is a good faith desire on the part of the Negro youth of the State of Texas to attend law school, all of those facilities will be developed in a short time, just as I presume they are at Lincoln and Howard. You have to start somewhere.

Q While this is going on it is true, is it not, that the students are not getting the same things they are getting at the University of Texas? Isn't that true?

A Are you talking about social contacts, or educational?

Q Sweatt isn't interested in social contact. He is interested in getting the best legal education he can get.

A Why didn't he come on the 10th of March?

Q Your lawyers will have the opportunity to ask Sweatt about that.

A If that is his only interest he is sitting there within one

hundred yards of the Supreme Court of Texas, the Court of Civil Appeals, and the Attorney General's Office, and the Legislature, where the public legal business of the State of Texas is centered. He has an opportunity unsurpassed to acquaint himself with those facts.

Q He is in the middle of everything but the Law School of the University of Texas?

A He is in the middle of the Law School provided by law for him.

Q That is right, but I mean the University of Texas. The other question is as of today. Is there any material change in the existing facilities in being in the 13th Street school of law from what it was on March 10th?

A Compared to March 10th?

Q Yes, sir.

A None that I observe.

Q Practically the same, is it not?

A As far as I know. That is the way it appeared to me when I was over there the other day, practically the same.

Q That is all.

{ Court was recessed at 10:45 a. m.,
{ May 13, 1947, until 11:00 a. m.,
{ May 13, 1947, at which time proceed-
{ ings were resumed as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Counsel for relator has gone into the establishment or future

establishment of the Texas State University for negroes in Houston, and you stated that 53 acres of land were available there between Rice Institute and the University of Houston, in the City of Houston, for this University. I will ask you, have you inspected that 53 acres of land?

A I have.

Q Is that the tract of land on which the buildings are located that you have testified the State University for Negroes has available?

A Yes, that is the tract on the west end of which this new modern building has been completed.

Q Are there any other buildings on that tract of land already?

A Not of a permanent nature. There is one planned, and there was some preliminary work going on when I was there 60 days ago.

Q Is a college or university being operated there now?

A I don't know whether they are occupying the new building or not. It was just being completed. It was almost ready for occupancy when I was there, a beautiful building.

Q What is the name of the school that has that 53 acres of land at this time?

A It is called Houston College. It is a branch of the University of Houston, which, in turn, is a body corporate and politic created by the Legislature and operating within the Houston Independent School District.

Q Is it operated as a branch of the University of Houston?

A The Houston College?

Q Yes.

A Such is my information, yes, sir.

Q What is the approximate enrollment?

A 1,800, as I now recall.

Q Now, is that the school, the campus and so forth, that you have testified about that has been made available for transfer to the Texas State University for Negroes?

A That is my interpretation of the statute which has been passed.

Q The statute that you refer to is House Bill 780, is it not?

A I couldn't recall the number, General.

Q I will ask you to look over House Bill 780 and see if that is the act of the Legislature to which you refer.

A The caption indicates that it is the statute. I can examine the whole bill if you like, but I am quite certain from examining the caption that it is the bill to which I have referred.

Q I just simply call attention of the Court to House Bill No. 780 which has been enacted, which provides for transfer of such facilities as have been testified about to the Texas State University for Negroes by any school district within which said facilities are set up. Now, I will ask you, do you of your own knowledge know whether or not the University

of Houston Board has proposed to donate this property and the entire school to the Texas State University for Negroes?

MR. MARSHALL: We object to it. In the first place, the minutes would be the best evidence, and second; there is no duty for him to have received that at all.

THE COURT: Of course, the resolution would be the best evidence.

MR. MARSHALL: Yes, sir.

MR. DANIEL: By agreement we will offer this plat as the next exhibit.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 4.

Q Referring to that plat which has been introduced in evidence as respondents Exhibit No. 4, showing the floor space in that first floor of the building which you now have leased, I will ask you now to state to the Court how the second floor of that building which you say you have arranged for, for the State, will compare with the amount of space on the first floor?

A It will be equal to it.

Q The arrangement of the rooms and number of rooms?

A Substantially the same.

Q Now, will you answer the same question with reference to the third floor of the building; how much space, and the arrangement, as compared with the first floor?

A Substantially the same on each floor.

Q How many rooms on the fourth floor?

A My recollection is that that is a large room there. I don't recall the partitions in it, but substantially the same floor space.

Q Substantially the same floor space?

A Yes, sir.

Q Now, counsel for relator has asked you the question of whether or not this school as it now stands will meet the American Association of Law School standards and requirements. I will ask you whether or not you have plans if sufficient students enroll, to operate that school in such a way that it will meet those standards and requirements at the very earliest possible date?

A We have.

Q Do you have -- have you considered whether or not your appropriation of a hundred thousand dollars is sufficient to meet those standards, or as many of them as can be met with students between now and September 1, 1948?

A We have.

Q Have you itemized the necessary expenses to meet those standards between now and September 1, 1948, provided you had students?

A We have, as far as we could predict the use of the facilities.

Q Do you have your estimated cost of operating such a school?

A I have.

Q Does your estimated cost for the operation of such a school provide for full time professors?

A Yes, sir.

MR. MARSHALL: If Your Honor please, may we find out what the witness is reading from?

A I will hand it to you, if you like; a proposed budget which I requested my associates to help me prepare for the operation of the school through August 31, 1948, assuming that the relator and other qualified students apply for admission.

MR. MARSHALL: May we ask a preliminary question for an objection?

THE COURT: Yes.

MR. MARSHALL: Did you prepare it?

A I helped prepare it.

MR. MARSHALL: Are these your figures or somebody else's?

A Part mine, and somebody else's also.

MR. MARSHALL: Partly somebody else's?

A You understand that in an organization such as I represent it is rare that one man does all of the thing. That budget has been prepared by Dean McCormick and myself, as we prepared many other budgets of a similar nature in the operation of the University. You understand the academic matters are provided by the men skilled in that, and the administrative

matters by those skilled in that, and the cooperation results.

MR. MARSHALL: It is part yours and part somebody else's.

A Part both. I am familiar with the matters outlined here.

MR. DURHAM: I want to ask a preliminary question. You prepared those figures, in part, in what capacity?

A In what capacity?

MR. DURHAM: Yes, in what capacity?

A In my capacity as Chairman of the Board of Regents of the University, and carrying out the duties imposed by that resolution.

MR. DURHAM: Have those figures been approved by the Board as a whole?

A The Board of Regents?

MR. DURHAM: Yes.

A No.

MR. DURHAM: We object to it as not being official.

THE COURT: I think he has not offered them. He is simply using it to question him from.

MR. DURHAM: If they are not admissible in evidence I don't think they are admissible to use them as a memoranda.

MR. DANIEL: You haven't given me a chance to prove them up yet.

MR. DURHAM: We object, until you do prove them up.

Q (By Mr. Daniel) As I understand, what you have is an estimated budget through August 31, 1948 of what amounts it would take to meet the requirements of the American Association of Law Schools, as far as they can be met within that period of time?

A That is right.

Q And you have prepared that for the purpose of determining whether or not you have sufficient money to meet such requirements?

A Yes.

Q How much do you take into consideration for rent that will be required for rent on the building until August 31, 1948?

MR. DURHAM: Your Honor, we want to make this objection; that that isn't an official act of the Board of Regents. It is an individual opinion of two members of the Board of Regents, and would not be binding on the Board of Regents. It is wholly inadmissible and speculative.

THE COURT: If he knows what the rental is, I think he could testify.

MR. DURHAM: I think so, too, but not what the Board of Regents estimate.

MR. DANIEL: I would like to call the Court's attention to the fact that the Board gave, in this resolution, the Chairman, all of the powers to go ahead with this plan.

Q How much have you allowed in this estimate for rent on the building?

A On the portion of it now occupied \$1,875.00. That is the

contract rental of \$125.00 a month. We have estimated it would require \$3,000.00 to acquire the additional floors, in the event they are needed, and negotiations that I have made under authority of the Board are carried out. You understand this is just an estimate.

Q I understand.

A Made in the usual course of the discharge of my duties.

Q Have you allowed anything in your estimate for repairs and improvements?

A We thought \$2,000.00 would be reasonably needed to make provision for rearranging the space to take care of the library, and we hope for students who might come.

Q Do you know how much of that has been spent?

A I don't know. Some considerable sum, but the Comptroller could tell you that.

Q How much have you allowed for the books you have testified about having ordered?

A \$32,000.00 was estimated to be the cost of those volumes.

Q Do you have any allowance in your estimate there for library upkeep?

A \$2,000.00, we thought would cover that.

Q What estimate have you made as to salaries?

A We have in there four professors at \$6,000.00 per annum, which is the base pay for professors of law in the University, and figuring the time they would be employed, that is on a

nine months basis, we estimated it would take \$30,000.00 to employ them, if we are fortunate enough to secure students.

Q Have you made any allowance for summer school this year?

A Yes, four full time professors at \$2,000.00 for the summer term each, which is the amount we would pay the same men at the University.

Q When does the summer semester begin at the University?

A Right around the first of June; I would have to look at the calendar to see. I would say around June 3d, I think.

Q Will the new law school be ready to open another semester around the first of June?

A Yes.

Q Have you allowed anything for a full time librarian ?

A Yes, sir, \$4,500.00. That is at the rate of \$3,600.00 per annum.

Q Have you allowed anything for other employees?

A Well, custodian and janitor, \$100.00 a month, \$1,600.00. Secretary, at \$1,800.00 a year, \$2,250.00; stationery and supplies, \$500.00; contingent and miscellaneous expense, \$1,000.00. Those figures total \$88,725.00, and leave an unexpended balance of \$11,275.00, from the appropriation of \$100,000.00 which is today available.

Q The attorney for relator asked you about the time that would be given by University of Texas professors in the new law

school before you have full time professors employed there for the new law school. I will ask you, what is your opinion if -- the same kind of question he asked you -- as to the amount of time that could be given to the students in the new school individually as compared with the amount of time the same professors could give to the same students if allowed to attend the University of Texas Law School.

MR. DURHAM: We object to that for the reason this is one of the officials. We are not to assume that he knows his duty. I think he is entitled to testify what time was required. This is not a witness who is presumed to state what his duties are upon presumption. He knows his duties.

THE COURT: If he knows that, -- what time they could give to it, it would be all right. I just don't know.

- A I am not entirely certain that I understood the question. If you are asking me to approximate it as a matter of hours per student per instructor, is that what you have in mind?
- Q (By Mr. Daniel) No, what I had in mind; following up the point that counsel made as to the fact that your professors from the University of Texas would be in the new law school part time, I am asking you whether or not, if you know, they would be able to give the students in the new law school as much of their total time as they would give if the students were out at the University of Texas taking law under them in those classes out there.

A They would be required to give ----

MR. DURHAM: We object to that as being a presumption. We have no objection to what the professors were hired to do, but his opinion as to what they could do would be a presumption and conclusion. If they hired the professors the contract of employment is the best evidence of the terms of it, whether it is verbal or written.

THE COURT: I think perhaps, counsel, he is asking the opinions. You can have your bill.

MR. DURHAM: Note our exception.

A They are required, whenever the relator or any other student offers himself, to give to him all of the time and attention necessary to carry the provisions of that resolution into effect.

THE COURT I believe that isn't an answer to your question.

MR. DANIEL: I withdraw the question for the time being.

MR. DURHAM: We ask that that answer be stricken.

THE COURT: Yes, sir.

Q (By Mr. Daniel) Do you know how many applicants, or inquiries you had about the school prior to March 8, 1947?

A Only by report. I didn't receive them personally. I know from the records, and the reports at the University.

Q Do you know that there were some inquiries for registration?

A There were.

Q Do you know of any meetings held by an organization of the Negro race and attended by any persons on this court room on March 8, 1947, in Dallas?

A Through public reports.

MR. DURHAM: If Your Honor please, may we have that stricken?

THE COURT: Only of his knowledge.

Q (By Mr. Daniel) Do you know of your own knowledge?

A Only through public reports and conversation.

MR. DURHAM: We object to that as not being responsive and hearsay.

MR. DANIEL: That is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Judge Woodward, 53 acres, you say, are available in Houston. Is that not at the present time the property of this, the Houston Junior College, a Negro school now in existence?

A It is known as the Houston College Branch of the University of Houston; and it is the identical property contemplated by this statute that was read here.

Q Is it not true that that property is property that was purchased for the most part from private donations, including donations of Negroes?

A There were substantial donations, I know, according to the

press reports, by members of both races, in part. I don't know whether that was so wholly. The title to it is vested in the body corporate, politic -- it is known as the University of Houston.

Q What arrangement in salaries was made with the professors at the 13th Street law school?

A They would draw the same salary as they draw at the University of Texas.

Q Was that part of their salary to be paid out of this \$100,000.00 ?

A Yes, for the services rendered at the law school, they would be paid.

Q I understood you, when you were going through this proposed budget, they were going to pay them the same they were paid at the University of Texas Law School?

A Yes.

Q But they didn't get two salaries; the proposal wasn't to give them two salaries?

A No, what we are hoping, in making up the budget, hoping very much that -- these are outside figures based on the hope that the relator and other students of the Negro race qualify, and in sufficient numbers to permit us to conduct a law school, come in, and happily give us the opportunity to employ four full time professors.

Q Do you mean you need a certain number before you can run a

law school?

A Naturally, you would one kind of arrangement for one kind of student body, and another arrangement for another student body.

Q Wouldn't the library be the same, with the exception of duplicate volumes, whether you had one or one hundred students?

A The library has already been provided, adequate for any number of students who might reasonably be expected to apply, and it will be completely available.

Q You testified under examination by the Attorney General that that budget was prepared in order to meet the standards of the American Association of Law Schools?

A I testified it was prepared to enable the school of law of this State University -- the Texas State University for negroes -- to comply with those standards under any reasonable set of circumstances that might arise. These are outside figures, or expenditures which the State of Texas has provided for. We can spend only so much of that as the circumstances, as they arise, may require.

Q Who was the full time librarian?

A We will appoint a full time librarian when the relator or some other qualified students apply for instruction there.

Q Did you have a full time librarian when the school opened March 10th?

A No, we didn't have any students, either.

Q Did you have any at that time at the University of Texas Law School?

A Yes.

Q You do, do you not?

A Certainly.

Q And you have assistant librarians, too, don't you?

A Where we need them, yes.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Mr. Woodward, from your experience as Chairman of the Board, and on the law faculty, I will ask you your opinion, that if there were as many as 14 inquiries for this law school before March 8, 1947, would you, in your opinion, expect in the normal course of school operations that there would be at least some students report for admission on March 10th, if something had not happened to keep them from doing so?

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

THE COURT: I think it is rather speculative.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

CHARLES T. MCCORMICK, a witness
produced by the Respondents, having been by the Court first
duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name, please, sir.

A Charles T. McCormick.

Q Where do you live, Dean McCormick?

A I live in Austin.

Q What position do you hold with the University of Texas Law
School?

A I am the Dean of the school.

Q How long have you been Dean of the Texas University Law
School?

A Seven years.

Q Prior to that time what experience had you had in law
school work?

A Well, I became a professor of law at the University of Texas
in 1922. From there, in 1925, after serving during the
intervening period, I went to the University of North
Carolina Law School as Dean of the Law School; and in 1930
I went to Northwestern University Law School as professor of
law, and served there until 1940, when I returned to the
University of Texas Law School as Dean.

Q What degrees do you hold, Dean McCormick?

A The A. B. Degree from the University of Texas, and L.L.B. Degree from Harvard Law School.

Q Are you one of the authors of McCormick and Ray on Evidence?

A Yes, sir.

Q Would you state to the Court what, if any positions, you have held in the American Association of Law Schools?

A I have served as a member of the Executive Committee, and as President of the Association.

Q When were you President of the Association of American Law Schools?

A In 1942.

Q On what groups within the Association have you served?

A Well, I have served on the Executive Committee, as I mentioned, and upon various committees, such as the Committee on Cooperation of the Bench and Bar, and several other committees, the entire list of which I do not remember.

Q Are you familiar with the terms of Senate Bill 140 that has been reviewed here to the Court this morning?

A Reasonably so.

Q Are you familiar with the terms of the resolution of the University of Texas Board of Regents, dated February 28, which was read in evidence this morning?

A Yes, sir.

Q I will ask you if under that resolution you assumed the

position of Dean of the Law School for the State University for Negroes?

A Yes, sir.

Q Did you under the provisions of that resolution and the instructions of the Chairman of the Board of Regents establish, or help establish, such new law school?

A Yes, sir.

Q Are you acquainted with the physical facilities of the Law School for the State University for Negroes?

A Yes, I am.

Q How many class rooms do you have at the University of Texas?

A We have three class rooms.

Q How many students do you have at the University of Texas Law School? Of course, I am talking about ----

A Approximately 850 at this time.

Q How many class rooms do you have in the law school for Negroes?

A Well, there are two class rooms.

Q How do the physical facilities of the new law school compare with the University of Texas Law School, as far as lighting, ventilation and other such matters are concerned?

A Well, I would say they were approximately the same, or similar.

Q About how many inquiries or applications did you receive for admittance in the new Negro law school?

A Personally, I believe, by letter or in person, I received five inquiries, but the inquiries would normally come either to me or to the Dean of Admissions, and the Registrar, Dean Matthews, of the University, and he received some of the inquiries.

Q He received others, did he?

A Yes, he so informs me.

Q About what maximum load did you figure for students for the first year in the new law school, based upon the maximum load, -- based on inquiries received?

A Well, I hoped and expected there would be at least five or six at the beginning of the school, and that as the years went on and subsequent terms were opened, that perhaps ten or twelve would register. I say that in the light of the Negro population of the State, and my observation of some similar schools that have been established for Negroes in other states.

Q Based upon the maximum load that you could reasonably expect for the first year of the school there, and compared with the maximum load of students at the University of Texas Law School, I will ask you to compare the physical facilities offered by the Negro Law School with those offered at the University of Texas Law School.

A Well, with respect to the adaptability for use, for the expected number, the ones who would attend the Negro Law

School, as compared with the actual conditions of attendance at the University of Texas Law School, why, I would say that the physical facilities were roomier and more convenient than those at the University of Texas Law School.

Q You mean the facilities ----

A Floor space per student would be substantially greater if an estimate of 10 students were made.

Q Do you have the figures on floor space per student at the University of Texas Law School at the present time?

A Yes, I do. These figures were furnished me by the Comptroller, and from my observation of the situation, I would say they were correct.

Q Approximately how many square feet of floor space do you have at the University of Texas Law School?

A We have 46,518 square feet.

Q How many students do you have at the University of Texas Law School?

A Well, there were 886 at the beginning of the year.

Q Have you figured the approximate number of square feet of floor space there at the University of Texas?

A Well, the figures as made by the Comptroller are 53 square feet per student. I haven't actually divided that number into the other. I assume that is correct.

Q Approximately 53 square feet. Have you examined this floor plan of present space available in the new law school?

A Yes, I have.

Q Approximately how many square feet of floor space are available there, total?

A That, again, is a measurement by someone else, but it accords with my general observation; and it is reported to me as 1,060 square feet.

Q Have you examined the space?

A Yes.

Q Does that appear approximately correct to you?

A It does.

Q Based on a maximum load of ten students, then, that would give you how many square feet per student in the new law school?

A 106.

Q 106 square feet?

A Yes.

Q Does that take into consideration any of the library space available in the State Capitol Building, the figures that you have given?

A No, it does not.

Q Now, on that basis of comparison, I will ask you to state whether or not in your opinion the physical facilities offered by the Negro Law School are substantially equal to those offered at the University of Texas Law School?

A Yes, having in mind, as I said before, the respective use

by the respective number of students in each of the two institutions.

Q Do you know about how many students were contemplated, or how many were figured in the needs for the University of Texas Law School Building, how many students it was built for, whether or not you are crowded or not?

A Well, it was planned for four hundred students. It now has, as I said before, about 850.

Q It now has about twice as many as the building was actually built for?

A Yes, sir.

Q Now, as to library facilities in the new school, are you acquainted with the Texas State Library over at the Supreme Court Library on the second floor of the Capitol Building?

A Only in the most general way. I have visited it and looked at it.

Q Are you acquainted with the space and the desks and the places available for study?

A I have such acquaintance as you would get from casual observation.

Q Would such facilities there in the library offer as much room as the Texas University Library offers for its students?

A Well, I couldn't give an exact comparison as to that. I would be disposed to say, at a guess, that the University of

Texas Library area was perhaps larger than the State Library ----

Q Based, again, on the number of students that we have been talking about, which of the two libraries would offer more space and convenience for study?

A Well, assuming that the State Library is not otherwise crowded by public users, and I think it is not, I would think that the facilities of the State Library would be more spacious for the use of a student body of, say 10 students in the near by school, than would be the facilities at the State University Law Library, which are now exceedingly crowded.

Q That is, the University of Texas Law Library is now exceedingly crowded?

A That is correct.

Q Are you acquainted with the approximate distance from the Negro Law School over to the State Law Library?

A Yes, I am.

Q Approximately how far?

A Well, I would say it was 100 yards to the door of the Capitol, and then perhaps 25 yards the rest of the distance.

Q If the evidence in this case should show that the books in the Texas State Library, the number of books, type of books, are substantially equal to those in the University of Texas Law Library, I will ask you if, in your opinion, the

library facilities for the Negro Law School are substantially equivalent to those at the University of Texas.

MR. DURHAM: That is a hypothetical question, and we object on this ground; that if it isn't shown, we can renew our motion to strike this testimony.

THE COURT: Yes.

MR. DANIEL: Yes, that is all right.

Q Based upon a showing, or substantial showing of the equality in the two libraries, in your opinion, will the library facilities offered the Negro Law School be substantially equivalent to those offered by the University to the University of Texas Law School students?

A If you would add to that hypothesis that a selected group of books for immediate reference in connection with the class work is available in the quarters of the Negro Law School, and that other books that might be referred to and called for would be available for immediate loan, from the Law Library of the University of Texas, I would answer yes.

MR. DURHAM: Your Honor, we ask that that answer be stricken for the reason that the witness asked himself, and he predicated it upon facts not stated by counsel.

THE COURT: Well, he probably would just turn around and ask him the identical hypothesis.

MR. DURHAM: We object again, unless he puts it in there.

MR. DANIEL: I will not bring it up until I compare the books.

Q Do you have a librarian on the staff at the University of Texas Law School?

A Yes, we do.

Q State her name.

A Miss Helen Hargrave.

Q Have you asked her to check the books in the State Law Library and make a comparison with the University of Texas Law Library for you?

A Yes, I have.

Q Now, I will ask you if you did anything in accordance with this resolution about arranging a list, or having one arranged, of 10,000 books to meet the standards set by the American Association of Law Schools, to be placed in the building that now houses the Negro Law School?

A Yes, sir, I requested Miss Hargrave to prepare a list of 10,000 volumes meeting the standards of the American Association of Law Schools. She did prepare such a list, and on the basis of that list, as I understand it, an order was made for the purchase of a certain number of the books on that list.

Q Now then, in accordance with the resolution passed by the Board of Regents, and your instructions from the Chairman of the Board, I will ask you if you did adopt a curriculum for this new law school?

A Yes, we did.

Q Is it, or is it not, the same as the curriculum and courses offered at the University of Texas Law School?

A That is correct.

Q Did you adopt the University of Texas courses as stated in your Bulletin of the University of Texas Law School?

A We did.

Q Do you have a copy of the bulletin?

A Yes.

Q Will you state to the Court on what pages you will find the courses of instruction that were adopted for the new school?

A Pages 23 to 29.

Q And you are referring now to the University of Texas Law School Bulletin?

A Dated August 1, 1945.

Q Dated August 1, 1945?

A Yes, sir, that is the last printed bulletin that we have issued.

Q So, your curriculum----

A I may say that that is the same curriculum which we adopted. We likewise made special provisions for an interim class to enter in March, 1947 in the Negro Law School.

Q Your general curriculum as compared with that of the University of Texas Law School is the same, is that correct?

A Yes, sir.

Q What about your faculty for the Negro Law School? Compare that with the faculty for the University of Texas Law School. Is that the same faculty?

A Yes. Mr. Woodward, the Chairman of the Board of Regents of the University of Texas, requested me to consult the law faculty and ascertain their willingness to cooperate in the steps contemplated by the resolution in the founding and carrying forward of the Negro Law School, and the faculty assured me of their willingness to cooperate, and that contemplated, of course, the offering of all necessary courses in our curriculum as the school should develop.

Q Will you state how the entrance requirements for the Negro Law School as set up by you compared with the entrance requirements for the University of Texas Law School?

A Well, we adopted and announced that the entrance requirements and the other requirements for admission in the Negro Law School would be the same as in the University of Texas Law School.

Q What about class room requirements, grades and examination requirements for the new school? Are they the same as for the University of Texas Law School?

A All of the catalogue regulations for the University of Texas Law School were adopted, and were to govern the Law School of the State University for Negroes.

Q All of the regulations here in the catalogue for the

University of Texas were adopted by the Texas State University for Negroes; is that correct?

A Yes.

MR. DURHAM: I didn't want to disturb the Attorney General. I want to ask a question for the purpose of an objection. You say the curriculum was adopted. How was it adopted?

A As I understand, the resolution gave to the Chairman of the Board of Regents of the University of Texas the power to make all necessary arrangements for the establishment of the Negro Law School, and he, consulting with me, directed that the Negro Law School should adopt ----

MR. DURHAM: You had a resolution adopting the curriculum?

A No, an announcement was made in writing by myself and the Dean of Admissions of the University, under the instructions of the Chairman of the Board of Regents of the University of Texas.

MR. DURHAM: Your Honor, I don't think I made myself clear. Did I understand you to say ----

A Which announces the adoption ----

MR. DURHAM: Is that in writing?

A Yes, sir.

MR. DANIEL: We will prove it up. I would like to offer the catalogue referred to.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 5.

Q Now, Dean McCormick, do you have the list of law professors on the faculty of the University of Texas who were made available to teach courses in this law school, this new law school?

A Do you mean the particular ones who were assigned to teach classes?

Q First, I would like to have your complete list of the faculty.

A Yes, sir.

Q Do you have the qualifications there of those faculty members?

A Well, simply briefly summarized, not stated in full, giving their degrees and teaching experience.

Q To save time, I would like to offer that. We just offer it in evidence without reading it. We offer the list of faculty members with the brief statement as to qualifications.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 6.

Q Now, Dean McCormick, we have talked about the general curriculum and the faculty members available. I will ask you what particular courses you had already application for at the time you set up the new law school?

A Well, we had not had application by any student for

admission, if that is what you mean. We contemplated and made ready for an entering class in March.

Q First year class?

A An entering class. We have during the war and post-war emergency period provided for students, in order to accelerate their course, to enter in the middle of the school year, in March; in previous years, and in February of this year, and that was the class that we contemplated and provided for this spring by the immediate assignment of courses and professors for the teaching of such beginning classes.

Q Then, you specifically provided before the opening of the school on March 10th for instruction in what courses?

A Contracts, torts and legal bibliography.

Q Are they the same courses that you offer first year law students at the University of Texas Law School?

A They are the same courses.

Q What instructors did you assign to teach those three courses?

A Associate Professor Leo W. Leary, Assistant Professor S. T. Morris, and Assistant Professor Chalmers M. Hudspeth.

Q Are those the same instructors that teach those same identical courses in the University of Texas to first year law students?

A That is right.

Q Now, you mentioned a minute ago having prepared a written announcement of courses and the opening of this law school.

Do you have a copy of that announcement?

A Yes, sir, I do.

THE COURT: We, then, will recess at this period and will take that up at two o'clock.

{ Thereupon Court was recessed
{ at 12 o'clock noon May 13, 1947,
{ until 2 o'clock p. m., May 13,
{ 1947.

AFTERNOON SESSION.

May 13, 1947.

2. P. M.

C H A R L E S T. M c C O R M I C K, having resumed the witness stand, testified further as follows:

DIRECT EXAMINATION.

(Continued)

Questions by Mr. Daniel:

Q Dean McCormick, is this the copy of your announcement of courses for the Negro Law School?

A Yes, it is.

Q We wish to introduce the announcement.

{ Said instrument was admitted
{ in evidence as Respondents'
{ Exhibit No. 7.

MR. DANIEL: May it please the Court, I will read a few paragraphs of this announcement, and review some of

{Mr. Daniel read to the Court
{certain portions of said
{announcement, and summarized
{other portions of same.

Q I will ask you if your announcement contains, the facts stated therein are correctly -- are correct representations as to what you were offering there on March 10th?

A They are.

Q Now, Dean McCormick, I would like to ask, if in your opinion, the facilities set up at the new law school for Negroes furnishes to Negro citizens the equal opportunity for study in law and procedure as that offered in the University of Texas Law School?

A Yes, I believe they do.

Q In your opinion, do you believe that the facilities set up in the Negro Law School furnished to the relator in this case, and would give to him, if he entered, equal opportunities to study law and procedure as he would have if he was admitted to the University of Texas Law School?

A Yes, they would do so.

Q Was the school opening -- was it opened on March 10th, as announced in your written bulletin?

A Yes, it was.

Q Were you down there?

A Well, I was down there from time to time.

Q During that day?

A I don't believe I was there on the first day. There was no

necessity for me being there.

Q Were you there during the week of March 10th?

A Yes.

Q Do you know ----

A I was there previous to that time also.

Q And previous to that time?

A Yes.

Q Do you know the relator, Heman Marion Sweatt, by sight?

A Yes.

Q Did he register there at the school?

A No, he did not.

Q Is the school still being maintained, ready for instruction of the relator in this case, if he should see fit to enter?

A Yes, sir, the facilities are held available.

Q When will your next semester begin?

A That depends on whether we have any applications.

Q What about your semester at the University of Texas?

A It begins on the 3d of June, the summer session.

Q The summer session begins on the 3d of June?

A Yes.

Q Are you equipped to begin a summer session, a similar session for the Negro Law School on June 3d also?

A Yes.

Q I believe that is all.

CROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, have you at any time examined the qualifications of Heman Marion Sweatt, the relator in this case, for admission to a law school?

A No, I have not.

Q Do you know whether he is qualified to enter the law school at the University of Texas?

A I am so informed by the admissions office, Mr. Mathews.

Q Did the Registrar so notify him?

A That is my understanding. Of course, I have no first hand knowledge.

Q Now, Dean McCormick, in speaking of the faculty of this supposed Negro Law School, I believe you stated that three professors or teachers at the University of Texas School of Law had been assigned to teach interim courses; is that correct?

A That is correct. That is, for the first semester.

Q Leo W. Leroy, is that one of them?

A Leary.

Q Oh, Leary. Would you tell us what Mr. Leary taught at the University School of Law the first semester of the current school year?

A Well, one of the courses that he taught was a course in Federal Regulations, substantive Federal Regulations.

Q That is clear. What else did he teach?

A I don't remember what else he taught. You see, we have seventeen members of the faculty, and I don't remember off-hand each of the subjects they teach each semester. I can readily look it up, however, and let you know.

Q Would it take you -- do you have the material here available that you could look it up?

A No, I don't have it here, but I can get it by telephone.

Q All right; just before you get it by telephone, and I think we want it, Mr. Chalmers Hudspeth; that is another teacher assigned to that school?

A That is correct.

Q What did he teach the first semester at the University of Texas Law School this current school year?

A During the course of the year he has taught the course in domestic relations, and the course in legal bibliography, but there, again, I don't have at my finger tips what each of these teachers has taught because we have many sections of the courses.

Q That is all right.

THE COURT: Would you like to take a minute and find out what you want and let him phone and get it?

MR. NABRIT: Yes, sir; I think it would be very good.

THE COURT: Tell him what you want, then.

MR. NABRIT: I want to know what each of these

teachers taught at the first semester at the University of Texas during the current school year, how many hours each taught, and the second semester, this current semester, I want to know what each of these teachers is now doing, the course by name, hours and what classes. By classes, I mean, first, second or third year classes; those classes normally assigned by you for the faculty of the School of Law of the University of Texas.

MR. DANIEL: May I suggest that he get that this afternoon and bring it in the morning?

MR. NABRIT: I would like to get it now, if he can get it over the phone.

THE COURT: We can recess a few minutes, and he can go into the Reporter's room.

(Further discussion was had off the record, and the witness requested Mr. Mathews to obtain the information outlined above.)

Q (By Mr. Nabrit) Dean McCormick, moving from the faculty for the moment to the building for this proposed law school which is located, as I understand it, on 13th Street, approximately a hundred yards from the State Capitol, in which there is a law library that is available, according to your statement, to the students in this school of law, how many stories are there to this -- first, I will ask you, have you visited this building?

A I have.

Q How many stories are there?

A Three.

Q The floor on which the proposed law school is located, is that the basement floor?

A Well, I would call it the ground floor. It is perhaps two or three depressed feet under the ground, but there are ample windows and lights. It is not an artificially lighted space.

Q So that actually it is a basement floor in that building?

A It isn't what I understand by a typical basement, which is what is underground.

Q But it is at least half underground, isn't it?

A Well, I wouldn't be sure. I wouldn't have thought so, no.

Q It is a considerable distance depressed from the level of the sidewalk, so that it is necessary to go down several steps?

A Yes, sir; four or five steps.

Q In your judgment, does it have adequate windows for a law building, that is, enough daylight, irrespective of internal illumination? In your opinion, is that a satisfactory arrangement, purely from the standpoint of windows?

A Yes, it impressed me so. Of course, most law buildings, so far as I know, need in many of the rooms artificial light in the daytime. I know ours does at the University of Texas.

- Q Probably if you were securing one today, you would look at that as one of the things that you would insist upon in the building, would you not?
- A No, I wouldn't insist on a building that didn't need artificial light in the daytime in all of its rooms.
- Q I mean, in looking for a law building for the University of Texas, that would be one of the things you would take into account?
- A The adequacy of light, yes.
- Q All right. In the second place, in respect to that building, is it in your opinion adequate in size, this basement floor, which is, as I understand it, the only part of that building now under your control. Is there in the basement adequate space to place library stacks sufficient to hold these 10,000 books which are supposed to have been ordered?
- A No, there is not.
- Q Do you, of your own knowledge have at this moment information as to where those books will come, if they should arrive, where would they be placed?
- A Well, my information comes from Mr. Woodward, who is the Chairman of the Board and has the responsibility for the providing of physical facilities, and I understand from him that he has arrangements perfected whereby the University has an option on the remainder of the building, and when the entire building is put into use it would be, of course,

considered as a whole as to how the space would be utilized, and just which room or rooms it would be decided to put the library in, I couldn't say.

Q Who would decide that? Not the Board of Regents, you don't mean that?

A Yes, they would decide upon----

Q They would decide in what room you would have your classes and what rooms you would have your offices and your library?

A Well, they would ultimately. The advice of the Dean would, no doubt, be taken, and that of the business agents of the University.

Q And no doubt the Dean's advice would be decisive in regard to arrangements in the building?

A Probably so. That is, if it didn't cost more than the University could command in the way of money.

Q That is, if it didn't exceed that \$100,000.00 which we are supposed to have?

A That is right -- I wouldn't say "supposed to have". I believe it has been appropriated.

Q I don't know how much of it has been expended, therefore, I supply that phrase. You may be able to tell me later how much we have left. This question, Dean McCormick, in considering the announcement for the opening of school on March

10th, I take it from your testimony that no library was available in the school at that date, nor at that date did the school possess any place in which it could have placed these 10,000 books; is that true?

A Well, there was a small selection of reference books immediately accessible for these three courses in the building.

Q That is right, but I am speaking of the 10,000.

A No, there was no adequate space immediately provided, for the simple reason that getting the books is a matter of some time, and ----

Q Your Honor, I wish you would just strike -- have the last part of that stricken.

THE COURT: That is right. It is by way of explanation, but probably wasn't responsive.

Q (By Mr. Nabrit) Dean McCormick, you are former President of the Association of American Law Schools?

A Yes.

Q And as I understand it from articles which you have written, one of the proponents of increased standards for law schools, is that true?

A Yes, sir; I believe in raising the standards of legal education generally.

Q The University of Texas is a member of that Association, is it not?

A That is right.

Q Are you familiar with the handbook of that association?

A Well, it is a large volume.

Q I mean by that you know that ----

A Generally, yes.

Q Do you know John P. Dawson, who is Secretary of the Association?

A Yes, I do.

Q I would like to show you a copy of that. Do you have any objection to this?

MR. DANIEL: No.

MR. NABRIT: No objection. I would like to enter this. Now, I would like to call the attention ----

A Would you tell me what year?

Q I am going to call your attention to this ---

A Will you tell me what year that was?

Q I want you to read the published letter of the Secretary-Treasurer certifying it.

A 1945 Handbook?

Q Yes. Are these the rules now in force in the association, to your knowledge?

A Yes, they are.

MR. DANIEL: No objection.

MR. NABRIT: We would like to introduce, Your Honor, pages 259 to page 269, inclusive, which carry the articles of the association, and the names of the members of the

Association of American Schools of Law.

- A I believe you want to confine that to Article 6. I believe that is the one that contains the standards.

MR. NABRIT: Article 6 on page 260, 261, all of it from Article 6 on.

(Said instrument was admitted
in evidence as Relator's
Exhibit No. 1.

- Q (By Mr. Nabrit) Now, Dean McCormick, are you familiar with the rule of the Association of American Law Schools which states in substance that in order to be accredited by this Association a law school must have a minimum of four full time professors or teachers of law?

- A I am familiar with that.

- Q In your opinion, is the arrangement which you have made for the faculty at this Negro Law School, which was to be effective March 10, in keeping with that requirement?

- A No, I don't believe that it complies with that requirement, but I believe that the faculty, the facilities which we have furnished to the Negro Law School, is equal to those that ----

MR. NABRIT: Your Honor, I would like to ask that all of the witness' answer from "but" be stricken.

THE COURT: I don't think it was by way of explanation either, so I believe he could have stopped there. It may be pertinent on cross examination.

MR. NABRIT: Yes, we will stop it right there, please.

Q Dean McCormick, in assigning that faculty to the law school, or the Negro School of Law, were they to teach courses at the University of Texas at the same time? I don't mean the same hour, but I mean during the same semester that they were to teach in the Negro Law School?

A That is true as to Mr. Leary and Mr. Morris, but not as to Mr. Hudspeth, I believe. He had taught the course in legal bibliography the previous semester, but my recollection is that he is not teaching it this semester. I am not quite certain about that, but that information will be verified.

Q Do you recall what the usual number of hours a teacher at the University of Texas School of Law is required to teach?

A Well, it varies from time to time with the necessities of the curriculum, and it runs usually from five to eight hours of teaching per week in a given semester, and I would say on an average of about six.

Q It seems that information is here. If it is I would like to ask him those questions right here.

THE COURT: Yes.

(Thereupon Mr. Daniel delivered
(an instrument to the witness.

A Do you want me to give this information to you now?

Q (Mr. Nabrit) I would like for you to tell me what the three teachers assigned to the Negro Law School taught at the University of Texas the first semester of this year, and

what those teachers are teaching at the University of Texas Law School the second semester.

A Mr. Leary during the first semester was teaching Equity I, a three semester hour course, and the seminar in Federal Regulations, a two semester hour course, and he is teaching now in the second semester Contracts, which is a six semester hour course. Mr. Hudspeth during the first semester was teaching Procedure I, a four semester hour course, Legal Bibliography, two sections, each of one semester hour. During the second semester he is teaching Agency in two sections, of two semester hours each, and Domestic Relations, three semester hours. Starling P. Morris during the first term was teaching Personal Property, a three semester hour course, and Legal Writing and Argument, a two semester hour course. During the present semester he is teaching Torts, a six semester hour course.

Q Now, Dean McCormick, how long has Mr. Leary been teaching at at the University of Texas School of Law?

A He began his teaching last fall.

Q This year is his first year?

A That is correct.

Q How long has Mr. Hudspeth been teaching at the University of Texas?

A The same length of time.

Q He began last fall?

A Well, now, I may be mistaken. He may have begun last summer.

Q Let's say last summer, but this is his first year, and, Dean McCormick, how long has Mr. Morris been teaching at the University of Texas?

A I think he probably began last summer, and has been teaching since that time.

Q Do you recall, Dean McCormick, whether or not the teachers of the first year law students at the University of Texas, and I am not asking you to try to remember which sections they have or anything of that sort; just whether out of the total number of teachers at the University of Texas Law School who are engaged in teaching first year law students, whether there is a single teacher who has been teaching law longer than one year?

A Well, I would have to go over the list.

Q Here you are.

(Mr. Nabrit handed the instrument
to the witness.

A Yes, there are some.

Q Do you know by looking at the list of the faculty which ones they are, and how long they have been teaching at the University of Texas, or teaching law at other universities?

A Yes.

Q Could you state those, please?

A Mr. Davis has taught since 1940 in the University of Texas,

and from 1935 to 1940 at the University of West Virginia. Mr. Huey has taught, except for war service, at the University of Texas since 1936. Mr. Morris, Clarence Morris, taught at the University of Wyoming, 1926 to 1940, and the University of Texas since 1940, and Mr. Jerry S. Williams came to the University in 1946, and I believe he had had two years of previous teaching.

Q Thank you.

A I think I should explain that by qualification, however, to this effect; that the first year class which entered in February, beginning class, which corresponds most nearly to the beginning class in the Negro Law School, was taught only by teachers of this same experience, that they entered law teaching last fall, or last summer, with the exception of the one of the course in Legal Bibliography, which was taught by Miss Hargrave, to that group, and she has had several years of teaching experience in the field of Legal Bibliography.

Q Let me ask you this, Dean McCormick. In the assignment of this faculty to the School of Law, to the Negro School of Law, how was that assignment made, by lot, by designation, or by volunteering, just what method produced these three individuals as the faculty?

A Well, it was done by myself, after consultation with other members of the faculty.

Q Were these teachers ----

A Including the teachers themselves.

Q Yes. Were these teachers to receive under the arrangements which you had in mind at that date, March 10th, were they to receive their salary from the Negro Law School or from the Law School of the University of Texas?

A Why, I would assume from the Negro Law School. As I understand the legal element, the Board of Regents of the University of Texas were to administer the financial affairs of the Negro Law School until the time of the permanent organization of the University for Negroes.

Q Maybe we can get it another way and bring it within your knowledge. Had you made plans for adding three other members to your faculty in place of these three who were going on the pay roll of the Negro Law School on March 10th?

A No, these men were to continue their teaching at the University of Texas School of Law.

Q Were you to continue them on the pay roll?

A That is correct. They would get their same salaries, but ---- I mean they would get the same salaries they had previously gotten at the University of Texas Law School and would be paid extra compensation for the work in the Negro Law School.

Q Under that arrangement that existed in the University of Texas Law School for these three persons for the second semester, each of them had a load of from five to six hours.

If they taught in the Negro Law School first year subject, Torts and Contracts, four and six hour courses, would that not have been in excess of the hours which you use as your standard at the University of Texas? You said it varied from five to seven or eight?

A It would have been an addition to their usual load, rather larger than usual, but I may explain this, that in the case of the two larger courses, Contracts and Torts, they would simply be teaching additional sections of the same subject with the same books, and the custom in law schools is to count that as only one-half of the corresponding number of hours of non-repeated course; so it would amount, under the custom of law schools, to a nine hour weekly load, which is heavy, but not excessive.

Q But it is heavier than what you have as your usual load at the University of Texas?

A Yes.

Q Because the American Association thinks when you pass eight, you are watering down your instruction?

MR. DANIEL: Well, we object.

MR. NABRIT: I withdraw the question.

A I don't believe that is a fact.

Q Yes. Is it your opinion, Dean McCormick, that law school students get the full use of a law library, assuming it is an adequate one for books, from that standpoint for the

moment, is it your opinion that they get the best use out of this library without a librarian who is there to serve students and teachers, people who are engaged in study and research?

A I think a librarian is, of course, necessary for the operation of a library for the benefit of students or anyone else.

Q Who was the librarian for the Negro Law School on March 10th of this year?

A Well, we had not formally appointed a librarian, but Miss Hargrave, for a considerable period of time gave a great deal of service to the planning and provision of the library arrangement.

Q Under the standards of the American Association of Law Schools, it is stated that in order for a school to qualify it shall have been in operation for a period, usually, for approximately two years, and then upon inspection by the Association, if it meets their standards, it will be accredited?

A Two years is the minimum time, as I understand it.

Q Yes, that is what I say. Now, is it your opinion that a law school that is not accredited is for the purposes of accreditation equal to the law school of the -- to the University of Texas Law School?

A I don't understand that question.

Q Well, let's put it another way. The Association of American Law Schools accredits certain law schools based upon those schools having reached certain accepted standards which are known to all people in the field of law in rating law schools on that basis. If I look in this book and see the University is listed as a member, I know it meets these minimum standards. Now, for the purpose of accreditation, that is, for that purpose, is a law school which is not accredited as a member of this Association equal to the University of Texas School of Law?

A For the purposes of accreditation, why, obviously, a law school that is not accredited does not equal one that is accredited, but I still don't catch the significance of the question.

Q It will follow. Is this Negro Law School which was open on March 10th a member of the Association of American Law Schools?

A No, it is not.

Q Is it accredited?

A Not in that sense, no.

Q In what sense is it accredited?

A Well, you mean by accredited, the opinion of people familiar with the situation and with the law school, their opinion as to the value of the facilities and instruction, why, then, it is accredited in that sense, by those who hold the favorable estimate of it. If you mean accredited by the Association of American Law Schools, why, it is not.

- Q I mean, is it accredited in the sense in which educators in the field of law speak of accreditation of law schools?
- A Well, they usually speak of it in the sense of being a member of the Association of American Law Schools, and of being an approved school on that list of the American Bar Association.
- Q Is a student at the University of Texas School of Law permitted under the regulations of the University of Texas and the School of Law at the time he is engaged in the study of law at the Law School, to also take courses in the University of Texas, for example, Political Science, Economic Theory, or some other course, Philosophy?
- A Yes, he is, provided the total amount of hours does not exceed fourteen.
- Q Now, where were -- are these students of this Negro Law School to study courses like those, Economics and Political Science, under the set-up which you have stated has been adopted under your faculty?

MR. DANIEL: Your Honor, we object to that question because it is going into a field wholly irrelevant and immaterial to any issue in this case. Relator has sued for entrance into the Law School, says he has been denied the right to study law and procedure, and hasn't alleged that he cares to study anything else, and going into these other fields would certainly be beyond the issues of this case.

MR. NABRIT: If Your Honor please, one of the things alleged by the relator is that in not being admitted to the University of Texas he is being denied equal opportunity with the students who do enter it. One of these opportunities is this opportunity to study, and the Dean has testified that the students in the law school do have that right, and I think it is quite ----

THE COURT: I will let him answer it, if he can.

A You say where is he to study?

Q (By Mr. Nabrit) Yes, sir. Where is he to get these courses in Economic Theory and Philosophy and other courses offered by the University of Texas which are available to the students in the University of Texas School of Law?

A I could not answer that question. There are -- in so far as it assumes any common practice or any encouragement by us of that practice in the University of Texas School of Law, it is unfounded.

MR. DANIEL: I would like to preserve our bill of exception on this testimony as to other courses not mentioned in relator's petition.

THE COURT: Yes, sir.

A If I might add to the question, I would say that it is customary that law students do come prepared in the fields of economics and government and similar courses, and that we do

not encourage them to take courses outside the School of Law when they are in the School of Law, because it tends to disrupt the regular progress of their law studies.

Q (By Mr. Nabrit) I agree with that, but you also do not forbid it?

A No, we do not.

Q And, as a matter of fact, you do have students at the Law School who not only take these courses, but take graduate courses, is that not true?

A Well, if there are, they are very few. I don't keep close enough check on the actual registration to know whether there are actually in the law school now students who are taking academic courses, but it is a very nominal element, if any.

Q So far as you know, the students at the Negro School of Law have no place where they could take these courses under your plans and arrangements?

A I have no information about that.

Q As a former President of the American Association of Law Schools, and as the Dean of several law schools, and as an outstanding authority in several fields of law, Dean McCormick, do you -- are you of the opinion that one of the basic elements in a great law school is the history and traditions which have been built up over years of time, including the graduates who have become famous in the State

of Texas? Is that your opinion -- that is an element in a great law school?

A Yes, that is a source of pride to a law school that has that background.

Q One other question on that along that same line. Is it, in your opinion, a good thing for a law school to be unstable as to its location, and to its faculty, sort of a roving school of law? Is that, in your opinion, an unsatisfactory condition in which to operate a law school?

A I would think that a roving law school would certainly not be an ideal school.

Q Now, taking this hypothetical question, and assuming that the evidence will bear out the assumptions, if they have not already been proved, if a law school such as this Negro Law School, in its proposed location, with a faculty carrying a heavier schedule than the usual number of hours carried by the faculty of the University of Texas School of Law, without access to any University facilities other than the School of Law, with no accreditation, with an uncertainty as to its permanence in its present location, with library -- with no library whatsoever in the building -- and with inadequate space for housing a library, if the books were available, and with a faculty of instructors who are beginners in teaching law, a law school equal to the Law

School of the University of Texas?

A Well, wouldn't you have to add some other elements in your description? That doesn't describe a law school. It doesn't tell the expected numbers of students or the actual numbers of students in attendance, and the facilities for small, as compared with large classes.

Q Suppose, Dean McCormick, you answer mine that way, and then we will take the other. Take my hypothetical question. Is that law school which I have described equal to the Law School of the University of Texas?

A I will say that I can't answer the question because your description is not complete, and you would have to give the expected number of students, and you would have to suppose a certain ratio of students to faculty, and a certain size of the classes.

Q If we are going to assume that, I would have to assume a certain number of graduates and a certain number of authorities on the faculty in the field of damages and other fields, and I would have to assume a certain number of judges. You see what I am trying to get from you, as one of the outstanding men in the field of legal education, is an answer on that type of school. It might not have some other elements that some other school might have, or that some other hypothetical question might give it, but I would like that opinion on that type of law school.

A You are contrasting what to me seems to be an incompletely described school with a school I know all about, and I can't take a fragmentary school and compare it with a school that I know about.

Q Let's put it that way. Would that "fragmentary" described school in my hypothetical question equal the Law School at the University of Texas?

MR. DANIEL: We object to that question because the fragmentary school in the question leaves out matters which have been proved so far without any dispute in this case; leaving out elements that make the hypothetical question absolutely irrelevant and immaterial, and inadmissible in this case for any purpose.

THE COURT: I think he would have a right to make up his hypothetical case anyway he wanted to. It is purely imaginary.

A If he is going to imagine; I can't make a comparison unless he imagines the numbers of students.

THE COURT: A hypothetical question presupposes a lot of things that may or may not be true.

Q (By Mr. Nabrit) Is that school, Dean McCormick, equal to the law school of the University of Texas?

A Well, I would say that if you presuppose a class, a small class, of not to exceed 10 entering students there, that then

the facilities there and the law school in that situation, as it is now, would compare favorably.

Q That isn't the hypothetical question.

A With the University of Texas as it is now.

Q That isn't the hypothetical question, Dean McCormick. What this question is, is the school which I described equal to the law School of the University of Texas?

A Well, I would say yes, if you will presuppose a small number of students to which those facilities are adapted. If you are presupposing a larger number of students, to which those facilities are not adapted, I would say no; but I can't compare a law school with no student population presupposed with a law school where I know the student population, and I know the ratio of faculty to students, which is a very material factor in comparing law schools.

Q My law school doesn't have all of those factors in it. My law school is the one in this hypothetical question. If it doesn't have something you think a law school should have you just answer it, because mine doesn't have that. Is my hypothetical question, the law school in that, equal to the law School of the University of Texas without anything ----

A Without any students?

Q Without anything other than my hypothetically stated question.

A Which would presuppose that there were no students.

Q Is that equal to the Law School of the University of Texas?

A Without any students, it is not.

Q My question -- I have stated all of the factors in my question that I want. Is that school equal to the Law School of the University of Texas?

A As I said before, I am unable to make the comparison in my mind between the school having only the elements that you describe, without any description of the student body. I am unable to make that comparison.

Q In other words, you want to fix my school. You see, I want to fix it. That is the best answer I can get. I will ask you another question, Dean McCormick. You stated in your direct testimony that as a result of studies made by you or some member of your staff on the University of Texas, that they had ascertained that there were 53 square feet of floor space per student at the University of Texas School of Law?

A That is correct.

Q And then on some basis you arrived at this figure, if I am quoting you correctly, that there are 106 square feet per student at the Negro School of Law?

A I said that was on the assumption of 10 students.

Q Where did you get those ten students from?

A We haven't gotten them.

Q Why did you pick ten?

A Well, I picked ten as just an arbitrary figure of what I thought would be about the maximum of the student body of the beginning Negro Law School in Texas under normal conditions where no, where there was no influence that discouraged them from coming.

Q What about where there was an influence to encourage them to come? Could we take 150 students and assume the influence is discouraging them? Divide that by that. We will only get 10 square feet per student.

A It is a matter of which is the more reasonable assumption.

Q Let's take the hypothetical question, and let's compare 150 students, and then ask you is it equal to the University of Texas School of Law?

A Presupposing those other factors included, including the present quarters assigned to the law school, they are inadequate for 150 students. Consequently, my answer would have to be accordingly.

Q Thank you. Dean McCormick, did I understand you to state that the Negro Law School had adopted these announcements and courses and other things as a part of that law school for Negroes?

A That is correct.

Q Now, where is the moot court in this Negro Law School?

I see here the moot court. That is where -- what arrangements

under the faculty for the Negro Law School are there for this law group competition and the moot court?

A Well, that, of course, has not been instituted. It can't be instituted until you get some students.

Q But when you have got the place and -- a place for it?

A There would be no trouble about the place for it.

Q Where is the place in this building across from the Capitol?

A Well, any one of the class rooms could be used for that purpose.

Q So one of those class rooms is for moot court?

A It is certainly susceptible to that use. Of course, we don't have that in the beginning semester of the first year.

Q Where does the first year student -- I will ask you this first -- I withdraw that. In the University of Texas School of Law is the first year law student permitted to visit the moot court?

A Well, the moot course is now given in the course in Legal Argument, and it consists of competition in cases between groups of students. As I say, that isn't given in the first year.

Q Your answer wasn't responsive to the question. The question was, are the first year students of the University of Texas permitted to visit the moot court, sit in and hear the cases?

A I presume so.

Q I mean, do you know?

A Well, the preliminary arguments, nobody visits them, they are not worth visiting. The last argument, it is customary for some visitors to attend, including, of course, the first year students.

Q Do the students of this proposed Negro Law School in the first year class, or did they on March 10th, 1947, have access to such a final competition?

A No, they did not.

Q What scholarships are available to the students at the Negro Law School? Are these that I find in here that have been adopted? This has been adopted. Are these available to the students, on page 10, law scholarships and loan funds, of the Respondents' Exhibit No. 5; are these law scholarships and loan funds available to students, were they available to students in the Negro Law School on March 10, 1947?

A No, they were not. I may say that those are mostly, in fact, all of them are contributed from private sources, and not contributed by the public funds.

Q They are available to the students in the Law School of the University of Texas?

A Yes.

Q And they are not available to students in the Negro Law School? On page 8 of this same exhibit under "Honors and Aids", I notice the Order of the Gelf. That is, as I think

you will agree is one of, if not the highest, legal honorary societies, and honor students in the upper tenth or upper number of the graduating classes at the University of Texas School of Law are eligible for that, is that not so?

A That is correct.

Q And their grades are taken from their first year right on up to the time that they are chosen, together with character and other qualifications?

A Yes, that is right.

Q Were those honors, or that particular honor available to a student at the Negro Law School on March 10th? Could his grades then begin to accumulate so as to give him an opportunity for the Order of the Coif?

A Not unless that Order of the Coif should later authorize that school to confer that award. The Order of the Coif, again, is a privately constituted, rather than a public organization.

Q Yes, but it is operated by the faculty in the Law School in the University of Texas?

A That is right.

Q So that to all intents and purposes it is a faculty, locally guided and directed organization?

A That is right.

Q Now then, it is obvious -- I won't say it is obvious. We will strike that out. The Order of the Coif is only found

at accredited law schools; is that not true?

A I believe that is right.

Q The minimum period in which this law school could be accredited would be two years, a minimum of two years after it had been in operation?

A That is right.

Q So that we would know thereafter the applications would go to the Order of the Coif for a Chapter, so that any student who entered on March 10th would have finished school before an application for the Order of the Coif would have been proper and in a position to have been acted on? That is just a mere matter of time, and assuming everything else went exactly as it should go, and we had a fine school, and it was accredited, the time wouldn't permit the establishment of an Order of the Coif so that you could get the student elected prior to his graduation?

A I think it would be unlikely.

Q On page 12 of this same exhibit, Dean McCormick, there is a paragraph, two paragraphs under the heading "Legal Aid Clinic." How does that clinic operate?

A Well, it is operated by a part time director, Mr. Woodrow Patterson, an Austin lawyer, who in conjunction with students in the University of Texas Law School, carries on legal aid for persons unable to pay a lawyer, and the cases come to the Legal Aid Bureau, and they are handled by the

students under the direction of Mr. Patterson.

Q Are the students who assist in this work at any time first year law students?

A They are not.

Q They are second and third year students?

A Practically all third year students.

Q Third year students. Now, on page 9 of Respondents' Exhibit No. 5 there is a paragraph headed "The Texas Law Review". Would you describe the classification of students who are eligible to work on The Texas Law Review?

A The second year students, or rather students beginning in the second year, if they have a grade of approximately 80 or above, are invited to compete for the Texas Law Review, and at the middle or the end of their second year they may be elected to the Board of Editors.

Q Now, in connection with these scholarships, keeping those in mind, the Order of the Coif and The Texas Law Review, all of which in a school of law go to the better students, or the students with the better records, better ability or more ability; in your opinion, Dean McCormick, are these, the scholarships, The Texas Law Review, and the Order of the Coif, incentives for a higher scholastic activity on the part of the students of the law School of the University of Texas?

