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Supreme Court, U. S.
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APPENDIX

In The
Supreme Court of the United States
October Term, 1978

No. 78-610

COLUMBUS BOARD OF EDUCATION, et al.,
Petitioners,

vs.

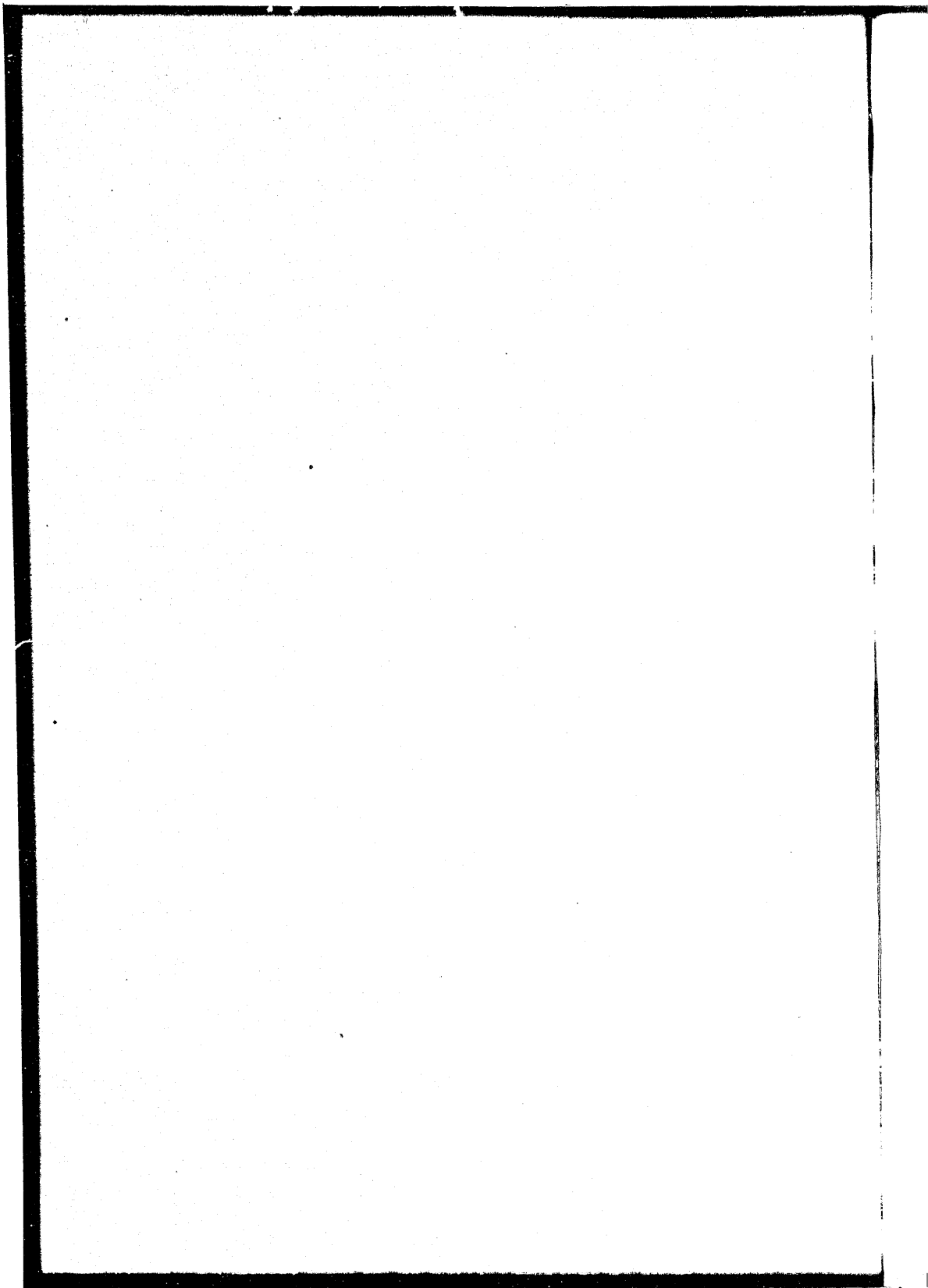
GARY L. PENICK, et al.,
Respondents.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR CERTIORARI FILED OCTOBER 11, 1978
CERTIORARI GRANTED JANUARY 8, 1979

VOLUME II

(Pages 407 - 802)



GORDON FOSTER,
called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[3360] Q. State your full name and your occupation, please.

A. Gordon Foster. I am Professor of Education at the University of Miami in Coral Gables, Florida.

* * * * *

[3362] Q. All right. Have you worked in Ohio before, not associated with desegregation?

A. Yes, I taught schools in the public schools and was an administrator in the public schools and taught and worked at Miami University in Oxford and taught a summer session at Ohio State in the 60's.

[3363] Q. Where else did you teach school?

A. I taught in Loveland, Ohio, which is a — it was an exempted village. I am not sure what its status is now. It may be a city at this point — for three years, and was a principal there — for four years was an elementary principal, sort of combination elementary-junior high principal. Then I taught in Middletown in about 1960 for a year, and then I started to finish my graduate work and I was at Miami University in Ohio for a year working at that time with the Bureau of Educational Field Services under Dr. Ralph Purdy.

Q. What did you do with the Bureau of Educational Field Services?

A. We did mostly field studies, field surveys for school systems, most of them in Ohio — a couple I believe were in West Virginia or Kentucky — during that period, having to do with school consolidation or school curriculum studies or school building construction, site selection, this sort of thing.

Q. Did you do studies similar to some of the OSU studies you have seen as exhibits in this case?

A. Very much so. From the year I was there at that time and then later when I was at the Miami University for three years on the faculty while I was writing my dissertation, I again worked with the Bureau. Several of the people that worked with the Ohio State Bureau also worked on [3364] our studies, and Dr. Merle Heiman, who was State Superintendent and then retired was also on our staff from time to time.

Q. When you say Miami, you mean Miami of Ohio in that instance; is that correct?

A. That's correct.

Q. Were you Director of a joint project for school districts in Ohio and other states?

A. One of the years I was at Miami following my residence at Ohio State, I was Director of an organization called Southwestern Ohio Educational Research Council. There were similar organizations in different areas of the state. This was an organization partly under federal funding and partly under school system funding of almost all the school systems of any size, such as Cincinnati, Middletown, Hamilton, in the southwestern area and of universities in that area to join together for planning purposes and all the educational study that anybody wanted accomplished in that area of the state.

I was on a half-time assignment as Director of that. As such, I was assigned into a research position. I can't remember the exact title with the Cincinnati City Schools.

Q. And how was this funded. Was this a federally funded project or was this funded by the schools?

A. It was a combination. They had some federal funding [3364A] for a period of several years, and different systems would contribute on a pupil-population ratio, according to their numbers.

[3365] Q. Would you give us your educational point of history thereafter?

A. When I received my doctorate, I went to the University of Miami in Florida in 1966, and I've been there ever since. I started out as Assistant Professor, and I'm now full Professor.

In addition to being on the faculty and school administration, in 1966, when I went there, I assumed a position of Associate Director of the Florida School Desegregation Consulting Center, which at that time covered about the southern half of the State in terms of giving technical assistance to school districts in Florida in desegregation matters. This was funded under Title IV of the Civil Rights Act of 1964.

Three years later, I became Director of that Center and still am. It's now called — well, it's still called the Florida School Desegregation Consulting Center, but currently, there's something like 28 of those centers in the country. They're called General Assistance Centers for Desegregation Concerns. It now covers the entire State of Florida.

For a period of three or four years, I was also Chairman of the Administration area at the University. I was Director of a Federal project to train school administrators, largely principals, for multi-cultural schools. This was funded under the Educational Profession Development Act by the [3366] U.S. Office of Education. We processed, over a period of about three years while I was Director, about 75 students, either through doctoral programs or masters programs to train them for working with desegregated schools.

This past year, I am also serving as Director of a new program which is similar to the desegregation center. It's called a Bilingual Center, which is again funded by the U.S. Office. There are nine such centers across the country as a result of the Nickel versus Low Decision in San Francisco. We cover about fourteen states in the District of Columbia, that's Region 3 and Region 4 of the U.S. Office of Education, to assist schools who have compliance

problems and questions under the Low Decision, and we provide them technical assistance as they deal with the Office of Civil Rights on compliance problems and provide help to them in training their faculties and this sort of thing to gear up for bilingual programs.

* * * * *

[3385] Q. I realize you've been in Columbus many times on other matters. I believe you were also here to testify in the Dayton case and spent time in the city then. Do you have any record or notes which would indicate to you how much time you spent specifically in preparation on this case?

A. I can give you the exact days I was here. It was something like 20 days so far, I believe, this spring.

Q. And I take it you spent additional time at your home and at your office working on this matter?

A. That is correct.

* * * * *

[3386] Q. Were you asked to come up with any particular result, or were you simply asked to examine the data and from that examination give your opinion as to what you were able to discover?

[3387] A. Well, I think it's impossible to come up with a result before you look at any data if you're doing an analysis. I was simply asked to do an analysis of the data that were available.

Q. What types of data do you generally try to look at to analyze the history and development of the school system?

A. Well, it depends on how many aspects of the segregation process you're examining, but its primary things are student enrollment and the racial percentages of student enrollment as far back in time as you can get them. The whole building program is very important in terms of four or five aspects, construction of new buildings and addition to buildings, closing of buildings, use of cen-

tral facilities, the use of portable facilities, and the whole business of how a system determines capacity of school buildings and what their records are regarding capacity at the various stages of the system's development. It's very helpful sometimes to know, for example, the number of rooms in a building, classrooms, special rooms, this sort of thing. Some systems now have all this on computer print-outs which makes it fairly handy.

If you're getting into segregation associated with personnel, then you need to know the information for faculty and staff and administration appointments by race as far as they are available. You have to know a considerable [3388] amount about the program, if it's possible, that is to say, the curriculum, and special program such as special education, vocational education.

One thing I didn't mention in construction was the business of current construction and future construction. If there's a building program going on at the time you're making your analysis, you need, of course, to know where the pupils are, where the schools are, where the teachers are. Special things such as student transfers can be very important.

In the City of Philadelphia, for example, which is about 270,000 pupils, after receiving a computer printout of where all the pupils were, we found out that about 50,000 of them did not reside in the assignment areas where they were located, but they were all out of residence, and in some systems, a lot of this is nocontiguous assignment, not so much by sections or geographical areas, but just by individual pupils.

So where you have such things as city-wide high schools, city-wide junior high schools for one reason or another, you have children attending schools from different areas of the city for curriculum reasons, you need to know this sort of thing.

Q. All right. In determining capacity, is there an actual physical capacity of a building that can be determined [3389] that is unrelated to program?

A. Yes, in a sense. This depends to some extent on the system or the State Department of Education in a particular case, but ordinarily a certain number of pupils will fit into a certain size classroom, especially at the elementary level. When you get into the secondary schools, the program has a lot more to determine the capacity then.

[3390] A. (Continuing) But even there space is a primary factor that you deal with.

Q. Do school systems operate sometimes with two sets of capacity figures, one of them a building-rated capacity and another one a program capacity? By that I mean, for example, if a school system has a pupil-teacher ratio of 35 to 1 and decides to lower it to 10 to 1, does that affect capacity in one sense of the term?

A. Well, it does, but I never ran into that problem when we were doing consolidation studies back in the '60s. I never heard of changing around all the time for program operations. When we would go into study a system out of Miami or Ohio like Lima, Ohio, for example, we just understood that every school had a certain number of classrooms and it had a certain rating of capacity. There was never a set, as I remember, another set of figures given to you involving program capacity.

Ever since I have been involved in desegregation, though, all of a sudden we have program capacity. I am not knocking it. I think it is a valid consideration because you do have capacity — obviously capacity considerations have to deal with program.

But what you say is correct, especially more recently. Systems do have a sort of a program or an operational capacity, as it were, and quite often that can [3391] be different from the fixed stated capacity of the building as a structure.

Q. Does this sometimes vary from bond issue to bond issue?

A. It could, yes, sir, or depending on policies that the Board makes regarding, as you say, the number of pupils in a classroom, this sort of thing.

Q. If an elementary school building is depopulated for any of a variety of reasons, whether it be Urban Renewal or just declining enrollment or what have you, do school systems often convert classrooms into other purpose rooms, for example, teacher lounges, elementary libraries, nurses' station, multipurpose room, things of this sort?

MR. PORTER: Objection.

THE COURT: Overruled. You may answer.

A. Yes, quite frequently. This is very popular right now because, as you know, many systems in the country are undergoing population decline in school enrollment. One of the ways they are meeting this is to do exactly as you described, utilize the buildings for various ways. If they have got the money, they set up special classrooms and teaching stations, reading centers, all sorts of special programs. If they don't have the money, why, they do other things.

But this is — it is very politically unpopular to [3392] close a school once it is opened, so in order to avoid that, sometimes with a declining population will try to provide quality education arrangements by strengthening their curriculum program in using classrooms out of the ordinary sense.

MR. PORTER: If the Court please, I am going to object to the witness' testimony. I am going to ask that it be stricken and ask he confine his testimony to the City of Columbus.

THE COURT: Overruled.

[3393] Q. Dr. Foster, these type of changes in utilization of classrooms, is it fair to say that they sometimes

require physical structural changes and other times simply different uses?

A. Certainly this would be true. For example, some schools like in the past ten year — well, earlier — have attempted to use open space philosophy. They will simply take two classrooms, and where you have a non-load-bearing wall between them, knock out the wall and make one classroom in terms of an open space program. It gives a lot more flexibility. You can do all sorts of conversions like that, depending on your architecture.

Q. Dr. Foster, can you give us some of the common techniques used by the school systems in order to segregate?

MR PORTER: Object to the question.

THE COURT: Overruled.

A. Well, in many cases they are similar to the ones that I used to desegregate, only they go in the opposite direction. The most common ones are the use of boundary lines, usually associated with changing status of schools. For example, if a school opens, a new school opens and preempts the territory of two or three other schools that were there to start with, then you have to change boundaries, and these can be done in such a way to either desegregate or segregate, exact impact what is already there in terms of [3394] segregation.

The use of optional zones or what is also called dual overlapping zones is a frequent technique and has been for segregative effect.

The entire business of the way buildings are used, where sites are selected, how big the building is when it is constructed, what the boundaries, as I just said, are when you use the building for the first time. The way buildings are closed can sometimes have a very segregative effect because sometimes if a building is closed that is in an area where you have access to both white or black residential populations and capacity is right, you can

assign the children in such a way as to either further segregate them or desegregate them. Not always, but sometimes this happens.

The decision to make building additions, increase capacity, is sometimes used to impound or impact segregation that already exists. The use of transfers. Transfer policy has been manipulated in such a way as to segregate or maintain segregation. On occasion I have seen systems that develop a very good desegregation plan and then gut the thing by having sort of open transfers, and the children wind up going anywhere they want to.

The way teachers are assigned, the way faculty, administrative staff are promoted and assigned, the way non-certificated personnel or classified personnel are assigned [3395] can all have a segregatory effect, particularly in terms of community perception of whether a school is desegregated or segregated.

Q. What about the use of rental space by school systems; is that another way in which segregation can be made work or maintained?

A. It can be, yes. If you have a school that is overpopulated and you need to shift the pupils somewhere, sometimes you can put them in a school of an opposite — predominantly of an opposite race if space is available rather than renting.

The use of transportation from non-contiguous areas has often had a segregative effect. I am not sure whether I have covered them all or not.

[3396] Q. Let me ask you a few questions about dual overlapping zones. I believe you said an optional attendance area is a dual overlapping zone as well as fitting the other description; is that correct?

A. Well, it is at least a first cousin, yes. A dual overlapping zone is simply — one example would be where you have the same zone and the white pupils are assigned to one high school, let's say, or the black pupils are assigned

to one high school and the white pupils are assigned to two or three high schools out of the same attendance area.

Q. Is one type of dual overlapping zone where the schools have service areas which are completely congruent with each other; that would be one example?

A. Yes.

Q. And then there are others, as the example you just mentioned of a high school, for example, where you might have three white high schools and one black high school serving the attendance area of all three or portions of them; is that correct?

A. That's correct.

Q. That's another form. And does the same principle apply to portions of attendance areas?

A. It could, yes, sir.

Q. What about neutral zones; is that a form of overlapping zones, dual zones?

[3397] A. As I understand, a neutral zone compared let's say to an optional zone, an optional zone is carved out of one zone and the children are allowed to either stay in that zone or go to another attendance area, whereas, a neutral zone is sort of a no man's land which isn't caused out of either zone and children can go to either school.

Q. All right. Dr. Foster, in examining school districts, do you find each and every technique used in every school system where you have observed segregation?

MR. PORTER: Objection.

THE COURT: Overruled.

A. No, you don't. At least I can't remember ever finding one that used all of them.

Q. And can you segregate effectively with the use of one or two or three of these —

MR. PORTER: Objection.

Q. — of these techniques?

THE COURT: Overruled.

A. It depends on the situation, of course, but I have seen that to be possible, yes, sir.

Q. Just because you do not find all of the particular techniques present in a particular school system, would that indicate to you that the school system had not practiced segregation?

MR. PORTER: Objection.

[3398] THE COURT: Overruled.

A. No, sir.

Q. Dr. Foster, have you examined the new construction in the Columbus School District?

A. Yes, I have.

Q. And what period did you look at?

A. Well, I first looked back as far as racial data was available on pupils which was from 1964 through current year 1975-76, and then I extended this back for four more years from 1960 to '63, and then I took another block of ten years back to 1950.

I have actually looked at all of the construction data that are available to Plaintiffs which basically cover the whole history of the school system that there are records of, but the data I analyzed to any great extent was from 1950 — in terms of new construction was from 1950 to 1975-76.

Q. Let me go back just a little bit and ask you if you have examined a large number of Plaintiffs' exhibits and various portions thereof?

A. I think you could say so, yes, sir.

Q. And have you examined some of the exhibits of the Original Plaintiffs as well?

A. Yes, I have.

Q. Have most of these documents been School Board documents?

[3399] A. That's my understanding. In many cases, such as enrollment and racial percentages of pupils, some of the faculty data, some of the building data, I first

examined what I would call spread sheets which were made out by whoever was working on these things. Then later on I would go and examine the original documents from which these spread sheets were made.

Q. All right. You would look at the summaries — let me ask you, does the spread sheet show the trend in a particular school?

A. Yes, sir.

Q. Would it be faculty, enrollment, total population or race?

A. Yes, sir.

Q. And then you went back to the raw data yourself to check in particular instances, and did you find errors on occasion?

A. Yes, of course.

Q. Did you rework some of the summary sheets on that basis?

A. Well, to the extent that I possibly could in terms of time, I used what I would consider to be original data sources.

Q. So you actually put aside in some instances the summary sheets and relied on your own analysis of the raw [3400] data; is that correct?

MR. PORTER: Objection.

A. Yes, sir.

THE COURT: Overruled.

* * * * *

[3402] Q. Now, what did you use as a measure of racial identifiability in your estimate of the racial percentage in the Columbus School District for the period 1950 through 1959?

A. Well, if I can jump ahead of that a step from 1964 until 1975 when data were available on racial enrollment, I used plus or minus 15 percent from the mean as the range of schools which were non-identifiable racially. That is to say for the current school year, the percentage

systemwide is something like 32 or 32½ percent non-white. Well, the range of that plus or minus 15 percent would be schools that were non-identifiable racially according to my — that's the way I figured it.

Now, for about — for most of those years, all except the first year or two, that was broken down by levels so that I used one set of figures for the senior high, one for the junior high and one for the elementary.

Q. Did you use the same plus or minus 15 percent?

[3403] A. Fifteen percent, yes, sir. Then between the period 1957 to 1963, I used plus or minus ten percent deviation from the estimated mean, and from 1950 to about 1957, I used plus or minus five percent to determine racial range. The reason for this is fairly obvious. If a system as it approaches let's say a fifteen percent nonwhite figure, if you had a range of plus or minus fifteen percent, it would be meaningless after you got too far down to continue them.

Q. All right. Did you make an estimate of the racial enrollment in the system for 1950?

A. Yes.

Q. What was that?

A. Well, based on the rate of annual increase from 1964 to 1975, I figured that in 1950 a conservative figure for the system would be not lower than fifteen percent non-white.

Q. All right. Are these five, ten and fifteen percent figures which you applied — I am sorry — 1957, what percentage did you estimate using the same technique?

A. Between '50 and '57 I used five percent, and between '57 and '64, ten percent.

Q. All right. And what percentage black for the system did you use for '57?

A. Twenty percent.

Q. In '64 where you had the data, it was 25 percent; is [3404] that correct?

A. The data I calculated — and I didn't have time to do the total system — was 26 and 6/10 percent for the secondary schools at that juncture, that is, 1964, and I used that to estimate the fact that the system as a whole was about 25 percent.

Q. All right. Now, the measure of racial identifiability, is it a measure of the disproportion from the system average?

A. That is correct. I might add that in any instance, as I said before, where there was any question about buildings being close on this, why, we did not count them as racially identifiable.

Q. All right. Is there any literature on the subject as to whether or not this is a reasonable technique to use in terms of the percentage deviation?

A. It is not exactly literature, but there is a lot of operational practice. There are several states, and several cases where a plus or minus 15 percent from the mean has been used to define racial nonidentifiability, the range clustering around the mean. The State of Pennsylvania has a regulation that the Human Relations Commission used which is slightly different, but similar, which says that it should be determined by a plus or minus 30 percent of the minority population in a school, so that if a school is 30 percent minority, you would have a plus or minus range of 30 times 30 [3405-6] or nine percent from the mean. The advantage of the Pennsylvania system is that it takes care of the very problem we have here, and that is as the minority population approaches zero and you have low percentages, it gives you a more logical base from which to operate.

[3407] Q. Did you use the same type of breakdown where you had an initial small plat in the Grand Rapids case?

A. I did that, yes, because very early on Grand Rapids had a very small population of the minority people,

so it became necessary to change the 50-percent deviation, and this was accepted, I think, by the Sixth Circuit in their review of the case.

Q. All right, I show you, Dr. Foster, Original Plaintiffs' Exhibit 22-B, Columbus School Profiles, prepared by Dr. Howard O. Merriman, and direct your attention to pages 6 and 7, and ask you what deviation Dr. Merriman used?

A. Page what?

Q. I think it begins on the bottom of page 6.

A. Plus or minus 10 percent from the average.

Q. All right. Would you read that paragraph beginning, "Proportion of White Pupils - Elementary Level"?

A. All right. On page 6, the paragraph is headed: Proportion of White Pupils - Elementary Level, and it reads:

The system-wide enrollment of white pupils at the elementary level is 73 percent, representing no change from the 1968-1969 school year. Table 5 indicates distribution of elementary schools by concentration of white pupils, showing a change in overall data of one more school in the middle category, parentheses (average plus and minus 10 percent), [3408] parentheses close. However, examination on a school-by-school basis indicates shifts in student population not reflected in the table.

Two schools, Chicago and First, shifted from the lower category into the middle group. Deshler and Weinland Park showed a decrease in white population with a shift into the lower category. Koebel shifted into the middle category from the high category, parenthesis (more than 83 percent), parentheses closed. The new building opened, Walden, has a high white concentration. The first four schools border the inner city.

Q. All right. And he was using plus or minus 10 percent in 1970. I believe in 1970, you used plus or minus 15 percent; is that correct?

A. That's correct.

Q. If you used plus or minus 10 percent, there would likely be more schools fall in the disproportionate range; is that true?

A. Yes.

* * * * *

[3422] Q. Dr. Foster, if you will refer to your notes, from the period 1950 to 1975, how many new schools were built?

A. My figures read 103.

Q. And of that 103, how many opened racially identifiable?

A. Eighty-seven out of 103.

Q. And I believe three of the 87 schools have been closed; is that correct?

A. That is correct.

Q. And how many of those schools, of the original 87 minus the three, have remained racially identifiable in 1975?

A. Seventy-one, but I think again it is only fair to point out in my testimony that some of those were built in 1975.

Q. I understand. Do you recall approximately how many schools the data was unclear and you solved the doubt in favor of naming the school as a nonracially identifiable school?

A. Most of them, of course, were in the 1950 to '60 period. Out of that group, there were at least seven or eight that seemed reasonably clear were probably opened racially identifiable, but we just didn't want to take any risks.

Q. Dr. Foster, we have placed up all three overlays, [3423] 336, 337 and 338, reflecting the openings from 1950 to 1957 on top of PX252, the 1970 Census map. From your examination of the data with respect to new school construction, do you have an opinion as to the affect of such

construction in terms of either creating or not creating segregation in the Columbus School System?

MR. PORTER: Objection.

THE COURT: Overruled. You may answer.

A. Well, my opinion is that such construction, either because it is located on certain sites, which sometimes I understand is inevitable — I mean, you have to — finding school sites is not an easy situation, but the fact that schools are opened as black schools, so to speak, or white schools has a strong tendency to maintain a segregated system or to work towards impaction of the segregation that already exists in a system.

If all these schools that open up in the center city do open up primarily as black schools and all the schools that open up in the extremes of the suburbs open up as either all white schools or close to it, then, of course, you have the obvious inference that the system is not doing anything to correct a segregated situation when they do have an opportunity when schools open to do this. There are various techniques you can perform which will deal with opening schools. You can't always do it by site, I [3424] understand that, but if you are really interested in a desegregated system, then there are times when you can either redraw zone lines or draw them in such a way — or you can perhaps pair schools or group schools as you open them with other existing schools to promote desegregation rather than to maintain or increase segregation.

Q. Dr. Foster, can you form an opinion based on the opening of a single site, or is it necessary for you to observe a pattern or get an overview of what is happening in the system?

A. Well, you have to do it within the context, obviously, of the total system. Of course, you more directly do it within the context of a region or area of that system. For example, when you are opening up a school such as Independence or Liberty, while you open it in the con-

text of the total system, you also take into account more strongly the schools that are in that general area of the city.

Q. All right. I take it on any individual school you can end up in a considerable argument about the merits or demerits of a particular site selection; is that a fair statement?

A. Certainly.

Q. From observing the pattern of new school construction in Columbus, do you have an opinion as to whether or not that pattern could result from accident?

[3425] MR. PORTER: Objection.

THE COURT: Overruled.

A. Well, no, I think it is obvious from looking at the map and knowing the population concentrations to some extent that — and I believe I have read in testimony already or in depositions and so forth, that the intent of the school system is to construct the schools where the children are, so to speak. If you do that, why, it is going to have certain consequences, obviously.

Q. And would those consequences in this case, Columbus, Ohio, be racial?

MR. PORTER: Objection.

A. Certainly.

THE COURT: Overruled.

Q. Dr. Foster, did you examine certain data with respect to building additions in the Columbus School System?

A. Yes, I did.

Q. And what was the information available to you that you used for that examination?

A. I did that following my examination of new construction. As a result of that analysis, I followed the same general pattern in examining the new additions. I used primarily Plaintiffs' Exhibit 22, which is a record of all the new buildings and the additions and the remodeling since the beginning of time except of the last — I can't

remember [3426] exactly how far that goes. The last two or three years, I guess.

We had PX23, which ran through 1969 which had to do just with openings, but we also had a document, Plaintiffs' Exhibit 68 called a Building Program Progress Report for Columbus Public Schools dated January 5, 1976, which describes the current building program that is going on, and it lists all the schools that are involved in this program, at least that were at one point — I suppose as of January 5, 1976 — and classifies them by school level and then describes the status of the building project as of that date, and it defines whether they are new schools, whether they are additions or whether they are remodeled schools.

Q. All right. Did you obtain certain other information from the testimony of Dr. Merriman with respect to status of a number of the current projects?

A. Yes. This document was basically brought up to date, I believe, by his testimony, and I used that information. At the time that was made available to me, I already completed an additions analysis, and I revised it in light of that testimony.

Q. All right. In the period 1950 to 1959, did you utilize the same racial estimate that you had with respect to new school construction?

A. Yes, I did.

[3427] Q. And again when the information that you had as to the racial enrollment of the school was a close question, what step did you take in terms of calling that school either racially identifiable or nonracially identifiable?

A. In those cases, to the best of my knowledge, I did not classify those schools as racially identifiable.

Q. All right. Based on an estimated enrollment of approximately 15 percent black in the system in 1950, you used a plus or minus five percent; is that correct?

A. That is correct.

Q. And from 1957 forward, you used plus or minus ten percent?

A. Yes, sir.

Q. And beginning in 1964, you used plus or minus fifteen percent; is that correct?

A. That is correct.

Q. How many additions to schools were there in the period 1950 to 1959?

A. Sixty-four I counted.

Q. And how many of those additions were made to schools which were racially identifiable schools?

A. Thirty-six out of sixty-four.

Q. And of those 36 schools, how many of those schools remained racially identifiable in 1975?

A. Twenty-six of them. Two of them had closed, and they [3427A] had closed as racially identifiable schools in the same way as they opened.

[3428] Q. All right. Did you examine the data from 1960 to 1963?

A. Yes, I did.

Q. And in that period, '60-63, how many school additions were there?

A. There were 28 according to Plaintiffs' Exhibit 22.

Q. And once again I take it you are not including in these numbers remodelings or new bathrooms and things of this sort; is this correct?

A. No. Plaintiffs' Exhibit 22 just simply lists the schools and the dates of additions. It does not describe the additions. I had no data prior to the current building program in which additions were described as so many classrooms, multipurpose room, library, this sort of thing. There were simply — Plaintiffs' Exhibit 22 has all the schools in three columns. The first one is new buildings or erections. The second one is additions, and the third one is remodeling. I made the assumption that the addi-

tions column had to do with construction that was not remodeling.

Q. Dr. Foster, let me — perhaps this is a little out of order — ask you if you rebuild a school, in this case either a new school or a substantial addition to a school, on the same site and that school is already a racially-identifiable school, what effect, if any, does that have with respect — and again assuming no substantial [3429] boundary changes made, what effect, if any, does that have in terms of maintaining segregation?

A. Well, it simply locks in a segregated situation and makes it much less likely that it will ever be changed.

Q. All right. And the new constructions which you testified with respect to, were a number of those buildings built or rebuilt on an existing site or approximately the same site?

A. I couldn't testify to that directly. I assume they were because some of the schools I visited in the last couple of months, that is to say, I didn't walk in, but I have been around them and they were on the same sites.

[3430] Q. So you actually made a visual inspection of all the — most of the schools in the Columbus School System, did you not?

A. Well, not most of them. There are an awful lot of them. I can say maybe about half of them.

Q. And did you go particularly in areas where you were concerned about questions that arose from the examination today?

A. For the most part, yes.

Q. Of the 28 schools, additions to schools in 1960-63, how many of those were additions to racially-identifiable schools?

A. There are 21, by my count.

Q. And how many of those schools are racially identifiable in 1975?

A. 16 out of the 21.

Q. Turning to the period 1964-1975, I believe at that point you were using the plus or minus 15 percent; is that correct?

A. Yes, sir.

Q. And in this period, you had the HEW reports and other enrollment-by-race data and the summary form from the School System; is that correct?

A. Well, the figures I used were not directly from those reports, but from Plaintiffs' Exhibit - I don't remember. [3431] 1975-76 was PX 11, and I think they decreased in number from that in some of the earlier years, like PX 1 to 11, perhaps, as I remember it.

Q. All right. In the period '64 to '75, how many additions to schools were there?

A. 84 by my count.

Q. And how many of those additions were to racially-identifiable schools?

A. 71 out of the 84.

Q. And those schools, again allowing for the fact that things in '75 haven't had time to make a change, of those schools, how many schools are there which remain racially identifiable in 1975?

A. 62 out of the 71, and one of the schools was closed, and the year before it was closed it was racially identifiable as when it was opened or when it had the addition.

Q. There were substantial changes made in 1975, weren't there?

A. Yes, I think the exact number was 26.

Q. The totals for the period 1950-1975 in additions to schools comes to what, Dr. Foster?

A. 176 additions.

Q. And in how many of those additions were the schools racially identifiable?

[3432] A. 128 out of the 176.

