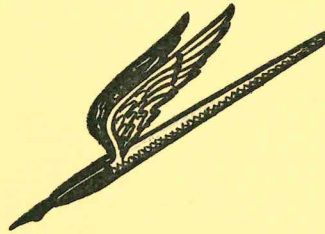


IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



NATHANIEL JACKSON,
A Minor, et al

VS.

NO. 3152, Civil

O. C. RAWDON,
President of Board of Trustees
of Mansfield Independent
School District

Transcript of Proceedings

November 7, 1955

Filed 15 day of December
1955 at _____ o'clock _____ M.

Geo. W. Parker, Clerk
by Therese Cannon Deputy

IRBY & DINEEN
SHORTHAND REPORTERS, FEDERAL COURTS
NORTHERN DISTRICT OF TEXAS
DALLAS 1, TEXAS

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>REGROSS</u>
Nathaniel Jackson	4	11	-	-
Floyd Stephenson Moody	16	18	22	-
R. L. Huffman	23	50	62	-
Ira Gibson	75	81	94	-
O. M. Wilshire	100	-	-	-
Jimmie Moody	105	-	-	-
J. A. Moody	109	111	-	-
R. L. Huffman (Recalled)	113	114	-	-
David Sellers	115	-	-	-
R. L. Huffman (Recalled)	118	-	-	-

E X H I B I T SPLAINTIFFS:

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* * *

BE IT REMEMBERED that on the 7th day of November,
A.D. 1955 the above styled and numbered cause came on for
hearing before Honorable Joe E. Estes, Judge, whereupon the
following proceedings were had:

* * *

APPEARANCES:

CLIFFORD DAVIS, Fort Worth, Texas,

U. SIMPSON TATE, Dallas, Texas,

appearing for plaintiffs.

J. A. GOOCH, Fort Worth, Texas,

appearing for defendants.

* * *

P R O C E E D I N G S

THE COURT: Counsel, at this stage of the proceeding you are not insisting on this prayer that the Court should convene a three judge court for the purpose of declaring Article VII, Section 7 of the Texas Constitution void, and Article 2900 and applicable provisions that encompass the requirement or sanction of racial discrimination in Articles 2922,(13) and 2922,(15) as to the Mansfield Independent School District, are you?

MR. DAVIS: If the Court please, that matter is now well settled.

THE COURT: I take it you are not asking that relief here now?

MR. DAVIS: No.

THE COURT: In view of the decision of the Supreme Court of Texas?

MR. DAVIS: No, sir, Your Honor.

In that respect, Your Honor, that was because of the action that occurred since that time.

THE COURT: Yes.

MR. DAVIS: That I believe would relieve us on the relief prayed in Paragraph 1 of our complaint, which is the three judge court section, Your Honor.

THE COURT: You withdraw that section of your prayer under the ruling of the Supreme Court of Texas in the McKinney case handed down October 12th, I believe it was, 1955?

MR. DAVIS: Your Honor, if they will admit that our children were tendered for enrollment and that they were denied the right and privilege of enrolling because of their color then we will be ready to proceed only on the question of whether or not it was in good faith.

MR. GOOCH: It is admitted in the answer that the plaintiffs in this case were denied admission to the Mansfield Independent School District when they appeared there on September 2, 1955. The rest of the allegations here, and other matters are denied. We are perfectly willing to admit these three persons appeared there through their attorney of record and we will make that in court, that they appeared there on September 2nd through their attorney of record in this case and demanded admission to the school there in Mansfield.

MR. DAVIS: We are ready, Your Honor, on the one issue.

THE COURT: Proceed, Counsel.

* * *

NATHANIEL JACKSON,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DAVIS:

Q Will you state your name to the Court, your name and your residence, where you live?

A My name is Nathaniel Jackson, I live in Mansfield, Texas.

Q Talk just a little slower and just a little louder so the Court can hear you.

Where do you now go to school?

A The I. M. Terrell.

Q Where is I. M. Terrell School?

A Fort Worth.

Q And what is your grade level?

A Tenth.

Q You are in the tenth grade. How do you get from Mansfield into Fort Worth?

A I ride a school bus they have.

Q Is that school bus a public school bus furnished by the Mansfield School District?

A Yes.

Q What time are you required to get up in the morning

in order to catch that bus?

A 6:00 o'clock.

Q You get up about 6:00 o'clock. How far do you live - - where do you catch the bus in Mansfield to come to school here?

A Downtown.

Q Downtown. Now, how far do you live from where you catch the bus?

A About two miles.

Q About two miles. Tell the Court how you get from your home to where you catch the school bus?

A I walk.

Q You walk. About how long does it take you to walk from your home to where you catch the school bus in Mansfield?

A About forty-five minutes.

Q About forty-five minutes. What time is the bus scheduled to leave Mansfield en route to Fort Worth?

A 7:30.

Q And about how long does it take it to get from where it leaves in Mansfield to where you get off at I. M. Terrell School?

A About forty-five minutes to an hour.

Q I beg your pardon?

A It will take about forty-five minutes to an hour to get to Fort Worth.

Q Does it make any stops between where you get off and

where you get on?

A Yes.

Q Where is the other stop?

A James E. Guinn.

Q It goes by James E. Guinn before it gets to Terrell?

A (Witness nods head.)

Q What time do you arrive at the Terrell school house?

A Between 8:15 and 8:30.

Q What time does school take up at Terrell School?

A At 8:40.

Q Where do you go between the time you arrive at school on the bus and the time for you to report to your class at the first place where you report when you get in school?

A Oh, just there on the campus.

Q Is the school open at that time? Is the school building open at that time?

A (Witness nods head.)

Q Are you permitted to go inside?

A Yes, sir.

Q You are permitted to go inside when you get there?

A Yes, sir.

Q What time do you get out of school in the afternoon?

A At 3:40.

Q At 3:40. Now, about what time do you catch the bus on your way back home from Fort Worth, back to Mansfield?

A About 3:45.

Q About 3:45. Does the bus take the same route going back, that is, go by Terrell School and then on out to Mansfield?

A Yes, sir.

Q About how long does it take the bus then from the time you leave Terrell High School to get you back to the point where it discharges you in Mansfield in the afternoon?

A About forty-five minutes to an hour.

Q About forty-five minutes to an hour. About what time do you get back in Mansfield in the afternoon and get off of the bus?

A About 4:45.

Q About 4:45. Then how do you get home from where you get off of the bus in the afternoon?

A I walk.

Q About what time do you arrive at your home?

A About 5:30 or 6:00.

Q I beg your pardon?

A About 5:30.

Q About 5:30. Now, is there a bus coming by your home that goes to the Mansfield High School?

A Yes, sir.

Q The bus does not - - you do not ride that bus into town?

A No.

Q You have to walk every day?

A Yes.

Q At the point where you catch the bus in Mansfield, is there any shelter there for your protection from the weather while you are waiting for the bus to arrive?

A No.

Q Where do you wait?

A On the streets.

Q Is it dark now by the time you get home in the afternoon?

A Yes.

Q Do you have to leave home in the morning under cover of darkness?

A Yes.

Q If you were enrolled in the Mansfield High School about what time would you leave home in order to get to Mansfield High School in time for school?

A About 8:00 o'clock.

Q Is that about the time the bus comes by your house en route to the Mansfield High School?

A Yes, sir.

Q Now, what happens if you are late and miss the bus coming into Fort Worth? Is there any method provided to get you to school?

A No.

Q What happens?

A I couldn't go to school that day.

Q Has that happened since the current school year started?

A Yes.

Q Talk just a little bit louder so we can all hear you?

Do you participate in any activity at your school?

A Yes.

Q What do you participate in?

A Basketball.

Q Are you permitted to stay and practice basketball?

What time of the day do they practice basketball in your school, when the season starts?

A At 4:00 o'clock.

Q When they start practicing basketball will you be able to stay and practice and play ball with the boys?

A No.

Q Why?

A Because I couldn't get home in the evening.

Q Are there any other activities in your school you would like to participate in?

A Yes.

Q Are you now participating in them?

A No.

Q Why?

A Because I couldn't get home.

Q When your school has football games here at night, or any other activity here at night is there any provision made for you to come back and participate in your extracurricular, or non-curricular, activities?

A No.

MR. GOOCH: If the Court please, this is going rather far afield, the whole purpose of education, and for the further reason, there is no method provided for anybody's students, except through their parents, or their friends, to attend extracurricular activities at night, football games or others. The school for the whites doesn't provide transportation to night football games, or basketball games, or things of that sort.

MR. DAVIS: If the Court please - -

THE COURT: I will overrule the objection.

Go ahead, Counsel.

MR. DAVIS: Thank you, sir.

MR. GOOCH: Note our exception.

Q (By Mr. Davis) Now, for those activities which are held at your school at night, does the school board make any provision for your attendance at those activities?

A No.

Q If you get back in to those activities, how would you make it back in?

A Well, I couldn't come back.

Q You wouldn't get back.

That is all, Your Honor.

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Nathaniel, when did you move into the Mansfield Independent School District?

A August.

Q In August of this year?

A Yes, sir.

Q Where had you lived before?

A At Fort Worth.

Q And you moved from Fort Worth to Mansfield in August of 1955?

A Yes, sir.

Q Were you already enrolled in I. M. Terrell High School for the year 1955-56 at the time you moved to Mansfield?

A No.

Q Where had you attended school in Fort Worth prior to the time you moved to Mansfield?

A Carver.

Q At Carver?

A Yes, sir.

Q Is that a junior high school?

A Yes.

Q And when did you enroll in I. M. Terrell?

A On the 7th.

Q 7th of September?

A Yes.

Q Had you theretofore transferred out of the Mansfield Independent School District prior to that time?

A I beg your pardon?

Q Had you transferred, or your parents transferred you to I. M. Terrell prior to the time you enrolled on September 7th? Do you know when that transfer occurred?

A Well, they told me I couldn't go to school down there, I would have to go to Terrell.

Q I didn't understand?

A Well, when Mr. Huffman said we couldn't go to school down there I had to go to Terrell, I. M. Terrell School.

Q When did you talk to Mr. Huffman?

A On September 2nd.

Q On September 2nd?

A Yes.

Q Now, I am trying to find out, if you know, and if you don't know you can't answer it, is when you transferred from the Mansfield Independent School District to the Fort Worth Independent School District? You don't know?

A No. It happened at the school down there.

Q I beg your pardon?

A I never have been down to school down there.

Q You never had been down to school in Mansfield, had you?

A No.

Q Had you ever attended any of the classes in Mansfield School?

A No.

Q Never had. Did your people move down to Mansfield in August?

A Yes.

Q Well, prior to that time, prior to August, you had been enrolled in the census of the Fort Worth Independent Public School District, had you not?

A Yes, sir.

Q Now, tell me, if you will, how far it is from your home to the bus stop where you pick up the bus to come down to I. M. Terrell?

A It is about two miles.

Q Is it over two miles, or under two miles, or do you know?

A I don't know.

Q You don't know. And doesn't the bus there at Mansfield come to a filling station where you are picked up

to come to the I. M. Terrell School?

A Yes.

Q Isn't there a shelter at that filling station, and also restrooms where you can have comfort at the time you are waiting for that bus?

A Yes.

MR. GOOCH: That is all.

THE COURT: Any further questions?

MR. DAVIS: None further.

THE COURT: Nathaniel, what grade are you in?

A Tenth.

THE COURT: Now, what time does school open over there at I. M. Terrell School?

A At 8:40.

THE COURT: I know, but what - - do you remember what day of September it was?

A On the 7th of September.

THE COURT: On the 7th of September.

Are you doing well in school now, Nathaniel?

A Yes, sir.

THE COURT: Do you like it?

A Yes.

THE COURT: This suit, I believe, was filed in October, after you had already commenced school. What is your feeling, Nathaniel, about withdrawing out of I. M. Terrell in

the middle of the year?

A Well - -

THE COURT: And transferring into a new school?
What is your own feeling about that?

A Well, it have been done, I wouldn't lose no time
going from one school to another.

MR. GOOCH: I can't hear, Your Honor.

THE COURT: Will you repeat that for them so they
can hear, Nathaniel?

3 A There is no time lost going from one school to
another, I would be going to school all the year, it would
just be a transfer, is all.

THE COURT: Have you got any feeling about, yourself,
about, I mean, is there any emotional reason, or reason inside
of your mind and heart that makes you, in the middle of the
year, want to move from the school you are in now and soing as
well as you have been, to another school?

A No.

THE COURT: There is no reason in your mind why you
want to do that, is there, Nathaniel?

A Well, it is more convenient.

THE COURT: I see. That is all.

MR. DAVIS: That is all, Your Honor.

* * *

FLOYD STEPHENSON MOODY,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DAVIS:

Q Will you state to the Court your name and where you live?

A Floyd Stephenson Moody. I stay in Mansfield.

Q Where are you now in school?

A I. M. Terrell.

Q Do you take part in any athletic programs of any nature at I. M. Terrell School?

A Yes.

Q What?

A Play football.

Q You play football. When do you have opportunity to practice your football?

A In the evening.

Q In the evening?

A Yes, sir.

Q What time do you get through?

A About 5:30.

Q Is there any provision made by the board for your transportation homw after you participate in that athletic

activity?