A Yes, I think they are.

Q So, that any student who enters the University of Texas School of Law as a freshman and who reads this or who hears it discussed or finds out who won these honors, if he has it in him, he wants to qualify at some time, and that has a bearing on his work?

A Yes, it does.

Q What, on March 10th was there over at the Negro Law School to stimulate this scholastic activity of a nature similar to these three?

A You mean what was there?

Q Comparable. What did you offer? What was offered a first year law student on March 10th at the Negro Law School which was of the same incentive value as a scholarship?

A Why, the influence which was comparable, and which I think would have served as an equal if not greater stimulus, was the increased contact with the faculty, due to the probable smallness of the student body.

Q And you think that that would take the place of the value and effect of competition?

A Well, there is always competition in every class, as you know, for grades, and that is a much more important competition than these extraneous matters of Golf and Law Review, the natural instinct of every able student to cope with his fellows, and it is fine in the training for his profession. That is the most important influence, that natural

intellectual impassion, which is stimulated by contact with good teachers.

Q So that you consider the University of Texas Law Review an extraneous matter?

A Yes; it was founded by the lawyers of Texas, not by the State of Texas, and is financed by their contributions.

Q And you consider honors at the University of Texas School of Law as extraneous?

A Well, you mean the honors, the Order of the Coif and Texas Law Review?

Q Yes.

A Yes, they are minor and extraneous.

Q How about these cash scholarship awards; are they extraneous?

A They are in the sense that I have been speaking about. They are very microscopic influences. They are not large elements in the picture at all.

Q So that so far as the University of Texas is concerned, it might as well get rid of all of those?

A No, certainly not.

Q Then they are of sufficient importance for us to ask again why, what was offered on March 10th to the law school student at the Negro Law School comparable to these?

You say they are adopted. I want to know if ----

A Do you mean, do we have any system of awards beyond the natural competition in the classes themselves?

Q No.

A And the incentive of grades, or success in the courses?

None are provided for, if you mean were there any scholarships or prizes or Law Review.

Q Then, you don't mean that this was adopted?

A I don't mean that, because none were provided for in the first semester, that that would not follow as a course of the natural evolution of a well-conducted school.

Q Then, Dean McCormick, you don't mean that this was adopted for the Negro Law School?

A Well, so far as applicable to a school just starting with an anticipation of one entering a beginning class.

Q The first year student at the University of Texas Law School, everything in here is applicable to him unless it is specifically stated that it is not applicable; is that true?

A Well, that is a large order. I am not prepared to say offhand without scrutinizing all of the regulations.

Q As you stated a moment ago, one of the important elements in the School of Law is competition, in your opinion, one of the most important. A law student who entered the University of Texas on March 10th, 1947, would have the competition of several hundred law students from all over the State of Texas, including the opportunity for hearing legal discussions by upper classmen, and engaging in them with them.

What about the law school for Negroes on March 10, 1947, did that law school offer to relator in this case that type of competition?

A Well, I really think if you have a small class that the -- where everyone knows each other, and his capacities, that the competition is, if the level of the class is fairly high, is apt, perhaps to be more intense than in an eight or nine hundred student group, where a given student knows only a small number of the total student body.

Q Of course, that isn't responsive for the reason that you injected the question of the level of attainment of the class being high, which you, of course, agree is an assumption that we would not be able to validate, in the absence of the presence of students and a review of their I. Q. and their preparation; is that not true?

A Well, our entrance requirements are at least three years of college for non-veterans, and at least two years of college for veterans, with a grade requirement of C or better, and I believe that that makes fairly sure the attainment of high level of intellectual quality. Of course, it is all relative.

Q You assume that -- you have no way of demonstrating that if your numbers become smaller ?

A No, it is a matter of observation and experience. I have taught small classes and large ones, and I am inclined to

to think that the competition in a small class may well be at as high a level as it is in a class of 150.

Q Now, Dean McCormick, are the facilities which have been set up for this law school for Negroes, are the facilities equal to the facilities at the Law School of the University of Texas, and I will explain then so that you will know what I mean. I mean the library, I mean the building. In the building I mean the offices, class rooms, lavatories, locker rooms, lounge room, librarian's office, the professors' offices, the recreation room. I mean all of those facilities in the building; are they, in your opinion, equal to those at the University of Texas School of Law?

A Well, facilities are things that are to be used. Their quality is relative to how many and what kind of people are going to use them. Now, if you ask me, for the purposes of the relator, or of a small group of applying students, as compared with the adaptability of the University of Texas Law School facilities for its present student body of 850, I would say yes, they are equal.

Q What I would like to know, just two points; (a) and (b), one a Negro boy and one a white boy, and one going to the University of Texas and one going to this Negro Law School, isolated from other students. Will the facilities which the white boy finds at the University of Texas, or are the

facilities which the Negro boy finds at the Negro Law School equal to the facilities the white boy finds at the University of Texas Law School?

A I would say yes, with this explanation; that if that young Negro student goes to the Texas State University for Negroes School of Law, either alone or with a small group of fellow students, and enters the class there with the three faculty members assigned, compared with the University of Texas Law Schools entering on February 1st with a group of 175 other students in a law school already overcrowded twice its capacity, why, I would say, yes; the Negro student has at least equal and probably superior facilities for the study of law.

Q So that you think that the Law School for Negroes has superior facilities to those at the University of Texas?

A I said at least equal, and probably superior.

Q Now, irrespective of numbers, point out the superiorities in this, in the facilities in this Negro Law School?

A I can not answer irrespective of numbers, because you are talking about facilities for human beings to be taught law by other human beings. To say irrespective of numbers, are your facilities equal or superior, or what not, is meaningless to me. I can't attach any meaning to that.

Q I can agree with that. The only thing, you wish to take ten, and I would like for you to take 150, so that we would

have one-sixth of the population of it. We have about 850 at the University. Take about 150. Based on the population, at least, we have a basic reason for taking that number.

A We have this basic reason for taking 10, that the University had received inquiries, I am informed by the Registrar, of approximately, did receive about 14, and so with that number of inquiries it is reasonable to assume that something less than that would be the practical number to anticipate as entering the law school, if there were no influences preventing them from entering.

Q Do you think that as valid a basis for that conclusion which you came to might just as well be that the law school had moved from two cities inside of a month, and that that, in itself, would create that type of thing, without determining the number of persons who wanted to study law? Wouldn't that be valid?

A I didn't undertake to say what the influences were that kept them from coming. I undertook to say what the indication of the maximum apparent immediate demand under the circumstances was.

Q Let me ask you this, Dean McCormick. What, in your judgment, is the maximum capacity of the proposed Negro Law School in its present location, based upon the same sort of overcrowded condition which exists at the University of Texas

School of law?

A Well, are you assuming the acquisition of the entire building, or assuming the present lease upon the ground floor?

Q I am taking only what they have, that is the ground floor.

A Well, I would say that it could accommodate 12 to 15.

Q I would then ask you if the present facilities for the Negro Law School, which in your opinion would accommodate a maximum of 12 to 15 students, are equal to the facilities at the University of Texas Law School which -- from those figures we take 886 as the maximum -- accommodate 886 students as a maximum?

A They are not equal in size, no.

Q Are they equal in quality?

A Yes, for that number of students, I believe that they are.

Q Well, we have the maximum of each, you see. We have the maximum student body. Are they equal in quality to the maximum student body in each?

A I am afraid I was -- I thought you asked me the maximum appropriate student body for that size quarters, and you are -- I think I misunderstood your question. You intended to presuppose an overcrowded condition commensurate with that at the University of Texas. Well, I think you would have, in that case, you would have to double the estimate that I have made of from 12 to 15, to 24 to 30.

Q All right. Let's double it. Then, at the maximum capacity, are

those facilities equal to the facilities in the law school in the University of Texas to their maximum capacity?

A To their present overcrowded condition, you mean?

Q Yes.

A Yes, I think so.

Q You see, we are assuming both overcrowded?

A Yes.

Q And you say they are equal in quality?

A They provide for 25 or 30 students about like the University of Texas premises provide for 850 students.

Q Dean McCormick, are you familiar with some of the early history of the Law School of the University of Texas?

A Generally so.

Q Do you recall the early enrollment at the Law School of the University of Texas, about the time that building was erected that is now there, roughly; not any exact figure?

A No, I do not, but I would say it was somewhere between two and three hundred, but it is just a guess.

Q Do you know how many students, or do you recall how many students there were at the University of Texas Law School the last year before the war?

A Approximately 750.

Q Approximately 750; and roughly, ----

A At least that was true in 1939, before the draft went into effect.

Q At least, you consider that your last normal year?

A Yes, I believe I do.

Q In your opinion, was the present law school building for the University of Texas erected for a small number of students?

A Yes, that is my understanding, is that it was contemplated that the maximum would be about 400.

Q About 400?

A Yes.

Q Now then, in your judgment, is the contemplation and the plan for this Law School for Negroes equal to that type of planning?

A Would it be likely to have a similar development?

Q Yes.

A That is corresponding to a growth from 250 to 750 in the course of 30 years?

Q Several years, or whatever number ----

A That would be about 30 years.

Q Yes.

A Well, I would suppose that it would be something of a similar growth.

Q That is all.

THE COURT: We will take a few minutes.

(Court was recessed at 3:30 p. m.,
(until 3:50 p. m., May 13, 1947,
(at which time proceedings were
(resumed as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

- Q Now Dean McCormick, I believe you have already testified that the basis of 10 students and your planning on that basis was arrived at by reason of the number of inquiries made. I will ask you if you had ever before establishing this school received more than the one application for attendance at the Law School at the University of Texas from a Negro?
- A No, I have not.
- Q Going back to the matter of legal aid, is that a private set-up that is run there at the school to give legal aid to outsiders?
- A No, that is part of the Law School.
- Q Are any first year students entitled to participate in that legal aid program?
- A No, they are not.
- Q The Order of the Coif, is that a private organization operated there at the University Law School, Texas University?
- A Yes.
- Q Are first year students entitled to admission?
- A No, that is awarded only at the time of graduation.
- Q Are first year students entitled or required to participate in moot court?
- A No, they are not.

Q Are first year students entitled to places on The Texas Law Review?

A No, sir.

Q Is The Texas Law Review a private organization?

A Yes, it is.

Q I believe you said that the scholarships and loan funds were private set-ups, not furnished by the State?

A The money came from private donors.

Q Are all other things provided at the University of Texas Law School by State funds such things provided for first year law students by State funds, provided for Negro law students in the Negro Law School from State funds?

A That is right.

Q Now, it was mentioned several times on cross examination that you could not be accredited by the Association of American Law Schools without some students, and that you could not organize these various honor societies without students. Have you done anything whatever toward discouraging students from enrolling in the Negro Law School?

A Quite the contrary. We hoped very much for an enrollment of a reasonable number of students after we had made the provision for training them.

Q In view of these inquiries and applications received prior to March 10, 1947 did you anticipate having at least some students on the morning of March 10, 1947?

A Yes, I felt very confident that we would have at least five or six students. You said in view of applications. We didn't have applications, but inquiries.

Q Inquiries. Now, if the relator had been admitted to the University of Texas Law School for the spring semester, who would have instructed him in Contracts?

A Mr. Leary.

Q Mr. Leary?

A That is right.

Q The same professor that you provided to instruct him in Contracts in the Negro Law School?

A That is right.

Q Who would have instructed him in the University of Texas Law School in Legal Bibliography?

A Why, I believe that Miss Hargrave had charge of the sections of Legal Bibliography of the group entering in February.

Q If he had entered the previous semester, who would have taught him Legal Bibliography?

MR. DURHAM: We object to that. There is no claim of any negro school in existence at that time.

Q (By Mr. Daniel) I say, at the University of Texas, had he been admitted to the University of Texas the previous semester, last fall, who would have taught him Legal Bibliography?

A He might have been taught by Mr. Hudspeth, or by one or two others who were teaching various sections of Legal

Bibliography.

Q If he had entered the Negro Law School on March 10th who would have taught him Legal Bibliography?

A Mr. Hudspeth.

Q If he had entered the University of Texas Law School for the spring semester who would have taught him Torts?

A Mr. S. . F. Morris.

Q The same Mr. Morris who would have taught him Torts if he had entered the Negro Law School?

A That is correct.

Q Had you assigned these professors to teach first year law students in the University of Texas prior to the establishment of the Negro Law School?

A Yes.

Q Had you assigned the professors to teach first year law students at the University of Texas prior to the resolution of the Board of Regents of the University of Texas authorizing you to give courses to the Negro Law School?

A Yes, sir.

Q The classes were already in session, were they not?

A Yes.

Q What I am getting at; did you assign these professors to teach first year law in the University of Texas Law School, having anything in mind that they might also teach in the Negro Law School, at the time they were assigned.

A No, not at the time they were assigned.

Q Now, on page 260 of Association of American Law Schools Handbook, in addition to the two year requirement for admission to the Association, I would like to take up with you each of the requirements, for the purpose of your opinion as to whether the separate Negro Law School financed in accordance with the plans already made and indicated by Senate Bill 140 could ever meet those requirements, after a two year period.

Let's take up the first one there, listed on page 260: (Reading)

"It shall be a school not operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received."

Does your Negro Law School meet that requirement?

A Yes, sir, it does.

Q At this time?

A Yes.

Q Number two, the second requirement. I will ask you to state it briefly, rather than me read the whole requirement. It has to do with entrance requirements, the entire requirements, is that correct?

A That is right.

Q Do you have the same entrance requirements for the Negro Law School that you have for the University of Texas Law School?

A Yes, that was so provided in our amendment.

Q Then your entrance requirements meet the standards of the American Association now?

A They do.

Q Number three. It must be a school which occupies substantially the full working time of the students, required for work in the school, "shall be considered a full-time school." Does the Negro Law School meet that requirement?

A Yes, sir, it does. That standard differentiates between full-time and part-time schools, and sets up requirements for each, and the Negro Law School, under the provisions made therefor, met the standard here in regard to full-time schools.

Q Number four. (Reading)

"The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination."

Do you have that same requirement for your Negro Law School at this time?

A We do.

Q Number five. That has to do with special students, that no such shall be admitted except under certain conditions

listed there. I will ask you if you have that same requirement for the Negro Law School?

A Well, our requirements at the University of Texas Law School are more stringent, in that they do not admit special students, and they would not be admitted to the Negro Law School.

Q They would not be admitted to the Negro Law School?

A That is correct.

Q They meet that standard; is that correct?

A That is correct.

Q In the Negro Law School?

A That is correct.

Q Now, the sixth requirement, own a law library of not less than 10,000 volumes with certain specifications as to those volumes. I will ask you if you have ordered 10,000 volumes for a permanent library for the Negro Law School, to meet those requirements?

A We have ordered a sufficient number and kind of books to meet those requirements.

Q In addition to that, at this time do you have a library available for this law school in the State Capitol Building with in excess of 40,000 volumes of law books?

A We do.

Q Number eight provides that a complete individual record of each student must be kept. Do you have the same requirement

as far as the Negro Law School is concerned on the individual record of students?

A Yes. Did you mean to pass over number seven?

Q I didn't mean to, but let's pass number seven for the time being, to number eight, individual record of students.

A Yes, that would be satisfied by the regulations now in effect in the University of Texas Law School and which are adopted by the Negro Law School.

Q Are those -- number nine. (Reading)

"It shall be a school which possesses reasonably adequate facilities and which is conducted in accordance with those standards and practices generally recognized by member schools as essential to the maintenance of a sound educational policy."

I will ask you if, in your opinion, the Negro Law School meets the requirement laid down here by the American Association for reasonably adequate facilities?

A Yes.

Q Now, those are all of the requirements, as I understand them, except number seven, which we have passed. Is that correct, sir?

A That is correct.

Q Then, we at this time in the Negro Law School meet the requirements of the American Association of Law Schools except as to two years' running, and number seven, which I will read, as

(Reading) "Commencing September 1, 1932, its faculty shall consist of at least four instructors who devote substantially all of their time to the work of the school; and in no case shall the number of full-time instructors be fewer than one for each one hundred students or major fraction thereof."

I will ask you to state whether or not the present Negro Law School, as planned for your first semester, meets those requirements?

A Well, I believe that technically it does not.

Q Technically, it does not, because your professors assigned are giving part of their time to another school, the University of Texas, is that right?

A That is correct.

Q Does it meet that part of the requirement which is intended to have only full-time professors teaching the students, instead of having lawyers who are practicing part time?

A I think it certainly does, in substance, and I may add that it is quite frequent in law schools in the east which are near together, for instructors to be instructing at the same time in two schools. That is, instructors from Harvard, Yale or Columbia occasionally spend part of their time in instructing in one of the other schools, and, of course, technically, they would as to any particular school be

part-time, but in substance, of course, they are devoting all of their time to law teaching.

Q Technially, you do not meet the requirements of four full-time professors, but as a practical matter for the first semester students that attended, as a practical matter, do you furnish them that which the full-time professors would have furnished them?

A Yes, I believe we do.

Q As a matter of fact, if the relator had been in the University of Texas Law School classes with a hundred or more in your first class for that spring semester ----

A There were nearly two hundred.

Q Out at the University of Texas -- and these same three instructors at the University teaching them, with the 200 students, in your opinion, or within your knowledge, would the relator have had as much personal attention from the professors and as much time from them as he would from those same three professors teaching in the Negro Law School?

A Assuming a school of no more than a small number of students?

Q Yes, sir.

A In the Negro Law School he would have gotten a great deal more personal attention from the faculty than he would have had he been in the large entering classes in the University of Texas.

Q Isn't it a fact that the requirements of full-time professors, at least one to every 100 students, isn't the idea behind that to have the professors available to give care and attention to the individual students?

A Yes.

Q And more care and time and attention could have been given to the Negro students, based on not more than 10 students, than in the University of Texas Law School?

A Yes, that is right. They would have had not only their classes, but office hours in the Negro Law School, and would have been available much more conveniently than to the students at the University of Texas Law School.

Q Can you think of any reason why, if a student enters out there, and this school grows, as you testified on cross examination that it might be possible to grow, and with the Legislature furnishing the money Mr. Woodward itemized here today, can you think of any reason why that Negro Law School can not within a period of two years, before anyone can graduate from it, why, that school can not meet all of the requirements of the Association of American Law Schools?

A No, I see no reason why it should not comply with those requirements very rapidly, since the Legislature has announced that it was providing for a University of the first class, and a law school equivalent to that of the University of Texas, as exactly the same expectation and re-

liance on the Legislative assurances are the only thing we have to rely on for the continued development and stability of the University of Texas Law School.

Q Are you acquainted with Lincoln University, and the separate law school operated for Negroes in Lincoln University, in Missouri?

A I am somewhat acquainted with it. I haven't been there, but when I was on the Executive Committee of the Association of American Law Schools, the Committee had a conference, I believe, with one of the faculty of that school there.

MR. DURHAM: We object to that as hearsay.

THE COURT: He shouldn't testify to hearsay.

A I am just stating the extent of my acquaintance with it.

THE COURT: Don't recite anything he said.

Q (By Mr. Daniel) Lincoln University Law School has met the requirements of the Association, has it not?

A Yes, sir.

Q And is it a member of the Association?

A That is correct.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, at the University of Texas School of Law, do you use the case method of teaching and study?

A Yes.

Q Will you state briefly just what that is?

A Well, it is the method most widely prevailing in American law schools today, where the books used as the basis for study in most courses is a collection of cases designed to illustrate and develop the principles of law in the particular subject.

Q Now, you testified that the, -- in your opinion, the library -- Section 6 of Respondents' Exhibit No. 5 -- that the library at the Negro Law School met those requirements. I would like to read it to you.

A Did I testify that the library met those requirements?

Q No, the question was asked you by the Attorney General, does this law school meet the requirements and standards of Section 6, and you answered yes.

A My recollection of our colloquy is that he asked me if we had ordered the books necessary to meet the requirements.

Q Yes, but your answer was yes. I am going to read Section 6, and let you answer this way. (Reading)

"Commencing September 1, 1932, it shall own a law library of not less than 10,000 volumes, which shall be so housed and administered as to be readily available for use by students and faculty. Commencing September 1, 1940, it shall have, in addition to the four instructors specified in Section 7 of this

article, a qualified librarian, whose principal activities are devoted to the development and maintenance of an effective library service."

I would like to ask you, Dean McCormick, did the Negro Law School meet the requirements of Section 6 as read to you on March 10, 1947?

A Did it then meet the requirements? No, clearly not, and I didn't say it did.

Q Does it meet the requirements today?

A No, it does not.

Q Assuming that in all other respects this Negro Law School is the equal of the Law School of the University of Texas, for the sake of this question only, would the Negro Law School lose that equality by reason of the fact that it did not have a library as set forth in Section 6.

A No, I think by no means would it lose the equality. In other words, you might have library facilities equal to that of the University of Texas, but not meeting that standard of ownership. This standard requires that the books be owned and the library of the Negro Law School is not owned by the Negro Law School, but I think that in respect to substantial equality, that matter of ownership is immaterial. The library facilities which are furnished to and are owned as the law school is owned, by the State of Texas, and if they are available to the students, and are equal in range and

quality to the library facilities of the University of Texas Law School, they would be equal, but would not meet this standard.

Q Then, in your judgment, and as a former President of the Association of American Law Schools, you do not consider that Section 6 of the Association are necessary or are valid?

A No, I wouldn't say that.

Q All right, then. Assuming that all of these other factors are equal, is this requirement with respect to a library, if it isn't met, does that not make the Negro Law School less -- unequal to that of the University of Texas Law School?

A No, sir. I think that the compliance with the standards is merely evidence of a qualification, evidence of quality, I would say, but I think you can have substantial equality of facilities quite regardless of the complete compliance with the Association of American Law School regulations, if the substance of the educational facilities are provided. That form of ownership, I think, is not a prerequisite to the equality.

Q As a former President of the American Association of Law Schools, on what basis did you require law schools being considered by your Association, and as a former member of the Executive Committee and passing on it, what was your reason for requiring the law schools that applied during

that time for admission to the association, and for accreditation by the Association of American Law Schools to comply with this as a minimum standard, if, in your opinion, it is not necessary in order to have equality with the University of Texas Law School?

A Normally, in order to have the books available, you would need to own them, but you may well have a special situation, as I think you do here, where they are fully and completely available, though ownership is not in the school.

Q Departing from that for just a moment, I understood you to say with respect to Section 7 of Respondents' Exhibit No. 5, where it stated that the faculty shall consist of at least four instructors who devote substantially all of their time, that technically it did not meet it, but it met it, you thought, substantially, by reason of the fact that these men taught at the University of Texas and taught in this law school, and, therefore, were giving all of their time to instruction, and you illustrated it by stating that in the East that goes on frequently.

A I would say occasionally.

Q Do you know of any institution in the East where that goes on, and where, outside of the men who do visit from school to school, there are not in each of those school four other full-time law school teachers?

A No, there isn't any such.

- Q Also, the Negro Law School where they have three, I think we probably forgot to point out to you that only three teachers have been assigned. There are not four, if they could be denominated full-time.
- A Of course, the three teachers is limited to the first semester, and the instructions from the Chairman of the Board of Regents were to plan to use all of our faculty, so far as necessary, to maintain a full curriculum for the students who did come during this interim period until four or more full-time professors could be employed for the Negro Law School.
- Q One other question, Dean McCormick. As a Dean of a law school, is it your opinion that three teachers who are teaching a full schedule at the University of Texas, where they are resident instructors, and who are visiting professors, or who teach over at the Negro Law School -- I won't use the word "visiting" -- who teach those same courses over at the Negro Law School, is it your opinion that they are as available for consultation and for working with the students in the school where they are not residents, as they are at the University of Texas?
- A Well, I think under the plan that we had adopted they would be more available for a group of the size indicated of Negro students than they would be available to the large sections of 150 or 175 students at the University of Texas.

Q Where were their offices to be, as you had arranged them?

A Well, we had planned for them to spend a reasonable time in meeting office hours at the Negro Law School in this reading room and office room, and then they would also have offices at the University of Texas.

Q Are the offices for the teachers at the University of Texas in the reading room?

A Well, my office is in part of the library, and I am subject to constant interruptions by people coming in and getting books in my office.

Q I understand your office, but the teachers; are their offices in the reading room?

A Well, there is a tier of offices on the first floor that opens up into the reading room on the lower level. Some of them open up -- one of them is in part of the library, and the others are divorced from the reading room.

Q And you have in this law school for Negroes offices equal to those?

A Well, we don't have separate offices for the three instructors, but there are ample facilities for them to meet office hours in the room called the reading room where the desks are.

Q But the offices are not equal?

A No, I would not say they were.

Q I think you stated, Dean McCormick, that these 10,000

books have been ordered; is that correct?

A Well, there are a certain number of that 10,000 that is on hand now, and the balance have been ordered.

Q How many are on hand?

A Well, Miss Hargrave can give you the details of that. She is the librarian who compiled the list. I think there are some 1,300 or 1,400 on hand, and about 8,700 for which she has placed an order through the Comptroller to the Board of Control.

Q Which Comptroller is that, of the University of Texas, or the State?

A The University of Texas.

Q That is all -- Dean McCormick, what is the name of the Comptroller to whom you refer ?

A Mr. Simmons.

Q Mr. Simmons?

A Yes.

Q Do you know his initials?

A C. D. Simmons, I believe.

Q Mr. C. D. Simmons?

A Yes.

Q On page 261 of Respondents' Exhibit No. 5, there is this paragraph which I will read, Dean McCormick.

A I have it before me.

Q You have it before you?

A Yes.

Q Does this school meet the requirement of that provision, that is, the Negro Law School?

A Which one, which provision?

Q The last paragraph on page 261, beginning "No school shall be or remain* * *."

A Well, that is my understanding, yes.

Q Here is why I asked you that, Dean McCormick, so that you will know before you answer. If a student enters the Negro Law School which has been set up here, it isn't accredited under the rules of the Association of American Law Schools, if after one year or a semester, or two years, or any period short of graduation, if for any reason he desires to transfer to another school -- maybe this one goes out of existence, or maybe he prefers another one, or he may get a scholarship -- or if for any reason he wishes to transfer to another school, no school that is a member of the Association of American Law Schools can admit him and give him credit for the work done here. Is that equality with the students of the University of Texas Law School? As a former President of the Association, in your opinion, is that equality?

A Certainly that privilege of transferring credit would not be available to the students of the Negro Law School until that school had become accredited.

Q Don't you consider that a lack of equality, in that he has to remain there or lose all that he has done?

A No, not in the larger outlines of substantial equality. The transference of credits from one school to another is a matter of not very frequent concern to students. I don't suppose we have five percent of our students that have transferred any credits, not to my knowledge.

Q You would say that the fact that of that five percent, in that five percent, any student in the University of Texas who wanted to transfer, had the privilege and that right, and under those regulations, since the University of Texas is a member of the Association, could transfer those credits to any other school; whereas, a Negro in this Negro Law School would lose all of the work that he has done.

A Yes, I would call that a minor and temporary inequality or deviation.

Q At least, you call it an inequality?

A One which would disappear as soon as the school had carried out for two years the plan that the Legislature has made for its development.

MR. NABRIT: Your Honor, I would ask that you strike out the last, about what the Legislature intends to do.

THE COURT: I think that probably was not germane to the answer.

A He asked me about equality and how that bore upon equality, and I thought that was an explanation of what bearing I thought it had upon equality.

Q (By Mr. Nabrit) Dean McCormick, I wish to show you some pictures purporting to be pictures of the law school for Negroes, of which you are the Dean. I wish you would look at them and see if these are pictures of the building of that law school.

A I am the Dean of both of them.

Q Yes. I just want you to now be Dean of this one. (Counsel for relator handed the witness two photographs.) Dean McCormick, do you recognize these as being pictures of the law school for Negroes?

A I recognize one of them, the small picture of part of the entrance, I wouldn't recognize.

Q But you do recognize this one?

A Yes, sir.

MR. NABRIT: We would like to offer this in evidence.

{ Said instrument was admitted
in evidence as Relator's
Exhibit No. 2.

Q Now, Dean McCormick, would you state so that the Court might see it, and point out where the law school is in that area? (Referring to Relator's Exhibit No. 2.)

A This doesn't picture any of the interior of the law school. Just from this view, I don't know where the entrance to

the ----

Q It is right here.

A Where is the step-down?

Q (Indicating on photograph to the witness).

A Well, the law school occupies the entire ground floor of which a part of the outer wall is shown here.

Q And this is a sign of some occupant of some other part?

A Of the second floor, yes.

Q The consulting petroleum gas engineer that occupies the second floor or some part of it, is that correct?

A That is correct, as far as I know.

THE COURT: I believe, if you will permit, I will ask you to indulge me, and we will resume in the morning. We will resume at 9 o'clock in the morning.

{ Court was recessed at 4:35
{ p. m., May 13, 1947, until 9
{ o'clock a. m., May 14, 1947.

MORNING SESSION.

May 14, 1947.

9:00 A. M.

C H A R L E S T. M c C O R M I C K, having resumed the witness stand, testified further as follows:

RECROSS EXAMINATION.

(Continued).

Questions by Mr. Nabrit:

Q Dean McCormick, I wish to show you two pictures, purporting to be scenes of the building housing the Law School of the University of Texas. I wish you would look at them and see if you can identify them as that building, as the building housing the school?

A Yes, these are different views of the same building, the law school building on the campus of the University of Texas.

Q Thank you. We wish to offer those in evidence.

(Said instruments were admitted
{ in evidence as Relator's
{ Exhibits Nos. 3 and 4, respec-
{ tively.

MR. NABRIT: That is all.

REDIRECT EXAMINATION.Questions by Mr. Daniel:

Q Dean McCormick, do you at this time have any picture available of the Negro Law School that shows as much of the housing facilities, as broad a view of the building as the picture that has just been introduced here showing the

University of Texas Law School?

A No, I do not.

Q The picture that was introduced yesterday, would you state to the Court whether or not that shows the entire building from the outside, of the Negro Law School, like these pictures do of the University of Texas Law School Building?

A No, the view of the building in which the law school is situated is incomplete.

Q Now, Dean McCormick, yesterday counsel for relator asked about the credits that would be earned by the relator in the Negro Law School, and whether or not they would be recognized upon a transfer to some other school. I will ask you to -- I believe you started to explain your answer there. I will ask you to explain whether or not the credits earned in the Negro Law School in the two years preceding recognition by the American Bar Association, if they would then be subject to transfer to a school recognized by the Association of American Law Schools?

A Yes, that is provided in the last clause of the rule which appears in the last two lines on page 261, and the top of page 262.

Q Will you read that for the information of the Court? It has been introduced in evidence here.

A (Reading) "Provided, however, that credit may be given for work taken in another American law school

within the two year period immediately preceding its admission to this Association."

Q Now, yesterday in showing wherein the Negro Law School had already met all of the requirements except the full-time professors and the two years' time, on the library requirement, I believe you testified that you had ordered the necessary number of books to meet the library requirement of the Association of American Law Schools, is that correct?

A Well, I had given directions for their ordering. I didn't myself order them.

Q What about the feature of a full-time librarian. Do you have any arrangements or any plan for the appointment of a full-time librarian at any date in the future?

A Well ----

MR. DURHAM: We object to that, Your Honor. It is too speculative, about any date in the future. It wouldn't have any probative force on any issues.

THE COURT: I believe I will let him answer it, Counselor, for the present. It may not be material. I will let him answer at this time.

MR. DURHAM: Note our exception, if Your Honor please.

A We have the funds available, and have been instructed to secure a full-time librarian, and the necessary additional full-time faculty at such time as the student demand makes

the need for their services apparent, and at such time as the librarian and faculty of the highest caliber, which is what we need, can be secured. That is always a matter of search and negotiation.

Q I will ask you, have you examined the second and third floors of the building, the Negro Law School Building?

A Well, I went over yesterday evening after court and tried to get in, but I was unable to do so because the building, the tenants of the two upper floors had left, and those floors were locked.

Q I will ask you if those floors contain the same floor space, at least as much floor space, as the first floor that you now have rented? I am talking now about the remainder of the building, the second and third floors that Mr. Woodward, the Chairman of the Board, testified he had made arrangements, or had refusal on, for the Negro Law School. I will ask you if those floors each contain at least the same amount of space, if they would furnish suitable space for your permanent library of ten thousand volumes.

MR. NAERIT: We object, Your Honor.

MR. DURHAM: We object to that because the witness has testified he hasn't seen it.

THE COURT: I hardly see how he could testify to the space, not having examined it.

MR. DANIEL: I based it on if it had the same floor

space, the same space as the first floor.

THE COURT: That is an assumption that I expect we had better have verified.

Q (By Mr. Daniel) I will ask you, Dean McCormick, if you will look it over during the noon hour so that we can talk with you about it.

A Yes.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, you stated, I believe, that the law school was open on March 10th?

A That is correct.

Q And I presume that according to your announcement the facilities and personnel necessary were available; is that correct?

A That is correct.

Q You stated just a moment ago that you would get a librarian when a demand was made?

A No.

Q I would like to ask you ----

A I didn't -- I don't believe that I said that.

Q You didn't say that?

A I said that we had instructions to get one as soon as the student demand became apparent and we were able to secure one

of the high quality that we would insist on.

Q Now, Dean McCormick, on March 10th did you have a librarian for the Negro Law School?

A Well, we didn't have a separate librarian, but Miss Hargrave, the Librarian of the University of Texas Law School, under my instructions, did the work that was needed to be done by a librarian for a beginning school, in preparing the list of books to be secured, and in preparing the orders for books, and all of the other work that would be necessary to be done by a law librarian at that juncture.

Q Had you on March 10th secured a full-time librarian for the Negro Law School?

A No, we had not.

Q Have you today secured, as of this date, secured a full-time librarian for the Negro Law School?

A No, we have not.

Q The section of the standards Association of American Law Schools to which you referred, and from you read a moment ago about transfer of credits, the acceptance of those credits depends itself upon a prior accreditation by the American Bar Association, does it not?

A I am not quite certain about that. It -- I would think it may well be that if a school makes its compliance so apparent that it is, that the officers of the Association would predict that it would be admitted, I would be inclined to suppose

that this rule would permit the credit to be given before the actual admission into the Association, but I don't know of any ruling on that.

Q No, and you don't ----

A There is nothing in the wording of the rule to rebut that conclusion.

Q Thank you. That is all.

MR. DANIEL: That is all, Dean McCormick.

THE COURT: All right. You may have your seat.

(W i t n e s s E x c u s e d)

M I S S H E L E N H A R G R A V E, a witness

produced by the Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Miss Helen Hargrave?

A Yes.

Q You are the Librarian at the Law School of the University of Texas?

A Yes, I am.

Q How long have you been connected with the library at the Law School?

A Since 1929.

Q Do you have any other library connections other than that at

the University proper?

A I am a member of the Association, American Association of Law Schools -- of Law Librarians, and as a member of that association I am a member of the joint committee on cooperation between the Association of American Law Schools and the American Association of Law Librarians.

Q The -- what is the function of that committee?

A That committee has as part of its duties the obligation to make out the requirements for law school libraries and then to recommend those requirements to the executive board of the Association of American Law Schools.

Q What degrees, what college degrees do you have?

A I have an L. L. B. degree, and I have had a course in Law Library Administration at the University of Columbia.

Q I will ask you if you have had any duties assigned, or any connection with the Negro Law School?

A Dean McCormick asked me to make out a list of 10,000 volumes that would make an adequate library for that law school.

Q And you -- did you prepare that list?

A Yes, I prepared the list.

Q Was your list prepared upon the basis of the requirements of the Association of American Law Schools?

A Yes, it was.

Q Do you have a copy of that list with you?

A Yes, I do.

MR. LITTLETON: We would like to introduce this.

MR. DURHAM: We object to the introduction of it as self serving. It serves no purpose. Your Honor, we go right back to our exception. We haven't been apprised of it.

MR. LITTLETON: She has been qualified as an expert, Your Honor, has prepared the list on the basis of the requirements, and is a member of the committee that sets those requirements.

THE COURT: I believe I will give you your bill.

MR. DURHAM: Note our exception.

{Said instrument was admitted
{in evidence as Respondents'
{Exhibit No. 8.

- Q (By Mr. Littleton) Have you ever had any other duties assigned to you in connection with this school, or any other instructions?
- A Yes, I made out the list from the original list that was set, containing the books to be ordered, and that list was sent to Mr. Simmons, the Comptroller of the University.
- Q You prepared another list in addition to this one?
- A Yes.
- Q What was the difference between the two lists?
- A We eliminated all gifts and any duplicates that had gotten into the first list.
- Q And you say that list was sent to Mr. Simmons, the Comptroller of the University?

A Yes.

Q Do you have a copy of that list with you?

A Yes.

MR. LITTLETON: I would like to introduce that as the list that she prepared.

THE COURT: What is the difference between them?

MR. DURHAM: We want to make this additional objection. We object to this as a copy. It isn't the original. Second, it is self-serving.

MR. LITTLETON: She has testified, Your Honor, that this is the list prepared for the purpose of requisitioning the books.

THE COURT: Of course, the very requisition itself, or the one attached to it would be the best evidence.

MR. LITTLETON: The requisition will be introduced later.

THE COURT: I believe we had better wait until that is done.

MR. DURHAM: We object to the duplication.

MR. LITTLETON: We can introduce it later. That will be all right.

Q Miss Hargrave, have you had any other duties in connection with the Negro Law School assigned to you?

A I selected some books that are customarily used by the first -- the students in the first year class, and some other books

that I thought might be of some use, and sent them to the Negro Law School.

Q Have you made any comparison, or have you investigated the make-up of the State, or Supreme Court Library?

A Yes, I have. The Supreme Court Library has, in accordance with the requirements laid down by the Association of American Law Schools, with few exceptions, all books that meet those requirements.

Q What exceptions did you find? What difference did you find in comparison of the two libraries?

A The State Library is not as -- doesn't have as many law text books as the law library at the University. It does not have as many legal periodicals, and the English Law Reports go only to 1932. In those respects it is not as strong -- it does not -- of course, you can't say it doesn't comply, but in text it is not as strong, and in the latter two it does not entirely comply with the requirements.

Q Is that the only phase in which the Supreme Court Library of the State Library fails to meet the standards of the Association of American Law Schools?

A As far as I know, those are the only things that ---

Q You have said that it was short on periodicals. Did you find periodicals in the Supreme Court Library or in the State Library?

A Yes, there are legal periodicals in that library, but the

requirements of the Association of American Law Schools is for ten sets of legal periodicals with current numbers. I found only half of that many that were kept with current numbers.

Q You found five sets?

A Yes.

Q Do you recall what periodicals those were?

A Yes, the American Bar Association Journal, the Harvard Law Review, Columbia Law Review, the Texas Law Review, and a long run from Volume 21 on of Yale Law Review, and in the -- that is accepted by the Association as a long run in current numbers, and the early numbers are impossible to secure. That is considered a complete law review.

Q Did you find anything in the Supreme Court or the State Library which you do not have in the Texas University Law Library?

A Yes, sir; there are some things in that library that we do not have. That is, things in which they are very much stronger than the Law School library.

Q Can you give us some example of what you found there that they have?

A Well, the State Law Library is a depository, Government Depository, and, therefore, they automatically receive the reports of all of the administrative bodies of the United States Government, and also, all -- and also receive the

other publications that are sent to the superintendents of documents, to the depository library. It is the strongest library in the south on State Session Laws. It has a great many books in other fields that we have very, very few of, and that is the reports of administrative bodies of the State of Texas. As, for instance, the Attorney General's opinions, and Tax Board opinions of other states, and some of the states have Workmen's Compensation Boards, or their equivalent, and they have those reports, and others of that type.

- Q Now, in the list that you made up pursuant to Dean McCormick's instructions as to the requirements for a requisition of the books needed for the new Negro Law School, did you include the text books and periodicals that are needed to meet the requirements of the Association of American Law Schools?

MR. DURHAM: We object to that, Your Honor. The report itself would be the best evidence of what is included.

THE COURT: I think that would be true.

MR. LITTLETON: All right. We will fix it later then.

- Q How many -- I will put it this way, Miss Hargrave. Excluding the duplicate sets of books in the Library of the Law School of the University of Texas, how many volumes, approximately, do you have in that library?

A Approximately between thirty and thirty-five thousand volumes.

- Q All told, you have 65,000?

A Approximately 65,000.

Q How many volumes did you find in the State and Supreme Court Library?

A With my inspection and the information that I received, there was approximately 42,000.

Q In making your comparison of the Library of the Law School of the University of Texas, and the State Library down at the Supreme Court, did you make any observations as to the space, between the two libraries, the floor space?

A The library at the Law School at the University of Texas has a larger floor space, I believe. Yes, a larger floor space than the one at the capitol.

Q Are the facilities at the State Library equal to the facilities offered at the Library at the University of Texas, that is, from the standpoint of desks and room to study?

A We have more tables and chairs at the Law Library at the University. We have a great many more people using them.

Q You have a great many more people using them at the University than from the standpoint ----

A From what I have observed at the State Library, the times I have been there.

Q Now, as a member of the Library Committee of the American Association of Law Schools, that makes up the requirements, in your opinion, would you say that the library, the State and Supreme Court Library is substantially equivalent to the

Law Library at the University of Texas?

A Speaking of the two in just that way, they are substantially equivalent. Now, if it is spoken of the two as meeting the requirements of the Association of American Law Schools for the students, the State Law Library is, as I pointed out earlier, it does not have as many texts and it does not have as many legal periodicals, and the English Reports end in 1932.

Q You have pointed out certain things that the State and Supreme Court Library did have that the Law Library at the University did not have; is that right?

A Yes.

Q And on a substantial basis, with these differences that we have mentioned, the library as a whole is substantially equal to that at the University of Texas?

MR. DURHAM: We object to that as leading and suggestive.

THE COURT: It is quite leading.

Q (By Mr. Littleton) In your opinion, Miss Hargrave, for law school purposes, leaving out -- having in mind the differences that we have mentioned, are the two libraries substantially equal?

A In my opinion, they are substantially equal, with the differences that I have twice pointed out.

Q Miss Hargrave, in ordering the books for the permanent

library for the Negro Law School, did you order enough of the periodicals, legal periodicals, to meet the requirements of the Association of American Law Schools?

MR. DURHAM: We object to that, first, as an opinion and conclusion of the witness as to whether or not it was enough. We submit the further objection that there was a list filed in writing with the Comptroller.

THE COURT: The list would be the best evidence.

Q (By Mr. Littleton) Miss Hargrave, I will ask you to refer to the list you made up of the books----

MR. DURHAM: Your Honor, I want to ask one question for the purpose of an objection.

THE COURT: All right.

MR. DURHAM: Miss Hargrave, is that the original you filed with the Comptroller, the one that Mr. Littleton has?

A The reports that were filed with the Comptroller were all mimeographed.

MR. DURHAM: Thank you. We object to it.

THE COURT: That would, of course, be the list that we should have.

A The mimeographed list?

THE COURT: Yes.

A That is the one that was ----

MR. LITTLETON: Your Honor, we were putting in the two lists. You ruled out the list that she filed with the

Comptroller.

THE COURT: I simply said the one you actually filed was the one that was admissible. We ruled on a copy of something.

MR. LITTLETON: This list that she has prepared showing the requirements of the Association of American Law Schools is the one that she showed the overall picture of the library, and we have accounted for the difference in the two lists by the fact that she has some gifts available.

THE COURT: The only objection is that you are not offering the one she submitted. I think that is correct, the one that the Comptroller has.

Q (By Mr. Littleton) Is this list that you handed me here, Miss Hargrave, the list that you presented to the Comptroller of the University of Texas for the purchase of the books being ordered for the Negro Law School?

A This list was sent to the Comptroller, and a list without the price was sent to the Comptroller -- a duplicate list run off on the same stencils, but with the price off, was also sent to the Comptroller.

Q But this list was the one that you prepared for the purpose of making the order?

A That was originally sent to Mr. Simmons to make the order.

Q And the difference between the third list you mentioned is the fact that it doesn't have the price or the estimated price

as listed there?

A The estimated price.

MR. DURHAM: Your Honor, we are entitled to our objection. They say they bought ten thousand dollars worth. Now they say they have got three different lists.

THE COURT: I think the list actually submitted to the Comptroller is the one we should go on.

MR. DURHAM: That is our contention.

Q (By Mr. Littleton) Did you say that list was actually submitted to the Comptroller?

A Yes.

MR. LITTLETON: I might state, Your Honor, that later on it will be shown that this is the list that went with the requisition all the way through.

THE COURT: I think we had better wait and get that. We had better offer the one that is admissible.

MR. LITTLETON: She testified this is the one that was prepared for the purpose of the requisition.

THE COURT: With certain changes.

Q (By Mr. Littleton) Miss Hargrave, why was the third list prepared that you mentioned?

A The third list was prepared to send to dealers, without the price being put on, the estimated prices.

Q Is the only difference -- what is the difference between this list and the third list you mentioned?

MR. DURHAM: We object to that. It is immaterial what the difference was.

THE COURT: I think that the list that was actually ordered was the one we should inquire about.

MR. LITTLETON: I am afraid I don't ----

THE COURT: A list was sent to the Comptroller.

MR. LITTLETON: This is it.

THE COURT: Apparently it is isn't, because you have it. That, at best, is a copy of it, is it not.

MR. LITTLETON: No, sir; this is not a copy.

THE COURT: That is the one?

Q (By Mr. Littleton) Miss Hargrave, did you testify a while ago that all of the lists that you made up for the purpose of making a requisition were mimeographed lists?

A They were.

Q And you sent a mimeographed copy to the Comptroller?

A Yes.

Q And this is a mimeographed copy?

THE COURT: Is that the one you sent to the Comptroller?

Q (By Mr. Littleton) Is this the list that you sent to the Comptroller?

A Yes, I sent about 30 of them, and that is one of the ones that I sent.

Q Miss Hargrave, this morning when you were in the court room, where did you get this list?

A I had it.

Q You had this list----

A No, you gave it to me. After you gave it to me, I had it.

MR. LITTLETON: Later on, Your Honor, I will bring out the fact that I secured this from the Comptroller, and we will qualify it right on from there. It is a minor difference? Do you still object?

MR. DURHAM: We still object.

Q (By Mr. Littleton) One more question, Miss Hargrave. On the two lists that -- on the second list that you prepared for the purpose of making the requisition, how many books ----

MR. DURHAM: Just a minute, Mr. Littleton, please. Your Honor, we object. The Court has sustained that.

THE COURT: Yes. I think we should offer the list.

MR. DURHAM: The list itself is the best evidence of what it contains.

THE COURT: I think that is right.

MR. LITTLETON: All right. Pass the witness.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Miss Hargrave, will you give to the Court the essential difference between a teaching law school library and the type of library that we usually find in State Capitols and court buildings?

A In a teaching law school library, I think the principal

difference, and I think, probably in addition to what is found in the court library is a larger selection of text books and more legal periodicals.

Q Is it not also true that in a teaching law school library emphasis is made on the exclusive use of that library by students and faculty as contrasted to a public library?

A Well, we do not.

Q Is your -- are the majority of the users of your library law school students and faculty, or other people?

A The majority are law school students.

Q And faculty?

A Yes.

Q And people from other -- doing graduate work in the University, do they use it at times?

A Yes.

Q Aren't the other people that use it the exception rather than the rule?

A We have lawyers, as what I might term, fairly frequent visitors. I don't think that we would have more than one or two a day, sometimes not that.

Q They are usually graduates, aren't they, of the law school?

A Not always.

Q Not always?

A No, sir.

Q They are people who come to you from Austin? The University

Law School is in Austin?

A Yes.

Q It is the same city where the Capitol Library is, is it not?

A Yes.

Q Now and then you have visitors who come in for the purpose of looking up law books?

A Yes.

Q Do you have sight-seers walking around?

A Occasionally people come in to look at the class pictures.

Q Occasionally?

A Yes, but it isn't a regular thing.

Q And you do insist that order is kept in that library; it is your duty, is it not?

A Yes, we have order in the library.

Q And that it is quiet, is that not correct?

A Well, as far as we can.

Q I am trying to get at what you try to do. You try to make it as conducive to study and concentration as possible, do you not?

A As far as possible, considering the great number of students that we have.

Q But you do try to do that?

A Yes.

Q The American Association of Law Librarians is restricted, is it not, to law librarians in accredited law schools; is that

A Oh, no.

Q Do you have any law librarians who are not in accredited schools?

A Well, I take that back. I am not sure about that. I know we have librarians other than in law schools who are members, and there are non-librarians who are members.

Q And it is the job of your Association to raise the standard of law librarians, or the law libraries?

A The Association has done some work in both lines.

Q And Miss Hargrave, you have assistants at the University of Texas?

A Yes, I do.

Q Are they qualified law librarians?

A One of them is, and the other one, yes, I think would meet the standards.

Q You have two, and what are the duties of your two assistants? What are the duties of yourself and your assistants in connection with the law library at the University of Texas? What duties do you perform? Specifically, I will ask it this way; is a part of your duty the duty of helping the students while they are in the library?

A Yes, part of the duty is to help the students. We order the books. We see that the work is done to get the books on the shelves, and we see that, as far as possible, the students get the material that they need.

Q And when students are in difficulty as to where to find a particular point they need for their class room work, is it not true that either you or your assistants will give them aid in that task?

A Yes, we try to locate what they need.

Q And the three of you are trained in just that job, are you not?

A No, I wouldn't say that. One of the assistants is a graduate of the law school, and so she knows the work. The other assistant is not a law -- did not graduate from law school, but she has been working in the library for a few years, and can do that work to some extent.

Q I guess you know more about yourself. As a matter of fact, you teach Legal Bibliography, don't you?

A Yes, I do .

Q So you are in a perfect position to assist any student in how to find the law in books?

A I can help them to find the law.

Q And you do that, do you not?

A Yes.

Q Now, as a librarian of the school over here on 13th Street, you made provision to be there to help the students to find cases when they wanted to find them?

A My instructions about that school were to gather together and send out the materials.

Q Were you instructed to do anything else concerning that school?

A No.

Q As to this State Library here in the State Capitol, is it not true that that library is available to the students at the University of Texas Law School?

A I believe it is.

Q For example, have you had any occasion to send them there to find these administrative reports of the U. S. Government that you do not have? Have you ever had occasion to do that, if you remember?

A I can not recall at this time.

Q Is it not true that many of the books necessary to comply with the standards of the Association of American Law Schools are now out of print?

A Oh, I wouldn't say many, no.

Q Aren't there -- aren't most of the top-flight the law review early numbers now out of print?

A The early number of the Yale are out of print.

Q Aren't the early numbers of Harvard also out of print?

A No, because complete sets of Harvard can be bought from the very beginning.

Q From the plates. They have the plates still?

A You can buy them from Harvard University Law Library Association, I believe it is called.

Q And aren't some of the English Reports unavailable?

A I don't know about unavailable. Some of them are out of print, as you call it, but I don't think they are unavailable.

Q As a matter of fact, Miss Hargrave,-----

A Let me explain that.

Q Go right ahead.

A Merely to say that a book is out of print in no wise means it is unavailable.

Q I was ready to get to that. Is it not true that within your Association of Law Librarians that you are -- even the finest library in the country -- they are constantly writing to each other trying to get books that they don't have, and they are unavailable any place else; isn't that a constant procedure?

A If the libraries can locate duplicate volumes in some other library for which they can make an adequate exchange, that is sometimes done.

Q Sometimes done. Now, taking the Law Library at the University of Texas as it now exists, with all of its books, can it be duplicated today?

A As far as I can recall now, we have nothing in that library that can't be duplicated today.

Q Nothing at all?

A So far as I can recall now.

Q For example, bearing in mind the recent difficulties we have had with the war and so forth, about how long would it take you to get your English Reports, as of today?

A I don't know. It would take a little while until a set came on the market.

Q Quite a while, could be quite a while?

A It is unlikely that it would be quite a while, I think, because there are a good many sets in this country, I am sure. So, any -- even a large set of books like that comes on the market with more or less reasonable frequency.

Q Well, about how long would it take you to set up a library to equal the one you have at the University of Texas?

A You mean, if I had enough money?

Q If you had enough money?

A Uh ----

Q Just a minute. That is all we are asking.

A I think I could do it in less than a year.

Q Less than a year. Now, we get to the other point which you anticipated, approximately how much?

A How much ----

Q Approximately how much money?

A Oh, I don't know.

Q Could you do it for a hundred thousand dollars?

A It would take me a little while to figure on that. I wouldn't like to give an estimate.

Q With 65,000 law books of any description, it would cost more than a hundred thousand dollars, wouldn't it?

A If you didn't -- many of those books in that library we have had as gifts.

Q We are assuming that we are going to get no gifts, without the gifts, to purchase the library that you have at the University of Texas, of 65,000 volumes of law books, I will ask you this; offhand, there are a few law books that are two and a half, but most of them are around five and six, just in range?

A That is right.

Q So that 65,000 books would cost more than ----

A I was mistaken about that. They don't average five dollars.

Q About what do they average?

A They average, I would say, about four dollars.

Q About four. So that if we use that round figure, 65,000 at four, we would go way over a hundred thousand, wouldn't we? Isn't that true, isn't that true, Miss Hargrave?

A If all of those books were acquired brand new, which would make the newly acquired library -- we don't have all of those books new. We never did have all of them new.

Q I understand that. Where else in this section of the country do we find microfilm reports of the records and briefs in the United States Supreme Court other than at the University of Texas Law School?

A I don't know what other law libraries in this section of the country have those.

Q There are none in the State Capitol Library, are there?

A Not that I know of.

Q Now, as to these administrative reports of the United States Government and other publications of the United States Government and the State of Texas, the Session Laws of the several states, is it not true that all State Capitol Libraries usually have those?

A I would think so. I don't know. That is only an opinion.

Q Do you need those to teach law?

A We have a good many of them that make up our library.

Q You have some, too?

A Yes.

Q Those that you don't have, do you need?

A If we can buy them, we will add them to our present number.

Q And in the meantime, if you need them, they are available in the State Capitol Library, is that correct?

A Yes, they are down here in this library.

Q And are they not just as available to the students at the University of Texas Law School as they would be to the students at the proposed Negro Law School on 13th Street.

A So far as I know, but I am not ----

Q That is all you can testify. So, that in comparing the two, as a matter of fact, isn't it true that it isn't fair to use

those books that are available to both groups, isn't that true?

MR. DANIEL: Your Honor, that calls for a conclusion of the witness on what is fair.

THE COURT: I think so.

MR. MARSHALL: I withdraw it, sir.

Q In your estimate of 42,000 volumes at the State Library, it is based on the estimate of the librarian there; you said you obtained it on information?

A Yes.

Q Do you know whether or not that 42,000 volumes included these Government reports and administrative board reports and session laws?

A No, those were not included, I believe. I think they are in addition.

Q But you are not sure, are you?

A No, but that is my belief, that they are in addition.

Q Now, with your testimony that in your library you have between thirty and thirty-five thousand volumes, without duplicates, is it not true that in order to have a library to equal that, you would have to have at least 30,000 volumes of the same caliber?

A It seems to me that in judging the substantial equality of any library, that you can have a considerable difference -- I know you can have a considerable difference in the various

types of books, so long as they comply with the standards of the Association of American Law Schools.

Q Well, Miss Hargrave, first; may I ask you -- those standards are minimum standards, are they not?

A That is true.

Q If we forget the standards, then what is used as the basis of comparing equality of law libraries, if we remove the standards of the Association of American Law Schools?

A I think that it is having available the books that are generally used by anyone connected with the law.

Q And do you mean by that both faculty and students?

A Yes.

Q Do you know the poundage, weight, that is required for the floor of a law school library?

A No, I do not.

Q Have you seen this building over here on 13th Street where the law school is to be?

A I have not been in it, but I have seen the building.

Q Would you venture to say that second floor could hold 10,000 volumes of law books?

A I don't know anything about that.

Q The last two questions, if I understand you -- understood your direct examination, there is no question that as to legal periodicals and English Law Reports ----

A From 1932 on ---

Q I was getting your conclusion. Did you not say as to those two items the State Library did not meet the requirements of the Association of American Law Schools? No question about those two?

A That is true.

Q And as to textbooks, to your mind, they needed a few, but you wouldn't pass on that, as such?

A No, I would have to compare ----

Q So, now, I ask you as of March 10th of this year, and as of the present time, with all of the law books available for the 13th Street school for Negroes in that building, and in the State Capitol Building, all of those books, is it not true that with all of that we do not comply with the minimum standards of the Association of American Law Schools; is that correct?

A If you assume that that is all the books that there are available, ----

Q I am not -- I am merely assuming everything, ----

A ---- for that school.

Q Miss Hargrave, I am only assuming what is in the question. I will get to the next one. My question is, limiting your testimony, and limiting your answer to this question as of March 10th and as of today, is it not true that if you use all of the books in the 13th Street school for Negroes, plus all of the books in the State Library in the State Capitol,

that those two groups of books, taken all together, do not meet the standards of the Association of American Law Schools, is that correct?

A That is true.

Q Now, I understand that under the resolution books in your library are to be made available to these students' use, is that correct?

A Yes, sir, that is correct.

Q Now, what I want to know is this. Have you done any accrediting for your Association of Law Librarians?

A No, I have not.

Q Do you know of any accrediting agency, recognized in the legal field, that uses as the basis for accrediting one school, the law library of another school? Have you ever heard of that?

A As far as I can remember, that has never come to my attention.

Q Well, isn't it true that in evaluating law libraries and law schools, you evaluate the law library that is in that school; isn't that correct?

A Some law school libraries -- I would think in general that that is the method that is used.

Q That is all. Thank you, Miss Hargrave.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, the books that you sent to the Negro Law

School, what kind of books were they?

A They were, in the main, books that customarily are used by students in the taking of the first year courses in law.

Q Did they include the textbooks?

A Yes.

Q Did they supply the deficiency in textbooks that you have stated existed in the State or Supreme Court Library?