Q. And again, with the understanding that 26 of those were made in 1975, how many of those remain racially identifiable in 1975?

A. 104.

Q. In using the information you obtained from Dr. Merriman's testimony, did you — let me give you a hypothetical situation.

Let's assume that the witness indicated that they converted two rooms of an existing school to other uses but also added two new classrooms. Did you consider that addition to the school for the purposes of your analysis?

A. I'm not sure what your hypothetical describes, but there was one case, I believe it was Bretnell Elementary, that had a situation — they added two rooms and lost two rooms, and I didn't count that. The only schools I counted in correcting my information on the basis of Dr. Merriman's testimony were ones that added classroom space.

Q. Dr. Foster, did you examine the data of the Columbus School System with respect to principals?

A. Yes, I did. Well, some of it, not all of it, but selected years.

Q. All right. And what years did you look at?

A. 1968-69, 1972-73, and that's just one school year in each case, and the year 1975-76.

[3433] Q. Turning first to 1968-69, what source material did you use?

A. Plaintiffs' Exhibit 448-A and Plaintiffs' Exhibit 449-A were — I also used the original on that, and I don't have the — the source. I believe that was Form 101, HEW Form 101 for racial reporting, but I don't have the PX number on it, if there is, in fact, one.

Q. All right. Did you find certain corrections that you had to make to PX 448-A and 449-A?

A. Well, of the three years I examined, one of the years I did make some corrections, and I went completely

through the HEW 101 form to do that. The other two years — that was 1972 to '73.

In '68-69, I spot-checked, cross-checked the HEW Form, and in '75-76, I cross-checked the Equal Employment Opportunity Commission Form which was used for that year as a basic data source.

Q. All right. For the period 1968 to '69, what did the data show with respect to the assignment of black principals?

A. In 1968-69 school year as to the assignment of black principals, let me simply summarize my findings and then, if you want something more, you can ask.

Of 94 racially-identifiable white schools, and this is figured again on the basis of plus or minus 15 percent [3434] from the norm at the different levels where that was available, high school and junior high or elementary, of 94 racially-identifiable white schools reporting the use of principals, 94 of them had white principals. In other words, no blacks were assigned to these 94 white schools as principals.

In the same year, there were 24 schools not racially identifiable reporting principals, and all of these 24 schools not racially identifiable had white principals. No blacks were assigned as administrators to those schools.

In the same year, there were 43 racially-identifiable black schools reporting principals in use, and 30 of those had white principals, 13 had black principals.

In sum, there were 13 black principals in the system that year, according to my figures, and they were all assigned to racially-identifiable black schools.

Q. Do you have the assistant principals for that same year?

A. Yes, I do.

Q. How many black assistant principals were there at the 95 racially-identifiable white schools — I'm sorry — 94 racially-identifiable white schools?

A. You're right. There were 95 racially-identifiable white schools. The 94 figure was simply — one of them did not have a principal assignment.

[3435] At the racially-identifiable white schools, no black assistant principals were assigned in that year.

Q. At the integrated, desegregated or non-racially-identifiable schools, according to your definition, we have 25 of those schools in 1968-69. We have 24 white principals and zero black; is that correct, and one that there was no designation?

A. That is correct, yes, sir.

Q. All right. How many assistant principals were there who were black at these non-racially-identifiable black schools?

A. There was one black assistant.

Q. And how many white?

A. 14 white assistants.

Q. Now, turning to the racially-identifiable black schools in 1968-69, how many of those 43 schools, how many of those had white assistant principals?

A. 12 of them.

Q. And how many of them had black?

A. 5 of them had black assistant principals.

Q. I take it at least from the data available to you not all of these schools had assistant principals; is that correct?

A. That is correct. Most of the — I guess all of the secondary schools had assistants, and ordinarily, maybe [3436] half a dozen of the elementary schools. I assume if they were fairly large elementary schools, they may have had assistant principals. City systems usually have a cutoff point for a population. Whenever it reaches 800 or 600 or whatever, you're allowed assistant principals.

Q. All right. Would you look at the same data for the 1972-73 school year and tell me how many racially-

identifiable white schools there were and how many of them had black principals?

A. There were a total of 86 racially-identifiable white schools. 77 of them reported having principals. 76 had white principals, and one of them had a black principal.

Q. What was the breakdown at the racially-identifiable black schools?

A. There were 47 racially-identifiable black schools — I beg your pardon. I have the wrong set of figures. I was reading you 1975-76. Can I go back to the white schools?

Q. Yes, 1972-73.

A. All right. In 1972-73, there were 89 racially-identifiable white schools. 84 of them had white principals, and none of them had black principals. Five of them did not have a principal.

Q. Five of them did not have principals showing in the [3437] data?

A. Yes, sir.

Q. All right. Let's just stick to that point with the racially-identifiable white schools. What about assistant principals in those schools?

A. Those schools reported a total of 28 white assistant principals and no black assistant principals. That didn't mean that all of them — there were 28 schools that had assistant principals, but the total number of assistant principals in those schools was 28 whites and no blacks. That is to say, one school might have had two or three assistant principals.

Q. Okay. And at the schools which were non-racially identifiable, I believe there were 30 of those?

A. That's correct.

Q. And how many black principals were there in 1972-73?

A. There were 2 black principals in those 30 schools.

Q. And 27 whites?

A. That's correct.

Q. And there was one, I believe, that was not applicable? You didn't have any data?

A. No, there was one that did not report a principal, and there was also a school that we did not have data for in those figures.

Q. What about assistant principals at the [3438] non-racially-identifiable schools?

A. The 30 schools reported a total of 12 white assistant principals and 5 black assistant principals.

Q. The racially-identifiable black schools had what proportion of black and white principals?

A. There were 47 identifiable black schools. 21 of them had white principals, 22 had black principals and 4 of them reported no principal.

Q. And the assistant principals?

A. A total of 13 white and 11 blacks.

Q. All right. Now, do you have the data for 1975?

A. Yes.

Q. Have you summarized that 1975 data?

A. All right. In 1975-76, the current school year, there are 87 racially-identifiable white schools and 9 of them reported no principal. There were 76 white principals and 1 black principal in the schools.

The same racially-identifiable schools reported 23 white assistant principals and 3 black assistant principals.

The schools that were racially identifiable as black schools, the current year, were 47. 20 of these reported white principals, 25 reported black principals, 2 did not have principals.

In terms of assistant principals for these racially-identifiable black schools, a total of 12 white [3438A] assistant principals were reported and 8 black assistant principals.

[3439] A. (Continued) For the current year for schools that were not racially identifiable, we had a total of 32 of them. Four reported no principal. Twenty-four

reported white principals, and four reported black principals. In this group of 32 nonidentifiable schools racially, total assistant principals, 15 white were reported and four black.

Q. Can you summarize the results of your analysis and breakdown?

A. Well, my opinion is that it seems to me that the figures speak for themselves in that the appointment of principals is essentially done along racial lines. The first black principal we found serving in these three years that I analyzed in any capacity was in 1968-69. That is in any nonwhite school, either a nonidentifiable school racially or a black school — let me start over again.

The first black principal that was assigned to a white school or a nonidentifiable school was in 1968-69 when we had one black assistant principal assigned to South High School. Then in 1972-73 we had two black principals assigned to racially nonidentifiable schools as principals, and we had five blacks assigned assistant principals to racially nonidentifiable schools, but in 1972-73, still no black principals or assistant principals in identifiable white schools.

[3440] Now, in 1975-76, the current year, we find one black principal in a racially identifiable white school. If my memory serves me correctly, that's in the Oakmont School. Furthermore, there are three black assistant principals assigned to racially identifiable white schools.

I think the pattern is fairly clear that over this period of time that was analyzed, black principals are by and large assigned to black schools, and whites are assigned to white schools, but also to administrate the racially non-identifiable schools and, to a large extent, administrate nearly half of the black schools.

Q. Dr. Foster, do you have any objections to white principals being assigned to black schools?

A. No.

Q. Does the pattern you are speaking to deal with the failure to assign black principals to racially identifiable and white schools?

A. Well, in terms of analyzing a system for segregation or for discrimination or however you want to classify it, if you have a pattern where principals are assigned along racial lines, then to that extent you have a segregated system. One of the ways you can determine whether schools are segregated or not is if they do assign personnel along racial lines.

I think clearly the evidence indicates that as far [3441] principals are concerned, Columbus has done this and continues to do it. They are beginning to make very small inroads, and I understand you just don't go out and fire white principals and put in black principals or whatever, but there is nothing that would indicate over the past several years that — if they wanted to desegregate the schools as far as administrators are concerned, they could exchange some of the white principals and black principals in their assignments. Schools do this quite frequently. I think this is a typical — if I may further analyze it — a typical procedure for schools that are beginning to desegregate in a very small way, that is, they begin to move maybe one black principal in the total system into a white school, sort of break the color line, and then when everybody feels safe about that, they make another advancement.

Q. Dr. Foster, you mentioned in the very beginning of your testimony, I believe, that the assignment of faculty, teaching faculty, and I assume you included administrators, to schools is one of the things you look at to determine whether schools are segregated?

A. Yes, sir.

[3442] Q. I believe you also used the term whether a school was racially identifiable rather than segregated?

A. I believe I did, yes, sir.

Q. Does a pattern of assignment of teaching staff to schools over the years in such a way as to assign black teachers to black schools and white teachers to white schools, does that tend to identify schools as schools intended for blacks and whites?

A. Certainly.

Q. All right. Does that sort of identification of schools, is this something that carries forward, has a short or a long-term effect?

A. Well, I think it is like every segregative pattern, it doesn't wipe away overnight.

Q. In the Columbus School System I believe you have been made aware that there was action taken by the Ohio Civil Rights Commission which resulted in the reassignment of teaching faculty as opposed to principals, which we have already discussed. In the context of the history of such racial assignment of teaching faculty, would the reassignment of teachers without the concomitant reassignment of principals and pupils eliminate the effect of the original racial assignments?

MR. PORTER: Objection.

THE COURT: Overruled.

[3443] A. Not in my opinion, no, sir.

Q. In your experience, Dr. Foster, you have worked with school systems that have gone through the process of desegregation in what are sometimes called first generation and second generation problems?

A. Yes, sir.

Q. That's one of the responsibilities of the Center you are associated with; is that correct?

A. To work with what we called second generation problems following desegregation of faculties and pupils, yes, sir.

Q. And have you personally observed as well as studied in the literature any continuing effect of racial assignments of faculty?

A. Very much so, and even particularly administrators and central office personnel.

Q. Dr. Foster, did you make some examination of the use of rental facilities in the Columbus School System?

A. Yes, I did.

MR. LUCAS: If the Court will indulge me just a moment.

Q. (By Mr. Lucas) What data did you use to examine these rentals?

A. I used some spread sheets which were given to me of data collected or put together from the response to [3444] Plaintiffs' third interrogatory, No. 60, I believe.

Q. Did you also refer to PX 358?

A. Well, I think that's the Plaintiffs' Exhibit number for those responses is my understanding.

Q. What school rentals did you examine and for what periods?

A. Primarily rentals from the years that racial enrollment data were available. This would have been from 1964 to 1975.

Q. And what schools did that involve?

A. This would include rentals for Cassidy pupils in 1972-73, Chicago pupils in '64-'65, Hamilton, 1970, Highland Elementary School, 1964-65 and 1970, Kent Elementary School, 1970, Mifflin Junior-Senior, 1974-1975, South Mifflin Elementary from 1972 and 1973, and the Sullivant Elementary School for 1970.

* * * * *

[3447] Q. Dr. Foster, have you made an analysis of certain rentals utilized by the Columbus School System?

A. Yes, I have.

Q. Can you begin your explanation of the analysis with the 1975-76 information provided to you?

A. All right. My data came from PX 358 which was the response to Plaintiffs' Third Interrogatory and it lists the rentals. I started with 1975-76, the current year and

worked backwards. The only rental there is of record this year is a Mifflin Junior High School — Junior-Senior High School which was also a holdover from 1974-75. That is to say there was a rental from Mifflin Junior-Senior in '74-75 and also the current year.

[3448] Q. What do you understand the rental to be to use this term?

A. My understanding in these connections was that the rentals were used for purposes for taking care of over-capacity in the sending school situation.

* * * * *

[3449] In 1974, when this rental began, our records indicate that Mifflin had a capacity of 1,000 and an enrollment of 1559, and it was 57.7 percent nonwhite.

[3450] A. (Continued) Then in 1975 Mifflin Junior-Senior had a capacity of 1,200 by our records and an enrollment of 1,515. In the year 1974 and 1975 there was some space available in junior high schools in the system. The Buckeye Junior High School, which is approximately 10 miles to the south of Mifflin in the extreme south end of the district, had available about 89 spaces according to its capacity, and it was virtually all white.

Crestview, which is much closer to Mifflin, about four or five miles directly to the west of Mifflin in the sort of north central part of the Columbus District, had a capacity in 1974 of 86 under-utilized, and Wedgewood which is down in the western portion of the district, extreme western portion of the district about I would guess 11 or 12 miles from Mifflin, it had a population under utilization of 145. These three schools were ranged from 0.3 percent non-white in the case of Buckeye to 9.4 non-white in the case of Crestview. Totaling them together would have seating capacity not utilized of approximately 328 pupils.

In 1975 again Buckeye which is to the extreme south of the district had 219 seats available and was 2.4 percent non-white. Westmoor which is again in the western por-

tion of the district had a capacity of 84 which was unused, and it is 10.3 percent non-white. Yorktown which is in the extreme east part of the Columbus District is 7.8 percent non-white [3451] in 1975-76 and had seating available of 197. These three schools which were identified as white schools had a total capacity of 500 seats, according to our figures.

Q. If we can go back, in 1974 there was a capacity available of 320 and an excess at the Mifflin Junior High of 539; is that correct?

A. That's correct, yes, sir.

Q. And in 1975 there was space available for 500 and an excess in enrollment at Mifflin of 315?

A. That is correct.

Q. Now, Dr. Foster, is it clear from the data whether or not the rental space is included in the capacity figure for Mifflin?

A. I assumed that it was not, no, sir, and that, furthermore, the enrollment listed for Mifflin included those children who were assigned to the rental space.

Q. Dr. Foster, you are aware, are you not, of the recommendation of the report of the Feasibility Study Commission of the financial needs of the Columbus Public Schools of January 1976, Plaintiffs' Exhibit 65 which indicates that there should be closing of two of the three junior-senior high schools?

A. I have read parts of that document, yes, sir.

* * * * *

[3452] Q. Dr. Foster, were you aware that such a recommendation had been made?

A. Yes, sir.

Q. All right. Go ahead. I think the question before you now is: Were there any other —

A. Yes, I understand.

Q. Okay.

A. There was a rental for the Innis-Cleveland area, which is — I assume was awaiting the opening of the new school at Innis and that this space was rented prior to the opening. According to PX358, these pupils were also housed at the Tuskegee Housing Alumni Foundation.

[3453] Q. All right. For the period 1973-74, were there other rental spaces available other than the South Mifflin rental that you referred to?

A. Well, in 1973-74, South Mifflin Elementary had a rental and also Cassady Elementary. The Cassady Elementary had started the year previously in 1972-73 and continued for two years, and '73-74, the South Mifflin — well, South Mifflin also was in '72-73, so both of them rented space for those two years.

Q. What were the enrollments and spaces available at that period of time?

MR. PORTER: If the Court please, for the purpose of the record, I would object to the question, and the basis of my objection is that they have not laid the proper foundation for the question. I think that if he's going to give this type of testimony that we should know from whence he's getting the information so that it will simplify subsequent cross-examination, if any.

THE COURT: I think that's right. Would you ask him where he got the information and supply us that?

[3454] Q. Is it the same as the answer that you gave at the beginning of the testimony as to Plaintiffs' Exhibit 358, Dr. Foster?

A. Right, plus the enrollment data, I've already testified where I got my basic enrollment data through the years, and the capacity data was from a number — a variety of sources, including the Ohio — well, that's fairly complicated, but I've made out a capacity spread sheet for the entire period of the system, and that has about 12 different sources, I believe, which I have fully documented.

Q. All right. For Mr. Porter's convenience at note-taking, could you locate that and give us those sources now?

A. Yes. Do you want me simply to read the documents?

Q. Yes.

A. All right. That I derived my capacity figures from?

Q. Right.

A. PX 58, the title is "A School Building Survey of Columbus, Ohio." It's the Ohio State Report in May, 1959, and the pages were 68 to 75.

PX 59 is a study of the public school building needs of Columbus, again by the Bureau of Research at Ohio State for 1950. The pages here were pages 41 to 47 and 107 and 108.

PX 60, another Ohio State study for May, 1953, pages 51 to 58.

[3455] PX 61, which is the Ohio State 1955-56 study. I don't seem to have the pages noted for that.

PX 62, the 1958-59 Ohio State study, July, 1959, pages 48 to 54.

PX 64, the 1963-64 Ohio State study, published in June 1964, pages 54 to 60.

PX 63, the 1967-68 study at Ohio State, published March 1, 1969, pages 66 to 74.

[3456] A. (Continued) PX 66, capacities at junior-senior and senior high schools in the permanent secondary school buildings, November 1971.

PX 65 which is reported a Feasibility Study Committee on the financial needs of the Columbus Public Schools, January 27, 1976, pages 49 to 53. This included the elementary study conducted by the Division of Administration in October 1975 and secondary estimated October '75 by the Division of Administration, page 58.

PX 43, the reference manual on the May 4, 1971 School Board issue and operating levy, ten general facts about the Columbus Public Schools, pages 10-6 to 1015.

Q. And from that you compiled a spread sheet for the various years of the enrollment figures for the various schools; is that correct?

A. That's correct.

Q. And whenever you refer to enrollment, it comes from that source?

A. That is correct.

MR. PORTER: Thank you very much.

MR. LUCAS: We would be happy to make that sheet available to counsel.

MR. PORTER: Yes, I would like to see it.

Q. (By Mr. Lucas) Where did we leave off, Dr. Foster? Cassady, I believe.

[3457] A. South Mifflin and Cassady. All right, South Mifflin Elementary which was annexed in 1971 —

Q. Excuse me. You placed the 1975-76 overlay that is PX —

A. PX 278.

Q. All right. Would you outline the boundaries of the attendance area first, please?

A. For South Mifflin?

Q. Yes.

A. It is just below where the Mifflin Junior-Senior High School is in the sort of north central portion of the district. This had a rental facility in '72 and '73. In '72 the South Mifflin Elementary was 347 over capacity and was 79.9 percent non-white. In 1975 it was 312 over capacity, and it was 83.4 percent non-white.

I made an analysis of some space that was available in schools which were predominantly of the opposite race. In 1972 Northwood, which is in the north central — I can't seem to locate it. Everything north is north anyway. It is about three miles, I believe, from South Mifflin Elementary. For some reason I still can't seem to locate it on the map.

Northwood was 2.2 percent non-white and had a capacity available of 88 seats.

Kenwood which is about five miles to the west of [3458] South Mifflin over in the western part of the — northwestern part of the district was 2.0 percent non-white and had a seating capacity available of 102 seats. This was in 1972.

Medary which is about three miles from South Mifflin — all of these schools I am speaking of are in this general area to the north and west of the Columbus District. Medary is about three miles by the way the crow flies from South Mifflin and was 1.7 percent non-white with 58 seats available.

Northridge, about three and a half miles from South Mifflin, had 61 seats available with no non-whites. That's a little more towards the center of the district but in the north.

Oakland Park in the same region, about three miles from South Mifflin, 1.2 percent non-white had 54 seats available.

So in 1972 these five virtually all white elementary schools had 363 seats or spaces which would have been available.

[3459] Q. How many overcapacity was the South Mifflin Elementary at that time?

A. In 1972, 347 overcapacity. In 1973 when South Mifflin was 312 overcapacity, the same five schools had 553 seats available. Northwood had 119. Kenwood had 145. Medary had 112. Northridge had 90, and Oakland Park had 87.

In 1973 these five schools ranged from 0.5 percent non-white at Northridge to 1.7 percent non-white in Medary.

Q. All right. Did you perform the same analysis with respect to the Cassady Elementary?

A. Cassady which is not far from South Mifflin, a little in the north of the district and on the extreme east, again, Cassady was part of the Mifflin annexation in 1971 in this general area. Space was rented for Cassady over-

capacity in 1972 and 1973. In 1972 Cassady was over 352 spaces. Within a radius of five to six or seven miles there were eight elementary schools, almost all of them virtually all white — well, all of them virtually all white, none of them over 3.6 percent non-white, which had a combined capacity available of 563 spaces. This included — all these schools are in the north or north central, northwestern part of the Columbus zone. This included Beaumont which was 3 percent non-white and had 35 seats. Maize Elementary which was 1 percent non-white had 72 seats. Marburn, 2.5 percent non-white had 36 seats. Homedale, 3.6 [3460] percent non-white had 122 seats available. Michigan, 3.6 percent non-white, had 45 seats available. Valley Forge, 0.9 percent non-white, had 63 seats available. Kenwood had 102 seats available, 2 percent non-white, and Northwood had 2.2 percent non-white and 88 seats available.

[3461] Q. Now, what was the excess enrollment at capacity in 1971?

A. In Nineteen what?

Q. 71.

A. A hundred and thirty-four overcapacity.

Q. And it jumped to 362 in '72?

A. That is correct.

Q. All right. What happened in 1973? Did it continue to increase?

A. It continued to increase to 416 overcapacity.

Q. And capacity for both years or all three years has shown as what?

A. Four hundred and thirty-five seats.

Q. All right. And in '73, the percentage of black at capacity was what?

A. 48.6 percent non-white.

All right. In 1973, in a group of six schools, including Medary, Beaumont, Maize, Valley Forge, Homedale and Kenwood, ranging from three miles to approximately seven and a half miles the way the crow flies from Cassady, there

were 639 seats available. All of these schools — well, these schools range from 1.3 percent non-white at Valley Forge to 3.1 percent non-white at Homedale in 1973.

At Medary, there were 112 seats available; at Beaumont, 100; at Maize, 103; at Valley Forge, 87; at [3462] Homedale, 92; and at Kenwood, 145.

Q. That gives you a total of 639, and what was the total overcapacity at —

A. 416 in 1973 at Cassady.

Q. All right. And did this continue to increase in 1974?

A. In 1974, there were 526 overcapacity at Cassady.

Q. And what had happened to the racial enrollment?

A. It had climbed to 55.9 percent non-white. They show no rentals, however, in 1974, and I assume by that time the addition that increased their capacity from 435 to 630 was probably in use to take care of that increased enrollment.

Q. All right. Does the 1975 data show that increase in capacity at Cassady?

A. To 630, yes, sir.

Q. All right. And what happens to the racial enrollment between '74 and '75?

A. It increases at Cassady from 55.9 percent non-white to 89.3 percent non-white.

Q. In 1972-73, was there another school in the rental, McGuffey School?

A. Yes. It's listed in the PX 358 as the McGuffey Junior Elementary.

[3463] Q. And this school was at the — what racial composition in 1972-73?

A. 34.7 percent non-white.

Q. And I take it you made no analysis of alternatives available of a desegregative nature at that point; is that correct?

A. Because of the racial composition, I did not.

Q. All right. In '71-72, in addition to the McGuffey School, was there another junior high school involved?

A. Clinton Junior High School rented facilities in 1971-72.

Well, this will give it close enough, I believe, if we go back.

PX 299, the junior high school for '75-76 will show the Clinton Junior High School, which is to the — nearly to the extreme north of the district and in the central part.

Q. What happened to the Clinton Junior High at that period of time in terms of rental?

A. In 1971, at Clinton, which was 1.7 percent non-white, it had an enrollment of 1,249 and a capacity, according to my figures, of 1,000, which leaves it 249 seats over capacity.

In that year, the system was admittedly a bit tight for space, but in Mohawk Junior-Senior High School, [3464] which is to the south of the system, just across from what's now the Interstate and about, by my estimate about seven and a half miles from Clinton to the north at Mohawk.

At Mohawk, there were 194 seats available in the junior-senior high school.

Q. What was the percentage of black at Mohawk?

A. The percentage black at Mohawk in 1971 was 67.6 percent.

Q. All right. Were there a number of elementary schools in the period 1970-71 where there were rental spaces?

A. In 1970-71, there were four elementary schools that rented in addition to the McGuffey Junior-Elementary, which was still renting but which I did not make an analysis of because it was 20.6 percent non-white.

Q. All right.

A. There was Hamilton Elementary, Highland Elementary, Sullivant Elementary and Kent.

I again placed the elementary overlay for '75-76, which is Plaintiffs' Exhibit 278, over the 1970 Census, PX 252. I think these schools will be found on it.

First of all, Hamilton, which is in the center of the district, a little to the north, in 1970, there was only 8 over capacity, according to my figures. There was 93.5 percent black — or non-white, rather.

[3465] The same year, Highland, which is to the west of the district out Broad Street a way, was 68.9 percent non-white and an overcapacity of 63 pupils.

In 1970, Kent Elementary, which is in the center part of the city and a little to the south, it's a mile or two south of Broad Street, Kent was 90.1 percent non-white and 126 pupils overcapacity.

And in the same year, Sullivant, which is a little southwest of the central part of the city, of downtown, Sullivant Elementary was 62.2 percent non-white and had 65 seats overcapacity.

If you add these four schools together, that gives you a total in 1970 of 262 of spaces that were needed.

At the same time, in 1970, I found at least six white elementary, racially identifiable white elementary schools which did have a considerable amount of capacity available. One of these was Kenwood, which is in the northwest part of the district, which was zero percent non-white, and it had 151 seats available.

Q. What was its enrollment, according to your figures?

A. Its enrollment was 255, with a capacity of 406 according to my figures.

Q. And where did you get the enrollment data for all of this?

A. From 1970 — pardon me a second. In 1970, this [3466] would have been from Plaintiffs' Exhibit No. 6.

Northwood, which is in the central northern part of the system, in 1970, it was 3.3 percent non-white and had 44 seats available.

At Beaumont, which is in the northern-eastern part of the system had 32 seats available and .2 percent non-white.

Bellows, which is down in the southwestern part of the Columbus District had 134 seats available, 5.5 percent non-white.

At Parsons, which is in the south part of the Columbus School District, it had 107 seats available and no non-whites in attendance or in enrollment.

Stewart, which is to the central and southwestern part of the system, had no non-whites, and had 38 seats available.

Q. Let's go back to Parsons. What was the enrollment at Parsons?

A. Parsons had an enrollment of 357, according to my figures, with 347 capacity.

[3467] A. (Continued) These schools ranged, if you could match them up in the same general geographic area with the schools that were over capacity and the schools that were under capacity, I think you could have put them together with a reasonable amount of travel distance because there were some of both in the south and some in the western part of the district and some in the north and north central part.

Q. All right. Were there rentals in '67 and '68?

A. There were two rentals listed in '67 and '68. There was Ohio Elementary and Windsor Elementary.

I made an analysis of these and found that in 1967 when Ohio rented space, it was 121 over capacity, and in 1967 when Windsor rented space, it was 110 over capacity. Windsor also rented space in 1966, and it was 221 over capacity.

Q. All right. Looking at under-utilized schools, did you find very much in the way of excess capacity at that point?

A. In 1967 I did not find enough spaces available in opposite race schools to warrant a decision that space was available of that nature. There could have been perhaps 70-75 pupils moved, but not enough for the number needed.

* * * * *

[3473] Q. Dr. Foster, did you examine all of the optional attendance areas in Columbus that were available in the data?

A. Some of them much more closely than others, but my main intent was to examine the ones that had — that in my opinion had racial implications, so my examination of some of them which obviously weren't racial was very cursory.

Q. All right. Dr. Foster, in your examination of the optional attendance areas, did you of necessity also have to examine boundary changes that took place over a period of time?

A. In connection with those optional zones, yes, sir.

Q. And was it also necessary to interrelate the opening and I suppose on occasion the closing of schools during that same examination?

[3474] A. In some instances, yes, sir.

Q. All right. Did you also have to examine the changes at other grade levels other than the area where the option existed?

A. I think if I interpret your question correctly, there were some options which I judged to be racially oriented which were true at the elementary level, and the same territory was true at the junior high school level and also at the senior high school level.

Q. All right. Did you examine the Fair Elementary-Fairmoor Elementary optional attendance area?

* * * * *

A. I should first apologize to Mr. Lamson. In his absence, we curled the census maps the wrong direction making it a little more difficult.

The Fair Elementary-Fairmoor Elementary, using the 1960 Census, PX 251, as the base map and the '59-60 elementary overlay, PX 263 on top of that, just to the east of the district at — and Fair is just to the east of [3475] the center of the city and Fairmoor is across Bexley just to the east of Bexley. Directly east of Fair Elementary, I used these two documents, PX 263, PX 251. I used the enrollment data, particularly PX 12, which gives the percentage non-white for the years, I believe, '64, 1965 and 1966, and various other data on enrollment and percentage, racial percentages through the years of the option.

Q. All right. Were you able to determine from the data available to you the year the option began?

A. Yes. The option began in 1959-60, and continued through last year, 1974-75.

Q. All right. At its inception, were you able to determine the enrollment of the school itself, or were you able to determine the underlying racial composition of the attendance area?

A. Well, we did a combination of that. One is we knew the racial enrollment in 1964, and we extrapolated that a bit from that to get some idea of what the racial percentage was in '59-60, and then we had the '59 overlay on top of the '60 Census, and that also contributed to our knowledge of the ethnic situation.

In 1960, according to the census map, the optional zone area, which is bounded on the north by Broad Street and on the east by Preston, down about two-thirds of the way and then Parkview for the balance, on the south by Fair, [3476] is for the most part — for all the part, as a matter of fact, and on the west by Alum Creek.

This optional area on the 1960 Census is entirely white, which is 0 to 9.9 percent non-white.

Q. Would you look at the black data and see if you can get a more refined reading as to both the number of people living in that area and their races?

A. The race indication was that this was indeed an all white area. The block data for the 1960 Census gave us the number of people, not the number of pupils, but the number of total people in the zone. There were six blocks which had people in the optional zone.

Block 1 had 11 people in four houses. Block 2 had 27 people in seven houses. Block 3 had 42 people in sixteen houses. Block 14 had 53 people in nine houses. Block 15 had 22 people in six houses, and Block 16 had 4 people in one house. This made a total of 159 persons in 43 houses, and they were all white, according to the census data.

Q. All right. What was the underlying attendance area of the schools to which the option was made available?

A. On the west, the pupils could go to Fair. On the 1960 Census, Fair to the extreme west has three or four white blocks, 0 to 9.9 percent non-white — or black, rather. It's mostly made up, otherwise, of Franklin Park, the white area [3477] to the northwest, and all the blocks are either orange, blue or green, ranging from ten percent non — ten percent black to 89.9 percent black. The option to the east, Fairmoor, as of the 1960 Census, has no blocks other than white blocks.

Q. By white, you mean 09.9?

A. That's correct. This would be borne out by the 19 — by the PX 12, which gives the racial data for 1964 as Fairmoor at 0.1 percent non-white, so I would assume that it would be safe to say that in '59, when the option was started, Fairmoor was virtually all white.

Q. What was Fair in 1964, the school from which the option was carved?

A. 92 percent non-white in 1964.

[3478] Q. And in the 1960 Census, the total population, as you've already described, it's orange, blue and green, the major portion?

A. Yes. That would indicate that it was — other factors equal, that it was getting blacker by the year.

Q. Is there an unusual factor about this option relating to its non-contiguous nature?

A. Well, it is a bit unusual in that it jumps the City of Bexley and the option is to schools on either side east and west of the City of Bexley.

Q. In your opinion, Dr. Foster, does this option established by the Columbus School System, at least from the records made available to us in the 1959-60 school term and continuing until 1975-76, did it have a racial effect?

A. In my opinion, it did. The option on the face of it would have been set up to permit the white pupils who lived in the optional zone to attend Fairmoor rather than Fair.