A No, sir.

Q How do you get home?

A I have to catch my uncle.

Q About what time do you get home in the afternoon?

A About 7:00 o'clock.

Q And how do you get from where you leave in town there back to your home in the afternoon?

A Walk.

Q About how far do you live from it?

A About two and a half miles.

Q Where did you go to grade school?

A In Mansfield Elementary School.

Q How many grades did you complete down in Mansfield?

A Eight.

Q You completed the eighth grade?

A Yes, sir.

Q When did you transfer out of the Mansfield School District into the Fort Worth District?

A In '54, I think.

Q Was it at the time you completed the eighth grade down there?

A Yes, sir.

Q Did you transfer the next year?

A Yes, sir.

MR. DAVIS: No further questions.

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Floyd, what grade are you in at I. M. Terrell?

A Tenth.

Q Are you passing your work?

A Pardon?

Q Are you passing your work?

A Yes, sir.

Q You are with a group you were with last year, are you not? Your classmates?

A Yes, sir.

Q And you transferred to the Fort Worth Independent School District in the year 1954?

A Yes, sir.

Q And then transferred again in the year 1955?

A Yes, sir.

Q What courses are you taking, Floyd?

A Well, I take English and Algebra and World History, and I take a trade course in Machine Shop.

Q You are taking a trade course in Machine Shop?

A Yes, sir.

Q Do you like that course in Machine Shop?

A Yes, sir, it is all right.

Q Do you know whether you can get a course in machine shop work at Mansfield High School?

A No, sir, I don't know.

Q You don't know whether you can or not?

A Nuh-uh.

Q Did you take this Machine Course voluntarily or was it forced upon you?

A I took it voluntarily.

Q Did you want to take a vocational course such as Machine Shop?

A Yes, sir.

Q If you had to - - your choice, would you go back to Mansfield, or would you go on with your course you are taking, for this year?

A Go back to Mansfield.

Q You would go back to Mansfield, even though you had to give up some of the courses you are now given in Fort Worth, is that correct?

A Yes, sir.

Q Is that because of convenience?

A Yes, sir.

Q Now, do you know - - you say you play football at I. M. Terrell. The white boys that play ball at Mansfield, there is no provision made for a bus to take them home after

the football game, is there?

A No, sir.

Q Then, the football players have to rustle their own transportation to and fro, if they are going to participate in outside activities, do they not?

A Yes, sir.

Q The other boys at I. M. Terrell have to provide their own transportation after football practice and games, do they not?

A Yes, sir.

Q Now, at the time you applied for entrance into the Mansfield Independent School District, I believe you said you went down there on September 2nd. Is that when you went down?

A Yes, sir.

Q Who went with you on that occasion?

A Mr. I. M. Reed and Mr. Davis, and Mr. John F. Lawson, and myself and Nathaniel Jackson.

Q Mr. T. M. Moody went with you?

A Yes, sir.

Q And who else?

A Mr. Davis.

Q Mr. Davis. That is one of your lawyers here in the case?

A Yes, sir.

Q Who else?

A Mr. John L. Lawson.

Q T. M. Moody and Davis and who was the other?

A John F. Lawson.

Q John F. Lawson?

A Yes.

Q Who is John F. Lawson?

A He is one of the - - one of the trustee men.

Q He is what?

A I don't know.

Q You don't know who he is?

A No, sir.

Q Does he live in Mansfield?

A Yes, sir, he is staying there.

Q That is what I am trying to find out. Does he have any children in school, or do you know?

A Yes, sir.

Q What school do they go to?

A Mansfield Elementary School.

Q I see.

You said you were taking English, and what else?

Algebra?

A Yes, sir.

Q And what else?

A World History.

Q History?

A Yes, sir.

Q And what else?

A A trades course in Machine Shop.

Q Trade course, Machine Shop, is that what you are saying?

A Yes, sir.

Q And what else?

A That is all.

Q You are taking four courses?

A Yes, sir.

MR. GOOCH: I believe that is all.

* * *

REDIRECT EXAMINATION

BY MR. DAVIS:

Q Floyd, why did you transfer into the Fort Worth school system?

A Because they wouldn't let me to go the school down there.

Q Did they have a high school there where colored could go?

A No, sir.

MR. DAVIS: That is all.

THE COURT: Floyd, are you happy and doing well at I. M. Terrell?

A Yes.

THE COURT: That is all.

* * *

R. L. HUFFMAN,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q Mr. Huffman, will you please tell the Court your name?

A I am R. L. Huffman.

Q And what is your occupation, sir?

A I teach school.

Q You are a teacher. Do you hold any other official capacity other than a teacher?

A Superintendent.

Q And you are superintendent of what schools, sir?

A Mansfield Public Schools.

Q All right, sir, how long have you been superintendent of the Mansfield Public Schools?

A This is my twelfth year.

Q This is your twelfth year.

How many rooms does your high school in Mansfield have, Mr. Huffman?

A Ten regular class rooms in the main building.

Q Ten regular, yes, sir. Now, besides your regular

class rooms, what other rooms do you have?

A We have one room for vocational agriculture.

Q Any other rooms?

A That is all.

Q All right, sir. How many high school teachers do you have, Mr. Huffman?

A Counting everyone there are fifteen.

Q There are fifteen. Do you teach a course in English, Mr. Huffman, for tenth grade?

A Yes, sir, we do.

Q Do you teach a course in Algebra for tenth graders?

A Yes, we do.

Q Do you teach a course in World History for tenth graders?

A Yes, sir.

Q Do you have any trade or shop courses, other - -

A We have what we call a farm shop course in connection with vocational agriculture.

Q Yes, sir.

A It doesn't carry regular shop work, though.

Q All right, sir. Now, Mr. Huffman, there is on file here in this lawsuit a motion by the defendants to dismiss this lawsuit upon a certain set of facts, and I believe you signed that, an affidavit certifying that those facts were true?

A Yes, sir.

Q Is that true? Then, you are familiar with the facts that are given in support of this motion, is that right, sir?

A I think so.

Q All right, sir. Now, you said in your motion, Mr. Huffman, that some time after the ruling of the Supreme Court on May 31, 1955 you had a discussion on the question of what to do about this decision.

Tell us about those discussions. With whom did you have these discussions?

A Well, the first, of course, was brought up in regular board meeting.

Q Yes, sir.

A And then from there we discussed it as board members.

Q Yes, sir.

A With the citizenship of the town.

Q Now, when was it first brought up in a board meeting?

A You mean this particular case here?

Q Well, yes, sir, any discussion that you had? You said you had several discussions, and I just wanted to know when you had your first discussion?

A I doubt if I could tell you the exact date, because it has been discussed almost at each board meeting.

Q Yes, sir.

A For the last number of board meetings.

Q Yes, sir. That was beginning back in last fall, or

last spring or when?

A Oh, as far back as three or four years.

Q Three or four years. All right, sir, when you first started discussing it what did you talk about? What did you say among yourselves?

A In regard to - -

Q This question of segregation.

A What provisions could be made, and how could they be made.

Q What provisions for what, Mr. Huffman?

A In regard to the request of the colored people.

Q For what? What did they request, sir?

A For admittance into Mansfield High School.

Q Yes, sir. And you were discussing what provisions you could make for them?

A Yes, sir.

Q What did you decide?

A Well, at the initial meetings we came up with no definite plan.

Q Yes, sir. So, at your initial meetings you had no plan at all.

All right, sir. Now, I believe that you say in your statement that on or about July 26, 1955 your board passed a resolution, and the nature of that resolution was that you would keep your schools segregated during the year 1955-56, is

that true?

A Right.

Q How did you arrive at the conclusion to do that?

A We had only had the request some few days and there wasn't time enough to work out the details that would be necessary in desegregating from a two school system to a single school system.

Q Yes, sir. Now, you knew about the Supreme Court's ruling in 1954, didn't you?

A That is right.

Q And you also knew about the Supreme Court's ruling in 1955?

A That is right.

Q All right, sir, and your contention is now, you did not have time to make preparation for the consolidation?

A Well, sir, the Court ruled we had a reasonable length of time to meet the different requirements, and we did not have time on that short notice to work it out.

Q Now, on the short notice, are you talking about the notice from May 17, 1954 - -

A Yes, sir.

Q - - until July, 1955?

A '55, May of '55.

Q Yes, sir, and you did not have the time between May of 1955 and September 2, 1956 - - excuse me, please - - let's

go back.

You did not have the time between May 31, 1955 and September 2, 1955 to carry out the mandate of the Court, is that your position, sir?

A That is right.

Q Yes, sir. Now, what conditions would you have to bring about in order to be able to carry out the Court's mandate?

A May I elaborate on these questions?

Q Well, sir, I would like for you to just sort of give a responsive answer to my questions.

THE COURT: Just answer his question.

A That would be hard to answer in a concise statement, due to the fact that we have been in the twofold school system so long in Texas that we undo something in sixty days, or thereabouts, that had been running over a hundred years, and we just didn't have time to enter into the many details that would have had to be worked out in order to sell such a program in the local community.

Q Yes, sir. Now, the many details is what I want to find out. What were some of those details?

A Well, it would be the breaking down of the old traditions that had been established, it would be getting two different types of people ready for something new, which the board deems will take time.

Q It would be the breaking down of old traditions and getting the people to accept the change?

A That is right.

Q Is that right?

A Getting both sides of the question in a position to accept.

Q Yes, sir. So that was the barrier that you had, that was the thing that kept you from going ahead, is that correct?

A That is one of the main barriers.

Q All right, sir, did you have any others?

A Well, not other than just the fact that we had details to work out in placing these students in classes where they have not been, with the whites and the colored, and this could not be done, we thought, just overnight.

Q It couldn't be done, it was just a matter you didn't feel like putting white and colored children in the same room overnight, so long as - - is that it?

A Not under the school conditions.

Q Under the school conditions?

A Yes, sir.

Q Now, sir, you said further along, that after you had adopted this resolution to the effect that there would be no integration in your schools during the school year 1955-56, you attempted to work out the problem.

What did you do in your attempt to work out the

problem?

A Well, on one occasion Attorney Davis came to our office along with a couple of other men and asked that a bus be added on to the transportation of the Mansfield Public Schools to transport these colored students into Fort Worth.

Q Yes, sir.

A And from there a committee of the board, not the board entirely, but a committee from the board, went in person to these homes of these boys and girls and made a personal survey.

Q Yes, sir.

A Of what had been requested.

Q And what did your committee find?

A They found, with perhaps one or two possible exceptions, that is what the people wanted, what the students wanted, and what their dads and mothers wanted.

Q What was it that they wanted?

A Those preferred to ride the bus - -

Q Yes, sir.

A - - in to the Fort Worth public schools for their education.

Q So, your attempt was an attempt to make an adjustment so that the negroes could come in to Fort Worth to school?

A That is their request.

Q Yes, sir.

A Yes, sir, that was theirs.

Q I am not asking you, sir, for their request, I am asking you what you did?

A That was our first move.

Q Yes, sir. All right, now, sir.

A And the second, we went from there - -

Q Well, is this all a part of this attempt you are going to talk about?

A Following up on this resolution.

Q Yes, sir. All right, you say in your motion that you also attempted to do the best possible thing under the circumstances.

What did you decide was the best possible thing?

A To grant their request and put on the bus.

Q To grant their request to put on the bus.

All right, sir, you say a little further along in your motion that you discussed this matter with the negro children.

When you discussed it with them, Mr. Huffman, what did you say to them?

A This was discussed in the presence of their parents, one or the other of their parents, or guardian.

Q Yes, sir.

A And the question was to find out if that was their desire.

Q In other words, you went to find out whether or not they wanted to continue to go to a segregated school in Fort Worth?

A That is right.

Q That is what you did?

A And if they wanted to ride the bus, put it on.

Q Yes, sir. Which would mean they would continue to go to a segregated school. All right, sir.

In your opinion that was the most equitable thing to do?

A Yes, sir, that is right.

Q Yes, sir. Then, you say you discussed the matter with their parents. When you talked with their parents what did you say?

A They were talked to together; we did not take the advantage of the child, we went to his home.

Q But you went to their home?

A That is right, we went to their home.

Q When you got to their home, Mr. Huffman, what did you ask the child or the parent?

A The first question was, if they were going to continue to go to high school, if they intended to go to school next year.

Q Do you intend to go to school next year?

A Yes, sir. We find a lot of the boys and girls drop out of school during summer and never enter in the fall. We

wanted to know if they were going.

Q All right, sir, what else did you ask them?

A And then if they preferred to go to the Fort Worth Public Schools.

Q Then you asked them if they preferred to go to the Fort Worth Public Schools?

A Yes, sir.

Q I see. What else did you ask them?

A Then, if it was justifiable to put the bus on and they all wanted the bus.

Q All right, sir, and what else did you ask them?

A I believe that is about all.

Q All right, sir.

Now, you say a little farther along in your motion, Mr. Huffman, that on or about September 27, 1955 a committee was appointed by your board to study the segregation problem.

Who was on that committee?

A Two board members and myself.

Q Who were the board members?

A Mr. Ira Gibson and Mr. Wilshire, O. M. Wilshire.