A Yes, they did.

Q Do the practicing lawyers of Austin frequently use the library of the University of Texas?

A Yes, quite a number.

Q On your trips, on your visits to the State or Supreme Court Library, what conditions have you observed there as to there being a suitable condition for study, the quiet in the place, and the order of its operation?

A The times that I have been down there, it has seemed to me that there was no more confusion and, in most instances, less confusion, than in the Law Library at the University of Texas, because of the large number of persons using it.

Q Do you understand that a librarian for a law library is required by the standards of the Association of American Law Schools to have a law degree?

A That is not necessary.

Q In your helping the students at the library, does that help and assistance include help and assistance in briefing the

law, or just finding the books?

A We just find the books and get them for them. If a student has difficulty in determining what book it might be well to use, we occasionally lend a helping hand.

Q Are you, yourself, constantly present in the library, and available to the students?

A Not all of the time. I have my teaching duties, and so there are times when I am not available.

Q Do you have administrative duties?

A Yes, I do.

Q Do you understand that the books included in the list which you prepared, those books included on that list which are out of print -- I will withdraw it. Do you understand that the books required to meet the standards of the Association of American Law Schools which are out of print are available from dealers and publishers?

A That is right, yes, they are.

Q We have mentioned that the Supreme Court Library did not include the English Reports since 1932. Do the law students or do first year law students make any use of those reports?

A No, they do not, as far as I know.

Q Have you had any instructions as to supplying any other books for the Negro Law School?

A Yes, I have. The Law Library at the University of Texas has more than 500, between 500 and 600 surplus books in good

condition that meet the requirements of the Association of American Law Schools that are available for transfer to the new law library, and there have been offered to this school through me, three gifts of between 900 and 950 books.

Q Are the English Reports since 1932 available to the Negro Law School from the University Law School Library?

A At any time.

Q In your library approximately how many students does your library of 65,000 books accomodate?

A At the present about 850 students.

Q How many books would you estimate would be required to accomodate 15 students, excluding the duplications?

A I don't see why, excluding duplications, if the books are well selected for the purpose, that it should take many more than the minimum requirements set down by the Association of American Law Schools.

Q You have testified that of this 65,000 law books that approximately 30,000 of them are duplications?

A Yes.

Q In regard to the microfilm reports you say you have in your library, do you have a "reader" or projector for the use of those reports there?

A No, I do not.

Q Do you know whether the State Library has a microfilm projector?

A I have been told that it has.

MR. DURHAM: We object to that, Your Honor, and ask that it be excluded.

THE COURT: Only what she knows of her own knowledge.

MR. LITTLETON: I think that is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q But is it not true, in the bulletin put out by the Law School you mention the fact that the microfilms are available?

A Yes, they are available to anyone, but we do not have a reader.

Q Now, Miss Hargrave, you testified that you -- first of all, let me ask you this. Why do you have duplicate volumes? Is it not because of the large number of students; isn't that the reason?

A Yes, we use duplicates to take care of the students.

Q Now, you testified that with the exception of duplicates, you would need only approximately 10,000 books to teach 15 students; is that correct?

A I said well selected books for the purpose.

Q Then may I ask, you as Librarian of the University of Texas, why is it, with your duty to economize under Texas laws, that with the exception of and excluding the duplicates you have between thirty and thirty-five thousand volumes at the University of Texas Law School?

A We have 850 students.

Q As I understood you to say that the duplicates were for the purpose of taking care of additional students; isn't that correct?

A We have some duplicates, many duplicates to take care of our additional students.

Q As a matter of fact, Miss Hargrave, isn't it true that -- excuse me, did you want to say something else?

A No.

Q Isn't it true that excluding the question of duplicates that it would take as many law books in a law library to service one student as it would to service one hundred; isn't that true, excluding duplicates?

A I do not think so. That is my opinion. Your range of interest might ----

Q For example, you testified that you do not use the English Reports in the first year?

A No.

Q Didn't you testify----

A That wasn't the answer.

Q What was it, Miss Hargrave?

A I said that it was very infrequent that first year law students had any use of the English Law Reports from 1932 to date.

Q Oh, from 1932 to date?

A Yes.

Q Aren't they included in the Legal Bibliography course, for example?

A As I remember the questions, on that Legal Bibliography course, I don't think that any books in the English Law Reports from 1932 to date were necessary to answer those questions. That is a little time back that I am thinking over, but as I remember ----

Q I will ask you this question. In the course on Contracts, and the course on Torts, aren't there frequent references in footnotes to British Reports and Canadian Reports, frequent?

A As I remember, those footnotes, -- there are references to English Reports.

Q Isn't it true that they also have references to legal periodicals?

A Yes, they have references to legal periodicals.

Q So that in the first year you need both English Reports and legal periodicals, don't you?

A I think it might be well to explain ----

Q Go ahead.

A ---- that at our law school it is a very rare case when a first year student is ever -- is allowed to read an assigned article in a bound volume of the legal periodicals. We don't have a sufficient number of those legal periodicals

and if an article is assigned the professor notifies me, permission is gotten from the publisher of the law review, and the article is mimeographed in anywhere from 25 to 50 copies in order to make them readily available to the students.

The same process is followed in almost every course in the second year. We don't have quite as many students in that year, and at times we buy the unbound issues of the periodical containing the article so that we will have copies, but we don't think that 350 or 400 students could use one bound periodical.

Q One more question, Miss Hargrave. In your association with other law school librarians and experience in your organization, the American Association of Law Librarians, do you ever in comparing law libraries of one school with another, as to its worth as a law library, take into consideration the number of students the school has?

A Have I ever done so.

Q Have you ever heard that discussed, the number, in comparing it?

A I have been at a good many, and done work in a good many of these law libraries around the country, and I think that libraries of recognized law schools, that there are certain groups that have -- there are a good many who have books that

will well take care of the student bodies that they have in those schools.

Q I mean, isn't it a fact that in considering the value of a law school library as such in comparison, isn't it true that you consider the books that are in the library as to caliber, time, and being up to date, rather than that we have forty thousand volumes for four people? What I mean is this; isn't it true that the number of students is no measuring rod as to the efficiency of a law school library, isn't that true?

A Well, I think that that is in connection with my earlier statement that a well selected library is the best criterion.

Q In other words, the type of books that you have in it; isn't that correct, and not the number of students?

A I don't see ----

Q Can I get specific? For example, in comparing Harvard's library with the library at the Library of Congress, or Association of the Bar of the City of New York, which are constantly compared as to which one is the best, isn't the discussion as to what is in those libraries, and not the number of people that use them? Isn't that the criterion that is used?

A Yes, as far as I know.

Q So, that on that basis, if we were to compare the library at the University of Texas Law School with the library to be

established, including 10,000 volumes, and forget about the students, isn't it true that the library at the University of Texas is a better library than the one to be established in this law school, isn't that true?

A At the present time, considering only the books and not considering the use to be made of the books in the two libraries, yes, I think that is true.

Q Thank you, Miss Hargrave.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, I want to read to you a paragraph from the resolution of the Board of Regents. (Reading)

"Be it further resolved: That pending receipt and installation of such library, the Dean of the Law School of the University of Texas be, and he is hereby, authorized to supply on a loan basis books from the Law Library of the University of Texas which may be needed in the efficient conduct of the School of Law of the Texas State University for Negroes."

Do you understand that to include the loan of the microfilm reports to the Negro school?

A Yes, sir, certainly.

Q Do you understand it to include all other books that may be necessary?

A I understand it to include all books that may be necessary.

or are in any way needed at that school.

Q You mentioned a moment ago that articles of legal periodicals which were assigned to the first and second year students were mimeographed. Have you sent any of those mimeographed copies to the Negro Law School?

A Copies of those articles were included in the group of books that were sent to the Negro Law School.

Q Now, you have said that the Library of Texas includes 65,000 volumes overall, but that excluding duplicates, it is comprised of approximately thirty to thirty-five thousand. What is the reason for the additional 30,000 of the duplicates? Will you explain that fully, and how it operates?

A We have two reasons for duplicates. In the textbook field we have to have duplicates so that we figure if 20 -- from 15 to 25 students will have the use of one copy. In the reports we have duplicate copies so that the reports will be more available for the large number of persons using them. We have acquired a considerable number of duplicates by gift.

Q Thank you.

THE COURT: All right. We will recess for a few minutes, please.

(W i t n e s s E x c u s e d)

(Court was recessed at 10:45 a. m.,
{ May 14, 1947, until 11:05 a. m.,
{ May 14, 1947, at which time proceed-
(ings were resumed as follows:

HALL LOGAN, a witness produced by the Respondents, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Mr. Hall Logan?

A That is correct.

Q You are Chairman of the Board of Control of the State of Texas?

A Yes, sir.

Q How long have you been with the Board of Control?

A Since the first of January, 1946.

Q Have you received any request to purchase any law books, request from the University of Texas to purchase any law books for the Negro Law School?

A Yes, we have. Their request No. U N 1, dated March 3, 1947.

Q Do you have a copy of that requisition with you?

A Yes, sir.

Q Is there a list of law books attached? Does it describe the law books that are to be purchased?

A Yes, sir.

Q Itemize them?

A Yes, sir, there is a 54 -- I believe it is 54 -- page description, yes.

Q Mr. Logan, is that the list that you loaned to me -- did you

loan that list to me this morning?

A Yes, sir.

Q That is the list that was attached to the requisition when you received it?

A Yes, sir.

Q Will you refer to the list and state whether it includes a requisition to purchase legal periodicals?

A Yes, there are periodicals here on page 11.

Q Will you read from the list the names of the periodicals?

A American Bar Association Journal

California Law Review

Columbia Law Review

Cornell Law Review

Harvard Law Review

Illinois Law Review

Iowa Law Review

Journal of Criminal Law and Criminology, Northwestern University.

Law and Contemporary Problems, Duke University

Law Library Journal

Law Library, Indiana University

Law Quarterly Review, TheCarswell Company

Michigan Law Review.

Minnesota Law Review

National Bar Journal

University of Pennsylvania Law Review

Texas Bar Journal

Texas Law Review

Virginia Law Review

Yale Law Journal

Index to Legal Periodicals

Jones and Chipman, Index to Legal Periodicals

Digest of Legal Periodicals

Commerce Clearing House

I believe that covers the periodicals, at least the way they are headed here.

Q Now, for the purpose of help to the Reporter, will you state what pages of that list these periodicals are on?

A They are covered on pages 11, 12, 13, inclusive, of the requisition.

Q Will you refer again to the list and state whether it includes requisition to purchase English Reports?

A Yes, it does. Probably I can find the actual purchase order quicker.

Q Let's stay with the list right now, Mr. Logan.

A All right, sir. Yes, on page 15, English Legal Material, from the Carswell Company.

Q How many total volumes of English material are requisitioned?

A 854.

Q Now, will you refer again to the list and state whether it shows a total for the number of -- a summary and a total for

the number of the books on the list?

A Yes, the total volumes, 8,727, and the price on that ----

Q No, will you refer to the requisition and state what date you received that at the Board of Control?

A The requisition was received on March 3, 1947.

Q Will you state who signed the requisition?

A It is signed by D. K. Woodward, Jr., Chairman, Board of Regents, the University of Texas.

Q I believe -- will you identify the requisition as to the number?

A It is UN-1. That is the coding of the Negro University.

Q Give me the requisition and the list that was attached to it.

A All right, sir.

Q I would like to introduce this.

{ Said instruments were admitted
{ in evidence as Respondents'
{ Exhibits Nos. 9 and 10, respectively.

Q Mr. Logan, have you done anything to comply with the requisition made? What have you done to comply with the requisition, or to purchase the law books requested?

A Well, upon receiving the requisition, we interviewed a number of representatives of the law book publishers and dealers, clarifying the specifications, and talking to them about the availability of them, and with the University of Texas. A good many of these are out of print, and after going through those discussions, on April 7th we issued the bid

forms, as we call them, and asked for bids on April 7th, 1947, including the specifications essentially as set out in the duplicate of that.

Q Do you have a copy of the request for bids and the specifications that you mentioned?

A Yes, I have. Here is the specifications in detail, comprising the 54 pages, and here is the three page rider of explanation of instructions on the bid, as we issued them to some 35 prospective bidders.

Q Will you refer to that request for bids and state what date it bears?

A It bears the date of April 7th, for opening, two weeks, the customary opening period.

Q What number does it bear?

A It bears requisition UN-1.

Q Will you refer to the list which you attached to that request for bids, and state how it compares to the list that you received with the requisition?

A It is an exact duplicate of the other. The only exception is that when the University gave them to them for the purpose of their encumbering of funds, they put estimated prices on there. When we send it to the bidders, we leave the price off. We don't want to tell them what to charge.

Q Will you refer to the list and state how many books are included on the list which you attached to your request for

bids?

A I don't believe it is totaled, but we could examine it and compare it to those for items.

Q It is your understanding that it includes the same number of books as the list attached to the requisition?

A That is right.

Q Will you give me a copy of the request for bids, the specifications, and the list attached to it?

A Yes.

MR. LITTLETON: I would like to introduce this.

(Said instruments were admitted
in evidence as Respondents'
Exhibits Nos. 11 and 12, respectively.)

MR. DANIEL: To save the record, may I ask counsel if they will agree that it is the same, except for the prices, and not put it in the record.

MR. MARSHALL: I think, if Your Honor please, they are identical, and at some future time we can withdraw one of them.

THE COURT: All right.

Q (By Mr. Littleton) Mr. Logan, to whom did you send your request for bids on these law books?

A There is a list of 35 bidders.

Q I don't think it is necessary to ----

A All of our recognized list that we carry who pay their fee as standard bidders on all types of books, legal books, plus some others that we felt could bid, everybody we could

think of.

Q Have you received bids on these law books pursuant to the requests made?

A Yes, we have received 23 bids from 22 separate bidders, one making two bids.

Q Have you made any awards or placed any purchase orders on the basis of the bids received?

A Yes, we have placed the purchase orders on all of the new books, plus the English volumes. We have not placed any on second hand to date.

Q How many volumes, all told, have you placed orders on?

A 5,702 volumes have been placed to date.

Q Will you describe the English volumes that you mentioned that you have ordered?

A These were purchased from the Carswell Company, English Reports, reprint, volumes 1 to 176, good, second hand, 176 volumes.

English Table of Cases, 2 volumes, new cloth -- wait, that second item isn't a part of it. The other part of it is English and Empire Digests, subject to prior sale, isn't second hand; 49 volumes. The two total \$1,085.00.

Q On the books that you have ordered, what dates of delivery were generally specified?

A Shall I just run through them?

Q I think -- do you have some standard date? You can give it

to me approximately.

A 30 to 60 days, another 30 to 60; 30 to 60; 60; 10 days after receipt of order; 60; 30 to 60; 30 to 60, 30 to 60, 15 days; 30 to 60; 30 to 60; 10 days; 30 to 60; immediate delivery; immediate delivery.

Q What are the -- do your orders show delivery instructions?

A The delivery instructions, books to be shipped to the University of Texas Library, Room 11, Main Building, Austin 12, Texas. They all read the same way.

Q Mr. Logan, you have stated that you have placed that order -- orders for 5,700 of the books requisitioned. You have also stated that there were 8,700 books requisitioned. Can you state why the orders on the remainder of the books of which you -- the remainder of the books on which you have received bids have not been purchased?

A The balance of the books, we understand, will all be second hand, not available as new, because we specified wherever possible to buy new books, and these other three thousand, whatever they are, are going to require a considerable amount of study in order to determine which is the best buy from the State's standpoint. They are -- we anticipate, without any question, they will be released within two weeks. We cleared these new ones first. The second hand books are classified as to excellent, whether they are shelf worn, or whether they are good, with further bindings, and we have to

analyze each of those conditions with the price to determine which is the best buy.

Q You have received bids, however, on all of the books requisitioned?

A We have.

Q Pass the witness.

MR. MARSHALL: No questions.

THE COURT: All right, Mr. Logan. You will be excused.

(W i t n e s s E x c u s e d)

MISS HELEN HARGRAVE, having

been recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q Miss Hargrave, I show you this purchase requisition, UN-1, dated March 3, 1947, and I show you the list of books attached to that requisition and ask you to look over that list and state whether or not you prepared it?

A This is the list that I prepared.

Q Will you refer to the list, Miss Hargrave, and state the total number of volumes included on the list?

A 8,227.

Q Miss Hargrave, I show you again the list which you prepared, which meets the requirements of the Association of American

Law Schools, and ask you to refer to the list and state how many volumes are included on that list?

A There are 10,000 volumes on that list.

Q So that between the list that you prepared to meet the standards of the Association of American Law Schools and the list that you prepared for the requisition there is a difference of 1,281 books; is that correct?

A That is right.

Q Will you state why you did not include the 1,281 books on the list which you prepared for requisition?

A The reason that I did not include them was because that number of books had been offered as gifts to the new law library, or are available for transfer to it, as I qualified them in earlier testimony, to the new library.

Q Pass the witness.

MR. MARSHALL: No questions.

(W i t n e s s E x c u s e d)

E. J. M A T H E W S. a witness called by the

Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Littleton:

Q You are Mr. E. J. Mathews?

A Yes, sir.

Q You are the Registrar at the University of Texas?

A Yes.

Q How long have you been Registrar?

A 35 years.

Q Were you appointed the Registrar of the Negro Law School?

A Yes, sir.

Q State the dates that you assigned for registration in that law school?

A March 10, 1947. That was the first day, but registration was not to be restricted to that one day.

Q How long did you keep the law school open for registration, Mr. Mathews?

A Well, we announced a week, but in correspondence we didn't fix any final day.

Q Did you in your capacity as Registrar notify the relator, Herman Nation Sweatt, of the opening of that law school and the dates of registration?

A Yes, sir.

Q How did you notify him?

A By letter, registered mail.

Q Do you know the date of that letter?

A I think it was March 2 or 3; it was a week before.

MR. LITTLETON: If Your Honor please, we have served the formal notice for them to produce the original of the letter in Court.

THE COURT: All right.

MR. DURHAM: This is it.

Q (By Mr. Littleton) Mr. Mathews, I show you this letter and ask you whether it is the letter that you sent, that you wrote to Neman Marion Sweatt?

A Yes.

Q Is that your signature?

A It is.

MR. LITTLETON: I want to introduce the letter.

(Said instrument was admitted
{in evidence as Respondents'
(Exhibit No. 13.

(Mr. Littleton read to the Court
(Respondents' Exhibit No. 13.

Q (By Mr. Littleton) Mr. Mathews have you received any reply from the relator to that letter?

A No, sir, none at all.

Q Has the relator presented himself for registration since the mailing of that letter?

A No, sir.

Q How many inquiries -- have you received any inquiries regarding this school since its establishment?

A Yes; all told, fourteen. Two of the -- twelve of the fourteen came during the first half of March. Two of them came during April, and so I take it they applied more particularly to start next fall, some future time, but there were twelve, rather, eleven letters, and one inquiry in person that were

made during the first half of March.

Q Did all of these inquiries come from prospective students for the school?

A Well, I assume they were.

Q In other words, did the nature of their inquiry indicate to you that they were prospective students?

A The reading of the letters indicated ----

MR. DURHAM: Wait, Your Honor.

THE COURT: Of course, the letters -----

MR. DURHAM: The letters would be the best evidence.

Q (By Mr. Littleton) Do you know whether Henry Doyle inquired concerning the opening of the law school, and registration?

A He presented himself on March 10th at the Negro Law School. He, with a friend, asked some questions, but he wasn't ready to enroll.

Q Had he talked with you before that time about his registration?

A I suppose that would be hearsay testimony. He didn't talk to me, but he talked to -----

MR. DURHAM: Your Honor, we object to it.

THE COURT: That is right.

A ---- the Assistant Registrar.

CROSS EXAMINATION.

Questions by Mr. Durham:

Q Mr. Mathews, I believe you have stated that the requirements

for admission to the University of Texas are identical with the requirements for the admission of a student to the Negro Law School?

A Yes, sir.

Q In your letter you referred to the relator's application. When did you first see and examine the relator's application for admission to the University of Texas School of Law?

A It was during a period of a conference between some half dozen negro leaders in Texas, held in the President's Office. I believe that was last summer.

Q The application of the relator was presented to you at that time as Registrar of the University of Texas for admission to the first year law class of the University of Texas School of Law. I believe you examined the application and determined his qualifications for admission?

A Yes, sir.

Q Is that the same application that you referred to in paragraph 2 of the letter addressed to the relator on March 3, 1947?

A Yes.

Q That was the only application that you had had from the relator, and he possessed the qualifications necessary for admission to the law class, first year law class, in the University of Texas School of Law?

A The academic qualifications.

Q The academic qualifications. Now, I believe the application on the part of the relator for admission to the University of Texas School of Law, first year class, was refused?

A Yes, sir.

Q Why was it refused, Mr. Mathews?

A Because the Constitution of the State of Texas forbids us to accept as students members of the Negro race.

Q He possessed all other qualifications, except he wasn't a white student?

A So far as I know, yes; academic qualifications.

Q And you refused his application for admission to the first year law class of the University of Texas Law School solely on account of race and color?

A The Constitution of Texas.

Q I observe, Dr. Mathews, from the letter there that you have got mimeographed, -- typewritten form of letterhead. Did you have any printed form of letterhead for the Negro University?

A Mimeographed.

Q That is all you had; likewise, for your envelope?

A Yes, sir.

MR. DURHAM: We want to offer the envelope.

(Said instrument was admitted
in evidence as Relator's
Exhibit No. 5.

MR. DURHAM: That is all, Your Honor.

REDIRECT EXAMINATION.Questions by Mr. Littleton:

Q Mr. Mathews, you stated you received some 14 inquiries during the first half of March, and April. Did any of those persons making an inquiry, of those 14 persons, register in the school?

A No, sir.

(W i t n e s s E x c u s e d)

THE COURT: I suppose, then, we will recess until two o'clock.

{ Court was recessed at 12 o'clock
{ noon, May 14, 1947, until 2 o'clock
{ p. m., May 14, 1947.

AFTERNOON SESSION.

May 14, 1947.

2 P. M.

MISS HELEN HARGRAVE, having been recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.Questions by Mr. Littleton:

Q Miss Hargrave, I want to add one question to the testimony that you gave before lunch. You testified that you had 1,281 books available by gift, and from the Texas University Library. You also testified that the list which you had made

up for requisition from the Board of Control showed 8,727 books. I ask you whether or not the 8,727 books, plus the 1,281 books, as has been shown by you, and listed, is sufficient to satisfy the requirements of the Association of American Law Schools?

A Yes.

Q During the lunch recess have you made -- did you make an inspection of the building at the law school, the Negro Law School?

A Yes, I did.

Q Did you make that inspection -- what was the object of that inspection?

A I wanted to look over the arrangements of the rooms, and to find out about the space so that I could figure how many books could be accommodated there, law books could be accommodated there.

Q From your inspection, will you state whether you found that there was -- the building was ample to house a library of more than 10,000 books?

A Yes, it is.

Q Pass the witness.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Miss Hargrave, it is true, is it not, that you couldn't put them in that basement part that is now open for the law school, could you?

A No.

Q Did you see the ground floor that you go down five steps to get to there, that floor?

A Yes.

Q You couldn't put that on that floor, could you?

A With the other things moved out, there could be put, as I figure, in those rooms, approximately 7,000 books. That leaves the stacks with adequate aisle space between.

Q Would there be any other space left down there after that?

A No, that would take the space on the ground floor for the books.

Q Is it possible on the ground floor to have a library and a law school at the same time?

A Not of the size library that has been ordered and acquired for the law school.

Q What I should have included, Miss Hargrave; is it possible to have a library sufficient in size to meet the standards of the Association of American Law Schools and class rooms and library space and office space; is it possible to have all of that on that first floor?

A No, it is not.

Q No way it could be done?

A No, it would not be possible on the first floor.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Littleton:

Q When you made your inspection at lunch, Miss Hargrave, you

inspected the whole building?

MR. DURHAM: We object to that. The evidence shows the State didn't have the whole building at that time, and doesn't have it now, and that certainly is going outside of the pleadings, and outside of this case on a speculative proposition.

MR. LITTLETON: The evidence shows that arrangements have been made for the acquisition of the entire building.

THE COURT: But as I understand, you allege that you have sufficient space to ----

MR. LITTLETON: Your Honor, I am showing how much housing facilities it would take to house the library.

MR. DURHAM: We don't object to him showing how much it would take to accomodate this school.

THE COURT: Yes.

Q (By Mr. Littleton) When you made your inspection at noon, Miss Hargrave, did you compute -- did you examine the entire three floors of the building?

A Yes, I did.

MR. DURHAM: Your Honor, we object to it. It is immaterial. It isn't in issue in this case.

THE COURT: I am going to hear it, but I am bearing in mind it is just what it might take to put that many books in.

MR. DURHAM: If that is the purpose, it is different,

Your Honor.

Q (By Mr. Littleton) Did you find the three floors of this building substantially of the same area?

A Yes, I did.

Q Would you say that a library of 10,000 volumes sufficient to meet the requirements of the Association of American Law Schools could be housed in an area of that size?

A Yes, it could be.

Q Would that leave an area of that size, and housing a library of that size, would that leave sufficient space for class rooms?

A Yes, it would.

THE COURT: I am considering it for the purpose stated only.

Q (By Mr. Littleton) Did you make any observations as to the structure of that building?

A I noticed that it was a brick building.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Marshall:

Q Did you make any tests as to whether or not the second and third floors would hold stacks of law books?

A I made no tests.

Q So, you are not in a position to testify, as to whether or not you could put a library on the second and third floors,

are you?

A I presume in a brick building the walls, solid brick, that the balance of the books could be so arranged around the walls that with the knowledge that I have about that, it would take care of those books.

Q Do I understand your testimony to be that you would put the books around the walls, and you wouldn't have stacks in the middle of the floor?

A On the ground floor, no. On the ground floor, it would take the space of the ground floor for stacks, as we usually find them in libraries, in order to handle the approximately 7,000 books that I figured on.

Q And where would the reading room be -- downstairs?

A No, you couldn't have the reading room downstairs. It would have to be on another floor because the ground floor would be filled with stacks of books.

Q Miss Hargrave, as a matter of fact, are you familiar with the amount of space in a law school that is needed for class room instruction, Dean's office, faculty offices? Are you familiar with that, or just in a general way?

A Just in a general way. I don't know much about that.

Q So that when you testify that that building is adequate to house all of this, you are testifying just in a general way, are you not?

A I don't see how it could be much otherwise.

Q That is all.

MR. LITTLETON: That is all.

THE COURT: All right.

(W i t n e s s E x c u s e d)

C H A R L E S T. M c C O R M I C K , having been

recalled as a witness, testified further as follows:

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Dean McCormick, during the noon hour, did you inspect the three floors of the building in which the Negro Law School is now housed?

A Yes, I did.

Q I will ask you to state whether or not in your opinion the entire building furnishes sufficient space within which to house the number of class rooms, reading room that you now have, and a law library of 10,000 volumes?

MR. DURHAM: Your Honor, we make the same objection.

THE COURT: It will be given the same consideration as I stated before.

A Assuming a small student body for which those facilities were furnished ----

MR. DURHAM: Your Honor, we ask that that answer be stricken as not responsive.

THE COURT: Yes, it really isn't.

Q (By Mr. Daniel) Limit it strictly to the question of whether or not it would furnish sufficient room for the same number of class rooms and reading room you now have, plus space for 10,000 volumes of books; I will ask you whether or not in your opinion that building would furnish such suitable space?

A By class rooms we now have, you mean on the first floor?

Q Yes, the same size class rooms?

A Yes, it would contain all of those facilities.

Q I will ask you to look at this picture, please. Will you state to the Court what building that pictures?

A That appears to be a representation of the building at 104 East 13th Street.

Q Is that a picture of the building which we have referred to as the building which now houses the Negro Law School?

A Yes, it is,

MR. DANIEL: We would like to offer that.

{Said instrument was admitted
{in evidence as Respondents'
{Exhibit No. 14.

Q Dean McCormick, I will ask you to look at the picture again, and state, if you know, from what place the picture was taken, looking at the foreground between the place where the camera was and the building?

A Evidently taken from the Capitol grounds.

Q From within the Capitol grounds?

A Yes.

Q That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Dean McCormick, when you were inspecting the law school at the noon hour, did you go through this entrance as indicated by the picture?

A I don't believe I did. I entered on the second floor and came down through the stairs.

Q Do you recognize that as the entrance to the law school?

A Well, there seems to be a corner near by. I assume it is correct. I don't know that I would recognize it if you didn't tell me it was, however.

Q Can you recognize your sign on the door telling the prospective students to come to your office?

A The sign is there. I certainly can't recognize it in this picture.

Q But this appears to you to be a part of the law school?

A Yes, sir, I judge so.

MR. NABRIT: We would like to offer this in evidence.

MR. DANIEL: You had better identify what is upside down and otherwise in that picture.

MR. NABRIT: That is a problem.

{ Said instrument was admitted
{ in evidence as Relator's
{ Exhibit No. 6.

Q Dean McCormick, did I understand you to state in reply to the question of the Attorney General that in your opinion, from your inspection of the building, and using all three floors, it would adequately house a law school with the same number of class rooms which you now indicate you have on the first floor, and with library facilities adequate to contain a library with a minimum number of 10,000 volumes?

A That is right.

Q Are you an expert on library arrangement?

A No, I am not.

Q How did you compute the number of feet of floor space necessary to house the stacks, and on what basis of computation did you determine the number of stacks necessary to house 10,000 volumes, in making your estimation?

A I really didn't carry it out that far. I just was making a general inspection, and it seemed to me that the building was large enough for that purpose. Miss Hargrave, however, did make the detailed estimates of the number of stacks, and of the space needed, and where the space could be found to put them.

Q Are you testifying on the basis of Miss Hargrave's estimates, or on the basis of your estimation?

A Well, I suppose it is really partially both.

MR. HARRIS: Your Honor, I should like to make a motion to strike out all of the testimony which Dean McCormick has made with reference to the adequacy of this

building to house the law library, in that he says it is not based on his information, and evidently upon that of Miss Hargrave.

THE COURT: I believe he said partly, didn't he?

MR. NABRIT: What part is that?

THE COURT: I wouldn't know.

Q (By Mr. Nabrit) Dean McCormick, what part of your estimation is yours?

A Well, I have had some contacts with law school buildings, so that I have a general notion of the size of building appropriate for the small law school, and from that background, and from my inspection, and in the course of that inspection Miss Hargrave and I discussed the particular parts of the building where books could be so stored, and she pointed out to me features, and the availability of space for the books, so that those things are always somewhat of a composite of fact and background and experience and inspection, and what people point out to you and tell you.

Q Suppose we ask you this, Dean McCormick; taking an average size library stack such as Miss Hargrave indicated to you would be used there, how many volumes of law books would it hold, the average size law library stack?

A Well, if there is any uniform size for them, I am not aware of it.

Q Let's take any size that you know of, the size that you

discussed.

A We didn't discuss any particular size.

Q From your background and experience with law schools, what size, how many volumes do you know will get on any one stack? Take any stack that you know about from your experience. How many volumes would get on it?

A I think of a stack as a tier of say, from two to perhaps eight or nine shelves, and I don't know how many books would go in a stack. I don't know of any uniformity as to number.

Q Take a stack that extends across the width of that room, 8 tiers, steel stacks, purchased by the Dean and the Board of Regents for this Negro Law School, to house these books. How many volumes would one of those stacks hold?

A You say, a steel stack?

Q I assume you are going to use steel. I will just say stacks. Maybe you are going to use some other kind.

A Are you assuming a certain length of it? I don't know the uniform practice as to length of the shelves.

Q Looking at the space on the ground floor, you estimate that it, together with the other space, would hold 10,000 volumes. I am asking you these questions to find out if you had any part in this estimation, or if it is based on your experience, or of, so far as your statement is made, it is based simply upon Miss Hargrave's testimony, or her experience, or her information, or is there any knowledge which you possess, for

example, as to the number of feet of space required for a student in a library reading room, or if you know how much floor space is required for an average table in a law school, how much aisle space is required by a standard law school librarian, or is your statement, as a matter of fact, merely a guess?

A No, I would say it was a general fact from my experience and observation of law schools in general, and my inspection of this one. Now, Miss Hargrave makes that report, and it seems to me that by going over there and looking at the building and seeing whether that report accords in a general way with my knowledge and experience, that I would be able to state that I believe the building would furnish those facilities.

Q What type of building is that, Dean McCormick, construction?

A Well, it is a three story building, with brick construction on the outside.

Q Is it solid brick, semi-brick, brick facing?

A I could not tell you as to that.

Q Does it have steel beams and girders?

A I don't know. I haven't made that close an examination of it, and I don't know very much about construction, anyhow.

Q So that you don't know whether it will house the library or not, because you don't know whether the walls and framework will sustain the weight of it? Do you know of your own

knowledge that it will?

A No, I don't.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q Have you, as Dean of the school, discussed with Miss Hargrave if you had the whole building where the majority of the books should be located in the building?

MR. DURHAM: Your Honor, we object to their going into anything Miss Hargrave told him, as hearsay.

THE COURT: Of course, he shouldn't testify from what she told him. I think he might, with consultation, relate what conclusion he arrived at.

Q (By Mr. Daniel) I didn't mean to ask you what she told you. Did you have a consultation with her as to where in that building would be the proper place to put the bulk of the library books?

A Yes.

Q And from that consultation, what conclusion did you arrive at as to the floor on which the majority of the books should be placed?

A Well, I thought probably the ground floor would be the most appropriate place.

Q There isn't any question about the supports to the ground floor, is there, Dean McCormick?

A Well, I would suppose not.

Q That is all.

MR. NABBIT: No questions.

THE COURT: All right.

(Witness Excused)

MR. DANIEL: We would like to call the relator,
Heman Marion Sweatt.

HEMAN MARION SWEATT, Relator,
having been called as a witness, and having been by the
Court first duly sworn, testified as follows:

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Will you state your name, please?

A Heman Marion Sweatt.

Q Are you the relator in this case?

A I am.

Q Where do you reside?

A Houston, Texas.

Q What business are you in?

A United States mail service, mail carrier.

Q How long have you been a mail carrier?

A Eight years.

MR. DURHAM: Your Honor, would you ask the witness

to speak out just a little louder?

THE COURT: Speak out louder.

A Eight years.

Q (By Mr. Daniel) You applied for entrance into the University of Texas on February 26, 1946, is that correct?

A That is right.

Q I will ask you if it isn't true that on or about March 20, 1946, you were furnished a copy of an opinion by the Attorney General of Texas stating that if you desired and made demand on Prairie View University, that that school was under mandatory duty to furnish you an equal law training with the University of Texas Law School?

A Yes.

Q You read that opinion, did you?

A I did.

Q Did you make demand or give any notice to Prairie View University, or any of its officers, that you wanted to attend a law course there?

A I did not.

Q Did you ever apply to Prairie View University or to any official of that school, or of A. & M. College for a law course?

A No.

Q You didn't, then, follow the Attorney General's opinion as to what was the legal procedure by which you were entitled to

an equal law course?

A No.

Q You were in this court room on December 17, 1946, at the last hearing of this case, were you not?

A Yes.

Q Did you hear the resolution read at that time whereby the Board of Directors of A. & M. College authorized the officials of Prairie View to set up a separate law school in Houston for Negroes?

A I did.

Q Then, at that time you knew that such separate law school was proposed for establishment in Houston, Texas, didn't you?

A I did.

Q Did you read in the newspapers anything about that law school being set up in Houston?

A I did.

Q You did.

A I did.

Q You knew, then, that that law school was set up by Prairie View University in Houston, Texas on February 10, 1946, didn't you?

A I knew some rooms were there.

Q You knew they were where?

A In Houston.

Q In Houston?

A That is right.

Q You knew that they called that the Law School of Prairie View University, didn't you?

A I knew that they called it that, yes, sir.

Q Did you go up there for the purpose of registering?

A I went up there to see it. I didn't go to register.

Q But you knew where the location was, didn't you?

A Yes.

Q Before the date of registration, February 10th?

A Yes, sir.

Q And you knew the date of registration was February 10, 1946, didn't you?

A Yes.

Q Did you talk with any of the men who were employed to operate the law school?

A No, I didn't.

Q Did you check into the qualifications of the lawyer who had been employed to teach law in that school?

A Yes.

Q You checked into his qualifications?

A Yes.

Q Were you doing that for the purpose of determining whether or not you would attend the school?

A No.

Q When did you make up your mind that you wouldn't go to that

school?

A After talking with my attorney .

Q Which of your attorneys?

A Mr. W. J. Durham.

Q Did you talk with any other of your attorneys?

A No, I did not.

Q Did you have Mr. Marshall, attorney for the National Association for Advancement of Colored People, as one of your attorneys at that time?

A December 17th?

Q Right.

A I didn't have -- I never have had Mr. Marshall as my attorney. I have not.

Q You have not?

A That is right.

Q You know Mr. Marshall, sitting right here, do you not?

A Yes.

Q You know, of course, having sat through the case, he is participating here in the case and cross examining witnesses?

A Yes, sir.

Q He is signing the papers as one of your attorneys of record?

A Yes,

Q Didn't you authorize him to do it?

A I authorized Mr. W. J. Durham to represent me, and in a conference with him, I left it with him to secure what aid

he found it necessary to.

Q You found it agreeable for him to accept the aid of the attorney for the National Association for the Advancement of Colored People?

A It is agreeable for him to employ Mr. Marshall.

Q After talking with your attorney, and before making an inspection of the facilities, you decided you wouldn't go to the school?

A I decided before talking to them.

Q After inspecting the school?

A No, before that.

Q Did you do that before finding out what kind of facilities there were, and faculty was going to teach in that school?

A Yes.

Q Did you check into the courses that were going to be offered in that school?

A No, I did not.

Q Did you register in that Prairie View Law School at Houston?

A No, I did not.

Q About how far is the school from your home in Houston?

A I would estimate it as being two and a half or three miles.

Q Now, in February of 1947, did you know about a new law school about to be established here in Austin for Negroes?

A Yes.

Q You read the newspaper accounts of it, didn't you?

A Yes.

Q You knew Senator Lacy Stewart, who is now deceased, did you?

A I didn't know him. I knew he was a Senator.

Q You were acquainted with his Senate Bill 140 pending in the Legislature during the month of February, or read of it in the newspapers?

A I was familiar with the newspaper reports of it.

Q You knew the bill proposed to set up a State University for Negroes, and a separate Law School for that University, to be conducted in Austin by the University of Texas Board of Directors, didn't you?

A Yes.

Q Did you receive this letter from the Registrar of the Negro Law School that was introduced here this morning?

A The letter that was shown me, yes, sir; I received it.

Q That is Respondents' Exhibit No. 13?

A Yes.

Q What date did you receive the letter? It is dated March 3d?

A I think I received it on the 4th or 5th, one.

Q Upon receipt of that letter did you make any reply to Mr. Mathews, the Registrar?

A I did not.

Q Did you go to see Mr. Mathews and talk to him about what he said in the letter about absolutely equal courses being offered here in the law school?

A I did not.

Q Did you go and talk to Dean McCormick to see about what kind of courses would be offered?

A I did not.

Q Did you talk to any University of Texas officials to see if you would actually get equivalent instruction in law in this separate law school, the same as if you went to the University of Texas?

A I did not.

Q Did you make any investigation of this separate Negro Law School?

A Yes, I did.

Q Did you make an investigation before you made up your mind you wouldn't attend it?

A I made an investigation immediately after receiving the letter.

Q Didn't you send the letter to Mr. Marshall, the letter that you saw him take out of his brief case, before we introduced it? Didn't you send that to Mr. Marshall?

A No, I did not.

Q Who did you send it to?

A I took it on the train to Mr. W. J. Durham.

Q When did you make up your mind not to go to the school?

A When Mr. W. J. Durham told me it wouldn't give me equal law training as the University.

Q Is that the same day you took him the letter?

A Yes.

Q How soon did you get on the train after you received the letter?

A The next day.

Q And you went to Dallas to see your attorney, Mr. Durham?

A That is right.

Q After how much consideration of the matter was it before your attorney told you, advised you not to attend the school?

A I stayed in Dallas for a week.

Q How long had you been there before your attorney told you that?

A During the time that I was there, we discussed it at length, while we were there.

Q The first day you got there you showed him the letter, is that right?

A That is right.

Q And that was about what date?

A I don't remember it by dates. I received the letter either the 4th or the 5th, and I got the train on the 6th.

Q Then, you were there in Dallas by the 6th or 7th?

A That is right.

Q Right?

A Yes.

Q And you showed him the letter the first thing, didn't you?

A That is right.

Q And there in that conference of yours he made his decision about what you ought to do?

A It was several days before he made his decision. He told me definitely after the conference that it would not afford me equal education as could be obtained in the University of Texas.

Q And you made no personal investigation of the matter yourself, did you?

A I am not qualified to pass upon the quality of a law school, no.

Q Did you talk to anybody else about the quality of the law school other than Mr. Durham?

A I did not.

Q And how long did you remain in Dallas after the 6th or 7th of March?

A I was there on -- I am telling you I went there around the 6th or 7th, and I remained there probably a week before I came back to Houston.

Q Then you were there on March 8th when the National Association for the Advancement of Colored People and other organization representatives met to decide whether or not to support or not to support this separate Negro Law School, weren't you?

MR. DURHAM: We object to it; first, upon the

assumption that the National Association for Advancement of Colored People met. That is the first assumption. The question assumes that he was there at the meeting. Both assumptions are without any evidence on the matter in the record.

THE COURT: I think you had better ask him if he was there.

Q (By Mr. Daniel) Were you in Dallas on March 8th, 1947?

A I was there.

Q Are you acquainted with a meeting -- do you know anything about a meeting held in Dallas on that date at which this lawsuit was discussed?

A I know nothing of the meeting.

Q Did you while you were in Dallas read a report in the Dallas News about what took place in that meeting?

A I did not.

MR. DURHAM: We object to it as being hearsay.

THE COURT: He says he didn't.

Q (By Mr. Daniel) You did not. Isn't it true that you knew before the date of registration down here, March 10th, at the new Negro Law School, that certain leaders who were helping you in this case opposed you in this separate law school?

MR. DURHAM: We object to that about "certain leaders." There is no evidence in the record. It is purely an assumption.

THE COURT: He can ask him if he did.

A I don't know anything about. -- I don't know what leaders -- I don't know anything about the leaders.

Q (By Mr. Daniel) Do you know Joseph J. Rhodes, President of the Texas Council of Negro Organizations?

A Yes, I do.

Q Did you discuss this law school with him while you were in Dallas?

A No, I didn't.

Q Did you hear about the action his organization took against the school while you were in Dallas?

A No.

MR. DURHAM: We object to it as hearsay.

THE COURT: He says he never heard it.

Q (By Mr. Daniel) Now, your deposition was taken in this case on June 15, 1946, wasn't it?

A There was a deposition taken in Houston a little before the first hearing.

Q Did you state in your deposition at that time, and as you have stated here, your attorney was Mr. Durham, is that right?

A Yes.

Q At the time you filed this suit Mr. Marshall wasn't in the case at all representing you, was he?

A No.

Q At the time we took your deposition on June 15, 1946, he was

not in the case, was he?

A No.

Q You had not known him, and he had not been brought into the case at the time your deposition was taken, had he?

A Not from me, no.

Q From anybody else, your attorney or anybody else?

A Not that I know of.

Q Isn't it a fact that in your deposition taken on June 15, 1946 that this question was asked to you, and you gave the following answer; this is the question?

"Q Isn't it a fact that you would not attend the Prairie View University if legal training were provided for you there?"

And didn't you give this answer?

"A That is not true. I will attend Prairie View University on a first class law school equal to the University of Texas."

Isn't that true?

A I gave that answer.

Q At that time, on June 15, 1946, you said that you would have attended a law school at Prairie View University if it was equivalent to that at the University of Texas?

A If it was equivalent.

Q In other words, you have no objection to a separate law school for Negroes if it is equivalent ?

- A I will have to answer that question in this way. I don't believe in segregation. I don't believe equality can be given on the basis of segregation. I answered that question, in that it stated that it would be -- if it would be given at Prairie View, I still do not believe that segregation will give equal training.
- Q That is exactly the point I am getting at. On June 15, 1946 you were willing to accept segregation and a separate law school at Prairie View if it was on an equal basis, weren't you?
- A Assuming that it would be equal.
- Q That is what I say. Is this your signature to the deposition that was taken on June 15th?
- A That is mine.
- Q Now then, after June 15th, 1946, and after you had sworn in your deposition that you would go to a separate law school if it furnished equal facilities; after that time, Mr. Herbert Marshall -- I mean Mr. Thurgood Marshall, Attorney for the National Association for the Advancement of Colored People, came into this case, and has been helping on it since then?
- A After what date?
- Q After your deposition, June 15th, 1946?
- A A good time afterwards, yes, sir.
- Q A good while afterwards?

A A good while afterwards.

Q And after June 15th, 1946, after you swore to that in this deposition, is when you made up your mind you were not for segregation at all?

MR. DURHAM: We object to it because it does not represent the facts in that question. The question doesn't ask him about a separate school. The question asked about a school at Prairie View.

Q (By Mr. Daniel) Are you acquainted with Prairie View University?

MR. DURHAM: We renew our objection. Nothing has been done about that question and answer. He asked if he didn't take the position on that date that he was for segregation. That isn't represented in that question.

MR. DANIEL: I withdraw the question.

Q (By Mr. Daniel) You are acquainted with Prairie View University?

A Yes, sir.

Q You know that is a separate Negro school, don't you?

A Yes, it is a separate Negro school.

Q White people do not go to that school?

A As far as I know.

Q You knew at the time you swore to this in your deposition that that was a separate school for Negroes, didn't you?

A I did.

Q And when you said in that deposition that:

" I will attend Prairie View University on a first class law school equal to the University of Texas,"

on June 15th, you knew that was a separate Negro school, didn't you?

A I did not. A first class law school, in my opinion, a first class law school is where an individual has general contact with people with whom he will work after graduation.

Q You didn't answer my question. Let's go back to my question. At the time you said you would attend Prairie View University on a first class law school, you knew Prairie View was a separate school for Negroes at that time, didn't you?

A At that time, but I answered the question on the basis of the establishment of the school.

Q That is right?

A That is right.

Q But at Prairie View?

A In Prairie View.

Q You didn't think they were going to establish a school for both whites and Negroes at Prairie View?

A I didn't know what they were going to do.

Q Let's see if you didn't know one thing. Didn't you know at that time it would be a separate Negro Law School, if it was at Prairie View?

A I did not.

Q You did not. Anyway, you were willing to go to a law school at Prairie View, if it was equal to that at the University of Texas, weren't you?

A If it was equal.

Q And that was June 15, 1946. Now, since that time, June 15, 1946, I will ask you if you have changed your mind about going to a separate law school at Prairie View University, if it was equal to the University of Texas.

MR. DURHAM: We object to the portion of it, if he has changed his mind since June 15th, for the reason that the deposition, they haven't offered it, and it isn't the proper assumption.

THE COURT: He can ask him if he is willing to go now.

Q (By Mr. Daniel) Will you answer that?

A Am I willing to go to a separate school at Prairie View?

Q If it is equal to the University of Texas?

MR. MARSHALL: The record shows there is no law school at Prairie View. The evidence shows it.

THE COURT: It would be hypothetical. Let's see what the last question was.

(The Reporter read to the Court the last question set out above.)

THE COURT: I sustain the objection to the last one. You can reframe your question.

MR. DANIEL: Yes, sir.

Q (By Mr. Daniel) Since June 15, 1946 you have changed your mind about being willing to go to a law school at Prairie View University, even if it was equal to that at the University of Texas, haven't you?

MR. MARSHALL: We renew our same objection.

THE COURT: Ask him if he has changed his mind, first.

Q (By Mr. Daniel) Have you changed your mind?

A Yes.

Q And you changed it after June 15, 1946?

A No, I changed it after studying the situation after filing the suit, after learning more facts about education.

Q After you swore that you would attend one on June 15, 1946, isn't that right?

A That is the date of the deposition?

Q That is the date of the deposition.

A After that.

Q After that date?

A Yes.

Q And it was after that date that Mr. Thurgood Marshall of the N.A.A.C.P. came into this case?

MR. MARSHALL: I didn't object in the beginning, but I object at this stage to cluttering up the record, and I wish, if the Court would permit me to take up a case, that is

on all-fours. It is State, ex rel Bluford vs. Canada, 153 S.W. (2d), page 12.

That is in regard to the Journalism School at the University of Missouri, and that case ruled against the same things we are urging in this case; however, in that case the Attorney General of Missouri put up the same type of smoke screen to the effect that the case wasn't the plaintiff's case, but belonged to a public organization, and to put the case further on all-fours, the organization is the National Association for the Advancement of Colored People, and the Supreme Court, although ruling against us, had this to say.

"In our view, if appellant has the legal right and actually expects to attend the University, her motives for doing so are immaterial."

On that basis, we object to the continuation of this line of testimony.

THE COURT: I think he has answered it, as far as we need on it.

MR. DANIEL: If the Court please, I would like to say to the Court that our purpose here is not to show his motive for wanting to attend a law school. Our purpose is to lead up to a connected chain of events motivating him not to attend the separate school that has been offered to him, and, therefore, showing bad faith on the part of the relator.

MR. DURHAM: He had a right to change it one minute before ten o'clock on the 10th. That is an individual right,

and the fact that he did change can't be questioned.

THE COURT: I think he had a right to change his mind.

MR. DANIEL: Yes, sir.

Q Do you know of any other Negro boys who want to attend the law school?

MR. DURHAM: We object to that as being immaterial, irrelevant, and of no probative force.

THE COURT: I believe I will let him pursue it.

Q (By Mr. Daniel) Do you know of anyone else of the Negro race wanting to go to a law school?

A I know some who say they want to go to a law school.

Q Would you give me the names of those whom you know personally who wanted to attend law school?

A I read in the paper where there was a Mr. Doyle said he wanted to attend a law school.

Q Who else do you know, of your own knowledge?

A That is all.

Q You know of only yourself and Doyle?

A That is right.

Q Has the National Association for the Advancement of Colored People contributed to you, toward the expenses of this lawsuit?

A Contributed to me?

A No.

Q Have they contributed toward the attorneys here, or any other expenses of this lawsuit?

A I don't know that they have. They offered, after I had filed the suit, to assist me in it.

Q Were you in Austin on March 26, 1947, about the time of the last hearing in the Court of Civil Appeals in this case?

A I was here at the last hearing in the Court of Civil Appeals.

Q Isn't it true that you attended a meeting here in Austin the night of March 25th, at which Thurgood Marshall, the attorney here, spoke to a group of Negro citizens.

MR. DURHAM: We object to that as completely immaterial and not germane to any issue.

THE COURT: I don't see how it could assist us, Mr. Attorney General.

MR. DANIEL: I want to prove as to what was said and done about that matter about finances for this case, for the purpose of showing that the National Association for the Advancement of Colored People had as much control and management of this case, and what happened in this situation about this law school as he does himself, and that they have the further purpose of following that up with a concerted program to boycott this law school and keep other students out.

Your Honor, we were careful not to bring up the point about no students over there. Only Marion Sweatt, did

we, on direct examination show, as not in that school. The relator on every possible occasion has pointed to the fact that there were no students there, and we feel like we can show that chain of events, and it is his fault and the people supporting the lawsuit that they don't have students, and that is a material issue in this case.

THE COURT: Anything he would testify to would be hearsay, wouldn't it? It would be what somebody said, wouldn't it?

MR. DANIEL: No, sir; I believe, Your Honor, that through that I can refresh his memory as to knowledge of money which has been spent in this case by N. A. A. C. P. I am trying to refresh his memory. I am also trying to -- I will also try to impeach him in the fact that he said he doesn't know anything about the expenses paid by N. A. A. C. P., and show that he does know about it, and knew about it at this meeting where \$20,000.00 was asked for.

MR. DURHAM: We don't think he can show it through the newspapers.

MR. DANIEL: I am not asking that.

THE COURT: He can testify to anything he knows of his own knowledge about this.

Q (By Mr. Daniel) Isn't it true that at that meeting you attended, isn't it true that at that meeting you attended you heard Mr. Marshall say that this case had already cost

\$6,000.00, and that the N. A. A. C. P. was helping finance it.

A I don't remember.

MR. DURHAM: That is immaterial.

THE COURT: He said he didn't hear it.

Q (By Mr. Daniel) Did you hear Mr. Marshall tell the crowd you needed to raise \$20,000.00 for this lawsuit.

MR. DURHAM: That would be hearsay, what the attorney said.

MR. DURHAM: It is purely hearsay.

Q (By Mr. Daniel) Are you paying Mr. Marshall a salary or fee for assisting you in this case?

A I am not.

Q The National Association for the Advancement of Colored People is furnishing his services?

A I don't know.

Q You don't know how he came into the case?

A He came into the case -- in a conference with Mr. Durham, he said he would get assistance in the case, and how he got it and who is paying him, I don't know.

Q Do you know whether or not the National Association for the Advancement of Colored People have encouraged this lawsuit, and encouraged people to support it?

MR. DURHAM: We object to it.

MR. DANIEL: I asked if he knew.

MR. DURHAM: We object to that as irrelevant and immaterial.

THE COURT: If it was communicated directly to him, I expect it would be helpful.

A I don't know.

Q (By Mr. Daniel) Now, you took a year's study at the University of Michigan, didn't you?

A That is right.

Q What year was that?

A That was the school year of 1937-38.

Q Did the State of Texas pay anything on that at all?

A No, they did not.

Q That was at the University of Michigan?

A That was at the University of Michigan.

Q Now, did you on March 10th, 1947, present yourself over here for registration in the new Negro Law School?

A I did not.

Q Did you at any time from your trip to -- the receipt of your original notice and your trip to Dallas to talk it over with your lawyer, did you personally make any -- come to Austin and look over this school?

A No, I did not.

Q Did you talk with any of the law professors who were going to teach in the school before making up your mind not to go to it?

A I did not.

Q You actually didn't make up your own mind about whether to go to it or not?

A Sure, I made up my mind. I made up my mind after talking with somebody who could judge a law school. I couldn't do that.

Q And that was only Mr. Durham?

A That was only Mr. Durham.

Q And you took his word that you shouldn't come because it was not equal?

A I took his word it wouldn't give me the type of law education that I could obtain in the University of Texas.

Q You want to go to law school at the University of Texas?

A Yes.

Q You know for several years there have been appropriations made by the Texas Legislature to send Negro students outside the State of Texas to schools when they wanted to take certain training that is not provided inside Texas?

A I know that is possible.

Q You didn't apply for that money?

A I did not.

Q You want to go to school in Texas?

A Yes.

Q You are not interested in transferring from some law school you are admitted to, to some law school outside of Texas?

A I want to complete my course in Texas.

Q Not interested in transferring outside the State later on, are you?

A No.

Q You have finished your A.B.Degree?

A Yes.

Q What other degrees?

A That is the only degree I have finished.

Q You don't care to take any other courses than law courses?

A I don't know. I might, after I get in.

Q At the time you filed the suit, all you wanted was law courses?

A I don't know what it will take for me to take law. When I went to the University of Michigan, taking Bacteriology, I had to go back and get other courses. I don't know what I will take when I get in the University of Texas.

Q That is all you have applied for up to this good day, is law, is it not?

A Yes.

Q And that is all you want at this time?

A Yes, that is right.

Q If this Court should hold that this new Negro Law School gives you substantially equal opportunity to obtain a education in law, you wouldn't attend it, would you?

MR. DURHAM: We object to that.

THE COURT: It doesn't make any difference to me if he

attends it or not. This Court is concerned only with the facilities. We don't care whether he goes or not.

Q (By Mr. Daniel) If it is thought that the separate Negro Law School in Austin offers you absolutely equal facilities, you wouldn't attend it, would you?

MR. DURHAM: We object. It is a supposition.

THE COURT: I believe in that case he would have a right to answer if, in his opinion, this school was absolutely equal.

A It depends upon an assumption that I can not agree with.

Q If you could agree with it; let's say that, let's say we leave it to other judges, and some judges, somebody who knows about it, found it to be so, and we assume it is so, that the new Negro Law School is absolutely equivalent to the University of Texas Law School, but it is a separate school for Negroes, you wouldn't attend it, would you?

A I would not.

Q That is all.

MR. DURHAM: We reserve the right to examine him later, Your Honor. No questions.

THE COURT: All right.

(W i t n e s s E x c u s e d)

MR. DANIEL: Your Honor, I believe that -- I was just thinking, they have some witnesses they are in a hurry

to put on, so I suppose it would be all right for us to stop our testimony, and come back to it later. We won't close.

THE COURT: That will be all right. We will take a few minutes while you are getting your witnesses lined up.

{ Court was recessed at 3:05 p. m.,
{ until 3:15 p. m., at which time
{ proceedings were resumed as
{ follows:

D R. R O B E R T R E D F I E L D, a witness

produced by the relator, having been by the Court first duly sworn as a witness, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give the Court your full name, sir.

A Robert Redfield.

Q And your present occupation?

A I am now Professor of Anthropology and Chairman of the Department of that name at the University of Chicago.

Q Will you review briefly your past qualifications, and your training, and the positions you have held, and the general work you have been doing?

A After taking a Bachelor's Degree, I went to the University of Chicago Law School and took a degree of J. D. I was admitted to the Bar of the State of Illinois, and two years thereafter returned to academic life, where I received

training in Anthropology and Sociology, and special work in the problems between the racial and color groups. I received a Doctor's Degree in 1928.

Except for periods when I have been giving instruction at other universities in the United States, I have been employed at the University of Chicago as a teacher, and doing research work, and as an educational administrator.

I have also been in charge of the research program for Carnegie Institute at Washington, and at the present I am in that capacity. Last October I gave up the position of Dean of Social Sciences at Chicago University, a position I held for 12 years.

Q How long have you been studying in the field of racial differences?