Q. Dr. Foster, is this an option which was unusual in nature except other than the discontinuous characteristics or is it a type of option which in your research you have found before?

A. Well, it's very similar to options that are set up to maintain an escape alley for whites as a school area gets blacker and where you have a white area or white zone that is [3479] available to which they can be optioned.

Q. All right. Did you examine the Franklin Junior High School, Eastmoor Junior High School optional attendance area?

A. Yes, I did.

Q. Would you put up the overlays for them?

A. All right.

Q. Have you placed up the junior high overlay for 1959-60?

A. Yes. I'm looking at the base map, again, Plaintiffs' Exhibit 251, which is the 1960 Census, the junior high '59-60, which is Plaintiffs' Exhibit 283.

This optional zone was — started at Fair-Fairmoor in '59-60, and as depicted on the map towards the — just

the east of the center of the downtown area, Franklin Junior High would be the westernmost school, and again across Bexley to Eastmoor Junior High School, directly east of Franklin except for the intervening City of Bexley. This was carved, again, out of the easternmost part of Franklin Junior High School.

Q. All right. Franklin Junior High School, in 1964, had what racial composition?

A. According to Plaintiffs' Exhibit 12, Franklin was 86 percent non-white in 1964.

Q. And Eastmoor?

[3480] A. Eastmoor was 31 percent non-white.

Q. All right. Examining the 1960 Census map, what does the underlying area for the Franklin Junior High area show?

A. Franklin Junior High School, overlooking the '60 Census map, the northwest portion, which would be about, I would judge, a third of the total area, is colored mostly red with a little orange, meaning from the orange 50 to 89.9 percent, the red, 90 to 100 percent black.

[3481] A. (Continuing) Everything south of Broad Street which would be roughly two-thirds of the zone as the elementary is colored some white, some blue, some green, some orange, ranging from the white at 0 percent to 9.90 up to 89.9 percent black.

The option which is Eastmoor Junior High has a rather peculiar configuration going all the way to the extreme east of the district approximately where Yorktown would be at this point, Yorktown Junior High School, and to the north of Whitehall and then back into the northwestern part of the Eastmoor zone just to the northeast of Center City. This is an all white area except for that portion which comes out from the Center City and is blue, orange, red and a couple blocks which are green.

Q. How long did this option continue?

A. This option continued as the elementary through 1974-75. It had some modification.

Q. What were the nature of the modifications?

A. In 1961-62 the option was changed to include an additional junior high school to the east which is Johnson Park. Johnson Park is directly south of Eastmoor Junior and comprises the area at that time to the extreme southwest of the — I mean the southeast of the Columbus District. There are on the census 1960 map in the total area of Johnson Park, there is one pink block or one orange block, [3482] one red block, I believe, and one blue block.

Q. Does that comprise the other half of the areas surrounding the Whitehall —

A. It is to the south and southwest of Whitehall, yes, sir. If you looked at the '61-62 junior high school map which is PX 285, it would simply show an arrow coming out from Franklin or from the optional zone also down to Johnson Park which would indicate a three-way option rather than two.

Q. All right. How long did that particular double three-way option continue?

A. Well, in 1964 the option was for Johnson Park — I beg your pardon. In 1961-62 it changed from Franklin and Eastmoor to Franklin, Eastmoor and Johnson Park. Then in 1962-63 the option changed from Franklin Junior High School to Johnson Park, and it left out Eastmoor. Then the following year in 1963-64 it changed back to the option just between Franklin and Eastmoor, and it continued that way until the end of the option in '74-75.

Q. I believe you described the Franklin attendance zone. What about the optional area itself; is its basic character the same as the one for the elementary?

A. Yes, it is coterminous with the elementary zone.

Q. Did those boundaries, elementary and junior high, remain the same in terms of the optional area through that [3483] period, through 1975?

A. Through the life of the option, yes, sir.

Q. Dr. Foster, are optional attendance areas that have racial effect always between schools, one of which is 100 percent or almost 100 percent white?

A. No, not necessarily. They can be between — well, for an example, it could be between a school that's 90 percent black and 50 percent white.

Q. In your experience, have you found that there is movement by whites to schools with lower percentages of black enrollment in the various communities you have studied?

A. Very definitely, yes.

Q. Is it true even with the so-called magnet programs?

A. Yes. That was particularly true in the Detroit case, magnet schools.

Q. What was the effect in your opinion, Dr. Foster, of the junior high option and its variations with respect to the Franklin Junior High School?

[3484] A. Well, I attempted to develop or to determine some rationale for the year's change with Johnson Park, but I couldn't understand why that was. The total effect of the junior high option would indicate to me the same as the elementary option, and that is that it allowed the white pupils in the optional zone to avoid going to Franklin Junior High School and instead go either to Eastmoor or to Johnson Park.

Q. What was Johnson Park's racial composition in 1964 as compared to Eastmoor?

A. Johnson Park in '64 was 0.37 percent non-white.

O. And it was added to the option in which year?

A. For 1961-62 and stayed in '62-63 and was out again in '63-64.

Q. All right. Did you examine the optional attendance area between East Senior High School and Eastmoor Senior High?

A. Yes, I did.

Q. Would you put up the senior high overlay for the '59-60 school year?

A. This overlay is Plaintiffs' Exhibit 304 and describes — well, on this is a picture of the option at the senior high level which is between East and Eastmoor, East being the school which is just off Broad Street towards the end of town, and Eastmoor again across Bexley and the same [3485] plant as the Eastmoor Junior High School.

Q. Now, East Senior High was what racial composition in 1964?

A. In 1964 according to Plaintiffs' Exhibit 12, East was 95 percent non-white.

Q. And Eastmoor, the school to which the option was given?

A. In that same year it was 11 percent non-white.

Q. The underlying census data at East shows what in terms of color?

A. The East Senior High, about half of it, a little more than half is above, to the north of Broad Street, and that is almost entirely red or some orange, a little white to the extreme north and one or two blue blocks and I believe one green block just north of Broad, which would indicate that it was heavily black in that area. To the south of Broad you have some white blocks, I would judge perhaps a third of the number, and then you have a little bit of everything, green, blue, orange and red, to complete the picture.

Q. And in 1960 in Eastmoor, the underlying color was what?

A. The 1960 Census, Eastmoor was — the portion to the east of the zone, the Eastmoor High School encircled completely the City of Whitehall, and all of that portion [3486] which is in the extreme southeast of the Columbus District, the extreme east and the northeast, as you go out eastward on Broad Street and Main Street, all of that was white except for two single blocks, one of which is

red and one orange. Then to the extreme northwest of the Eastmoor High School zone, as in the junior high school, coming out of the central part of the city, you find some red blocks, some blue blocks, about four green blocks.

Q. Roughly speaking, it formed a doughnut around the Whitehall City; is that correct?

A. That is correct, the attendance zone for Eastmoor Senior High School.

Q. All right, the senior high optional attendance area on the base map, Plaintiffs' Exhibit 251, does that show as white?

A. It shows as all white, yes, sir.

Q. And that is the same area that you previously described in giving the blocks and the number of people in each block from the 1960 Census; is that correct?

A. That is correct, yes, sir.

Q. In your opinion, Dr. Foster, what was the effect of the East Senior High-Eastmoor Senior High optional attendance area?

A. In my opinion, it was a racial oriented optional zone in that it allowed the white pupils who lived in the [3486A] optional zone to attend the predominantly white high school, Eastmoor, and to avoid being assigned to the East High School which was predominantly black or non-white.

[3487] Q. How long did this option continue, Dr. Foster?

A. This option went on until last year. It ended this year and continued through 1974-1975.

Q. Now, Dr. Foster, you have described this same optional attendance geographic area appearing at elementary, junior and senior high school levels. Did you have any data showing how many students there were taking advantage of the option in each particular attendance period?

A. No, I did not. All you can do is make inference from the total population of the optional attendance zone.

Q. The School Board kept the option in the boundary directories for each of those years; is that correct?

A. Yes, sir, I believe so.

Q. In examining that option, Dr. Foster, did you find any capacity reason for such an option, particularly one located in that part of the zone?

MR. PORTER: I would object until he lays the groundwork for it.

THE COURT: Overruled.

A. At the junior high level and the senior high level, there would be, according to my figures, no capacity problem. For example, from 1962 until 1966, Franklin had space probably to house these pupils. They ranged from five under capacity in 1963 to 101 under capacity in 1965. At the same time Eastmoor starting in 1963 had a considerable overcapacity [3488] at the senior high school level through the first four years of the option, at least, both high schools, East and Eastmoor, had considerable amount of capacity, and then it varied at both junior-senior high school levels for the next ten years of the option going back and forth one way and another on capacity. At the elementary level in 1961 through about the first ten years of the option, Fair was in an overcapacity situation. At the same time, Fairmoor was also in an overcapacity situation, but not to the extreme that Fair was. My analysis of this would be that there weren't probably enough pupils at any given level of the three levels in that optional zone to tax the capacity unduly of any of the schools involved.

[3489] Q. Was there another option involving the Franklin Junior High School and Roosevelt Junior High School?

A. Yes, sir.

Q. And when does the data indicate that that particular option began?

A. This option, according to my data, started in 1955-56.

Q. And where was the option carved from?

A. It was carved out of the southern end of Franklin, which we can show, perhaps, with the junior high overlay in PX 281.

[3490] Q. (By Mr. Lucas) Dr. Foster, have you overlay up for the 1957-58 school term?

A. Junior high school, yes. It is PX 281 over Census Map 1960, PX 251.

Q. All right. Is there an option between Franklin Junior High and Roosevelt Junior High?

A. Yes.

[3491] Q. And I believe you testified already that it began in 1955-56, the school term; is that correct?

A. That's correct.

Q. What's your source of that information?

A. At the center of the map, the blue hash marks, Roosevelt to the South and Franklin is to the north, and the optional zone is a one-block area wide, about 18 or 20 blocks long in between the two.

Q. Where did you get the information, Dr. Foster, that the option began in 1955?

A. Out of the '54 and '55 directories. The '55 directory is the first place you find the option. It's not in the 1954.

Q. All right. Does it show up in any of the OSU Studies?

A. It probably did. I don't have a note to that effect, but those options are in one-page maps, usually, in the OSU Studies, and I would assume that it would show up in there, also.

Q. And how long did this particular option continue after the 1955-56 school year?

A. This continued through 1960-61, with some modifications, very small modifications.

Q. All right. Would you explain the option, please?

A. All right. It's carved out of the southern part [3492] of Franklin, which is to the north. The option is bounded on the north by Main Street and on the east by Alum Creek, on the south by Mound Street and on the west by Monroe.

The base census map for 1960 shows the option to be predominantly white in the blocks with one or two green and blue blocks with the white ones, the green being ten to 27.9 percent black and the blue 28 to 49.9 percent black.

[3493] Q. What did the respective districts look like?

A. The Franklin district to the north on the 1960 Census north of Broad Street was almost all orange or red, one or two blue blocks, one green block, a couple white ones. To the south of Broad, which is about half of the geographical portion of the zone, you have a combination of white blocks, blue blocks, green blocks and orange blocks.

The school to the south, Roosevelt Junior High School, in the extreme northern portion of the zone, had a scattering of white blocks, orange blocks, blue blocks and green blocks. Then starting south of Livingston, very few except white blocks. There are two or three green ones and two or three blue ones south of Livingston, indicating a predominantly white area total population-wise as of 1960.

Q. What were the enrollments as of 1964 between Franklin and Roosevelt?

A. PX 12 in 1964, Franklin Junior was listed as 86 percent non-white, and Roosevelt was listed as 40 percent non-white.

Q. Would it be fair to describe the areas described by the option as in a changing area from your examination of the map?

A. That is correct. It is along the portion of the Franklin area that is changing.

Q. All right, and did it begin in 1955, whereas the [3494] Census Map that you have is for 1960; is that correct?

A. That is correct.

Q. Can we place underneath the 1950 Census, please?

All right, we still have the 1957-58 overlay, Plaintiffs' Exhibit 261 now overlaid on Plaintiffs' Exhibit 250, the 1950 Census. The Roosevelt zone as of the 1950 period is mostly white in its underlying color; is that correct?

A. It is all white except for about 8 or 10 blocks to the north and to the west — well, yes, that would be right — which are blue, green, and three orange ones in the extreme northwest.

Q. And these boundaries again as of '57-58, the Franklin School location is above that area in an area that is apparently changing as of the 1950 Census; is that correct?

A. That's correct, because the color line is at Broad Street primarily, and south of Broad you have a mixture of primarily green and blue blocks with a predominant number of white ones in the 1950 Census.

[3495] Q. All right. I show you Plaintiff's Exhibit 61, the 1955-56 Study, Public School Building Needs, Columbus, Ohio, referring you to page 18, figure 3, grades 7 through 9, and ask you if the option appears on that map?

A. The option does appear, yes, sir.

MR. PORTER: Could we have the reference again, please, the exhibit number?

MR. LUCAS: Sure. 61, page 18, figure 3.

MR. PORTER: Thank you.

Q. All right. The students attending Franklin were given an option to attend the Roosevelt School under this option, as you understand it?

A. Or Franklin, yes, sir.

Q. How many blocks long was this option?

A. I believe I testified about 18 to 20 blocks long and one block wide.

Q. Was this option modified in 1960?

A. Yes.

Q. Do you have the 1960 overlay?

A. Yes. We place Plaintiffs' Exhibit 284, the junior high '60-61 overlay over the junior high '57-58, which is Plaintiffs' Exhibit 281 —

Q. Excuse me. I believe you'd better move the other base map. I'm sorry.

A. All right. Placing Plaintiffs' Exhibit 284 over 281, [3496] and both of them being over the 1960 Census, you can see that there are two or three blocks at the extreme western end of the option which do not continue in 1960-61. Otherwise, the option continues as before.

The western boundary of the option was shortened, I believe, by two blocks, which would move it over from Monroe to 18th Street, as I read the map.

Q. All right. Was there further modification in 1961?

A. Yes, the modification in 1961 was that the option was closed. The PX 285 overlay, PX 284, will illustrate that the option in '61-62 was closed, and the optional zone was a re — well, it was rezoned, the optional area was rezoned back into Franklin.

Q. All right. And Franklin was the predominantly black school?

A. That's correct. Franklin stood at 86 non-white, Roosevelt at 40 percent.

Q. All right. Dr. Foster, in general, from your experience with optional attendance zones, do they tend to be changed or closed after they have served a particular purpose?

A. Well, not always, but they tend to be, yes. Some of them just drag on through unnecessarily, I think.

Q. Does this particular change in the Franklin zone [3497] fit any pattern which you're familiar with?

MR. PORTER: Objection.

THE COURT: Overruled. You may answer.

A. Yes. As the area that's under option gets blacker in the two schools, if they are two that are involved, both approach each other in racial composition, then there's less reason or little reason to maintain an option if, indeed, it is a racial option, and I would so judge this option, because it's obviously nothing to do with capacity based on the figures.

[3498] A. (Continued) And as there is less need — if there are no whites left in here to go south to the Roosevelt High School, then there is no longer need for the option.

Q. You said there was no capacity reason. Did you study the capacity between Franklin and Roosevelt to see whether that might account for this kind of option?

A. Yes, I did.

Q. What did you find?

A. I found that for the six years of the option, there was undercapacity each year in Franklin ranging from 28 seats to 152 seats available in 1958.

Q. That's the school the option was carved from; is that correct?

A. Yes. In Roosevelt there was overcapacity the first four years ranging from 23 seats to 76 seats in 1958; and in 1959 and 1960 there was less or there was more capacity available still at Franklin than there was at Roosevelt. Both of them were under utilized.

Q. And if there had been a question of Franklin being overcrowded and a desire to assign or permit some students an option out of Franklin into another school in an effort to relieve the overcrowding, would you have expected to find that Franklin was — its enrollment figures and capacity figures, that it showed seriously overcrowded?

A. If it was an option for capacity reasons, yes, you [3499] would expect Franklin to be overcrowded.

Q. Dr. Foster, did you examine the optional area between Central Senior High and North Senior High?

A. Yes, I did.

Q. I believe this started in 1960-61; is that correct?

A. Yes, sir. We have on the board the senior high '60-61, Plaintiffs' Exhibit 305, overlaying the 1960 Census, PX 251.

Q. All right. Would you describe the — first of all, do you know what school the option was carved from?

A. According to my records, it was carved out of the northwestern portion of the Central zone, the Central zone being a high school zone to the southwest of the city directly west of center city and extending on out in a northerly portion which surrounds Grandview Heights and I believe includes most of what would be the elementary attendance zone at Kingswood. That's the Kingswood area. So the option was carved out of we could say the northwestern part of Central, and the option was between Central and North which is immediately to the north of the Central District.

Q. All right, and the optional attendance areas described in PX 305, the senior high overlay for '60-61, what does the racial composition show as the underlying census data?

[3500] A. If you look at the hash marks illustrating the option, it is all white except for one block almost at the extreme western end of the option, and that one block is blue.

Q. All right. Would you describe the Central and North Senior High attendance zones in light of their underlying demographic data?

A. All right. The 1960 Census underlay shows that North is completely white except for a small portion in the southeastern part and about three blocks otherwise which

are green in the southern part around Ohio State University. In the southeastern part there are about I would say 10 to 15 blocks, a couple of which are green, three of which are blue, and the rest are either orange or red.

The Central attendance zone at that time, according to the 1960 Census, would be predominantly white also, but a considerable number more of blocks scattered around the periphery and also some in the center of red, orange, green and blue. I would say about perhaps a third of the blocks or a little more maybe would be non-white blocks, would be colored blocks.

Q. What was the racial composition of Central, the zone, the attendance area from which the option was carved in 1964 according to the exhibits?

A. Central would have been 27 percent non-white, while North was 7 percent non-white in 1964.

[3501] Q. All right, and do you have the latter enrollments at those schools?

A. Yes, I do.

Q. What happened to the enrollment of those two schools?

A. Well, this option continued through 1974-75, last year, with some modification.

[3502] A. (Continuing) And in 1974-75, the year the option ended, Central was 33.6 percent non-white, and North Senior High was 15.6 percent non-white.

Q. All right. You've said there was some modifications in the option. Can you tell us what they were and when they took place?

A. The modification was that in 1960-61, it started, the option started with grade ten, and in 1961-62, it included grades ten through twelve, and I believe that's the only modification that was involved.

Q. All right. Where was the optional area put back after — when it was changed this school year?

A. If we overlaid the senior high '75-76 map, we would see that it was back into Central.

Q. During the period the option existed, do you have an opinion as to what the effect of the option was?

MR. PORTER: Objection.

THE COURT: Overruled.

A. In my opinion, the option was primarily racial, allowing whites to go from the Kingswood area and Central High School into North High School, which continuously was a whiter school. I have an idea there also may have been some overtones of the fact that Central, I believe, is considered sort of an inner city school while North would be more of a suburban school. I would expect there would be some [3503] of that in it, also.

Q. Was there a capacity problem with this option?

A. No capacity problem that I could determine. Both Central and North, from 1960, especially for the first ten years of the option, were underutilized by a large number of students, anywhere from 180 to over 400, as high as 580 at one point at North, underutilized, and only in the last three years, North has become overpopulated while Central is about even. So for the largest part of the life of the option, there was no capacity problem either way.

Q. North, even when it became overpopulated, substantially so, compared to its earlier underutilization?

A. No, only somewhere between 15 seats in 1974 and 90 in 1972, which is very insignificant for a high school.

Q. All right. Did you examine an option, Dr. Foster, which included East Senior High and Linden Senior High — which appeared in 1962-63?

A. Yes, I did. '62-63. On the board, we have senior high '62-63, Plaintiffs' Exhibit 307 overlay, PX 251, a 1960 Census.

[3504] Q. All right. Did you determine from the map and from the directories that the option began in 1962-63? In this case, did you primarily rely on the map?

A. My notes don't include the origin. It is included on the map that this was the first year.

Q. All right. How long did this one continue?

A. This started in '62-63 and continued through '75-76.

Q. Would you describe, first of all, the boundaries of the option?

A. All right. The option is almost in dead center of the map. It's a rectangular area, nearly square. It's bordered on the north by Windsor Street, on the east by Woodland, on the south by a railroad, I believe the N and — I'm not sure, maybe a couple of railroads — anyway, railroad tracks, and on the west by Joyce.

The option — I'm sorry.

Q. The optional attendance area, the part that's cross-hatched in green, what does the underlying census data show for that?

A. The 1960 Census shows a combination of white blocks, and to the north red blocks and orange blocks, I would judge about a third each.

Q. All right. And what does the 1960 — I'm sorry.

First of all, before you do that, tell us what [3505] the underlying attendance boundaries, what the demographic data is for East and for Linden?

A. All right. For East to the south of the option — and the option comes out of the northern part almost like a chimney of the east zone. The east, north of Broad Street, is almost completely red with a few orange blocks and very few white ones.

Q. Would you describe the boundary, just with the pointer, so the Court can see it?

A. All right (indicating). It's about half above Broad and half below Broad to the east of the center part of town.

Q. And the chimney extends up to, what street is that on the north?

A. The chimney extends up to Woodland, and I believe it encompasses what has been described in the case

as the American Addition, which is to the north of that chimney.

To the south of Broad High Street and East High School zone, you will find a combination of white, orange, red, blue and green, pretty much an equal mix, I would say, to the north of the option, Linden-McKinley, which is in the center part of the Columbus District and a little to the north of downtown.

[3506] A. (Continuing) North of 17th you will find all white blocks except for one or two green ones and one blue one. Then south of 17th which at this point in the 1960 Census appears to be the racial line, you will find a few white blocks, a few blue and green ones, and the balance red and a couple of pink ones.

Q. Is the Linden-McKinley zone one that has changed frequently as you go through the maps, attendance boundaries?

A. Yes, especially in the southern part as the black population goes north and then northeast through the years.

Q. In 1964, what was the enrollment at East?

A. In 1964, PX 12 would indicate that East was 95 percent non-white and Linden was 12 percent non-white.

Q. All right. Were there any changes in this particular option in 1975-76?

A. I don't have any, no, sir.

Q. All right. When it was ended, when the option was ended, what had happened to the two zones in terms of the racial enrollment?

A. Well, I would like to check, but my notes indicate it is not ended. If I could have the '75 overlay.

All right. PX 320, the senior high '75-76, would indicate that the option in '75-76 is the same as in '62-63 except for one block further extension west which I would assume would probably be the western portion of Joyce Avenue, [3507] since sometimes the directories will indi-

cate that one side of the street goes one way and one the other on the boundary line.

Q. All right. During the period that the option has existed, I believe in '64 East was 95 percent non-white, Linden-McKinley 12 percent non-white. Did this option in your opinion have any racial effect?

MR. PORTER: Objection.

THE COURT: Overruled.

You may answer.

A. In my opinion, it was definitely a racial option at its beginning, since you have a disparity of 95 percent in East non-white in 1964 and Linden-McKinley with 12 percent in 1964 non-white. Continuing through the years you have a similar disparity except that about 1970 — well, a little before 1970. About 1966, a couple years later, Linden began to change in racial composition. In 1968-69 it was 35.5 percent non-white, while East was 98.9 percent. This year, 1975-76, East is 99 percent non-white and Linden is 89.5 percent non-white. It would seem to me that as of now there is obviously no racial connection with the option and it is not — in examining the capacity data certainly for the first nine or ten years of the option, there was no capacity problem involved.

Q. What were the capacity figures between East and [3508] Linden?

A. Well, for the first — pardon?

Q. Between East and Linden?

A. Reading a few of them quickly in the first nine years starting with 1962, East was under 264, under 37, under 65. In 1965 it was over 97, over 109, over 6. Then in 1968 it was under 7 and in 1969 under 60. Linden High School maintained a constant undercapacity in those years ranging from 584 undercapacity to about 10 under capacity in 1967.

[3509] Q. All right. Did you examine the options between West Mound and Highland?

A. Yes, I did.

Q. Did you examine this both in terms of the optional attendance area and in terms of boundary changes?

A. Well, yes. Boundary changes are always part of optional attendance zones because the boundaries do change as the options change.

Q. Put up the 1950 base map if you would, please, first.

A. We have on the board PX 263 which is the elementary '59-60 overlay and PX 250 which is the 1950 Census.

Q. All right. Point out the area of the option, if you will.

A. It is to the western portion of the district lying between Highland and West Mound, Highland being to the north and West Mound to the south. The option comes out of the southeastern part of the Highland Elementary attendance zone.

Q. In 1950 that area shows white; is that correct?

A. The optional area shows all white in the 1950 Census.

Q. All right. Looking at the Highland and West Mound area in 1950, the West Mound shows entirely white, whereas part of the Highland zone has red, green and orange in it; [3510] is that correct?

A. Just about, but there is one block in West Mound which I believe is green just south of Stafford. Otherwise they are all white. Highland is partly red, partly orange, partly green and blue and white.

Q. All right. This particular concentration of black population, does it have some common name in terms of its geographic area?

A. I believe that's called the hilltop area, if I am not mistaken.

Q. Now, let's put the 1960 Census up.

All right, is the optional area still white?

A. Looking now at the '60 Census underneath, the optional area is still all white. The West Mound Elementary attendance area has added three or four blocks either

green or blue in the northwest corner, and the Highland attendance area has added a considerable number of green, blue and red and orange blocks which leaves it only with its north — well, about a third of the eastern, a third of the Highland zone to the east is still white, according to the 1960 Census.

Q. When did this option start?

A. According to my notes, it started in 1955-1956.

Q. And what is the source of your information with respect to the starting date?

[3510A] A. The ~ directory, plus the OSU 1955 study which is PX 61, Figure 2, page 17.

[3511] Q. All right. How long did it continue?

A. It continued through 1960-61.

Q. And this was carved originally out of Highland in the southeastern end; is that correct?

A. That is correct (indicating).

Q. What happened in terms of enrollment? What does the data show for 1964 at West Mound?

A. PX 12 indicates that in 1964 West Mound was 15 percent non-white, Highland was 75 percent non-white.

Q. The option is approximately what, three blocks long?

A. I would judge so, and it's square, virtually square, but I think those are probably long — they appear to be long blocks running north and south.

Q. What was the effect of this option, in your opinion, Dr. Foster?

MR. PORTER: Objection.

THE COURT: Overruled.

A. In my opinion, this was a racial option which allowed the whites to leave Highland, which was largely and shortly a non-white zone, and go to West Mound, which was a white area.

Q. Okay. Was this area rezoned the following year to the option, in other words, ended?

A. In '61-62, most of the option was zoned into [3512] West Mound.

Q. All right. Can we put that overlay up?

A. Looking at elementary '61-62, which is Plaintiffs' Exhibit 264 over Plaintiffs' Exhibit 263, there is a jagged line at the southern end of Highland and at the northern end of West Mound indicating a new boundary line which ended the option and took in, I would say, the northern third of the area into — optional area into Highland and the southern two-thirds into West Mound.

Q. All right. So the wider area which previously had optioned into West Mound by this boundary change is assigned to West Mound?

A. About two-thirds of it, yes, sir.

Q. Is this in any way, from your analysis, a capacity change?

A. It could be in the sense that Highland's was overcapacity for those years, '55 to '60, ranging from 10 overcapacity in '59 to 105 over in 1957, whereas West Mound was under capacity in five of those years, ranging from under 4 seats in 1957 to 105 in 1960, but overcapacity in 1968 by 137, the point being, however, in terms of racial connotation of this option is that if they really had a capacity problem, and I think it probably did, it would have been very simple to make the option to the west of the option that did exist and have a desegregative effect rather than [3513] allowing the whites to — if they really needed seats, then they could have zoned an area further west of the option providing numbers of pupils could be moved, and they would undoubtedly have been black pupils rather than white pupils as this case would be.

[3514] Q. Are you saying they could have created an option or they simply could have redrawn the attendance zones?

A. The attendance problem being east, the intelligent thing would have been to actually rezone, it seems

to me, so you know that children were going to move rather than give the choice.

Q. When they do rezone, where do they change the boundary?

A. They changed the southern part of the optional zone which was white and left the northern part in Highland.

Q. And I don't recall if I asked you what the racial enrollment at West Mound and Highland was in '64?

A. I believe I testified to that. In 1964, West Mound was 15 percent non-white and Highland was 75 percent non-white.

Q. Was there another change in this particular area?

A. There was another change in Highland, another option in the Highland attendance zone which started in 1955, and it was carved out of the northwest sort of pan-handle section of Highland. I'll have to go back to the '55 map here.

Q. Does this option show up in 1955, Dr. Foster?

A. We're about to determine that.

Okay. The first overlay we have is '57-58, which is PX 261, and it's not on that overlay because by then the [3515] option has already been removed, but the data indicate in PX 58, the 1939 OSU survey, which I believe is on Figure 14, page 111 —

Q. Would you turn to that, please?

A. — shows the Highland zone going to the north.

Q. The original Highland zone, is that shown on the 1939 OSU survey?

A. Yes.

Q. And that's PX 58, page 111, Figure 14?

A. Yes, captioned "Distribution of Pupils, Grades 1 through 6, Inclusive."

Q. All right. Now, that's not an option at that period of time; is that correct?

A. It simply shows the Highland zone running east and west much as it does now underneath the Columbus

State Hospital to the north, and then going on up on the western side of the Columbus State Hospital to the north, all that being one zone with no options.

Q. All right. I'll show you Plaintiffs' Exhibit 61, Figure 2, the grades 1 through 6 for 1955. Does that show what I would call the chimney to the north has been converted into an optional attendance area?

A. That is correct, Figure 2.

Q. Would you give us the boundaries of that option, please, the streets?

[3516] A. The boundaries are the Pennsylvania Railroad, and the District boundaries to the north; to the east would be the Columbus State Hospital; to the south was Broad Street, and on the west was Eldon, which I believe is about three or four blocks to the west.

Q. That option, according to the data available, you started in 1955?

A. That's correct, and continued through '56-67. In other words, a two-year option.

Q. It does not appear on the '57-58 overlay up on the map; is that correct?

A. That's correct.

Q. From the 1939 survey you determined that it was part of the Highland Zone and from the '55 OSU Report you determined that the northern portion of the Highland Zone was created an option for a two-year period; is that correct?

A. That's correct.

Q. What does the underlying census data for 1950 show for the area that was made into an option?

A. The area which I just described as the optional area is all black for the 1950 census.

Q. I am sorry.

A. I beg your pardon. All white, and that's not to say white people, but white blocks on the census map.

[3517] Q. Highland and West Broad at the same time, can you describe them in terms of the census?

A. On the 1950 census map, West Broad is -

Q. Perhaps you might want to refer back to the 1939 boundaries.

A. - completely white and Highland is about two-thirds white, one third red, orange, blue and green, and I don't think the boundary would affect that.

Q. Except for the optional attendance area portion of Highland; is that correct?

A. That's correct.

Q. What did they do when they eliminated the option in 1957, Dr. Foster?

A. They moved the option to West Broad which is shown on the elementary '57-58 overlay.

Q. When you say they moved the option, you mean they cut off the northern portion of the Highland Attendance Zone?

A. That's correct, at Broad Street.

Q. Redrew the boundary line at Broad; is that correct?

A. For a portion of it, then it dips farther south and again farther south before it goes back up to Broad and goes west.

Q. What was the effect, first of all, of the optional attendance area during the period 1955 through 1958?

A. In my opinion, this was a racial option which allowed [3518] the whites in the optional zone to leave Highland's and go to West Broad.

Q. What was the effect of the change in the boundary between Highland and West Broad in 1957, Dr. Foster?

A. This would have further compacted the blacks population into Highland and placed the white portion of the Highland Zone, at least this part of the Highland Zone, into West Broad Street which would have had a segregative effect on both counts rather than a desegregative effect.

Q. At one period of time actually with respect to Highland, we had an option in the eastern part of the zone

which was eliminated in part by taking part of the option and assigning it down to West Mound; is that correct?