Q Yes, sir. That committee was appointed on September 27, is that correct, sir?

A Yes, sir, along about that time.

Q Yes, sir.

A At a regular board meeting.

Q Yes, sir. How many times has your committee met?

A The committee has met at random, I don't know how many times.

Then, I said no official meeting, though, within the building, other than the regular board meetings.

Q So, your committee, as such, has not met, is that true?

A Not as an individual committee at the regular meeting.

Q Yes, sir. What you do is, when you are together you sort of talk about the thing a little bit, is that what you do? Is that what you do?

A Well, the members of the committee have confronted both white and colored in regard to their ideas and their desires in this question.

Q You have asked the white people whether they wanted their children to go to school with negroes or not?

A No, that is not the questions.

Q Well, what do you ask them, sir?

A What might be done in order to break down these old traditions and get ready for any new conditions that might be brought about.

Q All right, sir.

A We also asked - - went to the substantial colored people of the community and asked them their desires and wishes in the matter.

Q Now, you say you went to substantial colored people. What are substantial colored people, sir?

A The older citizens who make up the negroes living in the community through the period of years.

Q Yes, sir. Do they have school age children, or do you know?

A Some do. Quite a few of them.

Q Yes, sir. Have you talked with anybody else about it?

A Within the community?

Q Anybody at all? I am just trying to find out what your committee has done.

A We have talked to school people.

Q Yes, sir. What did you say to them?

A We discussed this question that we are confronted with, from several angles, with other school people over the state.

Q With other school people. And what did you decide after you talked with them?

A We came to no conclusion.

Q No conclusion at all. Did you discuss this matter with the bus driver, Lawyer Stroud?

A In what respect, sir?

Q Well, sir, I can't answer that. I am trying to find out what your committee did. I am just trying to find out if your committee had a conference with a Lawyer Stroud?

A Just the school board from that standpoint, because he was employed.

Q Yes, sir. I mean, you haven't talked with him about this matter of segregation?

A Well, we have discussed his condition on the bus.

Q And what did you find out?

A His report that everything was in good order.

Q No, just a minute, sir, I am not asking you - - don't testify for him, now.

What did you ask him?

A We did nothing more than discuss with Lawyer Stroud any more than employment as a bus driver.

Q Oh, I see, you just wanted to know, you just asked about him to see if he was doing his work, is that right?

A He had been contacted.

Q You didn't seek any information from him with respect to the efficacy of continuing segregated schools?

A No.

Q I see, sir.

Now, Mr. Huffman, I believe that you say in your motion that at the time school opened you were bound by the conditions of Article VII, Section 7, of the Constitution of Texas, is that true?

A That is right.

Q Then, everything that you did was done under the

condition that you had to abide by Article VII, Section 7, of the Constitution of Texas, is that right, sir?

A Being a salaried head of a foundation school receiving their funds as such, the board had no other choice at that time.

Q And Article VII, Section 7 of the Constitution of Texas made it mandatory that you keep your children segregated?

A Yes.

Q And you were obeying that mandate?

A Yes.

Q Yes, sir.

I believe that you also say that at all times in your planning and working you were working in obedience to Article 2900 of the Revised Civil Statutes of Texas.

Are you familiar with that section, sir?

A Well now, I don't know it by the name, but I am sure--

Q That is the part which says that no white child shall attend a school provided for colored children and no colored children shall attend a school provided for white children.

You were obeying that mandate of the Texas law, were you not, sir?

A That is right.

Q Yes, sir. Then everything which you did was done with an eye to abiding by the Texas law, is that right, sir?

A No, sir, we also were considering the recent ruling of May, of the Supreme Court of the United States.

Q Yes, sir, but you do say in your motion that at that time these sections, Section 7 of Article VII of the Constitution of Texas were operative, and that they were mandatory on you. You say that in your sworn statement here.

A I don't believe we use the word "mandatory" there.

Q All right, sir, I will ask you if you recognize that document?

A That is right.

Q Then this is a true copy of your motion?

A That is right.

Q Yes, sir.

I now invite your attention to page 5 of the document which you have identified as a copy of your motion, and I will ask you to read for the Court paragraph 2.

A "Prior to the filing of the instant suit Section 7 of Article VII of the Constitution of the State of Texas was, so far as these defendants were concerned, the law of the State of Texas, which law was mandatory that these defendants operate segregated schools for white and negro students in their district."

Q Thank you, sir; thank you, sir.

A May I say there, I thought you were talking, on the word "mandatory", in regard to the school board's resolution. I believe that was our topic of discussion.

Q Yes, sir. Now, sir, I believe that on page 6 of

your motion you point to the fact that on or about October 12, 1955 the Supreme Court of the State of Texas expressed itself on the validity of the constitutional provisions and statutes in question, and that you now know that those statutes are unconstitutional, is that right, sir?

A Yes.

Q Do you now feel bound to obey them?

A No, I do not.

Q Yes, sir. What, Mr. Huffman, has your board done by way of official action with respect to the problem of segregation in your schools since the 12th day of October, 1955?

A Officially, it has done nothing.

Q Nothing at all, yes, sir.

Your school board does operate a bus from Mansfield to Fort Worth, we have agreed on that, haven't we?

A Yes.

Q Do any white children travel from Mansfield to Fort Worth on that bus?

A No.

Q Do any white children travel from Mansfield to Fort Worth for their high school training on any other buses?

A Not that I know of.

Q Yes, sir. And the purpose of that bus is to transport school children from the Mansfield Independent School District to the Fort Worth Independent School District to receive their

high school training, is that right, sir?

A (Witness nods head.)

Q Yes, sir. The Mansfield Independent School District does operate a public high school, is that right, sir?

A That is right.

Q Yes, sir. What is the average daily attendance at your high school, Mr. Huffman?

A Well, it runs about 262.

Q About 262. How many of those 262 students, Mr. Huffman, are high school children who are transferred into the Mansfield Independent School District from outside the school district?

A I do not have that exact number.

Q Yes, sir. Could you give us an estimate?

A I will say it will run over one hundred.

Q It will run over one hundred?

A Yes.

Q Mr. Huffman, you have more than a hundred white, high school children who are transferred into the Mansfield Independent School District from areas outside the geographical limitations of your school district, is that right?

A Not outside the geographical, outside of the - -

Q Corporate?

A The corporate, yes, sir.

Q Yes, sir. How many negro children, or do you know,

Mr. Huffman, are transferred from your school district to Fort Worth?

A I believe it is approximately twelve.

Q Approximately twelve. And those twelve children are spread over the four high school grades?

A That is right.

Q Yes, sir. Mr. Huffman, what are the health requirements for a child to attend the Mansfield Independent School District public schools?

A On enrollment - -

Q Yes, sir.

A - - we have no set - -

Q No health requirements at all?

A Not as far as I know.

Q Do they have to be vaccinated?

A No vaccination required.

Q No inoculation?

A Not required.

Q Not required?

A It is administered through the school year, but not required.

Q Yes, sir. Certainly, there is no condition in your school district that would not be in the Fort Worth School District, is that right? In other words, you don't have any higher requirements than the Fort Worth School District?

A Not that I know of.

Q So that, if a child has all of the mental - - excuse me, medical, if he has met all of the medical requirements for admission to the Fort Worth schools he would have also satisfied the medical requirements of your school, is that right, sir?

A I think so.

Q Yes, sir. Do you know, Mr. Huffman, what the approximate distance is from Fort Worth to Mansfield?

A Approximately?

Q Yes, sir.

A Some 18 or 20 miles.

Q Some 18 or 20 miles?

A I believe it is 18 from the courthouse.

Q Yes, sir. The enrollment at your school, your high school, on the 2nd day of September, 1955, was certainly no larger than it is today, is that true?

A Now, I did not give you the enrollment awhile ago. You asked for the ADA.

Q ADA?

A Average daily attendance.

Q Let's go into **this** enrollment business then. What was the enrollment in your high school on the 2nd day of September, 1955?

A I do not know the exact number of enrollments on that day, I do not have that at hand.

Q Could you give us the approximate?

A Approximately two hundred sixty-nine, or seventy, two hundred seventy-nine.

Q Two hundred sixty-nine or - -

A Two hundred seventy-nine or eighty.

Q Two hundred seventy-nine?

A Two hundred seventy-nine.

Q All right. Will Your Honor indulge me just a minute, please, sir?

THE COURT: Yes.

Q (By Mr. Tate) Mr. Huffman, did you receive a subpoena to come here and testify today?

A Yes.

Q And did that subpoena request that you bring anything with you?

A One of them did.

Q Yes, sir. Were you asked to bring certain letters that have been exchanged between you and Mr. Davis in this matter?

A That is right.

Q Yes, sir. Did you bring - -

A They are in the hands of my attorney.

Q Yes, sir.

A They were already in his possession.

Q Well, I would like for you to get them, if you would.

MR. GOOCH: May I ask what letter you refer to?
Your subpoena, as I understand, is blanket.

MR. TATE: Well, may it please the Court, I might be testifying here if I answer his question, but what I wanted - -

THE COURT: Just ask the witness questions with respect to letters he has and present them here.

MR. GOOCH: I will furnish him everything I have here.

Q (By Mr. Tate) Now, Mr. Huffman, I believe you testified that some time during the summer you received a petition from some of the patrons of your school that their children be admitted to your school, or at least that you carry out the mandate of the Supreme Court of the United States.

Do you know roughly when you received that petition?

A May I get the petition?

Q Yes, sir; yes, sir.

A Received July 26, 1955.

Q Yes, sir. It was the next day then that you appointed this committee to study the problem, wasn't it, the segregation, you appointed the committee on ~~as~~ July ~~26~~ 27, yes, sir.

A That is right.

Q Now, I believe you testified that you were acting at the request of the parents when you transferred these children to Fort Worth, and that one of the lawyers in this lawsuit had concurred in that.

Do you have a letter which you received from Attorney L. Clifford Davis dated August 10, 1955?

A That is right.

Q Would you let me see it, sir?

I will ask the Clerk to mark it as P-1.

(The instrument above referred to was here marked Plaintiffs' Exhibit Number 1, for identification.)

Q (By Mr. Tate) I hand you now what has been identified as Plaintiffs' Exhibit Number 1, a letter addressed to Mr. R. L. Huffman, Superintendent of Schools at Mansfield, Texas, dated August 10, 1955, over the signature of L. Clifford Davis, and I will ask you if that is the letter that you received from Mr. Davis?

A It is.

Q Would you read that letter to the Court, please, sir?

A "August 10, 1955. Mr. R. L. Huffman, Superintendent of Schools, Mansfield, Texas.

"Dear Mr. Huffman: Patrons in the Mansfield School District with whom I held conferences on Monday and Tuesday and then again on today have requested me to advise the school board that their opinion with reference to the school policy is clearly expressed in the petition filed with your office, and they request the board to comply with the law of the land, beginning in September, 1955. Please advise me immediately the position

of the board on this matter."

Q Yes, sir.

A "Yours very truly, L. Clifford Davis."

Q Yes, sir. Now, did you answer that letter, Mr. Huffman?

A We did.

Q Have you got a copy of your answer?

A I have.

Q Sir?

A I have.

Q Yes, sir. Would you let me see it, sir?

(The instrument above referred to was here marked Plaintiffs' Exhibit Number 2, for identification.)

Q (By Mr. Tate) I now hand you, Mr. Huffman, what has been identified as Plaintiffs' Exhibit Number 2, a letter dated August 15, 1955, addressed to Mr. L. Clifford Davis, and I will ask you if that is a true copy of a letter that you sent to Mr. Davis?

A It is.

Q I would ask you to read that letter to the Court.

A "August 15, 1955. Mr. L. Clifford Davis, Attorney-At-Law, 401½ East Ninth Street, Fort Worth, Texas.

"Dear Mr. Davis: In regard to your letter of

August 10, 1955, may I call your attention to an earlier letter in April wherein you stated that patrons of the Mansfield School District had certain grievances that you wished to discuss with this office. A meeting was arranged, and you and a party of three met with me and made a certain - - and made certain requests, one of which was in regard to a school owned and operated bus to transport colored high school students to Fort Worth. You were told that this matter would be presented to the school board for their action. The board did act upon it and agreed to institute a bus if such was justifiable, and such arrangements could be made through the County Superintendent's Office.

"Approval for such a bus route was promised through the County Superintendent's Office. At least one of the parents, guardians, or some adult member of the family of every colored high school student in the Mansfield High School District has been contacted by board members. The desires of each of the above persons were obtained in regard to such a bus. After this information was received and found to be in favor of such a bus route arrangements have been made to start the bus as requested this September. Since arrangements have been made to grant the patrons' request, and at their more recent desires, that the bus be operated, and since the laws of our state set up a dual school system, one for negroes and one for whites, and since we have had no notice of any change in such state

laws, my board feels that until these and other obstacles have been worked out the board passed a resolution to continue with the dual school system for the school term 1955-56, until further study - - until further study of the problem can be made, the board feels that in the future after enough time has elapsed to work out some of the complications which arise in changing from a dual to a single school system, such request can be granted.

"Sincerely, R. L. Huffman."

Q Thank you very kindly, sir.

I believe that your letter reveals, sir, that the original request for the bus was made in April of 1955, is that right, sir?