A About 20 years.

Q And in that period of time have you considered the question of alleged racial differences in school students?

A I have considered many aspects of the problem of differences between national groups, including school students.

Q And have those studies included the comparison of students of both races, studying under the same circumstances?

A I have followed the literature in that field, as well as, of course, making my common-sense observations as a teacher and administrator.

Q Well, Dr. Redfield, as a result of your studies, are you in a

position to give your opinions on the general subject?

I will give you more specific ones later, but I wish on the general subject of, one; the inappropriateness of segregation to the purposes of education, the inappropriateness of segregation in education to the interests of public security and of it, and to the general welfare of the community.

MR. DANIEL: Your Honor, we object because this lawsuit involves only education in law and procedure. We object to any questions or opinion evidence that may be offered as to general surveys, not limited to law schools, which are composed of those who have completed certain preliminary work in other fields, and we object to the testimony that has been called for by this question, to the question, and to any other questions along that line.

MR. MARSHALL: May it please the Court, this case has narrowed down to one issue. I think the pleadings did considerable toward the end of narrowing it down. In the first place, in our original petition we claimed that the refusal to admit the relator was in violation of the 14th Amendment, and in all of the pleadings filed by the State of Texas, no question has ever been raised as to the qualifications of relator other than his race or color, so that is out of consideration.

The defense of respondents is summed up in their first supplemental answer, large paragraph 2, small (1) in parenthesis, in this statement.

I am quoting.

"The Constitution and laws of the State of Texas require equal protection of law and equal educational opportunities for all qualified persons, but provide for separate educational institutions for white and negro students."

And then follows the allegation that the refusal to admit the relator in this case was not arbitrary at all, and was not in violation of the 14th Amendment, but was in keeping with the segregation statutes of the State of Texas, and in that way joined issue; and in the second supplemental petition we alleged:

"In so far as respondents claim to be acting under authority of the Constitution and laws of the State of Texas their continued refusal to admit the relator to the Law School of the University of Texas is nonetheless in direct violation of the 14th Amendment to the Constitution of the United States."

If there can be any doubt as to our position in the case, in the fourth paragraph in the same pleading in the supplemental petition, we state:

"In so far as the Constitution and laws of Texas relied on by respondents prohibit relator from attending law School of University of Texas

because of his race and color such constitutional and statutory provisions of the State of Texas as apply to relator are in direct violation of the 14th Amendment to the Constitution of the United States."

So, I think that the lines are drawn in this case, and the direct attack has been made that the statutes requiring segregation, the general statutes which prohibit this relator from attending the University of Texas, we claim are unconstitutional, and we have the right to show their unconstitutionality.

How do we propose to do so? Several ways. Before that, I would like to bring this out. As to whether there is any question as to the validity of segregation in this case, the Attorney General brought it out with the last witness. He deliberately brought it out, according to which, as I understand from his cross examination, the Attorney General believes the relator has changed his position from conforming to the statute to now insisting that segregation was invalid, and it was the Attorney General who asked the last question which puts the validity of the segregation statutes flat in issue in this case.

There are several ways of going about proving the unconstitutionality of statutes. They haven't shown any line of reasoning for the statutes. I imagine they are

relying on the presumption that the statutes are constitutional. If they are relying on that we have a right to put in evidence to show that segregation statutes in the State of Texas and in any other state, actually when examined, and they have never been examined in any lawsuit that I know of yet, have no line of reasonableness. There is no understandable factual basis for classification by race, and under a long line of decisions by the Supreme Court, not on the question of Negroes, but on the 14th Amendment, all courts agree that if there is no rational basis for the classification, it is flat in the teeth of the 14th Amendment.

THE COURT: I will let you offer your testimony. I will give you your bill, and I will allow it, at any rate.

MR. DANIEL: Do I understand they will be limited to surveys on law students, or education in general?

THE COURT: Of course, it is like throwing a rose into a group of flowers. The odor is there. We are presumed to act only upon what is admissible testimony, in the last analysis, anyhow, so I am going to hear it, and if in my opinion it is material and admissible testimony, I will consider it. If it isn't, I will not.

MR. MARSHALL: Thank you, sir.

THE COURT: It will be in the record.

MR. DANIEL: We may have our full bill on it, with-

out repeating our objection?

THE COURT: That is right, it will follow right through.

MR. DANIEL: Unless there is something else.

THE COURT: Yes.

Q (By Mr. Marshall) Dr. Redfield, as to the question of the relationship of segregation to the purposes of education, will you first give us what are the overall acceptable purposes of education as construed by educators in the field? What is the main purpose of public education?

A No two men, of course, will state this the same way, but I should say that the main purposes of education are to develop in every citizen in accordance with the natural capacities of those citizens, the fullest intellectual and moral qualities, and his most effective participation in the duties of the citizens.

Q Dr. Redfield, are there any recognizable differences as between Negro and white students on the question of their intellectual capacity?

MR. DANIEL: Your Honor, we object to that. That would be a conclusion on the part of the witness. It covers all negro students and all white students. It isn't limited to any particular study or subject or even show what it is based on.

THE COURT: I suppose his qualifications he has

testified to would qualify him to draw his conclusion.

MR. MARSHALL: We will follow with what he bases it on.

A If Your Honor will allow me I will present the answer in that form.

THE COURT: Yes.

A We got something of a lesson there. We who have been working in the field in which we began with a rather general presumption among our common educators that inherent differences in intellectual ability or capacity to learn existed between negroes and whites, and have slowly, but I think very convincingly, been compelled to come to the opposite conclusion, in the course of long history, special research in the field.

The general sort of situation, Your Honor, which brings about this opposite conclusion, the conclusion that I may state now, significant differences as to intellectual ability, or as to ability to learn, if any, are probably not present between the two groups. We have been brought to that conclusion, Your Honor, by a series of studies which have this general character.

Samples from the two groups, negroes and whites, are placed in as nearly identical situations as possible, and given the limited tasks to perform, tasks which are understood to be relevant to the intellectual faculties, or the capacity to learn. Then these samples are measured against each other as to the degree and kind of success in performing

these limited tasks. That is a general description of the material which leads to the conclusion I have stated. Perhaps at this point it is sufficient to say that the general conclusion to which I come, and which I think is shared by a very large majority of specialists----

MR. DANIEL: We object to that as hearsay, Your Honor.

THE COURT: I think so.

A The conclusion, then, to which I come, is differences in intellectual capacity or inability to learn have not been shown to exist as between negroes and whites, and further, that the results make it very probable that if such differences are later shown to exist, they will not prove to be significant for any educational policy or practice.

Q (By Mr. Marshall) As a result of your studies that you have made, the training that you have had in your specialized field over some 20 years, given a similar learning situation, what, if any differences, is there between the accomplishment of a white and a negro student, given a similar learning situation?

A I understand, if I may say so, a similar learning situation to include a similar degree of preparation?

Q Yes.

A Then, I would say that my conclusion is that the one does as well as the other on the average.

Q Well, in your experience, your studies in this particular

field, what is your opinion as to the effect of segregated education; one, on the student -- I will give them all to you, and then you can take them separately -- two, on the school, and three, on the community in general. Will you give your opinion?

- A My opinion is that segregation has effects on the student which are unfavorable to the full realization of the objectives of education. First,-- for a number of reasons, perhaps. I will try to distinguish.

Speaking first with regard to the student I would say that in the first place it prevents the student from the full, effective and economical coming to understand the nature and capacity of the group from which he is segregated. My comment, therefore, applies to both whites and negroes, and as one of the objectives of education is the full and sympathetic understanding of the principal groups in the system in which the individual is to function as a citizen, this result which I have just stated is unfortunate.

In the second place, I would say that the segregation has an unfortunate effect on the student, which I might now anticipate, since, to my opinion, has an unfortunate effect on the general community, in that it intensifies suspicion and distrust between negroes and the whites, and suspicion and distrust are not favorable conditions either for the acquisition and conduct of an education, or for the

discharge of the duties of a citizen. You asked me, did you not, as to the class, and the community?

Q The school was the second, and the community was the third.

A I think I have perhaps indicated the difficulties with reference to the school. The school room situation is, provides less than the complete and natural representation of the full community. That is the general view of educators, or it is my view, I should say. It is my view that education goes forward more favorably if the community of student, scholar and teacher is fairly representative of the total community. Rather, the highly specialized and the development of the suspicion and distrust which the segregated situation brings about is correspondingly unfavorable in the school.

With respect to the general community, I suppose there isn't a great deal to add, but if I am still answering your question, I might say this. In my opinion, segregation acts generally on the total community in an unfavorable way for the general welfare, in that it accentuates imagined differences between negroes and whites. These false assumptions with respect to the existence of those differences are given an appearance of reality by the formal act of physical separation. Furthermore, as the segregation, in my experience, is against the will of the segregated, it produces a very favorable situation for the increase of bad feeling, and even conflict, rather than the reverse.

Q Dr. Redfield, what has been your personal experience concerning the admission of minority groups to educational facilities to which they had previously been denied admission?

A Well, as I have indicated, my principal experience has been in connection, in the University of Chicago, and in its related educational institutions. The situation there generally is that no segregation is practiced in any of the educational facilities of the University, neither in the class room nor in the dormitory, or in eating facilities or anywhere else in the educational facilities. While the same city or community in which the University lies is one in which segregation or exclusion is practiced as a matter of custom, but not as a matter of law, in a very wide variety of situations, and facilities open to the general public.

In giving that background, I come to the question of what my experience has been with negroes theretofore denied some educational facilities, and I have had experience with one or two such situations in the University of Chicago and its affiliated institutions, and that in each of the cases that I can recall the result has been, in my opinion, highly beneficial to education and to the University community.

Q Were there any ill effects at all?

A I don't know of any.

Q Do you know of any good effects?

A Yes. Perhaps I should mention a case. The students were

denied admission, negro students were discouraged from admittance is perhaps a more accurate statement, to the labor-school story/of the University.

They were discouraged admission for a great many years. Then it was made apparent that they would be welcome, and they began to come, and there was an opposition from a minority of the academic community to the step. Many evil consequences were told. None of those consequences took place, but, on the other hand, there was an improvement in the community in that there was a representation of the national community which is favorable to education, and the relations between the white and the negro groups were improved in parent-teacher and endeavor.

Q Thank you, Doctor.

MR. DANIEL: I want to be sure that my exceptions and objections have gone to the entire testimony.

THE COURT: Oh, yes.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Redfield, how many of those surveys of the reaction of students have been limited to law school students?

A Are you speaking of surveys which I made personally, or of which I have known?

Q Which you made personally?

A I have never made a survey of law school students.

Q Is this testimony you have been giving based on surveys you have made, or you have read about?

A In larger measure, the latter. I have participated.

Q You have participated in some?

A Yes.

Q But the majority of the studies you have been testifying about and upon which your testimony is based, are studies made by other people, and which you have read?

A That is the nature of science, sir.

Q Yes. I just want to be sure that is in the record. Somebody may not know that is the nature of science. Have you yourself made any study of the effect of separate education in law schools?

A No, sir.

Q As I understand it, it is your opinion that it is discrimination against the white students to require them to go to a white University here in Texas; is that right?

A If I understand the meaning of what I said, that isn't what I was attempting to say. I was attempting to describe the consensus in regard to educational objectives in the policy of segregation.

Q And you applied that to separate white schools, with only white students. You said several times, I believe, in your testimony, I believe you said several times that the same applied to segregation of white students, making them go

to the separate school.

A I think it is to the advantage of any student to be in a community that is largely representative of the national community.

Q To that extent, you believe that any state that requires the white students to go into a separate school from the negro students is to that extent a discrimination against the white students?

A I am not sure the other description was used, but I think it worked both ways.

Q It worked both ways. You have talked about a gradual change that you have observed. All of your testimony, I believe, indicated a gradual change in the situation you have talked about, and in the conclusion you have reached.

A With reference to admission of negroes to facilities that had theretofore been denied them?

Q Yes.

A The case I had in mind was where there was a period when they were not admitted, and then a period when they were admitted. I don't know how you use the word "gradual."

Q As I understood, you thought there was some difference between ability to learn----

A I beg your pardon. You are now asking me with respect to to the quality of students, as to this matter of racial difference?

Q Yes.

A I said opinion on the subject has gradually changed.

Q Isn't that generally due to the fact that the subject matter has gradually changed over a period of years?

A We are wiser than we were, yes, sir.

Q Don't you believe that in a community where segregation has been enforced as long as it has in some of our southern localities, that the only way that the ultimate goal that you think is the best can be properly obtained is by a gradual change, instead of forcing it upon the community?

A If I can answer the question at all, Your Honor, I would like---

THE COURT: You can explain.

A I think that all change should not come on any more rapidly than it is consistent with the general welfare.

Q (By Mr. Daniel) Yes, sir. In other words, you will agree with the other eminent educators in your field, the fields in which you are acquainted, that it is impossible to force the abolition of segregation upon a community that has had it for a long number of years, in successfully obtaining the results that are best?

A No, I don't agree to that.

Q Do you think the law should be changed tomorrow?

A I think that segregation is a matter of legal regulation. Such a law can be changed quickly.

Q Do you think it has anything to do with the social standing in the community?

A Segregation in itself is a matter of law, and that law can be changed at once, but if you mean the attitude of the people with respect to keeping away from people of another race, then perhaps I have another answer.

Q I am speaking about desired results for the individual and the community, and for the state.

A Will you ask your question over again?

Q With respect to the individual, the state, the community and the schools, do you, in your opinion, believe that an immediate change in segregation will accomplish the results that you have testified as being best in a community where segregation has been enforced and recognized for many years?

A I think in every community there is some segregation that can be changed at once, and the area of higher education is the most favorable for making the change.

Q You admit there are areas in which the change can not be made at once?

A You mean in 24 hours, with more harm than good resulting?

Q Yes.

A Certainly.

Q Or within a year?

A May I state my opinion again?

Q Instead of 24 hours, we will say within a year or two.

A I will put it this way. I think this will satisfy you on that as covering my opinion. I think the steps by which, and the rapidity with which segregation in education can be removed with the benefits to the public welfare will vary with the circumstances.

Q In other words, the circumstances of the community and how long there has been segregation will have a bearing on it?

A Yes, sir.

Q In other words, do you recognize or agree with the school of thought that, regardless of the ultimate objective concerning segregation, that if it is to be changed in southern communities where it has been in effect for many years, if it is to be changed successfully, it must be done over a long period of time, as the people in that community change their ideas on the matter?

A That contention, I do not think, will be my opinion on the matter scientifically.

Q Does that represent, scientifically, a school of thought on that, in your science, in the matter?

A There are some that feel that way.

Q Yes, sir. You are acquainted with the history of the carpet bagger days in the Civil War?

A I feel better acquainted with it today, sir, than anybody.

Q Dr. Redfield, let me get you clearly on that. You are not talking about your own trip down here, are you, to Texas?

You say you are acquainted with it today?

A It just drifted into my mind.

Q You recall the carpet baggers, where they packed up and came down here from out of the state. You didn't mean to be talking about your trip down here, did you? You are the only witness from out of the state that we have had on, so far. You didn't mean to be talking about the trip down here?

A I am afraid the idea has come into my mind now.

Q That wasn't what you referred to?

A It is in my mind now.

Q Are you acquainted with the history of the carpet bagger days in the south?

A In a very general way.

Q You know, do you know, from that history, that the attempt to force the abolition of segregation in the south just didn't work?

A Yes, of course.

Q Do you feel like the social attitudes and beliefs of the people in that day had some bearing on whether or not it would work?

A Oh, yes.

Q Of both races?

A Oh, yes.

Q Are you acquainted with Howard University Law School in Washington?

A No, sir, only by reputation.

Q You know it is a negro law school?

A Yes.

Q Have you made any check on the separate Negro Law School as to the kind of educational facilities and equality of opportunities that are offered the students of that school?

A No.

Q Would you undertake to testify here, Dr. Redfield, that students attending that separate Law School for Negroes at Howard University do not receive equal educational opportunities in law with those attending a similar white school?

A In my opinion, deprivation of opportunity to exchange professional and intellectual matters with members of the other major groups in their nation is one of the short-comings of the school.

Q You have never made any check, though, as to students who have come out of that school, and where that has been a handicap on them, have you?

A No, I never have.

Q It is just your idea it is a handicap, without having checked to see whether or not it is?

A That is right.

Q Are you acquainted with Lincoln University by reputation, a separate law school for Negroes in Missouri?

A I have heard of it.

Q Have you made any survey of the students educated in that school?

A I think I have indicated I made no survey of legal education.

Q You are not prepared to say whether or not those students who received their legal education in that separate law school come out of there handicapped in any respect, as far as their knowledge of the law is concerned, are you?

A I have the opportunity of transforming a conclusion, and as far as there is validity in that, I can draw a conclusion as far as segregated education is concerned.

Q I am talking about the individuals who have come out of the separate Negro Law School. Have you made any check to see whether they have received equal educational opportunities with white students of Missouri in the white law school?

A I have had no occasion to.

Q Then, you don't know whether there are any disadvantages or not, actually, to those individuals, do you?

A In the particular case of those individuals?

Q Yes, sir.

A By virtue of knowledge I might have of them in particular,

no.

Q Do you recognize, Dr. Redfield, that there should be some limit to your theory of abolition of segregation?

A I think I have indicated a limit.

Q A limit?

A Yes, a limit.

Q What limit do you say there should be, and will still give what you think is necessary from the standpoint of public education?

A The general welfare would be served by extending non-segregation, at the expense of segregation, and that general limit will be defined in my particular conclusion, as the particular circumstances.

Q Is it necessary that there be social commingling?

A I understand that by social commingling is meant communication of students and professor, and intellectual endeavor,-- yes.

Q Is that as far as you think it is necessary to have such commingling to obtain the objectives you think are so necessary?

A I think that whatever commingling is a natural and proper accessory to the educational endeavor will in the long run

develop to the general welfare.

Q Do you think it is necessary to have social commingling of the races in order to obtain the things you think are necessary to give, to attain the objective that you say is set for public education?

A The question is repetitious. I have answered it.

MR. DURHAM: If Your Honor please ----

THE COURT: I really believe he has answered it.

If you are not quite satisfied, General, you may ask another question.

MR. DANIEL: I am not quite satisfied. I don't want to ask an embarrassing question, but yet, -- you have testified -- I really want to know -- you have testified that you believe certain segregation must be done away with in order to accomplish the best for the school and the community?

A If you are thinking about intermarriage, -- if that is in your mind, I would be delighted to answer.

Q My mind hadn't gotten quite that far on the subject.

A I am sorry.

Q I am simply trying to ask you, since you have testified that a certain amount of doing away with segregation is necessary, I want to know your explanation, or expert opinion, on how far it must be done away with in order to accomplish the best for the individual, the school and the community.

MR. MARSHALL: This case is at least limited, and the direct examination is most certainly limited, to education.

THE COURT: I understood that is what he answered, that only in so far as it was necessary for students to have a mutual exchange of ideas along professional and educational lines.

MR. MARSHALL: But this question isn't limited to that.

THE COURT: I understood he answered as I stated, a good while ago, General.

Mr. DANIEL: I have asked how far he thinks that

is necessary.

A In order to accomplish the educational objective?

Q Yes.

A Roughly speaking, in the class rooms and in the natural discussion of educational objectives we have commons rooms in our University where the students meet to discuss common educational problems.

Q What about fraternities? Is it necessary that there be commingling there?

A In any particular situation, I should think probably not.

Q You think it is not necessary that they belong to the same social groups?

A This might not be your case, but I should say probably not.

Q You feel like a Negro student at a separate school that doesn't have the same fraternities or scholarships as the other school ----

A I was thinking of social fraternities.

Q Let's limit it to that.

A That seems relatively unimportant. I could answer it either one way or the other, and I would like to see the particular case to see how I would answer it.

THE COURT: Are there other questions?

MR. DANIEL: Yes, sir; just a second, Your Honor.

Q Doctor, are you acquainted with the Encyclopedia Britannica, the publication by that name?

A I have a set. I don't look at it very often.

Q You are from the University of Chicago?

A Yes.

Q Is that publication now published under the auspices of that University?

A Yes, sir; and it badly need rewriting.

Q It is published under the auspices of your University?

A Yes.

Q Have you read the article therein on education, and segregation of the races in American Schools?

A If I have, I don't remember it.

Q You don't remember it.

Have you written any articles for the Encyclopedia Britannica?

A No, we are just beginning a revision of anthropological articles, and it seems there has to be a very drastic change.

Q Do you know who wrote the articles in the Encyclopedia Britannica on the subject of higher education for Negroes, and segregation?

A I don't remember such articles.

Q Do you recognize the Encyclopedia Britannica and the articles on such subjects as an authority in the field?

A No, I do not.

Q You do not?

A No, sir.

Q Do you know of some scientists in your field who do recognize those articles?

MR. DURHAM: We object to that as being irrelevant and immaterial, what somebody else recognizes.

THE COURT: That would be his -- perhaps not what they recognize, but what they have said about it.

A I think I could answer that question, and do more justice to the meaning than just with a yes or no answer.

Q (By Mr. Daniel) Go right ahead.

A All of the articles you have mentioned in that publication are of extremely uneven merit, so that the men with whom I have talked who have studied it--- I haven't studied it -- tell me that certain articles are extremely good and other articles are extremely bad. That is about the best I can answer.

Q I understand you are going to leave, and we may want to know something about that, as an authority. Is that Encyclopedia Britannica, could we here in the Court -- could the Court, in your opinion, consider that as one of the recognized authorities in the field, if they have an authority on the subject?

A I don't think you could, for the reason that you might hit on one of the articles that was particularly out of date.

Q You haven't read the articles on the subjects we are talking about?

A If I have, I have forgotten it,-- I probably have.

Q But it is your opinion the Court couldn't accept that as an authority?

A You might get a bad one. I couldn't say.

Q Could you give us some of the authorities that you think we would be justified in taking as authorities on the subject you have testified to us about? Have you written any books on the subject?

A Not with respect to the American Negro. I have written on the general subject with respect to other racial groups.

Franz Boes , Ruth Benedict, Ashley Montague, Otto Kleinberg.
Is that enough.

Q Give us one more.

A One more. I will make it a good one. Then, Dr. Leslie White.

Q Do all of these scientists have the same, share your ideas as to segregation?

A I don't know.

Q Do you know any scientists who have written books or articles on the American Negro, on segregation, who do not share your ideas?

A Many of the scientists that study this problem have not written or expressed themselves on the education results of segregation. They are agreed, all that I have mentioned, and

a great many more on the conclusions which I gave in direct testimony in the first of my remarks with regard to the probability, or the existence of inherent differences in educational capacity, but the application of the conclusion to the school situation concerns a very much smaller group of people, because the group of people concerned with that are educational administrators and the like, and many of those people whose names I have given you are not educational administrators.

Q But on your conclusion as to education, you told me there were authorities in the field who disagreed with your conclusion?

A I think not.

Q Maybe I am speaking about the gradual change.

A I don't know who I could cite for that.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Redfield, you testified on cross examination that your opinions were based on your own studies, but mostly on other studies that have been made. I want to ask you as to whether or not the studies you are speaking of made by other people were scientific studies or not?

A They were.

Q And I want to ask you as to whether or not they were mostly published scientific studies?

A They were.

Q Generally recognized in your field as authorities?

A Yes, they were.

Q Do you know of any recognized scientific study that recognizes any inherent racial difference among the races, as to capacity to learn?

A A man named Portees in Australia published some papers which I have read, on the Australian aborigines, which reach the conclusion that there are inherent differences between the races. I am sure there are other papers that reach a similar conclusion. They are all specific studies, and the conclusions are drawn on differences in achievement in the races, and the case of Portees is one. John Ferguson is publishing one, but there are very, very few that would draw the opposite conclusion to the one that I have stated concerning the inherent difference.

Q Isn't it true the Australian aborigine is on the bottom of the heap?

A The important thing is there are different studies, and it has taken them a long period of time to reach the conclusion I have offered.

Q Isn't it true the majority of scientists in your field are in agreement there is no inherent racial difference?

A Yes.

Q Isn't it true that such studies as the Kleinberg study in 1935, and others, are specific factual studies which show that a given fact situation, there is no difference?

MR. DANIEL: We object to that because it is leading.

THE COURT: Of course, it is leading.

MR. MARSHALL: Your witness.

RECROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Redfield, in determining the question of changing the laws and regulations in a community concerning segregation, how far, in your opinion, should the community, should the State consider the community attitudes of both of the races concerning the matter?

A It would depend upon the circumstances. I can make an observation, which I think is a partial answer. I think the effect of having a regulation -- I guess I will have to make a speech to answer that.

Q I don't believe ----

A I have got quite a long ----

Q I don't believe it calls for that. I will ask you this. Do you think the community attitude of both of the races should be considered when you go to see what is best in the way of the field of education for that community?

A I think so. You understand that the attitudes of the community are complex. Attitudes in the State of Illinois and the State of Texas, I take it, are, one; some white people don't want to be near negroes under certain conditions, and those same white people want equality of education and other

opportunities in America, and there are both kinds of attitude in making the change.

Q Would you consider the attitude of some Negroes that would rather have segregation themselves, in determining the educational situation?

A Yes, and you have to consider that Texas, with other Americans, share the view that equality of opportunity is due every man in this country, and they are struggling, as are all of us, to reconcile those attitudes.

Q You would take those two into consideration before you would arrive at what is best to be done for the individual and the community?

A Always understanding both kinds of attitudes.

Q I will ask you, Dr. Redfield, if you have made any check on the relative number, of where the Negroes of this country who hold college degrees, have obtained those degrees? Have you made any study as to the opportunities offered for the Negroes of this country to obtain college degrees?

A I have read reports on it.

Q Isn't it true that the figures of 85% of the Negroes of this country who have college degrees received them from southern, separate colleges?

A I don't remember.

Q Does that sound about right?

A When you say it, sir, it does.

Q Thank you. Are you a member of the National Association for the Advancement of Colored People?

A No.

Q That is all.

(W i t n e s s E x c u s e d)

MR. DURHAM: That is the only one that we have to put on out of order.

MR. DANIEL: I want to call Mr. Durham.

W. J. D U R H A M, having been called as a witness by the Respondents, and having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name, please.

A W. J. Durham.

Q Where do you live, Mr. Durham?

A Dallas, Texas.

Q What business are you in?

A Engaged in the practice of law.

Q Are you attorney for Heman Marion Sweatt in this case?

A I am.

Q You heard him testify concerning the fact that you were his attorney when the suit was filed?

A I did.

Q Was Thurgood Marshall here in the case at that time?

A No, I wasn't here when he talked to me about it.

Q You were not in it either?

A You said was he here. I was in Dallas when he talked to me about it.

Q You misunderstood my question. Was the attorney here, Thurgood Marshall, the attorney for the National Association for the Advancement of Colored people, helping you in the case at the time you filed it?

A No, he wasn't.

Q Was he in the case at the time the deposition of the relator was taken in Houston, Texas, June 15, 1946?

A I had possibly had communication with him.

Q You had?

A Yes.

Q Had the relator had any communication with him at that time?

A Not that I know of .

Q I would like for you to state to the Court what, in the way of finances or legal services, the National Association for the Advancement of Colored People is furnishing in this case?

A They have furnished the money to pay for the record on appeal.

Q How much money has the National Association furnished?

A \$100.00 to me, I think it was. No, whatever the record in this case costs. I don't remember just what it was.

Q Are they also furnishing the attorney for the Association, Mr. Marshall?

A That is right.

Q Were you here at the meeting held here in Austin the night before the case came up in the Court of Civil Appeals?

A I was not.

Q What other finances had the N. A. A. C. P. furnished in this case?

A None, to me.

Q Do you know of any to anyone else?

A I don't know, not of my own knowledge.

Q Did you attend a meeting on March 8, 1947 in Dallas and address that meeting which was considering the question of this lawsuit and higher education for Negroes?

A I have attended several meetings in Dallas where they discussed higher education for Negroes. As to what date, I don't know, I don't remember at this time.

Q Were you in Dallas when the relator came up there and showed you the relator from the registrar saying that he would be admitted to the new Negro Law School?

A I was there. He stayed at my home.

Q You have heard him testify here as to the discussion and conclusion that was reached there, to the effect that he should not enroll, have you not?

A I did.

Q Prior to advising him whether or not he should enroll in the new Negro Law School, I will ask you if you came to Austin

and made any check on the school?

A I did not.

Q Did you send anyone down here to make an inspection of the school?

A I did not.

Q Did you talk with Dean McCormick or any of the other faculty members assigned to the new Negro Law School to determine whether or not, in your opinion, this new Negro Law School had the equal facilities to those at the University of Texas?

A Did I talk to any of them?

Q Any of the officials of the University?

A I did.

Q Did you make any investigation whatever of the courses that were to be offered, and the instruction to be offered in this new school, before advising, before you and the re-lator came to the conclusion that he should not attend?

A I only read the courses set out in the catalogue.

Q And those are the same courses offered at the University of Texas?

A Those are the courses offered at the University of Texas.

Q That is all of the knowledge of the matter that you had before you and he reached the conclusion he should not enroll in the separate law school?

A No.

- Q You say that isn't all of the information you received concerning the courses?
- A The courses, yes. That is the only information I had concerning the courses.
- Q Did you have any other information concerning the professors?
- A I never knew who the professors were.
- Q I see. And that is all of the investigation that you made at that time concerning the facilities of the school, the courses and the professors, before the decision was reached as to what he should do?
- A Well, no.
- Q What other investigation did you make of the facilities, the courses and the professors?
- A I asked a Mr. Maceo Smith to furnish me a report.
- Q You asked Mr. Maceo Smith to furnish you a report on the new Negro Law School?
- A That is right.
- Q Did he furnish you that report?
- A Yes.
- Q Is he connected with the National Association for the Advancement of Colored People?
- A Yes.
- Q What is his official position with that organization?
- A Secretary of the State Conference of Branches, N. A. A. C. P.
- Q State that again.

A Secretary of the Texas Conference of Branches of N. A. A.
C. P.

Q Is he here in the court room today?

A I haven't seen him.

Q Where does he live?

A Dallas.

Q Did you make any investigation other than the one you asked
Maceo Smith to make?

A No.

Q Did he give you a written report?

A He gave me a report by telephone.

Q How long after you asked him for it?

A Oh, perhaps four or five days.

Q Perhaps four or five days -- did you make -- then, was it
strictly on the investigation made by Maceo Smith that you
arrived at the conclusion that you and the relator agreed
upon him ----

MR. NABRIT: We object to that. The basis upon
which the attorney advises his client is ----

THE COURT: It is confidential.

A And I desire to claim it at this time.

Q (By Mr. Daniel) All right. I will ask no further ques-
tions, -- before you go, I will ask you one question. Did
you make any other investigation yourself of the matter,
regardless of what you advised your client? You, yourself,

did you make any other investigation of the matter other than what Maceo Smith ----

THE COURT: You can ask him whether he did or didn't, but not what he did.

A I made no other investigation.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q When you say the money that was contributed to the record in this case by the N. A. A. C. P., did you mean the National office of the N. A. A. C. P. or the State Conference of Branches?

A The State Conference of Branches of the N. A. A. C. P., and not the National.

Q And that conference is composed solely of people in Texas?

A Around 40,000 negroes and whites.

Q Both whites and negroes?

A I want to make this statement. When I said "for the record" in this case, Mr. Sweatt gave me the first \$100 to pay the Court costs when I filed this lawsuit. That came directly from Mr. Sweatt.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Daniel:

Q To refresh your memory on this matter of the meeting of March 8, 1947, I would like for you to look over this

article and see if you can refresh your memory as to that particular meeting I am asking about.

A This says March 13th.

Q If you will read on down it says the meeting was on the 8th.

A I attended a number of meetings. Whether this meeting or not, I don't know.

Q Look that over and see if that doesn't refresh your memory about attending that particular meeting?

A Now, I attended two or three meetings where similar actions were taken as the action taken here. Whether it was at this meeting or not, because they hold many meetings that I don't attend.

Q This meeting reported here was held just before the Negro Law School was to be opened, the week-end before, wasn't it?

A I don't know.

MR. NABRIT: Your Honor ----

MR. DANIEL: I will withdraw the question.

Q Did you attend one of those meetings several days before March 10, 1947, at which you made a report to the meeting yourself about the separate Negro Law School that was set up here, and which Mr. Henry Doyle, of Austin, was present, and Joseph Rhodes was present and presided at the meeting?

A I have never made a report to any meeting at any time anywhere with reference to the Negro Law School, because I knew nothing about it.

Q You knew nothing about it. Did you ever attend any meeting at which any report was made concerning the N. A. A. C. P. intending to picket the Negro Law School on March 10, 1947, the date it was to open, in which that was reported?

MR. NABRIT: Your Honor, that question is entirely irrelevant and it is immaterial.

THE COURT: I believe it is. I will let counsel answer it, if it -- if he wants to.

A I have never been in a meeting that I can remember where the N. A. A. C. P. took action with reference to picketing the law school.

Q (By Mr. Daniel) I didn't ask you if they took any action. I said, was any report there made or anything mentioned concerning the proposed picketing of this school?

A Not while I was in the meeting.

Q Not while you were in the meeting. How long did you stay?

A I came into the meeting -- the Bar Association meets from ten until eleven, as well as I remember, the last meeting I attended on Saturday morning, and I attended the Dallas County Bar meeting from ten until eleven. I don't know how long the meeting had been in session. I went back to my office, and the office girl told me they called me to come to the auditorium at the Roseland Hall. They wanted me to make a statement for the benefit of those assembled with

reference to the Sweatt case, and I think I got to the meeting around twelve o'clock. The only statement I made in that meeting was with reference to the status of the Sweatt case, and as to other -- what other business they transacted before or after I left, shortly after I made my statement with reference to the Sweatt case ----

Q Picketing wasn't mentioned while you were at the meeting?

A No, because when I came in I told the girl in the office that I would have only a few minutes, and when I came in, they said, "Come to the front, and we will let you make your statement and go." I made my statement, and I guess I had been in there not more than four or five minutes. As soon as I made my statement I attempted to leave the building, and some two or three fellows I knew stopped me, and I sat and talked to them for maybe five or ten minutes, and I left the meeting, and it occurs to me that the meeting adjourned while I was still there talking to them, but I don't know what discussion took place before I went there.

Q What was the name of the meeting -- the organization?

A I believe that was the -- I am mistaken about the N. A. A. C. P. It was a State Council of Negro Organizations.

Q Was N. A. A. C. P. a member of that council?

A As I understand, every organization in Texas, religious, fraternal, social and all other characters, organizations of that nature, are members of that organization. That is my

Q Do you know Henry Doyle, of Austin?

A Yes.

Q Did you see him there at the meeting that day?

A I am not sure whether I knew Henry Doyle on that day. I probably did. My impression is there were some people from Austin.

Q That was Saturday before May 10, 1947?

A I can't be exact about the date.

Q It was before the opening date of the new law school in Austin?

A My best recollection is that it was, but I wouldn't be positive about it.

Q I see. Is Maceo Smith a lawyer?

A No.

Q He is the man that made you the city report that you received on the law school, is that right?

A That is right.

Q He is not a lawyer?

A That is right.

Q That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will recess until nine o'clock in the morning.

{ Court was recessed at 4:30 p. m.,
{ May 14, 1947, until 9:00 a. m.,
{ May 15, 1947.

MORNING SESSION.

May 15, 1947.

9:00 A. M.

EARL G. HARRISON, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.Questions by Mr. Nabrit:

Q State your name, please.

A Earl G. Harrison.

Q And where do you live, Mr. Harrison?

A Philadelphia, Pennsylvania, 2028 Spruce Street.

Q What is your occupation?

A Professor of Law, and Dean at the University of Pennsylvania Law School in Philadelphia.

Q Dean Harrison, would you please state your educational qualifications?

A I received my Bachelor of Arts Degree at the University of Pennsylvania in 1920; my Bachelor of Law Degree at the University of Pennsylvania Law School in 1923.

Q Would you state briefly your professional experience?

A From 1923 until July 1, 1945, I practiced law in Philadelphia. During a portion of that time I conducted courses at the University of Pennsylvania Law School, principally between 1932 and 1938. I became Dean, full-time Dean, and Professor

of Law on July 1, 1945.

Q Are you a member of the American Bar Association?

A Yes, sir, I am; and I am Vice Chairman of the American Bar Association's Committee on Continuing Education of the Bar, a committee which is considering ways and means of post admission education. I might say also that since '39 I have been a Trustee of the University of Pennsylvania, and as such, a member of the Board of Trustees of the Law School of the University of Pennsylvania.

Q Have you ever done any work for the Department of Justice?

A Yes, I have.

Q What was the nature of that?

A Well, in 1940 I directed the first National registration of aliens in the United States; immediately after the outbreak of war I supervised the registration of aliens of enemy nationality. From 1942 to 1944, I served as United States Commissioner of Immigration and Naturalization.

Q Now, Dean Harrison, I want to ask you a hypothetical question. Based upon the evidence which has been, which has already been offered in this case, and to be offered in this case, and upon the proposition that these facts will be proved that are used in this hypothetical question. Assuming that the proposed Negro Law School in Texas is equal in all other respects to the Law School of the University of Texas, except in respect to the size of the student body, and further

assuming that the proposed Negro Law School has a student body which consists of one student, in your opinion would the Negro Law School offer to that Negro student a legal education equal to that offered to any student at the University of Texas, which has a student body of approximately 800 students, and further in connection with that, would it offer a legal education substantially equivalent to that?

A In my opinion, it would not.

I have taken into consideration in that answer the facts as have been testified to by Dean McCormick ----

MR. DANIEL: Excuse me, sir. We object to anything taken into consideration outside of the hypothetical question.

THE COURT: Yes, that is right. The answer should be to the question of counsel.

MR. DURHAM: Your Honor, he assumed in that question the testimony that had already been introduced.

THE COURT: I know, but then counsel asked him to assume certain things, and he then in his answer said he was assuming something something else. It may have been in the testimony, but it wasn't within the confines of his question.

MR. NAHRIT: All right.

A I would like to make this additional comment upon the question. In my opinion, it is mistaken, even absurd, to speak

of any institution that has one student as a law school.

Q Why?

A Because the system, the modern system of instruction used in a law school is what is known as the case system, the case method. That is to be contrasted with the former method of the lecture system, in which the professor of law merely sat and lectured to the class, in which case it didn't make much difference how many or how few students there were in the class.

Q Before you go any further in that, Dean Harrison, I would like for you to include in a discussion of this hypothetical question, in dealing with two propositions, whether this student could get equal education or whether he could get the substantial equivalent to that received by a student of the University of Texas; also, ten students. That is, we want the hypothetical question with one student in the Negro Law School, and we want you to deal with and take ten students at the Negro Law School, both in contrast to the students of the University of Texas, where they have approximately 800 students. Will you tell us something about the case system of study and the reason for your opinion?

A Before I do that, I want to answer specifically the question supposing a student body of ten students.

Q Yes.

A In my opinion, such students still would not get an equal

education, or even one that is substantially equal to that which is received by the students in such an outstanding law school as the University of Texas Law School.

Now, I say that largely for the reason that the system of instruction used today is the case method. I was about to elaborate on that. It is to be contrasted with the lecture system. Also, it is to be contrasted with the so-called textbook system, in which the professors and class would use a textbook, which means the result of study by some other professor or lawyer or judge of the pertinent court decisions in that field. The class would take, therefore, rather predigested material by someone else, and undertake to become familiar with the rules of law that can be taken from court decisions, but a good many years ago a change was effected in the method of legal education, and gave rise to the so-called case system.

That system merely means that the students go to the original sources for their materials, namely, the decisions of the courts, and under that system the professor does very much less talking than he did under the lecture system.

He calls on some member of the class to make a report on a given case which has appeared in the case book, and right at that point, the professor usually calls for comment from the other members of the class, and from there on it is largely a matter of discussion in which the members of the

class participate to a large extent, one commenting on the recital made by the previous; another criticizing his statement, either the facts of the case or the decision arrived at by the Court, and it is first and foremost a class discussion.

Now, I find it very difficult even to contemplate the possibility of legal education under such a system of that being received even slightly adequate, if you have a single student in the class, and more than that, I say the same thing is true where there is a limited group of ten.

The so-called smaller law schools usually average between 50 and 100.

MR. DANIEL: We object to that. He is testifying about something not within his own knowledge, hearsay.

THE COURT: Yes. I think that isn't within the question. He might know of it, but he was not questioned about it. I will sustain the objection.

Q (By Mr. Nabrit) So that, Dean Harrison, in your opinion, under the case system of study, it is practically impossible for a single law student to get the best possible training out of a class?

A That is true. In my opinion, a very important facility of a modern law school consists of one's classmates. In other words, it isn't enough to have a good professor. It is equally essential that there be a well-rounded, a representative

group of students in the class room to participate in the class room discussion which centers around previous decisions of the courts.

- Q Now, Dean Harrison, does the presence of -- I will restate that. Is the study of law affected by the presence or absence of upper classmen. By that, I mean this; if a single law student, studying in a freshman class in a school where there are no other students, in the second and third year classes, is the possibility of that student receiving a sound legal education affected by the absence of these upper classmen?

MR. DANIEL: We object, that calls for a conclusion of the witness, Your Honor. It doesn't even call for opinion testimony.

THE COURT: I believe he could answer that, Mr. Attorney General.

MR. DANIEL: Note our exception.

- A In my opinion, it would have a very material bearing upon the legal training the student would receive. In other words, work in a law school outside of regular class room hours is exceedingly important, rubbing elbows with the other students in the law school, taking part in small discussion groups, discussion with advanced students, all are very important considerations, equally so, in my opinion, with the actual class room work itself.

- Q (By Mr. Nabrit) Dean Harrison, have you made any studies; are

you acquainted with the results of any scientific studies with respect to the size of law schools?

A I am.

Q Would you state your knowledge of these scientific studies or your conclusion which you have reached from your own investigations?

MR. DANIEL: We object to the question, and we would like to know what the studies are.

THE COURT: He can perhaps relate what the studies are.

A I am familiar with the studies that have been made by the section on Legal Education of the American Bar Association, with the surveys that have been conducted periodically by the Carnegie Corporation, and by the Russell Sage Foundation.

Q What has been the result of your studies with respect to the sizes of law classes and their bearing on legal education?

MR. DANIEL: Your Honor ----

MR. NABRIT: If you know?

MR. DANIEL: We object to the testimony concerning these studies. We believe they would be the best evidence here. He is testifying about something he didn't have anything to do with, according to what has been shown so far.

THE COURT: I think he would have a right to testify, being familiar with the scientific studies.

MR. DANIEL: Note our exception.

A All of the studies that I have mentioned have considered at one point or another the relative merits of a large, as contrasted with a small student body. Most of these studies have divided the law schools of the country into three groups; the so-called large law schools that have a student body in excess of 1,000. Most of the law schools in the country, it was found in the course of these studies, have a student body ranging from 100 to 500.

There is another substantial body of law schools having a student body less than 100. The studies that have been made have put into the category of so-called smaller law schools those students having a student body of between 50 and 150. Those studies also have indicated that the opportunities for legal education, a thoroughly rounded legal education, are much more limited in the so-called smaller law schools than they are in the larger law schools.

The studies that I have reference to have pointed out in general there are four objectives of law school education. One is, of course, to prepare the practitioner. Second, is to prepare and train law teachers. Third, is to train and prepare men for legal research, and the fourth objective is to train and prepare men and women for public service.

The studies to which I have referred have reached the conclusion that the so-called small law schools are not in a

position to achieve or even to strive for all of those four objectives. They have concluded that the small law schools are not in position really to train men for law teaching or for legal research, and those studies have reached the conclusion that the so-called smaller law schools should, therefore, confine themselves primarily to preparing practitioners, and for preparing men and women for public service.

Q Dean Harrison, do these studies show the, show whether the smaller law schools have in most cases such things as law reviews, moot court?

A The studies show that many of the smaller law schools do not have those additional facilities, which, in my opinion, are extremely important. The existence of a law review is not only a great incentive to all students, but if a student is fortunate enough to qualify for a position as editor, it is a tremendous advantage to him, not only then in the course of his legal training, but throughout the rest of his professional life. It is a qualification to which he can always point with pride, and which will be very helpful to him in connection with his professional standing, and with his professional advancement.

The same is true with respect to the system of moot court arguments. That, again, is something that is outside the class room, but all of the leading law schools of the country, certainly including the University of Texas law

School have a system of moot court arguments. It doesn't make much difference, in my opinion, whether those arguments are participated in by first year men or not. It is something to which they have access, but in the second and third years they are permitted to take part in it.

They learn something which isn't taught in a good many law schools in any other way, brief writing, ability to stand up and present an argument before a court, training in that, legal research, all of those are covered by the so-called moot court argument system which prevails generally in the leading law schools of the country.

- Q Dean Harrison, would you say that scholarships, honors, societies like the Order of the Coif, and law reviews, are extraneous and unimportant factors in a law school?
- A They are by no means extraneous. They are an important part of law school life of law schools. To have such an organization as the Order of the Coif is, again, an incentive to the student body, not only looking forward to practicing, one looking forward to a career of public service, but certainly to one who might look forward to law teaching, work on legal research. The fact that he has had an opportunity to be elected to an organization such as the Order of the Coif is an extremely important one to him. All of the matters to which you refer are, in my opinion, an integral and most important part of the legal training, and are by no means to the

slightest degree extraneous.

Q Dean Harrison, is it true that with one student there is no necessity for a full-time teacher because one student with the same capacity as other students could get a better grasp of the principles of law than if he were one of 800 students with many teachers?

A I thoroughly disagree with that point of view, and in my opinion, it is not true, that merely because there should be a small number of students there would be any the less need or desirability for full time professors. Now, the reason, as clearly shown in all of the studies that have been made, the reason for insisting ----

MR. DANIEL: Your Honor, that isn't responsive to the question. I would like for him to ask him the questions.

THE COURT: Yes.

A I am about to discuss the full-time professors.

MR. DANIEL: I know, but let him ask you for it, please, Dean Harrison, from now on.

Q (By Mr. Nabrit) Dean Harrison, it has been stated that the reason for full-time teachers is that the teachers will have some chance to individually and personally know the students. Is that the reason for full-time teachers in law schools?

A That is one of the reasons.

Q Do you know the other reasons? If so, state those.

A Of course, I know them; and other reasons equally important

are that the teacher should be available to the students during the usual business hours. The great objection to the part-time lecturer, the lawyer or the judge downtown who comes out and gives an occasional class room hour, the greatest objection to having the whole faculty consisting of that kind of professors is that he will not be available to the student during the ordinary hours when the student is going over the class room notes, his class room discussion, and endeavoring to make up what he calls a digest, or his own review.

Frequently he gets stuck. Something then becomes unclear to him which he thought previously he understood, and so, it has been thought to be a great advantage that the law professor ought to be in the building, accessible to the law students. That doesn't mean that he is accessible every minute of the time. A professor has other duties. He is often engaged in his own research, which is a fundamental reason for requiring a reasonable number of full-time professors, have them there in the law school so that they should be available to the student outside of regular class room hours, to help him over troublesome spots.

Q Dean Harrison, are you familiar with the standards of the Association of American Law Schools?

A I am.

Q Under the standards of the American Association of --

Association of American Law Schools, would a student who was enrolled and engaged in the study of law at an unapproved law school during its first year of operation, who wished to transfer from that school to one of the law schools in the Association of American Law Schools, would that student's credits be accepted by the school which was a member of the Association?

A They certainly would not. If a student attended a first year ----

MR. DANIEL: Just a minute.

MR. NABRIT: Just a minute, Dean Harrison. I think he has answered it, too.

THE COURT: Yes, he has answered it.

Q (By Mr. Nabrit) Would the fact that students' credits would not be accepted from this school be of any importance in evaluating the legal education of that student and the opportunity for that student at this unapproved school, in comparison with the legal education of a student at another school which was approved, and whose credits would be accepted?

A Of course, it would.

Q What is the reason for that?

A A great many law students, after they have taken part of their education, desire to launch upon a specific kind of career. Many of them are totally unable to judge at the outset of their legal education what they want to do, and so, not an

inconsiderable number of them do think in terms of transferring from one institution to another, after they get a clearer idea of what it is they want to do, particularly if they want to specialize,

A student who is in an unapproved school can not transfer to an approved institution. Let's say at the end of the first year, for example, if the school which he has been attending up to that point has not been approved by the Association of American Law Schools, therefore, there is a distinct advantage to the student who is attending an approved institution to have that greater flexibility which arises out of the fact that he may, for one reason or another, wish to transfer to another institution, even though he may not have that intention at all when he enters the law school.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dean Harrison, one of the main advantages of the case system of study is in order that the students may go to the original sources, prepare for recitations on them, and make those recitations in the class room; isn't that correct?

A That is correct.

Q That is one of the advantages?

A That is right.

Q Now, let's take a hypothetical case of a hundred and seventy five students in the class room as compared with ten students in the class room, with the same professors, a one hour class period. I will ask you, in your opinion, whether or not a larger percentage of the students in the class room of ten could recite on the cases assigned for the day than in the class room of 175?

A Unquestionably, a higher percentage of the smaller class would be called on to recite on the cases, but it is necessary for me to qualify that to this extent.

Q I will let you qualify it in a minute.

A I must explain my answer now.

Q I think you have answered my question.

THE COURT: I think he can explain his answer.

MR. DANIEL: All right.

A I do want to say that an equally important part of class room discussion----

Q I am coming to that next.

A All right, if you ask me a question.

Q I am not going to leave anything out in the value of the system.

A Thank you.

Q The next important ----

MR. DURHAM: We object to it. The witness is entitled to answer the question, to qualify his answer. Now he goes to

the next question.

MR. DANIEL: That is going to be just what he is talking about.

MR. DURHAM: All right.

Q (By Mr. Daniel) Now, the next important feature of the case system, as I understood your testimony on direct examination, was the class room discussion, where, after this one student has recited, or as many, as large a percent as possible has recited on the case during the class period, then other students may be given an opportunity to arise and criticize the discussion and make comments; correct?

A That is right.

Q Now, I will ask you if it isn't correct that in a class room of ten during an hour's period, with the same professor, if a larger percentage of the students within the class room would not be able to comment and discuss the case than in a class room of 125 during the same period of time?

A Yes.

Q That is correct?

A Yes, but it is here that I want to say that it is equally important what the student hears, as well as the opportunity he has to make his own comment. It isn't alone important that the student have an opportunity to make comments or suggestions or arguments, but it is equally important, in my opinion, that he should hear the comments and criticisms

of other members of the class.

Q Now, Dean Harrison, you have been teaching that system for several years, haven't you?

A Yes.

Q Isn't it an unusual thing for more than nine fellow students to comment on recitations? Isn't that the unusual, rather than the usual thing?

A No, not in my classes.

Q I see.

A There is more likely to be 25 or 30 students in any one hour who will make a comment, not a recitation on a case, but will make a comment or criticism of what has been said by some fellow student or what has been reported upon on the case under discussion.

Q But in an hour's class where you allow 25 to comment on the recitation given by a fellow student, certainly you do not get to cover as many cases during that hour as if fewer commented?

A That is right. You don't cover as many cases.

Q But in a smaller class of ten where less would be able to comment, not more than nine, ten counting the professor, you would, of course, be able to cover more cases during the hour, wouldn't you?

A Yes.

Q Now then, Dean Harrison, I would like to ask you on the

full-time professor proposition if the -- a law school has three or four full-time professors for ten students, assigned full time; if they would not be in a position to meet the requirements there of giving as much time as possible to the students, much better than in a school where seventeen professors have 850 students to give time to?

A Let me be sure that I understand your question.

Q Yes, sir.

A Am I to assume that the three or four so-called full-time men spend their time outside of the class in the same building with me, the student?

Q All right, sir, exactly as -- you were here when Chairman Woodward and Dean McCormick testified?

A Yes.

Q About the proposed plan for the future of this Negro Law School under discussion?

A Yes.

Q If that is adopted, whereby three or four full-time professors are there all of the time, would not they be able to give more of that required time than seventeen would to 850 students at the larger law school?

A Of course they would, if they are full-time in the so-called new institution, and if they do not go back to the University of Texas after they complete their class room work.

Q I would like to ask you a hypothetical question. If you have

a separate Negro Law School, let's say in one part of the city with absolutely every facility, physical and otherwise, including societies, fraternities, law reviews, and everything that you have in a white law school in another part of the city, in exactly -- with the same number of students, the same faculty and everything else equal except that they are separate schools, one for the whites and one for the colored, I will ask you if, in your opinion, there would be any chance that a student attending one of those separate schools would not receive substantially equal legal training and procedure from those two schools?

A In my opinion there is a considerable chance that just that would be the case.

Q They would receive substantially equal legal education?

A That they would not, and I say that because whenever you have a student body that is limited to one group, you do not get the kind of representation, cross-section of the community that is so highly desirable in particularly the first year classes of law school.

Q If I understand your answer to that question, you believe that a law school in one part of the city with 850 white students, the same faculty, everything exactly the same as one in another part of the city with 850 Negro students, everything is exactly the same except they are separate schools, you believe that the student in the white school would not receive

equal or substantially equal legal training with the student over in the Negro School, is that correct?

A I say that the student in the white school would receive a better legal education, better legal training, because in my opinion, you can not get, under present conditions, a class made up entirely of Negro students that would be as representative of the entire community as would be the case in a class, a school made up entirely of white students.

Q You don't think there would be any chance of substantially equal educational opportunities then in separate schools?

A No, the white student would have a decided advantage, in my opinion.

Q That is all.

MR. NABBIT: That is all. Thank you.

(W i t n e s s E x c u s e d)

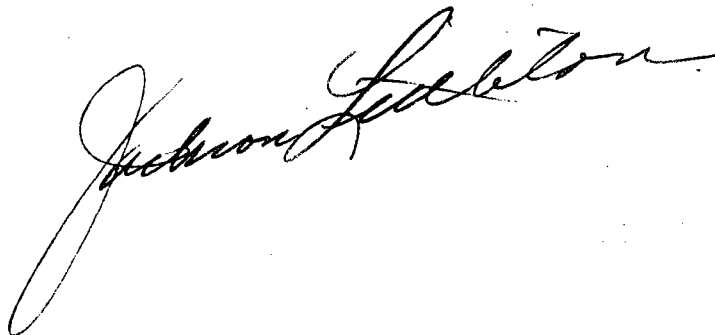
MR. MARSHALL: That is the only one we have.

(Court was recessed at: 9:45 a. m.,
{ until 10:05 a. m., May 15, 1947,
{ following which proceedings were
{ resumed as follows:

MR. MARSHALL: May it please the Court, we have one witness whose testimony will be based on some records, that we will have on the way here, and I think it would be all right, if, with the permission of the Court and the other side, for him to testify to those.

The following testimony given by Relator's witness, Dr. Charles H. Thompson, pertaining to colleges and universities other than the one involved in this law suit has been deemed by the Court to be immaterial and irrelevant to the issues of the Relator's right to enter the Law School of the University of Texas. Accordingly, the Judgment of the Court dated the 17th day of June, 1947, in addition to sustaining the Respondents' exception to Relator's allegations pertaining to colleges and universities not involved, has ordered that the testimony be stricken from the record.

Because of the Relator's desire to file this appeal promptly a formal ruling will be included in this record by agreement of the attorneys for both sides subsequent to the filing of the appeal.

A handwritten signature in cursive script, reading "Jackson L. Sutton". The signature is written in dark ink and is positioned at the bottom right of the page.

THE COURT: Subject to the production of the instruments, I think it would be all right.

MR. MARSHALL: They will be here in a few minutes.

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D R. C H A R L E S H. T H O M P S O N, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION,

Questions by Mr. Marshall:

Q Will you give your full name?

A Charles H. Thompson.

Q And your address?

A 1230 Fairmont Street Northwest, Washington, D. C.

Q Your present position?

A I am Dean of the Graduate School of Howard University.

Q That is in Washington, D. C.?

A Yes.

Q First of all, where were you born?

A I was born in Jackson, Mississippi.

Q Will you trace your educational qualifications?

A Yes. I attended an elementary school, private Baptist school in Kosciusko, Mississippi, and graduated from what I thought was a high school; and I attended Wayland Academy, of Virginia Union University, in Richmond, Virginia, starting

in 1911, and finishing the academy there in 1914, and subsequently attended college until 1917, and went to Chicago, and spent a year there and got the degree of Bachelor of Philosophy in June, 1918, and then I went overseas in World War I and spent eleven months in France, returned and went back to the University of Chicago, where I took my Master's Degree in 1920.

In 1920-21 I taught at the Virginia Union University in Richmond, Virginia. At the end of that year I went back to the University of Chicago to work toward a doctorate in psychology. In 1922 I went to the State Normal School in Montgomery, Alabama, and spent two years as instructor in teacher training in that institution.

In 1924 I went back to the University of Chicago and completed the training for the doctorate, and received my Doctor's Degree in 1925. On completion of my doctorate at the University of Chicago I went to the Sumner High School in Kansas City, Kansas, and taught psychology and economics in the Junior College for one year.

Q Dr. Thompson, on your master's, what was your particular study in your thesis?

A I made a study of comparative learning abilities of Negro children in the City of Chicago.

Q Getting back to the positions you have held since you obtained your doctorate, after leaving Sumner High School in

Kansas City, where did you go?

A To Howard University, as Associate Professor in Education, in 1926. In 1929-1930, I was made Professor of Education. In 1931 and 1932 I was Acting Dean of Education at Howard University.

In 1932 I was made Director of the Bureau of Educational Research and editor of the Journal on Negro Education, and in 1938 I was made Dean of the College of Liberal Arts, which position I held until 1943. Beginning January 1, 1944, I have since been Dean of the Graduate School of Howard University.

Q Up to the present time?

A Yes.

Q Explain to the Court what is the Journal on Negro Education.

A The Journal on Negro Education is a scholarly magazine in the field of education, which deals primarily with the education of minority groups, and particularly, the Negro group.