A. That's correct.

Q. Originally Highland went up to the north in a chimney here, then that was made an option and then it was cut off and assigned to West Broad; is that correct?

A. That's correct.

MR. PORTER: Objection.

THE COURT: Overruled. You may answer.

BY MR. LUCAS:

Q. The net effect of all of those actions on Highland, Dr. Foster, do you have an opinion as to that?

A. I believe I just said that it — both options and the way the boundary lines were handled at the close of the options [3519] tended to impact the blacks in the Highland and make for whiter schools in both West Mound and West Broad, having a segregative effect on both counts.

Q. According to Plaintiffs' Exhibit 12, what was the racial enrollment in 1964 in Highland?

A. Seventy-five percent non-white in '64.

Q. West Broad?

A. Zero percent non-white.

Q. That's the area that had the white portion of Highland assigned to it; is that correct?

A. Yes, sir.

Q. Is this an area where a simple redrawing of attendance boundaries, this Hilltop area, in a different manner from that which they were drawn, have effected substantially desegregation? Have you looked at that?

A. Yes, because I think this is an obvious example of when, if a school district really went into — a desegregator had any inclination to do so at any point in time from the options and what went on then until this current year.

MR. PORTER: If the Court please, I will object to it. It is not responsive to the question.

THE COURT: It was had any inclination to do so, specific with what could have been done, so we will allow that.

BY MR. LUCAS:

Q. Go ahead, Dr. Foster.

[3520] A. Any time until the present, and including next fall, for example, the — if I might have the '75-76 option.

Q. Dr. Foster, just a moment. Go ahead.

A. We found elementary '75-76, which is Plaintiffs' Exhibit 278. The underlying census data is incorrect because it is 1950, but I don't think we need that to illustrate what it is I am describing.

If you take the schools West Broad, Highland, West Mound, which are the three we have been talking about in terms of boundary changes and options, and you add Burroughs, which is contiguous, these three schools are all contiguous to Highland; West Broad being on the northwest, Burroughs to the west and southwest and West Mound to the south and southeast of Highland's.

Q. What are their racial enrollments today?

A. This year the racial enrollment are Highland 67.1 percent non-white; West Broad 2.0 percent non-white; West Mound 13.9 percent, and Burroughs 11.2 percent.

Either by redrawing boundary lines or by some combination of pairing or grouping, it would be relatively simple to desegregate all four of those schools and make them racially non-identifiable. If you add up the total population of those four elementary schools, which are right together, you have 20.6 percent non-white as of the current year.

MR. PORTER: If the Court please, I move to strike [3521] the answer. It has no relevancy to this proceeding.

THE COURT: Overruled.

BY MR. LUCAS:

Q. Go ahead, Dr. Foster.

A. Current year shows 3,060 capacity for the four schools with 2,773 enrollment, which would allow capacity for either boundary changes or pairing or grouping.

Q. Going back to the option, Highland and West Broad, did you take a look to see if that was a capacity problem in 1954 through 1957?

A. Yes.

Q. Your data substantiating these capacities again was the various studies and exhibit numbers you related earlier?

A. That's correct. The option was that of Highland to West Broad, and in 1955 Highland was 63 over capacity, but West Broad was 115 over capacity.

In 1956 Highland was 67 over, but West Broad was 113 over, so my conclusion was that it would not have been for capacity reasons.

[3522] Q. Dr. Foster, did you examine what is called in the records of the Board the downtown option?

A. Yes, sir.

Q. What documents did you use to examine this particular optional area?

A. The Ohio State 55 Study, which is PX 61, page 17, Figure 2, also the Original Plaintiffs' History Exhibit covered part of this option, which I believe was started in 1925.

Q. I believe that was the Board minutes you've indicated?

A. As I remember it.

Q. Was that called a neutral zone at that time?

A. I believe so, yes.

[3523] Q. All right. Would you describe the option, please?

A. The option is in the center of the downtown district. It is bordered on the north and northwest by railroad tracks. It is bordered on the east by Ft. Hayes which is to the east of the white area square on the map. It is bordered on the south by King and Broad, King to the south of Ft. Hayes and then Broad further south.

THE COURT: Did you say King?

THE WITNESS: That's what my notes indicate, and I believe the map will indicate that. It is sort of jumbled. I beg your pardon. It is Spring. Then on farther south by Broad. Then to the west part of it on High Street and part of it on Front Street, Front being the farthest to the south of the western portion.

The option started with seven alternatives starting on the northwest with Hubbard. Next to it towards the west would be Milo. The next one reading clockwise would be Garfield and then Eastwood, and farther south would be Douglas and then Fulton, and finally Mohawk would be directly south of the option. So it would be a total of seven options.

[3524] Q. All right. Did you examine the census data underneath the — on the 1950 map, base map?

A. Yes. The overlay is elementary '57-58, which is PX 61 over the 50 Census data. A good portion of the option to the west is white with two or three green or blue blocks, to the south there are some blue or green blocks, and I have one orange, then there's an eastern portion just to the west of the option, just to the west of the Garfield zone which is also red. Part of the option on the overlay covers the Fort Hayes area, which is all white, and explains the white block from the northwest corner of the option — northeast corner. I'm sorry.

Q. All right. Did you take a look at the 1940, '50, '60 and '70 Census data and determine what kind of residents there were in this area?

A. Yes, I did.

Q. All right. Can you tell us what the 1940 Census shows by age groups?

A. The 1940 Census for this area comprised Tract 30 and a portion of Tract 35, ages 5 to 14. Estimated Tract 30 had a total of 644, 315 of whom were blacks. I took a third of Tract 35, which is an approximation. This would give a total of 254 and 182 of whom were blacks.

Q. All right. What about the 1950 Census?

A. The 1950 Census would include — the data was for [3525] all ages, that is, a total population. Tract 30 indicated 3,137 blacks, 1,395 whites, and one-third, again, an estimation of one-third of Tract 35 would be 1,528 blacks, 1,038 whites.

In 1960, again all ages, Tract 30 indicated 3,778 blacks, 716 whites, and a third of Tract 35 indicated 1578 blacks and 433 whites.

In 1970, again all ages, indicated from Tract 30 728 blacks and 282 whites, and a third of Tract 35 was 415 blacks and 244 whites.

These figures indicate a declining population and also an increasing percentage black of that population that was remaining.

[3526] Q. All right. What happened to this particular optional attendance area? Before you do that, give us the 1964 racial enrollments at the seven receiving schools.

A. Okay, the seven receiving schools in 1964, according to the PX 12, the racial percentages were Hubbard, 7 percent non-white; Mohawk, 11 percent non-white; Douglas, 54 percent non-white; Fulton, 85 percent non-white; Milo, 90 percent non-white; Garfield, 99 percent non-white; and Eastwood, 100 percent non-white.

Q. All right, what happened to this option in 1958-59? Was there any change?

A. No, sir.

Q. And in '59-60?

A. No change in either '58 or '59.

Q. All right, in 1960-61, was there a change?

A. Yes. Part of the option went into western Garfield.

Q. Let's put the 1960 Census up.

A. All right. I have on the board elementary '60-61 which is PX 284A overlaying elementary '57-58 which is PX 261, both of them overlaying the 1960 Census.

Q. All right, what happened to the optional attendance area in 1960-61?

A. It is pretty difficult to see on the map, but the western portion of Garfield picked up I believe two or three blocks from the eastern part of the option, approximately [3527] four square blocks I have on my notes, which would be the part directly under Fort Hayes which was added to the Garfield zone and taken out of the option.

The other thing that happened was that Fulton was dropped as a receiving school which left six of the original seven schools.

Q. What happened demographically underneath on the Garfield change? Does that change of boundary conform in any way to the underlying racial census data for 1960?

A. The 1960 Census data would indicate that the portion that was moved into Garfield during '60-61 was all red, I believe. I believe that's correct.

Q. Does the new boundary of the option show that it is white to the west of the Garfield boundary?

A. I think except for one block perhaps at the corner of the part that was removed which is red. The rest of it would be largely white, yes, sir.

Q. The underlying red part has been put into Garfield. What was the enrollment of Garfield in '64?

A. Racial percentage?

Q. Yes.

A. 99 percent non-white.

Q. All right, was there another change in 1961-62?

A. Yes, in '61-62 Mohawk was dropped as a receiving school. That's the school directly south of the option.

[3527A] Then in '63 and '64 Mohawk was put back in which is illustrated on the maps if we put them on the board.

[3528] Q. All right. And that would be Plaintiffs' Exhibit 264 and 266, representing '61 and '62, '63, '64 maps?

A. That's correct.

Q. In 1964-65, was there another change?

A. Two blocks on the west end of Clearbrook — we'll put up PX 267, which is the '64-65 map.

'64-65 elementary overlay is PX 267. This illustrates approximately a two-block portion of the southern-eastern most part of the option was moved into the western end of the Clearbrook elementary zone.

It also illustrates that Mohawk was taken back out of the option in that area, '64-65, out of the receiving schools.

Q. And there's a dotted line in the Clearbrook zone. Can you tell me what that means?

A. I believe that has to do with grade structure, indicating that certain grades can go — I'm not exactly sure. I believe that's what it is.

Q. All right. Which area of the Clearbrook zone was it that the boundaries expanded into?

A. Into the western portion.

Q. All right. Was that an expansion or contraction of the option?

A. That was a contraction. I believe that dotted line across Clearbrook indicates it's part of another zone with a [3529] 1 through 6 structure, and Clearbrook would be, I believe, a primary structure, if I remember correctly.

Q. All right. In '66-67 —

A. There's one other change here, and that is the option extended eastward a block or two into Felton, and that can be seen just to the east of the Ft. Hayes area. The option previously was along the same line as the Ft. Hayes boundary line, and it moves east a block or two into the Felton attendance zone.

Q. All right. In '66-67, was the option extended again?

A. I don't — the option was extended west a block or two in Felton, the same as before '64-65, having dropped

out the year before. It changes back and forth a little every year. It makes it sort of complicated.

Q. Okay. In 1967-68, were some schools dropped out?

A. '67-68, Milo dropped out and Eastwood was dropped and Fulton was reinstated. And then in '70-71, Milo came back into the option. Those are all various Plaintiffs' Exhibits, being elementary map overlays.

Q. What happened in 1975-76?

A. The total option was ended in 1975-76 and moved into — what was left of it into Garfield, which is depicted on Plaintiffs' Exhibit 278.

[3530] Q. All right. During this period of years when the downtown option existed, is it your understanding that the option was carved out of some particular attendance area or was it a neutral zone?

A. I think you referred to it earlier as a so-called neutral zone which we defined in our testimony previously as not being carved out of any zone, but simply being between or among different zones.

Q. All right. What is the effect of such an option between racially dispairing schools in an area with a mixed population in general?

A. Well, the surrounding receiving schools change considerably from time to time, but in 1964, they ranged from 7 percent at Hubbard non-white and 11 non-white at Mohawk to 100 percent non-white at Eastwood, and the effect racially is simply to allowing everybody in this option to choose where they wanted to go and, ordinarily, what happens then, the whites would move to Hubbard or to Mohawk, and as opposed to a non-racial policy of simply assigning these pupils if you want to promote de-segregation to certain schools, you would assign black areas to Hubbard, for example, or white areas in the zone to some of the racially-identifiable black schools.

[3531] Q. What was the effect of the change in the boundary with respect to the Garfield zone?

A. Well, it simply compacted the black population in Garfield and moved the black zone west two or three blocks.

Q. The last year of the option, can you give me the racial composition of the four schools remaining? Perhaps we ought to put up the 1970 base map and the '74-75 overlay.

A. Did you say the '74-75 or '75-76?

Q. Let's try '74-75 first.

A. We have on the board PX 277 which is the elementary '74-75 with the 1970 Census underneath that which is Plaintiffs' Exhibit 252, and it shows the last year of the so-called downtown option which is in the center.

Q. Now, the western boundary of the Garfield School is almost coterminous with the racial boundary, is that correct, or a few blocks on the other side?

A. One or two blocks to the west are colored orange or blue, I believe, in a white area. Otherwise, it is along the racial line.

Q. Has the southern boundary of the Garfield School changed without putting the other overlay on?

A. I believe it has gone further south to Broad Street, and all of Clearbrook is incorporated.

Q. All right. Looking at the Felton and Garfield attendance zones, does that make an almost even dividing line [3532] between the underlying base data color of red and orange and white to the west?

A. Are you asking if there is about equal territory?

Q. No, no. I am asking does the boundary generally proceed along that dividing line?

A. Yes, sir, except the boundary line to the west of Felton is on the '74-75 overlays Fort Hayes which is white, and there are no pupils presumably out of that area.

Q. And this option is eliminated in '75-76. Let's put that overlay up.

Now, on this map the Fort Hayes is now shown as having an attendance area; is that correct?

A. That's correct. It is bordered completely with an attendance zone line, but it is not assigned any school.

Q. And the Garfield zone is expanded to the west for the first time and picks up these additional blocks, white blocks to the west, western area of the option; is that correct?

A. That is correct.

Q. What were the last schools to which the option pertained in 1974-75?

A. The option was still to Hubbard to the northwest, to Garfield to the east, to Douglas to the southeast and to Beck to the south which by that time had included part of [3533] the — well, it included I guess all of the Fulton zone.

Q. In '64 Hubbard was what percentage non-white?

A. In '64 Hubbard was 7 percent non-white.

Q. And in 1974-75?

A. Hubbard was 0.9 percent non-white in '74-75.

Q. And Garfield in '64 was what?

A. Garfield in '64 was 99 percent black.

Q. And in '74?

A. It was 99.2 percent black or non-white.

Q. And what was Douglas in '74?

A. Douglas had gone from 54 percent non-white in '64 to 85 percent non-white in 1974.

Q. And Beck?

A. Beck was 17.2 percent non-white in '74.

Q. All right. Did you examine the Main and Livingston option?

A. Yes, I did.

Q. When did this option begin?

A. 1954-55.

Q. Can you identify the option area on the overlay for 1957-58, PX 261?

A. All right. This is currently overlaying the '60 Census. The option is toward the southwest area of the district from downtown. The Main attendance zone is to the north and east of the option, and Livingston is to the west [3533A] and south of the option, the option having been carved out of the southwestern — well, the southern part of Main.

[3534] Q. All right. What is the underlying demographic data with respect to the optional attendance area?

A. On the 1960 Census, it would be just white blocks.

Q. All right. Let's go back to the 1950 Census base map and see what the process is.

What does the entire main zone look like for 1950?

A. The main zone for 1950 appears to be all white except for a green block.

Q. All right. And the option begins '54-55. What's your source of identification for that information?

A. This was in PX 58, the 1939 OSU Study, Figure 14, page 110.

Q. All right. Did you also look at any of the other — the Original Plaintiffs Exhibits with respect to this particular option?

A. Yes. This was in their original exhibits. I believe it was PX 6, I believe.

Q. Can we put the 1960 map back up?

I'm sorry. Before you do that, would you tell me what the Livingston zone looked like in 1950?

A. In 1950, the Livingston attendance zone was largely white. It had in the northwest corner one or two blocks with either orange or red, I can't really tell, and so — about four green or blue blocks scattered to the west.

Q. Okay. And that's assuming that the the boundaries were [3535] the same at that time as they were shown in the '57-58 overlay; is that correct?

A. Pardon?

Q. That's assuming that the boundaries were the same for those attendance zones at that time?

A. Yes.

Q. Let's put the 1960 Census base map up.

Now, in the 1960 Census for the first time the Hanford Village shows up as the black residential area; is that correct?

[3536] A. I believe that's the area to the east of the Fairwood Zone.

Q. Yes.

A. Bordering Alum Creek on the east, which is in red on the '60 census.

Q. The option started in '54-55. How long did it continue?

A. Through 1961-62 with some slight modification.

Q. What was the dimension of the original option attendance?

A. I believe about three blocks, east and west.

Q. What was the racial composition of Main in 1967?

A. Main in 1964, according to Plaintiffs' Exhibit 12 was 77 percent non-white.

Q. Livingston?

A. Livingston was 27 percent non-white.

Q. The Hanford Village area would have been which one of those elementary areas, or adjacent to it?

A. Would have been part of the Fairwood.

Q. That's to the south or west?

A. That's directly to the east of Main and also Livingston.

Q. Was the area black population movement toward that direction?

MR. PORTER: Objection.

[3537] THE COURT: Overruled.

Q. From your examination of the 1950, '60 and '70 census maps, Dr. Foster, can you tell us whether the area population movement in terms of minorities was in that direction?

A. Yes, it was east towards Alum Creek.

Q. What modification was made in this option?

A. In 1960-61 the option was reduced to one block, which at this time was in the Kent School which had opened in '60-61 and the block was I believe north and south block known as Bedford.

Q. Can we put up Plaintiffs' Exhibit 284A, the 1960-61 elementary.

Can you identify the Kent Elementary School on that map?

A. The Kent Elementary School is directly south of Main and to the northeast of Livingston. The optional zone is designated between Main and Livingston coming out of Kent, and it is simply the point at which the arrow goes west to Livingston and north to Main.

Q. The Kent attendance boundaries were established out of the schools of what previous attendance zones?

A. Mostly from Fairwood to the east and a little to the north, and some from Livingston to the west, and then from Ohio to the northwest. It is a rather small compacted attendance zone.

[3538] Q. Before we get further into the Kent attendance area and the Kent School, what was the effect in your opinion of the establishment of the option between Main and Livingston?

A. I believe that this was a racial option which allowed the whites in the optional zone to exit from Main and go to Livingston which was a much whiter school.

Q. The Kent Elementary opened in 1960-61 taking part of the Fairwood, Main and a couple of blocks from Livingston and Ohio attendance zones. Do you have a 1964 enrollment for Livingston?

A. '64 Livingston was 29 percent non-white.

Q. Ohio?

A. Ohio was 80 percent non-white.

Q. Kent?

A. Seventy-five percent. It opened non-white.

Q. Fairwood?

A. No, I am sorry. It was 75 in 1964. Fairwood was 69 percent non-white in '64.

Q. What did Kent look like in the 1960 census in terms of the underlying colors?

A. It was a combination of white, one or two green and blue blocks, and the rest orange, I believe.

Q. You have already described Kent as a very small, relatively small attendance area. What was the effect on the location and opening of Kent with those attendance boundaries [3539] in terms of the racial composition of the schools in the area?

A. The effect was to further compact, in my opinion, the black student population in this area to allow Livingston to stay white longer and also Deshler to stay white, and the racial line was moving south from Main and also from Ohio, and this was a small area which set up a school that went black fairly rapidly.

Q. Going back to the Main-Livingston option itself, in the first five years of the existence of that option was there any capacity problem?

A. It started in 1954 and the record would indicate there was really not that much difference in capacity needs between the Main and Livingston School in the first — for the 1950, Main was 48 percent over capacity and Livingston was —

Q. Excuse me. Forty-eight percent?

A. I beg your pardon. In 1954 Main was 48 people over capacity and Livingston was 57 over capacity. In 1955 Main was under seven places and Livingston was under three.

In 1956 Main was 35 over capacity; Livingston was under by 13. In 1957 Main was 39 over capacity; Livingston was over by 11.

It wasn't until 1959 that Main took a big jump and became something like 310 over capacity.

Q. Would you examine the Linmoor Junior High School area, [3540] including the option?

A. Yes, sir, I did. The Linmoor-Everett option opened in 1957-58, and on Plaintiffs' Exhibit 281, the Junior High for '57-58 currently on the 1960 census as shown in the center of the map with a red border and a broken red and blue border.

Q. Linmoor opened in '57-58. Was there phase-in in the grades one year at a time in that situation?

A. Out of Linden-McKinley, which was 7 through 12, they phased in, as I understand it, Grades 7, the first year, and then Grades 8 and 9 were the following two years.

That was also taken partly out of Indianola, Linden-McKinley being shown on the map actually in the Linmoor Zone, although the senior high zone would extend completely around that.

It is in the Junior High Linmoor Zone. The part from Indianola that was in the option was to the northwest part of Linmoor and to the northeast part of Indianola, and the part from Everett became a part of the option — I beg your pardon. Can I start over?

Q. Yes.

A. In using the '57-58 overlay it is an attempt to show what the Linmoor Junior High Zone was like prior to the option. It came out of Linden and out of Indianola and out of the eastern portion of Everett.

[3541] Q. All right. What's the general description of the underlying census data?

A. The underlying census data from Linmoor in '57-58, based on the '60 Census, would indicate the northern part of the area from Linden was all white and the southern part was green, blue and orange.

The part coming out of Everett was mostly red and orange with a few blocks of green, blue and white.

The part coming out of Indianola, which was actually — I testified earlier that it was to the northeast of Indianola.

There was also a southeastern section out of Indianola. This had white, red and blue in it in the southeastern section, and the north appears to be mostly a non-residential area just above the Ohio State Fairgrounds, mostly non-residential as designated white on the '60 Census.

[3542] Q. Dr. Foster, you put up the 1958-59 junior high overlay. What exhibit number is that

A. Plaintiffs' Exhibit 282.

Q. Can you summarize what happened with the establishment of the Linmoor School?

A. Yes. This is a very complicated business. I will just do that in a sentence.

In '57-58, which I was trying to describe before recess, the Linmoor Junior High opened carved out of three schools, Indianola, Everett and Linden-McKinley, and it took portions of each of those three existing zones and established just a seventh grade center the first year. That's what happened in '57-58. Then the optional zone was established in '58-59, the following year, which is depicted on the current map overlaying the '57-58 we have up now, the '58-59.

[3543] Q. The choice of boundaries for Linmoor, what effect did that have in terms of race, if any?

A. Well, the portions that were picked out of Everett was the black part of Everett out of the southeastern corner of Indianola, was the large — most of the black part of Indianola, and the part that came out of Linden included all of the black part that was in Linden, which was the southern half, so it seemed to be, as the school was established, sort of in the cards that it would contain the black pupils out of that area for the most part.

Q. What alternatives were available, Dr. Foster?

A. Well, when it opened in '58-59, if you had desired to have a desegregative effect rather than a compacting effect, you could do any number of things, but the boundaries could have been changed in such a way as in one place, I believe, the Ohio State Surveys recom-

mend when you have three or four schools together and you have to change one school, for example, the western part of Everett, which I believe is the Kingswood area could have been moved up into Indianola. Some of the northern part of Indianola could have been moved over into the new school, Linmoor. The black portions to the east of Everett and Indianola could have stayed in those areas so that they were sure to have a black population, and it would have — some move such as this would have indicated that Linmoor was not to be [3544] a black school but was to be a desegregated school.

Q. All right. When you say the black areas stay in those schools so that it would stay black, you mean with the black representation?

A. That is correct, and there did some. I mean, part of Indianola stayed in but a big chunk of it also went into Linmoor, and part of Everett stayed in Everett but a good chunk to the east went into the new school.

Q. All right. Can you now discuss what happened with the optional attendance zone?

A. All right. In '58-59, the optional attendance zone was set up, and this again is a little complicated, but it was formed out of the portion of Everett that — eastern portion of Everett that had come into Linmoor, and it was really the southern part of that portion, almost the southern half exactly of the part of Everett that had gone into Linmoor, but there was also a grade split.

[3545] A. (Continued) The optional zone was for all three grades, 7 through 9, but the northern part that was left in Linmoor, the seventh and eighth grades were to go to Linmoor out of the portion of the zone that was not made optional and grade 9 to Everett. The optional zone was bordered on the north by Starr and Third and Gibbard — it had three jumps of one block at a time — on the east by the railroad, on the south by the railroad, and on the west by the railroad.

Q. The underlying area, according to the 1960 Census was mostly what color?

A. Of the optional zone, it would be either all red or orange except I believe — all red or orange except for railroads.

Q. Red and orange do indicate the presence of some white?

A. That is correct. Orange is 50 to 89 percent black, and red would be 90 to 100 percent black.

Q. What is the effect of this option with respect to students in the Everett School?

A. This option as it was established would allow the whites in the optional zone who were left to attend Everett rather than be assigned to Linmoor.

Q. Of course, blacks could choose to stay in Everett as well?

A. Either way, yes, sir.

[3546] Q. Was the option changed to take all of Everett in?

A. In 1959-60, which is PX 283 now on the board, the option was expanded north to add that part of Everett which had been taken into Linmoor, and it also added a little portion of the territory that had been taken into Linmoor from Indianola which would be to the extreme south of that portion. It looks to be maybe a block wide and two or three blocks long out of the part of Indianola that had gone into Linmoor. In other words, the option now included all of the Everett portion that went into Linmoor and a little bit of the extreme southeastern part of Indianola.

Q. What is the underlying demographic nature of the added area?

A. On the '60 Census Map, the underlying map would indicate largely red and orange with a couple of blue and maybe one green blocks to the extreme west, and a part

coming out of Indianola would be white, red and blue, from the looks of the Census Map.

Q. Are those the only blue and white blocks, the ones you noted, in that particular part of the attendance area?

A. Of the optional zone?

Q. Yes.

A. There are a couple of white blocks in the extreme part of the Everett portion, in the northern part of the option.

[3547] Q. All right. What happened to the Arlington Park area and east?

A. If you look at the junior high '58-59 map, the Arlington Park area is still part of the Linden-McKinley zone to the east of the Linden-McKinley School.

[3548] A. (Continuing) Then in '59-60, this area is sent non-contiguously to the Linmoor zone as depicted by the green arrow going southeast from the Arlington Park area.

Q. All right. Is the bottom leg of the Arlington Park zone cut off, or is there still a corridor?

A. There is a corridor which includes that non-contiguous assignment all the way south in the Arlington Park area, to the south of the Arlington Park area.

Q. All right.

A. And this would be just north of the western portion of Eastmoor Junior.

Q. They had been previously attending Linden-McKinley; is that right?

A. That's correct.

Q. And where is Linden-McKinley on that?

A. Linden-McKinley is in the Linmoor zone, in the northeast section of the Linmoor zone.

Q. This is the building that's not in its own attendance area; is that correct?

A. As far as a junior high school is concerned at this point, yes, sir.

Q. In 1960-61, was there an opening of a new junior high school?

A. Yes.

Q. Would you put up that overlay?

[3549] A. This is PX 284, which is the junior high 1960-61. To the north of Linmoor and Linden-McKinley a new junior high opened known as Medina in 1960-61. Medina was carved out about half from Clinton, which is to the north of Linden-McKinley, extreme north central part of the district, and about half of the southern section of Linden-McKinley.

Q. Is the underlying attendance zone shown at least by the demographic area of 1960, is that what color?

A. For the Medina School, it represents an all white area.

Q. The area taken out of the school to the south, is that a white area as well?

A. Out of the northern part of Linden?

Q. Yes.

A. Yes, that's all white in the 1960 Census.

Q. What was the effect of opening Medina, setting those attendance boundaries?

A. The effect was to further compact the area south of the Medina attendance zone, being Linmoor and Linden, in terms of their blackness and to maintain — or insure the fact that the Medina School, at least for the time being, would be either all white or nearly all white.

Q. What happens to Linden-McKinley?

A. Well, it changes about every year, but in '70 — in '60-61, the same year that Medina opened, in addition, [3549A] they're giving up the northern part of its zone to Medina. The Arlington Park portion that was zoned into Linmoor in '59-60 was now zoned back in a contiguous manner to Linden-McKinley. This was in '60-61.

[3550] Q. And the Arlington Park area shows as white, and it was connected by this little, narrow strip

down into this white area to the south; is that correct?

A. Well, that's correct, only the boundary changed in '60-61 to include everything in Linden-McKinley all the way down to Champion.

Q. All right. Now, the map appears to come down into a white corridor, although there do not appear to be any streets on the base map in that area; is that correct?

A. Most of that is apparently non-residential, yes, sir.

Q. Okay.

A. That includes the railroad yards and some other things.

Q. And the school is actually — the school building is actually still located in the Linmoor zone, but is attendance area is essentially a white attendance area with the exception of the orange area located south of Seventeenth?

A. Seventeenth.

MR. PORTER: Objection.

THE COURT: Overruled.

A. Yes, sir.

Q. I notice that there seems to be a change in pattern in the way zone lines are drawn in terms of north, south, east or west. What is the effect of the Medina zone [3551] in terms of drawing lines east and west of the corridor?

A. Well, as you open up new schools to the north of the expanding black residential area and expanding black school population, if you start drawing lines east and west, as was done with Medina and was done later with McGuffey, that prohibits you from going down into the zones and picking up black pupils and, at the same time, as you go north, establishes east-west racial boundary lines along certain streets from time to time.

[3552] Q. Up to that time both the junior and senior highs had generally run north and south; is that correct?

A. Especially the senior highs where they took in large chunks of territory, North and Linden, for example.

Q. Was there any change of significance in 1961-62?

A. No, sir.

Q. McGuffey opened in '62, I believe; did it not?

A. Yes, sir, '62-63.

Q. Can we put that overlay up?

Where is McGuffey School?

A. McGuffey is immediately south of Medina, junior high, following the east-west boundary line with Medina and immediately north of Linmoor and Linden-McKinley.

Q. What happens with our movable Arlington Park this time?

A. In '62-63 non-contiguously assigned, not as much of it as was part of the movement, but a good portion of it assigned to Medina.

Q. Medina in '64 was what in terms of racial composition?

A. I would have to look that up.

Q. Would you, please?

A. Medina in 1964, according to Plaintiffs' Exhibit 12, was 100 percent white.

Q. Arlington Park area has gone from Linmoor, zoned into Linden-McKinley, now it is going up to Medina; is that [3553] correct?

A. That is correct.

Q. McGuffey was taken out of what attendance zones?

A. McGuffey was taken out of the southern portion of Medina and was taken out of Linden-McKinley.

Q. It is a little confusing because Linden-McKinley is not in the attendance area?

A. That's correct, but the southern border of McGuffey Junior coincides with the northern border of Linmoor, but when it opened in '62-63 it picked up the northern part of — well, it picked up what was left there of Linden-McKinley Junior High School.

Q. What was McGuffey in 1964?

A. McGuffey was 100 percent white in 1964.

Q. What happened to Linden-McKinley?

A. Linden-McKinley, in 1963-64, was its last year, so when McGuffey was built, it, as a junior high school, was no longer. As a matter of fact, in '63-64 the enrollment indication was that it had only 114 pupils left at the junior high level.

Q. What about Linmoor? What was it in '64?

A. Linden-McKinley?

Q. No, Linmoor.

A. Linmoor in 1964 was 60 percent non-white.

Q. What was the effect of the opening and drawing of [3554] boundaries, boundary lines of McGuffey?

A. It enabled McGuffey to maintain a largely white population, at least in the beginning, and compacted further the blacks into the Linden-McKinley Junior High zone.

[3555] Q. Did the McGuffey zone lines generally run east and west?

A. Pretty much the same as Medina.

Q. Now, what happened to the optional attendance area during this period? Did it come to a close?

A. The option ended in 1964-65 which would have meant it had one more year after this.

Q. All right. Can we put that overlay up?

A. All right. PX 288, junior high for '64-65, indicates that the option was closed in that year.

Q. Was the option split by the opening of a new school?

A. Monroe Junior High School opened to the south of Linden in, I believe, '64-65. It opened 99.7 percent non-white.

Q. What was the effect of the boundary changes and the opening of Monroe in that particular location, Dr. Foster?

MR. PORTER: Objection.

THE COURT: Overruled.

A. Oh, it picked up about half of the optional zone between Everett and Linmoor. The other half was left in Everett. I would say that this had a couple of effects. One is there was a black area maintained in Everett which allowed it to be a desegregated or non-racially identifiable school, I believe, at that time; and opening up Monroe in [3556] in this area further compacted, of course, the center city black population, and it was inevitable that would be an all black school.

Q. In fact, it opened 99.7 percent?

A. Yes, sir.

Q. It picked up parts of what zone, Dr. Foster?

A. Well, it picked up half of the optional zone. Everett picked up the other half, and then Monroe picked up a good portion of the Champion zone which was moved further south to Broad Street to pick up the old Franklin zone.