A It was in the spring.

Q Yes, sir.

A I don't remember the exact date.

Q Yes, sir. And at the time that that request was made it was simply a request that you provide transportation to Fort Worth for high school children, is that right?

A By bus.

Q Yes, sir.

A By school owned bus.

Q Yes, sir. Now, negro children have gone out of the Mansfield Independent School District to Fort Worth to get their high school education for a number of years, haven't they?

A That is right.

Q And up to that time you had given them no transportation at all?

A No, we had given them transportation by commercial bus.

Q By commercial bus. But you had not provided a school bus?

A No.

Q And this was simply a request that the school board provide a bus if it intended to continue to send them to Fort Worth, is that right?

A Yes.

Q And then the fifth paragraph of your letter indicates very clearly that what you were doing in providing this bus was abiding the laws of Texas as you understood them, is that correct, sir?

A (Witness nods head).

Q Yes, sir.

A And meeting the desires of the people.

Q Yes, sir. The desires of the people and the desires of the laws of Texas; if it had been the desire of the people, and these are the negro people, is that it?

A Uh-huh.

Q That their children, if it had been your understanding that it was the desire of the negro people to send their

children to the public school in Mansfield, would you have abided that desire?

A Not at that time.

Q Yes, sir.

The indulgence of the Court for just a minute, please, sir.

I pass the witness.

THE COURT: We will take a fifteen minute recess to give the court reporter an opportunity to rest.

(Short recess.)

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Mr. Huffman, in cross examination you have testified generally to the matters set forth in the answer filed by yourself and by the trustees of the Mansfield Independent School District.

I would like, if I may, to ask you a few questions on particular items.

It has been established by your testimony that this special bus for the bringing of negro high school students from Mansfield to I. M. Terrell at Fort Worth, and the junior high, is approximately 40 miles in length, that is, a round trip.

Is that approximately correct, or would it be a little less?

A It has not been set officially by the state this year, but I would estimate it would be less than that from Mansfield.

Q All right now, where does the bus originate in Mansfield?

A I don't know the name of that street, but it is near a filling station right in the heart of our little business district.

Q Is there shelter during rainy season for the boarding and debarking from the bus as it leaves the terminal and returns to the terminal; and also toilet facilities?

A There are, they are available there.

Q All right. You have routes in the Mansfield Independent School District other than the one that travels to I. M. Terrell School?

A Right.

Q How many established routes do you have in the Mansfield Independent School District that are operated by school buses of the district?

A Eight other routes.

Q Then you have nine school buses in all that transport children to school in the Mansfield Independent School District?

A (Witness nods head.)

Q Now, give me the mileage of the routes other than the one that comes to Fort Worth?

A These routes are set up by number, the numbers are given to us from the - - through the County Superintendent's Office.

Q And form a part of your official records?

A Yes, sir, it is on the state records.

MR. TATE: May it please the Court, may I take him on voir dire for the purpose of an objection?

THE COURT: Yes, you may.

MR. TATE: Mr. Huffman, you say you get these reports from the superintendent's office. Is that the superintendent at Austin?

A The routes are numbered through his office for accounting purposes.

MR. TATE: Yes, sir. Do they give the mileage also?

A No, sir, they do not.

MR. TATE: May it please the Court, we are going to object to this type of testimony. There is no question here about what other children do. The only question here is about what has happened to these negro children. I think the Court has already said there is no question of any separate but equal routes here, and all this can tend to do is to give probative value to some sort of equality of negroes and whites, which I think - -

THE COURT: I think it definitely goes to the good faith of these people, though, and you brought out in your own

evidence the distance that was being traveled here, and I will overrule the objection.

Q (By Mr. Gooch) In order to tie in with the objection, I read from the complaint:

"The plaintiffs must arise earlier and return home later than other non-negro pupils who live and reside within the - - "

THE COURT: Go ahead.

Q (By Mr. Gooch) I beg your pardon.

Please give me the route numbers? Do they run from one to eight, or do they have numbers?

A Our first route starts with Number 37.

Q All right, how long is Route Number 37?

A 44.6 miles.

Q What is your next route number?

A 38.

Q What is the length of that route?

A 46.4 miles.

Q And your next route?

A 39 is the next number and it is 46.6 miles.

Q Your next one, please?

A 40, fifty-six, - -

Q That is the number of the route, 40?

A Number 40.

Q And the mileage?

A 56.8.

Q Your next number?

A 41.

Q That is the number of your route. And the distance in miles?

A 59.6.

Q Your next number?

A 43 - - 46.

Q And what is the number of miles?

A 44.6.

Q Your next route?

A Number 69.

Q And what is the mileage on that route?

A 53.6.

Q Do you have another one?

A Number 54.

Q And what is the mileage on that route?

A 72 miles.

Q Now, am I correct in stating that the school law provides bus service is to be furnished only in the event a child lives in excess of two miles away from a school building?

A That is right.

Q That is the state law, is it not?

A State law.

Q On the routes you have detailed there, none of them

are as short, the other eight routes that are used by the white students, and the other colored school of Mansfield Independent School District, are not as short as 40 miles, is that correct?

A That is right.

Q About what time in the morning do the routes that you have detailed there, the eight routes you run in to the Mansfield School, about what time do they depart in search of children to bring them back to school?

A Three of those buses leave by 7:00 o'clock or before in the morning.

Q All right.

A The others leave at 7:10 or :15.

Q All right, and the others?

A Well, that is the general idea of the eight buses, about three of them leave about 7:00 o'clock or before, and the remaining number of buses leave between 7:10 and 7:15.

Q And what time does your school open in Mansfield?

A We start our classes at 8:30.

Q Then if a bus leaves Mansfield around 7:00 o'clock or 7:10, it will begin picking up students within ten minutes after departure time, is that correct?

A That is about right.

Q And that student, the white students ride that bus from say 7:10 or 7:20, and what time do they get to the school, ordinarily?

A About 8:10 or 8:15.

Q Then some of those students, some of those white students, are on that bus for a period of time up to two hours, is that correct - - no, I am wrong, it is about an hour, an hour to an hour and ten minutes.

A We have two of those buses there about an hour and thirty minutes in length, routes.

Q All right. Now, what time does your school turn out in the evening?

A It turns out at 3:15.

Q And the buses depart immediately after school is out, or within a short time thereafter?

A Within three or four minutes.

Q And does it take approximately the same length of time to distribute these children as it does to gather them?

A That is right.

Q The buses leave about what? About 3:30?

A They leave about 3:15, or :18, about 3:18.

Q About 3:15 or 3:18, and some of them an hour to an hour and a half before the children are delivered to their homes, is that correct?

A That is right. We have one route, if it is muddy it takes them an hour and fifty minutes to make it.

Q The testimony was that the route that comes to I. M. Terrell in Fort Worth leaves Mansfield about 7:30, is that

correct?

A I believe that is right.

Q And about what time does it return in the afternoon?

A He gets back and has his bus ready to put up about 4:25 or 4:30 in the afternoon.

Q All right, now, going to the white students in the Mansfield High School that play football and indulge in other forms of athletics, on those children who indulge in athletics that require that they spend time past the regular curriculum, do you provide transportation home for them after football practice or basketball practice?

A We do not.

Q Is it up to them to make it on home if they wish to participate?

A That is right.

Q On the question of curriculum in the Mansfield High School, how many courses, accredited courses, do you offer in the Mansfield Public High School?

A I believe it is thirty-two and a half.

Q You mentioned a moment ago that there was - - you taught English, Algebra, History and the like. What are your facilities vocationally?

A We offer vocational agriculture and vocational home making.

Q Do you offer any provision such as Shop Craft, or

mechanic's trade, or painting, that is, commercial painting, or anything of that sort?

A We do not.

Q In the Mansfield High School? And its credits are what, now? Thirty-one what?

A Thirty-two and a half.

Q Thirty-two and a half?

A I believe so.

Q The three students that are involved in this proceeding and are named as plaintiffs, and bring it for themselves and as a class, did they make application for transfer to Fort Worth prior to the beginning of the school year 1955?

A I believe two of them did.

Q Now, the other one, Nathaniel Jackson, did he make any application for transfer?

A He did not live in the Mansfield community at transfer time.

Q All right. And the other two, the two Moodys did make application for transfer?

A That is right.

Q You spoke a moment ago of being, of participating in the funds program, that is the Gilmer-Aiken Act, generally described, is it not?

A That is right.

Q When these school children transfer from the Mansfield

Independent School District to the Fort Worth Independent School District what happens to the allotment for that child? Does that stay at Mansfield or does it go to Fort Worth?

A The per capita set aside by the state goes with the transfer.

Q And that goes for the entire year, is that correct?

A That is right.

Q Do you know of your own knowledge the difference between the educational facilities at I. M. Terrell and Mansfield, or just generally?

A Just generally.

Q All right, I will not ask you that question.

It has been established by attorneys for the plaintiffs that the special bus from Mansfield to Fort Worth for these students was put on at the request of the students themselves and their counsel, who is now counsel in this case, is that correct?

A That is right.

Q You spoke also of resolutions of the board and of the appointment of a committee to study segregation. I will ask you to state whether or not there has been constant, and many conversations in your board relative to that problem?

A There has.

Q I will ask you to tell the Court whether or not you believe, based on the discussions in your board, that if given

sufficient time you can and will work out the problem to the mutual satisfaction of all the people in your community to the best of your ability?

MR. TATE: May it please the Court, we are going to object to his opinion about what the board is going to do, the best evidence - -

THE COURT: It applies to what he will do.

MR. TATE: It applies to what he will do?

THE COURT: Yes.

MR. GOOCH: Of course, he could only act in connection with the board.

THE COURT: That is correct.

Go ahead and answer the question.

A The school board is working on this problem and feels when conditions have been made such, and justifiable, and takes place throughout the entirety, that will be done.

Q (By Mr. Gooch) You have no disposition, Mr. Huffman, you personally, or in connection with being on the board, to disobey any law of this land that has been pronounced by the highest authorities, have you, sir?

A I have not.

Q You spoke earlier that it required, in your opinion, in your local situation, a course of education of both white and colored to meet this problem, face it, and to go into an integrated system with the least possible friction.

In connection with that, I believe you testified that you had talked with not only the whites, but with the colored people who are permanent residents there, and I will ask you if you are willing at this time, and have been, to listen to the views and ideas of any citizen in your community, looking towards a proper solution of this problem?

A We are, yes, sir.

Q And do you intend to continue your work on this problem to the best of your ability?

MR. TATE: If it please the Court, he has got him on cross examination, ~~he is~~ **he is their** witness, and I think he is testifying for him now. I object to the attorney testifying for the client. Let him ask him responsive questions.

THE COURT: You can ask him what are - -

Q (By Mr. Gooch) What do you hope to accomplish in connection with the determination of this problem, Mr. Huffman?

A We hope to work out some means whereby that these things can be handled in due process of time.

Q All right, at the time the three plaintiffs in this case made application to you to enter Mansfield High School in September of 1955 who was present?

A Mr. T. M. Moody, Mr. John F. Lawson and Mr. Clifford Davis and the three boys.

Q They came there with the boys at the time they asked to be entered in school?

A That is right.

Q Is Mr. Lawson a resident of the Mansfield Independent School District?

A He is not, he lives in another school district.

MR. GOOCH: That is all for the present.

THE COURT: Any further questions?

MR. TATE: Yes, sir, please.

* * *

REDIRECT EXAMINATION

BY MR. TATE:

Q Mr. Huffman, does the Mansfield Independent School District own this gasoline station of which you spoke, from which your bus departs to Fort Worth?

A It does not.

Q Do you have any control over it?

A We have no control over it.

Q Do you have any contract with it?

A No contract with it.

Q Do you have any agreement with it?

A Have agreement.

Q What is that agreement?

A That the bus may stand nearby there and wait for the students to catch it.

Q Yes, sir. Do you have any other agreement?

A No.

Q No other agreement. Then, as a matter of fact, you don't know whether those children can stand out of the rain there or not, do you?

A They don't have to be in the rain, because the bus is stationed there and they get on it immediately, if they see fit, when they arrive at the bus.

Q That isn't quite my question, Mr. Huffman.

I asked you, do you know of your own personal knowledge whether or not they might go into that bus station out of the rain, if it was raining?

A They would be allowed to go in, yes.

Q You know that of your own personal knowledge?

A Yes, sir.

Q May I ask you how you found it out?

A Proprietor.

Q And how did it come about?

A Well, we just discussed with these people.

Q And what did you discuss.

A About loading the bus there and them using it.

Q You agreed if the bus could depart there that you would load it, is that as far as your agreement goes?

A That is all.

Q And you still don't know whether they can go out of the rain or not, do you?

A No.

Q Do you know whether or not they could use the toilet facilities there or not?

A He has a toilet for colored people, yes, sir.

Q Sir, that isn't quite my question.

I am asking you whether or not you know whether or not these children have the right to use the toilets in this privately owned and operated gasoline station?

A That I can't, but I believe they do.

Q But you don't know of your own personal knowledge?

A I do not.

Q What are the corporate limits of the Mansfield School District? How far does this district run, roughly, from the center of town as a radius?