Q And how wide is the circulation of that ?

A It has average circulation of a scholarly journal.

Q Is it a magazine of general circulation, or a magazine usually circulated among people in the educational field?

A Primarily the latter.

Q What then is the Bureau of Educational Research that you are Director of?

A The Bureau of Educational Research is an organization which

was set up to make investigations of various types of educational problems, primarily problems dealing with minority groups, particularly Negroes in America.

Q Have you published any scientific articles?

A Yes.

Q In what publications, as far as you can remember?

A A number of publications. The Annals of the American Academy on Political and Social Science, Educational Administration and Supervision and several others that I do not recall at the present time, School and Society.

Q Dr. Thompson, have you done any scientific work, research on the question of the comparative educational facilities for white and Negro students in segregated school systems?

A Yes, I have.

Q About how long have you been working on that?

A Oh, as I indicated a moment ago, I became interested in the problem when I was working for my Master's Degree at the University of Chicago. In 1928, I believe I published the first results of an investigation that I made on the educational achievements of Negro children in separate schools. That was published in the annals to which I referred, in 1928, and since then I have published a lot of things, a list of which I do not have at the present time.

Q Dr. Thompson, are you familiar with other recognized scientific studies in the field of the comparison of education

of Negro and white students in separate schools?

A I am.

Q Have you worked at all with the United States Department of Education in recent years?

A On several occasions.

Q Can you briefly give those occasions, and what type of work it was?

A The first contact with the Bureau was around 1931 or 1932. That wasn't on one of these comparative studies. It happened to be a study of the products of graduate schools of the country. The second contact was a commission called the Wartime Educational Commission. The most recent contact I have had was as advisory member of the National Survey on Higher Education of Negroes, published in 1942.

Q Was that published by the United States Government Printing Office?

A Yes, it was.

Q As an official document?

A It was.

Q By the way, while discussing the Government, do you at the present time hold a position on any official commission of the Federal Government?

A I don't know whether you would call it United States Educational -- United Nations Scientific Educational Organization. I am on the National Committee for the United Nations

Scientific and Cultural Organization, which is under the sponsorship of the State Department.

Q That represents the United States Government?

A Yes.

Q In the United Nations organization on education?

A Yes, commonly known as UNESCO.

Q Are there any people from Texas serving on that Commission with you?

A I think Professor Dobie, at the University of Texas, and Dr. Evans, of the Library of Congress, is on that Commission.

Q Do you have any official connection -- what is the National Educational Association?

A That is an association of teachers in the United States, public and private.

Q And do you hold any official position in that organization?

A I am the consultant to the Educational Policies Commission of the UEA.

Q What is the Educational Policies Committee?

A That is very much as its name suggests, to study and make recommendations concerning educational policies for development of education in the United States.

Q Do you know of the Association of American Colleges?

A Yes.

Q What is that?

A That is an association of some five or six hundred liberal

arts colleges in the United States which have come together in an association for their mutual benefit.

Q Do you hold any official position in that organization?

A Yes, I happen to be a member of the Committee on Teacher Education of that organization.

Q Do you know anything about the Nation's Schools, a magazine, and if so, what is it?

A The Nation's Schools is a magazine in the field of education that deals largely with administrative and supervisory problems, broad policy problems.

Q Do you hold any position in that organization?

A I happen to be consulting editor of that magazine.

Q Do you hold any position with The World Book Encyclopedia?

A Yes. I have forgotten my exact title. I suppose it is consulting editor. What I do is edit all of the material concerning Negroes which goes into that encyclopedia.

Q What is the Southern Association of Colleges and Secondary Schools?

A The Southern Association of Colleges and Secondary Schools is an organization composed of a number of white secondary schools and colleges in the southern area. It is an accrediting agency for this region, and I presume there are other things that go on in it that I don't know of.

Q Does that Association accredit white schools in the Austin area?

A It does.

Q Colleges and secondary schools?

A Yes.

Q Does it also accredit Negro separate schools in the same area?

A Yes.

Q Do you hold any official position in connection with the accreditation of these schools?

A During the past year and a half I have been an inspector of Negro colleges for the Southern Association Committee which accredits Negro schools.

Q What were your duties in that position?

A My duties were to go around with a committee, generally of three, to inspect designated institutions, and to make a report as to whether or not they were living up to standards, in the case of schools already in, and in the case of schools that were trying to get in, to find out whether they met the standards.

Q How many such schools have you inspected in the last year and a half?

A Six or seven.

Q Six or seven?

A Yes.

Q Were you requested by the relator in this case to make certain studies concerning higher education for Negroes in Texas?

A I was.

Q Approximately what date?

A Around the first week in April.

Q As a result of that request what did you do?

A Well, the first thing, I had to rearrange my calendar at the University. That was the very first thing.

Q I mean, in connection with the study?

A The first thing I did on the study was to exhaust all of the sources that were available to me in the Bureau of Educational Research at Howard University. That was number one. Number two, I exhausted all of the resources in the United States Office of Education, particularly the Statistical Division. By exhaust, I got all of the material and made a study of it, as far as possible, up until about May first, when I got on the train to come to Texas. I have been here since, the last 10 or 12 days; in fact, I got in Austin Tuesday a week ago. I have been attempting since being in Austin to exhaust all possible sources of information relative to the education in Texas.

Q Where did you go for this information? What I am driving at, what type of information did you examine?

A First, I went to the Department of Education.

Q Is that the State Department of Education of Texas?

A That is the State Department of Education of Texas, to the office of the Executive Secretary of Scholarship Commission.

I have forgotten the gentleman's name, but his secretary was there, and she gave me the information which I desired.

Then I went over to the Capitol Building. That was in the education building here on Congress and something. I went over to the Capitol Building to the State Superintendent's Office, with the intention of talking to the State Superintendent but he was busy and I found I could get the information I wanted from the statistical department in the Superintendent's Office, and I talked to a Mrs. Tanner in that department, and I went to the Division of Higher Education to see if I could get catalogues or audit reports of State supported institutions in Texas, and found I couldn't get them from that office, but I was directed to the State Auditor's Office, where I went and got all of the available latest reports for all of the higher institutions, State supported, in the State of Texas.

Then I went out to the University of Texas for two reasons. First, to get some information, and, second, to see it and to look over the general plan. I went to the Registrar's Office to get some catalogues, which I did, on various schools. I didn't get all of them that I need, but sufficient. Then I went over the grounds of the University of Texas. I started on foot, and it was very hot, and I got a taxicab and drove all around the place to get an idea of what it looked like. Then I began work on the material. While

I am talking about where I went ----

Q Didn't you also go some place else in Texas?

A The next place I went was to Prairie View State College, where I spent five or six hours going through that plant, talking with the principal and teachers, looking at the equipment in the various buildings and that sort of thing. I spent a very profitable five or six hours at Prairie View. I hadn't been to Prairie View before, and I was very anxious to get all I could from that institution.

Q Dr. Thompson, in these studies that you made of the information that you did not have in your own mind, but that you obtained from other documents and records, will you give the Court as many of those documents and records as you can remember, as to whether or not they were official or private documents?

A Well, the audit reports were official reports.

Q We will decide whether they were official. Just name them.

A The State Auditor's Reports, audit reports of the several State supported higher institutions in Texas. Of course, I had recourse to S.B. 140.

MR. DANIEL: Would you give the dates on those reports, so that we will know how far they go?

A 1945 and 1946, 1945 for some of them, and 1946. I was told those were the latest available ones. There was one which I did not get which they said was not available, namely, the

report for the Texas Technological College at Lubbock, but I got all of the rest of them.

Q (By Mr. Marshall) What other documents did you use in your study?

A Well, I will finish with Texas, if I can.

Q Fine.

A I had access to practically all of the catalogues of the institutions, of the State supported higher institutions.

Q When you say "catalogues" do you mean the published catalogues?

A The published catalogues of the institutions. There are a few exceptions, of course. I have had access to H. B. 246, which is the current appropriation bill, I think, passed by the House. What else in Texas? State Superintendent's Report, the Regulations of the Board of Trustees of the State Board of Education in Texas. Others will come to me.

Q What, in Washington, did you use?

A The reports of the United States Office of Education, the biannual surveys for 1937 and 1938, 1938 to 1940 -- 1940 to 1942; Statistics of Higher Education, Statistics of Higher Education of the United States Bureau of Education for 1943-1944, Statistics on Higher Education for 1945-1946 for some institutions.

Q As to those Government reports from the Department of Education, what are they based upon, if you know of your own knowledge?

A They are based upon reports sent in by the several institutions of the United States Office of Education for compilation and summarizing.

Q And is that pursuant to the United States Department of Education?

A Yes.

Q Is there anything else that you can remember now? If not, we will come to it.

A The list of accredited schools, United States Office of Education. I have a good memory, but I can't remember all of them.

Q We will find out. Now, Dr. Thompson, as a result of your experience over twenty-some years in the field of comparing the education in segregated school systems, and as a result of the materials that you have gone into and examined, are you prepared to testify as to the comparative value of the public education in college, graduate and professional levels, in the State of Texas, with statements as to the official documents from which you obtained information that you do not have in your own mind?

A I do -- I am.

Q As a result of your past experience, your research among recognized scientific sources of information, and your personal observation and examination of official documents and records while in Texas, have you made a comparison of the

provisions for and the quality and quantity of education offered at Prairie View for Negroes with that offered at the University of Texas and other schools offering college, graduate and professional training for white students in the State of Texas?

A I have.

Q First of all, will you name the State supported institutions of Texas above the high school level to which Negroes are admitted?

MR. DANIEL: Your Honor, I would like to interpose our objection to that question. It seems to be the phase where he is about, after having qualified, to testify as to the schools for the purpose of making a comparison in the field of higher education. I would like to make the objection to that question and to the testimony along that line concerning higher education that has been furnished in Texas in the past in other schools other than the two schools that we now have for consideration in this case. The relator's petition asserts an individual right, as held by the Supreme Court in the Gaines case, the right that he has to enter the State supported white school, is an individual right which he has, unless the State furnishes a separate school with substantially equal facilities for the training he desires.

In his petition here, he makes no allegations whatever that would put us on notice that he intends to put into

this case evidence as to all of the other schools, schools he doesn't seek to enter. Whatever the comparative value or the comparative value may have been in the past as to those schools, has no bearing whatever as to his individual right to a legal education, what he is seeking by this suit, and we say that certainly that line of testimony is not admissible. It is irrelevant and immaterial in this case. We will not object to any part of that testimony bearing on the schools that we have directly involved in this case, but as to the other schools, and what has gone on in the past, and not concerned with what we have at the present, we feel is irrelevant and immaterial in this case. It is today, and what we have for the relator today that answers what he has alleged that he is entitled to as an individual right in this case.

THE COURT: Unless it has a final bearing on this case it would not be considered.

MR. MARSHALL: But I can proceed, sir?

THE COURT: Yes.

Q (By Mr. Marshall) Will you name the State supported institutions of Texas above the high school level to which Negroes are admitted?

A Prairie View University.

Q Would you say -- do you know of any others?

A I don't know of any other school, no.

Q Any other public supported school?

A No.

Q Will you name the State supported institutions maintained by the State of Texas above the high school level to which white students are admitted?

A I take it that you mean the four year institutions, rather than ----

Q I do mean four year institutions.

A Well, there is the University of Texas, and all of its branches; the Texas A. & M., and its several branches, including the Agricultural School at Tarlton, and Prairie View, by the way, is a branch of A. & M., and Texas State College for Women at Denton; Texas Technological College at Lubbock; the Texas College of Arts and Industries, and then there are seven teachers colleges.

Q There are seven teachers colleges?

A There are seven teachers colleges, North State Teachers College, and East State Teachers College, West, Southwest Teachers College, the Sul Ross State Teachers College, and Sam Houston State Teachers College.

Q Making a total of how many?

A That ought to be twelve, the way I named them.

Q There are twelve, are there not? And is there another one?

A It doesn't come to me.

Q What are the -- and I am speaking now, I am asking you to answer this from your experience in this particular field,

and among your associates in that field and the studies that have been made in that field, what are the recognized criteria for comparing education offered in different schools?

A Well, the adequacy of, at least, the following things which I shall mention: Number one, physical facilities, plant assets, and the general total assets of an institution. The physical facilities, such as buildings, equipment, et cetera. The total assets of the institution would include not only that, but endowments and other items involved. Number two, the amount of current educational funds at the disposal of the institution. Three, the curriculum, courses of study offered, or the course, as the case may be. Four, the faculty. Five, the library. Those are the five generally recognized criteria. I might add, the standing of the educational institution in the educational world and in the community. I don't know whether accreditation would cover it or not, but we will say those five or six.

Q Now then, in appreciating and comparing one school with another, or one school with a group of schools, do you use any one of these as the most important, or any group of them as the more important, or how are they considered in relative value, the six items you have mentioned?

A I don't know how you would make any relative value. They are so interdependent it would be difficult to divorce one from

the other. You can't have a curriculum without a building and equipment. At one time we had Mark Hopkins on one end of the log and Garfield on the other, but it is different now. You can't have one of these without the other. They are interdependent.

Q The first of the criteria mentioned was physical plant. Will you compare the physical plant at Prairie View with that of the University of Texas and other colleges and universities, public supported, that you mentioned above, which are offered to white students?

MR. DANIEL: We wish to renew the objection directly to that question. That has no bearing on any issue in this case.

THE COURT: I am going to hear it. I am unable yet to relate it to this.

MR. DANIEL: Our bill will go to all of it?

THE COURT: Yes, sir.

MR. DANIEL: Yes, sir.

A I have made a study of the plant assets, and the total institutional assets of the eleven institutions that I have mentioned, with the exception of the Texas Technological College. I have used as sources for my information the audit reports of the State Auditor of these institutions, S. B. 140, and the U. S. education bulletins to which I have just referred. Now, in 1945-46 these institutions, with the

exception of Texas Technological College, had plant assets worth approximately \$72,000,000.00. Probably before I go into that, Your Honor, I might state the basis upon which I am determining adequacy and the general criteria of measurement, if you please.

THE COURT: All right.

A Beginning with the second Morrill Act ----

Q What is the second Morrill Act?

A That is the land grant college act in 1867.

Q Of the United States Congress?

A Of the United States Congress. There were four Negro schools under the act of 1862 which received some money, some of the land grant money. Then in 1890, when the second Morrill Act was passed, it made provision for all of the Negro schools to receive -- all of the Negro land grant schools -- to receive a portion of the money, the act reading something like this; that a just and equitable distribution shall be made. That phrase has been in the subsequent amendments, the Nelson amendment in 1922, and Section 2 of the Bankhead-Jones Amendment of 1925. In making out the just and equitable distribution, the administrators of that fund have set up a formula as follows, or substantially as follows: That where you have separate schools and there is to be a division of these funds, that the Negro school or the school separated, or the schools separated, because in some states

they have separate schools for several races, they would receive an amount at least, or a proportion, at least equal to the proportion which they are of the total population.

Q Is that formula used by the U. S. Department of Education?

A That is in the case of the distribution of those funds.

Q As to the U. S. Department of Education and other studies that have been made, and all of the comparisons that you have studied during your years of experience, isn't that the formula that is generally used by the people in your field?

A Among the majority, I think. I don't know all of them, but I think the majority accept that.

Q Is that a formula in comparing Negro and white schools where they are separate?

A Where money is involved.

Q Where money is involved. Get back to the plants.

A To explain further the formula; in the State of Texas there are roughly five and a half million white people, and, roughly, one million Negroes. Just for purposes of illustration, suppose that \$11,000,000.00 were appropriated to the white schools, that would mean two dollars for each white person in the population. Therefore, I would say it was two dollars per capita total population for the whites. If in the Negro schools one million dollars were appropriated, and there were one million Negroes, that would be one dollar per capita. That is one way I will use the formula

in giving the statistics. The other way is this; the Negroes in the State of Texas constitute 14.4 % of the population. Let's assume that ten million dollars were appropriated for the higher institutions in the State of Texas, Negro and white.

On the basis of this formula, it would be expected that the Negroes would receive at least \$1,440,000.00, being 14% of ten million dollars. I shall use from time to time that formula in those two ways, if I may.

Q I want to get back to the plant. I think you testified there were some \$72,000,000.00 worth of assets?

A Yes; I had better be exact about that.

Q First, let's have that, will you? While the Attorney General is looking at them I want to ask you a few questions.

MR. DANIEL: Those are just his notes?

MR. MARSHALL: Yes.

MR. DANIEL: You are not going to introduce them?

MR. MARSHALL: No.

MR. DANIEL: He can read them better than I can.

THE COURT: He can use them to refer to.

Q (By Mr. Marshall) Using that group of papers you have in your hand to refresh your recollection, and to testify to, to go back to the comparison of the physical plant at Prairie View with these other schools----

A All right. Now the plant assets of all of the institutions

studied, the four year institutions, minus the Texas Technological Institute, the plant assets of all of those institutions in 1945-1946 amounted to a total of \$72,790,097.00.

Q What was it at Prairie View, according to the same report?

A Prairie View's plant assets were stated as being \$2,170,910.00. Now, recently S. B. 140 has appropriated \$2,000,000.00 for plant, so adding that to the Prairie View item, you would get a total appropriation for, or total plant assets for Negro education or higher education as being \$4,170,910.00.

Q May I ask one question there, Dr. Thompson? In arriving at any figure on the physical plant and the assets, is it not proper to include money that has been appropriated and available, even though it hasn't been spent yet?

A Yes, that is the reason I call it plant assets, rather than physical plant. Under that formula, of \$72,790,097.00, which represents the plant assets of the total institutions, if the formula had operated, that is to say, if Negro institutions had gotten 14.4% it would have totaled \$10,481,773.00. Instead, however, they got a little over four million dollars. In other words, they got six million -- or they didn't get six million, three hundred and ten thousand, seven hundred and sixty-three dollars which they would have gotten under the formula.

Now, to put it another way, and probably a little clearer, on a total per capita population basis, there were invested in plant assets of white institutions \$12.88 for every white person in the State of Texas. There were invested in the Prairie View,-- in the plants of Negro institutions -- \$4.71 for every negro in the population in Texas.

Q Now, what about the total institutional assets of the two groups, at Prairie View, as compared to the others?

A In the total institutional assets, they total \$162,039,628.00. That is all of the institutions. Prairie View, \$2,568,554.00. S. B. 140 appropriated \$3,350,000.00, making a total for the Negro assets of \$5,918,554.00.

Q In order that we might have this clear, what is the difference between total institutional assets and the other material you were just giving?

A The plant assets have to do with buildings, equipment, et cetera. The total institutional assets include not only that, but also all of the other assets of the institution, endowment funds and all other kinds of funds.

MR. DANIEL: Now, I think he is getting into something on which the records would be the best evidence, if they are admissible at all. We would like to be on notice of what he is counting as endowment for these white schools.

MR. MARSHALL: These auditor's reports have all been

subpoenaed, and we told the auditor we didn't want to keep him around, and we had him on call, and he is called. Do you have the reports? He is testifying exactly from the reports, and it is commenting on the basis of evidence that will be in.

THE COURT: Let's proceed, and you will have your evidence, and we will handle it by motion to strike, or anything else that is proper.

MR. DANIEL: Note our exception.

Q (By Mr. Marshall) We still don't have clear what you mean by the total institutional assets. What are you reading from now?

A The Audit Report of the University of Texas.

Q For what year?

A For 1945.

Q And who is it issued by?

A C. H. Cavness, C. P. A., State Auditor.

Q Of the State of Texas?

A Of the State of Texas.

Q What page are you reading from?

A Page 4. It includes as assets general operating funds, pledged revenue property funds, and endowment funds.

Q Now what page are you reading from?

A Plant funds. Page 6. Plant funds; that is what that includes, generally.

Q That is what it includes. All right. Now, the last

question before that was that the total appropriations to the -- I mean the total institutional assets for the Negro institution at Prairie View was some five million dollars; is that correct?

A That is right.

Q And the total -- you gave the total figure for the other institutions as \$162,000,000.00?

A No, that is the total assets of all of the institutions studied, were \$162,000,000.00.

Q That is the institutions of higher learning, including Prairie View?

A That is right.

MR. DANIEL: Now, Your Honor, I wish to make a further objection to the testimony in this record concerning endowment funds from private sources. In this case, if he is going to make a comparison as to State funds, and I understand that is what he said his ratio was he is testifying about, that we should distinguish between private endowment funds and gifts to this University and other schools, and limit the comparison to State funds.

MR. MARSHALL: I don't think we ever took the position we were limiting this to the State funds. I don't care how the University of Texas gets it.

THE COURT: I don't think it would be material as to the private gifts.

MR. MARSHALL: But it is available.

THE COURT: I don't think that would work a mitigation to you as to private gifts.

MR. MARSHALL: Say we have a university, that both schools get a hundred thousand dollars from the Legislature, and it happens the University of Texas has oil wells that are available and can be used tomorrow morning to build them more buildings.

THE COURT: Those are state properties.

MR. MARSHALL: The endowment is state property.

THE COURT: But he is speaking of some private person who gave a thousand dollars.

MR. MARSHALL: Let's ask this question.

Q Dr. Thompson, is the figure of endowment included in the auditor's report of the State of Texas as an asset of the University of Texas?

A Yes.

Q It is included as an asset in there?

A Yes.

MR. DANIEL: May it please the Court, may I ask him one question for the objection?

THE COURT: Yes.

MR. DANIEL: Do you know whether or not that endowment included as assets comes from State funds or private funds?

A The one I am going to refer to in a moment comes from State

funds.

MR. DANIEL: I am talking about your total you have been testifying about on the University of Texas. Are you in a position to testify whether or not that total endowment and the other assets came from State or private funds?

MR. MARSHALL: If Your Honor please ----

MR. DANIEL: Have you broken that down to see where the funds come from?

A It is broken down in the report, but it is included in this figure.

MR. DANIEL: What I am asking you about----

A Whether I have used these funds ----

MR. DANIEL: Your total on the endowment funds is what?

A \$61,000,000.00.

MR. DANIEL: \$61,000,000.00?

A From the State.

MR. DANIEL: Well, that is owned by the State now, you mean?

A Yes, this came from the State.

MR. DANIEL: Do you know whether or not that endowment came from the State? It is listed under State. Do you know of your own knowledge whether that came from the State or private sources?

A This report indicates it came from the State.

There are other funds which presumably are the ones which you are referring to, but the \$61,000,000.00 came from the State.

MR. DANIEL: I want to preserve my bill on it.

MR. MARSHALL: I just remember the testimony that they are relying on, on supposed gifts to our law school to make it equal. They relied on that all day yesterday.

THE COURT: Yes, I understand.

MR. DANIEL: We testified to it as a gift. Here we want to know what is a gift, and what is State funds, that is all.

MR. MARSHALL: That is all right.

A Shall I proceed?

Q Yes, Doctor.

A As I was saying, the total institutional assets of white institutions amounts to \$28.66 for each white person in the population. In the Negro schools it equals \$6.40 for each Negro in the total Negro population. In other words, the whites have almost four and a half times, to be exact, 4.47 times as much in total assets per capita of the population as the Negroes.

Q Now, as to the proportion of the population, will you use the figures that are used as to the proportion of the population in the State of Texas?

A Do I have those figures?

Q No, I said, will you give those as to this particular institutional assets, if the formula you mentioned above had been used?

A If the formula, that is, the 14.4% had been used, Negro higher education would have totaled institutional assets of \$23,333,706.00, or \$17,445,152.00 more than they actually were. Now, the total assets of the white institutions are proportionately much greater than the plant assets, as you can see, largely because of the large endowment fund which the University of Texas has by reason of money or lands or other material things given by the State. In other words, the University of Texas has an endowment from the State listed as \$61,277,162.00 in 1945. Now, if the formula were operative as far as Negro higher education is concerned, Negroes would have had an endowment fund from the State which totaled \$8,923,911.00 of the above amount. Now, Prairie View, the only endowment fund that I could find for Prairie View is \$26,000.00 in U. S. Government securities listed in the A. & M. audit report for 1945.

Q Well, now getting to the question of one of the criteria of the current educational, that is, as of the last audit report, limiting it strictly to the current educational funds, will you compare Prairie View with the other schools?

A In 1943-1944, the latest complete statistics available, in the U. S. Office of Education for all of the schools,

including those in Texas, I say, all of the schools because I want to compare those with some of the other schools, there is appropriated ----

MR. DANIEL: You say that is 1943 -- what?

A 1943-1944.

MR. DANIEL: The fiscal year 1943-44?

A U. S. Office of Education Bulletin for '43'44, for that year.

MR. DANIEL: I want to make the further objection, if this testimony is considered by the Court, what has gone heretofore wouldn't have any bearing on the case. Certainly the part back in 1943 wouldn't have any bearing on this case, and the facts as they exist today in this Court. We object to it as wholly irrelevant and immaterial, having no bearing on what is available today.

Q (By Mr. Marshall) May I ask another question? Are those the latest figures in the U. S. Department of Education?

A They are.

Q That is our basis for it, the latest available figures that you can use for the comparison, and the 1943-1944 is the latest thing we can get, and I think it goes to its weight rather than its admissibility.

THE COURT: I think so.

MR. DANIEL: Note our exception.

A In 1943-'44 Texas appropriated \$11,071,490.00 in State,

County and District funds for higher education in Texas. They appropriated to white institutions \$10,858,018.00. In other words, \$1.98 for each white person in the white population in Texas. Now, in the case of the Negro institutions, or to the Negro institutions, there were appropriated \$213,472.00, or 23¢ to every Negro in the total population, or for every Negro in the total population. In other words, \$1.98 for the white, 23¢ for the Negro. The whites in this instance, white institutions got eight times, 8.06 times, to be exact, as much as the Negro.

Q (By Mr. Marshall) You mean per capita?

A Per capita.

Q Dr. Thompson, did you examine the appropriations of the 49th Legislature?

A I did.

Q What figures did that show?

A That showed total appropriation, excluding such things as appropriation for firemen's training, teaching hospitals for the medical branch at Galveston and cooperative extension and the like; the total amount of money appropriated for purely educational purposes in the State of Texas was \$11,476,519.00 for 1946, and \$11,469,478.00 for 1947. Now, to the white four year State higher institutions there were appropriated in 1947 \$11,066,519.00, and in 1946 \$11,059,478.00 to the white schools. Now to the Negro

school, Prairie View, there were appropriated \$410,000.00, which included \$25,000.00 for the scholarship fund, for each of the years 1946 and 1947.

Q When you say scholarship fund ----

A The out of state scholarship fund for Negro students. On the basis of the formula which I have described, Negro institutions, higher institutions, State supported institutions, should have gotten in 1946 \$1,652,618.00. In 1947 they would have gotten \$1,651,684.00. May I correct that last figure? \$1,651,604.00 is the correct figure. In other words, in 1947 and 1946 the State supported white institutions got \$2.01 per capita on the basis of the total population, and the Negro schools for the same years got 44¢ for each Negro of the total Negro population in Texas.

Q Now, did that figure include the two appropriations of \$500,000.00 in S. B. 140?

A No, it did not, but assuming that to include it, the two appropriations of \$500,000.00, which would make \$1,000,000.00, for 1947, for this year, and add it to the \$410,000.00 which Prairie View got, which would give you \$1,410,000.00 the Negroes got, figured per capita on the basis of the total population, it would be \$1.53 as against \$2.01 for the whites.

Q And that assumes that the whole million is spent in one year?

A That is right.

Q Well, now, going back to the reports of the United States Office of Education for the years 1945 and 1946, and I ask you if the figures you are about to use are the latest figures available?

A That is right.

Q Will you compare them, school by school, as best you can?

A In 1945-1946, Prairie View had 1,576 students. The State contributed to Prairie View \$346,250.00 for current expenses.

MR. DANIEL: Hold it just a minute.

A I would be glad to make these figures available to the Attorney General.

MR. DANIEL: I am having to get it as you go along.

A I will make it available to you.

MR. DANIEL: I want to get it right now as we go along.

A The school year 1945-1946.

THE COURT: We will take a few minutes' recess.

{ Court was recessed at 11:05 a. m.,
{ until 11:20 a. m., at which time
{ proceedings were resumed as follows:

Q (By Mr. Marshall) May it please the Court, the documents we are talking about, most of them, have come in, these Federal Reports of the United States Department of Education. They have all been certified by the individual officer in the Department of Education, the Executive Assistant, and the certification is pursuant to Section 1601, Chapter 10,

Title 42, United States Code. The Court will take judicial knowledge of them, but we would like to introduce them, with the right of either side ----

MR. DANIEL: Do you mean offer the entire volumes?

MR. MARSHALL: Sure, with the right of either side to use any part thereof.

MR. DANIEL: We certainly object.

THE COURT: It would seem to me that would be too big, to put it all in. Just offer the part which is pertinent to this case.

MR. MARSHALL: The idea is that the testimony by Dr. Thompson is being made from these records, and I wanted to leave them in until the close of the hearing so that if there is any question, we can go to the documents.

MR. DANIEL: They will be available here.

THE COURT: Yes, but not introduced in evidence.

MR. MARSHALL: That is perfectly all right, but I wanted you to know that we had them. If Your Honor please, in order to keep the record straight, I think the procedure we should follow is that if Dr. Thompson refers to those documents, that we reserve the right, before the case closes, to put in the particular pages of the documents that he has been referring to, and we will let him pick the pages out.

THE COURT: I think that is all right.

MR. MARSHALL: And that his testimony is on that

basis.

Q Do you remember where you left off?

A I was at Prairie View, and East State Teachers College.

Q That is right.

A I was saying that Prairie View, with 1,576 students, got from the State in 1945-1946, \$346,250.00. East State Teachers College, which is a white institution with 1,205 students, got from the State for current educational expense \$448,749.00. In other words, East State Teachers got 30% more money than Prairie View, which had 29.6% more students.

Q May I ask one question there? Was Prairie View giving, in addition to its regular liberal arts education, did it also purport to be giving graduate training?

A Prairie View is the teachers college, A. & M. College and University for Negroes in Texas.

Q And it purports to give Master's training, too, does it not?

A It does.

Q Go right ahead.

A To put it another way, that the student appropriation for East State Teachers College was \$372.40; for Prairie View the per student appropriation was \$219.70.

Q You are sure that figure is \$219.00?

A \$219.00. East State Teachers had a per student appropriation from the State which was 69.4% larger than the per student appropriation to Prairie View. East State Teachers College

had a per student appropriation from the State which was 45.8% larger than Prairie View's per student appropriation, from both the State and the Federal Government.

The appropriation from the State per student for five teachers colleges for white was \$296.10, 34.5% more per student than for Prairie View, and those teachers colleges were East State Teachers, Sul Ross, Southwest, Sam Houston, and North State Teachers.

Now, the proposed appropriation in H. B. 246 in the 50th Legislature carried for 1948, eliminating the items which I have mentioned previously in my testimony as quasi-education, a total of \$23,125,323.00 for 1948. For 1949, \$27,389,----

MR. DANIEL: What are you reading from now, for 1948 and 1949?

A The proposed appropriation for 1948 and 1949, H. B. 246 of the 50th Legislature

MR. DANIEL: I don't think that has been enacted yet.

MR. DANIEL: That hasn't been enacted.

THE COURT: I don't think it has been enacted.

MR. MARSHALL: I don't think it has been, either, sir; we, therefore, move to strike that portion of it.

A Now, as a consequence of such differences as I have indicated in financial support, the Negro has been educationally

disadvantaged over the years in Texas so far as Texas public higher education is concerned.

MR. DANIEL: We object to that as a conclusion of the witness, Your Honor. He testified to comparative funds. Now he is about to draw a conclusion as to whether or not there has been educational disadvantage on account of that.

MR. MARSHALL: If Your Honor please, I will be very glad to ask him a question, and then we will get the objection straight.

THE COURT: All right.

Q (By Mr. Marshall) Dr. Thompson, from your experience over a period of years of comparing the educational facilities available to white and Negro students in segregated public school systems, and the recognized treatises you have read on that subject, and I mean scientific treatises, as a result of your work in inspecting colleges and the knowledge you have obtained therefrom, what is your opinion as to the equality of educational facilities offered by the State of Texas to its white and negro students, limiting your opinion to college, graduate and professional training?

MR. DANIEL: We object to that, Your Honor. It has no bearing in this case. His question should be limited to the schools involved in this case, if it is to have any material bearing at all on the case.

THE COURT: I believe I will hear it.

MR. DANIEL: Note our exception.

A The objection has removed the question.

THE COURT: He will read it back to you.

{The Reporter read to Dr. Thompson
the last question as shown above.

A The answer is that Negroes are seriously disadvantaged both from the point of opportunities and relative accomplishment. In the first place ----

MR. DANIEL: Now ----

THE COURT: That answers it.

MR. MARSHALL: That answers it.

Q Now, is that based -- I want to ask whether or not your answer includes the studies you have made in Texas or not, that you have testified about?

A Yes.

Q It does include that?

A Yes.

Q Now, will you explain to the Court your reasons for your opinion which you have just given?

A Well, I have three reasons. In the first place, twice as many white students are provided opportunity in the public higher institutions in Texas as Negroes, and I would like to quote, if it is permissible, from a study, "Senior Colleges for Negroes in Texas," which was made at the direction of the Biracial Conference on Education for Negroes in Texas, Professor T. S. Montgomery, of the Sam

Houston Teachers College, Chairman of the Committee for Study, Dean B. F. Pittenger of the School of Education of the University of Texas, Chairman of the Steering Committee. The study was made and printed about -- at least printed, in 1944, presumably made between 1942 and 1944.

MR. DANIEL: Made by whom? You so far leave the impression it is Dean Pittenger.

A It was made at the direction of the Biracial Conference. Dean Pittenger was the Chairman of the Steering Committee, and Professor Montgomery was the Chairman of the Committee for the study, and wrote up the study, the report.

MR. DANIEL: That clears it up.

A Now, this report states the following, and I quote:

Q (By Mr. Marshall) What page?

A Page 24 and part of 25.

"Texas provided through State-supported senior institutions of higher education for 66.8% of white students enrolled in senior colleges, but for only 31.8% of her Negro students in senior colleges. The ratio of the percentage that the Negro students in the State college are of all Negro college students to the percentage that the white students in State-supported senior colleges are of all white senior college students, is 1 to 2.1. In other words, the State

is bearing twice the burden of providing opportunity for higher education for whites than she is providing such opportunities for Negroes. A disproportionate burden is placed on private effort in providing opportunity for higher education for Negroes."

On page 25:

"The ratio of the number of white students to Negro students in State-supported colleges per thousand of youth of each race, age 15 to 20 is 5 to 1. On this basis the State is providing five times as much opportunity for higher education in State-supported colleges for white youth as it is for its Negro youth."

MR. DANIEL: Give us the date of that report.

A It is dated April, 1944. Now, in the second place, I said that the differences in financial support resulted in differences in educational accomplishment. In the last census, which was the sixteenth census, in 1940, for the first time the U. S. Bureau of Census attempted to find out the educational level of the population; so that they obtained from all persons 25 years old and over certain information concerning how much education you have had, how many years, et cetera. It was found in the State of Texas that 218,225 persons, or 8% of the population 25 years old and

older have from one to three years of college. That is white. In the case of Negroes 11,704, or 2.5%. Over three times, to be exact, 3.2 times as many whites had one to three years of college as Negro.

Those who had had four years or more of college among whites constituted 5%. Among the Negroes, 1.2%, again, about three times as many.

MR. DANIEL: I would like to know where you are getting those figures.

A The U. S. Census Report for the State of Texas.

MR. DANIEL: Do you have them for the northern states also in that book?

A That is Texas.

MR. DANIEL: That is all right. I will ask you about it later.

A I said a moment ago that the Negro was disadvantaged in this respect, particularly from the point of view of college because, as we all know, an individual has to have two or three years of college before he can get in a law school or medical school or dental school, to say nothing about other areas in which college training is necessary. Now, in the third place, a similar situation exists on the professional level.

Take the matter of doctors. In Texas there were 6,076 white doctors, 164 Negro doctors. In other words, there

were of the white doctors 1 to every 903 of the white population in Texas, and one Negro doctor to every 5,637 of the Negro population.

Thus, on the basis of population, there are more than six times, in fact, 6.24 times as many doctors in proportion to the white population as there are Negro doctors in proportion to the Negro population. For the sake of comparison, in Tennessee, where the Meharry Medical School is located, to which Negroes are admitted, there are almost three times, in fact, to be exact, 2.8 times as many Negro doctors in Tennessee as there are in Texas, where Negroes have no medical school to which they can be admitted.

Take the matter of dentists,-----

Q (By Mr. Marshall) First, one question there. State whether Meharry Medical College is a fully accredited medical college or not.

A It is.

Q Go right ahead.

A Take the matter of dentists. The number of male dentists in the State of Texas, white, are 1,901; Negro 81. The ratio of white dentists to white population is 1 dentist to every 2,886 of the white population, one Negro dentist to every 11,412 of the Negro population. There are almost four times, to be exact, 3.9 times as many white dentists in proportion to the white population as there are Negro dentists in

proportion to the Negro population. Again, taking Tennessee for comparison, in Tennessee where the Meharry Dental College is located to which Negroes are admitted, there are twice as many Negro dentists as there are Negro dentists in Texas, where Negroes have no dental school to which they can go.

In the District of Columbia, where the Howard University Dental School is, there are almost four times as many Negro dentists in proportion to the Negro population as there are Negro dentists in proportion to the Negro population in Texas.

Q What about engineers, Dr. Thompson?

A In the case of engineers in Texas, there are 8,961 white engineers in Texas. In the case of Negroes, there are 6 Negro engineers in Texas. The ratio of white engineers to the white population is one to every 612 of the white population. The ratio of Negro engineers and Negro population is one Negro engineer to every 154,065 Negroes. In other words, there are over 250 times as many white engineers in the State of Texas in proportion to the white population as there are Negro engineers in proportion to the Negro population.

Now, finally, take the matter of lawyers. In Texas, and all of these figures are from the 1940 Census.

Q That is the latest census?

A That is right. In Texas there were 7,701 white lawyers. There were 23 Negro lawyers. The ratio of white lawyers to

the white population was one white lawyer to every 712 of the white population, one Negro lawyer to every 40,191 of the Negro population. In other words, there were 56 times as many white lawyers in proportion to the white population as there were Negro lawyers in proportion to the Negro population.

Q Dr. Thompson, getting to the next point of comparison between Prairie View and the other schools, will you compare the curriculum at Prairie View, first, with the curriculum at other schools?

A May I make this introductory statement about the curriculum? The curriculum and faculty and library are the very heart of an institution. However, you must have sufficient financial resources in order to have an adequate curriculum or adequate library or adequate faculty.

Q When you say you have to have sufficient funds to have an adequate faculty, are you or not speaking from your experience in getting a faculty for the graduate school at Howard?

A I am.

Q You have been in that field for quite a while, and know quite a bit about that?

A About 15 or 20 years.

Q Let's compare the curriculum.

A First, let's take the under-graduate curriculum.

Q What is this testimony based on?

A This is based on the National Survey of Higher Education for Negroes, which was a U. S. Office publication, and also upon the catalogue study of Texas A. & M., University of Texas, and Prairie View.

Q Go right ahead.

A The National Survey of Higher Education for Negroes, to which I have just referred, in the making of this survey, found out in Texas that there were 106 under graduate fields of specialization in the white State supported institutions, and 49 in the Negro institution, Prairie View. In other words, there were about twice as many fields of under graduate specialization in the white institutions as in Prairie View.

Now, I have made an analysis, or used the sources, the Texas A. & M. Catalogue and the University of Texas Catalogue, the Texas A. & M. Catalogue states, and that is for 1946-1947, page 10, general information; there are 45 departments of under graduate specialization.

Prairie View University has 13 departments of specialization. In other words, A. & M. has more than three times as many. In the case of engineers, engineering is offered in four white technical schools with eight different curricula leading to engineering degrees. No such curricula was offered at Prairie View, except that you might call mechanical arts education, or industrial education, engineering.

There are, however, a number of sub-collegiate, or high school trade courses given at Prairie View, such as broom making and mattress making; auto mechanics, carpentering, laundering and dry cleaning, plumbing, shoe repairing, tailoring and the like.

Q Dr. Thompson, in your experience in the field of education, do you know of any other university in the country that will give credit toward a degree in liberal arts college for broom making and mattress making? I am talking about universities, not colleges or institutes. Do you know of any recognized, accredited university?

A No, I don't know of any. I am trying to think. There are several institutions which give similar courses. I don't know of any other institution that gives broom making and mattress making.

Q Isn't it true that those are the subjects that are usually taught in the high schools or lower vocational schools?

A That is correct.

Q For example, do they teach any of the subjects you have mentioned at Howard?

A No.

Q Do they teach -- did you find in the catalogue of either A. & M. or the University of Texas, or any other of the schools you have talked about broom making and mattress making?

A No, I did not.

Q Auto mechanics or carpentering, or any of those?

A No.

Q You can go ahead, if you will, Dr. Thompson, to the graduate level of curricula.

A Yes. I might mention in connection with the under graduate field, if I may, because it connects up with the graduate field ----

Q Go right ahead.

A The chemistry department, the chemistry department, which is a very important department in a land grant institution; the chemistry department at Prairie View is not accredited by the American Chemical Society. I did find they were approved at Texas A. & M. and the University of Texas.

Q What effect does that have on a student who wants to do graduate work?

A It means if he wants to do it in chemistry he has to be conditioned a year or a half year; for example, a student coming to us without physical chemistry, which is a thing not given in one of these departments, would have to take a year of that before he could begin his graduate school in chemistry.

Q You are speaking of Howard Graduate School?

A Yes, sir.

Q Is that true in all of the other schools that you know of?

A I should imagine so. I know it is true in some. I don't know

about all of them . The graduate school is of recent origin. It began about the date of the Gaines decision, which was around 1938. In the fall of 1946 nine state Negro colleges in eight southern states gave graduate work in at least one field.

In Texas Prairie View and the Houston College were the Negro institutions giving graduate work. They had a combined enrollment at Prairie View for the regular term and summer of 1946 of 229; Houston College, 308, making a total of 537 students. Graduate work is given in all of the white four year State high institutions in Texas.

The regular term enrollment in white State graduate schools in 1945 was 2,358. Thirteen white State institutions gave 2,846 Master's Degrees and 212 doctorates during the period 1940 to 1945. That is from the Director of Colleges, universities offering graduate work relating to Master and Doctor Degrees, 1940 to 1945, U. S. Office of Education.

Prairie View gave during this same period 103 Master's Degrees and 55 Negro students got Master's Degrees on the out of state scholarship fund, and six doctorates on the out of state scholarship fund between 1939 and 1943, making a total of 159 Negroes who got graduate degrees during approximately a five year period, as contrasted with some 3,000 white students who got graduate degrees in the same period. Now, in general, the range of offerings in white

graduate schools, whether in Texas or in other southern states, is wider than in the Negro graduate school. The National Survey of Higher Education for Negroes, to which I have referred, a U. S. Office publication, indicated in 1942 that the Texas state supported higher institutions for whites offered graduate work in 65 fields, and 5 for Negroes.

At the present time Prairie View offers graduate work in 13 fields, and the Texas A. & M. 45 fields. The University of Texas gives 10 different types of graduate degrees in 40 fields. Prairie View gives a Master's Degree in 13 fields.

THE COURT: I suppose this would be a good point, then, to resume, then, at two o'clock.

{ Court was recessed at 12 noon May
{ 15, 1947 until 2 p. m., May 15,
{ 1947.

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AFTERNOON SESSION.

May 15, 1947.

2:00 P. M.

D R. C H A R L E S H. T H O M P S O N. having resumed the stand, testified further as follows:

DIRECT EXAMINATION.

(Continued)

Questions by Mr. Marshall:

Q Dr. Thompson, when we closed I think you were testifying as to the curriculum of the under graduate schools.

A No, I was on graduate schools.

Q Continue on the graduate schools.

A The University of Texas and A. & M. College of Texas, between the period of 1940 and 1945 gave 212 doctorates. Now, if a Negro wishes to obtain a Doctor's Degree in the State of Texas , the only recourse he has in so doing is through what is admittedly an inadequate scholarship fund.

MR. DANIEL: I want to ----

THE COURT: Well, I think that part "admittedly" -- you can withdraw that.

MR. MARSHALL: I withdraw that.

MR. DANIEL: The inadequate part, too, unless followed by some proof.

THE COURT: That is right.

MR. DANIEL: Admittedly inadequate.

Q (By Mr. Marshall) Doctor, we will get to that later.

A All right. Now, in order for a Negro to be eligible for an out of state scholarship to do graduate or professional work, he must be a resident of Texas; he must have resided in the State of Texas for eight years. In order for a white student to do graduate work, all he has to do is be white, and maybe a resident of Texas, because out of state students are admitted in the graduate school at the University of Texas. The out of state scholarship fund provides \$100 a semester in all fields except medicine, where it is \$150 a semester.

It provides round-trip to the school of the student's choice at three cents a mile, less the following items: the tuition fee paid to the University of Texas, which is stated as \$25 a semester, less the round-trip fare from the student's home to Prairie View. The student may also get ten percent of the total award. In other words, a student may get a maximum of \$165.00 for tuition for the regular year, that is, two semesters, and three cents a mile for transportation, less the round-trip from Prairie View.

Now, I have an illustration that was given on the Scholarship Committee Report of a student who wished to attend Columbia University, taking fifteen percent. The tuition was approximately \$407.00, the railroad fare was \$96.00. That student received from the scholarship fund \$165.00 for tuition and \$70.00 for railroad fare, making

something like \$235.00 out of a total which he would have to pay, merely for railroad fare and tuition to go to Teachers College, Columbia University, of five hundred and eight dollars and some cents, making the student pay \$237.00 himself.

Now, the cost per student at the University of Texas in 1945 -- 1946, at the Main University was \$511.00. At the Texas A. & M. College, after eliminating the funds for cooperative extension, the cost of instruction per student was \$734.00 for the same year. The State spends \$200 to \$500 more in these institutions to educate a white graduate student than they spend on the Negro student who wishes to do graduate work on a scholarship.

Q Dr. Thompson, how important is the question of opportunity to do research in a well recognized and well organized university?

A It is very important indeed.

Q Have you made any comparison as to the research opportunities available at Prairie View with the other colleges you have mentioned?

A Yes, I have.

Q What is the result of your study, please?

A The results show, taking a sample of five white high institutions of four years, shows that they expended in 1945, 1946, \$2,753,809.00 for separately organized and

budgeted research. Prairie View received for that year, 1945-1946 nothing, as in previous years, for separately budgeted and organized research.

On the basis of the formula which I described this morning, Prairie View or Negro higher education would have received \$396,547.00. In 1946 Prairie View was voted \$10,000.00 by the Texas A. & M. Board of Directors of the Experiment Station to set up a sub experiment station at Prairie View to be known as Sub-Experiment Station No. 18. This is all of the money that Prairie View has received, to my knowledge, for research.

The Federal Government in 1945 made an appropriation, or gave Texas A. & M. College \$251,288.00 for experiment station research. In taking into account the amount of money that the State puts in, if the formula had operated, Prairie View or Negro higher education would have received \$36,185.00.

Q The question was raised as to how much did they receive, Prairie View?

A \$10,000.00 in 1946 for the special purpose of setting up that Sub-Experiment Station No. 18.

Q That came from Texas A. & M.?

A That is right.

Q Have you compared the professional curriculum of Prairie View with other schools?

A I have.

Q What are the results of your studies on that?

A Well, in medicine, I might state, as a general background, that there are three Class A medical schools in the State of Texas; two private, Baylor and Southwestern, and one public, the medical branch of the University of Texas. The University of Texas catalogue, 1945-1946, lists 353 students. They receive from the State for current expense, not counting the amount of money that went to the three hospitals which are used for clinical purposes, \$694,165.00 for the year ending 1946. In other words, there was a cost per student of around \$1,800.00 or \$2,900.00. Now, a Negro student who wants to take medicine in the State of Texas, his only recourse is to the scholarship fund, which I have mentioned previously. Even if the student attended McGill University in Montreal, Canada, and I pick that because it is the farthest away and it would cost more for travel, he would get less than \$500.00 for mileage. McGill is 2,100 miles. The State spends more to educate a white medical student in the University of Texas than they spend on a Negro student through the scholarship fund, and there are six times as many white doctors in the State of Texas in proportion to white population as there are Negro doctors in proportion to the Negro population.

Now, taking the matter of dentistry, the State pays around \$1,500.00 per dental student. A Negro who wishes to

study dentistry can not get more than \$400.00 from the scholarship. Thus, the State spends a thousand to eleven hundred dollars more for the dental education of a white student than for a Negro student through the scholarship fund, which probably explains why there are almost four times as many white dentists in proportion to the white population than there are Negro dentists in proportion to the Negro population.

Q Without comparing the curricula at all, or other items, how many accredited law schools do the records show there are in Texas?

A Three -- let's see. Yes, three, Baylor and S. M. U. and a public law school, the University of Texas.

MR. DANIEL: Accredited by whom?

A The American Bar Association.

Q (By Mr. Marshall) Now, getting to the fourth point of the criteria to compare schools, public education in general, did you compare the faculty at Prairie View with the faculty at these other schools you have testified to?

A I have.

Q What do the results of your examination show?

A I might say that the basis of my examination is two-fold.

Number one, salary; number two, training. Obviously, to have a good faculty and to hold it, you have got to pay them attractive salaries and give them satisfactory working conditions.

That is why I took salaries from the point of view of training. I wanted to see whether or not the training at Prairie View seemed to be, or some of the members, at least, seemed to be equal to the training of some of the white teachers in some of the white State teachers colleges and other higher institutions, which got high salaries.

Now, as to salaries, the salaries in general at Prairie View are too low, in general, to attract and hold a sufficiently large number of good teachers, or even to meet the competition from other Negro colleges, as I will point out in a moment.

Q Do you, as Dean of the Graduate School of Howard University, have any knowledge as to the necessities of this Negro university as to faculty members?

A Very definitely so.

Q Is the item of salary an item that is at least a part of the consideration?

A A very large part.

Q Go right ahead.

A Now, I would like to refer again, if I may, to the study that I referred to, Senior Colleges for Negroes in Texas, in which two statements, at least, were made concerning salaries. Page 36, the first statement, and it is as follows, and I quote:

"With reference to Prairie View, further study was

made to determine the number of faculty members who had accepted offers from institutions outside of Texas. Investigation disclosed that twenty-five 'well prepared and able teachers' were lost to other institutions within the past five years because of the inability of Prairie View 'to match their salary offers.' Of the twenty-five faculty members lost, eleven held the degree of Doctor of Philosophy."

The next quotation, page 39:

"In no professorial rank is the median salary in Prairie View equal to the lower limits of the range in State supported white colleges. The median salary of a full professor in Prairie View is \$2,025.00, while the lowest salary paid a full professor in a State supported white college is \$2,700.00. The corresponding figures for associate professor are \$1,530.00 and \$2,000.00; for assistant professor, \$1,520.00 and \$1,800.00; and for instructor, \$1,170.00 and \$1,500.00."

Now, not only was that statement true in 1942 or 1943, when it was gathered for this study; the same is true in 1946 and 1947. Except one white teacher in thirteen white State supported higher institutions, holding comparable positions in comparable departments, the highest salary paid

a full professor in Prairie View is lower than the lowest salary paid a white professor in any one of these thirteen institutions, on a nine months basis.

Again, the principal ----

MR. DANIEL: May I interrupt there? May I get this down to date? What is the date of it?

A 1946 and 1947.

MR. DANIEL: And the data you read a minute ago was ----

A From this book in 1944, which was in 1942 or 1943. The principal of Prairie View in 1946-1947 got a salary that was \$1,000.00 less than the lowest paid head of any four year State supported institution in Texas.

Q (By Mr. Marshall) In going through the records of these several institutions, did you find any other institution in Texas giving college and graduate work that has a principal at the head of it?

A No, I haven't.

Q Have you ever heard of any University in the United States giving graduate work that is headed up by a person with the title of principal?

A No, I haven't.

Q What is the usual title?

A President or chancellor, or something of the sort.

Q Go right ahead.

A Now, Prairie View's faculty as a whole obviously -- I won't say obviously -- Prairie View's faculty as a whole isn't adequately trained. However, there are some adequately trained teachers at Prairie View, and naturally they should be paid accordingly. Let's look at the training for the moment. In 1940-1941, and this is found in the National Survey of Higher Education for Negroes, page 31, -- page 14, 8.33% held the Doctor's Degree, 45.5% held the Master's Degree. In 1942-1943, -- this is from the Senior colleges, this study here, Senior Colleges for Negroes in Texas, in 1942-1943, 6% had the Doctor's Degree and 52% had the Master's Degree. In 1945-1946, according to the Prairie View catalogue, and the degrees listed therein, 9.3% had a Doctor's Degree, 52.3% has the Master's Degree. I said a moment ago that Prairie View would obviously have to raise salaries considerably in order to meet the competition of other Negro colleges. There are some four or five Negro colleges, to my knowledge, that pay as much as \$5,000.00 for a full professor.

Q Isn't it also true that in recent years Negroes have been given opportunities to teach in colleges that are not designated as Negro universities?

A That is true. There are some fifty or sixty Negroes now teaching in northern institutions.

Q So that you have additional competition now?

A That is right.

Q You go right ahead.

A The library, obviously, is very important. It is the life-blood of graduate work. The present library holdings of Prairie View are 25,000 titles, 465 serials.

Q I think we know what titles are. What are serials?

A Any sort of thing that runs in serial magazines and proceedings which run in serials. Leaving out of account the library at the University of Texas, which is one of the best university libraries in the south, it certainly has the largest collection of any university in the south, and taking the State Teachers Colleges libraries, the holding of white State Teachers Colleges libraries in Texas are larger than Prairie View. For example, the holdings of twelve white, four year schools, that is, teachers colleges and four schools in 1945, ranged from 28,357 in the Texas College of Arts and Industries, to 750,974 in Texas University.

North State Teachers College had more books, 144,426, than all the Negro public and private colleges in the State of Texas in 1945. The number of books that the negro colleges in Texas was supposed to have in 1945 was one hundred and ten thousand and something.

Now, East State Teachers College, with 1205 students in 1945-1946, had library holdings of 81,974 volumes in 1945, as compared with Prairie View in 1947 with 1619

and 25,000 volumes.

The Southwest State Teachers College, with a student body of 957 students, had 56,612 volumes in the library in 1945. The Sam Houston Teachers College, with 1401 students in 1945-1946 had 63,100 volumes in the library in 1945.

Q Dr. Thompson, from your experience as Dean of the Graduate School of Howard University, is it one of your responsibilities to ascertain as to whether or not that library is kept up to standards for accredited graduate schools?

A That is true.

Q And in your position as inspector for the Southern Association of Colleges and Secondary Schools, is it one of your jobs to inspect, as to the adequacy of libraries in the colleges?

A Yes.

Q On the basis of your experience in those two fields over a period of years, what is your opinion as to the adequacy of the facilities which you saw and inspected at Prairie View last week?

A Well, frankly, they are inadequate.

Q Did you see the library at the University of Texas, for example?

A I didn't go in it.

Q Are you acquainted with the number of books in it?

A I am acquainted with the holdings.

Q How does Prairie View library, regardless of the number -- just

the number of books -- is there any semblance of equality between the two?

A There would not appear to be.

Q And the figures you have given on the books are figures that are used in that opinion of yours; is that correct?

A That is right.

Q Do you believe that Prairie View's library is adequate to maintain a graduate school?

A In fact, Prairie View doesn't have a first class under graduate library. That isn't only my opinion, but the opinion of this survey committee. They quoted the late Dr. Bishop, who was one of the outstanding librarians, who was last at Michigan, if I may quote that, page 64, and this is the quotation:

"A well selected library of 50,000 volumes will perhaps suffice for the needs of sound teaching in a college of not more than 500 students. This number does not include duplicates."

Q Does Prairie View have anywhere near that amount?

A They have 25,000 volumes.

Q And how many students?

A 1619, I think I mentioned that a moment ago, 1619 students.

Q Dr. Thompson, in the earlier part of your testimony, I think your last criteria was the one of -- I don't think this is the exact phrase for it -- accreditation or standing in the

scholarly world. Did you check on the accreditation of Prairie View with the other public supported schools in this state?

A I did.

Q What was the result of that study?

A Well, the results that I found are as follows: I might explain, in order to explain what the results mean, the highest accreditation which any college can get in this country is to get on the approved list of the Association of American Universities. The highest accreditation that a university can get is to be a member of the Association of American Universities. There are three white State schools on the approved list of the Association of American Universities; Texas A. & M., North Texas State Teachers, and Texas College for Women.

Q What about the University of Texas?

A The University of Texas is a member of the Association of American Universities.

Q Is Prairie View a member?

A No, Prairie View is not a member.

Q Is it accredited by that association?

A No.

Q Well, did you -- about how much accreditation did you find Prairie View to have?

A Prairie View is accredited by the regional association in this

area, the Southern Association.

Q Does it carry any other accreditation that is recorded in the legal proceedings, that you know of?

A Not that I know of, except the State accredits the institution, of course.

Q Well, now, what about for example, the Medical School of the University of Texas? Is that accredited or not?

A Yes.

Q What about the -- it is already in about the Law School. What about the School of Engineering?

A The School of Engineering is accredited by the Engineering Council for Professional -- I will give you the name of it -- Engineering Council for Professional Development.

Q Dr. Thompson, as a result of your study that you have made of Prairie View with the other schools and universities in this state that are publicly supported, can you compare favorably-- can you compare Prairie View favorably with any one of them?

A I don't think so, at present. I can't think of any institution that it would compare -- would you define "compare favorably" for me, so that I may be sure to know what you are talking about?

Q Pick the smallest State teachers college in Texas your mind. Tell the Court whether or not there is any State supported school in the State of Texas that will give a Negro the equivalent of the education that can be obtained by a white

student in the smallest of the teachers colleges in Texas.