Q. What was Champion in '64 when Monroe opened?

A. At what time?

Q. '64?

A. Well, I think it was, yes, 100 percent non-white.

[3557] Q. Reviewing all of these changes in connection with Linmoor, Linden-McKinley, McGuffey, Milo, I believe it is — let me check my memory on the names. I'm sorry — Medina, Monroe and the changing of the boundary between Monroe and Champion, what is the net effect in that total area of the city of the variety of options, boundary changes and school openings and setting of boundaries you've described?

MR. PORTER: Objection.

THE COURT: Overruled.

A. Well, the net effect is very racial in that it blocks the blacks into an impacted zone coming out of the downtown area of Champion, Monroe.

I think it had a desegregative effect in regard to Everett by maintaining part of the black area to the east of Everett.

Linmoor, in my opinion, was opened as a school that was desegregated^d black from the beginning, because it opened with black portions for the most part of the schools it made up — from which it was made up, and as you went north, first Medina and then McGuffey were established as sort of a holding zone as the black population moved to the north and to the east, and I think you'll find, if you look at present enrollment data, that those lines pretty much have been maintained at this point.

[3558] Q. Dr. Foster, did you examine an optional combination between Fair, Eastgate and Eastwood?

A. Yes, I believe I did.

On the board, we have elementary '57-58, which is PX 261 overlaid on the 1960 Census, the 1939 Ohio State Survey, PX 58, page 111, Figure 14, shows a 1938 map, grades 1 through 6,—

Q. Turn to that, please.

A. — which indicates the Fair Elementary School, which on the '57-58 map which is on the board is to the east of the center of the city, west of Alum Creek, for the most part, and south of Broad Street.

But in '50 — or in 1938, according to the Ohio State Map, PX 58 shows the Fair School going north of Broad to Greenway, which would be on the '57-58 map as a three-way optional zone with arrows pointing east, south and northwest.

[3559] A. (Continuing) Greenway is at the top of that zone and falling between Taylor and Woodland.

Q. Taylor on the west, Woodland on the east?

A. That's correct. That is to say in 1938 the Fair zone went north of Broad and ended in a little funnel at the extreme north, the top of which was Greenway.

Q. All right. Was there an option between Pilgrim and Fair?

A. The directory in 1951 indicates that there was such an option between Pilgrim and Fair. At least it started then, no later than 1951, and the directories indicate that this option continued until 1954 when Eastwood, which is a school north of Broad and northwest of Fair, was reopened taking that portion of Fair Elementary School which was north of Broad Street as far north as Long and Livingston, which is about three blocks or so north of Broad. So the optional zone was bordered on the north by Greenway and bordered on the east by Woodland, bordered on the south by Long and bordered on the west by Taylor.

Q. All right. Is there another option in addition to the Pilgrim-Fair option between Pilgrim and Eastwood?

A. Well, I am sorry, that's the option I have been talking about as the Pilgrim-Eastwood option. The Pilgrim-Fair option, let me explain the differences, if I may go back?

[3560] Q. Yes, please.

A. Again, it is rather complicated. The Pilgrim-Fair option, Pilgrim is to the north of Fair which at that point extended on up above Broad. From 19 — in 1951, '52 and '53 the directories show that this option did exist between Fair and Pilgrim and did have Greenway on the north part, again, Taylor on the west and Woodland on the east and, as I described, Long was on the south. Then in 1954, according to the directory, we had the Pilgrim-Eastwood option. At that point Eastwood had reopened taking the northern portion of the Fair zone above Broad Street.

[3561] The boundary was the same as the previous option with Woodland on the east and Taylor on the west and Greenway on the north, except that it contracted, I believe, about two blocks from Long up to Clifton which was the southern most boundary in 1954 in the Pilgrim,

Eastwood option, a territory of about six blocks altogether, I believe.

Q. Let me show you a document entitled, "Which September? which bears several different exhibit numbers in this record. This particular copy is Original Plaintiffs' Exhibit 51-H-10B, and ask you if this is — referring you to Page 7 and Paragraph 5 — the general area described in the options you are testifying about?

I realize that doesn't give the boundaries.

A. Yes, that would be in the general area because three of the four streets, I believe, are named as part of this area.

Q. Would you read Paragraph 5?

A. "School districts are established in such a manner that white families living near colored schools will not be in the colored school district. The area in the vicinity of Pilgrim School, embracing Richmond, Parkwood and parts of Greenway, Clifton, Woodland and Granville Streets is an excellent example of such gerrymandering."

"A part of Greenway is only one block from Pilgrim School, however the children that live there are in the [3562] Fair Avenue School District 12 and one-half blocks away."

Q. 1955 was there an additional option established?

A. Just the Pilgrim, Eastwood option became a three-way option in 1955, which was established with the Eastgate according to the directory. This was also depicted in Ohio State 1955-56 Report, Plaintiffs' Exhibit 61 on Page 17, Figure 2.

It is also depicted on this map, 57-58 overlay as a three-way option between Pilgrim to the northwest, Eastgate to the east and Eastwood to the south.

Q. Was this option reduced in 1960-61?

A. It became a one-street option on Parkwood, which is a north-south block, and about three blocks on the

west side, and that would have been between Pilgrim and Eastgate.

Q. The information furnished to you, does it indicate whether or not Eastgate was a portable unit school for some period of time?

A. I believe it was a four-room portable prior to its '54 opening.

Q. Can we put up the 1960-61 overlay?

Can you identify the one-street option?

A. This is Plaintiffs' Exhibit 284-A and the one-street option is depicted on the map between Pilgrim and Eastgate with an arrow going east into Eastgate and west into Pilgrim and the center of the arrow being the optional zone.

[3563] Q. In your study of the data, Dr. Foster, what was the effect of the series of options with respect to Pilgrim, Eastwood and then Eastgate?

A. During this period that it would have allowed the whites to get out of Pilgrim, and into Eastwood, and then into Eastgate during the time of the black movement.

Q. Was there a capacity problem that you could find from your study of the data, Dr. Foster?

A. Looking at capacities over and under for Pilgrim, Eastwood and Eastgate, in '51 Pilgrim was 107 under capacity. In '52 it was 64 under capacity. In '53 it zoomed to 143 over capacity, and then in '54 it was back to 74 under capacity.

Q. Eastwood was opened in '54. What was it?

A. Eastwood was 56 under capacity in '54 when it opened and Eastgate was four under.

[3564] Q. And in 1959, were they all three over capacity - I'm sorry - 1955?

A. In 1955-56, all three schools were over capacity, not very much, between 11 and 79, and in 1957 on into 1960, Pilgrim again was under capacity all four of those years.

* * * * *

[3566] Q. Dr. Foster, did you conduct an examination of what I would call the south area of the school system in regard to new school construction, the assignment patterns in that area, boundary changes in connection with the openings?

A. Yes, I did.

Q. All right. I believe we placed up the 1957-58 overlay which is Plaintiffs' Exhibit 261 over the base map for the 1960 Census, PX 251. Would you discuss, please, the bringing in of the Heimandale to Fornof contiguous area as it operated during that period?

[3567] A. All right. Heimandale Elementary zone is in almost the extreme south of the Columbus District and directly west of that, across the Chesapeake Railroad, is the Fornof Elementary zone.

Beginning in 1957, there was an area in Heimandale comprising three streets shown on the elementary 57-58 overlay in sort of an inverted seven figure within the Heimandale zone. That was Wilson, Bellview and Eagle Streets, and according to the directory, children on those streets were assigned to Fornof.

Q. This is the Columbus School Directory; is that correct?

A. Yes, sir.

Q. Is it your understanding, I believe, from me and perhaps Mr. Lamson that the Heimandale zone was brought into the Columbus School District with that particular discontinuous area in effect?

A. I believe it was when it was annexed in 1957.

Q. All right. The streets, Wilson, Bellview and Eagle, in terms of the underlying census data, what is indicated in terms of race?

A. Those are all white streets which would signify zero to 9.9 percent black population.

Q. And the balance of the Heimandale zone?

A. Is almost entirely blue except for a small portion [3568] in orange, about three or four blocks in red and another — perhaps one more white block.

Q. All right. And the Fornof zone to which the non-contiguous white areas are assigned?

A. The Fornof zone in '57-58 was entirely white to the west and to the northeast. As it moved over, there was some blue and some red and I believe one orange block.

Q. All right. In 1964, what was the racial composition of the Heimandale School?

A. Forty percent non-white.

[3569] Q. And Fornof?

A. 0.2 percent non-white.

Q. The option in question from examination of the school directories continued for how many years?

A. The option was kept through 1962-63.

Q. All right. Is this reflected on the overlays as they progress, PX 262, 263, and so forth?

A. Each year, yes.

Q. Dr. Foster, understanding that the optional area existed prior to annexation, do you have an opinion as to the keeping of this white area option to the white Fornof School from the Heimandale area by the Columbus School System for each of the years in question?

MR. PORTER: Objection.

THE COURT: Overruled.

A. My opinion is that this was a racial option which allowed the white people to go to Fornof rather than the Heimandale School and that there was no reason, unless there may have been a hidden political one, and that's still not a valid one, for Columbus to keep that an optional area. But as administratively, there would be no reason.

Q. All right. Could you determine anything from the capacities that would indicate why those three streets should be isolated out of the Heimandale attendance zone and discontiguously assigned to Fornof?

[3570] A. I don't seem to have that in my notes, but, as I remember it, there was no marked capacity problem.

Q. Would there have been any particular reason to keep the same three white streets going to the white school for capacity reasons?

A. Not to my recollection. I don't have the exact capacity figures at that time on my notes.

Q. All right, can we look at the 1963 overlay?

A. All right.

Q. The 1963 overlay is what PX number, Dr. Foster?

A. That's PX 266 on the 1960 Census.

Q. Does this show a discontinuous area to the Moler School?

A. There is an area to the east of Watkins which previously was in the Watkins zone. This area has an arrow pointing to northwest into the Moler zone, yes, sir. That's at the extreme southwest of the Columbus District.

Q. All right. Is that the first time that particular discontinuous area appears?

A. I believe that's correct.

Q. Was there a school opened that same time in that area?

A. In '63-64?

Q. Yes.

A. Koebel was built the following year. There was [3571] an addition built to Heimandale in '63-64.

Q. In '64 the Koebel Elementary opened; is that correct?

A. That's correct.

Q. I think the first year you have racial data for that is 1965?

A. It was zero percent non-white in 1965. Koebel was part of Watkins. It was carved out of the northern part of Watkins.

Q. All right. Can you put up the '64 overlay with the '63 overlay? Does that show the opening of the Koebel School?

A. I believe it will, yes, sir.

Q. And that's carved out of what portion of the Watkins zone?

A. This is the northern part of the Watkins zone directly beneath Refugee Road. Watkins extended down to here the previous year, and then the boundary was shifted farther down into the Clarfield zone, the southern boundary of Watkins at the same time as Koebel opened.

Q. What is the western boundary of the Koebel School?

A. The Koebel School?

Q. Yes.

A. Lockbourne.

Q. All right, that's almost a rectangular area for [3571A] the Koebel School; is that correct?

A. That's correct.

[3572] Q. And that underlying census data shows as what?

A. In 1960 the underlying census data shows it nothing but white area.

Q. And it opened, the racial data shows, in '65 zero percent non-white; is that correct?

A. That's correct.

Q. Did the discontinuous attendance areas and the opening of the Koebel School relate to each other in any way in your opinion?

A. Yes, in my opinion they do. Well, in the first place, Koebel was obviously situated in such a way in the zone lines and the boundary lines drawn at its initial opening to contain the Watkins area to the south and at least opened up Koebel, and again it was a white area. Then the area to the east which is the non-contiguous area which was assigned to Moler, Moler at that time in 1964 was 0.2

percent white. Watkins at the same time was 24 percent — pardon me — was 0.2 percent non-white. Watkins in 1964 24 percent non-white. This whole combination of events compacted the whites, the blacks into the southern most area of the place we are talking about and the western most, that is to say, the New Watkins, and then allowed Koebel to open up white and allowed this area to the east, the non-contiguous zone, to move into Moler and maintain its identity with the white school.

[3573] Q. All right. What options were available which would not have resulted in the same sort of racial separation?

A. Well, admittedly there was a capacity problem in this whole area through the '60s, but Heimandale was partially black at this time. Watkins was going black very quickly. Zone lines could have been drawn in different directions. For example, if you take Koebel and Watkins, if you simply drew the lines north and south instead of east and west, you would have had two at least temporarily desegregated schools. There is no way to tell how many of these children attended Moler, but if you look at capacities in terms of alternatives, it is my opinion that these children could just as easily have been sent to Alum Crest which is immediately north and contiguous to the zone, could have either been assigned there on a temporary basis or simply incorporated into the Alum Crest School. Alum Crest since its beginning has been kept apart from any of the other things that are going on in the area. Capacity-wise, however, from the figures it would seem to be just as available to accept pupils at that time as Moler.

Q. And Alum Crest at that time was what?

A. Alum Crest in 1964 that would be, right?

Q. Yes.

[3574] A. Alum Crest was 50 percent non-white in 1964.

Q. And Moler?

A. Moler, I believe, was less than 1 percent non-white, 0.2.

Q. And Heimandale?

A. Heimandale was 40 percent non-white.

Q. All right. Of the two schools, one to the north and one to the west with substantial minority enrollments were Heimandale and Alum Crest; is that correct?

A. That's correct.

Q. The discontinuous area skips over Alum Crest to go to the white Moler School; is that correct?

MR. PORTER: Objection. Objection.

THE COURT: Overruled.

A. That is correct.

Q. All right. Was there another elementary opened in this — let me go back.

There's a railroad involved in there somewhere; isn't there, Dr. Foster?

A. Chesapeake, yes, sir.

Q. All right. Can you show me where it is on the map?

A. In the southern area. The railroad is right along the racial line as it goes along the area. It starts in the northwestern portion below Refugee Road and cuts almost straight across the area exiting in the southeastern section.

[3575] Q. All right. Were there any school attendance boundaries which crossed that?

A. Well, in our first overlay that we had on this afternoon, '57-58, which is PX 261, on Census Map 50, the overlay will show that the Clarfield Elementary School in the portion north of Williams Road did indeed cross the Chessie lines. It's in the shape of a sort of a dogleg to the west, and it was in quite a good-sized residential area in the western portion.

Heimandale crossed the line, also, but the part of it that did cross the line was either all railroad yards or railroad property. That's right along Corr Avenue, to the northeast part of Corr.

Fornof at that point also crossed the line in its extreme northeast portion.

Q. All right. I'm sorry to interrupt you. Put the other overlays on.

All right. Was there another elementary school opened in this area? I refer to the Cedarwood Elementary.

A. Cedarwood was opened in 1965-66, yes.

[3576] Q. Perhaps before we get to Cedarwood we ought to go back and pick up, so we don't have so many overlays on the map, the Stockbridge opening.

A. All right. And in the '59-60 elementary overlay, the PX number is 263, it shows the opening to the extreme south of the area and the district of Stockbridge Elementary School. Stockbridge took that portion of Clarfield Elementary that was west of the railroad except for a little part in the complete southwest which is non-residential, and that essentially made up its early population, although there was quite a triangular area to the north of that residential zone which I would imagine was still all farmland at that time.

Q. All right, and how did Stockbridge open?

A. In 1964, Stockbridge was zero percent non-white.

Q. All right. Let's refer, if you will, to the Parsons School. I believe it opened in the 1960-61 school year.

A. All right. PX 84A, which is elementary '60-61, would show the opening of the Parsons Elementary School to the extreme southeast corner of the Columbus District, just below the Scioto Trail School and just to the west of the Stockbridge School to which we just referred.

Q. Is the underlying area there an indication for the 1960 Census as to its racial composition?

[3577] A. Both Stockbridge and Parsons are completely white on the 1960 Census Map.

Q. Parsons in '64 was what percentage?

A. Parsons in '64, as was Stockbridge, is zero percent non-white in '64.

Q. All right. Was the school, the Watkins School, opened at that same year or the following year?

A. A year later, '61-62. This is PX 264 now overlaying. In '61-62, Watkins was opened south of Refugee Road, taking the extreme southern part of the Smith Road attendance area all south of — that was south of Refugee Road and picking up the northern half, more or less, of Clarfield Elementary, so its southern part was made up pretty much of Clarfield in the northern part up to Refugee on Smith Road.

Q. Okay. Garfield in '64 was what percentage?

A. You mean Watkins?

Q. Garfield, first.

A. Garfield. Clarfield, you mean?

Q. Yeah.

A. I'm sorry. Clarfield in 1964 was 50 percent non-white.

MR. PORTER: May I have — what school is that?

THE WITNESS: Clar — C-l-a-r-f-i-e-l-d, Clarfield.

Q. No, I'm sorry. Garfield.

[3578] A. Garfield?

Q. Yes.

A. Garfield was 99 percent non-white in 1964.

Q. And Watkins was opened in '61-62. What was the number of rooms built there?

A. Watkins had 19 rooms, according to my figures.

Q. All right. And what percentage did it open in the '64 data?

A. In 1964, Watkins was 24 percent non-white.

Q. Okay. Was there an addition built at Stockbridge in 1961-62?

A. In 1961-62, the year that we're discussing, Stockbridge had a four-room addition.

[3579] Q. And Stockbridge at that time was what?

A. In '64 Stockbridge was still all white.

Q. The addition to Heimandale was made in what year?

A. There was a six-room addition to Heimandale in 1963-64, two years later.

Q. Can we put that overlay up?

A. All right. This is PX 266, elementary '63-64.

Q. And Heimandale, would you show us the zone?

A. Heimandale is in the center of the southern area just to the northeast of the Chessie Railroad.

Q. Was there any change made in its attendance boundary at that time?

A. Well, I don't have '62-63 underlaying, but from '61-62 there was a change which would move it to the northwest picking up the area of Fornof that extended east beyond the railroad. The new line in '63-64 had Heimandale going to the railroad in the northwest, and then in the northeast it also picks up — no, I beg your pardon. That's the only thing, I believe, in Heimandale.

Q. All right, in '64 the percentage black at Heimandale was what?

A. 40 percent non-white in '64.

Q. Now, you have already covered the Koebel Elementary built in '64-65?

A. That is correct.

[3580] Q. Perhaps if we took these overlays down and put up the overlay for '64-65 alone, it would be helpful.

A. All right, this is PX 267, elementary '64-65, overlaying the 1960 Census.

Q. All right, would you identify Koebel?

A. Koebel is just to the north of Watkins and just south of Refugee Road.

Q. Was there an addition made to Parsons that same year?

A. Parsons had a six-room addition in '64-65. Parsons is in the extreme southwest area at this time.

Q. All right, Parsons' enrollment in '64-65 was what?

A. In 1964 Parsons was zero percent non-white.

Q. Let's put up the '65-66 overlay.

A. This is PX 268, elementary '65-66.

Q. And the Cedarwood Elementary was opened at this point in time; is that correct?

A. That's correct. Cedarwood is to the extreme south central part of the area we are describing, the southernmost area of the district, and it was carved out of Parsons.

Q. All right. Were there other — let me go back. What was the percentage black at Cedarwood when it opened?

A. In 1966, the first year we have data, racial data for Cedarwood, it was 100 percent white.

[3581] Q. Was an addition made in that same general vicinity to another school?

A. A four-room addition in 1965-66 to Scioto Trail which is just north of Parsons and Cedarwood.

Q. And what was its racial composition?

A. Its racial composition in 1965 was 0.6 percent non-white.

Q. Were there alternatives available to the boundaries established for these schools in that southwestern portion, particularly with reference to the Heimandale School?

A. Well, at any time the boundaries could have been changed during this period to incorporate white schools which all lay to the southwest of the railroad with mostly black schools to the northeast of the railroad. There are various combinations of pairings —

Q. Is there access across the railroad?

A. There is access. There is an underpass going north and south at Parsons which would then be just above the main railroad yards, and there is access across the railroad at Williams which is at the extreme end of the Stockbridge-Clarfield zones.

Q. That is the area where Clarfield used to cross the boundary; is that correct?

A. That is correct. Then if you run north — I can't remember the name of the street. Let's see. Groveport runs [3582] northwest off of Williams and again crosses part of the railroad and picks up Lockbourne again which does not cross the railroad. So there is a north passage and a south passage, so to speak.

Q. I believe you have examined that area physically yourself, Dr. Foster; is that correct?

A. Yes, I have, that's correct.

Q. And although there are sidewalks, for example, at the underpass, the area is such that it might require some transportation for safety reasons?

A. Well, of course, I am not certain what it was like at this time, but as it is now, I would estimate that the district would have to use transportation for safety purposes because there are very few sidewalks in that general area.

Q. There are a lot of railroad yards and industrial area in between; is that correct?

A. That's correct, and a lot of farm land still on parts of it.

* * * * *

Q. Did you make an estimate of the distances between the Heimandale School or some of these other schools that [3583] opened or had additions, Dr. Foster?

A. My estimate would be that in no pairing or grouping or combination of schools black and white you would make would be more than three or four miles.

Q. Did you make your estimate based on examination of the map and the map legend as well as the physical examination you made?

A. Not this particular map, but another map that I carried when I traveled around.

Q. Was there another addition at the Clarfield School in 1966-67?

A. There was a four-room addition at Clarfield at that year, yes, sir.

Q. Could we put up that overlay?

A. This is PX 269, Elementary '66-67.

Q. Once again would you locate Clarfield with the pointer?

A. All right. Clarfield is at the extreme southeastern portion of the area which we are discussing.

Q. In 1966-67 what was the racial enrollment of Clarfield?

A. 80 percent non-white in 1966.

Q. What is it today?

A. Clarfield today is 84.4 percent non-white, I believe.

Q. Was there another addition, series of additions, in this area in the year 1975?

[3584] A. As I understand it, based on PX 68 and Dr. Merriman's testimony, in '75 or as part of the current building program, Cedarwood had an addition of eleven rooms and —

Q. Where is that on the map?

A. Cedarwood is to the west and south of the area (indicating).

Q. And what percentage black was that in '75?

A. Cedarwood was 2.2 percent non-white in '75.

Q. Was there another school in that area with an addition?

A. Stockbridge, which is also in that area just above Cedarwood, had a two-room addition in '75?

Q. I'm sorry, did I ask you how many rooms there were at Cedarwood?

A. There are 11 rooms.

Q. Was there a corresponding development at the junior high level in this period in this part of the city?

A. There was a building in 1963-64 of one junior high school in the southwestern part of the zone, the other side of the railroad, and that was Buckeye Junior High School.

Q. Can we have the 1963-64 junior high overlay?

A. All right. This is junior high '63-64, PX 287.

Q. Is this the year the Buckeye Junior High was opened?

[3585] A. That's correct.

Q. Would you locate it on the map, please?

A. It's to the extreme west and south of the area we're talking about. There's a diagonal line which is pretty much the railroad. It is the railroad, in fact, or a part of it, which separates the Buckeye zone from the Marion-Franklin zone, or, in fact, Beery Junior High School, which is part of the Marion-Franklin complex.

Q. All right. What was the racial composition of Buckeye the first year that you have data?

A. In 1964, Buckeye was 0.1 percent non-white.

Q. And what was Beery at that same time?

A. Beery at that time — well, a year later, I don't have the '64 figure for it, in 1965, Beery Junior High was 20. non-white — 20. percent.

Q. All right. Were there additions made to both of these schools?

A. Yes. In '67-68, Buckeye had an addition, of what size, I don't know. I think we have the square footage on it, but not the number of rooms.

Q. And what was Buckeye in that year?

A. 0.1 percent in '67, the same as '64.

Q. Was there any change in the boundary in that period, do you know?

A. I don't believe so, no, sir.

[3586] Q. All right. And was there an addition made to Beery after 1964?

A. As part of the current building program, there's an addition to Beery which has been completed, I believe, which includes two rooms.

[3587] Q. All right. And what is the current racial enrollment at Beery?

A. 70.4 percent non-white in 1975.

Q. What is the 75 percentage for Buckeye?

A. The 75 percentage for Buckeye Junior High School is 2.4 percent non-white.

Q. Are these contiguous schools?

A. Yes.

Q. In examining the process from 1957 through 1975 that took place at both the elementary and junior high level in this south area, centering around the developing black residential area, can you summarize what you, in your opinion, saw taking place in terms of construction and the boundary changes?

MR. PORTER: Objection.

THE COURT: Overruled.

You may answer.

A. Well, my summary would be that during this period the area was rapidly expanding in population and needed additions and new construction which were provided, and they were provided in such a way, that is, openings of new schools and additions to schools, to compact the black area north and east of the railroad and into the black schools in that area. Part of this total picture, of course, at each opening, was boundary changes to make way for the new [3588] school. There were some additional boundary changes, also, which I think we testified to, at least some of them.

We also had two non-contiguous assignments which were racially oriented during that time to Moler and to Fornof out of Heimandale, to Moler out of Watkins.

So during that period, I think that the major effort in the way schools were built and additions made, pupils assigned non-contiguously and boundaries drawn was simply to compact the black area and maintain everything southwest of the railroad as white as possible.

Q. How did the Alum Crest area fit into that, if it did?

A. Well, simply as I testified that it would have been an alternative, in my opinion, for the area, the non-con-

tiguous area west of Watkins, which was assigned to Moler, and it was contiguous to that area.

Q. In terms of the opening of the Buckeye Junior High School, what alternatives did the Board have, in your opinion?

A. Well, you need certain racial data to describe explicitly that sort of an alternative, but essentially, the alternative would have been to simply draw these zone lines in such a way that an equal number of minority pupils would have been assigned to Beery Junior High School and also to Buckeye as it opened, and I don't think from looking [3588A] at the maps that that would have been too difficult to do. You would have had to have crossed the railroad, obviously, probably at both the north and south passageways.

[3589] Q. That's something that the School System has done in the past; is that correct?

MR. PORTER: Objection.

THE COURT: Overruled.

A. Well, Marion-Franklin High School is still doing it. This whole zone is an attendance zone for that high school.

Q. Can we put up the 1970 base map with the 1975 elementary and junior high overlay?

A. We now have the 1970 Census, PX 252, elementary '75-76, which is PX 27 and junior high '75-76, which is PX 299.

[3590] Q. Dr. Foster, from your examination of the changing demographic pattern between the '60 and '70 Census, would you say that the pattern of growth in the Heimandale area in terms of minority concentration has now joined with the Alum Crest area?

* * * * *

A. My observation would be that the whole area in Heimandale and to the east of Heimandale south of Refugee Road has grown similar to the underlying census data

for Alum Crest which is to the north and — the north of the eastern part of the area we are discussing.

Q. And everything to the south, has it remained white?

A. Of the railroad, you mean?

Q. Yes.

A. I believe it does, yes, sir, and south of Refugee Road.

Q. Directing your —

THE COURT: Did you say south of Refugee Road?

THE WITNESS: Well, south of Refugee Road in the [3591] area which he was discussing which would be to the west and south of the Chesapeake Railroad and south of Refugee.

Q. (By Mr. Lucas) Did you examine the opening of the Sixth Avenue Elementary School in 1961?

A. Yes, I believe I did. This is elementary '61-62, PX 264, on the 1960 Census.

Q. Sixth Avenue Elementary opened carved out of what district?

A. It was carved out of Weinland Park, to the extreme east of the Weinland Park zone. It would be in almost the center of the school district, a little to the north.

Q. Can we put the '60 elementary overlay on top of the '61-62 overlay?

A. Yes.

Q. It might show up a little better. Can you show us how the Sixth Avenue Elementary was carved out of the Weinland Park area?

A. I now have 284A, Plaintiffs' Exhibit, elementary '60-61 over the '61-62 overlay. Weinland Park is nearly a square district pretty much in the center a little to the north and west of the city, and then in '61-62 just to the east the entire eastern edge of the district was carved out and made into Sixth Avenue.

Q. The boundary of Weinland Park is a dotted boundary; is that correct?

[3592] A. That's correct. I believe it goes along Fourth Street north and south which is the racial line for the area on the '60 Census Map.

Q. It almost splits the Weinland Park zone; is that correct?

A. Well, just about. I would say it was about the eastern third, may be a little more than that.

Q. It is almost adjacent to the site of Weinland Park?

A. Immediately east of the site, yes, sir, would be the zone line, Fourth Street.

Q. So it would back up to the school almost; is that correct?

MR. PORTER: Objection.

THE COURT: Overruled.

Q. (By Mr. Lucas) Let's lift the overlay now. What was the underlying racial composition of the new Sixth Avenue Elementary?

A. It appears to be all red or orange, the blocks. There is a white portion to the extreme east, but I believe that's railroad territory.

Q. What does the 1964 enrollment by race show for that school?

A. The 1964 for Sixth Avenue is 91 percent non-white.

Q. And the '64 Weinland Park?

[3593] A. Weinland Park is 30 percent non-white in 1964.

Q. When did Weinland Park close?

A. I don't think it is closed. Sixth Avenue closed in 1974.

Q. So do you know how many rooms it was when it opened?

A. My records indicate eight classrooms and one kindergarten.

Q. Is that a fairly small elementary school?

A. Well, it was really opened as a primary school which explains the dotted line between Weinland Park and Sixth.

Q. What was the effect of opening the Sixth Avenue School at the time it was opened and the location of the school?

A. Well, it opened up as a racially-identifiable black school and compacted the blacks in the eastern part of Weinland Park into that area. In my opinion, this could have been avoided by simply running the line east and west, depending on the number of children in different parts of the area, or simply making it dog-leg to the northern part of Weinland and picking up white children. There are any number of ways this could have been done. I believe at that time there was also a grade combination with Second School which is immediately below Weinland, and some of those [3594] children also went to Weinland, perhaps.

* * * * *

A. I believe those assignments are described in Original Plaintiffs' Exhibit 8B which I don't have with me.

Q. All right, the Gladstone Elementary School was opened in 1965. Did you examine the opening of that school, Dr. Foster?

A. We have Plaintiffs' Exhibit 268, elementary '65-66, over the 1960 Census.

Q. Would you locate the school, please?

A. Gladstone is in the sort of center of the district a little to the north of the downtown area, and it was carved out of the southwestern portion of Duxberry Park, Duxberry being to the north and east.

[3595] Q. All right. What was the underlying census data with respect to that?

A. That in the 1960 Map, Duxberry Park area is all white, the Gladstone area to the south, just above the line, the zone line, has a couple of blue blocks and I believe two green ones and one blue one, I believe.

Q. All right. Would you put up the 1970 Census base map?

Is Gladstone still located?

A. All right. On the 1970 Census map, Gladstone at this point is either all red or all — it's either red or orange, I would say about half and half, and Duxberry is, on, about a fourth orange and red blocks and one green — one or two green blocks, and the balance, I believe, is blue, maybe one white block in the corner, part of a white.

Q. This open at the mid-point between the two census period, and you've looked at both census maps. Can you give us the racial enrollment for Gladstone the first year that you have data?

A. The year after it opened in '65, in 1966, I believe it had 78 percent non-white.

Q. And in 1965, what was Duxberry?

A. Forty percent non-white.

Q. And after the opening of Gladstone, what happened to the Duxberry enrollment?

[3596] A. The following year it dropped to 33 percent non-white in 1966.

Q. Do you have an opinion as to the opening of the Gladstone Elementary with respect to the effect on Duxberry?

A. Yes. My opinion is that this was built as a containment school as the blacks moved north and northwest and allowed Duxberry to remain whiter for awhile and assured Gladstone's opening as virtually a black school. This could have been changed by some combination of boundary lines or pairing with schools that were white to the north, perhaps Linden and/or McGuffey.

Q. What was Linden in 1965?

A. It had no blacks in 1965, nor did McGuffey.

Q. All right. Did you look at the boundary changes in connection with the Hudson Elementary opening?

A. '66.

Q. '66 overlay.

A. We now have the PX 269 elementary, '66-7 overlaying PX 268, elementary '65-66, and both of those overlaying the 1970 Census.

Q. Can we put the 1960 Census map up? I'm sorry. We should have done that earlier.

All right. Would you describe the boundaries of the Hudson Elementary and the area it was taken from?