A Well, there are 7⁴ square miles, 74.6 square miles, I believe, in the district, and it goes to the Dallas County line going east, which is approximately some eight miles - -

Q Yes, sir.

A It extends south about seven.

Q Yes, sir.

A North about seven.

Q Yes, sir.

A And west about eight or nine miles.

Q West about eight or nine miles.

A Of course, that is not a square.

Q Yes, sir, I realize.

A It is panel-shaped.

Q Yes, sir, I realize that. Now, Mr. Huffman, you operate a bus line numbered 37; you say that that bus leaves Mansfield and goes out from the city 44 miles?

A That is on its return trip; these routes are set up, double routes, daily, morning and afternoon.

Q It traverses - - yes, sir; yes, sir. And does it at any time get more than eight miles west of Mansfield?

A This route goes east; I wouldn't think that at any time it would be over ten miles at any one time from Mansfield.

Q That is right. So, where is the most remote point to the east that it goes?

A It is in another school district that it is serving.

Q That is right. It goes outside of your school district?

A That is right.

Q Now, how many children does that line bring in?

A Approximately 60 students.

Q And how many of that 60 live outside the Mansfield Independent School District?

A I don't have that information.

Q Could you give us an opinion?

A Probably half of them.

Q Probably half of them. Now, you have a bus line,

38, does that bus line go beyond the corporate limits of the Mansfield School District?

A No, it does not.

Q It works right in the school district and travels 46 miles right around in the school district?

A Yes.

Q Does 39 go outside the school district?

A It does.

Q And how many students does that bring in?

A Approximately forty-two or -three students.

Q All right, sir. And how many of those forty-two or -three come from outside the school district?

A Some six or seven.

Q Some six or seven.

Does 40 go outside your school district?

A It does.

Q And how many students does it bring in?

A About sixty-two or -three.

Q And how many of those are picked up outside the school district?

A These are estimated figures, I would say 25 of them.

Q Yes, sir. Does 41 go outside the school district?

A It does.

Q And approximately how many students does it bring in?

A About 50.

Q Yes, sir. And how many of those are picked up outside the school district?

A Perhaps some 40 of those.

Q Yes, sir. Does 43 go outside the school district?

A It does.

Q And how many students does it bring in?

A About 65.

Q And how many of those are picked up outside the Mansfield Independent School District?

A Some eight or ~~ten~~teen.

Q Eight or ten?

Does 69 go outside the Mansfield School District?

A It does.

Q And approximately how many students does it bring in?

A Some 60 students.

Q Some 60. And how many of those are picked up outside the school district?

A Ten or twelve, I would say.

Q Ten or twelve.

Does 54 go outside the school district?

A Yes, sir, it covers some seven or eight school districts.

Q It covers some seven or eight school districts.

And how many students does it bring in?

A About 48 or 50.

Q And how many of those are picked up outside your school district?

A Some twelve or fifteen.

Q Now, does your school district have any taxing power?

A It has.

Q Does it exercise that power?

A It does.

Q Then you are authorized to levy and collect the tax - -

A That is right.

Q - - for support of your schools? What properties do you tax? Do you tax only the properties within this school district or do you tax properties outside this school district?

A We are not allowed to tax property outside the immediate Mansfield School.

Q So, your taxing power is limited to the area within your school district?

A Yes.

Q As Superintendent of the Mansfield Schools your authority is limited to the Mansfield School District, is that right, sir?

A That is right.

Q And you have no authority over any child outside of that district?

A That is right.

Q And any child that you transfer out of that district,

the state sends the money with him?

A That is right.

Q And any child that is transferred into your school district from any other school district, the state takes the money out of the district from whence he came and transfers it to your district as a receiving district, is that right?

A That is right.

Q Yes, sir. And all in all, you receive some hundred-odd children from districts outside your school district?

A Receive a hundred or more, yes, sir, we receive more than a hundred.

Q More than a hundred. How many of those children are negro children?

A Some twelve or fifteen of them.

Q Some twelve or fifteen of them?

A I haven't counted them; I have the records of them.

Q And they all go to the elementary schools?

A That is right.

Q How many of those children are white children?

A Now, in our former question you asked me about the high school?

Q Yes, sir. I am talking now about the high school and this hundred or more of the children that go to high school, is that right?

A That is right.

Q And are they white children?

A That is right.

Q None of them are colored children?

A That is right.

Q Yes, sir. Now, is it true, Mr. Huffman, that it is a duty imposed on a school district by the State of Texas to provide schooling facilities for the children within the district?

A By law, by dual purpose school system, yes.

Q Yes. So, there is a duty on Mansfield Independent School District to provide schools for the children within the district?

A Up to where they are set aside and recommended by the - - for classification by county boards and state officials, yes.

Q You are going to have to explain that a little bit, Mr. Huffman, that is a little too technical.

A In some school districts in our county are classified as six grade schools and some are classified as twelve grade schools. We have two schools in our system. One is classified by the Texas Education Agency as an eight grade school and the other is classified as a twelve grade school.

Q What is your eight grade school?

A It is our colored school.

Q You have what you call a colored school?

A Yes, sir.

Q And that is an eight grade school. And you have another school that is your twelve grade school?

A That is right.

Q What do you call that?

A That is the white.

Q Your white school?

A So classified by the Texas Education Agency.

Q Yes, sir. So that whether a student transfers out of there, as far as you are concerned, if he lives in your school district it is your duty to provide education for him, is that right?

A That is right.

Q Yes, sir. Now, you testified that the Moody children had requested a transfer from your school district to the Fort Worth School District.

Do you know when that transfer was up, request for transfer was made?

A I do not know the date, it was in early spring.

Q It was in the early spring. Do you think it was in February?

A It was prior to June 1st, that application must be made on or before.

Q June 1st?

A June 1st.

Q Yes, sir. All right, sir. These hundred-odd children,

12 high school children, white, whom you bring in from outside your school district, they are children whom you teach on a contract basis, is that right? That is to say, you agree with their school districts to teach them and get the money for them, is that right?

A We agree to take transfer students.

Q Yes, sir. So far as the children within your school district, now, we are talking only in terms of children within the school district, you do provide transportation for them if they live more than two miles from the school, is that right?

A That is right.

Q That is right. And, of course, a child living in that two mile area, if he wished to stay and play basketball in the afternoon he would walk home, normally, wouldn't he?

A Yes, or beyond it, either.

Q Or beyond it, either. In other words, you provide the transportation once in the morning and once in the afternoon and that is all, but there is no child who lives within the Mansfield Independent School District who lives more than eight miles from school, is that correct?

A Not over ten.

Q Not over ten. Yes, sir.

Now, I believe you testified that it is your feeling that when conditions are such as to justify your board will

abide by the mandate of the Supreme Court. What conditions are there that must be met before this will be justified?

A Well, I believe we discussed that in our earlier questioning. I just say you would have those same conditions.

Q It is an educational program?

A An educational process, it must be entered upon and brought to the enlightenment of the people there involved.

Q Yes, sir. How long do you think it is going to take you to complete this education?

A That I wouldn't know.

Q You don't know, but you are pretty sure when you complete it your board will abide the Court's decision?

A Abide by the law and the requests.

Q Yes, sir. I believe you said that you are disposed to abide by the will of the people in your community. Are you saying there that you will not take any action until in your opinion a majority of the people in your community want it?

A I don't remember saying that.

Q No, sir, I didn't say you said that, I am sorry. I am asking you, when you say that you will abide by the will of the people, are you suggesting that you will abide by the will of the people and integrate your schools when you are certain that a majority of the people want it?

A I still do not recall saying we would abide by the will of the people only if they asked for these certain things

that have been brought out in the court, these requests.

Q Yes, sir. I am talking now about desegregating your schools. Counsel asked you, I believe, if you were willing to listen to the people in your community on this question, and I think you said you were. Right?

A That is right.

Q All right, all I am trying to find out from you is, how many people have you got to have who are willing to desegregate before you will think it is efficacious to do so?

A I wouldn't have an answer to that. I think the school board would be willing, under the conditions that have already been set up, that when the laws are brought forth for that and then to work out these conditions.

Q But right now your school board is not willing?

A That is right.

Q Yes, sir. I believe that the last question that you answered for counsel was to the effect that we hope to work out some means by which these problems can be handled in due process of time.

How long do you think that is going to take?

A Well, I couldn't give you a definite answer on that. As I have stated, in my earlier testimony, this has been a process of over a period of years, hundreds of years, or more, and for me to give you an exact number of days, or months, I couldn't do that.

Q By a tradition that has been embedded in the minds of the public for a hundred years?

A It will take some time.

Q It will take some time.

A To iron it away.

MR. TATE: Yes, sir. Thank you very kindly.

MR. GOOCH: No further questions.

THE COURT: Call your next witness.

MR. TATE: Mr. Ira Gibson, please.

* * *

IRA GIBSON,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q State your name, sir?

A Ira Gibson.

Q Where do you live, Mr. Gibson?

A Mansfield, Texas.

Q Mansfield. Do you hold any office in Mansfield with respect to the operation of the public schools in the Mansfield Independent School District?

A I am Secretary of the School Board.

Q You are Secretary, and you are a member of the school

board, as well?

A That is right.

Q Yes, sir. You have been sworn here today, have you?

A Yes, sir.

Q Yes, sir. Did you receive a subpoena to come here today?

A I did.

Q And did that subpoena say you were to testify on behalf of the plaintiffs?

A It said I was to testify.

Q Yes, sir, yes, sir. Now, Mr. Gibson, I believe you heard Mr. Huffman testify here that a special committee of the Mansfield Schools had been sent out to study the problem of segregation. Do you agree with him on that?

A That is right.

Q And were you one of the members of that committee?

A No, I was not.

Q You were not a member of that committee?

A No, I was not a member of the group that went out that evening.

Q No.

A Wait a minute. Are you talking about that went out and talked to the people, or of the committee to study segregation?

Q The committee to study segregation.

A That is right, I am.

Q You are a member of that committee?

A I am.

Q Do you recall, sir, when that committee was appointed?

A I believe the records, I believe it was July, I don't recall the date. It is a matter of record.

Q Yes, sir. Since the committee has been appointed how many times has it met?

A Officially we have met at each meeting, and of course, in a small town you probably meet two or three times a day, if you happen to meet on the street, and working on a problem like this, a meeting can be held most any time; of course, I wouldn't say they were official, but they were meetings.

Q Yes, sir. But officially, how many meetings have you held?

A Well, each board meeting night.

Q In other words, you just met along with the board?

A That is right.

Q But, as a special committee, you have not met?

A That is right, not officially.

Q Not officially. Have you met unofficially?

A Sure, we have met a lot of times and tried to work out our problem, but not as a called meeting or official meeting.

Q You meet him on the corner and talk with him a little while?

A About the - -

Q About how many such meetings have you had, Mr. Gibson?

A I couldn't tell you the number of them, though.

Q Yes, sir. Do you recall what you talked about?

A Well, it is always the problem of how to do it.

Q Yes, sir.

A What is the best way to do it. And various people we talked to about it, both white and colored; any articles that we have read; any newspaper publicity we have had on it; anything we think might help to try to solve our problem, those are the things we discuss.

Q Yes, sir.

A And we will discuss it with anyone who is interested in discussing it, regardless of race, creed or color.

Q Yes, sir. Did your committee ever decide pretty clearly what it was it was trying to settle?

A I don't know whether anyone has done that or not. I have never been able to find any NACP publicity or anything that gives us any idea of how to do it, or what they want, or how to try to get it done. Of course, our problem is to try to get the schools desegregated with a minimum of hard feelings, or with a minimum of friction.

Q Yes, sir.

A And so on and so forth, in our committee's mind.

Q You don't want to hurt anybody's feelings?

A That is exactly right, we don't feel it would be fair to either the colored or the white students if the colored students didn't want to come and the white students weren't any more anxious to have them than they were to come there.

Q In other words, it is your position that so long as the majority of the white children do not want any of the negro children to come to the Mansfield High School that you ought to keep them separated, is that right?

A I wouldn't say majority, or any particular figures, but I think there should be some time elapse where everyone has a chance to think it over and try to work it out. I feel we haven't had time for the people of the community to become accustomed to the idea. We are working on that, but it isn't easy.

Q Yes, sir, that is right.

A That is, to both races.

Q Yes, sir.

A I mean, it isn't only in the white race.

Q Yes, sir.

A We have objections from both races.

Q Yes, sir. So, basically, whatever you have thought of so far has been in terms of the acceptance of the general public, is that right?

A Well, of course, we are complying with the law in it, and as the Supreme Court decision says when practicable, we are

more than anxious to comply with all laws.

Q Yes, sir, but you want to do that in such a way as not to hurt anybody's feelings?

A Of course, there are going to be some people hurt, regardless of what you do, but I mean the minimum.

Q With the minimum hurt, yes, sir.

Now, with all of this in mind, what, specifically, has your board done to date towards complying with the Court's decision?

A We haven't done anything - -

Q You haven't done anything?

A - - specific.

Q Yes, sir. You say that this is to be an educational problem. Has your board done anything overtly to undertake a program of public education on this question?

A I think every member on the board has tried to educate everyone that has discussed it with them, that it is the law, that we must comply with it, and that is the educational program that I think that we have tried to get over to the people, that we want to do it as soon as we possibly can.