A I doubt if I can answer that.

Q I will ask you this. In your criteria you used to compare the schools, how do you compare Prairie View with the University of Texas?

A There is no comparison there. I can answer that.

Q What do you mean, there is no comparison?

A I mean that Texas University is a university. Prairie View is the university -- I don't know how else to say it. It is a poor college.

Q And it isn't -- and is it or is it not a university in the field of general educational policies?

A You mean on paper?

Q No, as it exists today. Is it or is it not a real university?

A No, it is not a real university.

Q Can it give to the Negro student the type of education that is given to the white student at the University of Texas?

A Not at all.

Q Can a graduate student attending Prairie View University get the type of education that a graduate student at the University of Texas can get?

A I doubt it very seriously.

Q In your experience in your field of education, and as Dean of the Graduate School, is it possible to put graduate work,

adequate graduate work training on to a school that gives inferior under graduate training?

A If I may turn the question around, I would say it is highly undesirable. It is possible to put it on there and have just as poor graduate work as you have under graduate work.

Q Would it inevitably follow that the graduate work would be inferior?

A I think so.

Q Your witness.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Thompson, you are not opposed to good separate schools for Negroes, are you?

A Would you mind elaborating on that question?

Q I mean, based on your experience as an educator, for the best interests of all of the people concerned, are you opposed to having the establishment of good separate schools for Negroes?

A Emphatically, yes.

Q You are opposed to it?

A I am.

Q Do you know Ambrose Caliver?

A Yes, I know Dr. Caliver.

Q Is he a Negro or a white man?

A He is a negro.

- Q Are you acquainted with his summary made for the National Survey of Higher Education of Negroes for the United States Department of Education? I will hand it to you and see if you are acquainted with it.
- A I am generally acquainted with it.
- Q The book that you have there in your hand, I will ask you to state whether or not that is a similar study to the one you have testified here about on direct examination?
- A It is one of the series of volumes of that study.
- Q The one you have testified about, I believe, is dated 1942, is it not?
- A That is right.
- Q The one I have handed you is dated 1943, is that right?
- A That is right.
- Q That is the latest one out, the one you have in your hand now, isn't it, the latest one you have any knowledge of?
- A May I give a qualified answer to that?
- Q All right.
- A The summary was written after the other volumes were set up, naturally.
- Q Yes.
- A And was printed after that. That is why it bears a later date.
- Q That is the latest thing then arrived at from the work that was printed ahead of it?
- A It is a part of the study summarized by Dr. Caliver.

Q Your Honor, I would like to make clear that I am cross examining him, and I still want to retain my bill of exception, and I am cross examining him just in case the Court desires to consider this evidence.

THE COURT: All right.

Q (By Mr. Daniel) Is Dr. Caliver a recognized authority in the same field that you have testified about that you are acquainted with, through experience and training?

A By some people, yes.

Q Well, do you recognize him as such?

A In some areas, yes.

Q He has made a much more comprehensive study of the subject in preparing this work for the Government than you have in preparing for your testimony here today, hasn't he?

A I doubt it.

Q You doubt that?

A Yes.

Q I will ask you if you agree with his conclusion contained in this work that the kind and amount of education needed by any individual or group in a democracy at any given time is determined by their capacities, their interests, their abilities, disabilities, and their goals?

A Certainly.

Q You agree with that?

A Yes.

Q Do you agree to his conclusion here in this summary that in addition to taking into consideration the amount of money spent and the facilities available, in determining the question as to whether or not equal opportunities are offered for higher education, that in addition to all of that, in determining what should be offered, that you should take into consideration the environment and social order of the particular area in which the schools are established?

A I don't know that I get that. Would you mind restating it?

Q Suppose I read you what he says, and then you tell us whether or not you agree to that. This is from page 1 of this summary:

"National Survey of the Higher Education of Negroes, a Summary,"

printed in 1943 by the United States Office of Education:

"Formerly in our educational processes, particularly in organized education, this inter-relationship has not always been recognized,"

talking about inter-relationship between social order, that I have been talking to you about, and the fixed facilities.

"The Survey of the Higher Education of Negroes, however, which this volume summarizes, attempts to view education in its social setting, and consequently, not only are institutional matters studied, such as student personnel, curriculum, faculty, administration, and other facilities,

but also the social and economic factors surrounding the institutions and influencing the lives of the students and their communities."

Now, my question is, do you agree with that statement from the summary that these educational things, in addition to what you have testified about here today, must necessarily be taken into consideration in deciding upon how you can offer equal educational opportunities in a given community?

A That was a basic assumption underlying all of my study.

What Dr. Caliver means there is apparently the thing that I do not agree with. I have argued with him about it.

Q You don't agree with his conclusion on that?

A I don't agree with his general educational philosophy of what a university or college is, or what it is supposed to do for an individual.

Q Do you agree with this portion of the summary?

"In saying, therefore, that the higher educational needs of Negroes should be considered in light of their backgrounds and special interests, a principle is enunciated which applies equally to any other group in our body politic."

A I think that perfectly odd.

Q Do you feel like, for a white student you should establish the kind of school the need or demand calls for?

A Yes, and if I may explain that, I don't think there are

any needs among the white part of the community that are not among the Negro part, or shouldn't be.

Q You have been here through this testimony today, haven't you?

A I certainly have.

Q I don't mean today. You have been on the talking end of it today, but since the case began Monday morning?

A Off and on.

Q You have heard it testified here that the relator in this case is the first applicant for law to the only State Law School that was in existence at the time he applied, haven't you?

A I believe I heard that, yes.

Q Yes. You know of no other applicants for law, any other students who wanted to take law in the State today before this time?

A I didn't even know he wanted to take it before this case came up. I don't mean to be facetious about that.

Q I understand. I don't mean to be, either. I am trying to lead to the point as to your opinion as an expert as to what should be available before there is a demand for it. In other words, is there is only one Negro student who wants to take law, none before him, do you feel like that the State should have provided a law school prior to that time for Negroes?

A I think that the State should have provided for Negroes in

1876 or whenever it was that Prairie View University or the Texas A. & M. was set up. I think it should have been then. The fact that only one Negro student wants law, it seems to me, is immaterial in this state or any other state, from my point of view.

Q You don't teach broom making and mattress making at Howard University?

A No, those are not college subjects.

Q You don't have demand for them?

A Negroes have demands for them, and we teach them in the trade schools where they ought to be taught.

Q Until there is a demand for certain subjects at Howard University that you do not now teach, you just don't offer them, do you?

A That isn't true, no. You see, there is a difference between demand and being able to meet the demand. We put on three departments last year that we didn't have. We didn't know a single student would take those subjects, geology, geography and another that I can't think of at the moment. We put those subjects on, not because of the fact that we had a demand, but because we thought students ought to have the opportunity to get an education in those fields, and I think the same thing about a university. The opportunity ought to be there, because the opportunity itself is stimulating.

Q Regardless of whether the students want to take the courses or

not?

A That is right. The only way to determine whether a student wants to take a course is to make it available, in my opinion.

Q Now, you have studied-- you have read the survey and the summary that has been made on this question, you have testified about, by the Federal Government, haven't you, Dr. Thompson?

A Two or three years ago, I read the summary. I read the other volume because, to be perfectly frank with you, I knew Dr. Caliver, and I didn't agree with him on educational philosophy, and I knew about what he would put in the summary. I was interested in the basic facts so that I might draw my own conclusions rather than have his conclusions.

Q Let me read another one.

"Changes in the social structure -- of which the educational system is a part -- must come slowly if disorganization is not to result."

A I agree with that.

Q Then, in order to solve this problem that we have here, as you have testified about, in your opinion, in this State the problem that you have testified about as having existed in past years, don't you believe that the only way to solve it is by a gradual change, a gradual change from failing to furnish equal educational opportunities to a system, setting

up those equal educational opportunities by State supported schools?

A If I may answer it this way, I would have answered the first part of your question yes, but the latter part forces me to say no. May I explain? I think I know what the question that you started out -- I won't put it that way. I think I know what you are driving at.

Q You answer what you think I am driving at, and if you don't get it, I will come back.

A What you are saying in so many words is this, is what I think you were saying, assuming that this thing ought to be done gradually, the change ought to be made gradually.

Q I am not saying it. I have read from Dr. Caliver here, and I asked you did you agree with him.

A You gave me a question.

Q Yes, I did. Go ahead.

A Do you want me to answer your question, or Dr. Caliver?

Q Go ahead and answer what you understood I am driving at.

A What I understand you to be driving at is this; that where we have certain customs in the south, and to change overnight would cause disruption of one sort or another, you are saying gradual change, that is more or less authentic, it seems to me. You have got to start somewhere. This is the first time I have been to Texas. I have been in practically all of the southern states, and was born in the south, but I

have been very much impressed with it since I have been to Texas, by both the white people and the Negroes in Texas. I think you are a very progressive community. It is my opinion that the time is ripe to start with professional and graduate work. I think it could very easily be done in law, and then work gradually. That is what I mean by a gradual change. Of course, if you tried to change the system overnight from the kindergarten through the University, you might have more disruption than otherwise; and yet, I don't know whether the disruption would be so much at that.

I think, to answer your question, to begin with the law school and graduate school, and then the college and high school and so forth, that that would be a gradual change, and I think most people would agree that is gradual.

Q Whatever the State should do to accomplish the purposes we have both been talking about, whatever should be done, don't you believe should be first taken into consideration the desires of the Negro citizens of this state, if that is what they want, the general desires of the Negroes as to what they want? Just answer yes or no so that we can speed along.

A I don't want to speed along and answer it wrong. May I answer and qualify it?

THE COURT: You may answer and explain it.

A The thing that has surprised me; I have been pleasantly

surprised to see that Negroes really want to go to the University of Texas.

Q (By Mr. Daniel) That isn't responsive to my question at all.

A I am merely explaining.

MR. DANIEL: I ask that it be stricken.

THE COURT: I doubt if it is responsive to the questions.

A Very well, Your Honor.

Q (By Mr. Daniel) You are acquainted with the facts and figures as to the number of northern Negroes who come to southern separate schools for education, are you not?

A In a general way, yes.

Q I will ask you if this statement by Dr. Caliver, in your opinion, from your studies, is substantially true?

"While southern Negroes often go north for graduate work, there are large numbers of Negroes resident in northern states who go south to attend Negro colleges. Moreover, even in northern colleges and universities there are often, if not usually, special problems which confront Negro students regardless of their places of residence or previous training."

A I think that is true.

Q I will ask you to state whether or not you are acquainted with this survey and the conclusion drawn from it by Dr.

Caliver, making the survey of eight northern universities where negroes were admitted. This is from page 13.

"Whereas very few southern Negroes were attending these eight northern universities in 1939-40; in the year preceding, nearly 4,000 northern negroes attended Negro colleges. Almost three thousand of this number attended colleges in southern states. The majority of these Negro students were residents of eight northern states which rank high in economic resources. Thus, instead of the northern states carrying an undue burden in the higher education of Negroes, it appears that institutions located in those states which have the least wealth are providing educational facilities for Negro residents from more economically favored regions."

Do you agree with that?

A I think the facts stated in the first part of the statement are correct. I think the implications may not be.

Q In other words, the majority of your northern Negroes who have available to them institutions that they can attend, a majority of the northern Negroes attending colleges actually elect to go to separate Negro schools?

A No, that isn't true. Dean Caliver said they studied eight institutions. The 4,000 students came from all over the

north, is that correct?

Q Yes. Do you have the figures on how many Negro students are attending college, northern Negro students?

A We made a survey -- Dr. Jenkins, who was a member of the Bureau of Educational Research, made a survey this fall.

Q Could you get that for us by morning?

A I might have it here. I don't know. I will look and see. I haven't -- let's see, in 1945, there was something like five or six thousand Negroes attending school in the north, and the estimate now is that about twice that many, because of the G. I. Bill and things of that sort.

Q Suppose you try to get me those figures overnight?

A All right.

Q Have you read the conclusion by Dr. Caliver as to what is the best thing to be done for the Negroes who want to have equal educational opportunities in both the north and south, contained in this summary, or survey you have been testifying about here today, under Chapter 6, pages 40 through 50?

Have you read that? Are you acquainted with that?

A I probably read them, but as I said a moment ago, I don't put much weight on the conclusions, because Dr. Caliver and I don't have the same educational philosophy.

Q You don't find anything in his conclusions which would indicate that it was necessary to do away with separate schools in order to give equal opportunities?

A I don't remember his conclusions, but I doubt seriously if he put that in print, being in the Office of Education.

Q That is the conclusion that he has on that matter. Is that one you disagree with him on? You know what his conclusion is?

A His public conclusions and his private conclusions may be different. You are talking about his public conclusions.

Q You tell us you know his private conclusions, and you disagree with them. Isn't it true his private conclusions are like his public conclusions here, that separate schools, if established on an equal basis, can solve the problem as far as giving equality of educational opportunity to the Negro students?

A I have come to the conclusion from discussions with him that his private conclusions are not that, but his public conclusions are probably motivated by the fact that we have separate schools, and if a Negro is going to get an education, he has to go to them until we get an integrated situation.

Q You are not positive about his private conclusions?

A No.

Q You wouldn't undertake to tell this Court the man has signed and printed something for the Government other than what he actually believes about it, would you?

A No, I wouldn't do that.

Q Now, as I understand, all of your testimony as to what you

have examined in the way of funds available for Negro students as compared with white students, up to the pending bill over here in the Legislature for this session, and Senate Bill 140, which is already enacted, had to do with past years, what had been done for Negroes in past years, as compared with white schools; is that correct?

A Up to 1947.

Q Up to 1947?

A That is right.

Q The school year 1946-1947?

A I might correct that. I was talking about H. B. 246, and it was ruled out this morning. I have gone into those proposals, and that was ruled out, and I didn't go into it.

Q Up to that time, and Senate Bill 140 that has passed, all of your testimony has been what has happened in the past?

A Yes.

Q You have read Senate Bill 140, the provisions setting up the new Texas State University for Negroes, have you not?

A Yes, I have read it. I wouldn't want to have to quote it, or give the substance of it.

Q You have, I suppose, in making your survey as to what is available down here in Texas for Negroes, you have made a survey of Houston College in Houston for Negroes, have you not?

A No, I haven't. You mean a personal survey?

- Q Or the kind of survey which you made from the books of all of the other schools you have testified about?
- A Houston College was included in some of the material which I gave. For example, I gave the number of students who had Master's Degrees and doing graduate work at Houston College.
- Q I heard you mention Houston College once. When you were figuring the funds the State put into State schools for Negroes in Texas, you didn't include any money spent by the State on Houston College, did you?
- A Yes, '43 or '44.
- Q On Houston College. You have not examined those facilities of Houston College, the buildings and the 53 acres of land, have you?
- A No, I have not.
- Q I believe the amount of money that you gave as having been appropriated by Senate Bill 140 to maintain the new university and its various branches as one million dollars?
- A For current expenses, it was five hundred thousand dollars for two years, which would make one million dollars. I believe that is correct.
- Q Did you read the text of the bill where other funds were made available?
- A Yes, I took that into account. As I counted it up, there were \$3,350,000.00 made available for various and sundry purposes for Negro higher education.

- Q Actually, then, it was \$1,350,000.00 for maintenance and support, instead of one million, wasn't it?
- A There were some items in there about Prairie View, something about some other institutions. It was scattered so through the bill it was practically impossible to tell exactly where the money was going, or how it was to be used.
- Q You mean impossible for you to tell?
- A Yes, for me to tell.
- Q You could tell the bill provided for two million dollars for the establishment of the University?
- A Yes, and I took that into account.
- Q At the beginning didn't you say Prairie View was the only separate Negro College maintained by State funds in Texas?
- A I think I did that.
- Q And wasn't quite a bit of your testimony based on Prairie View being the only State supported Negro college in Texas?
- A Not throughout.
- Q But quite a bit of it?
- A Here is what I understand, if I may explain. Up until 1945 I understand the Houston College for Negroes was a municipally owned and controlled institution. Around 1946, I understand it changed to some other status, which I couldn't find. I have taken into account the State's appropriation to Houston College for Negroes up until that time.
- Q In giving your total amount of money appropriated by the State

for 1945-1946 school years, that was a figure of \$72,790,000.00. You itemized it; look at your figures there. Did you put Houston College in it?

A No, sir.

Q You allowed no money in there for Houston College?

A No, nor did I have any for Texas Tech or the University of Houston.

Q I asked you about Houston College. You can get that in some other way.

A Pardon me.

Q You can make a note of it so that you can ask him. Do you know whether or not these amounts of money appropriated to Negro schools in Texas were sufficient to operate those schools in accordance with the number of students who applied to go to them? Do you know that of your own knowledge or not?

A Looking at Prairie View -- how about Prairie View? The amount of money that Prairie View had, or even if you gave them all of the money appropriated under S. B. 140, it wouldn't be sufficient to operate it on the basis on which it is supposed to operate.

Q Do you have the total figures on how many white students attended college in Texas during the years you have testified about on Negro students?

A You mean total students?

Q Total number of white students attending Texas colleges during the years you have testified about on Negro students?

A I think I have Negro students.

Q I am talking about State supported schools.

A 19 -- what is it, 1945 - 1946, that we are talking about now?

Q You gave several years. Let's take that one to begin with. You gave the total number of Negro students?

A At Prairie View there were 1,576 students in 1945-1946.

Q And how many students were attending all of the other State supported schools for whites?

A I could not tell you that. I can tell you some of the other institutions.

Q You have the available books for that, do you not?

A I suppose you could get it from the catalogue, or some place of that sort. All of them aren't available.

Q In other words, you have drawn no comparison as to the total number of white students as compared to the total number of Negro students in making your financial comparisons, have you?

A No.

Q The ratio you have used is strictly a ratio of State funds appropriated as compared with population of Negroes compared to the total population of the State; right?

A That is correct, and ----

Q That is the ratio you testified about here under your point number one on the amount of funds, and the ratio you have used all along here in determining the percentage that the Negro Schools would have been entitled to under said ratio; right?

A Yes.

Q You have not applied in this case the ratio of students attending, white students attending, as compared with Negro students actually attending school in the State, have you?

A Yes, but not all of the State, if I may explain, Your Honor.

Q Let me get my question. As I understood it a minute ago, you haven't even drawn the total of the white students attending State supported institutions for any one year you have testified about, have you?

A That is right.

Q Then you have not arrived at the ratio of expenditure, a ratio fixed by the number of white students attending school, total number attending State institutions as compared with the total number of Negro students attending, have you?

A No.

Q You mentioned a minute ago on direct examination Meharry Medical School in Tennessee, did you not?

A Yes.

Q You offered Meharry as an example of a medical school in Tennessee which was operating, and caused the State of Tenn-

essee to be far ahead of the State of Texas in the number of doctors and dentists per Negro -- per so many hundred Negro population; right? Meharry is a separate Negro school, is it not?

A Yes.

Q Are you acquainted with the -- what is the name of that senior college survey that you have in your pocket?

A The Senior Colleges for Negroes in Texas.

Q May I borrow it a minute? Are you acquainted with the Chairman of the Committee of this study, Dr. T. S. Montgomery, professionally?

A No, I am not.

Q Are you acquainted professionally with the reputation of Dean Pittenger?

A I know his reputation.

Q Is he a recognized authority in the same field in which you work?

A You mean in racial comparisons?

Q No, as an educator. You know his standing in the field of education, do you not?

A He is the Dean of the School of Education at the University of Texas.

Q You quoted several places from this book, from this study made by that committee, the Biracial Committee which studied senior colleges for Negroes. I will ask you if, in your

opinion that committee was, working over the long period of time that it worked to compile this volume, I will ask you if you do not believe they were in a better position to find out what is best for equality for the Negro students of this State, and in better position than you are from your short study of this particular State?

A I doubt if I could answer that. As I said a moment ago, I have given five or six weeks of intensive study to this subject. I don't know how much time they gave to the study which is involved there.

Q I would like to read you a conclusion from that study, and ask you whether or not you agree with it. On page 83 of the study that you have been reading from:

"Admission of Negroes to existing State universities for whites is not acceptable as a solution of the problem of providing opportunity for graduate and professional study for Negroes, on two counts: (1) Public opinion would not permit such institutions to be opened to Negroes at the present time; and (2) even if Negroes were admitted they would not be happy in the conditions in which they would find themselves."

I will ask you whether or not, first, you feel like you are in a position to agree or disagree with the conclusion therein drawn after having made only a five weeks' study of the

matter in Texas?

A I should say that I do not have enough facts to evaluate that opinion. I would want to know, have you made a poll of opinion of the people in Texas, number one. I would question the assumption underlying the statement, namely; that even if the poll showed that the opinion might be different, or it might be divided 60 to 40, or something of the sort, I don't think that is sufficient justification in itself in arriving at this conclusion, so I am not in a position to agree with the opinion, because you do not have enough facts stated there.

Q In other words, that is the point I am going to get to. The men who have made a longer study, and have more facts at hand on which to arrive at the opinion as to what can best furnish equality in Texas on this subject are certainly in a better position than you to judge the matter.

MR. MARSHALL: The question assumes that they had more opportunity, and had more facts.

THE COURT: I think it is rather sustaining himself, or failing to sustain himself, anyhow. He is probably going to recommend himself, if he testifies. I would.

MR. DANIEL: I doubt that he will.

THE COURT: An answer to that would either be to say that what you have been saying is well founded or it isn't well founded.

A Well, what I have been saying is well founded.

Q (By Mr. Daniel) In your opinion?

A In my opinion.

Q You read from this book here on several occasions, did you not, as to the study made by these men?

A Yes, sir.

Q Aren't you willing to admit, Dr. Thompson, that from the long study that they made on this matter over a period of years, if the evidence shows it took them a period of years, won't you admit they are in better position to judge what is best for the equality of opportunities?

A I don't want to appear immodest, Mr. Attorney General, or facetious, but I doubt it seriously. I have been in this field of race relations for some 25 years. Most of the difficulties involved in the situation are this; that we imagine things will happen. There has been no test to determine whether or not -- in fact, there has been a test, I understand, if you will allow me to give a hearsay example.

MR. MARSHALL: No.

A The attorney says no, but there has been no test to determine whether or not the time is ripe or not, as they say. I think so, coming in the State from other states, and that sort of thing, but I wouldn't say at all that I have any more basis for my opinion than they have for theirs.

Q I will ask you again whether or not you are willing to admit

these gentlemen, after years of study, if the evidence shows they have had years of study, would be in a better position to arrive at conclusions than you, after your five or six weeks in Texas?

A I would have to know what they studied.

Q I thought you had been reading it?

A Yes, I picked out facts, and not conclusions.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Thompson, you were questioned about this conclusion in this study of senior colleges for Negroes in Texas that "even if Negroes were admitted they would not be happy in the conditions in which they would find themselves." You have already testified you were born in Mississippi. Is that right?

A That is right.

Q Subsequent to that time you went to the University of Chicago, after attending a Negro school in Richmond, Virginia; is that correct?

A That is correct.

Q And the University of Chicago has all races; is that correct?

A Yes, sir.

Q You were in classes with other students of other races?

A That is correct.

- Q What I want to ask you is, did you find that you "would not be happy in the conditions in which you found yourself?"
- A No, I wasn't more unhappy; in fact, I was happier at the University of Chicago than I was at Virginia Institute.
- Q You can testify to that of your own knowledge, can't you?
- A That is correct.
- Q The faculty at Howard University, is it restricted to one race, or is it all races?
- A All races.
- Q Is there any unhappiness among them?
- A Well, I don't suppose any more than the average faculty, in any university.
- Q On these studies showing that Negroes in the north who attend southern universities, is there any showing as to how long those Negroes were in the north before they went back south?
- A I don't know of any-- I can't recall any information now.
- Q What is your experience at Howard University as to students who come from most of the separate Negro schools in the south, as to their ability to shape up?
- A They have pretty weak backgrounds, on the whole. I mentioned a case this morning, in the case of chemistry, where one of the chemistry departments of the Negro college doesn't have physical chemistry. They come to Howard University to take graduate work, and they have to take a year of physical

chemistry before they can begin the graduate work. You face deficiencies in any of them.

Q Isn't it true that many of the Negroes from southern schools are ineligible to attend a northern university; isn't that true?

MR. DANIEL: You are asking a leading question. We ask that you not lead him.

Q (By Mr. Marshall) Are there any Negro schools in the south that are unaccredited?

A Yes.

Q Can you get into an accredited university in the north if you come from an unaccredited school?

A You can get in, but you are conditioned.

Q Does a condition mean that you have to do more work?

A Yes. My own personal experience bears that out. I got a Bachelor's Degree at Virginia University, and when I went to the University of Chicago, I had to do more work to get another Bachelor there.

Q And you had already been to some kind of an academy in Mississippi, hadn't you?

A That is right.

Q Now, as to your experience in examining the relationship between the education in white and colored schools, on the question that was asked you on cross examination as to one applicant to a law school, I want to ask you if, in your

opinion, what, in your opinion, would be the same viewpoint of a governmental agency as to that one pupil applying for a law school ----

MR. DANIEL: We object to that. That would be a conclusion of the witness.

THE COURT: I don't see what a governmental agency would have to do with it.

MR. MARSHALL: I am speaking of the University of Texas, with the University of Texas, with one Negro student applying for the law school, and the duty of the University to conserve the funds of the taxpayers.

A I believe it would be the same answer that I gave the Attorney General when he asked me the same question a while ago in a different form. It seems reasonable the student should be admitted to the University of Texas.

Q The question was asked whether or not Meharry was a Negro school. You testified on direct examination as to both Meharry and Howard. I now ask you whether or not Howard is a mixed school, or a Negro school?

A Howard University has no restrictions as to race. In fact, we have all types of races at Howard. At least, they have had during the 20 years that I have been there.

Q Getting back to this question of comparing the schools, the population of schools, is the population of the school --

what determines the number of students a school can accommodate?

A Well, there are a number of things. Of course, your physical plant, the things I enumerated this morning, physical plant, the number of teachers you can get, the number of facilities that you can offer.

Q Even assuming that they are doing no better job than they are doing right now, could Prairie View accommodate any more students?

A I doubt it. I was there last week, and I understand they are overcrowded.

Q As to library facilities, you did compare Meharry as to individual schools and student body?

A Meharry?

Q I mean Prairie View.

A Yes.

Q And are you familiar with the approximate size of the State of Texas -- are you not?

A I thought I was until I came here. I doubt it.

Q What relationship to the number of students attending college is it to the fact that in one instance you have eleven schools scattered all over the state and in the other instance you have one school at the far -- one of the far sides of the state?

A Of course, geographically, it would be difficult, if Negroes

lived on the other side of the state, and would have to come to the other side of the state.

Q Does that have some determinative bearing as to the number?

A It probably would.

Q That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will take a recess for a few minutes.

{ Court was recessed at 3:15 p. m.,
{ until 3:40 p. m., May 15, 1947,
{ at which time proceedings were
{ resumed as follows:

MR. DANIEL: It is agreed that the following publications may be marked by the Court Reporter and left with him, and that he shall place in the record excerpts from such publications that may be requested by either of the parties.

MR. DURHAM: We want to be bound only by what portions we offer.

{ Thereupon, the following publications
{ were marked for the purposes above
{ stated as:

{ Exhibit A, 16th Census of the United
{ States, 1940.

{ Exhibit B, Accredited Higher Institu-
{ tions, 1944, Bulletin 1944, No. 3,
{ U. S. Office of Education.

{ Exhibit C, General Studies of Colleges
{ for Negroes, Misc. No. 6, Vol. II,
{ U. S. Office of Education.

{Exhibit D, Directory, Colleges and
{Universities offering Graduate Courses
{leading to Master's and Doctor's
{Degrees, 1940-1945.

{Exhibit E, Federal Government Funds
{for Education, 1944-1945 and 1945-46,
{Leaflet No. 77.

{Exhibit F, Biennial Survey of Educa-
{tion in the United States, 1942-44,
{Statistics of Higher Education,
{1943-44.

{Exhibit G, Biennial Surveys of Educa-
{tion in the United States, 1938-40
{and 1940-42, Statistics of Higher
{Education, 1939-40- and 1941-42.

{Exhibit H, Biennial Survey of Educa-
{tion in the United States, 1942-44,
{Statistics of State School Systems,
{1943-44, Chapter II.

{Exhibit I, Federal Security Agency
{Biennial Survey of Education, 1936,
{1938.

{Exhibit J, Statistics of Land Grant
{Colleges and Universities, year ended
{June 30, 1944

MR. DANIEL: We wish to take one in this group from which we read excerpts in the case.

MR. DURHAM: We object, first, that it hasn't been certified to, and that nobody has identified it as being the official document.

THE COURT: Well, I think I will let him offer it, as the Doctor has testified from it.

{Said instrument, the same being
{National Survey of the Higher Educa-
{tion of Negroes, a Summary, Misc.

{ Vol. IV, was admitted in evidence
{ as Respondents' Exhibit No. 15.

MR. DANIEL: Number sixteen will be the Report of Senior Colleges for Negroes. We will get that from Dr. Thompson tomorrow.

{ Said instrument, being "The Senior
{ Colleges for Negroes in Texas," was
{ admitted in evidence as Respondents'
{ Exhibit No. 16.

D O N A L D G. M U R R A Y, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give your full name.

A Donald G. Murray.

Q And your address?

A 424 Y Court, Baltimore, Maryland.

Q Your present occupation?

A Attorney.

Q Where did you go to college?

A Amherst College.

Q Where is that?

A Amherst, Massachusetts.

Q When did you finish Amherst?

A 1932.

Q And did you apply for admission to the University of Maryland Law School?

A I did.

Q First; and what happened to your application?

A It was refused.

Q On what grounds?

A On the grounds it was against the policy of the State of Maryland to admit Negroes to the University of Maryland Law School.

Q What happened thereafter?

A I consulted briefly with attorney Thurgood Marshall.

MR. DANIEL : We object to that as being irrelevant and immaterial, as to how he got in the school.

THE COURT: Tell me your purpose of it. I don't quite see.

MR. MARSHALL: The whole purpose of it is that in the State of Maryland they have segregation statutes similar to the State of Texas. He was refused admission, and a lawsuit was filed, and they said if he was admitted to the school it would wreck the University, and he was admitted, and everybody got along fine.

THE COURT: How is he going to prove what the State said except by hearsay?

MR. MARSHALL: We have here a document from the Court of Civil Appeals, and motion to advance a case, signed by

the Attorney General, and the Assistant Attorney General, from the State of Maryland. That is the only piece of evidence we are going to introduce in evidence as to what the State of Maryland said.

THE COURT: Might not that be the attorney's contention?

MR. MARSHALL: He was representing it as the official attorney of the State of Maryland.

THE COURT: I will let you have it on your bill. You can offer it on your bill.

MR. MARSHALL: Thank you, sir.

Q (By Mr. Marshall) Was a lawsuit filed as a result of your case?

MR. DANIEL: We object to that.

THE COURT: It is on his bill.

MR. DANIEL: The records would be the best evidence.

THE COURT: He can say whether it was filed or not.

Q (By Mr. Marshall) Did the Court of Appeals of Maryland in a decision reported in the official documents of the Court of Appeals of Maryland, and reported in the Atlantic Reporter, the title of which was Pearson against Murray, decide upon the case of which you were speaking?

A Yes, it did.

Q Now, I ask you as to whether or not you were admitted to the University of Maryland prior to the decision of the Court of

Appeals of Maryland?

A Yes, I was.

Q And prior to the decision of that case, I will ask you, did the Attorney General in Maryland, Herbert R. O'Connor, and the Assistant Attorney General, Charles T. LeViness, III, file a certain document with the Court of Appeals of Maryland concerning your case?

A Yes, they did.

MR. DANIEL: As I understand it, all of this is going into his bill of exception?

THE COURT: That is right.

Q (By Mr. Marshall) I show you this document entitled Raymond A. Pearson, President, and other names, versus Donald Murray, in the Court of Appeals of Maryland, with the certification from the archivist of the State of Maryland, and ask you if you can identify it?

A Yes, I can.

Q What is it?

A It is the notice to advance the hearing in the Court of Appeals of Maryland on the case Pearson, et al vs. Murray.

MR. MARSHALL: If Your Honor please -- you still have your objection to it?

MR. DANIEL: Yes, my objection is already in, and the Court sustained it.

THE COURT: Yes, and it is coming in on the bill of

exception.

{Thereupon counsel for relator had
{the Reporter mark said instrument
{above referred to as Relator's
{Exhibit No. 7, and same was admitted
{for the purpose of the Bill of Excep-
{tion as such exhibit.

MR. MARSHALL: Thank you, sir.

Q Mr. Murray, the sum and substance of the relator's Exhibit No. 7 is the request to the Court of Appeals of Maryland to advance the hearing in this case from the October term on the theory that if you were admitted that dire results would come about at the University of Maryland; is that not correct?

A That is correct.

Q You were admitted in September, 1935, were you not?

A That is correct.

Q Will you tell briefly to the Court what, if anything, happened to bear out the predictions of the Attorney General of Maryland?

A Absolutely nothing happened.

Q Were you ostracized in any way?

A No, I was not.

Q Were you segregated in any way?

A No, I was not.

Q Were you mistreated in any way?

A No, I was not.

Q What was your experience, briefly?

A My experience, briefly, was that I attended the University of Maryland Law School for three years, during which time I took all of the classes with the rest of the students, and participated in all of the activities in the school, and at no time whatever did I meet any attempted segregation or unfavorable treatment on the part of any student in the school, or any professor or assistant professor.

Q Where is the University of Maryland Law School located?

A Baltimore, Maryland.

Q Are the public schools there mixed or separate, according to race?

A Separate.

Q Are housing conditions mixed or separate?

A Separate.

Q Are eating facilities mixed or separate?

A Separate.

Q With the exception of the separation of races on buses and trolley cars here in Austin, do you find any item of segregation that is not present in Baltimore, Maryland?

A As far as I have observed, I have observed none.

Q Attorney General Herbert O'Connor signed this motion to advance, did he not?

A Yes.

Q Who gave you your diploma when you graduated from the University of Maryland?

A Governor O'Connor.

Q The same man?

A Yes.

Q And Charles T. LeViness, III, signed that motion as Assistant Attorney General?

A Yes.

Q Who gave you your first job when you left the law school?

A Charles T. LeViness, III.

Q How did that come about?

A I applied for a position as inspector with the Board of Liquor License in Baltimore City. At the time Mr. LeViness was the Chairman of that Board, and in charge of the hiring of applicants. I applied and was accepted and worked for about eight months with him.

Q And then you went to the Army?

A No, I went in private practice.

Q Do you know of your own knowledge whether other negroes have attended the University of Maryland since your time?

A Yes, I do.

Q About how many are in there now?

A Nineteen.

Q Has there been any trouble of any kind since you have been there that you know of?

A Not that I know of.

Q Your witness.

MR. DANIEL: That is on the bill of exception. No questions.

(W i t n e s s E x c u s e d)

MR. DURHAM: Your Honor, we desire to offer a portion of the cross interrogatories of the witness L. E. Angell, and I will ask Mr. Nabrit to read the answers as I read the questions.

(Mr. Durham read the following cross interrogatories, and Mr. Nabrit read the answers, from Deposition of E. L. Angell.

E. L. A N G E L L. (Deposition)

- Q 3. How much money was expended in setting up this Law School for Negroes in Houston?
- A 3. I do not know.
- Q 4. Were books, equipment and supplies for this Law School for Negroes in Houston purchased for cash or by State requisition or vouchers?
- A 4. They were purchased by Prairie View University using their funds.
- Q 5. If purchased for cash, who paid for them and out of what fund was the money secured and on whose authority was the payment made?
- A 5. They were paid for from funds of Prairie View University

and on the authority of the Principal of the Prairie View University.

Q 20. How many rooms were there in this building or in these housing facilities and what was the floor area of each?

A 20. There was a suite of three rooms, but I do not know the floor area.

Q 30. State what was the academic rank of each of these teachers in the faculty of the Law School.

A 30. I do not know.

Q 32. How many lecture rooms or class rooms were provided in this building or in these housing facilities and what was the floor area of each? For identification purposes, number this room or rooms.

A 32. I do not know the disposition to be made of the suite of rooms that was rented.

Q 33. Was an office for the Dean provided in this building or in these housing facilities? If so, what was its floor area and its approximate distance from the lecture rooms? For identification purposes, number this room.

A 33. I do not know.

Q 34. Was an office for the registrar provided in this building or in these housing facilities? If so, what was its area and its approximate distance from the lecture rooms? For identification purposes, number this room.

A 34. The registrar for this court was the Registrar at the

Prairie View University, and I do not know if they provided any space in Houston for him or not.

Q 36. Into how many rooms was this Law Library divided and what was the floor area of each? For identification purposes, number each of these rooms.

A 36. See answer to Cross Interrogatory No. 35.

Q 37. What was the floor area of the main reading room in the Law Library? For identification purposes, number this room.

A 37. See answer to Cross Interrogatory No. 35.

Q 38. What was the floor area of the cataloguing and receiving room of the Law Library? For identification purposes, number this room.

A 38. See answer to Cross Interrogatory No. 35.

Q 39. Was there a librarian's office in the Law Library, if so, what was its approximate distance from the main reading room?

A 39. See answer to Cross Interrogatory No. 35.

Q 40. What was the approximate distance of the Law Library from the lecture rooms, the Dean's office and the registrar's office?

A 40. See answer to Cross Interrogatory No. 35.

Q 41. When was this library purchased and what was its purchase price?

A 41. Some 400 basic reference law books were made available

by the Texas A. & M. College library, and it was ascertained that books for first year law students, a list of which, was furnished by the Dean of the Law School of the University of Texas, could be delivered on short notice, and the authorities of Prairie View were ready to purchase these books if a student registered in the law course.

Q 42. How many library stacks or book cases were acquired and what kind?

A 42. These were to be furnished by the library of Prairie View University.

Q 45. Give the name and qualifications and salary of each of these officers of the Law School for Negroes in Houston:

- (a) Dean
- (b) Registrar
- (c) Librarian

A 45. The Dean and Registrar were officials of Prairie View University and Prairie View University was to furnish Librarian services at the Houston establishment.

Q 48. Give the budget for the Law School in Houston for Negroes for the first year. Itemize as follows:

- (a) Salaries - Instruction
- (b) Library.
- (c) Operation and maintenance.
- (d) Travel.

- (e) Publication.
- (f) Equipment.
- (g) Supplies and expenses.
- (h) Administration.
- (i) Scholarships and student aid.
- (j) Annuities.

A 48. No specific budget was approved, it being understood that if a student registered for the law course that the officials at Prairie View would then submit a budget.

Q 50. State whether announcements of the new school, its curriculum, its schedule of classes, its organizations, expenses and program was made. If written announcements were made, attach copies of the same to this deposition.

A 50. The only announcement that I know was made by the press.

Q 51. If oral, who issued them and how were prospective students to become aware of these verbal announcements?

A 51. I do not know.

Q 52. What officer of the Law School for Negroes in Houston made these announcements?

A 52. I do not know.

Q 53. Did the faculty of the School of Law for Negroes in Houston prepare the curriculum, schedule the classes and otherwise conduct the general educational work of the Law School?

A 53. It was understood that they would follow the courses

offerings of the University of Texas.

Q 54. How many meetings did the faculty of the Law School for Negroes in Houston hold? Attach copies of the minutes of these meetings to this deposition.

A 54. I do not know.

Q 55. Who was the Secretary of the Law School for Negroes in Houston. State the qualifications of the Secretary.

A 55. Prairie View University was to furnish secretarial assistance for the law course in Houston. I do not know the qualifications of the personnel.

Q 56. Attach copies of the application blanks or forms for admission to the Law School for Negroes in Houston to this deposition.

A 56. I have no copies, blanks or forms.

Q 57. Attach copies of each of the registration forms, blanks or cards used by the Law School for Negroes in Houston.

A 57. The registration forms would be those of Prairie View University. I haven't these forms available.

Q 58. Is this Law School for Negroes still in existence in Houston?

A 58. The facilities were rented until the 1st of March.

It was understood that if no student registered that the authorities of Prairie View would discontinue the offering of the course and made disposition of the equipment.

Q 59. If not, when was it closed and upon whose authority was it closed?

A 59. See answer to Cross Interrogatory No. 58.

J. B. RUTLAND, a witness produced by the Relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Give your full name, please.

A J. B. Rutland.

Q And your address?

A 4112 Duval.

Q And your occupation, sir?

A Director of Education for Negroes, State Department of Education.

Q And do you also have a position with the Scholarship Committee for Negroes?

A Executive Secretary of the Scholarship Committee.

Q And what is the Scholarship Committee for Negroes?

A It provides for out of state scholarships, scholarships to out of State institutions for Negroes in subjects that are not offered at Prairie View.

Q And when was that committee set up?

A In 1939.

Q And how much money did it have to operate on the first year?

A Twenty-five thousand.

Q And was that all for scholarships, or was part of that for administration?

A Part of it for secretarial.

Q Approximately how much was available for scholarships?

A About twenty-four hundred the first year.

Q Twenty-four hundred?

A Twenty-four thousand the first year.

Q And was that all contributed?

A I am not sure about the first year. I wasn't in the office at that time.

Q When did you take over?

A 1945.

Q 1945?

A Yes.

Q Do you have the records there for the previous years? Will you look at those records and let us know how much was actually expended in 1939? I am wondering if we might shorten this by giving him time to consider each year. The thing I am interested in is the amount of money and the number of subjects that were covered by the students, and the students for each year, and then he could present that. Do you have it?

A I have it for 1945-46 here.

Q We wanted it back a little ways, if we could. Do you have any other years there? Well, I think, if Your Honor please, I might ask one more question, and I might save you some time there. Is this 1945-1946 about the way it has been running since you have been there?

A Since I have been there, it is.

THE COURT: That is the one since you have been there, isn't it?

A Yes.

Q (By Mr. Marshall) Do you have a copy of the rules and regulations for the issuance of scholarships that you mail to the pupils?

A No.

Q Is this it?

A That is right.

Q That is it. May we have these two marked?

A 1943 and 1944 there was \$24,000.00 spent.

Q How many law school students were included in that year?

MR. DANIEL: Your Honor, we would like to make the same objection to this line of testimony that we made to the previous testimony about other schools. The relator here is asking only the Dean and the Registrar and the Board of Regents of the University of Texas to get into the University of Texas. He isn't concerned at all with out of state scholarships, didn't want one, and didn't apply for one. We

think it is irrelevant and immaterial to this case.

THE COURT: We will hear the testimony.

MR. DANIEL: Note our exception.

Q (By Mr. Marshall) Can you tell me how many law school students went in the year 1944 - 1945?

A Three.

Q And the previous year, can you go back?

A The total up to now is 11, since we have started.

Q The total is 11 in law schools?

THE COURT: Altogether.

A Altogether since the work started.

Q (By Mr. Marshall) When was the first year you had an applicant for a law school scholarship?

A In this 1939 to 1943 report we have eight law students.

Q You have eight law students in that report. You don't know what years they applied, do you?

A No, except during the years 1939 to 1943.

Q All right. Can we have the -- is that a mimeographed copy, or is that the only one?

A I have only the one copy.

MR. MARSHALL: Any objection?

MR. DANIEL: The same objection we made to all of them.

MR. MARSHALL: We are introducing as Exhibit 8 the report of the Scholarship Aid Fund for Texas Negro Graduate and Professional Students, 1945-1946.

{ Said instrument was admitted
 { in evidence as Relator's Exhibit
 { No. 8.

MR. MARSHALL: And Relator's Exhibit No. 9, from the office of the Executive Secretary of the Texas Scholarship Aid Committee, State Department of Education, statement of policy and procedure. That is applicable, of course, to the Negro Scholarship Fund.

{ Said instrument was admitted in
 { evidence as Relator's Exhibit
 { No. 9.

MR. MARSHALL: That is all.

MR. DANIEL: No questions.

(W i t n e s s E x c u s e d)

MR. DURHAM: Your Honor, the relator rests at this time, with the understanding, because of the order in which the testimony has been put on, he reserves the right to rebut any further testimony, under the agreement.

THE COURT: All right.

MR. DANIEL: Your Honor, I want to exchange the smaller picture for a larger picture, more equal to the size of the picture of the University Law School introduced by the relator, for this little picture we introduced yesterday.

MR. MARSHALL: We only object on the ground there is too much sky in it.

MR. DANIEL: For the record, in reply to that last

remark, we tried to take it about the same distance as the one introduced by the relator of the Texas University Law School.

{ Said photograph was marked by
 { the Reporter as Respondents'
 { Exhibit No. 14, and same is sub-
 { stituted for the instrument
 { originally introduced as such
 { exhibit.

H E N R Y D O Y L E. a witness produced by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Daniel:

Q State your name.

A Henry Doyle.

Q Where do you reside?

A 1205 Leona Street.

Q Austin, Texas?

A Austin, Texas.

Q Did you reside here in Austin during the months of February and March of 1947?

A I did.

Q Were you acquainted with the opening of a Negro Law School here in Austin on March 10, 1947?

A Yes, sir.

Q Did you, prior to March 10, 1947, consider entering that law

school?

A I did.

Q Did you on the Saturday before March 10, 1947, attend a meeting in Dallas, Texas?

A I did.

Q Were other members of the Negro race at that meeting?

MR. DURHAM: Your Honor, the relator objects as to whether a meeting was held, or ten thousand meetings were held, unless it is shown they were held at the request and instance of relator.

THE COURT: We will see how it develops.

MR. DURHAM: Will you note our exception?

THE COURT: Well, I haven't ruled on it yet.

MR. DURHAM: All right, Your Honor.

Q (By Mr. Daniel) Do you know Maceo Smith?

A I do.

Q What position, if any, does he hold with the National Association of Colored People?

MR. DURHAM: Your Honor, we object to that. Any connection he has with the National Association for Colored People would not be binding, and any action he did would not be binding upon this relator.

THE COURT: I believe we will let him pursue it a little further.

A State the question again.

Q (By Mr. Daniel) What position does he hold with the National Association for the Advancement of Colored People?

A I am not familiar with his title.

Q Is he an officer in the Association?

A I am not sure. I know he works with them, but whether he holds an office or not, I don't know.

MR. DURHAM: We object to the last statement as not responsive.

THE COURT: Yes, just answer the questions.

Q (By Mr. Daniel) Was he at that meeting attended by you in Dallas on the Saturday before March 10, 1947?

A He was.

Q Did he make a talk or report of any kind at that meeting in Dallas the Saturday before March 10, 1947?

THE COURT: I am still holding that in abeyance.

A Again, will you ask it again, please?

Q (By Mr. Daniel) Did -- first, let's get this. Maceo Smith, was he at the meeting in Dallas?

A He was.

Q Did he make any kind of talk or report there at the meeting?

A I don't recall.

Q Were discussions held at the meeting by ----

MR. DURHAM: Your Honor ----

MR. DANIEL: I withdraw it.

THE COURT: I think it would be hearsay.

Q (By Mr. Daniel) How long did you stay there at the meeting in Dallas?

A I am not sure, approximately two hours.

Q Were other officers of the National Association for the Advancement of Colored People there?

MR. DURHAM: We object to that as assuming that he knows them.

THE COURT: Unless he knows of his own knowledge.

MR. DURHAM: We object to it for the reason that he presupposes that he knows, and it is an assumption not based upon any facts.

A I do not.

Q (By Mr. Daniel) You do not know. What was the name of the group that held that meeting?

MR. DURHAM: We object to that as assuming that he knows.

THE COURT: If he knows.

A I do not know.

Q (By Mr. Daniel) Who notified you to come to the meeting?

A I was notified by circular letter.

Q From whom?

A I don't recall the signature.

Q Was the support of this lawsuit pending here by the National Association for the Advancement of Colored People mentioned at that meeting by anyone?

MR. DURHAM: We object to that.

THE COURT: Of course, it would not be admissible unless the relator was there, and unless he made it.

MR. DURHAM: And unless it was by his authority, and we object to it as not being binding upon the relator, unless he shows that connection.

THE COURT: That is right.

Q (By Mr. Daniel) Did you see Heman Marion Sweatt there?

A I did not.

Q Did you see Mr. Durham, the man that just made the objection, any time during that meeting?

A I saw him.

Q Did he appear before the meeting?

A He did.

Q Before that meeting concluded, did you announce to that meeting that you would not enter the law school, Negro Law School on March 10, 1947?

MR. DURHAM: We object to that as being irrelevant and immaterial as to what he would do.

THE COURT: I believe I will let him answer it, in view of our prior rulings of that. We may strike it all later.

Q (By Mr. Daniel) Did you make such statement to the meeting before it adjourned?

A I said I was seeking information relative to making up my mind whether or not I would enter the law school.

Q Did you announce before the meeting was over that you would not enter the law school the next Monday morning?

A I did not.

Q Didn't you tell me that you did?

MR. DURHAM: We object to him arguing with his own witness.

THE COURT: That is right.

Q (By Mr. Daniel) Did you enter the Negro Law School on March 10, 1947?

A I did not.

Q That is all.

MR. DURHAM: That is all.

THE COURT: I think the testimony is perhaps not relevant.

MR. DURHAM: We ask that it be stricken.

THE COURT: All right.

MR. DANIEL: Note our exception.

(W i t n e s s E x c u s e d)

MR. DANIEL: That is all of the witnesses we have here now, Your Honor. We have two for in the morning. That is all we know about.

THE COURT: Then we will recess until nine o'clock in the morning.

(Court was recessed at 4:20 p. m.,
 (May 15, 1947, until 9:00 a. m.,
 (May 16, 1947.

MORNING SESSION.

May 16, 1947.

9:00 A. M.

A. W. WALKER, JR., a witness produced by the respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.Questions by Mr. Greenhill:

Q Will you please state your name?

A A. W. Walker, Jr.

Q What is your occupation, Judge Walker?

A Professor of Law at the University of Texas Law School.

Q Would you please give us your educational background for that teaching?

A I received my B. A. Degree from the University of Texas in 1921 and my LLB in 1923. I took work at some other schools, graduate work at the Yale Law School, some extra graduate work at Columbia Law School.

Q Do you belong to any professional societies?

A Yes, the Association of American Law Schools, American Judicature Society, Texas Bar Association.

Q Have you been admitted to the practice of law in Texas?

A Yes.

Q When were you admitted?

A I was admitted in 1923.

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Q State whether or not you have engaged in the private practice of law?

A I have.

Q When did you engage in the practice?

A I practiced in Dallas, Texas, from 1923 to 1925.

Q Would you state whether or not you have written any legal articles or books on the subject of law?

A I have written quite a few articles published in law reviews and some in trade magazines.

Q Would you please name some of the articles in the law reviews?

A I wrote a series of articles on the subject of the law of oil and gas which were published in The Texas Law Review, one in the Mississippi Law Review, and various articles also published in the Oil & Gas Journal, and other trade publications.

Q In what courts are you licensed to practice?

A The Supreme Court of Texas, the Supreme Court of the United States, the Federal Court for the Northern and Western Districts of Texas.

Q What subjects have you taught in the law school?

A That is quite a long list. My teaching has been primarily in the real property fields. I have taught courses in personal property, real property, conveyances, called future interests, oil and gas, domestic relations, wills, administration of estates.

Q What courses are you now teaching?

A At the present time I am teaching oil and gas and a real property seminar.

Q What system of law instruction do you use in your classes?

A The case book system.

Q How long have you been using that system?

A Since I have been teaching law, which is about 22 years.

Q Would you please describe briefly the nature of the case book system?

A The case book system is designed to cause your students to go to the primary sources of law, rather than to secondary sources of law for their information. In other words, they go to the decisions of the courts and study those and be prepared to recite upon them in class, and then to discuss them and the conclusion, with all questions that might be raised in regard to those cases.

Q In addition to the -- is there any additional feature of the system in addition to the recitation and discussion? Is there any other part of the case book system which you use?

A I don't know that I understand your question.

Q I mean, do you ever lecture to the class?

A Oh, yes. I would not call that a part of the case book system, but frequently there is material that you don't think that requires the detailed attention that the case book system necessitates, which you want the students to have, but where

you can cover the situation by simply a lecture covering that particular topic.

Q I will ask you whether or not in your opinion the case book system is flexible?

A A very flexible system.

Q How many students are in your classes, Judge Walker?

A Well, in my class in oil and gas at the present time, there is something over a hundred students. In my seminar class, it is restricted to fifteen.

Q How often does an individual student get called upon to recite in a class of a hundred?

A I would say that in a class of 100, for being called upon to recite on a case, that the average would not be called upon to recite more than one case.

Q In what period of time?

A During a course.

Q Three and a half months?

A Yes, about 100 cases. Possibly you might cover more than a hundred cases, but you wouldn't cover probably as many as 200 cases.

Q So, as I understand you, an individual student would be called on ----

A About one and a half cases.

Q One and a half times in a four and a half months course?

A That is right.

Q Have you taught any smaller classes than 100?

A Yes. Of course, at the present time I am teaching a seminar class which has fifteen students. In the past, before our law school got so large, in the summer time I suppose we had an attendance of about 150 students on the average, and the classes were relatively small. I have taught some of those classes where there were around 20 students to the class.

Q And what system of teaching did you use in those classes?

A The case book system.

Q I will ask you whether or not you think such system is adaptable to a small class?

A Yes, I think it is adaptable to a small class.

Q Could it be used by a class of ten?

A I think so, without question.

Q Would the students in that class receive the same or similar experience and education as those in the class of 100?

A In my opinion, they would receive better.

Q Would you please explain that answer?

A For the reason that they would be called upon more frequently. They would take a more active part in the discussions. In a class of 100 students, many of them, realizing that under the law of averages their chances of being called upon are rather remote, are inclined not to take an active part in the discussion. There is always a certain group of such students. In a class of ten, all of the students are on their

toes all the time, because they realize they are apt to be called upon next.

Q Are you familiar with The Texas Law Review?

A Yes.

Q Have you been connected with the publication officially?

A Yes, I was the first student editor in chief, and I have acted as faculty adviser on two different occasions, of the publication of the review.

Q Do you know the nature of the legal existence of The Texas Law Review?

A It was organized in cooperation with the Bar of Texas as a corporation, and stock was sold, and it exists as a separate legal entity, a corporation.

Q Does it have any official connection with the School of Law?

A Not officially, no.

Q Who decides what articles may be published in the Texas Law Review?

A The faculty adviser.

Q I will ask you if in the past, and at the present time articles have been accepted by The Texas Law Review which have been written by students other than of the University of Texas, and faculty members of the University of Texas?

A Yes. I assume that it is considerably more than half of the articles. We make a distinction in the Review in what we call

articles and comments and case notes. Of the leading articles, more than half of them are prepared by outsiders. As to the comments, largely they have been prepared by our own students, but occasionally comments have been submitted by students of Baylor and S. M. U.

Q Do you know whether or not Baylor has a law review in connection with its law school?

A The last information I have on it, they do not have. I feel reasonably sure they have not organized it.

Q Do you know whether or not the Baylor Law School is an accredited Law School?

A Yes, it is an accredited law school.

Q Now, if a member of the Negro Law School should prepare and submit an article to the Texas Law Review, of merit, I would ask you if there is any reason why that should not be published in the Texas Law Review?

MR. DURHAM: We object to that as to whether or not there is any reason or not. It is too speculative, and not binding upon this relator. It has no bearing upon any issue.

Q I will withdraw the question. Do you know of any rule of The Texas Law Review or society which would prohibit its use in the law review?

A No, there is no such rule.

Q Did you hear the testimony of Dean Harrison, from the stand?

A Yes, I heard it.

Q Did you hear that portion of his testimony in which he cited with approval some sort of review, or otherwise, which divided law schools into large, medium size, and small?

A Yes.

Q Did you hear that portion of his testimony which intimated that the smaller schools would consist of schools wherein the student population was between 50 and 150?

A Yes.

Q Did you hear that portion of his testimony that the so-called smaller schools would be inferior in that they would not be in a position to offer equal educational advantages with larger or medium size schools?

A Yes.

Q I will ask you whether or not you know of any of the schools, law schools, that have a population of from 50 to 150 in their class rooms?

A Yes, there are quite a few.

Q Would you name some of those?

A I couldn't give you the figures of their enrollment at the present time. Most of them, of course, as you realize, are crowded because of the present situation. Prior to the war, schools like Duke University and North Carolina University had on the average about 100 students. Stanford University

had approximately 150, I believe 148 in 1941 -- in 1940-41, was their attendance.

Q Do you know the general reputation of these law schools?

A The three schools I have named are outstanding law schools with very high reputations.

Q Are they at least of equal reputation with the University of Texas?

A Yes.

Q Your witness.

CROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Professor Walker, in stating the courses which you have taught and which you now teach, you stated that you have taught real property courses primarily?

A That is correct.

Q Personal property, conveyances, and one of oil and gas, administration of estates, and similar courses, and that in teaching those courses you used the case method of teaching?

A That is right.

Q You also stated that in your class of a hundred you called on each student probably once during the semester?

A I said I called on them once for a principal case, once and a half, on the average, I would say.

Q And you stated that you have approximately 100 principal cases during the ----

A No, it would a little larger than that, one and a half times, about a hundred and fifty cases, I would say.

Q Yes. Now, is not one of the attributes of the case system that, as used by professors of law, that most of these principal cases are not covered by calling on the students, but rather by, especially in the larger classes, by having the students volunteer? Don't you have that in your classes?

A That isn't my system.

Q Your system is to go by the roll on each principal case?

A I call on a specific student for a case.

Q Do you ever call on a student out of order?

A I don't have a roll. I have a class seating chart with their names, and I skip from one seat to another, and the name of the student is there, so I never call on them in order.

Q You skip about over your chart?

A Over the room, yes.

Q Do you have some number or some method of indicating when you have been in that particular spot last?

A That is right.

Q After you have called on that particular student, let's say student "A", for a principal case, let's assume first that "A" gives the case. Then do you throw that case open for discussion, or do you make your comment? Give us what procedure is next.