A. All right. Hudson is in the center part of the [3597] district to the north a ways from downtown. It was carved out of the northern part of Hamilton. Its boundary to the north would be Hudson Street, to the east is Dresden, to the south is Duxberry and to the west would be the Penn Central Railway.

Q. All right. The school just above it is McGuffey.

A. McGuffey and Como.

Q. And below it is Hamilton directly to the south; is that correct?

A. That's correct.

Q. And let's put the 1970 Census back up.

All right. In the 1970 Census, would you describe the Hudson attendance area in terms of the basic census data?

A. All right. The Hudson attendance area to the east and the block just above the southern boundary is all red or orange except for one block in the extreme northwest which is blue. The northwestern part of Hudson Elementary is green and blue blocks intermixed with two or three blocks that would appear west of that and east of the railroad which are white.

Q. All right. Is the Hudson zone a narrow zone?

A. It appears to be about three blocks wide, yes, sir.

Q. And it runs east and west?

A. I would judge about somewhere at ten to sixteen or [3598] eighteen blocks.

Q. All right. In the '60 Census, I believe it showed all white; is that correct?

A. The Hudson zone?

Q. Underneath the base map?

A. Yes, sir.

Q. And the 1970, it shows mostly orange and red; is that correct?

MR. PORTER: Objection.

THE COURT: Overruled.

A. Mostly — about two-thirds orange and red with one-third blue and green.

Q. All right. Does that indicate to you anything with respect to the rate of racial change at that period of time in that area?

MR. PORTER: Objection.

THE COURT: Overruled.

A. That it was changing black very rapidly, yes, sir.

Q. Hudson opened what percentage black according to the earliest data you have?

A. My 1967 data indicate that Hudson was 41.9 percent.

Q. And what was Hamilton, the school just below it?

A. In 1966, Hamilton was 61 percent non-white, the year Hudson opened. In 1967, it was 95 percent non-white

Q. What was it in 1968?

[3599] A. 90.3 percent non-white.

Q. What happened to Hudson in terms of its racial enrollment?

A. What year did you wish?

Q. Take us from the 1967 data to today, if you will, if you have it.

A. I have it on the spread sheet.

In 1967, it was 41.9 percent non-white; in '68 it was 54.3; in '69, it was 62.4 percent non-white; in 1970, it was 69.2; in '71, it was 74.8; in '72, it was 77.9; in '73, it was 80.1; in '74, it was 82.7 and currently it's 82.9 percent non-white.

[3600] Q. In your opinion, Dr. Foster, what was the purpose of the location and opening of the Hudson School with the boundary lines drawn as they were?

MR. PORTER: Objection.

THE COURT: Overruled.

A. In my opinion this was a racial containment opening which compacted the black pupil population south into Hamilton. Drawing the line east and west along Hudson Street also in my opinion had the effect of setting a racial line at that northern position which is still to some extent effective on the 1970 Census Map, as you can tell, because most of the area north of Hudson Street is still a whiter area, and the black area is very heavy immediately south of Hudson.

Q. Were these alternatives available in 1966 with respect to both Hudson and Hamilton?

A. Well, again it is my opinion that if you would have run the lines north and south rather than east and west, you could have put black pupils with white pupils in a much better desegregative fashion than was done.

Q. What were some of the available schools, and have you looked at their racial enrollments?

A. Immediately to the northwest of Hudson is Como Elementary, and immediately to the north is McGuffey Elementary. Then to the northeast is Linden. In 1966, the [3601] year Hudson was opened, Como had no blacks. McGuffey had I think one black student, and Linden had 0.1 percent non-white, perhaps one or two black students. So all three of these schools were virtually all white schools.

By drawing the line north and south, Hudson could have undoubtedly been opened a desegregated school and would have served to desegregate the three white schools, and probably Hamilton could have been included in that combination.

Q. Can you say without having a spot map exactly

where the lines should have been drawn?

A. No way, no, sir.

Q. But with a spot map, the lines could have been drawn in that direction?

MR. PORTER: Objection.

A. I believe they could have, yes, sir.

* * * * *

[3622] Q. Dr. Foster, from your examination of the data that's been made available to you, examination of the demographic changes in '50, '60 and '70 census, school construction, school boundaries and particularly the growing areas of black concentration in particular parts of the city, do you have an opinion as to whether or not the actions of the Columbus School Board contributed in substantial part to any containment of black children in particular sets of schools?

* * * * *

A. Yes, I do.

* * * * *

[3625] Q. I will try to do it again: We got that far afield.

Dr. Foster, from your examination of the records, in particular the exhibits in the cause, the examination of depositions, the maps and overlays, the demographic data which you have studied, the racial enrollments furnished by the school district, school construction, assignment of principals to schools, the changing of boundaries, setting of boundaries, optional attendance areas, all of the matters in that respect that you have examined, many of which you have testified to here today, and I believe the second part of the question was considering the concentrations of minority population in the Columbus School District, of the actions and policies of the Columbus Board of Education contributed in any substantial way to the maintenance of racial separation in black and white in the Columbus School System over the years?

MR. PORTER: May I have my objection?

THE COURT: Yes.

A. My answer is: In my opinion they have, and I would add to the actions, the inactions or the lack of action.

[3626] Q. Can you describe in some general way how this worked with respect to the various concentrations of black population in the city as they expanded?

A. I think I have done this off and on in my testimony in treating various aspects that I made analysis of, but in the western part of the Columbus District, within the Highland's area, in my opinion the blacks in that area have been compacted and the white areas maintained because of actions or lack of action by the Board.

In the south portion of the Columbus District about which I testified earlier this afternoon, my opinion is that the actions and inactions or lack of action by the Board definitely has kept the blacks, the black community, helped to keep the black community, particularly the schools is what I am referring to, northeast of the Chesapeake Railway and the whites in isolation to the southwest of that dividing line.

As the black residential areas moved south from the center of Columbus, and north and northeast, in my opinion actions and inactions of the Board have contributed in various ways to allowing whites, while that transition was taking place, to remove themselves to whiter schools and has generally had the effect of compacting the black pupils and schools as the movement went along toward the center of the city in both instances.

* * * * *

CROSS-EXAMINATION BY MR. PORTER

* * * * *

[3657] Q. [By Mr. Porter] All right. You stated that in the process of building a school that the problem of site

selection was not an easy one to solve. Am I stating your testimony generally accurately, or would you correct me, please?

[3658] A. I seem to remember I said something to that effect, yes, sir.

Q. And you went on and said: But the fact that the school opens racially identifiable, there is a strong tendency to maintain that racial identifiability and that there is an obvious inference that the school system is not doing anything if it were really interested in desegregating the system. I think that was generally your statement. Does that sound accurate?

A. Well, I guess recently so.

Q. What is the problem that a school system faces or faced in the '50s and the '60s with respect to site selection? What do you mean? What did you mean?

A. Well, site selection for a city school district like Columbus is an ongoing process where they're heavily into the real estate business, and most systems of this nature, and I assume Columbus does, also, has at least one person, sometimes a staff of people, depending on the times of their existence, whether they have a population press or not, simply out buying schools and looking for sites and so forth and paying attention to real estate developments that may already be underway or are projected. School administrators are in constant touch with the people who are building school developments and inner city developments and all of this. They work very closely, as a matter [3659] of fact, and they generally plan this — if they open up a new subdivision to have a school tucked away in it somewhere.

Q. Do you find this to be an unsatisfactory or a reprehensible practice on the part of a metropolitan school system to conduct its business affairs in that way, or do you feel that it is an appropriate practice for them?

A. Well, I think there are some things about the practice that many systems have in terms of site selection

that I would not agree with currently, but generally, the process itself, absent the racial considerations, is — I would classify as a good or normal business procedure for buying school sites.

Q. Now, if one selects a site in a growing area or selected a site in the '50s in the City of Columbus in a growing area out from the center of town, that school would open up, would it not, under your system, as being racially identifiable?

[3660] A. Unless the school administration or the board decided to open it otherwise by changing the boundaries or the assignment of pupils within certain boundaries that they may have set up.

Q. Well, let's, if we might, please — maybe we could get Mr. Lamson to put up the 1960 Census Map, and let's put on top of it, if we might, the 1960-61 elementary system.

Dr. Foster, directing your attention to Plaintiffs' Exhibit 251, the 1960 Census, and the 284A overlay, directing your attention to Maize Elementary School which is up at the top which opened, I believe, according to my records, in 1960; is that right?

A. I believe so, yes.

Q. Now, what is the underlying color where Maize is located?

A. I assume it would be white. It is white, yes.

Q. What are the colors around it?

A. Of the elementary schools around it?

Q. Yes, please.

A. I believe all of them are all white.

Q. Now, would you please explain to me or, more appropriately, for the record, how that school can open and be other, under your system, anything other than racially isolated?

A. Simply by pairing it with another school that is [3661] of a different racial makeup, ranging it, pairing it

or grouping it with another school that is of a different racial makeup and assigning children in such a way that it is thereby desegregated.

Q. Now, Dr. Foster, looking at that 1960 Census Map and that elementary system for 1960-61, where would you have to go to do that?

A. You would have to go south to the area around Eleventh, Windsor, Weinland Park, Milo, Leonard Elementaries.

Q. Can that be accomplished or could that be accomplished without transportation?

A. No, sir.

* * * * *

[3673] Q. Thank you. Doctor, would you point out, please the Mifflin Junior High School?

A. It's to the northeastern part of the school district (indicating). The school's here (indicating)

Q. And it was your suggestion or testimony that 89 — there were 89 seats available at Buckeye. Would you identify Buckeye, please?

A. Buckeye's to the southwest of the Columbus district.

Q. It is the furthest — it's the most southerly of the junior high schools?

A. Yes, sir.

Q. Can you give us an approximation in straight distance as to what that is, please?

A. I estimated in my data it was about ten miles from Mifflin, south of Mifflin.

Q. And assuming the availability of the 89 seats, it would be necessary to take some part of the 530 students, take 89 of them out and send them from Mifflin to Buckeye; is that right? That's what you do?

A. Well, I think if you were making that kind of a decision, you'd probably want to take two busloads, which depending on your capacity would be 100 or 125 children,

which would leave Buckeye slightly over capacity, but not nearly so much as Mifflin.

Q. All right. And another of the schools was [3674] Crestview with 86 seats. Would you identify it, please?

A. Crestview is to the north of the district about half-way, and a little to the west (indicating).

Q. And approximately how far, please?

A. I estimated four to five miles from Mifflin.

Q. That's a straight distance; is that right?

A. Yes, sir.

Q. Do you happen to know how you would get there by a road?

A. I didn't make that analysis, no, sir.

Q. All right. Wedgewood had 145 seats, according to our figures. Would you identify it, please?

A. Wedgewood would be in the extreme western portion to the south of the school district (indicating).

Q. And it is approximately how far, please?

[3675] A. I estimated about 12 miles.

Q. All right, thank you. Would you take your seat, please.

Now, if this system were to be followed, it would mean that you would break up the junior high school into units or numbers that would fit into Buckeye, Crestview and Wedgewood, and some other arrangement would have to be made; is that right?

A. Well, if you used, for example, all three of those facilities and made them slightly over capacity, you would wind up with a fairly over-capacity distribution in those three and in Mifflin Junior High. They would all be a little over capacity, which a junior high school can stand much easier than an elementary school.

Q. Well, I think, if my figures are approximately correct, there were 539 over capacity at Mifflin; is that right?

A. That's right.

Q. And there were 300-some spaces available?

A. That's correct.

Q. And it would be true, would it not, that you would be breaking up part of the seventh grade or part of the eighth grade or part of the ninth grade? You would not be able to handle the entire class, would you?

A. That is correct.

[3676] Q. Now, directing your attention, if I might, Dr. Foster, to optional zones, I have first some general questions that I would like to ask you, and then I have some specific ones. The first is that I take it from your testimony, and I guess it would be my understanding that you do not know, nor so far as you know or I know are figures available that show to what extent individuals in an optional zone have in fact used it; is that right?

A. Yes.

Q. And I think that you have also testified possibly here, but certainly it is your opinion that optional zones are used for all sorts of purposes; is that not true?

A. That is correct.

Q. One of which obviously you have testified is to permit whites to leave some type of a situation; am I right about that?

A. Yes, sir.

Q. You testified concerning certain options, but you did not testify concerning all of the options that have existed within the Columbus School System during the period that you examined; isn't that true?

A. That is correct.

Q. And in fact, options showed in the — additional options showed in that Ohio State report that you used I think for 1955 or '56, in addition to those to which you [3677] testified; is that right?

A. I am not exactly sure of the latter, but I would think that's possible, yes, sir.

Q. Do you remember, by the way, when you examined that Ohio State report that shows one or two of the options about which you testified, that it also shows the area annexed to the City of Columbus? Do you recall that?

A. I am aware of the areas that have been annexed as far as the schools go. I don't recall specifically seeing that in the Ohio State report.

Q. Is your testimony here in this proceeding based upon certain specific instances — strike that.

The instances about which you have testified, the specifics, were they selected in this case by you, or were they selected by someone other than you?

[3678] A. By me.

Q. They were selected by you?

A. Yes, sir.

Q. And so they are the distillation or the residue or whatever of your examination of these various boundary changes and optional zones and discontinuous zones that existed in the Columbus Public School System from time to time during the period of your examination; is that right?

A. Almost right. The optional zones I would agree with.

The boundary changes — I testified in my remarks about non-contiguous assignments and about school openings and about optional zones for many boundary changes, dozens of them, but I did not specifically testify — or I did not make a complete analysis of all the boundary changes in the system from year to year is what I'm trying to tell you.

Insofar as boundary changes related to school openings, to areas like the south area which I testified to in some detail, to the west area, that portion of it around Highland which I testified to, to the various optional zones or school openings what I testified to, those boundary changes I did make an analysis of. I did not set out specifically, because I wasn't asked to, to make a complete analysis of every boundary change that took place during the time data were available.

* * * * *

[3684] Q. And so if you open up — strike that.

Directing your attention to the Fair-Fairmoor optional zone which is contiguous or coterminous with East, Eastmoor and Franklin?

A. Franklin, Eastmoor and one year Johnson or two years Johnson Park.

Q. Okay. Directing your attention to that optional zone, do you know the number of students or school children within that optional zone that were affected by it?

A. You mean who opted to move one direction or another?

Q. Yes.

A. Well, I think you just stated that we both agreed that neither of us knew this for any school option.

Q. You testified concerning the number of houses within those census — I suppose that was census information?

A. Yes, sir, census block information.

Q. And the number of people within those houses; am I right?

[3685] A. That's correct.

Q. Were you furnished or advised by the Plaintiffs of the information contained in Plaintiffs' Exhibit 140 which enumerated the number of elementary and high school students within the area and how many were in public schools?

A. No, I don't believe I have this information.

Q. First I would ask you what the year is? I believe it is 1972; is that right?

A. Minutes of the State Board of Education, July 10, 1972.

Q. Directing your attention to the second page under "Pupils in the Area" would you read it, please?

A. Twenty-five in elementary, 13 in high school with only one or two in public schools.

* * * * *

[3689] Q. Well, I want to know about your testimony with respect to the Franklin-Roosevelt High.

A. Well, this is not the only thing that went into making up my testimony regarding the optional zones. There were also factors as to how the schools were situated racially in 1964 which I also testified to. The Census Map is simply one indication of the way that the General population data are running, and I combined this estimation with the figures that the School Board gave the Plaintiffs for 1964.

Q. But that assumption, and correct me, that assumes that there are people within the defined area, does it not?

A. Well, I think the School Board would be a little ridiculous to set up an optional zone between two schools if there were no people in the area. I think that's a safe assumption on my part.

Q. Well, Doctor, isn't it also true that if it's colored orange, red, green or blue that that means there are people there? Isn't that true?

[3690] A. According to the map that Mr. Lamson has made, I would say that was true, yes, sir.

Q. And it was my understanding that those colors represented non-whites, is that right, in some varying percentage?

A. That's correct.

Q. And it was my understanding that it was your testimony that this was permitting whites to leave; isn't that right?

A. That's correct.

* * * * *

[3691] Q. All right. Directing your attention to the downtown option.

A. All right.

[3692] Q. This option permitted those students within this downtown area, defined area, to go to any one of a

number of five schools. It varied from five or six to seven; is that right?

A. Yes.

Q. Those schools throughout the existence of the option contained schools which were racially identifiable black and racially identifiable as white, did they not?

A. Yes, I believe so, although for the years before '64 this would again have to be an estimate on my part.

Q. I understand. Now, I am not clear about the direction of your testimony on this, Dr. Foster. I am correct, am I not, that a black student could elect to go to Garfield or Hubbard or any of the other schools that were within the group that particular year; isn't that right? Isn't that your understanding?

A. I believe so, yes, sir.

Q. And the same would be true of a white student, would it not?

A. Yes, sir.

Q. And as a matter of fact, isn't it — it is not unusual to find a zone of this type in a downtown area; isn't that correct?

A. I have seen many cities, and I don't remember a single one where there was an optional zone like this in a [3693] downtown area.

Q. All right. Now, you testified that the function or the purpose of this was to permit what? What is the segregative effect of this?

A. Well, simply that if you are white and you do not wish to go to a racially identifiable black school, you could have opted to go to either Mohawk or Hubbard, and I think that was the primary affect of it. In other words, it left the option up to the pupils or their parents, and there were both racially identifiable schools black and white involved in the option.

Q. Well — excuse me, are you through?

A. Yes.

Q. Isn't it also true that to the extent that a black went to a racially identifiable white school, that you have improved, that it has an integrative effect, does it not?

[3694] A. That is correct.

* * * * *

[3700] Q. Directing your attention to Weinland Park and I guess it was what, Sixth that had the primary K through 3?

A. Yes.

Q. And when did that, did Sixth open? Do your notes show that?

A. Pardon me, sir. Sixth Avenue Elementary opened in 1961.

Q. And it, if I recall correctly, was a primary center consisting of K through 3; is that right?

A. I believe that's correct, yes, sir.

Q. And I think your testimony went to the question of it having or to the point that it had — Sixth had split off the east part of Weinland; is that correct?

A. Yes, sir.

[3701] Q. Which I believe you testified had the effect of making Sixth what, white or black? I don't recall?

A. Black.

Q. And removed those blacks, then, K through 3, from that area from Weinland Park; is that right?

A. Yes, sir.

Q. And would I be correct that the western part of the Weinland Park that was left was more white than the eastern part; is that right?

A. That's correct, yes, sir.

Q. Now, what happened to 4 through 6? Did they stay at Weinland Park?

A. In the total area, yes, sir, I believe so.

Q. So that if the Columbus Public School System had as its object the intent to segregate, it was only going to

segregate K through 3 and not 4 through 6; is that right?

A. Yes, sir.

* * * * *

[3705] Q. How do you explain the fact that the racial characteristics in 1975 of the southern part of Columbus, that the area to the east of the railroad tracks is predominantly black or has a high non-minority percentage [3706] and the area to the west does not?

A. Well, I didn't make any such analysis in my study of the school system.

Q. Well, you testified yesterday that the school system caused the area to the east to go black —

A. The schools —

Q. — and kept the area to the west white. That's what you said.

A. I was speaking of the school population, I believe, in my testimony, not the general housing situation.

Q. The school system does not control the housing pattern, does it?

A. It has a considerable effect on it, in my opinion.

Q. But it does not control it, does it?

A. No, not completely, of course not.

Q. How do you explain the fact that the black population of the City of Columbus went northeast rather than northwest?

A. Well, like I say, I have not made an analysis of that, but I could guess that there are certain reasons which are typical of any city expansion or development which have to do with that in terms of the real estate market and the schools and the whole — all the forces that operate to determine those things acting in unison and with reciprocal effect.

[3707] Q. But, Doctor, you are purporting to testify that the Columbus Public School System intentionally has segregated the races, and you purported to do this based on what they did in 1957 and '58. Now, did you make an

analysis in order to permit yourself to make that type of a statement or not?

A. In terms of their decisions insofar as schools were concerned, yes, I did.

Q. And where is that information?

A. Well, I've already testified to it. If you're talking about the southern part in terms of school openings, boundary changes connected with school openings, assignment of pupils in a non-contiguous fashion, to some extent school additions, the whole business of — I did testify also to such things as the appointment of black principals so that the community perceives certain schools as black and certain schools as white. All of this is accumulative effect and process in terms of community perception of schools, and their perception of the intent of the School Board.

* * * * *

[3713] Q. (By Mr. Porter) You would agree, would you not, that the shifting housing patterns or the changing housing patterns play a part in the or cause the racial composition of the particular schools, absent some type of a pairing or transporting situation?

A. That they are a contributing factor, yes, sir.

Q. If there is a need for a school building in an area which is 90 percent white or 90 percent black, is it your opinion that the School System should not build that building?

A. Well, I think a school system needs to take that need in context with the total system so that any decision in that regard would have to be made for each individual school as it arose. There are times when I think by making choices of sites which may be made available, a school does not have to open up in an area that is 90 percent white or 90 percent black. That is to say there may be alternative sites which can handle that population just as easily generally which would be placed more nearly toward the buffer area or buffer zone where white or

black residential areas would come together. If it is that kind of situation, then I think sometimes you can make choices that way.

If it is in a completely isolated racial housing [3714] pattern, that is to say if it is in the extreme suburbs where everything is white, then I think a school has to make the decision that if you open it there in this day and age, you need to have some boundary assignments which will suggest that you are paying attention to the necessity to open that school up as a racially non-identifiable school, and there are ways to do that.

Q. We will get to that latter part in just a moment.

If the building is built on the edge in a period of years, at least historically, there is an expanding population. Historically at the present time you would expect that school to become black, would you not?

A. You mean if it were built on any edge in the City of Columbus?

Q. On the edge of a black-white housing situation?

A. Not necessarily. Some of the black residential areas over the Census Maps '50-60-70 have remained relatively stable. Some of them haven't. So I think it would depend on the situation.

If you are talking about downtown expanding black residential areas, that would be one thing. If you are talking about west Columbus, that might be another thing and so forth.

Q. So that to the extent that it may have been all right for the Columbus Public School System in the '50s to [3714A] have built on the edge of a racially changing area in one situation but not in another; is that right?

[3715] A. Well, I think you have to make a judgment as to the nature of the black residential movement and the white residential movement when you're considering race, yes, sir.

* * * * *

[3727] Q. I have got it in my notes. I will be glad to show it to you.

Now, Doctor, to the extent that the Columbus Public School System relied on advice which it received in [3728] the '50s and the '60s from the Ohio State University in pursuing its building program, are you — do you mean to suggest or imply that the Ohio State University intended to segregate the Columbus Public School System?

A. Well, I don't think — I haven't read all of the Ohio State University's surveys, but the parts that I did read, I saw very little, if any, reference to race. I don't think Ohio State was concerned with racial implications.

Most university bureaus, research bureaus that do this type of survey work do so at the request of the school system, and their main thrust in these surveys was not to deal with the racial component at all, but simply to deal with the usual population and construction needs absent race. I don't think in most of those surveys, if not all of them that I read, race had any consideration.

Q. And that would also be true, would it not, of the studies with which you worked when you were at Miami of Ohio that were done by this group at Ohio State and your group at Miami? The same thing would it not?

A. Well, in several of them there were no minority students involved at all. I can't really answer that question because I don't remember.

Q. Did you do a study — did you participate in a study when you were at Miami, any studies at Cincinnati, the Cincinnati School System?

[3729] A. I don't believe so. We did some studies of schools in Hamilton County. I can't remember just which ones, but I was involved in two or three studies of suburban schools, but not Cincinnati Public Schools that I remember.

Q. And it would be true, would it not, that the studies with which you are familiar, both the ones that were done

by Ohio State for the Columbus Public School System and the others that were done while you were at Miami or to which you had some exposure, that those systems, the total systems, were built in substantially the same way that the Columbus Public School System was built or developed over the period from 1950 to 1965; is that right?

A. Well, I can't say for certainty, but I would imagine so, yes.

* * * * *

REDIRECT EXAMINATION BY MR. LUCAS

* * * * *

[3753] Q. [By Mr. Lucas] Thank you. Dr. Foster, you were asked about the Fair-Fairmoor option. Do you recall that?

A. Yes, sir.

Q. And you were shown Plaintiffs' Exhibit 140 which you indicated you had not seen previously. I ask you to direct your attention to the State Board minutes of [3754] July 10, 1972, page 44, which is PX 140, an excerpt therefrom, and ask you if it indicates in there that this particular transfer raises the question of percentage of racial mix under the heading "Miscellaneous," I believe, Dr. Foster?

A. There is a listing of considerations. Number 7, Roman numeral VII is Miscellaneous Considerations, and Item No. 3 under that states: Raises the question of percentage of racial mix.

Q. It also indicates in No. 1 that no school buildings are in that area?

A. That is correct.

Q. Now, Item Roman numeral III indicates that there are pupils living in the area; is that correct?

A. I believe I read that into the testimony, yes.

Q. 25 to the elementary, 13 to the high school?

A. Yes, sir.

Q. Only one or two in public schools?

A. Yes, sir.

Q. This was near the end of the option in terms of its extinguishment by the School System?

A. 1972? Yes, sir.

Q. In your experience, Dr. Foster — let me go back and establish a few facts. This option existed from the directories of the School Systems at the elementary level, [3755] did it not?

A. Yes, sir.

Q. And it was set up by the School System at the junior high level; is that correct?

A. Yes, sir.

Q. Was it at the junior high or senior high that they had two options for some period of time?

A. Junior high level.

Q. What options were those?

A. This was in 1961-62 when the option included both Eastmoor and Johnson Park as well as Franklin. Then in 1964 it included only Johnson Park and Franklin and then — no, I beg your pardon. In 1962-63, the following year, it included just Franklin and Johnson Park, and then in the third year, '63-64, it changed back to Franklin and Eastmoor.

* * * * *

[3756] Q. [By Mr. Lucas] Dr. Foster, it was suggested that this option had little effect with only two children in public schools. Aside from the fact that we were not furnished data by the School System as to how many used this option in earlier years or thereafter, for that matter, does the establishment and maintenance of this kind of option indicate anything to you from your experience with respect to the intentions of the school authorities?

MR. PORTER: Objection.

THE COURT: Overruled. You may answer.

A. Well, I have been through that area, and I think that the general affluence of the area would indicate that

this is a typical sort of situation where you are more than likely to get some rather potent pressure that we spoke about earlier in my testimony on options on the school board, and the fact of this option would indicate to me that the school board might well have had considerable pressure to maintain this sort of option even though it may have involved in a certain period very few students.

* * * * *

NOVICE FAWCETT

called as a witness on behalf of the
Defendants, being first

duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PORTER

[4278] Q. [By Mr. Porter] Would you state your name please?

A. My name is Novice Fawcett.

Q. And where do you reside, Dr. Fawcett?

A. I reside at 3518 Rue De Fleurs, zone 21, in this community.

Q. And what is your business address, please?

A. I'm the President Emeritus of Ohio State University and serve as an Educational Consultant.

* * * * *

[4280] Then I returned to the City of Columbus as Superintendent of Schools in 1949 where I served seven years until 1956.

* * * * *

[4284] Q. What was the status, if I might use that word, of the City of Columbus when you came here as Superintendent of the Columbus Public School System in August of 1949?

A. Upon reflection, I presume I would describe it something like this: It was and is a capital city that had experienced rather substantial growth between around

1940 and 1949, a dimension of growth which, as I look back upon it, probably was not understood too well by anyone. The [4285] City had, during the war, experienced an influx of some new industry, beginning — I believe probably the largest one being Curtis Wright, the Lockbourne Air Force Base and others, and following — either toward the end of the war or following the war — I have forgotten which, was the decision on the part of General Motors Corporation to bring the Ternsteda Division of General Motors here. So there had been a substantial increase in the population and obviously a very substantial increase in the birth rate from 1940 to 1949.

There was considerable amount of residential construction, particularly in some of the outer sections of the City, and in general the City was poised to do something, but, as I viewed it at the time, I am not quite sure that it knew exactly what it was poised to do.

Q. Do you happen to recall — and if you don't, it is perfectly all right — what the population increase had been between 1940 and 1949?

A. Well, in 1940 the population, as I recall, was a little over 300,000, around 305 or 6 thousand. By the time I came here, 1949, it was 370-some thousand.

As I recall, I was told that there was an increase of about 2 percent in population in the city during that period.

Q. I am going to direct your attention, Doctor, to some [4286] figures and maps that have been put in evidence here.

MR. PORTER: For the Court's benefit, I will be using these exhibits, and these are originals. They are a little easier to read, possibly, than the ones the Court has. The 1950, for the purposes of the record, Your Honor, the 1950 Ohio State University Study I believe is identified as Plaintiffs Exhibit 59. The 1960 Ohio State University Study — I am sorry, the 1953 Ohio State University Study

is marked as Exhibit 60, and the '55 or '56, one, is marked as 61.

Q. (by Mr. Porter) Now, Dr. Fawcett, I believe you have copies of these reports, do you not, with you?

A. Yes, I do.

Q. Would you refer to Plaintiffs' Exhibit 59 which is the 1950 study, and directing your attention, Dr. Fawcett, to figure 4 which appears immediately following page 8, I would ask you to identify, if you would, please, the areas of growth of residential building construction as shown upon that map for the period 1938 to 1941.

A. Yes. The greatest areas of growth, according to this map, are identified as the area immediately east, a little southeast in Bexley and a little southwest of that community. Another area could be identified as being north of 17th Avenue in between Cleveland Avenue and the railroad track. One of the sharpest increases had been in the north- [4287] northwest which is the area principally east and west of North High Street and north of 17th Avenue extended. There was some growth in a small area of the school district that projected between Upper Arlington and Grandview, and the beginning of a very substantial growth in the far western part of the city principally, but not exclusively, south of Broad Street and beyond Hague Avenue.

Q. Now, Dr. Fawcett, I would now direct your attention, please, to figure five of that same exhibit which appears on the next page and is the distribution of residential construction for the period 1942 through 1945, the Second World War, and would you describe generally where those heavy concentrations of new residential units are, sir?

A. According to this map, there was somewhat less construction in that period because of a shortage of materials, but there was still some additional in the area east of Bexley and in the area north-northeast in the general direction of Gahanna. There was continuing increase in

the construction in the area north of 17th Avenue between the railroad track on the west and Cleveland Avenue on the east and the northern boundary limits of the City, some continuing construction in the north-northwest section, further development of the small area that projected between Upper Arlington and Bexley and continuing development of new residential areas in the far western part of the City [4288] south of Broad Street.

Q. Now, Dr. Fawcett, if I may, please, I will direct your attention to Figure 6 which is the next map and is the distribution of building construction for the period 1946 starting right after the Second World War to 1949, the time when you became Superintendent, and would you please describe the heavy areas of new residential buildings? [4289]

A. The most concentrated areas of residential construction here are in roughly the same areas as described before, but since the war was over and material was available, this is a period in which the growth really began to take place rapidly.

The areas east of Bexley literally filled. That's the area between Bexley and Whitehall. The area north of 17th Avenue and between the railroad track on the west and Cleveland Avenue on the east literally filled. The north-northwest area extending from, well, east and west of High Street all the way over to the Olentangy River had a sharp increase in residential construction.

Again, this area between Bexley and Upper Arlington on that map experienced considerable residential construction.

Q. Excuse me, doctor. You mean between Grandview and Upper Arlington?

A. I am sorry, between Grandview Heights and Upper Arlington, and the area on the west and far west, principally again south of Broad Street, began to expand rapidly.

Q. Thank you, doctor.

Now, doctor, if you would put that aside for just a moment, I would like for you, please, to describe the status now of the Columbus Public School System when you arrived in 1949, and I would like to deal with it two ways. I would like to deal with its structure, its organizational [4290] structure, and I would also like to deal with it from its physical standpoint as you saw it at that time, and if we might, let's take the physical part of it first.