Q Yes, sir. But whatever you have done has been by the individual action and not by any authorized action of your board?

A I beg your pardon?

Q Whatever has been done has been done by your board members as individuals, the board has itself not taken any

formal action on this matter?

A No.

MR. TATE: Yes, sir. I think that is all, sir.

THE COURT: We will recess until 2:00 o'clock.

(Noon recess.)

* * *

THE COURT: If you gentlemen are ready to proceed, or I will give you until 2:00 o'clock to get ready.

MR. GOOCH: I would just as soon proceed.

MR. TATE: We will too.

THE COURT: All right, proceed.

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Mr. Gibson, I believe you were on the stand before the noon recess was taken. I believe you testified that you are at the present time the Secretary of the Mansfield School Board?

A That is right.

Q What do you do for a living?

A I have a grocery store.

Q In Mansfield?

A Yes, sir.

Q How large a town is Mansfield, Texas?

A Oh, around twelve hundred, a thousand to twelve hundred.

Q And how long have you lived in the Mansfield community?

A Well, I have - - all my life, I have worked in town some, but I have been there ever since I came back from the army in 1944.

Q In 1944. Did you live there before you went?

A Oh, yes.

Q You have lived in Mansfield practically all your life?

A Practically all my life.

Q May I inquire as to what age man you are?

A 46.

Q Mr. O. C. Rawdon is listed as President of the Board of Trustees, do you know Mr. Rawdon?

A Oh, yes.

Q What does he do?

A He is a farmer.

Q Billy Arbor is listed as a member of the board, what does he do?

A He has an electrical shop, and appliances and so on and so forth.

Q In the Mansfield community.

Hubert Beard, what does he do?

A He works for Consolidated, Convair.

Q Horace Howard?

A He works for Armour & Company.

Q J. R. Lewis?

A Farmer.

Q O. M. Wilshire?

A A farmer.

Q Now, in connection with the committee that was appointed, I believe back in July and August, as a committee to study the question of segregation, am I correct that was you, Mr. Wilshire and Mr. Huffman?

A That is right.

Q Now, Mansfield, not being, as you say, a metropolitan area, is it or not comparatively simple for the three members to get together and discuss matters at odd times?

A Yes, we are together quite often.

Q What is the purpose of you being together quite often?

A To discuss our school problems, segregation being the major one.

Q Were you on the school board in May of 1954?

A Yes, sir.

Q Do you recall that that is the year in which the

Supreme Court entered its first decision relative to segregation? At that time did you have explained to you the legal implications involved in the Supreme Court's rulings?

A Yes, sir.

Q And in that decision - - I don't want to lead the witness, and I will stop, but I believe I am quoting the decision correctly - - that it retained jurisdiction for a further determination in the matter - - were you familiar with that part of the decision?

A (Witness nods head).

Q And then the decision on May 31, 1955, were you advised of that decision by the Supreme Court?

A Yes, sir.

Q And did you receive a copy of that opinion?

A Yes, sir.

Q And did you and the board read and digest the opinion of the Court in that instance?

A Many times.

Q And in connection with that decision what other things have you done, or attempted to do, if any?

A Well, we have discussed it with civic organizations, we have discussed it with other school people, other school superintendents, we discussed - - we read any printed matter we could find, both newspapers and magazines, or anything any board member could find, or clippings, or anything of value that

might help us, it was brought to the committee for study and digested and we discussed it with the people of the community, both white and colored, got their opinions on the matters, as to how would be the best way they thought it might be handled; also discussed it with the students of both schools, both white and colored, to find out what their reactions were to it.

In other words, our job as trustees are more or less to get the opinion of the people and try to operate our school accordingly. I mean, it is liaison work, that is, it is the duty of the board of trustees.

Q You, of course, realize the laws as pronounced by the Supreme Court of the United States are to be followed, and you have no disposition, I presume, to go contrary to the law?

A No, sir.

Q And it is, as I take it from you, a matter of arriving at the best possible solution to a speedy acceptance of the Court's ruling, and do the best you can under the circumstances?

A That is right. We have tried to do the best we could until some decision could be reached; we have made every effort to give the colored students, as well as the white, the best education possible. These are the people we are interested in, are the students.

Q Now, I believe in connection with the - -

May I come to the witness, Your Honor?

THE COURT: Yes.

Q (By Mr. Gooch) The testimony was that on July 26th you received a petition from Mr. Moody and others with respect to segregation in the Mansfield Independent School District and for reference I hand you - - wait a minute, is this the book in which the official minutes of the Mansfield Independent School District are kept?

A That is it.

Q And do you keep these books and attest the actions of the Board of Trustees?

A That is right.

Q I refer to the minutes of the meeting of July 26, 1955, which appear to have been signed by the Secretary of the Board, Ira Gibson, and the President of the Board, Mr. Rawdon, am I correct?

A That is right.

Q These minutes accurately reflect what went on and what action was taken by the board in that meeting?

A Yes, sir.

Q Will you read into the record the minutes of the meeting of the board of trustees of July 26, 1955?

A "At a regular meeting of the Board of Education of the Mansfield Independent School District, the following members present: O. C. Rawdon, president; Ira Gibson, secretary; Hubert Beard, J. R. Lewis, O. M. Wilshire and R. L. Huffman, superintendent.

"Prayer was offered by J. R. Lewis. Minutes of the previous meeting were read and approved.

"Motion made by Hubert Beard and seconded by O. M. Wilshire to purchase Mrs. Egan's studio at a cost of \$350.00. Motion carried.

"A petition received from T. M. Moody and others wherein request was made to take immediate steps to end segregation in the Mansfield Public School was presented to the board.

"After a lengthy discussion and much consideration as to the problems that would be encountered at this time due to such a short notice in making the change from a dual school system to a single school system, Ira Gibson made motion that further study be made by the board and administration of the school in regard to the request of the petition and that segregation be continued throughout the entire school season during the 1955-56 school term. Also a letter be sent to T. M. Moody in answer to his desegregation for the coming school term. Motion seconded by J. R. Lewis. Motion carried unanimously.

"A committee was appointed by President Rawdon, consisting of Superintendent R. L. Huffman, O. M. Wilshire and Ira Gibson to make further study in regard to segregation problems.

"Motion made by O. M. Wilshire and seconded by Hubert

Beard to put a bus on for colored students from Mansfield to Fort Worth for high school students, this bus to be operated only in case such is deemed justifiable, after a survey has been made, and this to be determined by eligible students that are available to ride buses. Motion carried.

"Motion made by Ira Gibson and seconded by J. R. Lewis to accept the resignation of Mrs. Nella Ryan, Mr. Hubert Mahaney and Mrs. Marie Slaver. Motion carried.

"Motion made by Ira Gibson and seconded by O. M. Wilshire to employ the following white teachers for the school term 1955-56."

Q That is immaterial. That is the part I wanted you to read there.

MR. TATE: Would you mind if I see the rest of it?

MR. GOOCH: I don't mind at all.

Q (By Mr. Gooch) Go ahead and read it all then.

MR. TATE: You need not bother, I just wanted to see it.

MR. GOOCH: We will put it all in and then it will be a completed instrument.

A Where did I - -

"Mrs. Edna Tracy, Venus, Texas; Mr. Thomas McDonald, Lewisville, Arkansas; Mrs. Teresa Allen, Houston, Texas; Mr. Raymond V. Young, Mr. Bert Fischler, Mr. Lavon R. Means and Mrs. Ruth Schley, all of Fort Worth, Texas. Motion carried.

"Motion made by Ira Gibson and seconded by J. R. Lewis to employ Willie E. Brown, Dallas, Texas, as teacher in the colored school for school term 1955-56. Motion carried."

"There being no further business the board adjourned.

"Ira Gibson, Secretary of the Board.

"O. C. Rawdon, President of the Board."

Q (By Mr. Gooch) I find next in the book the minutes of a purported meeting of the Board of Trustees of the Mansfield Independent School District, date August 22, 1955. Is that the next record of a special or regular meeting of the Board of Trustees of Mansfield?

A Yes, sir.

Q Would you read, please, the minutes of the meeting of August 22, 1955?

A "August 22, 1955, Mansfield, Texas.

"At a called meeting of the Board of Education of the Mansfield Independent School District, the following members were present: O. C. Rawdon, President; Ira Gibson, Secretary; Hubert Beard, Billy Arbor, Jr., Louis Horace Howard, O. M. Wilshire and R. L. Huffman, Superintendent.

"Meeting was called to order by the president and prayer was offered by Horace Howard.

"A lengthy discussion was held in regard to the segregation question and the best possible thing that might and could be worked out in the future in regard to the question.

"Motion was made by Hubert Beard and seconded by J. R. Lewis to buy gas and oil from W. L. Johnston for the school year 1955-56. Motion carried.

"Motion made by Ira Gibson and seconded by Hubert Beard to accept the county school calendar as our calendar for the school year, in so far as it fits our needs in regard to the rural schools, our bus service. Motion carried.

"There being no further business the board adjourned."

Signed "Ira Gibson, Secretary of the Board, O. C. Rawdon, President".

Q Does that accurately and correctly reflect business that transpired at that meeting?

A It does.

Q I refer you now to the next succeeding, apparently the next succeeding board meeting, which is labeled September 27, 1955. Does that follow your July and August meetings?

A Yes, sir.

Q Will you read, please, the minutes of the meeting of September 27, 1955?

A "September 27, 1955, Mansfield, Texas.

"At a regular meeting of the Board of Education the following members were present: O. C. Rawdon, President; Ira Gibson, Secretary; Hubert Beard, Billy Arbor, Jr., Louis Horace Howard, O. M. Wilshere and Superintendent R. L. Huffman.

"Prayer was offered by Horace Howard.

"Since this is the first meeting of the school board since the beginning of school nothing in the way of official business was presented to the board.

"A report as to the very fine way school had opened and was making progress was given to the board by Superintendent Huffman. In his statements the board was advised that all previous high school enrollments had been broken with an enrollment of 285 high school students.

"A report from the segregation committee composed of Superintendent R. L. Huffman, O. M. Wilshire and Ira Gibson was given to the board in regard to their study and findings.

"The recent negro bus added and the colored students riding same to Fort Worth was found to be highly accepted by all students and parents. Lawyer Stroud, colored bus driver, reported that one hundred per cent of the eligible students rode the bus most every day. Seldom ever a student missed catching the bus.

"There being no further business the board adjourned.

"Ira Gibson, Secretary of the Board, O. C. Rawdon, President of the Board."

Q Do those minutes accurately reflect the matters that transpired at the meeting on September 27, 1955?

A Yes, sir.

Q Then your next meeting appears to have been one on October 8, 1955, in response to this lawsuit, is that correct?

A Yes, sir.

Q You might read that one, for a complete picture.

A "October 8, 1955, Mansfield, Texas.

"At a called meeting of the Board of Education of Mansfield Independent School District the following members were present: O. C. Rawdon, President; Ira Gibson, Secretary; Billy Arbor, Hubert Beard, J. R. Lewis, O. M. Wilshire, and Superintendent R. L. Huffman.

"Meeting called for the purpose of discussing and seeing what steps might be and should be taken in regard to the headlines of Saturday Morning, October 8, 1955, Star-Telegram, wherein public announcement was made that the Mansfield School Board Superintendent and District had been sued by three negro students who had earlier in the year sought enrollment in the Mansfield High School but were denied enrollment due to the fact that they were negro students.

"Motion made by Ira Gibson and seconded by O. M. Wilshire to seek advice in regard to suit as headlined in morning paper. Board also authorized Superintendent R. L. Huffman and Hubert Beard as board representatives to contact an attorney-at-law and seek his advice, and if deemed necessary, to employ said attorney to represent the school in the lawsuit. Motion carried unanimously.

"There being no further business, the board adjourned.

"Ira Gibson, Secretary, O. C. Rawdon, President."

Q Has there been any official meeting of the board since that time?

A Well, let's see? October, November. No, no. Let's see? Wait a minute.

Q All right. Do you find any meeting, however, that is had? I just wanted it if there was any more.

Now, Mr. Gibson, as Secretary of the Board, and a member of the Board of Education, and as a resident of the Mansfield community, I will ask you to state whether or not you believe there is a reasonable probability, if given time you will be able to work out this matter so that there will not be too much conflict in connection with this problem?

A Yes, I think we would be able to work out within a reasonable time; it is rather hard for us to be the first one in this entire area, it has caused quite a lot of - - it has caused - - well, it has caused dissatisfaction in the community, by being sued, by having this brought on as it is. I think within a reasonable length of time we can work it out. Of course, I think this has made it much harder by having this lawsuit because of the sentiment of a lot of the people in the community, both colored and white.

MR. GOOCH: Pass the witness.

* * *

REDIRECT EXAMINATION

BY MR. TATE:

Q Mr. Gibson, you say that some time in the summer of 1954 after the ruling of the Supreme Court you sought advice with respect to the meaning of the Court's decision, the Supreme Court's decision in 1954.

From whom did you seek that advice?

A I don't recall saying that I sought advice.

Q Mr. Clerk - -

A The question was asked, was it explained to us and I said that it was.

Q I see. Who explained it to you?