A Of course, a generalization is all you can do here. It depends on the case, largely. Sometimes it may be a relatively simple case, and the student may have handled it satisfactorily, and you may not get any further discussion. Normally, however, the subject will be thrown open for general discussion, and the students will ask questions and raise points and take different viewpoints about the case, and general discussions.

Q So that if the student has some idea which he wants to present, or some question which he wishes to ask about that case, after this one student has given the case, he has that opportunity?

A Yes.

Q I will ask you, in the second place, in your courses, is each student supposed to brief these cases? I put it "supposed" because we understand then he is supposed to brief?

A That is correct.

Q So that if he has done that, and if he is called on he may recite from his brief?

A I try not to let them recite from the brief.

Q Let's say from his recollection of his work in briefing the case.

A That is right.

Q So that we have these 100 students supposedly having done that

spade work before they come, and one is chosen, and all participate?

A That is right.

Q Isn't one of the basic virtues of the case system just this, that spade work which all of the students do in preparing the case, and this wide discussion of getting the viewpoints of persons in the class who have a viewpoint, in future interests that may not be true, but over in oil and gas -- that may not be true. Let's take personal property or domestic relations. There might be a wide variety of opinion. Isn't that one of the virtues of the case system, that comment and explanation and oral argument about the case?

A Unquestionably that is one of the virtues, and the larger the class the more essential it is to have that, because, otherwise, you don't know whether your students are understanding the subject.

Q That is right. Now, if you had one student in a class, obviously that student would have to do his spade work every day or he couldn't come? We agree to that, don't we?

A He would get a very intensive course.

Q So that he would get that side of his law training thoroughly examined every day?

A Yes.

Q But he would miss the discussion of other class members,

would he not?

A He would.

I think so, and it would be the province of the instructor to try to supply that by asking questions himself.

Q But he begins to lose some of the merits of the system itself when he can't have this discussion which goes on in the class?

A There is a certain value to that.

Q Yes. Now, let's go from that just a moment to this law review at the University of Texas which has been -- do you consider the law review at the University of Texas an extraneous and unimportant feature?

A If I understand your question, extraneous -- do you mean foreign to teaching in the law school?

Q No, I mean as one of the assets of the University and a part of its reputation, and a part of its value to the student?

A I think work on the law review is of value to the student.

Q It is of such recognized value that it is a distinction to the student to state after he has graduated that he was a member of the law review staff, is it not?

A That is correct.

Q In the school it is an honor also to be known as one of the law review staff, is it not, for the student?

A That is correct.

Q Obviously, from the catalogue, the law review at the University

is incorporated, and I understand you to say that is a private corporation. Nevertheless, in your opinion, to all intents and purposes, is not the law review at the University of Texas under the supervision of the faculty and students at the University, in fact?

A It is so long as the corporation permits it.

Q I am assuming that they have not forbidden your supervision. It is to all intents and purposes under the supervision of the faculty and students?

A That is true of the content that goes into the review; the financial end of it, no.

Q I am just speaking of the control and operation of the law review as a legal publication, not as to its expenses or things of that sort. It is under the control and supervision of the faculty and students?

A That is correct, although there is a Board of Editors of outstanding lawyers who are appointed each year.

Q Yes.

A By the stockholders.

Q Yes.

A Who would have, if they cared to exercise it, complete authority, I assume.

Q Yes, but isn't it a matter of fact that they don't, they consider it an honor to be on there, and they leave it to the faculty?

A That has been the practice.

Q There is nothing strange at the University of Texas in operating The Texas Law Review from the way it is operated at other institutions, is there? By that I mean all other institutions, or most of the institutions, the students write the case notes and comments. You have some other comments and you might have some other professors writing case notes for articles by members of the faculty and by distinguished lawyers and jurists all over the state; isn't that the way the Texas Law Review operates?

A That is correct. It is different in that its set up is independent.

Q I am not talking about the corporation; I am talking about your testimony that most of your leading articles, a great many of them, were written by lawyers and distinguished men in the legal profession who were not at the University of Texas, and that those comments were solicited from other persons than the students and faculty. That is not strange in law reviews, is it?

A No.

Q It is an accepted practice?

A That is particularly true of our articles. I don't know that we have solicited any comments from outsiders, although they have been submitted and accepted. They were not solicited.

Q So that it operates just like the Columbia Law Review where you were, as far as that goes?

A I don't know what the policy of the Columbia Law Review on accepting outside articles is, or what is the students' portion.

Q I don't mean the students' portion. You have just stated the students would keep their portion, but Columbia accepts leading articles?

A Yes, articles.

Q So that you did not intend to give the impression that there is something peculiar about the way the Texas Law Review operated in that matter of articles?

A No, not in regard to articles.

Q Did you intend to give the impression about case notes?

A Case notes, I think there is a difference there, and I use the word "think" because I am not qualified to speak on the rules that the law reviews have in that respect, but we do on occasions accept contributions for what we call the students' portion of the review, to the comment and case note section from outside sources. As a matter of fact, we accept them from our own students who are not on the editorial staff of the review. In that respect, I don't know what the policy of other reviews has been, but that has been our policy. We have accepted contributions from students at S. M. U. and students at Baylor.

Q You spoke of Baylor a moment ago. What is the size of the law school at Baylor?

A At the present time?

Q Yes.

A They closed down during the war for want of students, and it was only reopened this fall. I am not sure what those figures are. It would be purely a guess.

Q Would you mind guessing?

A I would say 150 students.

MR. DANIEL: We object to the guess, Your Honor, because it is so far from the facts.

THE COURT: Of course, the guess wouldn't help any.

Q (By Mr. Nabrit:) In your opinion, Professor Walker, the law schools with 50 and 100 students, from your knowledge, do any of those law schools possess law reviews?

A Well, the three schools I named all possess law reviews, Duke and North Carolina and Stanford. I haven't checked to see whether there were others. I did check those three schools.

Q As a professor of law you are familiar with most of the law reviews, are you not?

A I am familiar with most of the law reviews, but I wouldn't be familiar, offhand, with the number of students in the various schools.

Q So you just know of these three schools?

A I simply checked those, because I happened to know those were small schools, and did have good law reviews.

Q Do you know how those law reviews operate, of your own knowledge?

A No, I don't.

Q Now, your experience with your seminar of 15 students, you don't teach a seminar in the same way in which you teach your regular classes, do you?

A No, I don't.

Q So that it would not illustrate the case system?

A Well, seminar courses are very flexible.

Q Yes.

A On some days we have two hour sessions, if needed, of the class, and sometimes we use the case book system on a certain topic, and other days we have students contribute their own research and discussion. It varies from class to class, the system we use.

Q In your opinion, and as a law professor, would you advise a prospective law student to attend a law school where he would be the only student?

A That depends, of course, on the law school, and the set up.

Q This law school would be one that was just opening.

A I would say that he would have an opportunity to get a wonderfully intensive course of study, being one student.

Q After you said that, what would you advise him, as a law professor?

A I believe I would.

Q You would advise him?

- A I believe I would. I don't know of any student that would ever have that much care and attention given to his education.
- Q You are assuming the care and attention. You don't think there is any value in having upper classmen in the law school, and you don't think it is of any value that he have discussion with fellow classmates?
- A There are values and values, and you have got a lot of balancing to do. In a large law school the student misses a great deal. There are a great many disadvantages in a large law school, a large class. There are certain advantages. In a small class there are many advantages, and there are certain disadvantages. I would say you would have a balance there. I don't think that a one-man class would be a very desirable class from the teacher's standpoint, but I think from the student's standpoint he would have a wonderfully intensive course of instruction.
- Q Well, you stated that it would not be advantageous for the teacher, and the teacher is the stimulating influence in a one-man law school, isn't he?
- A Well, a lot would depend on your instructor. He could make it very, very interesting, if the instructor had the ability to do so.
- Q We raise a lot of suppositions.
- A You have to adjust your teaching to the size of the class.

You don't teach a 15 or 20 man class the same way you would teach a 100 or 150, and in some cases, I believe I have had over 200.

Q To teach a one-man class in a one-man law school would be a lot of adjusting from that, wouldn't it?

A Yes, it would be a rather marked adjustment.

REDIRECT EXAMINATION.

Questions by Mr. Greenhill:

Q Judge Walker, would you please state whether or not in your opinion the preparation in a small class for class room recitations would be as great or smaller than in a large class?

A The preparation -- are you talking about the students' preparation?

Q On the part of the student, yes.

A You mean on the average?

Q On the average, yes.

A Yes, I think it would be, because the chances of being called upon are just that much greater.

Q In other words, they would be greater?

A There would be more pressure on the student to keep his daily work up.

Q And if the student realized he was to be called on that day, he would probably bone a little harder, would he not?

A That would be the natural tendency.

Q Judge Walker, in the case book system, are all of the questions asked by the students?

A Oh, no, the instructor asks many.

Q Why does the professor ask questions?

A For many reasons. One, frequently, just to provoke discussion. Sometimes to feel out the class to see whether or not they understand the case. In other words, the instructor has had a report only from one student. He has 99 other students. He doesn't know just how much they know about that case, and frequently he will sample the class by questioning to bring out additional points, perhaps, and also to find out how well the class as a whole has understood the discussion.

Q Did I understand you to say that you had used the case book system in small classes?

A Yes.

Q Has that been used satisfactorily?

A Satisfactorily from my standpoint. As a matter of fact, I would much prefer to teach a small class than a large class.

Q And would you use the case book system?

A Yes.

Q Professor Walker, would you please state whether or not first year law students at the University of Texas are eligible to write for the law review?

A No.

Q Do you know any reason why a Negro law school could not

establish a law review?

A No.

Q Judge Walker, I will ask you whether or not you think it would be reasonable to assume that had the relator or some other student who was only one of 12 to 14 inquiries, had enrolled, that there would have been other students in this law class?

MR. DURHAM: We object to his reasoning and assumption, as not being binding, or as not being based upon any hypothesis.

MR. GREENHILL: I want to further qualify that question by saying if there had not been some outside influence to keep students from coming in.

THE COURT: I think there is no evidence of that, and I think it would be speculative on the part of the witness. He can state the effect of this man enrolling.

Q (By Mr. Greenhill) Have you noticed enrollments generally in the law schools?

A Over the United States?

Q In Texas?

A Yes, generally.

Q Do you have any idea of the number of actual applicants, or the relation that bears to the number of inquiries you have, that is, if you have, say, 14 inquiries, how many of those students would probably attend?

MR. DURHAM: We object to that. We don't mind the witness testifying. We certainly don't want the Assistant Attorney General testifying. We object to it as being leading and suggestive.

THE COURT: Let's let him answer.

A I don't know that I could answer that accurately. Normally a student doesn't inquire unless he is interested in enrolling. That is our experience in our Law School.

Q (By Mr. Greenhill) You would assume if 14 people made inquiry at the law school at least four or five of them would enroll?

MR. DURHAM: Your Honor, that is the assumption again.

THE COURT: I think that is an assumption again.

MR. GREENHILL: That is all.

RECROSS EXAMINATION.

Questions by Mr. Nabrit:

Q Professor Walker, are you aware of the fact that under the present crowded conditions of law schools and educational institutions that former G. I.'s, that have the benefits under that act, write to a large number of schools asking about the courses offered? Are you aware of that?

A I have personal knowledge of only one or two instances.

Q Do you handle enrollment at the University of Texas Law School?

A No.

Q So that you are not in a position to state what the statistical experience is as to the number of inquiries and the number ----

A I am not.

Q Do you know of a law school in the United States with one student?

A No, I don't know of any law school like that.

Q Do you know of a law school in the United States with 10 students?

A Not at the present time. During the war there were.

Q During the war was abnormal, too, was it not?

A That is right.

Q Now, so far as a student is concerned, Professor Walker, is it not true that if he is to do the assignment of the instructor, he prepares as hard, under the case system, for his particular work as if he were in a class with 600? That is, that is true as far as each student is concerned; is that not true? That is, all he can prepare is what the assignment was, and excess work which he wishes to do, is that not true?

A That is true as far as preparation of the case is concerned, but ----

Q That is what I mean, just preparation of the cases.

A In other words, there is a certain amount of work in preparing a case, if that is ----

Q An "A" student does that, if he does the professor's

assignment?

A Assuming he does.

Q All right. If he doesn't have the incentive to do it, and the instructor doesn't give him the incentive to do it, then he doesn't do it; is that not the fact?

A Well, assuming all of your points, yes. There are other factors.

Q I am going to get to the other factors. You are postulating the proposition that the pressure of facing the professor every day with nobody to look around at to take that burden off of him will make him do more work. I am giving you a hypothesis that the discussion of his class mates will provoke viewpoints that he himself did not have the experience and capacity to bring forth. Do you agree that both of those are present in considering the case system of study?

A I agree to the raising of questions by the students and the discussion. I don't agree that you have to have a large class.

Q I didn't get to that yet. I am coming to that. Now, let's go to that. What would you suggest from your experience as the ideal size class in law under the case book system or method?

A That would be a difficult question to answer. It would be less than 25. I think after -- my experience has been after you get above 25 your class is getting a little bit unwieldy.

- Q Unweildy. Do you mean that the ability to properly instruct them is declining in inverse proportion as the numbers accelerate or increase?
- A The amount of attention that you can give to the student, and the kind of work he is doing, and you get to the feeling you don't know what the individual students are doing when the class gets large.
- Q Are you saying as the classes at the University of Texas increase, the amount of training they get diminishes in quality?
- A I think that is true of a considerable number of students.
- Q Of the 886 out there, what percentage of those?
- A The top ranking students would get a good legal education under almost any circumstances.
- Q So you are talking about the bottom ranking students?
- A Not necessarily the bottom, but those below the top, at least.
- Q So that the best ----
- A There is a grade in between there.
- Q The best students at the University of Texas Law School are going to get a good legal education, no matter how poor you teach them, or how large the classes get?
- A I am inclined to think that is virtually true.
- Q You can have him.

REDIRECT EXAMINATION.Questions by Mr. Greenhill:

Q Judge Walker, these thought provoking questions that counsel is asking you about; I will ask you whether or not it is not often that the professor himself asks those questions?

A Oh, yes.

Q That is all.

(W i t n e s s E x c u s e d)

D R. B E N J A M I N F L O Y D P I T T E N G E R,

a witness produced by the Respondents, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.Questions by Mr. Greenhill:

Q Will you please state your name?

A Benjamin Floyd Pittenger.

Q What is your profession?

A I am Professor of Educational Administration at the University of Texas.

Q What is your educational background, Dean Pittenger?

A Well, I was educated in the public schools in Michigan, took my Bachelor's Degree, Bachelor of Arts Degree, from the Michigan State Normal College at Ypsilanti, in 1908.

A Master of Arts Degree from the University of Texas in 1912, and my Ph. D. from the University of Chicago in 1916.

Q Dean Pittenger, in your class room experience at Ypsilanti and the University of Chicago, would you state whether or not those classes were exclusively white, or exclusively colored, or mixed.

A I recall one Negro in the class which I attended at Ypsilanti and I recall two or three classes in which there were several colored persons at the University of Chicago.

Q How long have you been in the teaching profession, Dean Pittenger?

A Well, with the exception of the years spent in college, and two years in the Army, since 1904 -- since 1902.

Q Where have you taught?

A In the public schools in Michigan, in the University of Illinois, in the University of Minnesota, at the University of Michigan, at the University of Colorado, and, of course, the University of Texas, Teachers College in Colorado. That is all that I recall for the moment.

Q What positions have you held at the University of Texas?

A I came as what was then known as adjunct professor in the School of Administration and Education, and after two or three years in that service, after I came back from the Army, I became an associate professor of Education and Administration, and I was then advanced in a year or two to a professorship. In 1926 I became Dean of the School of Education, and I served in that capacity until February first of this

year. I also continued my professorship when I was Dean, and on February first I retired to my professorship.

Q When did you come to Texas?

A In 1911, for the first time.

Q That was after you had received your Bachelor's Degree, is that right?

A That is right.

Q So that when you came to Texas from Michigan, would you state whether or not you had an open attitude as to the Negro question at that time, as far as education is concerned?

A Well, I think that I could say that I reflected pretty much the attitude that had developed in Michigan in that community, and later in Kansas where I taught for three years at Fairmont College. I forgot to mention that a while ago, preceding my coming to Texas.

Q Did you teach any colored students in your classes, Dean Pittenger, at any of the places you taught?

A The only place I recall is the University of Colorado.

Q Are you a member of any professional societies in education?

A Yes, sir; I am a member of the American Association of Administrators, which is a branch of the National Educational Association, and a member of the Texas Teachers Association, and a life member of the Texas Association of School Administrators, and during the time I was Dean I was ex-officio member of the Association of Colleges and Departments of

Education.

Q Is that a national association?

A Yes.

Q Did you hold any office in that organization?

A I was President of that for three years.

Q Have you ever held any office in the Texas State Teachers Association?

A I was Chairman of the Committee on Finance for that organization for the period of probably 12 years, ending about 1936, and I was President of the Association in 1941 and 1942.

Q Have you had any dealings or association with higher education for Negroes in Texas?

A Yes, I have had.

Q What experience have you had?

A I think my first experience was as a member of the Board of Trustees, a local Board of Trustees of Tillotson College. Right after the war I participated in several school surveys. I do not recall that there were higher institutions involved, however, in the public schools, which would bring me in contact with Negro education. I visited one or two of the Negro colleges in Texas. I recall Bishop College at Marshall,, at the instance of the American Medical Association. That was probably 20 years ago. I consulted with the group at Prairie View during the development of the graduate program

of that institution. During the past summer, I was a member of a committee appointed by the Southern Association of Schools and Colleges to visit five, I believe it was, of the Negro colleges in Texas, to consider the continuation or the raising of the accreditation level which those colleges had with the Association.

Q Is Tillotson College a colored institution?

A Yes.

Q What Negro institutions did you visit in your tour for the Southern Association?

A Tillotson College, Wiley College, at Marshall, Jarvis College, which is in a rural community north of Tyler, Texas College, I believe it is called, at Tyler, and Prairie View.

Q Now, are you acquainted with any of the leaders of Negro education in Texas?

A Yes.

Q Would you name some of those with whom you are familiar?

A Well, I think my acquaintance probably is -- that I know best of all former Principal Banks of Prairie View. I also have known President Rhodes for a number of years. My recollection for names, unfortunately, is not very good.

Q Have you participated in discussions with those men on the subject of education for Negroes in Texas?

A Yes, I have. I don't recall that I participated in conversations with them as individuals to any great extent, but in

conferences at which they were present, and in which a number of other Negroes were also present.

Q I will hand you a pamphlet entitled "The Senior Colleges for Negroes in Texas," and ask you to examine it. Did you participate in the preparation of that booklet in any manner? That is, did you have anything to do with the existence of the book, in the first place?

A Yes.

Q What connection did you have with it?

A I was Chairman of a committee that was called a Steering Committee of the Biracial Conference on Negro Education, and this committee set up a survey, of which this is the report, and chose the persons who participated in the survey and in making the report.

Q Who called, or who assembled that group which you have mentioned there?

A Governor Stevenson. You mean the conference?

Q Yes, sir. Now, were the members of the conference there of mixed races?

A Yes, sir.

Q Would you name some of the people on that committee there?

A Well ----

Q And identify them as to white or colored, white or Negro?

A Dr. T. D. Brooks, Dean of the Graduate School of Texas A. & M. College, white; Principal W. R. Banks, of Prairie View,

colored; President J. J. Rhoades, of Bishop College at Marshall, colored; Mrs. Joe E. Wessendorf, past President of the Parents-Teachers Association, white; Dr. Thomas W. Currie, of the Austin Theological Seminary, white; -- Dr. Currie died shortly after the committee was set up, and became active, and Dr. T. S. Montgomery, head of the Department of Education of Sam Houston took his place, white. Dr. R. P. Hamilton, physician and surgeon in Dallas, was originally appointed. Dr. Hamilton was colored. He requested to be relieved because of his health, and Dr. H. E. Lee, of Houston, took his place, and Mr. Gordon Worley was Secretary of this Committee and was Director of Special Problems for Negro Education at that time.

Q Did you write the foreword to this booklet?

A Yes.

Q I will ask you to state whether or not you have been interested in the development and improvement of Negro education in Texas?

A Very much.

Q In your experiences in visiting the Negro colleges, and those colleges at which Negroes and whites attend, have you had the opportunity to observe the educational opportunities and advantages offered by these institutions?

A I have.

Q In your experience as an expert in the field of educational

administration, assuming the facilities of both colleges are equal, is it possible for a Negro to receive an equal education in a separate college?

MR. DURHAM: We object to the part of the question "is it possible." We have no objection to him expressing his opinion.

THE COURT: Yes.

Q (By Mr. Greenhill) In your opinion, Dean Pittenger?

A If by equal you do not mean exact duplicate, yes.

Q It would be substantially equal?

A That is right.

Q Assuming otherwise equal facilities or substantially equal facilities, would the mere fact that the college is composed exclusively of colored students, of itself, mean an inequality?

A With the same interpretation of inequality, it would not, in my judgment.

Q Now, in your judgment, are there advantages to the Negro in being taught in a separate institution?

A Yes.

Q What are they?

A Well, the reason that I made the statement that I did with respect to equality appears at this point. I think that the educational value of -- that the value of an education to a student at any level is determined by the total college

situation in which he carries on his college work. It isn't merely a question of class room teaching and study, or of laboratory activities or of library activities, but I think that a very large part, and an increasing part of the value of education at any level is in the total influence, the influence of the total contact of the student with the institution.

Q I will ask you whether or not you think the Negro student would have the same opportunity to develop leadership in a mixed institution, or at a separate institution?

A I think that normally, ordinarily, he would have a better opportunity to develop leadership in a separated institution than in a mixed institution, and I make that statement because the whole life of the institution would then be open to the Negro's participation. My judgment is that particularly in the south, that the Negroes' opportunities in institutions patronized in the great majority by whites would be limited to the class room facilities, and the regular educational activities almost wholly.

Q Now, Your Honor, I want to ask him the next question simply in rebuttal to testimony developed by the relator. It is our understanding that we did object to this line of testimony, but since it has been put in, we want to ask this question in reply to those statements of relator's witnesses. I will ask you, Dean Pittenger, in your opinion as an expert in the

field of Educational Administration, whether or not you think it would be to the best advantage of the State of Texas and of students to continue the policy of segregation in the schools and colleges of Texas?

MR. DURHAM: Just a minute. Now, Your Honor, they have objected to that form of testimony. I don't want to object to it, if I have got a right to reopen my testimony. I won't object, if I have got a right to tender certain testimony that the Court excluded yesterday.

THE COURT: Of course, if it is the same, if this is admissible in rebuttal, testimony on your side would be admissible.

MR. DURHAM: No objection.

MR. GREENHILL: Mr. Reporter, would you read him the question, please?

{The Reporter read to the witness
(the last question set out above.

A All of the consequences considered, I think so.

Q Would you please state your reasons for that answer?

A Part of it was included in the statement I made a moment ago that I believe a part of the value, a great part of the value of higher education, especially in the identification and development of leaders, gives more opportunity for participation in all of the activities of college to the extent that those are restricted to that extent, that essential value of higher education is lost, but my fundamental feeling

about the matter rests in what I conceive to be the effect of the elimination of segregation on the higher level upon segregation upon the lower level. Let me say that my experience as professor of school administration, and my training and my teaching have directed my attention more toward the public school level, the elementary and secondary level of teaching, than toward the higher level.

I function in a higher institution of learning, but my principal interest, and my principal work has been to try to advance and improve public education in Texas, especially in the elementary and secondary levels. So, I have been concerned with the school administration that functions at those levels.

I am unable to see how segregation could be constitutionally maintained below the college level and be unconstitutional at the college level, and so my feeling is that the -- my principal fear of the breakdown of segregation on the higher level is what I conceive to be the breakdown, the influence upon segregation in the lower level. I believe that the -- I believe that the development of the public school system in Texas historically was pretty much -- was pretty much aided by the early appearance of segregation in this state. To put it definitely, I think that the progress of public education in Texas would have been much more retarded than it is if we had not had segregation. I think that the

reasons that justified, as I say, the segregation in those days, still obtain. The public educational system of Texas is a long way from having reached anything like the national standard as a whole, and we are still in the formative period.

My judgment is that if segregation were abandoned in the lower level, that it would become as a bonanza to the private white schools of the State, and that it would mean the migration out of the schools and the turning away from the public schools of the influence and support of a large number of children and of the parents of those children, and that those migrants and their parents are necessary because there would be additional tuition involved coming from a group of citizens who are the largest contributors to the cause of public education, and whose financial and moral support is necessary for the continued progress of public education.

Now, the south has had to fight against the private school tradition since the beginning. Public education started later in the south, in the main, and advanced more slowly in the south, and it is today more backward in its development than elsewhere in the country, and that was due to the plantation system, of course, of economy, and to the English tradition that, with respect to education, the tradition that education was the prerogative of the home and the school. That was held by the influential people of that day. Now, the

fight for public education in this State has been to a very large extent the matter of the converting of people with that background to the support of public schools, and to the patronage of public schools.

The matter counts in another way, I think. There are some nine or ten thousand colored public school teachers in Texas. If segregation were abandoned, I can't help asking myself what would become of that body of Texas teachers, our colored teachers in Texas. If these teachers moved with the pupils into the public schools, it seems to me that that would mean that we would not only have the colored and white together as students, but that we would have rather indiscriminate assignment of teachers to classes, wholly irrespective of the merits of the feeling that exists and operates here as a fact. I believe that that bringing of colored teachers in the class rooms for white students would accentuate this movement of public schools.

However, that question, I have no means of knowing, but I think it is reasonable to believe that at the present time the attitude of Texas people being what it is to a very considerable degree, that the effect of the abandonment of segregation on the lower level would set back the public school movement in this state, and someone who has devoted his life to an attempt to improve it, I can't regard that with equanimity. If the teachers are not moved with the students, then what becomes of the colored teaching profession in Texas?

The great majority of the colored teachers are employed in the colored public schools, both in Texas and elsewhere. Teaching is a principal outlet of service for the educated colored man and woman. There are somewhere between seventy-five and a hundred thousand colored teachers, I would estimate, in public schools in the south, and the implications of segregation for that group, in my judgment, are serious. Now, I think that that not only affects the question of segregation on the higher level, in that it would seem to me that the breaking of segregation on the higher level would move in that direction, but I think it also affects the efficiency of the education of the colored and white students in preparation for higher education. So, I think it has a double relation, and in my judgment, it would at least in that way come back and affect higher education adversely in this state.

Those, I think, are my principal reasons for the statement that I made.

MR. MARSHALL: May it please the Court, we have waited as we have been doing all along, to see just where the testimony was going. At this time we move to strike everything said about lower schools. The reason I do, sir, is that although Dr. Pittenger is an expert in the field, I think his original statement was assuming that you can't have unconstitutionality at the graduate level without affecting the lower

level, and he isn't a legal expert, and he doesn't have a right to draw that conclusion.

THE COURT: He doesn't have a right to draw a conclusion as to constitutionality.

MR. MARSHALL: All of his testimony was based on that, and we move to strike it.

MR. GREENHILL: Their witness yesterday on the stand testified that in his opinion ----

THE COURT: Are you abandoning your theory that it is only higher education and only one man involved in this case?

MR. GREENHILL: Oh, no, sir.

THE COURT: Then, this would not be admissible.

MR. GREENHILL: Sir?

THE COURT: This would not be admissible as to the others, would it?

MR. GREENHILL: On the stand yesterday, over our objection, their witness testified that the time was ripe now to just throw off segregation entirely from the graduate school to the kindergarten.

MR. MARSHALL: No, he didn't. He said just the opposite, that the time was ripe for the graduate school.

THE COURT: That is what I understood, was for the graduate school.

MR. DANIEL: Yesterday we objected to all of the

testimony concerning schools in general.

THE COURT: Yes.

MR. DANIEL: That was overruled, and we preserved a bill. We offer this simply in rebuttal to that, in case the Court allows that yesterday to stand.

THE COURT: In so far as any evidence has been received here affecting the secondary schools or less than graduate schools, I am not considering it.

MR. GREENHILL: We certainly do not waive our point that the case should be limited to the two schools in question.

Q Now, Dean Pittenger, I will read you a portion of this pamphlet from which relator's witness testified yesterday, entitled "The Senior Colleges for Negroes in Texas," on page 83, which is in the nature of a summary from all of the statistics drawn in this pamphlet.

MR. MARSHALL: We object to any reading of conclusions from that pamphlet. The witness can testify as to his conclusions.

MR. GREENHILL: I am going to ask him if these are his conclusions.

MR. MARSHALL: All right.

THE COURT: All right.

Q (By Mr. Greenhill) (Reading)

"Admission of Negroes to existing State Universities

for whites is not acceptable as a solution of the problem of providing opportunity for graduate and professional study for Negroes, on two counts:

(1) Public opinion would not permit such institutions to be opened to Negroes at the present time; and (2) even if Negroes were admitted they would not be happy in the conditions in which they would find themselves."

I will ask you to state to the Court whether or not these views are your views?

MR. MARSHALL: We object, if Your Honor please, because the testimony offered yesterday in the form of Donald Murray was directed to the point as to whether or not there was validity in the fact that if you attend a school you will be unhappy, and was stricken on the motion of the Attorney General. Either that goes in or nothing.

MR. GREENHILL: We would be very happy for all of the evidence offered throughout this book on all the State institutions and appropriations and their faculty to be stricken.

THE COURT: We are not concerned with that. The only question here resolves itself into legal administration of schools, and it is difficult for us to determine the condition of one's emotions when he enters any school, so I think we are concerned as to whether or not the first part

of that is his opinion, that it is to the best interest for this, for the abolition of segregation.

MR. GREENHILL: Did you sustain his objection?

THE COURT: Yes.

MR. GREENHILL: Note our exception.

THE COURT: Yes, sir.

Q Relator also brought over this "General Study of Colleges for Negroes," a publication, I believe, prepared by Mr. Galiver, in which it was stated, "negro students in northern universities do not, as a rule, participate fully and freely in the life of the institution." You having been educated in a northern school, and having taught there, do you believe that is a correct statement?

MR. MARSHALL: If Your Honor please, that was around 1911, I think it was. I think that is a little far back.

Q (By Mr. Greenhill) Have you made any study of that in recent years? Have you studied any of the recent scientific reports on this subject?

A Notto any great extent, no, sir. I would say this ----

MR. DURHAM: We object to that.

THE COURT: If he doesn't know that.

A The date 1911 is incorrect.

MR. MARSHALL: I apologize.

Q (By Mr. Greenhill) Do you know whether or not these are the facts?

MR. DURHAM: We object to that. He says he doesn't know, I believe.

Q (By Mr. Greenhill) When was your latest study of northern schools, Dean Pittenger?

A My latest contact was in a summer session at the University of Colorado in the middle thirties, I would say 1935 or 1936.

Q Well, now, at that time did you notice whether or not this statement that I have read here was the fact?

MR. DURHAM: We object to that as being a conclusion and opinion of the witness as to what the mental processes of the students were in that school.

THE COURT: Yes, you had better ask what he saw.

Q (By Mr. Greenhill) Did you observe whether or not the students were given a full opportunity to participate?

MR. DURHAM: We object to that as an assumption that he did observe.

THE COURT: Just what he did see.

Q (By Mr. Greenhill) What did you observe?

A I can relate one incident that occurred. In my class in school in finance at that institution, I taught a Negro principal from Houston, and since he was from the same part of the country I was, I stopped him after class and talked to him about his experiences in that institution.

Q Go right ahead, sir.

A I didn't inquire as to the extent of his participation in the

general college activities. I feel very certain as to the extent of it.

MR. DURHAM: We object to his feeling.

THE COURT: Yes, I think that is right. He would have to recite things he saw and observed.

A All right. I asked the principal where he was living, and he said that he was living at a small ----

MR. DURHAM: We object to that as hearsay, anything the principal said.

THE COURT: Of course, that is true.

Q (By Mr. Greenhill) That is correct. Would you just recite what you observed in connection with that student?

A Well, I didn't observe any participation by Negroes outside the class room.

Q Did you observe any activities on the part of that student outside of the class room which would have tended to develop leadership and other qualities?

MR. DURHAM: That is an opinion and conclusion.

THE COURT: He can testify what he observed.

MR. DURHAM: What it tended to do would certainly be a conclusion.

Q (By Mr. Greenhill) Have your observations of mixed groups at universities in the north, whenever there was revealed any discrimination there that would prevent full participation in the total college activities?

MR. DURHAM: We object to that because it is a wholesale question, at any period or any time, as being indefinite and uncertain.

THE COURT: He asked if he observed it. I will let him answer it.

A I didn't observe any participation ----

MR. DURHAM: We ask ----

A ---- outside of the class room.

MR. DURHAM: ---- that that be stricken as not responsive.

MR. GREENHILL: Read him the question.

(The Reporter read to the witness
the question last set out above.)

A No.

MR. DURHAM: We ask that it be stricken because he didn't ask him if he observed. If the Court please, he asked, "your observations," assuming he had observed.

THE COURT: I believe I will let it stand.

Q (By Mr. Greenhill) Dean Pittenger, I will ask you whether or not in your opinion as an expert in the field of Educational Administration, whether or not a Negro student can receive substantially an education, substantially equal, in a colored institution to that which he would receive in a white institution, or mixed, provided the facilities of both schools were substantially equal?

MR. DURHAM: We object to the word "can", and

substantially.

THE COURT: Does he have an opinion, is what we want. You can amend it by saying, does he have an opinion.

MR. DURHAM: Further, we think any testimony should be upon his conclusions, and not a conclusion of law that is the issue in this case.

Q (By Mr. Greenhill) What is your opinion on that point, Dean Pittenger?

A I confess that I am a little confused by the status of the question now. Will you clear me up on that?

Q I will ask you whether or not, based on your experience as an expert in the field of educational administration, assuming equal facilities in the schools involved, whether or not a Negro student can and will or could receive, I will say, could receive ----

THE COURT: Has the opportunity to receive.

Q (By Mr. Greenhill) Does he have the opportunity to receive an equal education in a school exclusively colored, as compared with that of mixed colored and white?

A That is one I am puzzled about. May I ask about that?

THE COURT: Yes.

A I am unable to think for the moment of colored institutions and white institutions which do have equal facilities with which I have been associated.

Q (By Mr. Greenhill) I understand that, Dean Pittenger. I am

asking you to assume equal facilities.

A And then you ask me does he ----

Q Did he have the same or equal opportunity?

A In my judgment, yes. He would have equal opportunity, as I defined equal opportunity a while ago, a total opportunity, but not the same.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Marshall:

Q Dean Pittenger, this Negro principal from Houston who was in Colorado when you were teaching; you testified that he didn't participate in any of the outside activities. I want to ask you a question as to how wide was your knowledge of what he did when he wasn't in class?

A Only what I got through conversations with him.

Q Only through conversation?

A That is right.

MR. MARSHALL: If Your Honor please, may we have that answer stricken?

THE COURT: He didn't answer anything.

MR. MARSHALL: I mean his original answer, not that answer.

THE COURT: It was based on his observations, and rather goes to the weight than to the admissibility.

MR. MARSHALL: All right, sir.

Q Do you know of any institution for college training -- I am speaking of college training, public or private, in the State of Texas, to which Negroes are admitted which is equal to any of the State supported schools operated exclusively for white students?

A There is only a range of merit in both. I believe that in total Wiley College is comparable with some of the smaller colleges for whites in Texas.

Q First of all, I will ask you, Wiley is a private institution, is it not?

A I beg your pardon?

Q I wanted to get that clear.

A It is. That is right.

Q Wiley College, in the first place, isn't a university, is it?

A No.

Q It is a mere four year college. Now, does, in your estimation, does Prairie View -- first of all, let me ask you this. Is Prairie View, to your mind, a university?

A No.

Q What is the highest classification you could give it, as an expert, as of today?

A Well, I think it is more than a college, and there is no intermediate term, so far as I know. I think I interpreted

your question. I don't regard Prairie View as a university in the sense that I would conceive of an efficient university. It is more than a college.

Q What makes it more than a college?

A The fact that it has graduate work. It offers graduate work.

Q But it has no professional schools?

A No.

Q Is not usually the term "university" applied to schools -- professional schools?

A Graduate work is generally regarded as professional.

Q Are there any other universities in the country that have only graduate work, and no professional work? By professional work, I mean law, engineering, dentistry, et cetera?

A I don't know of any. I could not answer that.

Q Can you name two State supported schools of higher learning, from college level up, that you compare Prairie View favorably with, in Texas?

A I think so.

Q Which ones?

A I believe that, in total, it would compare with one or two of the teachers colleges in Texas.

Q Could you give us any one of them?

A Well, a statement of this sort sounds derogatory, but I think that in total it is comparable for the purpose which it serves with perhaps the Teachers College at Alpine.

Q Are you familiar with the fact that the physical plant at Prairie View is less in value than any of the teachers colleges?

MR. DANIEL: Your Honor, we want, just for the purpose of the record, to renew our objection to all of this line of testimony as to other schools.

MR. MARSHALL: Your Honor, he said it was equal to----

MR. DANIEL: I want the record to show the point.

THE COURT: All right, you can save your point.

A No, sir; I have not compared the values of the plants of two institutions, but I have thought that that was probably the case.

Q When you say "equal", what do you mean by "equal"?

A Well, I mean in the total educational value of the services of the institution. Now, the institution at Prairie View is much more many-sided than the institution in Alpine, or almost any other of the Texas Teachers Colleges. It offers a much more varied program and much more varied opportunity to the Negroes of the State than does -- than do several of the teachers colleges, perhaps all of them, to the whites of that area. It is not -- so far as the equipment that it has, piece by piece, building by building, it is not the equal. There is more of it, and it serves a greater variety of purposes.

Q In your teaching of education and school administration, and

your general knowledge in the field, is it correct in educational, rather, in approved colleges you give credit for A.B. Degrees for mattress making in a college?

A No, I don't think it is.

Q Or for broom making? Do you know of any institution other than Prairie View where that is done? As a matter of fact, in your teaching, do you not teach, and in your administration, do you not recognize the fact that that is not a proper subject for credits in a college?

A I think that that might be a proper subject of instruction in a college which serves the functions of Prairie View. We have a great deal of vocational work offered in our white colleges for the services of people with different vocational objectives, and I would want to know more than I know about the quality of the work done, and the length of the course, and the things involved in a course of instruction of that sort.

Q Isn't it just general that such vocational subjects are usually taught in vocational high schools and regular high schools?

A No, they are becoming increasingly,-- it depends on the level of the work, and the quality of the work. That is the reason I say I would like to know more about the course, because I don't know.

Q I see. In going back to our comparing the quality of the

type of education offered at Prairie View, isn't the amount of money available to the school a value in arriving at the equality of the facilities offered?

A That is one measure, yes.

Q Isn't it true that Prairie View gets less operating funds than any of the other operating schools in the State?

A It did at the time this survey was made. I can't answer that question as of today.

Q Didn't your survey also point out the fact that because of its lack of money, Prairie View lost many of its good teachers?

A Yes.

Q Many with Ph. D.'s?

A Yes, sir.

Q So that we then get to the faculty of the school. Isn't that a basis for comparison?

A That is right.

Q As of the time your survey was made, did you find that the level of the faculty at Prairie View would compare with the other schools?

A Not on the average, no.

Q Now, isn't library facilities and library books, number and quality, a valid basis of comparison?

A Yes, that is right, and it would not compare.

Q It would not compare with any of the schools, would it?

A That is right.

Q If you compare it item by item, isn't it true that Prairie View is below any of the other schools; isn't that true?

A If you leave out the scope of its work, the scope of the institution, and take it up piece by piece and compare with other institutions, I think that is true. I think that it was true at that time.

Q Dr. Pittenger, you testified as to the college and graduate level to the effect that if Negroes were admitted to the University of Texas, or one of the other State supported schools, to sum it up, it wouldn't work; isn't that correct?

A I think that I testified that I didn't believe that the Negro would have the opportunity to participate in the activities of the school to the extent that he would have in a segregated school.

Q Is that based on your opinion as to what the students, the attitude the other students would take?

A Yes, in part.

Q Has anybody polled the students of the University of Texas to find out how they feel?

A Not to my knowledge.

Q Your opinion is just based on your own personal knowledge?

A Personal knowledge, yes; based on thirty years of contact.

Q Thirty years of contact. Do you know anything about the student body of the Law School?

A Very little.

Q Is there any factual basis you have for your opinion as to what would happen if a Negro was admitted to the Law School of the University of Texas?

A The only factual basis I have is what we -- would be the knowledge and understanding that I have of the attitude of the people in this section of the world.

Q You are aware, are you not, of the fact that members of the Bar of the State of Texas do not suffer from any segregation after they once pass the bar; are you aware of that?

A Yes.

Q What reason do you have that would make it so contrary to that principle to have the students to go to school together a week before they pass the Bar Examination?

A I don't think I understand that question.

Q Well, I started with the question that when they passed the Bar, the white and Negro lawyers practiced together. There is no friction at all among them. They take the Bar Examination together. What I am asking you is that why is it that if they can take the Bar Examination together and try cases together, that you make the assumption that they can't sit down in a class room one week before that, before they take the Bar Examination together?

A I think there is a difference between an experience of that sort and a three or four year association.

Q I would be very interested in the difference, sir.

A Well, in the first place, you have, by the time you get to the Bar Examination, you have your more serious students selected. In the second place, there is the interest of the group at that time, all very definitely centered on a final project, that of taking the Bar Examination. Over a three year college course you don't have the same selection of students. You have the activity going on on a general campus where there are not only law students, but thousands of others, and you have the opportunity for the cumulative feature.

Q What I am trying to get at is that the Law School is in a separate building from the rest of the campus?

A Yes, it is.

Q It has its own library there, is that correct?

A Yes.

Q And is it not true that by the time you reach the stage of going to the Law School, you have a pretty staid objective then, don't you?

A I think so, more so than the usual college freshman.

Q Isn't it also true that there is, as I understand your testimony, there is just three years' difference in this matter. For example, do you think anything would happen, or any of the results you have testified would occur if a Negro transferred and entered for the first time the third year of Law School of the University of Texas, which is less than a year

before the time we were talking about?

A May I, -- I think that you have a wrong impression of my testimony, if I understand your question. I have not been intending to intimate that I thought something would happen.

Q I didn't mean that. I meant exactly what you testified to, to the effects of it on the students.

A My statement was, if I recall, that I thought that the opportunity of the colored student to participate in the activities, the total life of the mixed institution would be limited as compared with the opportunities on a segregated campus.

Q Get back to our question, then; since I understand you.

A Yes.

Q If the Negro was admitted to the third year law class, having gone to school in some other approved school for the other two years, would there be any effect on the student as to campus activities or anything else?

A I would think he would have less opportunity then than if he had gone in and spent three years.

Q Is there anything that you can name that would stand in the way of a Negro entering the Law School in the third year that would affect that student's legal education?

A I am not a professor of law.

Q I am just judging, on your other assumptions, as to what they wouldn't get in outside community life, as to that part of

it.

A But, if I understand you, you have restricted your question to legal education?

Q Yes, sir; that is what I was trying to do.

A And I started out with the assumption of education on every level, on the subject matter of education. It is the opportunity that the student has to mix and to develop in the whole college situation that must be considered, and it was from that point that I was talking. I can't answer a question with respect to legal education.

(Court was recessed at 10:45 a. m.,
{ until 10:55 a. m., May 16, 1947,
{ at which time proceedings were re-
sumed as follows:

MR. MARSHALL: Your witness.

MR. GREENHILL: We have no further questions.

(W i t n e s s E x c u s e d)

MR. DANIEL: Before the State rests, we would like to be just understood, or have the right to at some time this afternoon before the case closes completely, to again present to the Court the testimony of Henry Doyle, and present to the Court certain authorities under which we believe that part of his testimony is admissible as circumstantial evidence as to the participation of the N. A. A. C. P.

THE COURT: I would be glad to hear any proposition you have to make.

MR. DANIEL: We rest, with the understanding we may present that a little later on.

MR. DURHAM: As I understand, the only matter the Attorney General will be permitted to present or bring up is the Doyle testimony?

MR. DANIEL: And any rebuttal testimony that we might have to your rebuttal testimony.

MR. DURHAM: I think we have a right to close this case.

THE COURT: You close, ordinarily.

MR. MARSHALL: At this time, for the purpose of the record, I want to first make a statement that as to the testimony of Donald Murray yesterday, and prior to that time, and the witness today, have both quoted from a statement, and his testimony is all to the effect that if a Negro is admitted to a Law School or to a University in the south that the student body will withdraw and go to private schools, and that is exactly the type of testimony that was given by Mr. Murray yesterday; that in an exactly similar situation, the exact statement made, that that didn't happen, and the students didn't withdraw and go to private schools, and we would like to re-tender that evidence which we put on in a bill of exception.

THE COURT: I am not going to consider either of those bits of testimony myself.

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M A L C O L M P. S H A R P. a witness produced by the relator, having been by the Court first duly sworn, testified as follows:

DIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Will you give your full name, please?

A Malcolm Pittman Sharp.

Q Your address?

A 5329 Greenwood Avenue, Chicago.

Q What is your present occupation?

A Professor of Law, University of Chicago.

Q Will you state briefly your legal education and your qualifications in general, in the field of law?

A I received my A.B. at Amherst in 1918, A. B. in Economics at the University of Wisconsin in 1920, L.L.B. at Harvard Law School in 1923, Doctor's Degree, Harvard Law School, in 1927. I did some teaching while I was still in college. Then I have been teaching law since 1925, at Iowa, Wisconsin, and the University of Chicago; a member of the New York Bar, -- counting a period for establishing residence, I practiced in New York City for about two years, served in

various advisory capacities in Wisconsin and Washington during the past years.

Q And are you a member of the Association of American Law Schools?

A I am.

Q And have you recently held any position on any committees of that association?

A I was Chairman of the Curriculum Committee that reported in 1942. Our work was somewhat disorganized by the war.

Q What was the purpose of that committee?

A The committee is appointed annually to consider the curriculum of member schools, recommend changes, improvements, make suggestions to member schools.

Q Now, as a result of your studies and your teaching experience, along with your experience in the Association of American Law Schools, would you state briefly the recognized purposes of a law school as of today?

A The purpose of a law school is, of course, first; to train for practice of the profession in the familiar way. The second purpose has been becoming more and more important, as all of the leading schools have recognized, training for positions of public service, as lawyers are called on to fill, to a marked extent, administrative agencies, the bench, legislative positions. The schools are paying more and more attention to training for that purpose. Of course, the training

of teachers and scholars in the field.

Q In the several items you have mentioned, what type of student body do you need in order to best accomplish that purpose?

A You need more than anything else, what I should call, a stimulating student body.

Q What is that?

A Where competition is great, lively; people from all walks of life. It is more important than your faculty. The most important thing a faculty does, perhaps, is to attract a stimulating, large student body.

Q Speaking of the student body, your testimony is that you need all walks of life. Are there any other factors you need as to individual students?

A You need to be well prepared, I should say, in so far as the group of students came from educational institutions whose standards were not up to the best that the others have. They would be a less stimulating group, to that extent. Their native capacity, and their training would not have been up to that of the other students.

Q What method do you use in teaching in the University of Chicago?

A We use the case method.

Q Will you explain that briefly?

A I agree with much of what Professor Walker and Dean Harrison have said. We have our individual differences. The case

system is designed to, in the first place, to bring out clearly the rules of law, partly by making discussions clear, working over discussions in class room; partly by practicing the application of the principles applied to cases.

I should say those particular advantages in a controlled situation starts the students off to what they are to do all through their careers at the bar. Of course, with practical problems, they have, perhaps they have heard of them in law school, and developed capacity for judgment, which is the mark of a good lawyer. I think in these days a very important addition to the case system is the seminar system which has been considered, and again, we give the students a chance to develop, present their own individual work, differ perhaps, and present it to the class mates for criticism, and hashing over in small groups.

Q Do you believe the seminar method can be used in a first year law class?

A I think it can be.

Q Under what conditions?

A This is a rather odd notion of my own. As a matter of fact, I think not many law teachers would agree with me, but we have had some success in our tutorial work in our first year students, not for the first year students to work right away at problems, if you are talking about the familiar first

year class. The use of the case system would be better than the most likely alternative, lecture. Seminar is theoretically possible for first year students, but as far as I know, it isn't used anywhere, and I haven't heard that that was suggested here in connection with the proposed new school.

Q Dr. Sharp, the other question I wanted to ask was -- first, I will ask you, is it possible to use the case system in a one-man class, with one man and a professor?

A Well, as a matter of words, but it wouldn't be what I call the case system.

Q And is it -- which system is the recognized system for teaching a law school today?

A The case system.

Q And as used in the progressive law schools of the country today, is it possible to use that same system with a one-man class?

A Not really, no, I think not.

Q Doctor, as a matter of fact, wouldn't it come mighty close to the lecture method?

A I think there would be a great danger that it would.

Q Do you believe that -- well, in your experience -- let me ask you this question. Assuming that the proposed Negro Law School is equal in all other respects to the Law School of the University of Texas, except in respect to the size of the

student body, and further assuming that the proposed Negro Law School has a student body which consists of one student; in your opinion, would the Negro Law School offer to that Negro student a legal education equal to that offered to any student at the University of Texas which has a student body of more than 800 students?

A Certainly not.

Q With the same hypothetical question put as to the Negro Law School, inserting the word "ten" for the word "one" student, would that change your answer at all?

A It seems to me still very clearly that the education there wouldn't be in any sense equal.

Q In your opinion, would it offer to that Negro student a legal education substantially equivalent to that offered to the students at the University of Texas?

A As far as I can visualize the situation, it would not.

Q Assuming that the Negro Law School is equal in all respects to that of the University of Texas, and had a sizable number of students, but all restricted to the Negro race, would that school give an education equal to that at the University of Texas, which accepts all students of all groups and all nationalities, other than Negroes?

A I do not see how it could, for many years, at least.

Q Will you give your reason for that?

A You are back to that point about competition. Not only does

it give you argument and give you the examination of the issues that you get in the class room, and having a pretty good class, some size, some opportunity for competition, but a great deal of the student's education occurs outside the class room, as we all know. There has been a saying in the teaching profession for some time that students at Harvard Law School got a good deal of their education by arguing on street corners and in restaurants, and bickering back and forth among themselves. The best thing a teacher can do is start that sort of arguing going, and let it go on all day, with intervals out for briefing cases; a good deal of discussion back and forth.

In view of the testimony that has been given about the character of Negro education at the lower levels ----

MR. DANIEL: We object to that. That isn't responsive.

THE COURT: I think not.

MR. MARSHALL: Very well. Go right ahead.

A Unless the education of the Negro group at all lower levels is equal to that of the white group, we can't expect the competition of the Negro Law School to be as stimulating as the competition in the white law school, which we have assumed to be equivalent in other respects. I should think that one very important function of legal training would be neglected in the Negro school. That is the function of

preparing law students for positions of responsibility as lawyers in Government. The experience of three colored lawyers whom I know particularly well ----

MR. DANIEL: We object to that.

MR. MARSHALL: I was going to ask him that anyhow.

Q Doctor Sharp, the University of Chicago, as to race, is the faculty of its law school mixed, or is it separate?

A It is mixed. We have just called back one of our colored graduates to take a position on our staff as Associate Professor, and Research Professor.

Q What about the student body?

A It is mixed. The first time I had had occasion to count the Negroes, I found we had 13 in a student body of about 300.

Q You mentioned the fact of the purpose of the law school to develop men and women for public service to the country. Well, in your experience at the University of Chicago, can you name any students who happen to be Negroes who have graduated from the Law School, and of your own personal knowledge, gave themselves to public service to the country?

MR. DANIEL: We believe that specific instances are irrelevant and immaterial. He has drawn his conclusions from it.

THE COURT: Yes. I think the conclusions are well taken, but I doubt if the special instances would assist us any.

MR. MARSHALL: May we have an exception?

THE COURT: Yes.

MR. DURHAM: You will have to let him answer the question.

THE COURT: To make the bill, he can answer the question.

Q (By Mr. Marshall) Answer for the bill of exception.

A There are a number of such cases. Three or four come to mind, particularly. Mr. Ming, who has just come back on our staff, has had a career of public service. Mr. Truman Gibson has had a distinguished public service career.

Q Would you mind giving that?

A I am coming back. I was just selecting. Judge Hasty is not one of our graduates, is one of the best I know.

Q Do you know which school he is from, law school?

A He is from Harvard; a different generation from mine, but I know of his career. Earl Dickerson, one of our graduates, served on the Council in Chicago. Mr. Charles Houston, a year ahead of me at the Harvard Law School, and on the Harvard Law Review with me, is a bills and notes expert. I can say a word about the career of two or three of these men particularly that seem to illustrate the importance of the point. We naturally think teaching is important. I see no reason for losing talent to the teaching profession on account of color. We are glad to have Mr. Ming back with

us, and it is an advantage to us and to the school that he was not trained in a separate school. He is an American, working on the problems of the State, public utility problems, in which he has had special experience, on cases of problems relating to the regulation of business by Government, which is an increasingly important problem for lawyers, and it is important, it seems to me, that he should be trained to think as a member of the total community. Particularly, he should be trained to think professionally as a member of the total community.

Mr. Gibson is a striking example. He was Special Assistant to the Secretary of War during the war, and was given a medal for his services, and is a member of the President's distinguished committee on public military training. He is a member of the National community, and it is of utmost importance that he was not trained at a segregated school.

Mr. Houston, another schoolmate at Harvard, is working in the field of labor, Government regulation and industrial regulation, working on problems of seniority in the law. He is sometimes able to point out the effects and the abuses of the labor organization practice.

Judge Hasty had a very distinguished career in the field of law ----

MR. DANIEL: We will agree in their bill of exception

they can write all of that out in there. We can agree they can write up everything he would have testified to about it.

MR. MARSHALL: We have just a few more.

THE COURT: Maybe you can conclude it here now.

Q (By Mr. Marshall) Will you give Judge Hasty's present position?

A Governor of the Virgin Islands.

Q In your experience with these and other students, do you believe that those students, excluding Hasty, whom you do not know personally, from personal contact with him, could any of those men you have named obtained their information that they have used for public service, in a segregated law school?

A That question of "could" again troubles me. There are distinguished graduates of Howard, which is not strictly a colored law school, but it is largely colored. I wouldn't want to be that sweeping in my statement.

Q Do you believe you can get equal value with training of other students, in a segregated law school?

A Other things being equal, I most emphatically do not.

Q You testified a while ago about the more competition ----

MR. DURHAM: We tender this as testimony outside of the bill of exception.

THE COURT: All right. I will give you your bill.

MR. DANIEL: That is the end of the bill?

MR. DURHAM: Yes.

Q (By Mr. Marshall) In your opinion, is it possible for one student or ten students entering the first year law class in the proposed Negro Law School that you have heard testified about here where there are no upper classmen, second and third year students, to secure equal or substantially equivalent of legal training to that received by first year law students at the University of Texas where there are hundreds of upper classmen?

A I think it is not possible for them to receive equal training.

Q Will you give your reason?

A What has been said about the competition among classmates, the emphasis has been on the competition of classmates so far. What has been said about that applies to the stimulation a man gets from the upper classmen, and the guidance. Sometimes loose guidance is very healthy, worried about one thing and encouraged about another, and the stimulus which comes from having a full complement of classes and full complement of upper classmen is a matter of first rating in any school. It is essential to the existence of what I should call an operating school.

Q Do you consider a law review as extraneous to a legal education?

A Certainly not. One of the most important devices, most

important instruments of legal education in a modern law school is the law review.

Q Is it of any value to a first year student?

A It is, in so far as the competition for that outstanding honor, as it is in most schools, makes itself felt all the way down the years. It sets the tone. The law review men are the people that set the tones.

Q Do you believe the Order of the Coif and other honors are extraneous to a legal education?

A No, I do not.

Q What do you classify them as, in your mind?

A Actually, I think those awards are next important to the law review. The law review is of first-rate importance, but all awards which recognize attainment help in the process of stimulating friendly competition. Competition and friendly association are not by any means incompatible. In fact, they go together, a part of the business in preparing people to deal with the community as a whole. All of these awards step up competition in what I regard as a healthy manner.

Q In your opinion, do you believe -- first of all, you know about the University of Texas and its accreditation?

A It is a thoroughly accredited school, a first-rate school in excellent standing, of course.

Q Do you believe that a Negro student could get an equal education in a law school that started in Houston, Texas in

February of this year, moved to Austin in March of this year ----

MR. DANIEL: We object to that part of the statement, because it is not in accordance with the facts of the case. They are entirely separate schools, Your Honor. There is no move of that school to Austin.

MR. MARSHALL: I will change the question.

THE COURT: I believe I will let you -- I believe I had better sustain his objection as to its moving.

MR. MARSHALL: Yes, sir.

Q Do you believe that a Negro could get a legal education in a law school which had been previously established in Houston, Texas, in February of this year, and was closed the same month, and another law school opened in Austin in March of this year, and the record further showing that that school would be moved to Houston in August of 1948; do you believe that a law school student, whether he be white or colored, could get an adequate education in a school, law school of that type?

A I don't see how he possibly could.

Q Well, of what importance is the stability of a law school?

A Well, it has a human importance which we all recognize. If you settle down to study, you want to stay at least a year, certainly at least a semester. Normally, when you start in, you plan to finish your course in the school that you select,

go right through. Occasionally there are occasions for moving, sometimes there are advantages. Certainly, the normal law student settles down to complete a course, and he can look three or four years ahead, depending on whether it is a three or four year course.

Q Is the reputation of a law school of any value to the student, its reputation in the legal field?

A To the student while he is a student?

Q To the student while he is a student?

A I think it is; it gives him confidence, pride, interest; it is a good deal of difference to the student if he feels he is in a good school, running well.

Q Is the reputation of a law school of any value to the student after he graduates?