A. As I recall, there were 42 or 43 elementary schools in the city at that time, I believe of that 11 junior high schools and six senior high schools, the six senior high schools being rather good buildings. All, I believe, were constructed in the decade of the 20s following the 1st World War.

The junior high school facilities were not of quite the same quality as the senior high school ones, but quite good compared to most of the elementary school buildings. The vast majority of the elementary school buildings were in a very bad state of repair, and some so far, I thought, deteriorated that it would be an unwise use of resources even to restore them.

In terms of the operation of those buildings, I remember, for example, heating plants all over the system were obsolete. They were fired by men shoveling coal furnaces. Some of the elementary buildings I felt were — the safety features were at least questionable, and I felt that an attack had to be made on that problem immediately.

As far as the organization is concerned, the other part of your question, I think I would say for the most part the system had been organized on what was called a vertical [4291] K-6 3-3 system of organization, kindergarten, first six years of elementary, the junior high school system and the senior high school system. As a matter of fact, the first junior high school in the United States was

the Indianola Junior High School, started, I believe, about 1909.

The staff was a very limited staff. There were many good people, but teacher-pupil ratios were very high. The central administrative staff was what I suppose most chief executives of educational institutions today would describe as being a very thin staff. It was organized under three assistant superintendents reporting to the superintendent, one for business, one for elementary education and one for secondary education.

There were some special services, but the personnel was very limited.

Q. What had been done with respect to the physical facilities during the period prior to 19 — the 30s and 40s prior to your being appointed superintendent? [4292]

A. It would be a little easier for me to place that matter in perspective if I might observe that during the high periods of unemployment in the '30s, not very many school systems had the resources to do anything about building construction. As a matter of fact, I think there was an issue tried in this city, if I remember correctly, around 1938 that failed. In the '40s, with the war, it was impossible to get materials for the construction of buildings.

There had been some planning carried on to the credit of this city, a modest amount of planning, at least, prior to the end of the war, a kind of post-war planning effort, limited but quite good in other respects.

A bond issue, as I recall, kind of an umbrella-type issue had been submitted around 1945, and in that issue which had passed, the schools were to get I think it was \$6.5 million. Apparently action following the passage of the issue was postponed for two reasons. One, it took some time to develop working drawings and specifications for buildings, but, secondly, prices were going up very rapidly, and there was competition for a limited amount

of materials. Evidently no action toward the construction of buildings was undertaken until probably in the very latter part of 1948.

Q. What was the situation with respect to enrollment [4293] and projected enrollment as seen by you and your people when you came in 1949 and early 1950?

A. Well, as I recall, one of the factors, of course, that has a direct impact upon future school enrollments is the birth rate. I do remember that the number of births reported in Columbus in 1940 was somewhere between 4,500 and 5,000, perhaps 47 or 48-hundred children, and when I came in 1949, I believe that the number of births in the district was about 9,000.

In addition to the increase in the birth rate, there was a certain migration of people seeking employment in this area. The combination of all of these factors led to the conclusion that planning for the future had not been adequate, that we would need to pursue vigorously more up-to-date data and should plan for the best scientific and objective study we could get in order to have such data available for making sound decisions.

It also meant to me that we would in due course have to go to the voters of this community and persuade them that what we were trying to do was a legitimate form of procedure to which we would have to have stronger support if we were to discharge the responsibilities we felt that we had.

Q. Let me interrupt you right there, if I might, and while it is a little out of order, I would like to ask you [4294] what did in fact happen to student enrollment within the Columbus Public School System from the time of your arrival in August of 1949 and the time you left in the summer of 1956?

A. I think, if I recall correctly, we at that time interpreted that problem to the people of the community in terms of having absorbed at least two cities the size of

Newark and Lancaster into the Columbus School District. School population, I believe or school enrollment in that period increased 24 or 25 thousand students, 20-some thousand students, as I recall.

Q. I believe that the figure, and it shows in the Superintendent's Reports which we will get to later, but see if this coincides with your recollection, that the enrollment in 1950 was approximately 46,000 and by 1957 the enrollment had climbed to 71,000?

A. That sounds correct. Of course, figures related to that kind of problem I believe are all recorded either in the Annual Reports or in the studies done by the Bureau of Educational Research.

Q. Now, you have stated that you recognized a need when you arrived for a building program or the necessity to build buildings. What did you do about this?

A. After reviewing that problem in considerable depth with members of the staff of the schools and generally with [4295] members of the Board of Education, I was ready to propose that we seek the assistance of the Bureau of Educational Research of the Ohio State University to do an up-to-date study. They had conducted a study here in 1939, I believe. I had been over that study and felt that recommendations were inadequate because the growth of the city had then exceeded the expectations of the people who carried the study forward.

At that time the Bureau of Educational Research which originated, I believe, on the campus of the University in the '20s under the very distinguished Dr. Charters and later taken over by Dr. Holy, was probably one of the best recognized research bureaus for this kind of study in the country. Since they had already done one study ten years or more before, it seemed appropriate to me to try to determine whether or not they would be available for doing another study, and it had a good deal of other work to do at the time. The one condition would

be that I would provide some staff assistants to help them gather the data on which the Bureau itself would make the recommendations.

The Board of Education approved proceeding in this respect and at this time I brought Mr. Francis Rudy as a teacher on special assignment to be my representative in the collection of the data to be used by the Bureau in making its report and recommendations. [4296]

Q. Now, Dr. Fawcett, would you please get before you again Plaintiffs' Exhibit 59 which is, I believe, the study done by the Bureau of Educational Research, College of Education, Ohio State University, in 1950 entitled "A Restudy of the Public School Building Needs of Columbus, Ohio." Do you have that again?

A. Yes, I do.

Q. And I would ask you to turn to page 3 little i and direct your attention, please, to the first paragraph — wait a minute — the first paragraph on that page after the word "preface," which it describes I believe about the 1939 study, and I would ask you to read that.

A. Once before during 1938 and 1939 the Ohio State University Bureau of Educational Research made an extended study of the school building needs in Columbus, Ohio. At that time detailed recommendations were made for additions to or replacement of certain elementary and junior high school buildings, for a program of modernization of older buildings and such things as heating plants, toilets, fireproofing, artificial lighting and new floors, and for the replacement of over-aged or outmoded educational equipment. The cost of the proposed program was estimated and plans for financing were developed.

Q. Go ahead, if you would, please, and read also the next paragraph. [4297]

A. Some of these recommendations have been followed and the project completed. Others are in process. However, more than ten years have elapsed since the last

survey. During that time World War II with an accompanying scarcity of materials resulted in the slowing down of the building and replacement program. Also the war and other occurrences during the intervening years have been responsible for a number of important changes in population, birth rate and educational needs, all of which affect school building requirements. [4298]

Q. Now, after you received this report, did it confirm or did it not confirm your opinion that new school facilities were needed?

A. Being new to the system, I had to depend on consultation with my colleagues and such data as I had available. I was persuaded that the system was confronted with very substantial growth, but the study itself seemed to indicate even more dramatic growth than I had expected.

Q. Directing your attention, please, to Exhibit 59 and the page roman numeral VII, I guess it is, v two little iis, the beginning of the Table of Contents, do you have that in front of you?

A. Yes, I do.

Q. The first chapter one deals with community. Would you please explain why you or the people who performed this study were interested in the community and generally what it dealt with?

A. No study focused on the projection of school needs would be worth very much unless the people in the system understood the problems related to community growth.

Consequently, we did attempt to analyze community growth in this study and the prospects for future residential growth.

Additionally, we took a look as nearly as we could within the constraints of time at industrial development and [4299] other factors which we felt would have an effect ultimately upon the size of the school system.

Q. And would you explain, please, Chapter 2 which is entitled "Changes since 1939 in the Organization and

Population of the Columbus Public Schools and Possibilities for the Future." What was the interest here?

A. We wanted to have a historical basis for whatever data was collected and whatever recommendations would be made. We analyzed the form of organization or the structure of organization of the system. We took a look, according to the information that appeared here, at the trend of non-public school enrollments and what impact this would have on the future growth of the school system, and tried to develop in terms of the best knowledge available at the time some trends that would give us guidelines on which to make decisions to recommend to the Board of Education for projects for the future, projects which would have to be submitted to the people for support.

Q. Would you describe, please, what Chapter 3 deals with?

A. Well, that chapter is — it appears here as a restudy of the school plant, its makeup and pupil capacities, and I have addressed myself to some aspects of the content of this chapter. It does give a recitation of the building changes or improvements or additions that had been made since 1939, [4300] some information related to recommendations that appeared in the 1939 study. It addressed itself to portable classrooms and to the capacity of the buildings and made an analysis of the future capacity of both junior and senior high schools.

Q. And Chapter 4 deals with the financial program, and would you explain, please, for the purposes of this record, what this chapter deals with and its significance?

A. Yes. Every school superintendent uses as one index or at that time used as one index the amount of money invested in the education of each child in the school system, the elementary level and junior high school level, in this case, and senior high school level. He also understands the taxable wealth back of each student or needs to understand that or at that time needed to understand that in

order to be able to arrive at any kind of an intelligent conclusion about the kinds of recommendations he could make to people who had to pay the bill through an increase in taxes, principally real estate taxes. So tax bases were analyzed, compared to the tax rates in other communities of comparable size. Capacities were examined and future enrollments fitted into those. Costs per pupil at that time were analyzed, and I might indicate that costs per pupil for the education of children at that time in the Columbus Public Schools were relatively low compared to other communities of comparable nature.

Q. Thank you. And, finally, the report — No, the report [4300A] also then deals specifically with recommendations, and I think they fall generally into two classifications, and would you describe them, please, what they are, what that chapter deals with? [4301]

A. The Chapter, as I recall, is committed to making or drawing some conclusions on the basis of data that had been collected, and then to recommendations, both general and specific, related to the entire school system, the form of organizations, needs for the future and so on.

Q. Did the study make general recommendations or a recommendation with such things as the retention of the K633 program?

A. Yes, it did. As a matter of fact, each study, to my recollection, recommended the continuation of what was then the K633 system as a general recommendation. It was called the vertical form of organization.

Q. And did the study also make recommendations with respect to the adjustment of attendance boundaries to compensate for enrollmentships?

A. Yes. As I recall, the technique used at that time was a very large map of the City on which pins were placed representing a certain number of students and the exact location. We used one color of pins for elementary schools and one for high schools and another color of pin for senior high schools.

When these were completed, our philosophy was to try to get schools to where the people were. We used as a basis for districts, generally speaking, some agreed upon distance. I've forgotten the exact distance now for [4302] elementary children, something like two-thirds or five-eighths of a mile where we felt they could walk with reasonable safety. We took a compass and drew a circle around these areas, each of these areas.

We did the same for junior high schools with a larger radius and another for senior high schools with a still larger radius.

Then we tried to set districts as nearly in conformity with where the people were as we could, leaving some flexibility in the boundary because of growth. If we had too many in one school, they could still walk to another and avoid the cost from very limited sources of transportation.

Q. This is getting ahead a little bit, but I think it's an appropriate time, in view of your testimony, at this point to ask you why the Ohio State University recommended and the system adopted the type of community school or neighborhood school that it did?

A. I'm not sure that I can recall it specifically. It seems to me that, historically, for at least some period of time, we had had this form of organization. Historically, we had had the philosophy of the community school. Historically, we had not engaged heavily in the transporting of pupils for any reason. Historically, people wanted to feel a part of the school in the community where they lived, and [4303] we worked upon the philosophy, and the Bureau recommended a — the Bureau of Educational Research recommended a continuation of that form of organization. We continued to use it because it would avoid, we thought, a waste of resources. Since we were headed in that direction, we could house pupils perhaps as economically if not more economically than in any other way.

Q. All right. Now, the report made specific recommendations concerning the construction of additional buildings and classrooms, and I believe it identifies, if I might, at page 76 of Exhibit 59, the specific recommendations with respect to the senior high school; am I right, or senior high schools?

A. Yes.

Q. And generally, would you summarize those recommendations with respect to the senior and the junior which appears starting with page 77 and then subsequently the elementary beginning on page 81? I'm just talking generally now.

A. Yes. The recommendation urged the system to continue its present senior high school structure and indicated that the boundary lines for the schools be flexible so that the best use might be made for available classrooms.

Essentially, the same recommendation applies to [4304] the junior high school portion of the organizational structure that appears as Recommendation 12, and in general, I think this recommendation applied also to the elementary form of organization.

Q. With respect — if I might interrupt, please, with respect to the senior high school, did the report recommend the construction of additional senior high school facilities?

A. Not entire facilities, because at this point, the school population at the senior high school level was limited and would be for sometime in the future. The focus, as appears in all of our annual reports and in the study, is on, at this point, the rapid growth of enrollment at the elementary school level.

Q. Thank you. And those are taken up — well, for the purpose of consistency, please, starting at page 77, then, appears the specific recommendations at the junior high school level, and I believe that continues through 80; am I right about that?

A. Yes, that's true.

Q. And again, it primarily was dealing with the remodelings and additions as distinguished from new junior high schools, although I believe it did recommend some site acquisitions?

A. That's true. [4305]

Q. All right. Now, turning to the elementary school recommendations, would you tell us, please, generally, what the report did?

A. The report made specific recommendations based upon urging the school system to provide as rapidly as it could adequate school facilities where the people lived. Consequently, every elementary school building and district and all those projected for the future were identified. Each one carried a specific recommendation, either for remodeling of that school or putting an addition to that school or acquiring a site and ultimately building a new school building where people lived.

Q. All right. Now, I would like to leave, temporarily, the 1950 Study, Dr. Fawcett, and ask you if it was necessary to, while you were Superintendent, to have an additional study made?

A. Yes, it was.

THE COURT: This may well be an appropriate time for us to break for lunch. 1:30.

Thereupon, a recess was taken until 1:30 o'clock P.M., of the same day, to-wit, Tuesday, June 1, 1976.

* * * * *

[4307] NOVICE FAWCETT

resuming the stand for further direct examination, having been heretofore duly sworn, testified as follows:

DIRECT EXAMINATION (Continued)

[By Mr. Porter]

Q. Dr. Fawcett, I believe we were at the point at the noon recess where you had completed some general questions concerning the 1950 Ohio State University Study,

and I directed your attention or was about to direct your attention to the one done in May, dated May of 1953, by the Bureau of Educational Research of the College of Education, Ohio State University, Columbus, Ohio, entitled "A Further Study of the Public School Building Needs of Columbus, Ohio," and bears the identification Plaintiffs' Exhibit No. 60, and I would ask you, sir, first, why was it necessary within just a short three-year period to again have Ohio State prepare a study? [4308]

A. The first factor I can recall is that the growth in the student population or enrollment was even beyond our expectations. We realized the logic of the fact that as children entered the elementary school they would ultimately reach the junior high school and later the senior high school level. We knew in terms of the history of the community that we could only gain financial support from the people if we went with a reasonable request and then demonstrated, as a result of having those resources available, an action program that would continue to encourage confidence of the people in the School System.

Q. Was this study again done under the direction of Professor Herrick?

A. As I recall, Professor Herrick, assisted by an associate of his, the 1953 study, and also my representative again was Mr. Francis Rudy.

Q. Do you happen to recall the name of Dr. Herrick or Professor Herrick's associate?

A. I think his name was Conrad.

Q. Marion Conrad, would that be correct?

A. Yes.

Q. I direct your attention, please, to Figure 1, which appears after page 3 of the 1953 study, which is Plaintiffs' Exhibit No. 60, and it's entitled "Distribution of Residential Building Construction, 1950-1952," and would [4309] you describe the major areas of residential growth, please?

A. Other than spotted growth, the same areas that were identified earlier continued to grow very rapidly, namely, the area east and southeast of Bexley.

There was continuing residential development in the area north of Seventeenth Avenue between the railroad and Cleveland Avenue.

There was still considerable growth residentially in the north-northwest section going east and west of High Street over to the Olentangy River and to the north boundary of the corporation line. [4310]

A. (Continued) Some scattered growth continuing in the area that projected between Grandview Heights and Upper Arlington and a considerable amount of additional residential growth in the far west area, principally south of Broad Street.

Q. Now, directing your attention, please, to page 6 of that same exhibit, which is entitled Table 3, "Major Residential Building Projects Scheduled for 1953 and Early 1954 in the Columbus School District," would I be correct in summarizing that most of these projects are located in the northeast, north and east areas of the city?

A. Most of them would be, yes, sir.

Q. At the bottom of page 7 of Exhibit 60 is a statement or a paragraph beginning after the words the 1953 school building survey, which refers to the earlier studies, and would you please read that paragraph and page 8, with the exception of the last sentence on page 8?

A. Within the last 15 years, two studies of the school buildings needs of the Columbus Public Schools have been made. One of the studies was completed in 1939 and the other in 1950. Because of the continued rapid population growth in the City School District and because of the continued high birth rate, it has been found necessary to make another such analysis.

Persons interested in detailed general objectives [4311] of studies of school building needs may consult either the report of 1939 or that of 1950.

Briefly the purpose is to prepare for the Board of Education and the Superintendent of Schools a carefully worked out plan of school locations, construction and financing. The factors usually considered in a study of this nature include:

1. The characteristics of the community and the rate direction of its physical and population development.
2. The educational philosophy of the Board of Education and instructional staffs and the educational program necessary to implement this philosophy.
3. The plan of school organization which the Board of Education proposes to follow.
4. The number of children of school age and the proportions of these attending public schools and non-public schools.
5. Estimates of enrollments which may be expected for the next 10 to 15 years.
6. The adequacy and utilization of the existing school plant.
7. The financial ability of the community to pay for new school building construction and its apparent willingness to do so.

In the present case, since the last previous study [4312] was completed in 1950, only three years ago, some of these factors have been touched upon only briefly. Furthermore, since some action already has been taken on most of the major recommendations made in that study, the survey staff has been able to give special attention to needs arising from the rapid growth of the city and from the continued high birth rate. Consequently, the particular emphasis has been placed upon the need for additional elementary school classrooms in areas of recent development and upon the need for enlarging secondary school capacity in the entire school district.

Q. All right, thank you. These are the same factors that were considered, some of the same factors that were

considered in the 1950 study that you have just enumerated; is that correct?

A. Yes, they are.

Q. Does the 1953 study then go on to make specific recommendations?

A. Yes.

Q. And most of those recommendations dealt with elementary buildings; am I correct?

A. Yes, I believe principally with elementary schools, with projecting site needs in yet undeveloped but potentially developing areas and additional recommendations of a somewhat more general nature perhaps at the junior and high school level. I have forgotten precisely what they were. [4313]

Q. What was your attitude or your position and that of your administration while you were Superintendent of the Columbus Public School System with respect to site acquisition? What policy, if any, did you follow?

A. Basically, the answer to that question, I believe, needs to be divided into two parts.

Historically, sites where existing schools were located were small, and so we examined carefully the need for site expansion where existing schools were.

But, principally, we began to look more carefully at projected growth of the City which seemed to be getting a little bit clearer, but not less rapid, and we projected probable site needs in areas not yet developed, and indeed, engaged, as I recall, in the acquisition of sites for future schools.

Q. Why did you do this?

A. One of the reasons was that, in contrast with 1949 where we had, really, very little to start with, we wanted to be prepared for the growth, and the second reason was that we thought it was economically feasible to acquire land before developments had taken place, at least in magnitude, as an economy move.

Q. Thank you. Was another study done while you were Superintendent of the Columbus Public School System?

A. Yes, it was. [4314]

Q. And that would have been the January Report dated January, 1956?

A. Yes, sir.

Q. And that again was done by the Bureau of Educational Research, College of Education, Ohio State University, dated January, 1956, and is entitled, "The 1955-56 Study of the Public School Building Needs of Columbus, Ohio," and has been marked as Plaintiffs' Exhibit 61 in this case, Dr. Fawcett, and I would ask you again, why was a Study needed in this short period of time after the '53 Study?

A. As I indicated in earlier testimony, at the time I came here, the City appeared to be on the threshold of a magnitude of growth that people really didn't understand. As a matter of fact, I think, if anything, we had not planned for as much growth as actually took place. No one knew at the time exactly whether the birth rate would continue at the same level. Neither did — was it known that the industrial development would continue at the same pace, and thus result in an in-migration of people, combined with the increased birth rate would give us increasing number of people who had to be housed in schools.

Q. This was again done under the direction — or was done under the direction this time by Dr. Conrad of the Ohio State University?

A. Dr. Conrad. [4315]

Q. Am I correct about that?

A. Yes, you are.

Q. Directing your attention, please, to page 9 of Exhibit 61, at the bottom, where it begins, "Prospects for future residential growth," would you please read that into the record. [4316]

A. Area of growth is, of course, a major factor in the future residential growth of Columbus. As sewers and water facilities are extended, home construction no doubt will spurt forward in most of these sections. In the far east area, approximately 3,700 units, and in northeast, approximately 2,400 units are planned for construction. West of the Olentangy River and north of Ackerman Road approximately 1200 dwelling units are on the drawing boards. In the far west, 550 units are planned. The Columbus Metropolitan Housing Authority intends to build a 524-unit project consisting of one, two, three, four or five bedroom apartments near the intersection of St. Clair Avenue and Bonham Avenue.

Q. That's sufficient for my purposes, Doctor. Thank you.

Looking at Table 5, which appears on the next page, entitled, "Major Residential Building Projects Scheduled for 1955, 1956, 1957 and early 1958," would you identify the areas of the city—the general areas of the city on which these projections were made?

A. The first several of those planned projects were east of Bexley. The next several were — three were in northwest Columbus, around Kenny Road. There were three in west Columbus, and I believe probably all the rest of them or almost all the rest of them in northeast Columbus. [4317]

Q. Now, Dr. Fawcett, please turn, if you would, please, to page 13, the paragraph appearing there where there is an enumeration of factors considered in building a building study, and I would ask you for the purpose of brevity if these are essentially the same factors as those which you have read from the 1950 and 1953 studies?

A. Yes, they are.

Q. Did the 1955-1956 study almost make specific and general recommendations to the Columbus Public School System?

A. Yes.

Q. And this was the same basic methodology that was used in the other studies?

A. Precisely.

Q. Now, Dr. Fawcett, do you remember, please, how many new school buildings were built during your tenure as Superintendent of the Columbus Public School System from 1949 through and until you left in 1956?

A. I have some recollection that it was about 28 completely new buildings, exclusively of all of the additions and modernization work that was done.

Q. And, again, as a matter of brevity as much as anything, I believe that the record already shows or reflects in this case that there were some 15 additions made to those new schools and 27 additions were made to other buildings during your tenure, and I would ask you if that [4318] sounds approximately correct?

A. As nearly as I can recall, it sounds approximately correct.

Q. And I believe that you have described the — or would you, possibly, describe again, although it may be repetitive, describe again the nature of the remodeling program that was carried out during this period of time?

A. May I inquire if you are asking about the remodeling principally of the elementary schools, the old elementary schools?

Q. Yes, sir, I am.

A. Most of those buildings in the central part of the city had been constructed in the late 19th and early 20th Century. [4319]

A. (Continuing) Many of them were in such a state of condition that we felt that they could not be salvaged, but most of them could be. We saw no way to solve the problem of trying to meet the needs of such a rapidly growing enrollment other than to attempt a remodeling program of those buildings concurrent with the pursuit of the construction of new buildings in newly developed areas, newly developing areas.

If I remember correctly, we remodeled making essentially fireproof as nearly as we could about 43, 42 or 43 of those old elementary schools, provided libraries and kinds of supporting services in the process of remodeling. In some cases where possible, we enlarged the sites. I recall rather careful consultation with the architect, the school architect, who was also a structural engineer. I had worried whether or not an expenditure of money for the remodeling of those buildings was a wise expenditure. I was assured by the technical people that the plan of remodeling under consideration would have a life expectancy of at least 25 years. I think probably some of those are still in use, so far as I know, and it has been 25 or more years since.

We thought with the life expectancy of 25 years, the speed with which we could remodel those and get the children back into a good educational environment while at [4320] the same time constructing new buildings in newly developing areas, constituted sound judgment as a decision for providing the educational facilities where the people were.

Q. Now, Dr. Fawcett, you described generally at my request these building studies and their general recommendations. I would like to go back now to 1950 and your receipt of the building study from Ohio State University and ask you, sir, what did you then do?

A. After I and my colleagues had analyzed that report and had been persuaded of the logical nature and validity of the recommendations after they had been reviewed in the schools and after they had been read and reviewed and approved by the Board of Education, I was advised by the School Board then to go before a body which I believe was called the Columbus Metropolitan Committee, a Committee that was in place when I came here — I am not sure about the origin of it — a committee made up of leading business, industrial and labor leaders and review the report and its recommendations. I was fur-

ther requested to convey to them the estimates of costs which I believe amounted to \$11,500,000, in those days a kind of frightening amount of money, with members of the Metropolitan Committee.

The Metropolitan Committee after listening and constructively questioning me about the nature of this proposal decided not only upon the support of that issue if [4321] it were submitted as a bond issue to the people, but decided upon supporting it, provided there could be three proposals submitted to the people, namely, the school issue, the resources required for building what is now an almost obsolete airport terminal and the resources by bond issue for supporting the first leg of a freeway system ever to occur in this City.

Q. After you appeared before the Metropolitan Council, what did you then do?

A. We then took the necessary steps to submit a bond issue to the people of the City, of the school district. [4322]

Q. And did you before that was submitted to a vote, did you go before the PTA's and groups of that type?

A. Yes. Despite the fact we had an extremely limited staff, I remember personally going to nearly every Parent-Teacher Association in the city and to other civic groups to interpret what the study done by the Bureau of Educational Research had recommended. I remember further identifying every time I went to a school district exactly what we planned to do, and I remember also that after doing all that and submitting the bond issue, that while it was at a special election, the vote that was cast was considerably higher than had been estimated by members of the Metropolitan Committee.

Q. What happened to the other two non-school issues?

A. I had a feeling — I couldn't prove this, but I had the feeling that at the time we were going to submit the issue, the Metropolitan Committee felt the school issue probably would pass, and I believe that their first thoughts probably were that it would give the need for an airport

terminal and a freeway system some visibility. If these issues did not pass, they would be resubmitted at a later time and through that process of education people would ultimately accept them.

Internally in the School System, working with our own people, our own school people and parent-teacher groups, [4323] we had concluded that all issues could be passed, a kind of optimistic view, I think, in terms of a good many people who weren't as closely related to the project as we were, and they did all pass.

Q. Do you happen to recall the approximate vote on the school bond issue?

A. I remember the vote on the school bond issue fairly well. It was an excitingly supportive vote, and I think it was around 77 percent approval which, even in a special election, was rather a remarkable supporting vote at that time. The other two issues, of course, passed, but not by that same majority.

Q. Dr. Fawcett, did you go back or did the Columbus Public School System go back to the voters again in 1953 with a bond issue?

A. Yes, they did. After the '53 study, based upon the recommendations of the study. I don't remember the exact date. I think it was a general election.

Q. And what was the approximate size of that issue, if you remember?

A. The bond issue for the schools?

Q. Yes, sir.

A. I think it was about \$14 million.

Q. And you follow the same procedure of going to the community with the — [4324]

A. Yes, we did.

Q. And if you recall, what was the size of that vote?

A. I have forgotten precisely, but I think that the vote at the general election was about 70 percent on that issue. I know we considered it to be sufficient to call it a mandate for us to proceed with an action program.

Q. Now, during the years that you were Superintendent of the Columbus Public School System, there were three renewal levies. I believe the first was in 1949 and the next one in November of '53 and November of '54. Would you please describe those just briefly?

A. The 1949 decision was one that either had been made or was essentially made before I came to the city, and I remember very little about the detail of it. I know that we worked to support it and that it passed. I think it was probably a combination of a renewal and a couple of extra bills for operation of the schools.

The 19 — the next levy was a renewal levy I believe of 7 mills which was submitted at the general election coincident with submitting a \$14 million bond issue. The amount of revenue needed for the operation of the schools was too conservatively estimated, frankly, but to have submitted a renewal and an additional operating levy at the same time it was necessary to submit a bond issue proposal we felt psychologically would endanger one or both of the [4325] issues. Consequently, we sought the approval of the renewal with the bond issue and got that renewal and then submitted, if I remember correctly, a one-mill additional operating levy the following autumn.

Q. And do you happen to recall what that November 1954 additional mill levy, what the vote was on it?

A. It was very substantial. I think in excess of 70 percent, but I do not remember precisely on that.

Q. Did you draw any conclusions from the voter support of the bond issues and levies concerning the attitude of the voters within the School System?

A. Yes, indeed, we did.

Q. What were those?

A. Partly from experience you arrive at a judgment like this and partly from a study of the record, but in any general election it is very difficult on a tax issue to get a mandate that approaches 70 percent of a favorable vote.

We considered those votes as a vote of very great support on the part of a vast majority of the people in the entire community because we had gone to every community and had interpreted as carefully as we could, anyhow, what the project would be and what the educational program would be that would be carried forward within that project. So I considered the vote to be a strong vote of approval on the part of all of the people from all of the school districts. [4326] There may have been some minor exceptions, but I don't recall any.

* * * * *

[4356] Q. And if you would direct your attention, please, to recommendation -- just a moment, please -- to Recommendation No. 2, which starts on page 77 of Plaintiffs' Exhibit No. 59, I would direct your attention to that recommendation which continues over onto page 78 and ask you to read the 1950 Recommendation.

A. The 1950 Recommendation is --

Q. Starting at the top where it says "1950 Recommendations" at the top.

A. As has been previously noted, Champion was originally constructed as an elementary school. Therefore, it is recommended that the Champion building ultimately be used to [4357] house an elementary school to replace the Mt. Vernon building.

It is further recommended that when this is done a new junior high school be built in the same area of sufficient capacity to house all junior high school pupils in this section of the city, including the seventh grade, now attending the Pilgrim Elementary School.

* * * * *

[4375] Q. [By Mr. Porter] During the period from 1950 until you left as the Superintendent of the Columbus Public School System, in the Summer of 1956, there were additions made to school buildings which I believe are, among other places, identified in your report for the period

1955 to 1956 which we've had marked as Exhibit C69; am I correct about that? [4376]

A. Are you referring to the 1955-56 Annual Report?

Q. Yes. I believe it is after page 22 or what would be 22. It appears under the heading "Buildings Expanded, Additions and Major Remodeling Projects in Old Buildings, Additions to Buildings and Major Remodelings in Old Buildings," on the next page.

A. Yes.

Q. Now, in addition there were recommendations made by the Bureau of Educational Research, the College of Education at Ohio State University in the 1950, '53 and '55 studies, were there not, Dr. Fawcett?

A. Yes, there were.

Q. And to your recollection were most of those recommendations carried out?

A. Most of them were.

* * * * *

[4379] Q. [By Mr. Porter] All right. Now, Dr. Fawcett, were these additions and remodelings and new buildings built in accordance or pursuant to the recommendations by the Bureau of Educational Research at Ohio State University?

A. The only variations from them were variations suggested in the Bureau's report where growth was checked prior to the award of contracts to determine the precise number of rooms that would be constructed.

Q. And, generally speaking, would these projects or at least the new ones and the additions be in there that you previously identified in the building studies as indicating an increased residential density?

A. I believe that we kept the public informed in the records each year through the annual report or through some other means, but they're all recorded accurately, to my knowledge, in those exhibits.

Q. And in order that the record be clear, why were [4380] these buildings built?

A. I guess the American tradition seems to demand that in the light of conditions in our culture, if you have children, you try to educate them, consequently, analyses were made of projected enrollments and steps were taken to provide buildings where the people lived. [4381]

Q. Dr. Fawcett, there has been testimony by you and others in this case concerning the baby boom after World War II and subsequent, and I believe that you have read into this record certain statistics concerning births. I would like to ask you, however, beyond that whether or not there was to your knowledge anything different about this expansion that took place within the Columbus School System during four years as Superintendent as distinguished from other school systems within this country?