A Well, it was explained, it was discussed at the board meetings, and the superintendent and various ones, it was discussed, and not necessarily sought advice on it, we studied the Supreme Court action.

Q And I believe you said you read it several times?

A The Court's action on both of them; I have read the one in '55 more than I have read the one in '54.

Q But you and your entire board made yourselves familiar with the decision of the Court of May 17, 1954?

A Well, it was - - we read it, yes.

Q And what did you understand it to say?

A That the Supreme Court had ruled that it would give

a decision later on the following year.

Q You just understood that the Court had decided it would give a decision later on with respect to what question?

A Desegregation.

Q Yes, sir. Now, you say that you discussed the 1955 decision. With whom did you discuss that?

A It was discussed in board meetings.

Q And you said you have read that several times?

A Yes, I have read it.

Q And what is your understanding now of the meaning of that decision?

A That it is the duty of the Board of Education to make every effort to bring about desegregation and it should come when practical.

Q When practical, yes, sir. And - - well, that is all right, sir.

I believe you said that this committee appointed on August 27th has been out seeking public opinion, is that right?

A Yes, that is right.

Q And that you intend to operate your schools according to the findings that you get from this public opinion, is that right?

A In helping operate the school.

Q Yes.

A That is the way the school board should operate.

Q Yes, sir. So, you are going to carry on your schools in keeping with the body of opinion in your community, is that right?

A No, we are going to carry on our school according to law.

Q Yes, sir, yes, sir. You said that you thought if you had enough time you could work this thing out for the best interests of all. What did you understand to be the best interests of all?

A Well, less dissatisfaction in the community, where everyone would be more happy about it.

Q About what?

A About integration.

Q Sir?

A About integration.

Q Yes, sir. Now, you say that your committee came in and reported to the school board on September 27th, and your committee reported that the bus was running regularly to Fort Worth, and that it was pretty well carrying its capacity, is that right?

A It was carrying all the students that wanted to go.

Q That is right. Now, was that the full report of your committee?

A Well, that was the main thing that we reported.

Q Yes, sir.

A That they were all happy with the bus and that they were all attending school regularly.

Q So, in your study from August 27th, when you were appointed, to September 27th, when you made your report, the only thing that you had to report to your board was that the bus was running regularly and carrying all of the negro students, is that all, sir?

A Well, there was discussion held in the board meeting as to segregation, of course.

Q Do you recall what was said?

A There has been a lot of words said in board meetings over the last year.

Q Yes, sir. Now, what is the status of your committee now on segregation. Do you feel that your committee has discharged its duty?

A No, it is still in operation.

Q And what else do you have in mind to do?

A We are going to try to desegregate as soon as we think that it is practicable at all.

Q Yes, sir. Now, you said "practical", what do you mean by that?

A I think that was explained when I said with the least tension, or the least - -

Q In other words, you are going to segregate when the tension or the reaction of your community to desegregation will

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SECRETARY

be neutralized, is that right?

A As much as possible.

Q Yes, sir.

A Of course, you cannot always say it will be completely neutralized, but as soon as we think it is practicable.

Q How long do you think it is going to take you to reach that point?

A Well, as I, as one board member, could not answer a question like that.

Q Don't you have any information about it?

A We have asked for an extension of this year.

Q Yes, sir.

A Now, I couldn't answer when we, for our board of seven men.

Q Yes, sir. Has your board made any decision at all what it is going to do about the '56-'57 year?

A No.

Q You don't have any plan for that one?

A We are working on the present right at the present, we have had - -

Q I mean, you don't have any plan beyond what you have already - -

A No.

Q Yes, sir. Then, I believe that you testified that it is your opinion that if your board is given reasonable time

that you can do this without too much complication?

A I think that is true.

Q I still would like to know what you meant there by "reasonable time"? How much do you think would be a reasonable time?

A Well, it is hard to tell what reasonable time is, when you don't know exactly what is going on in the future.

Q Yes, sir.

A That would have to be determined by what happens.

Q So, at this moment you don't have any notion when you might begin to desegregate?

A I couldn't say, no, sir, I couldn't say.

Q Yes, sir. I believe you said you talked with some other school officials, that is, school district heads and so on, is that true?

A That is right.

Q What school districts did you talk with?

A I talked with the Superintendent of Everman School.

Q Yes, sir. Did you talk with the Superintendent of the Austin School?

A No, sir.

Q Did you talk with the Superintendent of the San Antonio School?

A No, sir.

Q Did you talk with the Superintendent of the El Paso

School?

A No.

Q Corpus Christi?

A No.

MR. TATE: Yes, sir. I think that is all, sir.

MR. GOOCH: That is all.

* * *

O. M. WILSHIRE,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q Will you please tell the Court your name, please, sir?

A O. M. Wilshire.

Q Where do you live, Mr. Wilshire?

A Alvarado, Route 3.

Q Is that within the Mansfield Independent School District?

A It is.

Q Are you a member of the School Board of the Mansfield Independent School District?

A I am.

Q How long have you been a board member?

A I went in in '54.

Q Yes, sir. Mr. Wilshire, there has been some testimony here that you have heard with respect to a committee on segregation that was appointed by the board on or about August 27, 1955.

Are you a member of that board?

A I am.

Q When you were appointed what were you told to do?

A Study the problem.

Q Study the problem?

A Yes, sir.

Q Was there any particular thing that you were to study?

A Segregation.

Q You were to study segregation?

A Yes, sir.

Q It was your problem. All right, sir, how many times has your board met?

A Officially?

Q Yes, sir.

A It has not met officially.

Q It has not met at all?

A No, sir.

Q So, officially, your committee has done nothing towards studying segregation?

A No, sir, we have done something, we studied the problem of segregation.

Q All right, sir, how much study have you given to the

question?

A A whole lot.

Q Of segregation?

A That is right.

Q Have you reached any conclusions with respect to segregation?

A No, sir.

Q You have reached no conclusions?

A No, sir.

Q Have you run into any problems?

A We have.

Q What are your problems?

A Dissatisfaction among the community.

Q Dissatisfaction among the community.

When you say "dissatisfaction among the community", what is the community dissatisfied about?

A Well, they are not satisfied with segregation and are not ready to enter into it right at the present time.

Q They are not satisfied with desegregation and they are not ready to enter into it at this time?

A That is right.

Q Yes, sir. And have you reported that to the board?

A We have.

Q And what did the board do about it?

A Not anything, I don't suppose.

Q Nothing, I see. Mr. Wilshire, were you one of the people, one of the board members and members of this segregation committee who went out and talked with some of the negro parents?

A I was.

Q All right, sir, when you went out to see them what did you say?

A We asked them if they wanted to enroll in school.

Q Sir?

A We asked them if they were going to school.

Q Where?

A The students?

Q Yes, sir.

A Anywhere.

Q What else did you ask them?

A If they would be willing to ride the bus, if that is what they wanted.

Q Sir?

A If that is what they wanted.

Q If they would be willing to ride the bus?

A Yes, sir.

Q What bus are you talking about?

A The one going to Fort Worth.

Q In other words, you were asking them if they were willing to come to school in Fort Worth?

A Yes, sir.

Q What else did you ask them?

A That is practically all.

Q In other words, you went and saw them and asked them, "Are you going to school this fall?" And if they said, "Yes", you asked them if they were willing to go to Fort Worth, is that what you asked them?

A We asked them if they were willing to ride the bus.

Q If they were willing to ride the bus. Did you ask them anything about their desires, the parents, did you ask them anything about their desire to send their children to school in Mansfield, the high school students, children?

A Yes, sir.

Q What did you ask them?

A Asked them which school they preferred.

Q Between - - when you say between what schools you refer - -

A Fort Worth and Mansfield.

Q You asked them what school they preferred?

A Yes, sir.

Q And if they were willing to send them to Fort Worth?

A Yes, sir.

Q As a member of the board, Mr. Wilshire, what plan, if any, does your board have for conforming to the two decisions of the Supreme Court of the United States. Are you

familiar with those two decisions?

A Yes, sir.

Q What plan does your board have of conforming to the mandates of those two decisions?

A I believe if we were given sufficient time we could work the problem out.

Q At the present time you have no plan?

A No, sir.

MR. TATE: I think that is all, sir, thank you.

MR. GOOCH: No questions.

MR. TATE: We have just two more witnesses, Your Honor, very briefly.

Mrs. Moody, please.

This will be very short, sir.

* * *

JIMMIE MOODY,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q Please tell the Court your name?

A Jimmie Moody.

Q Jimmie Moody. Where do you live?

A Mansfield.

Q That is Mansfield, Texas?

A Uh-huh.

Q Is that within the Mansfield Independent School District?

A Uh-huh.

Q Do you have a child going to high school?

A Yes, I do.

Q What is that child's name?

A Charles Moody.

Q Where does he go to high school?

A Of course, he goes to Guinn, but, you know, they just teach to eighth grade down there.

Q I see. You have one going to high school?

A That is the one.

Q I see. And where is he going to high school now?

A James E. Guinn, over here on Rosedale.

Q That is in Fort Worth?

A Uh-huh.

Q I see. Mrs. Moody, how does it happen that that - - that your boy is going to school in Fort Worth?

A Well, they don't have - - they don't teach the ninth grade down there in our school.

Q You say "our" school, you mean the school for negroes?

A Yes, uh-huh.

Q But there is a high school at Mansfield?

A Oh, yes, sir.

Q Did you make any effort to get your boy in the school at Mansfield?

A Oh, yes.

Q You did? White?

A Yes.

Q What did they tell you?

A Well, Mr. Huffman turned him down.

Q When you say "turned him down", what do you mean by that?

A He asked me was I willing for my child to go to school up here, or else down there, and so, I told him, I said, "No", I said, "I am willing for my child to go to school in Mansfield."

Q What else did he ask you?

A Well, he asked me, he said, "Mostly all the rest of the colored had signed," you know, for the children to go back and forth, but I told him I wasn't willing for mine.

Q I see. Now, was that said to you at the time your child went over to school, or was that at some later date?

A It was at a later date.

Q And where did this take place?

A In Mr. Gibson's store.

Q In Mr. Gibson's store?

A Uh-huh.

Q Did you go there to see Mr. Huffman?

- A No, sir.
- Q How did it happen you ran into him?
- A Well, I happened to be in his store and he called me.
- Q He just asked you whether or not you were willing?
- A Was willing.
- Q To let your child go to Fort Worth?
- A To Fort Worth, uh-huh.
- Q And you told him that you were?
- A I told him "No".
- Q But this child is now coming?
- A Uh-huh.
- Q And that is because you had no place else to send him?
- A That is right.
- MR. TATE: That is all, thank you.
- MR. GOOCH: No questions.
- MR. TATE: Mr. J. A. Moody.

* * *

J. A. MOODY,

a witness produced on behalf of the plaintiffs, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q Will you please tell the Court your name?

A J. A. Moody.

Q Where do you live, Mr. Moody?

A Mansfield.

Q Mansfield, Texas. How long have you lived there?

A Well, I have lived there all my life.

Q All your life. Do you have a school age child?

A Yes, sir.

Q Do you have a child going to high school?

A I have got one.

Q What is that child's name?

A Floyd Stephenson Moody.

Q And where is that child in school now?

A Terrell.

Q Terrell. That is in Fort Worth?

A That is right.

Q How long has that child been going to Terrell?

A This is his first year in Terrell.

Q Did Mr. Huffman come to see you, or talk to you about

that child going to school?

A Yes.

Q Do you know roughly when it was?

A Well, no, sir, I don't.

Q Was it before school opened?

A It was before school opened.

Q Was it in August, or September, or when was it?

A I believe it was in August.

Q And where were you when he talked to you?

A At home.

Q He came in your home?

A That is right.

Q Who was with him?

A Mr. Rawdon and Mr. Wilshire.

Q All right. What, if anything, did he say to you?

A Well, he wanted to know if I was going to send him to school. I told him "Yes".

Q All right, what else did he say?

A He said, "What do you think about the bus coming to Fort Worth?"

I told him I didn't think about it.

Q What else did he say?

A Well, he said he had been around to all the parents, "and you were the last one, and we decided we would come around and see what you thought about it."

Q Is that about all he said about it?

A That is about all.

Q Did you agree to send your child to Fort Worth?

A No, sir.

Q Why are you sending him to Fort Worth?

A Well, that is the only place he had to go.

Q That is the only place he had to go but you did not ask that he be sent to Fort Worth?

A No, sir.

Q It was not your will that he be sent to Fort Worth?

A That is right.

MR. TATE: That is all.

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Did you transfer your son to Fort Worth?

A No, I think my wife did; I didn't.

Q When do you recall it was? Prior to June of '55, wasn't it?

A I don't know. To tell the truth about it I wasn't there when she transferred him.

Q Where were you then?

A Well, I wouldn't know.

Q You mean you just wasn't at home, or wasn't in

Mansfield?

A I just wasn't at home.

Q It was before Mr. Huffman came out and talked to you, wasn't it?

A Yes, uh-huh.

Q You had already transferred him to the I. M. Terrell School in Fort Worth?

A In '54.

Q No, I am talking about in '55. Or did you transfer - - you said this was his first year in I. M. Terrell?

A That is right.