A Well, we all know it may be of importance getting a job for a time. As one builds up a practice it may become of less importance, rank of the schools from which they come. Certainly, in the earlier stages of the lawyer's career, it may make a good deal of difference.

Q You have heard the testimony about the so-called Negro Law School. I will ask you if a school which opened on March 10th in a -- the ground floor of a building which had been leased for a period of one year, and in which there were three part-time professors to teach, and a library consisting solely of a hundred or two text reference books, could

give a Negro an education equal to that at the University of Texas?

A May I ask one question there?

THE COURT: Yes.

A May I ask what you mean by "opening" ?

Q (By Mr. Marshall) It opened on -- that the doors were opened, and there was a person to register other students?

A That is all you mean?

Q Yes, that is all.

A I don't see how it could, possibly.

Q Then, I will ask you the next question. Is it possible to get a legal education equal to that at the University of Texas in a law school consisting of one student?

A No, I should think not.

Q In a law school consisting of ten students?

A I think not.

Q In a law school consisting of a hundred students?

A One hundred students, how selected?

Q One hundred Negro students?

A No, certainly not.

Q Well, would that type of school with one, ten or a hundred Negro students give a legal education substantially equivalent to that obtained at the University of Texas?

A I should think not. I am a little troubled by your one hundred case, if you can imagine such a case, conditions

would be a good deal changed, but nothing I can visualize now would give substantial equality in any of the cases you supposed.

Q Dr. Sharp, assuming a law school established in the basement of a building, ground floor, rather, of a building, and with a library of ten thousand volumes, assuming that they met the requirements of the Association of American Law Schools, and with three part-time professors, and from one to ten students, would that give education substantially equivalent to that at the University of Texas, -- Negroes only?

A I should think not.

Q Dr. Sharp, a law school established in a building with three floors, assuming that the three floors are adequate in space, adequate in space to accomodate ten students, and assuming further that a total budget of a hundred thousand dollars is spent for reconditioning and stacks, et cetera, would that type of law school give an education substantially equivalent to the Negroes there as that given other students at the University of Texas?

A I think I have lost the trend of the question.

Q The difference between the two questions is that one we have one floor and the other we have three floors, plus a library of ten thousand books, plus a budget of a hundred thousand dollars.

A That budget is for repairs?

Q It is for everything.

A Salaries?

Q Including books, salaries, and everything else.

A I should think not, by any means.

Q Would your answer be changed if we added that there were four full-time professors there, and all Negro students, in the same situation?

A Well, if you got four most eminent professors in the United States, about whose names I would have to think a little before I decided who they were, it is perhaps conceivable that this select group of Negroes would get an education that was at any rate comparable to that which the boys got, sizable classes with competition and so forth, at Texas, but I should think even then it unlikely, and I suppose no one school can hope to have the four greatest teachers in the United States, least of all, a new school, and least of all, one established under these conditions.

Q Even with those circumstances, could you get the total community thinking in a school of that type?

A I wouldn't think so. It would take extraordinary teachers, indeed.

Q That is all.

CROSS EXAMINATION.

Questions by Mr. Daniel:

Q Dr. Sharp, would your answer to the questions just asked you

be changed if in the same situation you had two law schools, one for Negroes, one for whites, both law schools had exactly the same faculties, exactly the same facilities; by that, I mean the men of equal prominence and ability, and both of them had the same courses, the same number of students, the only difference between the two law schools being that the student body of one was made up of Negroes, the student body of the other made up of white students, the student bodies, however, being equal, I will ask you if, in your opinion it would be possible that the school for the Negroes would furnish substantially equal opportunities for training in law and procedure as the one for the whites?

A May I ask about one of the conditions?

Q Yes.

A Where does the faculty have their offices?

Q In exactly the same in one school as in the other?

A I don't understand that.

Q Sir?

A Where do they do the most of their work?

Q The same in the Negro school as in the white school. I am asking you a hypothetical question along the lines that you have had hypothetical questions on direct examination. In my question, everything concerning one school is the same as the other, identical, the only difference being that one is made up of white students, the other made up of Negro

students?

- A Well, I can answer the question, but I have still a doubt in my mind as to the conditions. As a teacher, I visualize certain things about that condition. I can't imagine operating from two offices equally.

THE COURT: It would probably be different teachers of equal standing.

- Q (By Mr. Daniel) Yes, sir, different faculty, but the total of the faculty such that even you would say that one was absolutely as good as the other?

- A Well, I should still say no.

- Q In other words, it is your opinion it is an absolute impossibility to set up a separate law school for Negroes, no matter how good a faculty, no matter how good a building, and no matter how good a library that would be equal to exactly the same kind of institution set up for whites?

- A No, I think I have avoided saying that. I recognize that some point of extraordinary faculty, and perhaps extraordinary equipment, might turn the balance. It is a point that hasn't been suggested to me in any realistic way by the questions.

- Q Where the faculty amounts to the same, you don't believe that the Negro school could furnish substantially equal opportunities as the white school, everything else being equal except that they are separate schools?

A No, for the reasons I have already explained.

Q Then I will ask you if it is also your opinion that on the basis of the reasons that you have testified about, that in higher education that a separate school for girls can furnish, being exactly with the same faculty and all facilities, can furnish substantially equal educational opportunities as exactly the same but separate schools set up for men?

A I thought you were -- you asked me about co-education. I haven't answered.

Q I believe that is the word.

A Are you asking me about new colleges? You asked me to contrast women's schools with co-educational colleges.

Q We are asking for the same opinion along the same lines we have been asking you about here this morning, where you have exactly equal facilities, as good a faculty, and all, in a separate women's college, separate from the men, whether or not in your opinion it would be possible, based on the reasoning that you have given here, for that school for girls to offer substantially equal opportunities for higher education as the separate school for men?

A That is, they are both segregated?

Q Segregation on each side.

A You are not asking me to compare co-education?

Q I am asking about separate.

A Everything else being equal, I see no reason why the

separate school for girls should not have the same advantages and disadvantages that the separate school for men has. I happen to think this; co-education, other things being equal, is better.

Q Let's take co-education. In your opinion, the mixed school, in so far as men and women are concerned, co-educational schools, in your opinion, can the separate schools for men and women furnish equal opportunities with the co-educational schools?

A First, of course, they can and actually do, because you have cases where we know like Harvard and Bryn Mawr, very distinguished staff, and where work is done on a very high level. Other things being equal, I should prefer the situation in Chicago. It has the advantages of a non-segregated school. I should prefer the situation like we have in Chicago, where we have co-education.

Q I am not asking what you prefer. I was asking if in your opinion substantially equal educational opportunities could be furnished in the separate school for women as could be furnished in co-educational schools, with all having the same type of faculty and facilities?

A Other things being equal, I should think not, not as desirable.

Q I asked you whether equal educational opportunities could be furnished. Is your answer the same on the opportunities that are afforded for equal education?

A Yes, other things being equal, the opportunities would not be equal in the segregated school as compared to the co-educational school.

Q Have you ever taught school in Texas or any other southern state?

A No.

Q Have you ever gone to school in the south?

A I trained in the south during the last war, taught flying in Miami, a teaching assignment.

Q I mean in schools of higher learning?

A No.

Q Have you made any study of the schools of higher education in the south?

A No, sir.

Q Have you made any study of the attitudes of the people of the south on the question of segregation, regardless of the merits of those attitudes, or how they came about? Have you made any thorough investigation of what those attitudes, good or bad, are?

A It depends on what you call study, or what you call thorough investigation. I haven't made the kind of study Dr. Thompson has made.

Q You are not, then, fully acquainted with the attitudes as they relate to the possibility of mixed schools, are you, in the south?

- A Not in the sense Dr. Thompson has.
- Q You don't feel qualified as an expert on whether or not the social attitudes in the south, good or bad, are such that mixed schools would work better than the separate schools, are you?
- A You are talking about schools at all levels?
- Q I am talking about higher levels, colleges; whether or not you are acquainted with those attitudes, or have made any study of those attitudes for the purpose of determining whether or not they would work better in the south, better in the separate schools, or in the mixed schools? In other words, are you willing to qualify as an expert on it? Do you feel like you have made the study necessary to give an expert opinion on that question?
- A I think I have made enough study of law schools and have spent enough time in them so that my opinion about mixed or segregated law schools ----
- Q In the south?
- A South or north.
- Q I am talking about whether or not you have made any study of the attitudes of the people of the south, if you have made a thorough enough study to be acquainted with those attitudes and the influence they would have on the success of a separate law school?
- A I think I have some acquaintance, but I have not made the

kind of technical study Dr. Thompson made.

Q You would not attempt to give this Court an expert opinion on that question today?

A The question of education generally.

Q The question of the attitudes of the people of the south as applied to the possibilities of the mixed schools being as successful as separate schools in higher education and fields of training?

A If -- I don't mean to fence with you, or be facetious, but I have not made any special study of race relations in the south.

Q Back to your point as to a stimulating student body being one of the requirements for, in your opinion, for a good law school, I will ask you, Dr. Sharp, if you will not agree that the attitudes of all of the members making up that student body, social attitudes, whether they be good or bad, or regardless of where they came from, if those social attitudes will not have some bearing on the stimulating study body that you are talking about?

A Surely.

Q Will those not also have some bearing on whether or not the student in a mixed school would have the same encouragement or help from upper classmen as he would receive in a separate school?

A Surely.

Q You will agree also that the attitudes, whether good or bad, of course, will have some bearing on the support of the institution involved in a southern state, won't you, the State support given to them, and the support of individual citizens?

A I think you have disqualified me to testify in this crowd. I am not an expert ----

Q I will ask you if you don't know enough about it in general to know that the social attitudes in any state will have some bearing on the support given a mixed school in that state?

A I do not know more about this subject than -- it is the same sort of general acquiring of knowledge that I have about race relations in the south. If you want me to speak about it on the same sort of qualifications, I am willing to, but I am not willing to leave the other question and ----

Q I will withdraw that question. Now, you talked about the various benefits of the case system, one of them being the chance, the opportunity for the student to recite, to report on the work that they have done on the particular cases assigned. That is one of them, is it not?

A One of them, only one.

Q Only one. Beginning with that one, all other things being equal, I will ask you if it isn't true that in a class made up of 125 students, that a smaller percentage of the students

will have an opportunity to recite and report on each case than in a class made up of ten students during a one hour period, the same period of time?

A In a very mechanical sense, that is true.

Q And is it not true that a greater percentage in the smaller class will have an opportunity to discuss and criticize the case and be heard from on the case than in the larger class?

A I would rather say no, not necessarily, but in a mechanical sense, it is conceivable, if you divide up the minutes you will get some such result as that, but I don't think that touches the real point.

Q On that one point, regardless of what you would rather say, the truth is that you would have to say yes, as far as the greater percentage of students having a chance to, the time in which to comment on each of the cases assigned?

A May I explain my qualification?

Q As soon as you answer the question.

A In a mechanical sense, yes.

Q Yes.

A But I don't know how you could with 30 or 40 fellows all wanting to be heard, which happens in a good class. They can't all talk. When you have a good class, you see all sorts of people ready to say something all at once. Of course, they can't all talk. That is the kind of class that goes well.

Q In a class of 125, they can't all talk, can they?

A No, but they can all be ready to, in a really good class.

Q They can all be ready to in a really good class. In a class of ten they can all be ready to, can't they?

A Yes, they can, but I am not so sure it is likely.

Q It is possible they can all be ready?

A Yes.

Q And it is possible to call on more of them than in a class of 125 during an hour's class?

A In a mechanical way, yes. It is a very good feeling for them all to want to talk.

Q From the standpoint of the professor?

A And the standpoint of the student.

Q You mentioned that with first year students you had found tutorial work to be successful?

A Yes.

Q What do you mean by tutorial work?

A Work which is conducted with us by a special staff of younger men in the preparation of papers on problems, the examination of those papers by the tutorial staff, and instruction in the art of writing, using language, as well as in the art of legal research, building up a case, doing some productive work on one's own.

Q Derived from the old tutor system of instruction?

A It has been used very successfully in the English universities.

- Q And that system is applied to the individual student?
- A Yes.
- Q The tutor works with the individual student?
- A Yes.
- Q You have found that quite successful, you say, with first year students?
- A In this form, this form of promoting the development of individual skills and talents and capacities by the assignment or awarding pieces of work.
- Q That system, that tutor system that you have spoken of as being successful with first year students, comes much nearer to operating that law school with one student than any other system you have described here today, does it not?
- A Oh, I think not. I think what I said about the value of competition in the class room, and outside the class room, applies to this sort of thing. Boys get together. We don't prohibit them from talking over their papers together. We desire it sometimes by groups.
- Q In a law school with one law student, the type of instruction will be nearer the tutorial type than the lecture type, wouldn't it?
- A Not necessarily, at all.
- Q It could be, though, you will agree?
- A I don't see any special likelihood of it. There is an equal likelihood that the student would begin to lean on the

one professor. It is quite as likely to develop into a rather casual lecture. It is easy to lecture one student.

Q It would be similar to your tutorial system with the one student?

A I think it would be very different. Our tutorial system depends on the work over an extended time, with particular problems, developing skills in a school of some size where there is enterprise. I see no real similarity between the essential character of the tutorial system and a school with one student.

Q No connection. On your question a minute ago, and your answer about a law school moving, you don't mean to state to the Court that in your opinion that if Harvard Law School moved to another city in the State of Massachusetts that that would cause any inequality to a one year law student who had been there only the year before the move, do you?

A If the move is in the middle of the year?

Q No. At the end of the year.

A The question was about the middle of the year.

Q Did you think Mr. Marshall's question a minute ago about the move of the proposed Negro Law School, that he meant that it would come in the middle of the year, school year?

A It came in a month, as I recall it, which is normally in the school year.

Q And your assumption is that that date was in the middle of

the school year; right?

A Yes, sir, on that, but I don't think that is the only factor in my answer.

Q Now then, if the Harvard Law School moved at the end of the school year, the student who had been there during his first year's work, only his one year, do you feel it would be any inequality to him at all if the school happened to move to another city in Massachusetts where he was allowed to continue his work under the same direction?

A I can hardly imagine such a move being made for anything but a good reason, and I don't imagine it would do the student any harm.

Q The same would be true of any other good law school that made a move at the end of the year, all other things being equal, that would cause no particular disadvantage to the student?

A The same thing would be true of any first-rate school.

Q I said, substantially equal.

A It is hard to visualize, but I can't imagine such a case.

Q We will imagine such a case. Is it your answer it would do him no harm, or furnish no inequality by such a move?

A Harvard goes from Cambridge to Northhampton, Massachusetts, leaving the University. It is a hard case to think of, but---

Q We have already effected the move. I am asking you about a move of any law school substantially equal to Harvard Law School, if it moved at the end of the school year to another

location, whether or not in your opinion that would cause any disadvantage or inequality to the first year law students who had been enrolled in that school?

A I suppose it would cause some inconvenience, all right, but no disadvantage.

Q That is all.

REDIRECT EXAMINATION.

Questions by Mr. Marshall:

Q Dr. Sharp, if Harvard should move this year, it would be after how many years at the same stand?

A About 120 years.

Q That is all.

MR. DANIEL: That is all.

(W i t n e s s E x c u s e d)

THE COURT: We will resume at two o'clock.

{ Court was recessed at 12 o'clock
{ noon, May 16, 1947, until 2
{ o'clock p. m., May 16, 1947.

AFTERNOON SESSION.

May 16, 1947.

2:00 P. M.

MR. DANIEL: You have rested?

MR. DURHAM: Yes.

MR. DANIEL: Now, Your Honor, I would like to present the authorities I have mentioned before going back to Henry Doyle's testimony. I do apologize for asking the Court to change its ruling on the matter, but I would like for the Court to consider the purpose.

THE COURT: All right.

MR. DANIEL: In the first place, it bears on the point that there are no students in the school. We really believe, Your Honor, that the relator has made quite an issue of the fact that no students are in there, and especially the situation where there is only one student there, all through this case.

We also think that there is no question that the evidence shows the National Association for the Advancement of Colored People are giving active assistance to relator, but I would like for the record certainly to show that we make no objection to it, and think that it is only proper that they do render that help, if they think relator's case is right.

The only thing we point out about the National Association for the Advancement of Colored People, and the

chain of evidence being in the attempt to show the discouragement given by that association to students in the school, given not only by the association, but by the attorney for relator, whose acts certainly do have a bearing, him being in that position with relator.

Now, we have direct evidence in the case, Your Honor, showing this. We have direct evidence in the case by the relator himself that when he received his notice about the school being open, that he didn't make up his own mind about whether he would attend, but went to his attorney in Dallas to make the decision. His attorney in Dallas testified that he did not make any investigation of this school down here, but he called Maceo Smith, and Maceo Smith was shown to be the Secretary for the National Association for the Advancement of Colored People here in Texas. That upon the report received within four or five days from Maceo Smith, Mr. Durham and the relator made up their minds that he would not enter. Therefore, we have the direct evidence of at least some influence.

We could not go into what the report was, but some influence of the association bearing on at least one student not going to the school, the relator here himself. We feel that any other evidence as to another prospective student, the fact that he was mentioning going, and he didn't go, even though it is circumstantial evidence, it would certainly have a bearing in this case.

Yet, Your Honor may not consider any of that evidence. If this case is appealed by whichever side loses the case, I am just thinking about if some other court might not wonder what about other students. We at least have one on whom we offer circumstantial evidence.

I would like to read from about three authorities on circumstantial evidence in cases of this kind. In the first place, quoting from two Texas cases by the Supreme Court of Texas, the general rule stated in those two cases is as follows:

"As a general rule, in the absence of direct evidence, evidence of any circumstance, however slight, which conduces or tends in any degree to establish a material fact, or which affords fair presumption or inference to the question in dispute is relevant and admissible."

And from Texas Jurisprudence I quote:

"It is not necessary that the fact sought to be proved should have direct reference to the main issue and however remote from the main issue, it is proper to submit such issue if the evidence refers to a fact relevant to a fact in issue."

And then from *Duke v. Houston Oil Company*, a recent case, this statement:

"Generally, any conclusion may be based upon

circumstantial evidence, and fact that evidence is circumstantial does not render it incompetent. Where it is sought to prove an ultimate fact by a chain of circumstances every circumstance should be considered."

And then I quote from McCormick and Ray on Evidence:

"A design, plan or intention may also be evidenced circumstantially by conduct showing it.

The kinds of conduct usable for this purpose are infinite in variety, but the decided cases deal with comparatively few of them. In general, however, it may be said that any act which under the circumstances and in the light of experience would indicate a probable design, is admissible."

We admit readily that we do not have direct evidence from Henry Doyle that the National Association for the Advancement of Colored People persuaded him to make up his mind not to enter the law school on March 10th, but we do feel like his evidence contains certain circumstances such as this that are important. First, for instance, where he resides, and that he was considering prior to March 10, 1947 this new law school, and entering it. That while he was still considering this school he attended a meeting of others of his race, including Maceo Smith, the Secretary-- shown by the evidence to be Secretary of the N. A. A. C. P., in Dallas, while still

considering whether or not he would attend this school, at that meeting. Mr. Durham, attorney for the relator, appeared before that meeting, and that the witness, Henry Doyle, on March 10th, did not enter the school. No direct evidence, but Your Honor, it does show that in making up his mind he was in a meeting with the same people, Mr. Durham and Maceo Smith, that made up the mind or helped influence one student not to go to the school, and we think those circumstances are at least, maybe only slight, but they bear in a way in explaining at least what one prospective student did in making up his mind, and the fact that he did not finally enter the school; that that conduct in the meeting in Dallas is admissible for the purpose of showing at least what one other student who did not enter did about considering the matter.

THE COURT: And you re-tender the evidence of Doyle?

MR. DANIEL: Yes, sir, we re-tender the evidence of Doyle, that particular portion of it that is on the point that I have outlined here to the Court. Some of it is not admissible, of course, but only the points that are not objectionable on some other ground.

THE COURT: I think I will give you your bill.

MR. DANIEL: Note our exception.

THE COURT: Have you anything further?

MR. DANIEL: That is all, Your Honor.

MR. MARSHALL: We are through.

TESTIMONY CLOSED.

RESPONDENTS' EXHIBIT NO. 1,

Page 1.

STANDARDS OF THE AMERICAN BAR ASSOCIATION

(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition to admission at least two years of study in a college.

(b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course equivalent in the number of working hours, if they devote only a part of their working time to their studies.

(c) It shall provide an adequate library available for the use of the students.

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

(e) It shall not be operated as a commercial enterprise and the compensation of any officer or member of its teaching staff shall not depend on the number of students or on the fees received.

(f) It shall be a school which in the judgment of the Council of Legal Education and Admissions to the Bar

RESPONDENTS' EXHIBIT NO. 1,

Page 2.

possesses reasonably adequate facilities and maintains a sound educational policy; provided, however, that any decision of the Council in these respects shall be subject to review by the House of Delegates on the petition of any school adversely affected.

RESPONDENTS' EXHIBIT NO. 2,

Page 1.

R E S O L U T I O N .

Minute Order No. 203-46

ESTABLISHMENT OF LAW COURSE FOR NEGRO STUDENTS.

On motion by Mr. Buchanan, seconded by Mr. Reese, and approved by a majority vote of the Board, the following resolution is adopted.

WHEREAS, by Senate Bill No. 228 of the 49th Legislature the name of Prairie View State Normal and Industrial College at Prairie View was changed to Prairie View University; and

WHEREAS, the act further provides that whenever there is any demand for same the Board of Directors of the Agricultural and Mechanical College of Texas is authorized to provide for a course in law at Prairie View University substantially equivalent to that offered at the University of Texas; (Other courses not pertinent to this order were also authorized.) and

WHEREAS, the Board of Directors of A. & M. College in cooperation with the University of Texas named a joint committee to study the obligations of these institutions in connection with Negro education and made a report to the Governor in connection therewith, said, (Minute Order No. 124-46), being attached to and made a part of this order; and

WHEREAS, The Board of Directors of the A. & M.

RESPONDENTS' EXHIBIT NO. 2,

Page 3.

College of Texas strongly reaffirms the position taken in the recommendations made to the Governor, particularly that part which urges the establishment of a first-class University for Negroes, preferably at Houston, Texas, under the supervision of the Board of Regents of the University of Texas; and

WHEREAS, it has been brought to the attention of the Board of Directors that at this time there is pending an application for admission to the University of Texas by one or more colored youth seeking to enroll in the School of Law, and this Board has been requested to make arrangements for these young men to embark on their legal studies pending final action by the Legislature on the recommendations made or to be made to its 50th session; and

WHEREAS, the Board of Directors has by investigation determined that arrangements may be made for standard courses of first-year law to be given in Houston, Texas with qualified Negro lawyers as teachers:

THEREFORE, be it resolved

1. That if the applicant and/or similar other applicants for first-year courses in law offer themselves to the Registrar at Prairie View University, bringing with them a suitable transcript and a certificate from the Dean of the Law School of the University of Texas that they are scholastically prepared for a course of law equivalent to that given

RESPONDENTS' EXHIBIT NO. 2,

Page 4.

at the University of Texas, they will be admitted to Prairie View University for the semester beginning February 1947

2. The course will be offered in Houston, Texas and will be substantially the same approved course as is now offered by the University of Texas School of Law for entering students, and the qualifications of the personnel to teach the students will be determined by the State Board of Law Examiners, and they will be judged acceptable by it before instruction begins.

3. The Board of Directors of A. & M. College, through Prairie View University, will provide instruction in accordance with the requirements of the Supreme Court of Texas and the American Bar Association, and will provide or make available to the students such books or library material as are needed for the first-year course in which they will be enrolled. The Governor will be asked for a deficiency appropriation to provide the cost of instruction.

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CERTIFICATE.

I, E. L. Angell, certify that the foregoing is an exact copy of Minute Order No. 203-46 passed at the meeting of the Board of Directors of the Agricultural and Mechanical College of Texas held at Austin, Texas on November 27, 1946.

RESPONDENTS' EXHIBIT NO. 2,

Page 5.

IN WITNESS WHEREOF, I have hereunto affixed my hand
and seal of the said institution this 4th day of December
1946.

/s/ E. L. Angell

E. L. Angell, Secretary

Board of Directors

Agricultural and Mechanical

College of Texas

(Seal)

RESPONDENTS' EXHIBIT NO. 3.

Page 1.

RESOLUTION ADOPTED BY THE BOARD OF REGENTS
OF THE UNIVERSITY OF TEXAS

RE: THE TEXAS STATE UNIVERSITY FOR NEGROES

ADOPTED FEBRUARY 28, 1947.

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RESOLUTION-- RE: THE TEXAS STATE UNIVERSITY FOR
NEGROES.

Chairman Woodward presented the following resolution re The Texas State University for Negroes, as was proposed in Senate Bill No. 140, 50th Legislature of Texas, which resolution was adopted unanimously by the Board upon motion of Mr. Bullington, seconded by Mr. Kirkpatrick. The roll call reflected the following vote:

AYE:

NO:

Judge Woodward
Mr. Bullington
Mr. Kirkpatrick
Dr. Scherer
Mr. Schreiner
Mr. Tucker
Mr. Warren

WHEREAS, Senate Bill No. 140, being an Act to establish a University of the First Class to be styled "The Texas State University for Negroes" has been passed finally by

RESPONDENTS' EXHIBIT NO. 3,

Page 2.

both Houses of the Legislature of the State of Texas now in Session, and

WHEREAS, it is anticipated that said bill will be signed forthwith, and will, by its terms, become immediately effective, and

WHEREAS, Section 11 of the said Act provides that "The Board of Regents of The University of Texas is authorized and required to forthwith organize and establish a separate school of law at Austin for Negroes to be known as the 'School of Law of The Texas State University for Negroes' and therein provide instruction in law equivalent to the same instruction being offered in law at The University of Texas;" and

WHEREAS, The Board of Regents of The University of Texas desires to cooperate fully and immediately in carrying out in good faith all of the duties imposed upon it by said bill, and

WHEREAS, The Dean and the Members of the Staff of the School of Law of the University of Texas have signified their willingness and desire to cooperate fully in the establishment and conduct of said School of Law of The Texas State University for Negroes to the end that the instruction therein given may be in all respects equivalent to that currently and heretofore offered in the School of Law of The University of Texas; and

RESPONDENTS' EXHIBIT NO. 3,

Page 3.

WHEREAS, The Registrar of The University of Texas has signified his willingness and desire to cooperate in the organization and conduct of the School of Law of The Texas State University for Negroes as contemplated in said bill, now, therefore,

BE IT RESOLVED, That the Board of Regents of the University of Texas hereby assumes and undertakes to discharge promptly and in full compliance with the letter and the spirit of Section 11 of said bill all of the duties and responsibilities imposed upon or delegated to it by the terms thereof; and

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents of The University of Texas be, and he is hereby authorized, immediately upon said law taking effect, to take all steps necessary to acquire in the immediate vicinity of the State Capitol at Austin, Texas, quarters fully adequate for the conduct of the School of Law of The Texas State University for Negroes and to do all other acts and things, including the employment of necessary personnel, the acquisition of furniture and other facilities and utilities necessary to the full equipment and operation of said school;

BE IT FURTHER RESOLVED, That the first semester of said school begin on Monday, March 10, 1947, which is hereby designated as the final date for registration therein and that

RESPONDENTS' EXHIBIT NO. 3,

Page 4.

such semester extend through June 28, 1947, and

BE IT FURTHER RESOLVED, That the Dean of the School of Law of The University of Texas be, and he is hereby, requested and directed to discharge the duties of Dean of the School of Law of The Texas State University for Negroes.

BE IT FURTHER RESOLVED, That there shall be offered for students entering such school the identical courses now being taught the same classes in the Law School of The University of Texas, which courses shall be given by the same instructors or instructors of equivalent experience and ability with those now giving such courses in the Law School of The University of Texas;

BE IT FURTHER RESOLVED: That the Registrar of The University of Texas be, and he is hereby, requested and directed to discharge the duties of the Registrar of the School of Law of The Texas State University for Negroes and in that capacity to distribute forthwith to all persons who may be interested therein bulletins covering the work to be offered in the semester opening March 10, 1947, which bulletins shall contain the information customarily contained in bulletins issued by The University of Texas and which may be compiled by incorporating by reference material contained in the bulletins heretofore issued by The University of Texas;

BE IT FURTHER RESOLVED, That the Chairman of The

RESPONDENTS' EXHIBIT NO. 3,

Page 5.

Board of Regents of The University of Texas be, and he is hereby, authorized and directed to purchase for the account of The Texas State University for Negroes a library with necessary cases and appurtenances sufficient to meet the requirements of the American Law School Association and of the American Bar Association;

BE IT FURTHER RESOLVED, That pending receipt and installation of such library, the Dean of the Law School of The University of Texas be, and he is hereby, authorized to supply on a loan basis books from the Law Library of The University of Texas which may be needed in the efficient conduct of the School of Law of The Texas State University for Negroes;

BE IT FURTHER RESOLVED, That the Chairman of the Board of Regents be, and he is hereby, authorized to negotiate with the personnel of said proposed school such arrangements as may be required for its immediate organization and conduct, which arrangements shall be reported to the next meeting of the Board of Regents for confirmation and approval by it;

BE IT FURTHER RESOLVED, That the Board of Regents of The University of Texas extends to the Board of Directors of The Texas State University for Negroes, when it shall have been duly constituted, its best wishes and assurances of cooperation for the success of the undertaking committed to its care.

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RESPONDENTS' EXHIBIT NO. 3,

Page 6.

THE STATE OF TEXAS

COUNTY OF TRAVIS

I, Betty A. Thedford, Secretary of the Board of Regents of The University of Texas, do hereby certify that the foregoing is a true and correct excerpt from the minutes of a regular meeting of said Board of Regents held in Austin, Texas, on February 28 and March 1, 1947, at which a majority of the members were present and voted favorably on the motion contained therein.

Executed under my hand and the seal of The University of Texas this the 18th day of March, 1947.

/s/ Betty A. Thedford

Betty A. Thedford, Secretary
of the Board of Regents of The
University of Texas.

(Seal of the University of Texas)

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THE STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Betty A. Thedford, Secretary of the Board of Regents of the University of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the

RESPONDENTS' EXHIBIT NO. 3,

Page 7.

purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN under my hand and the seal of office this the 18th day of March, A. D. 1947.

(Notary Seal)

/s/ Maryvenice E. Stewart,

Maryvenice E. Stewart, Notary

Public in and for Travis County,

Texas.

SCHOOL OF LAW, THE UNIVERSITY OF TEXAS.

Full-time faculty members:

- Bailey, E. W. -- Professor of Law. B.A. 1920, LL.B. 1928, S.J.D.,
1942 At UT since 1930.
- Davis, Kenneth C. -- Professor of Law. A. B. 1931, LL.B. 1934
At West Virginia 1935-40, at U.T. since 1940.
- Fritz, W. F., -- Asst. Professor of Law, B. A. 1935, M. A. 1938,
LL.B. 1946. Taught seven years in Texas High Schools,
at U.T. since 1946.
- Hodges, Gus M., -- Professor of Law, B.B.A. 1930, LL.B. 1932.
At U. T. since 1940.
- Hudspeth, C. M. -- Assistant Professor of Law. B. A. 1940, LL.
B. 1946. At U. T. since 1946.
- Huie, W. O., -- Asst. Dean and Professor of Law. B. A. 1932,
LL. B. 1935. At U. T. since 1936.
- Leary, Leo W. -- Associate Professor of Law. B. A. 1940, LL. B.
1945, LL.M. 1946. At U. T. since 1946.
- McCormick, C. T. -- Dean and Professor of Law. B. A. 1909, LL.
B. 1912.
At U. T. 1922-26. At North Carolina 1926-31. At North-
western 1931-40. At U. T. 1940 --
- Morris, Clarence -- Professor of Law. L.L.B. 1925, LL.M. 1926.
At Univ. of Wyoming 1926-40. At U.T. since 1940.
- Morris, S. T. -- Assistant Professor of Law, LL.B. 1946.
At U. T. since 1946.
- Stayton, R. W. -- Professor of Law. B. A. 1907, LL.B. 1927.
At U. T. since 1925.

SCHOOL OF LAW, THE UNIVERSITY OF TEXAS, page 2.

Stumberg, G. W. -- Professor of Law. B. A. 1909, LL.B. 1912, J.D. 1924. At Louisiana State Univer. Law School 1919-25. At U. T. since 1925.

Wade, John W. -- Visiting Professor of Law. A. B. 1932, LL.B. 1934, LL.M. '35, S.J.D. 1942. At Univ. of Mississippi, 1936-46. At U. T. 1946-47.

Walker, A. W., Jr. -- Professor of Law. B. A. 1921, LL.B. 1923. At U. T. since 1925.

Williams, Howard R. -- Associate Professor of Law. A. B. 1937, LL.B. 1940. At U. T. since 1946.

Williams, Jerre S. -- Associate Professor of Law. A. B. 1938, LL.B. 1941. Instructor in Law Univ. of Iowa 1941-42. Asst. Prof. of Law, Univ. of Denver 1946. At U. T. since 1946.

Woodward, M. K.-- Associate Professor of Law. B.A. 1933, M.A. 1940, LL.B. 1943. Teacher in Texas public schools 1935-41. At U. T. since 1946.

Part-time faculty members:

Hargrave, Miss Helen -- Instructor in Law and Law Librarian. LL.B. 1926. At U.T. since 1930.

Patterson, W. W. -- Director of Legal Aid Clinic. LL.B. 1936.

Ynsfran, P. M. -- Lecturer in Law. Bachiller en Ciencias y Letras, Escribano Publico. Lecturer in Law at U. T. part time since 1945.

(fall of 1946 -- Tisinger, D. L. -- Lecturer in Law. A. B. 1935, LL.B. 1939. (lecturer in Law part-time since 1944.)

RESPONDENTS' EXHIBIT NO. 6.

**(Attach copy of list of Faculty Members of
(University of Texas School of Law.**

RESPONDENTS' EXHIBIT NO. 7,

Page 1.

ANNOUNCEMENT OF COURSES
FOR THE SPRING SEMESTER, 1947,
OF THE SCHOOL OF LAW OF
THE TEXAS STATE UNIVERSITY FOR NEGROES

The School of Law will begin its program of instruction March 10, 1947. It is located in the building at 104 East 13th Street, Austin, Texas, adjoining the grounds of the State Capitol.

For beginning students, the courses for the Spring Semester will be as follows:

Contracts, six hours per week. Instructor, Leo W. Leary, Associate Professor of Law, The University of Texas (A. B., LL. B., University of Wisconsin.) Casebook: Grismore's Cases on Contracts.

Torts: six hours per week. Instructor, Starling T. Morris, Assistant Professor of Law, The University of Texas, (LL.B., The University of Texas). Casebook: Thurston & Seavey, Cases on Torts.

Legal Bibliography, one hour per week. Instructor, Chalmers M. Hudspeth, Assistant Professor of Law, The University of Texas (A. B., Rice Institute; LL.B., The University of Texas.) Casebook: Brandt, How to Find the Law.

RESPONDENTS' EXHIBIT NO. 7,

Page 2.

All of these instructors are teaching or have taught the same courses in The University of Texas School of Law during the current school year, and the program of courses is identical with those offered to beginning students in that school who entered February 1, 1947.

Registration day for the Spring Semester is March 10, 1947. Classes will begin on that day. The semester ends June 28. Programs of work for the summer session and for the fall and subsequent semesters will be announced later and will conform, generally, to the programs and offerings of the Law School of The University of Texas.

The State Library, which includes the Library of the Supreme Court of Texas, located in the State Capitol, is for the time being designated as the Library of the School. This contains about 44,000 volumes of legal material and includes all of the statutes and reports of decisions of all the states and of the United States.

The reference books needed for immediate use in the classes are available in the school building, and any other books which may be required, if not available in the State Library, will be furnished as needed from the Library of the School of Law of The University of Texas. A collection of 10,000 carefully selected volumes meeting the requirements of the Association of American Law Schools, to constitute the

RESPONDENTS' EXHIBIT NO. 7,

Page 3.

nucleus of the permanent library of the School has been ordered.

Requirements for admission, fees, and regulations relating to the classification of students, class-work, and examinations, grades and credits, standards of work required, and degrees awarded, are the same as those contained in the attached Catalog of the School of Law, dated August 1, 1945, which is the latest published catalog of that school.

For further information apply to

Charles T. McCormick, Dean

or

E. J. Mathews, Registrar

School of Law

Texas State University for Negroes

Austin, Texas.

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RESPONDENTS' EXHIBIT NO. 13.

Page 1.

THE SCHOOL OF LAW

of

THE TEXAS STATE UNIVERSITY FOR NEGROES

Box E, University Station,

Austin 12, Texas.

March 3, 1947.

MR. Heman Marion Sweatt

3402 Delano Street

Houston, Texas

Dear Sir:

Since our last correspondence concerning your application for admission to the University of Texas Law School, the Texas Legislature has authorized the Board of Regents of the University of Texas to establish and operate a separate school of law equal in all respects to the University School of Law.

I am pleased to advise that your qualifications heretofore established and your application heretofore made will entitle you to attend the new school now being opened at 104 East 13th Street, Austin, Texas.

The new school, known as The School of Law of the Texas State University for Negroes will open March 10, 1947, and the first semester will run until June 28, 1947. A summer

RESPONDENTS' EXHIBIT NO. 13,

Page 2.

session is being planned which will allow you to complete the same amount of work prior to the semester beginning in September as would be possible at the University of Texas.

Dean Chas. T. McCormick of the University of Texas Law School will serve as Dean of the newly established Law School and the courses and instructors will be identical with those available at the University of Texas Law School. I assure you that in accordance with the authority from the Legislature and the Board of Regents, the newly established school will offer the students thereof equal training and educational opportunities. The school is located directly across the street from the State Capitol Building. A library is being installed and full use of the State Library on the second floor of the Capitol building is available for research prior to the delivery of a complete law library now on order. This new library will include all books required to meet the standards of the American Association of Law Schools and the American Bar Association.

There is enclosed a copy of the current bulletin of the Law School of the University of Texas, which has been adopted as the bulletin and list of courses available at the new School of Law. The courses, texts, collateral reading, standards of instruction and standards of scholarship will be identical with those prevailing in the Law School of the

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University of Texas. Since your application is for a first year law course, I might add that in the University of Texas Law School first year students are eligible to take Contracts (6 hours weekly), Torts (6 hours weekly), and Legal Bibliography (1 hour weekly.) These same courses will be available to you by the same instructors.

If you desire to enter the semester beginning March 10, please advise me as soon as possible in order that arrangements may be made for you to interview Dean McCormick and determine your schedule of classes and textbooks which will be required.

Yours very truly,

/s/ E. J. Mathews

E. J. Mathews, Registrar.

RESPONDENTS' EXHIBIT NO. 14.

(Attach photo of New Negro Law School Building)

RELATOR'S EXHIBIT NO. 1.

Page 1.

(Cover Title, as follows:)

ASSOCIATION
OF
AMERICAN LAW SCHOOLS

1945

HANDBOOK.

(From page 259 of Handbook)

IV. ARTICLES OF ASSOCIATION.

(From Handbook, beginning at 7th paragraph on page 260, ending)
(last line on page 267.)

Sixth. Law Schools may be elected to membership at any meeting by a vote of the Association, but no law school shall be so elected unless for at least two years immediately preceding its application it has complied with the following requirements:

(Amended 1925: see Proceedings, 1925, pp. 6 to 12.)

1. It shall be a school not operated as a

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commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students, nor on the fees received.

(Adopted 1922; see Proceedings, 1922, pp. 64-66.)

2. (a) It shall require of all candidates for any degree, other than special students, at the time of the commencement of their law study, the completion, in residence, of one-half of a four-year course of study acceptable for a Bachelor's degree at the State University of the state in which the pre-law work is taken, or in the event there is no State University then at a principal college or university located therein; except that not more than ten per cent of the credit presented for admission may include credit earned in non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music or other courses without intellectual content of substantial value.

Pre-legal work done in residence within the meaning of Article Sixth, Section 2 (a), shall mean work done in class in an approved college, or, if done off the campus of the college, it shall mean work done in a class meeting in regular sessions each week under the personal supervision and instruction of a member of the instructional staff of an approved college.

(Approved by the Association by mail vote,

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September, 1944.)

(b) A student's pre-legal work must have been passed with a scholastic average at least equal to the average required for graduation in the institutions attended, and this average shall be based on all the work undertaken by the student in his pre-law curriculum, exclusive of non-theory courses in military science, hygiene, domestic arts, physical education, vocal or instrumental music, or other courses without intellectual content of substantial value.

(c) It shall require from each student admitted a written statement as to his previous attendance at other law schools, and as to his previous applications for admission to other law schools.

(Amended 1927; see Proceedings 1927, pp. 9-20, 53, 54. Amended 1935; see Proceedings 1935, pp. 11-13. Amended, 1937, see Proceedings, 1937, pp. 29-37.)

3. A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is required for the work of the school, shall be considered a full-time school. A full-time school shall require of its candidates for the first degree in law resident study of law during a period of at least ninety weeks and the successful completion of at least ten hundred and eighty hours of classroom instruction in law.

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A school whose curriculum and schedule of work are so arranged that, in the opinion of the Executive Committee, substantially the full working time of its students is not required for the work of the school, shall be considered a part-time school. A part-time school must maintain a curriculum which, in the opinion of the Executive Committee, is the equivalent of that of a full-time school. The action of the Executive Committee under this paragraph shall in each instance be reported to the Association at its next annual meeting and shall stand as the action of the Association until set aside by a vote of a majority of all the members of the Association.

Any school now or hereafter a member of the Association, that conducts both full-time and part-time curricula, must comply as regards each with the requirements therefore as set forth in the preceding paragraphs.

No school shall be or remain eligible to membership if the institution of which it is a part shall through any other agency conduct instruction in law designed to prepare students for admission to the Bar or for Bar examinations, save in conformity with the provisions of the preceding paragraphs.

No school shall be or remain eligible for membership if it accepts for credit toward the first degree in law,

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Page 5.

with or without examination in such school, work taken in another American law school which at the time the credit was earned was not either a member of this Association or approved by the American Bar Association; provided, however, that credit may be given for work taken in another American Law school within the two-year period immediately preceding its admission to this Association.

(Amended December 31, 1936. See Proceedings, 1936, pp. 27-31; 91-96. Amended December 29, 1938. See Proceedings, 1938, pp. 24-28.)

At the sixteenth annual meeting the Executive Committee reported as follows, concerning Article VI (2):

"Some doubts have arisen as to whether Article VI (2) requires the three years' study to be in residence. These doubts appear to have been caused in part by certain resolutions passed in 1907 and 1908 before subsection 2 was amended in its present form. In order to set at rest these doubts the Committee offers the following resolution:

"Resolved, That the period of study required by Art. VI (2) is to be interpreted as meaning resident study."
(The foregoing resolution was adopted. See Proceedings, 1916, p. 82.)

4. The conferring of its degree shall be conditioned

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upon the attainment of a grade of scholarship ascertained by examination.

"Resolved, That no student should be unconditionally advanced from one class to a higher one without passing satisfactory examination upon the studies previously pursued by the former class. (Adopted, Proceedings, 1902, p. 7.)

" It was the sense of the Committee that final examinations under the rule should not be considered as required in practice court and in courses involving the drafting of legal instruments, but that as to such courses as legal bibliography, a final examination might very well be expected. The general principle was declared to be that final examinations should be required in all courses reasonably susceptible thereto." (Exec. Com. Report, 1923.)

5. Students with less than academic credit required of candidates for the law degree by Section 2 of this article, may be admitted as "specials" provided:

a. They are at least twenty-three years of age, and

b. There is some good reason for thinking that their experience and training have specially equipped them to engage successfully in the study of law, despite the lack of the required college credits, and

c. The number of such "specials" admitted each

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year shall not exceed ten per cent of the average number of students admitted by the school as beginning regular law students during the two preceding years.

(See Proceedings, 1927, pp. 55-59.)

In 1928 a ruling of the Executive Committee relative to Article VI (2d) was approved, under which the requirement of two years of college work was made to apply to summer sessions where credit is given to any student toward his law degree. (See rulings and annotations to Art. VI (2d).)

The following interpretation by the Executive Committee was approved:

In estimating the ten per cent to determine the number of special students that may be admitted, fractions are not to be counted. (See Proceedings, 1927, p. 9.)

In calculating the number of special students who may be admitted under Article Sixth, Section 5, it shall not be necessary to include members of the bar who are enrolled in courses without expectation of academic credit.

(Approved by the Association by mail vote, September, 1944.)

6. Commencing September 1, 1932, it shall own a law library of not less than ten thousand volumes, which shall be so housed and administered as to be readily available for use by students and faculty. Commencing September 1, 1940, it shall have, in addition to the four instructors specified

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in Section 7 of this Article, a qualified librarian, whose principal activities are devoted to the development and maintenance of an effective library service.

Commencing September 1, 1932, for additions to the library in the way of continuations and otherwise, there shall be spent over any period of five years at least ten thousand dollars, of which at least fifteen hundred dollars shall be expended each year. Commencing September 1, 1939, such library shall include substantially the following:

1. The published reports of appellate decisions of the state in which the school is located, together with commonly used editions of the statutes and digests.

2. The published reports prior to the Reporter System of decisions of the courts of last resort in at least one-half the states of the United States with reasonably up-to-date editions of statutes in one-fourth the states.

3. The published reports of the decisions of the United States Supreme Court with the generally used editions of federal statutes and digests.

4. The National Reporter System complete.

5. Leading up-to-date publications in the way of general digests, encyclopedias, and treatises of accepted worth.

6. At least ten legal periodicals of recognized

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worth, complete with current numbers.

7. The English reports covered by the so-called reprint, together with the law reports to date.

(Amended 1924, see Proceedings, 1924, pp. 50, 51; 1925, see Proceedings, 1925, pp. 85-87; 1930, see Proceedings, 1930, pp. 23, 25; 1937, see Proceedings, 1937, pp. 38-44.)

The 1927 recommendations of the Executive Committee, as to content of the library, were incorporated in the Articles at the 1937 Meeting, with two changes, (1) decreasing the number of statutory editions required from those of one-half to those of one-fourth the states, and (2) increasing the number of legal periodicals from six to ten. (See Proceedings, 1927, p. 7, 1937; pp. 38-44.)

7. Commencing September 1, 1932, its faculty shall consist of at least four instructors who devote substantially all of their time to the work of the school; and in no case shall the number of such full-time instructors be fewer than one for each one hundred students or major fraction thereof.

(Adopted December 29, 1916. See Proceedings, 1916, pp. 67-80. Amended in 1924, see Proceedings, 1924, pp. 51-64 and in 1930, see Proceedings, 1930, pp. 24, 25.)

At the Thirty-Third Annual Meeting the Executive Committee made the following recommendations which was adopted:

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"Resolved, That the first clause of Article Sixth, Section 7, applies in substance though not in letter to summer sessions where any credit is given to any student toward his law degree. Resolved further, that a faculty for any such summer session may comply substantially with the said clause although containing fewer than four full-time instructors, provided that no instructor is responsible for more courses, more hours of teaching per week, or more students than is the normal standard in the particular school, and that no larger percentage of part-time instruction is given than in the balance of the school year."

(See Proceedings 1935, p. 17-18.)

8. Each member shall maintain a complete individual record of each student, which shall make readily accessible the following data: Credentials for admission; the action of the administrative officer passing thereon; date of admission; date of graduation or final dismissal from school; date of beginning and ending of each period of attendance, if the student has not been in continuous residence throughout the whole period of study; courses which he has taken, the grades therein, if any, and the credit value thereof, and courses for which he is registered; and a record of all special action of the faculty or administrative officers.

(Adopted December 31, 1919. See Proceedings,

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1919, pp. 87,88.)

9. It shall be a school which possesses reasonably adequate facilities and which is conducted in accordance with those standards and practices generally recognized by member schools as essential to the maintenance of a sound educational policy

(Adopted December 29, 1930. See Proceedings, 1930, pp. 24,25.)

Seventh: Any school which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then bona fide fulfilling such requirement.

Any member school which shall fail to be represented by some member of its faculty at the annual meeting at least once in any three-year period shall be deemed to have discontinued its membership.

(Amended 1925. See Proceedings, 1925, pp. 17-19.)

Eighth. The officers of this Association shall be a President, a President-Elect, and a Secretary-Treasurer. The President-Elect and the Secretary - Treasurer shall be chosen

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from among the delegates at each annual meeting. The President-Elect, upon the election of his successor, shall become the President and shall serve as such until the next election of a President-Elect. The Secretary-Treasurer shall hold office until his successor is elected. Provided, however, that, in event of the death or resignation of the President at any time during his term of office, the President-Elect shall immediately become the President, and shall serve as such until the second election of a President-Elect thereafter; and, in event of the death or resignation of the Secretary-Treasurer at any time during his term of office, the Executive Committee shall have the power and it shall be its duty without unnecessary delay, to appoint from among the teachers in the member schools a Secretary-Treasurer, who shall hold office as such until his successor is elected. At the annual meeting in 1937, in addition to the election of a President-Elect and a Secretary-Treasurer, a President shall be chosen from among the delegates and shall hold office until the next election of a President-Elect. The President-Elect shall have power to appoint committees and (in cases where the delegates at round table conferences do not elect councils) round table councils, to serve during his presidency; and he shall have no other power except that attaching to a member of the Executive Committee.

(Amended 1937, see Proceedings, 1937, pp. 45-51.)

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Ninth. At each annual meeting there shall be chosen from among the delegates two (or, if the Secretary-Treasurer is chosen also as the President-Elect, three) persons to be members of the Executive Committee, who with the President, the President-Elect and the Secretary-Treasurer shall form such Committee. The Secretary of the Association shall be Secretary of the Committee.

(Amended 1937, see Proceedings, 1937, pp. 45-51.)

Tenth: The Executive Committee shall have charge of the affairs of the Association and is especially intrusted with seeing that the requirements of Articles Sixth and Seventh are complied with. All complaints shall be addressed to the Executive Committee, and shall be filed at least ninety days before the annual meeting of the Association. The Committee shall investigate all complaints and report its findings, with such recommendations as it shall think proper, to the Association for its action and shall make a report at the annual meeting. This provision shall not, however, prevent any matter being taken up and passed upon by the Association, except that no Law School shall be excluded from the Association under the Seventh Article unless the Executive Committee has given it thirty days' notice that it has in the opinion of that Committee failed to comply with the provisions of the Sixth and Seventh Article. When the Executive Committee has ascertained

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that a member school has failed to maintain the requirements provided for in Article Sixth, or such standards as may be hereafter adopted by the Association, it may by a unanimous vote suspend such school from membership until the Association shall decide at the next general meeting whether the school shall be reinstated or definitely excluded.

(Amended 1935, see Proceedings, 1935, pp. 14-17.)

For discussion of the powers and duties of the Executive Committee under this section see Proceedings, 1906, pp. 114-129.

As to power of Executive Committee to pay expenses of committees, see Proceedings, 1921, pp. 136, 137.

Eleventh. Applications for membership shall be addressed to the Secretary, accompanied by evidence that the school applying has, for at least two years immediately preceding complied with the requirements as set forth in Articles Sixth and Seventh. The Executive Committee shall examine the application and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least sixty days before the meeting of the Association.

(Amended 1923, see Proceedings, 1923, p. 49; and 1925, see Proceedings, 1925, pp. 6-11.)

Twelfth. The Executive Committee may conduct its

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business by correspondence.

Thirteenth. The officers may be re-elected and a retiring officer may be elected a member of the Executive Committee, but no person shall serve as an elected member of the Executive Committee in successive years, no school shall have an elected member of the Executive Committee in successive years, and no school shall have more than one member on the Executive Committee in any year. The term "elected member" in this Article does not include the President, the President-Elect or the Secretary-Treasurer.

(Amended 1936, see Proceedings, 1936, pp. 31-36.

Amended, 1937, see Proceedings, 1937, pp. 45-51.)

Fourteenth. The annual assessment on each school shall be sixty-five dollars, payable in advance, and any school which shall have failed to pay its assessments during the year shall be dropped from the Association but may be reinstated by vote of the Association upon payment of arrears.

Recommendation of the Executive Committee, April 18, 1915: "The committee voted to recommend that Article Fourteenth of the Articles of Association be amended by substituting the word 'twenty-five' for the word 'ten' so that it will read: 'Fourteenth. The annual assessment on each school shall be twenty-five dollars, payable in advance,' etc." This recommendation was modified at the December, 1915, meeting, by

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making the annual assessment twenty dollars. See Proceedings, 1915, p. 53. At the December, 1920, meeting, the annual assessment was fixed at thirty dollars. See Proceedings, 1920, p. 133. At the twentieth annual meeting 1922, the annual assessment was fixed at forty dollars. See Proceedings, 1922, p. 54. At the December, 1930 meeting, the annual assessment was fixed at sixty-five dollars. See Proceedings, 1940, p. 20.

A recommendation of the Executive Committee on September 28, 1931, that "the annual assessment on each school shall be one hundred dollars (\$100), payable in advance, and any school which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be reinstated by vote of the Association upon payment of arrears. The round-trip railway fare of one delegate from each school to the annual meeting shall be paid from the treasury of the Association, but such payment shall not be made for travel beyond the United States or in the Dominion of Canada, or where no delegate has been in attendance" was lost, on a vote on December 29, 1931, at the nineteenth annual meeting. (See Proceedings, 1931, pp. 31, 55-77.)

Fifteenth. These articles may be changed at any annual meeting, the vote on such change shall be by schools, and no change shall be adopted unless it is voted for by two-

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thirds of the schools represented, nor unless it is voted for by at least one-third of all the members of the Association; provided, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least sixty days before the meeting and a copy thereof sent forthwith by the Secretary to each member.

(As amended 1923. See Proceedings, p. 49.)

"Two-thirds of the schools represented" was held to mean, represented in the vote on the question before the convention. (Proceedings, 1922, pp. 96-98.)

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RELATOR'S EXHIBIT NO. 2.

(Photograph of Negro Law School
(building))

RELATOR'S EXHIBIT NO. 3.

(Photograph of Law Building)
(University of Texas)

RELATOR'S EXHIBIT NO. 4.

(Photograph of Law Building)
(University of Texas)

RELATOR'S EXHIBIT NO. 5.

(Envelope addressed to Heman Marion Sweatt)
(from E. J. Mathews, Registrar)

RELATOR'S EXHIBIT NO. 6.

(Photograph of entrance to)
(Negro Law School Building)

RELATOR'S EXHIBIT NO. 8.

(Report Scholarship Aid Fund for Texas)
(Negro Graduate and Professional)
(Students, 1945-1946)

RELATOR'S EXHIBIT NO. 9.

(Statement -- Dept. of Education Policy)
(and Procedure applicable to Negro Aid)
(Scholarship Fund)

REPORTER'S CERTIFICATE.

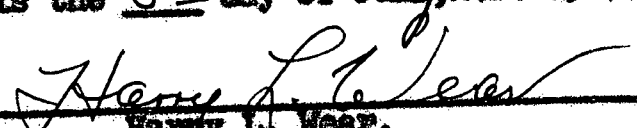
THE STATE OF TEXAS

COUNTY OF TRAVIS

I, Harry L. Wear, Court Reporter for the 126th Judicial District Court of Travis County, Texas, do hereby certify that the above and foregoing pages numbered 1 - 641, (the pages 357-366, inclusive, being skipped through typist's error) contain a full, true and correct transcript (in Question and Answer form) of the testimony adduced in the trial of said Cause No. 74,945, styled Heman Marion Sweatt, Relator vs. Theophilis Shickel Painter, et al, Respondents, in said 126th Judicial District Court of Travis County, Texas; together with all objections as to the admission or exclusion of evidence, the rulings of the Court thereon, and the exceptions reserved thereto.

I further certify that as to the documentary evidence admitted on the above trial, that said exhibits are incorporated in this Volume I, and in Volume II, a part hereof, and that Exhibits A through J, inclusive, accompany this record in original form, not bound in either Volume I or Volume II, and are a part of this Statement of Facts.

Witness my hand this the 5th day of June, A.D. 1947.


Harry L. Wear,
Court Reporter, 126th Judicial
District Court, Travis County,
T e x a s.

AGREEMENT OF COUNSEL.

We hereby agree that the foregoing pages numbered 1-641, inclusive, (noting that through typist's error pages 357-366 were skipped in numbering), constitute a full, true and correct transcript of all of the testimony in Question and Answer Form admitted in evidence by the Court upon the trial of Cause No. 74,945, styled Heman Marion Sweatt, Relator, vs. Theophilis Shickel Painter, et al, Respondents, in the 126th Judicial District Court of Travis County, Texas.

We further agree as to the documentary evidence admitted on the trial that this Volume I of the Statement of Facts, numbered pages 1-641, inclusive, also contains copies of Respondents' Exhibits Numbers 1, 2, 3, 7, 13, and copy of Relator's Exhibit No. 1; and also contains either original or photostatic copies of Respondents' Exhibits Numbers 6 and 14, and original or photostatic copies of Relator's Exhibits Numbers 2, 3, 4, 5, 6, 8 and 9.

We further agree that in Volume II of this Statement of Facts and accompanying same and being a part hereof, are contained original or photostatic copies of Respondents' Exhibits Numbers 4, 5, 6, 8, 9, 10, 11, 12, 15 and 16, and of Relator's Exhibit No. 7; and that Exhibits A, B, C, D, E, F, G, H, I, J, in original form accompany this Statement of Facts, not bound in Volume I or II, and are a part hereof.

We further agree that this Volume I of the Statement of Facts contains all objections to the admission or exclusion of testimony, the rulings of the Court thereon, and the

AGREEMENT OF COUNSEL, page 2.

exceptions reserved thereto.

And we further agree that this record shall be filed as the Statement of Facts and Bills of Exception (except such other and further Bills of Exception as may be filed separately) in this cause.

Dated this 4th day of August, A.D. 1947.

COUNSEL
FOR
RESPONDENTS

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