Q Somebody had to transfer him to come down here to Terrell, didn't they?

A Yes, sir.

Q Do you know whether they transfer - -

A I don't know whether he was transferred this year or not.

Q He had to be transferred, didn't you know that? Or did you have anything to do with that?

A I didn't have a thing to do with it.

Q Did you leave that up to your wife?

A No, it was just one of them things, I wasn't there.

MR. GOOCH: That is all, thank you.

MR. TATE: May it please the Court, I would just like to call Mr. Huffman back for one or two questions, just

about two questions, and I will be through with him.

THE COURT: Very well.

* * *

R. L. HUFFMAN,

being recalled on behalf of the plaintiffs, being heretofore duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TATE:

Q Mr. Huffman, in dealing with the problem of de-segregation in Mansfield, we have discussed the problem that you would likely have, and I would like to ask you if, in your opinion, there would be any problem in relation to desegregating the schools at Mansfield that would not have arisen, say, in Austin?

A That would not have arisen in Austin?

Q Yes, sir.

A I don't believe I would be in position to answer that, I don't know their problems.

Q You testified here that you had a general knowledge of schools here at Fort Worth.

Do you have a general knowledge of the schools in Austin?

A Nothing more than on just a state wide basis.

Q Yes, sir. Can you foresee any problem that would

arise in Mansfield in relation to desegregation that would be different from the problems that would arise in Corpus Christi?

A I don't suppose there would be.

Q Nothing that would make it any more difficult.

Do you foresee any difficulty you would face at Mansfield than say San Antonio would not face?

A I suppose the problems would be general pretty well everywhere.

MR. TATE: Yes, sir. That is all, sir.

* * *

CROSS EXAMINATION

BY MR. GOOCH:

Q Mr. Huffman, do you know what the situation is in Corpus Christi, or as to whether or not there are many or few that are interested in this problem?

A I would only have to give hearsay, and I could not swear by that.

Q Do you know anything about the problems at San Antonio from firsthand knowledge?

A Nothing only in my school meetings, what I have just heard over the grapevine route.

Q The matters you have testified to, though, that confront Mansfield Independent School District you feel are real problems in that locality, is that correct?

A Yes, sir.

MR. GOOCH: That is all.

MR. TATE: May it please the Court, plaintiffs rest.

MR. GOOCH: I would like to call one scort witness,

Mr. David Sellers.

THE COURT: Proceed.

* * *

DAVID SELLERS,

a witness produced on behalf of the defendants, being first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GOOCH:

Q State your name.

A David Sellers.

Q Where do you live, Mr. Sellers?

A I live in Richland Hills, which is a suburb of Fort
Worth.

Q What is your means of livelihood?

A I am the Assistant Superintendent of the Fort Worth
Public Schools, working in the Instructional Division.

Q How long have you been connected with the Fort Worth
Public Schools?

A This is my 34th year.

Q Are you familiar with the curriculum and courses of
study in the Fort Worth Public High Schools?

A Yes, sir.

Q Are you familiar with I. M. Terrell High School?

A Yes, sir.

Q Could you give us the number of courses of study, accredited courses of study that are in the I. M. Terrell High School in Fort Worth?

A We offer forty-five and a half units of academic units and thirty-six units of vocational units, making a total of eighty-one and a half units.

Q I believe the Mansfield School District is thirty-two and a half.

A I heard it this morning, but I have forgotten the exact figure.

Q Now, you talk about the forty-five units of academic; does that take into account - - or, generally, what does that take into account?

A That is all the subjects offered in the school sir. Would you like for me to list them, sir?

Q Yes, sir, I believe.

A I have copied them off the record to be accurate.

Q All right.

A We offer four units of English, divided three units in English proper and one unit in Journalism.

We offer three units in Social Studies.

One in World History.

One in American History.

One in Civics.

We offer four units in mathematics. This consists of two Algebra, one in Plane Geometry, one-half in Trigonometry, one-half in Solid Geometry.

We offer three units in Science; Biology, Chemistry and Physics.

We offer five and a half units of Commercial Work: Two units that consists of two units in typewriting, one unit in shorthand; two units in Distributive Education; a half a unit in Commercial Arithmetic.

We offer three units in foreign languages, that is three years of Spanish.

Five and a half units in music, made up of one unit in Theory, one and a half units of training, one and a half units for orchestra and one and a half units for band.

We offer three units in art.

We offer a total of six units in home making, made up of three in foods and three in clothing.

We offer six and a half units of Industrial Arts, made up of one unit in Mechanical Drawing, three units in Wood Work, two and a half units in Motor Work.

We offer one unit in Physical Education.

And we offer one unit in Bible History.

That is a total of forty-five and a half.

Q All right.

Generally, what are the vocational courses?

A The vocational courses are made up of carpentry, auto mechanics, cosmetology, radio, television, that is, repair work, leather craft and shoe repair, auto body and upholstery, machine shop and welding. Those are all four and an half units.

Q Yes, sir.

A Making a total of thirty-six units.

Q That is the total number of units when added together that make up your eighty-one and a half?

A Eighty-one and a half, yes, sir.

MR. GOOCH: Your witness.

MR. TATE: Pass the witness.

MR. GOOCH: Mr. Huffman, will you come back, please?

* * *

R. L. HUFFMAN,

being recalled on behalf of the defendants, being heretofore duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. GOOCH:

MR. GOOCH: Excuse me just a moment, Your Honor.

THE COURT: The court will be in recess for ten minutes.

(Short recess).

Q (By Mr. Gooch) Mr. Huffman, you have been on the stand before, have you not?

A Yes, sir.

Q Do you have with you the credits and courses offered by the Mansfield High School of the Mansfield Independent School District?

A Yes, sir.

Q Will you produce those, please, sir, and read them into the record? And how many do you say there are?

A Thirty-two and a half, I believe.

Q All right, what are they, please, sir?

A English, four. Now, we offer credits in English.

Algebra, two courses in Algebra.

One credit in Plane Geometry.

Half a credit in Solid Geometry.

One-half credit in Trigonometry.

One credit in General Mathematics.

One credit in General Business.

One credit in General Science.

One in Biology.

One credit in Chemistry.

One in Physics.

Four in Vocational Home Making.

Four credits in Vocational Agriculture.

One credit in Farm Engineering.

One credit in World History.

One credit in American History.

One-half credit in Civics.

One-half credit in Texas History.

Two credits in Typing.

One in Shorthand.

One in Bookkeeping.

Safety and Health Education, one.

Driver's Training, one-half.

And two credits in Speech.

MR. GOOCH: That is all.

With that the defendants complete their case,
Your Honor.

THE COURT: Anything further from the plaintiffs?

MR. TATE: No further testimony, sir.

* * *

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

NATHANIEL JACKSON, A MINOR, ET AL

VS.

CIVIL ACTION NO. 3152

O. C. RAWDON, ET AL

Plaintiffs seek both a temporary and permanent injunction against defendants who are the Board of Trustees and the Superintendent of the Mansfield Independent School District and the Mansfield Independent School District, a body corporate, to enjoin and restrain defendants from denying and refusing to plaintiffs the right and privilege of attending the public high school maintained by defendants within the boundaries of the Mansfield Independent School District.

This case, filed October 7, 1955, came on for hearing on the 7th day of November, 1955, on plaintiffs' application for temporary injunction pursuant to settings made by the Court October 13, 1955. Plaintiffs in open court withdrew their plea that a statutory three-judge court be convened pursuant to Sections 2281 and 2284, Title 28, United States Code, to hear the cause, and expressly requested that the case be heard and determined now not only on the plea for temporary injunction, but on the permanent injunction demanded in the action on the merits as well, stating that the same evidence would be offered on both hearings. Plaintiffs' request was granted by the Court.

The contentions of the parties were well pleaded, and the evidence was heard fully.

2 This is a suit in equity, on a mimeographed complaint, brought as a class action by three negro minors and others alleged as "so numerous as to make it impracticable to bring all of them" into court, who reside in the Mansfield Independent School District, a rural district at the edge of Fort Worth, Texas. The employment of the device of a class suit here is indiscriminate if not improper where only 12 colored high school students are involved, which indicates that the other nine negro students did not wish this action at this time. Likewise the failure of one of the three plaintiffs to appear in court and testify raises a question as to whether he wanted to change schools now.

In finding the equities between the parties, I see on the one hand, the situation of this rural school board composed primarily of farmers, agents of the State of Texas (whose segregation laws were not voided by the State Supreme Court until the opinion of October 12 and mandate issued October 28, 1955, after the opening of school on September 2, 1955) struggling with breaking the tradition of generations; opening their meetings with prayer for solution; studying articles in magazines and papers; holding numerous meetings; passing resolutions and appointing a committee to work on a plan for integration - - making the start toward "obeying the law" which their abilities dictated. Further, the trustees now assure the Court that they are continuing their efforts and will work

3 out desegregation. Their committee conferred with these plaintiffs in the presence of plaintiffs' parents, and accepted and fulfilled the request made by plaintiffs with their attorney in August, 1955 for certain administrative steps as a solution for this period of transition, the school year 1955-56. These administrative steps consisted of making arrangements for these students to attend the I. M. Terrell School in the city of Fort Worth; the application for and consummation of transfer of state allocated funds to the Fort Worth Independent School District; and the procuring of a special bus for transporting these students to the Fort Worth School. After the accomplishment of these administrative steps taken at the request of plaintiffs, and after school had been in session more than a month, this action was filed.

On the other hand, I find three plaintiffs, only two of whom testify, high school students well into their year's work at I. M. Terrell School in Fort Worth, by their own testimony happy and well adjusted, taking vocational courses not available at Mansfield High School, testifying that their reason for wanting to transfer to Mansfield High School is the inconvenience of early rising and late return home due to the round trip of 36 to 40 miles daily. (Testimony showed that other students of this rural area also arise early and travel considerable distances to and from school.) One of the plaintiffs testified that if he participated in athletics after

4 school, he would have to use public transportation or otherwise furnish his own means of travel home after school. (Testimony revealed that the same situation exists for Mansfield High School students.) One plaintiff testified that he formerly resided within the boundaries of the Fort Worth Independent School District, attending school there until he moved into the Mansfield Independent School District in August, 1955.

After the accomplishment of the above mentioned administrative processes at plaintiffs' request, and after school had begun, it appears to the Court that the issuance of an injunction to effect entrance into Mansfield High School at this time would be unjust to the school trustees and the students alike. It is a matter of common knowledge that the transfer of a child in the middle of a school year, as this action seeks, may bring about scholastic and emotional difficulties. This Court cannot in good conscience force this result by the harsh remedy of injunction, nor does it believe that the Supreme Court of the United States has made such course adamant. In *Brown versus Board of Education* Chief Justice Warren admonishes that "the courts will be guided by equitable principles . . . characterized by a practical flexibility . . . and by a facility for adjusting and reconciling public and private needs." ¹

The United States Supreme Court decision in the *Brown* case that "racial discrimination in public education is

unconstitutional"² was interpreted by the Supreme Court of Texas in McKinney versus Blankenship (decided October 12, 1955) as nullifying provisions of the Texas Constitution and statutes requiring segregation in the public schools of Texas.³ It is impossible, however, simply to shut our eyes to the instant need for care and justice in effectuating integration. The directions of the United States Supreme Court allow time for achieving this end. While this does not mean that a long or unreasonable time shall expire before a plan is developed and put into use, it does not necessitate the heedless and hasty use of injunction which once issued must be enforced by the officers of this Court, regardless of consequences to the students, the school authorities and the public. This school board has shown that it is making a good faith effort toward integration, and should have a reasonable length of time to solve its problems and end segregation in the Mansfield Independent School District. At this time this suit is precipitate and without equitable justification.

"Improvident granting of such injunctions by a single judge, and the possible unnecessary conflict between federal and state authority" are "always to be deprecated."⁴

Accordingly, I find that judgment should be entered denying the relief prayed for herein, and that this action should be dismissed without prejudice.

Let the attorneys for defendants prepare and present

a judgment in accordance with this memorandum decision.

Done at Fort Worth, Texas, this 21st day of
November, 1955.

(Signed) Joe E. Estes

UNITED STATES DISTRICT JUDGE

- 1 Brown v Board of Education,
349 U.S. 294, supplementing
prior decision reported in
347 U.S. 483.
- 2 Brown v. Board of Education of
Topeka, 347 U.S. 483, 98 L ed
873, 74 S Ct 686, 38 ALR2d 1180
- 3 McKinney v. Blankenship, (S.Ct.
Tex. Opinion Oct. 12, 1955, Mandate
Oct. 28, 1955) _____ Tex. _____,
25 Tex. S. Ct. Reporter 42.
- 4 Cumberland Telephone & Tel. Co. v.
Louisiana Public Service Commission,
1922, 260 U.S. 212, 216, 43 S.Ct.
75, 76, 67 L.Ed. 217.

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* * *

I, DENIS DINEEN, Court Reporter, United States Court, Northern District of Texas, certify that during the trial of the above styled and numbered cause I took shorthand notes of the proceedings upon said trial and have transcribed the same as shown by the above and foregoing 126 pages and that said transcript is true and correct.

This the 29th day of November, A.D., 1955.



(Denis Dineen)
Court Reporter.