A. To my knowledge, this city was identified as the fastest-growing, or one of the fastest-growing inland cities in the country. When you analyze the constant increase in enrollment, I think it is fairly easy to conclude that the burden placed upon a very limited number of central administrative staff people, as well as principals and teachers, was an enormous one.

I guess on reflection I would say that the problem of providing adequate educational facilities in this city during that period by virtue of the fact that almost nothing had been done for more than 20 years was probably as great or greater in this city than any comparable city in the country.

Q. Now, you made reference in talking to me privately about Los Angeles. Would you describe just generally — I think you — [4382]

A. When this question was first brought to light and I attempted to reflect over my memory of conditions that prevailed in school systems, I did recall that at one period the City of Los Angeles, which, of course, is a much larger

city than this, was probably confronted with problems of greater magnitude, but if you consider only cities comparable in size and character to the City of Columbus, I doubt if any of them had problems more acute than we had.

Q. Did you and your people during the period that you were Superintendent and in charge of this program have occasion, at least one occasion, to appear in some type of a national format to discuss your efforts in this community?

A. Yes, I remember one occasion specifically. After we had demonstrated our ability to provide educational facilities as a result of the April 1951 bond issue and had provided school buildings at a somewhat more rapid pace than apparently had been provided in a good many other places at a regional meeting of the American Association of School Administrators held I believe in St. Louis, I was designated by the American Association of School Administrators to set up and preside over a panel that would bring to light techniques used by this system and other systems in the country with the express purpose of trying to be helpful to other cities only beginning to face the magnitude of the problem that had confronted us here.

* * * * *

[4389] Q. [By Mr. Porter] Now, Dr. Fawcett, when you became Superintendent of the Columbus Public School System in 1949, was the teaching staff at the Columbus Public School System integrated?

A. The staff?

Q. The professional staff?

A. May I inquire if you mean teachers and administrators?

Q. Yes, that's exactly what I mean.

A. No. it was not.

Q. And what did you do about it? Excuse me just a moment.

(Discussion had off the record.)

THE COURT: I am sorry, Mr. Porter. You may proceed.

Mr. Porter: Would you read back, please, the last question and answer and then question?

(Preceding testimony read.)

Q. Now, will you go ahead, please?

A. When I became Superintendent of Schools in 1949, as I recall, there were integrated student bodies, but there were segregated staffs. I am not sure what the basis of that segregation was. I have a feeling without being able to prove it that that was a policy toward which the system [4390] had just drifted and probably had some of its genesis in the period of the 1930s during the depression when jobs were hard to get.

I remember I made inquiry about this immediately upon coming into the system, and the answer or the response I got was, "If you look at the total number of teachers employed by the Columbus Public Schools and calculate the percentage of them that are black, you will find out that there are more black teachers and principals employed in the Columbus Schools than in comparable systems."

I also remember that one of the first steps taken by me was to visit each of the schools in the system. I began that before the opening of school and, in addition to preparations for the opening of the school year, I was able to visit perhaps two-thirds of them. Then I picked up on this immediately after the opening of school and was accompanied always by the Assistant Superintendent for Business who had charge of transportation and this sort of thing.

One of the sites I visited was what was then called the American Addition School. That school consisted of two portable I think World War I buildings which after my examination I felt were totally unsafe, no internal sanitary facilities. The school contained between 90 and

100 children and had four teachers. All were black. [4391]

A very short distance from there was the Leonard Avenue School which had four empty, to all intents and purposes, fireproof rooms. I remember of instantly directing the Assistant Superintendent to pick up this school by school transportation I think the following Monday, if I remember correctly, and take them to the Leonard Avenue School, which action was followed through by him, and that became I believe the first integrated staff of teachers in the system.

I worked at this problem as I could in what time was available, and I think the records will show that when I left there were about 38 integrated staffs. [4392]

Q. Were there blacks chosen for the cadet program which you instituted?

A. Yes.

Q. Do you know whether or not there were black principals in 1959 or, excuse me, 1949?

A. Yes, there were.

Q. And did this number change in any way between 1949 and the time that you left in 1956?

A. I can't recall the specific statistics on that subject, but my inclination is that the numbers did increase.

Q. Did you yourself or did you have somebody else recruit black teachers to any degree? Did you do any recruiting?

A. The recruiting of teachers when I first came to the School System was done by the Assistant Superintendents of Schools. The Assistant Superintendent in charge of elementary schools recruited the people for the elementary staff, and the Assistant Superintendent for secondary schools recruited the people for the secondary staff.

Q. Directing your attention, please, to another subject, in the 1955-56 building study at page 16 there appears on — I have got to check that. That doesn't sound right. It isn't. It is after page 16. It is the page after 16.

A. Yes. [4393]

Q. There appear on that Figure 2, along with other information, certain optional attendance areas. Would you please explain for this record your understanding of the use of optional zones while you were Superintendent, please?

A. As I indicated in earlier testimony, when we created school districts, we left some flexibility at the fringe of the district so that in the event, with this rapid growth and overcrowding at one school, there would be children located sufficiently close to another to walk to it, so we left some of those. Often as schools were being built, there were temporary steps taken in that respect.

I don't remember very much about these so-called optional areas mentioned on this or indicated on this map except I see that they are generally located around the fringe of a district.

Q. Do you know whether or not they had any racial significance at least in their selection whenever they may have been selected?

A. The optional area?

Q. Yes, please.

A. To my knowledge, there was none.

Q. Now, you have previously testified concerning the limited amount of transportation that was used during the years that you were Superintendent, and I might I guess ask you a few more questions concerning it. What effect did [4394] it — and I recognize this may be repetitive, but in what respect did the selection of the schools and their locations and their size have to do upon the need or the lack of need of transportation?

A. Well, the policy was based upon the recommendations made by the Bureau and concurred in by us that the schools would be taken to the people. I think this is a matter of record both in annual reports and in the studies. The goal was to locate schools where people could walk in

a reasonably safe manner to the elementary, to the junior high and to the senior high schools. This wasn't always possible because we had areas like what was then I guess identified as Clinton Township where there weren't schools and where we had to pick up children and take them to other parts of the city where we had space available, but it was on a space-available basis when we took them.

Q. Do you happen to recall or do you know of an estimate of the number of pupils transported in say '55-50 — '54-55? [4395]

A. Oh, I can only guess at that. I would say 1,500 to 2,000.

* * * * *

[4410] Q. [By Mr. Porter] As far as you can recall, did the Board or did the Administration instruct the Bureau to evaluate in any form the impact of school construction, either the past construction or such as might be planned, on the racial segregation of students in the Columbus School System?

A. I have no recollection of race ever having been a matter of discussion in preparing for or the conducting of the study.

* * * * *

CROSS-EXAMINATION BY MR. ATKINS

* * * * *

[4414] Q. [By Mr. Atkins] All right. Isn't it also the case that the Superintendent now and then had the authority and the responsibility to determine school attendance boundaries?

A. Subject to the approval of the Board.

Q. It's your recollection that every school attendance boundary that was determined during your tenure as Superintendent was subject — was present for affirmative action by the Board; is that your recollection?

A. Yes, it is.

* * * * *

FRANCIS RUDY

called as a witness on behalf of the
Defendants, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PORTER

[5011] Q. [By Mr. Porter] Would you state your name and address, please?

A. My name is Francis T. Rudy. I live at 1000 East Cooke Road, Columbus, Ohio.

Q. By whom are you presently employed, Mr. Rudy?

A. I am retired.

[5012] Q. You retired when?

A. September 1, 1973.

Q. And what was your position and your employer at that time?

A. I was employed by the Columbus Public Schools as Assistant Superintendent in charge of business affairs.

* * * * *

[5014] Q. [By Mr. Porter] Now, you, I believe, were a chemistry teacher in 1949 when Dr. Fawcett became superintendent of the system; is that correct?

A. I was.

Q. And you were placed on special assignment by him?

A. That's correct.

Q. Would you describe what your duties were at that time in this special assignment?

A. I was assigned to do a school building study. This involved generally two categories of data. One category was concerned with the schools themselves, such things as enrollment, enrollment trends, curriculum, curriculum trends and changes that might affect the need for [5015] classroom space, the buildings themselves, that is, their organization vertically, in this case, kindergarten through sixth, junior high and senior high, locations of the buildings, the number of buildings of each type, the locations

of pupils. Of course, a very important aspect was the financial situation of the Columbus schools which might indicate whether or not the School System could finance any construction that might be needed as indicated through recommendations that might result from the study.

The other general category was concerned with the Columbus community. This would be such things as population, population trends, birth rate, birth rate trends, the amount of industry, the type of industry, prospects for future industrial growth, the number of residences, the locations of the residences, annexations, anything that might directly or indirectly affect the need for classroom space.

I might say that coming right out of a classroom as I did, I was a neophyte in this area, so I was assigned to work under the direction of Dr. John Herrick who at that time was the head of the School Surveying Division of the Bureau of Educational Research at Ohio State. So my job primarily was to gather data, the type of data that I have indicated, put it into tables under his direction. For that data, I, of course, went to the various departments of the School System for school data and went to sources in the [5015A] city such as the Chamber of Commerce for population, population trends, their estimates of population at that time. [5016]

Of course, we didn't have the 1950 Census yet, so the latest information that was accurate was from 1940, but the Chamber of Commerce did maintain estimates year to year, and, of course, the City Planning Commission was an important source because any development, especially residential development, had to be known by the Planning Commission. Developers had to go to the City Planning Commission with their plans before they could actually do anything, and I might say that in — as time went on, of course, this enabled us to anticipate to the

best of our ability the residential growth in areas that had not yet been developed.

And then, of course, there was the City Building Department which provided information concerning permits — gave us the information as to the locations of residences through the filing of permits.

Q. The study, the 1950 study which has previously been identified in this record as Plaintiffs' Exhibit 59, was it presented to Dr. Fawcett, the Superintendent of the Columbus Public School System, then to the Board of Education?

A. Yes, it was.

Q. And did the Board of Education or Dr. Fawcett take formal action with respect to that report, and if so, what was it, please? [5017]

A. Yes. The Board of Education accepted the report and its recommendations and decided to place a bond issue proposal on the ballot for November of 1951. That proposal was approved by the people and the amount was \$11,500,000, and as soon as bonds could be sold thereafter, construction proceeded as rapidly as possible.

Q. What happened to the enrollment within the Columbus Public School System during the period subsequent to that report, the near period? I have reference to 1952 through 1955.

A. Enrollment increased on an average, as I recall, of about 3500 pupils per year.

Q. There was a study done by Ohio State University in 1953 which Dr. Fawcett has testified to in this case and which has been admitted as Plaintiffs' Exhibit No. 60, and I would ask you if you had any — if you worked on that with the Ohio State University Bureau of Educational Research, and if so, in what capacity? [5018]

A. Yes. I worked, again, with the Bureau as the liaison person for the Columbus Public Schools. This was with Dr. Herrick again as director of the study, and we used the same techniques and procedures as before.

I believe that Dr. Marion Conrad also assisted somewhat in that study.

Q. As a result of the 1953 study, or after its preparation, did the School Board again place a bond issue on the ballot in order to implement the recommendations of the '53 study?

A. Yes, again, as a result of the study, it was obvious that the city was growing even more rapidly than before, if anything, and, of course, the school system also, as a result of annexations, which was another facet of information that we collected in these studies.

As a result of the recommendations of that study, this time a bond issue of I believe \$14,000,000 was placed on the ballot in November of 1953, and again it was approved by a sizable percentage.

Again, as a result, as soon as bonds were sold, or thereafter construction proceeded.

Q. Did you have occasion to again be assigned by Dr. Fawcett to work with the Ohio State University, Bureau of Educational Research, in connection with the 1955-56 study of the Columbus Public School needs which has been admitted [5019] into evidence in this case as Plaintiffs' Exhibit 61?

A. Yes, I was. This time, as I recall, the director of the study was Dr. Conrad who was also from the Bureau of Education and Research, and we were assisted this time by Warren Beers who helped to work on some of the tables because, of course, the growth was such that we — and we were working on the construction, that is it became a part of my duty to help coordinate that, at least to keep it on schedule, so this study did proceed.

Q. Did the Board accept or approve the Ohio State University 1955-56 study?

A. Yes. The Superintendent again presented the study to the Board of Education which accepted it and placed an issue on the ballot in November of 1956. This time it was in the amount of, I believe, \$12,900,000.

Q. It passed?

A. It passed again, as I recall, by a good size majority.

Q. Are you familiar with the implementation of that building program?

A. Yes, I am.

Q. Did you find yourself again working with Dr. Conrad and Mr. Beers on the building study that is entitled the 1958-59 Study of the Columbus School Building Needs of Columbus, Ohio, and Consultant Service by the Bureau of [5020] Educational Research, the College of Education, Ohio State University, July 1959?

A. Yes, I did, and again it was Dr. Conrad and Mr. Beers. I might say that for this study, I think it was for the first time that we used a new technique for determining the capacity of secondary school buildings. This had to be determined, of course, as best we could. It was a simple thing, relatively, for elementary schools to take the number of classrooms and if you had a pupil-teacher ratio of, let's say 32 pupils per teacher, or per classroom, simply multiply, if he had ten rooms, multiply two times ten, and have a capacity of 310.

Whereas in the secondary school it wasn't so simple, and in fact you could have a capacity in a secondary school which could be extremely large for academic work, whereas you might be quite limited in industrial education work if you had a classroom, let's say of history, used mainly for history, you might have a capacity in that room for one period of 30 pupils and, of course, if you had an eight-period day, departmental as it was, you multiply that by eight provided you utilized the room all eight periods.

And such a classroom, I might add, might have a square foot space of 800, whereas a — say an industrial education shop might have 24 pupil stations because of the machinery. Usually, such classes met for at least two periods, sometimes all morning or all afternoon. But, assuming that the class met for two periods, in an eight-

period day, you could get at the maximum for classes of 24 each, so your capacity for that room might and probably would take at least three times as much space, square footage, as the academic classroom. So your capacity in that area, unless you had several shops, you see, would be quite limited.

Of course, you would have to know, also, what the need was, what the demand was, what your curriculum was, and, as times changed and industrial education became more important, naturally, you would have greater limitations, capacity-wise, in some of the secondary schools. [5022]

Since the high birth rates which occurred immediately after World War II had gone through the elementary school, had proceeded into the junior high school, it was obvious that more attention had to be paid to the secondary schools. This isn't to say that we weren't aware that this was coming. It was simply to say we had been constructing — when I say we, I'm talking about the school system and everybody working together. We had been constructing about as rapidly as we could, bursting our blood vessels practically, but the time had arrived when we had to face the reality of the secondary school needs and, of course, their higher costs.

MR. PORTER: All right. Now, if I may, please, Your Honor, if the Court please, I have here a set of studies with as many originals as we have for the Court's benefit. They have not been marked with exhibit numbers. I think there are others that have been. They are a little more legible, though, for the Court, and there are copies in evidence. I will leave those there for the Court's benefit.

Q. Directing your attention, Mr. Rudy, to the 1959 study which is marked Plaintiffs' Exhibit 62 — and I hope that's the one I gave you?

A. That's right.

Q. First, what had happened to the area, the [5023] geographical area of the Columbus Public School System

between 1954 and 1959? You can answer generally or you may refer to that if you wish. First, let me have a general answer, and I will direct you to some pages in the exhibit.

A. As I recall from having checked over some of the studies, the City of Columbus had grown from about 41 square miles to 85 or 86 square miles during that time, and most of the area had been transferred to the City School District. They called it an annexation when it is a change from the suburban area to the City, but it is a transfer when the change is made from an adjacent school district to another school district. So the area — most of the area had been transferred to the Columbus City School District.

As a matter of fact, in the earlier years of our work, the transfer was automatic. When there was an annexation to the City, that area was automatically to the City School District. This was something that adjacent suburban areas didn't like, so they were successful in getting a change in the law. The change was not automatic thereafter, but up to that time practically all of it, I think, had been transferred. [5024]

Q. Do you happen to remember the percentage growth and the increase of the size of the Columbus School District from 1954 to 1959? Do you happen to recall that figure? If you don't, I direct your attention, please, to page 5 of Exhibit 62.

A. I don't recall that.

Q. Okay. If you —

A. I know that —

Q. If you would, please, turn — okay. Have you got page 5?

A. Yes, I have.

Q. In the middle of the page, it says "Geographical growth, paragraph one," and —

A. Yes. The percentage was approximately 55 percent.

Q. All right. And I believe you gave us previously the growth in square miles of the city itself.

Directing your attention, please, to page 8 of Exhibit 62, would you tell us what Table 2 shows, please?

A. Table 2 shows annexations to Columbus from January, 1954, to January, 1959.

Q. And those annexations with their acreages appear on pages 8 and 9 of Exhibit 62; am I correct about that?

A. Yes, sir.

Q. Now, you have made reference to the fact that not all areas transferred to the City of Columbus became part of [5025] the Columbus City School System. Directing your attention, please, to Table 3 on page 10, does that show areas transferred to the City of Columbus but not to the Columbus School District?

A. Yes, it does.

Q. On Table 3, City Annexation No. 135 says: "Adjacent to Port Columbus," and underneath it it says "Wonderland," and it has at the right "Pending." How do you happen to know whether or not this ever became part of the Columbus Public School System?

A. I believe it did not.

Q. Was that a part of a problem that revolved around some territory near Western Electric?

A. Yes, as a matter of fact, it did involve the area which was utilized later for the Western Electric plant.

Q. Was that a matter of — this was an area which was, up until that time, and remained with the Jefferson Local School System?

A. Yes, it remained with the Jefferson Local School District, a system which is headquartered in Cahanna.

Q. Now, Mr. Rudy, what changes took place in the enrollment from 1955 down to the time of your study, the 1959 study, and I would direct your attention to page 17 and 18 of Exhibit 62.

A. Well, we knew that enrollments had been increasing [5026] and, as noted here, enrollments had been increasing even more rapidly than had been anticipated in 1959 — rather, 1955-56.

Q. Read paragraph, if you would, please, read paragraph — the paragraph starting on page 17, No. 2.

A. Total day school enrollments have increased from 61,650 in 1955-56 to 75,884 in 1958-59. [5027]

This was as of October, 1958.

Q. Would you read the next one and the one on the other page, please?

A. The school population is increasing most rapidly in the outlying areas of the City. However, increases are common in the central areas of the City.

Q. Paragraph 4.

A. Residential growth in territory annexed to the City since 1955 and '56 is so rapid that it is seriously straining school facilities in existence in these areas and draining bond funds available for new school housing in such areas.

Q. All right. Thank you.

Directing your attention to page 30, Table 10, I will simply ask you if Table 10 is a projection of actual and estimated enrollments in the Columbus Public School System 1943-44 through 1972-73?

A. That's true, for grades one through twelve.

Q. Turning to page 48, there is a listing on that page of schools that have been built and sites added and so forth at Paragraphs 1 through 9 dealing with the elementary schools, and then at the bottom of that page, Paragraph 1, would you read that, please?

A. Tables 26 and 29 show that the total capacity in grades one through six in the permanent Columbus [5028] elementary school buildings of 32 pupils per classroom is 43,136, with additional capacity of 2,368 in buildings under construction or planned, and with the addition —

Q. I believe it goes to page 51.

A. — of the Courtright School, the total capacity will become 45,504. Some classrooms usable only in emergencies, kindergartens and the rooms for special classes have not been included.

Q. Would you read the next paragraph, please.

A. Since the projected elementary school enrollments, grades one to six is expected to exceed 50,000 in the next five years, it is obvious that additional elementary school capacity must be provided.

Q. What had happened — what was happening at the secondary level? You have made some reference to it. I wonder if you please would give us the information that appears in Paragraphs 1 and 2 of that page at the bottom?

A. There are 22 secondary school buildings —

Q. No, excuse me. You don't need to read that, please. The Court has that. Read starting at Paragraph 1 under Secondary School Capacities.

A. The first item there?

Q. That's all right, start with it.

A. Tables 27 and 28 show that the total capacity of all secondary schools, including schools in the planning [5029] or construction stage, will be 28,555. With projected enrollments for grades seven to twelve exceeding 40,000 in less than ten years, it is clear that more facilities must be provided for secondary school pupils. Enrollment for grades seven to twelve will exceed 28,555 in 1960-61. Enrollments in the northeast, northwest and far east areas will exceed the available facilities during the 1959-60 school year.

Q. Now, the 1959 Study made certain recommendations, and the general recommendations start on — well, it is entitled "Basic Agreements and Recommendations," and it starts on page 56. Would you explain, please, generally what are the basic agreements?

A. Basic agreements are understandings or assumptions that have to be arrived at before you really know what recommendations should be made. Unless you have agreements — and I am really not looking at this now — but unless you have an agreement, for example, as to the pupil-teacher ratio that you want at an elementary school,

for example, this can make a great difference in capacities and needs for additional classrooms. [5030]

Just a matter of arithmetic of taking 43,000 elementary school children and dividing by, let's say, 34, and then taking that same number and dividing by 32 will give you an increase of many classrooms, about 80, as a matter of fact, as I recall.

And, of course, the same is true in the secondary schools. You have to have agreements as to what the curriculum is to be. You have to have agreements as to walking distances to the various schools so that you can determine whether or not you have sufficient classrooms within the normal walking distance for pupils of various ages, age groups.

Q. Are there also included in these specific agreements — was there also an agreement with respect to the size of the school? I direct your attention to paragraph 4 on page 56.

A. Yes, the — there was an agreement that, generally, the elementary school capacity should not exceed 600 pupils, not counting kindergarten pupils, 1,200 for junior high schools and 1,500 for senior high schools, which, incidentally, is considerably less for the senior high schools than had been in the past, actually, in operation.

Q. These basic agreements are set forth in Exhibit 62, and they begin on page 56 and are of the type that you prescribed; am I correct about that, Mr. Rudy? [5031]

A. Yes, sir.

Q. All right. Then following that are specific recommendations concerning the elementary schools and those recommendations, I believe, start on page 58 with Recommendation No. 10 and go through Recommendation No. 59 on the bottom of page 64. Would you check that, please?

A. That is correct.

Q. All right. And these are specific recommendations concerning new schools and additions and remodelings and acquisition of sites; am I right about that?

A. Right.

Q. And then, there are, similarly, there are recommendations with respect to the secondary schools, and that begins with Recommendation No. 60 commencing on page 65 and goes through Recommendation 77 on page 69. [5032]

A. That is correct.

Q. Do you happen to know how many of these recommendations were carried out, or what percentage of them were carried out?

A. I would say at least 90 percent.

Q. How were the buildings financed, if you remember, this particular group? Specifically to refresh your recollection, there was — was there a bond issue in November of 1959?

A. Yes, there was a bond issue in 1959 in the amount of \$29,950,000, as I recall, which was the largest bond issue I believe ever approved for school construction in the State of Ohio at that time.

Q. In 1964 another study came out. It was entitled the 1963-1964 Study of the Columbus School Building Needs of Columbus, Ohio, Consultant Service by the Bureau of Education and Research, the College of Education, The Ohio State University, and has been admitted into evidence as Plaintiffs' Exhibit 64.

I will ask you, Mr. Rudy, if you are familiar with that study, sir?

A. Yes, I am.

Q. What was your connection with it, if any?

A. Of course, at that time I was Assistant Superintendent, [5033] Business Affairs; however, since I had worked with Dr. Conrad before and with Mr. Beers, I know it was Mr. Beers that is the liaison person for the

Board of Education, but it was natural that he would consult me rather frequently on matters which I was familiar with.

Also, we were constructing, as part of my duty, purchasing, I had to be aware of construction going on because we had to have equipment and supplies ready for schools as they opened.

Q. Was the 1963-1964 study presented by the then-Superintendent, Dr. Eibling, to the Board of Education for its approval?

A. Yes, it was.

Q. Was it adopted and placed on the — a bond issue placed on the ballot?

A. Yes, it was adopted and again a bond issue was placed on the ballot. This time for, I believe, \$34,650,000.

Q. Did that bond issue pass?

A. It did.

Q. Did the school system implement the recommendations of the 1963-1964 study?

A. Yes, construction proceeded on through for the next five years or so.

Q. If the last building was built from that issue in 1969, would that be about right? [5034]

A. I would say yes, yes, that would sound about right.

Q. Directing your attention to Plaintiffs' Exhibit 62 — I am sorry — 64, 1964 building study, would you turn to Page 5 and read Paragraphs 1 through 3, please?

A. The population of Columbus increased by 69,814 between 1940 and 1950. From 1950 to 1960 the population grew from 375,901 to 471,316, an increase of 95,415.

The Columbus Area Chamber of Commerce estimates that population in 1964 is 531,994, indicating that the rate of growth for Columbus is higher in the 1960s than it was in the 1950s.

Only three of Ohio's other large cities gained in population between 1950 and 1960. Dayton grew by only 18,000, Akron by only 16,000, and Toledo by only 14,000.

Ohio's four other large cities, actually lost population between 1950 and 1960. Cleveland lost 39,000 during the period, Canton 3,000, Youngstown nearly 2,000 and Cincinnati more than 1,000.

Conservative projections of future births used in Table 2 are based upon an estimated population for the city proper of 580,000 for 1970.

Q. Thank you. Now would you turn to Page 7 of Plaintiffs' Exhibit 64 and read the first paragraph?

A. From January 1954 to January 1964 the area of Columbus increased from 41.735 square miles to 94.33 square [5035] miles, an increase of more than 52 square miles.

Although some of the areas annexed to the city were within the boundaries of the Columbus City School District already, annexations of areas from adjacent school districts has increased the size of the school district by approximately 60 percent during this period.

Q. Thank you. Turn to the next page, the first page after 7, and I believe that figure is entitled 1 and is captioned Areas Annexed to Columbus, Ohio from January 1955 to January 1964.

A. That's correct.

Q. Am I correct about that?

A. That's correct.

Q. Then Table 4 shows the annexations to Columbus that are depicted in Figure 1, identifies them by date and ordinance number and acreage, and Table 5 shows the areas annexed to Columbus but not transferred to the Columbus School District; am I correct so far?

A. That is correct. [5036]

Q. What is shown, please, upon Table 7, page 14?

A. I'm sorry. I missed a part of the question.

Q. All right. What does Table 7 on page 14 show, please?

A. Table 7 shows the major residential building projects scheduled and/or being planned for 1964 and 1965, 1966 and 1967.

Q. All right. Now, directing your attention, please, to page 54 of Plaintiffs' Exhibit 64. Would you read the Paragraph No. 1 at the bottom of that page under "Elementary School Capacities"? [5037]

A. Tables 29 and 32 indicate that the total capacity in grades one to six in the permanent Columbus elementary school buildings at 31 pupils per classroom is 52,793. With additional capacity of 1,922 in the buildings and additions planned or under construction, total capacities for grades one to six will become 54,715.

Q. Now, would you turn to page 58 which is the next text page and read Paragraph No. 2 at the top of that page which I think is a continuation?

A. Since the projected elementary school enrollment is expected to exceed 61,000 by 1969, it is obvious that additional elementary capacity must be provided.

Q. Now, would you read Paragraphs 1 and 2 at the bottom of that page under secondary school capacities?

A. Tables 30 and 31 indicate that the total capacity of all secondary schools, including schools in the construction stage, will be 38,970. With projected enrollments from seven to twelve exceeding 44,000 in 1969, additional facilities must be provided for secondary school pupils.

Q. Thank you. Turn now, if you would, please, to page 62, and I would simply ask you if on page 62 begins the basic agreements against which this program really is developed that you described, the type of thing that you described earlier? [5038]

A. That is true.

Q. And it again then is followed by general recommendations and specific recommendations with respect to the elementary schools, am I correct?

A. That is true.

Q. And the elementary school recommendations begin with Recommendation No. 9 on page 64 and goes through Recommendation 68 on page 70?

A. That is correct.

Q. And the secondary school recommendations begin with Recommendation No. 69 on page 70 and goes through Recommendation 90 on page 74?

A. That is correct.

Q. And is it your understanding, Mr. Rudy, that these recommendations were in fact for the most part carried out?

A. Yes.

* * * * *

[5077] Q. [By Mr. Porter] Where is or was the Sixth Avenue School?

A. The Sixth Avenue School was located at Sixth Avenue and Sixth Streets, east of Fourth Street, south of 11th Avenue and north of Fifth Avenue [5078]

Q. Would you go to Paragraph 11 and read Recommendation 11 and paragraph that follows?

A. It is recommended that a primary center elementary school, Grades K3 – that's Kindergarten through 3 – having seven classrooms and one kindergarten room be constructed on the Board-owned Sixth Avenue site, and that the site be expanded. The elementary school pupil density of the area bounded by High Street on the west, Chittenden Avenue on the north, the New York Central Railroad on the east and Fifth Avenue on the south, has increased rapidly in the last two years.

Although eight classrooms were added to the Weinland Park Elementary School in 1957, more classrooms must be provided.

* * * * *

[5107] Q. [By Mr. Porter] Directing your attention to Gladstone Elementary School, please, where is it located?

A. Gladstone Elementary School is located just east of Cleveland Avenue, about half way between Hudson Street and 17th Avenue.

Q. I will direct your attention to Page 65 of the 1963 study, and I would ask you to read Recommendation 20, please?

A. It is recommended that a new elementary school having ten classrooms and one kindergarten room be constructed on a site located near Gladstone Avenue and 24th Avenue, which site is scheduled for purchase in 1964.

Q. Is that location, approximate location of the Gladstone Elementary School?

A. It is.

Q. I would ask you to read the comment that appears after the next recommendation starting Recommendations 20 and 21, please?

A. Recommendations 20 and 21 are designed to provide classroom space needed in the area abounded by Hudson Street on the north, the Pennsylvania Railroad on the east, the North Freeway on the west, and 17th Avenue on the south.

These recommendations not only will provide space for growth, but also will provide facilities for approximately ten classrooms of children that will be transported during the 1964-65 school year.

* * * * *

[5136] Q. [By Mr. Porter] Now, directing your attention, Mr. Rudy, to the period 1957 through 1964 about which you testified this morning with respect to new buildings, I would ask you, sir, if my notes and records are correct and if it is consistent with your recollection that during that period of time, '57 through '64, you have identified and there were open some 49 new school buildings within the Columbus Public School System?

A. According to my recollection, that is correct.

Q. And that would be, during the period that you have covered in your testimony today, a total of 70 new

buildings opened between 1957 and 1969; am I correct about that?

A. Yes, that certainly seems correct.

Q. And do you happen to recall the number of new buildings that were open from the time that you became detached from your teaching duties as a chemistry teacher in 1949 by Dr. Fawcett through 1969, the number of new school buildings that were opened by the Columbus Public School System?

A. I believe that — I don't recall exactly, but it was very close to 100.

Q. Thank you. Now, directing your attention to the matter of additions to the Columbus Public School System, we have covered, I believe, the ones shown through the period 1965 through '69, some 52, and there is on the map, purports [5137] to be, the additions that were placed in the period '57 through '64, and I would ask you if it is consistent with your recollection that they total approximately and are shown on that map, approximately 55?

A. Again, that sounds reasonably correct.

Q. And that would be, according to my arithmetic, during the years about which you have testified with respect to new buildings, that would be additions from 1957 through 1959, additions of approximately 107, 107 different buildings?

A. I believe so.

Q. And I believe that — I would ask you if it is consistent with your recollection that for the total period 1950 through 1969 that the additions to buildings in the time that you became on assignment to Dr. Fawcett down through 1969, the total was approximately 158?

A. Again, that sounds about right.

* * * * *

CROSS EXAMINATION BY MR. LUCAS

[5138] Q. [By Mr. Lucas] Mr. Rudy, how long did these reports generally take to prepare?

A. How long did they generally take to prepare?

Q. Yes, sir.

A. I believe that the 1951 report took about eight months. The others took less time, because we were more familiar with the procedures and techniques.

Q. And to some extent, the others were updates of previous reports? You'd take the base data from before and see what changes had taken place since that time?

A. Yes, sir. We did, as you say, take the base data and update it, primarily. [5139]

Q. Were these reports prepared in general in connection with proposed bond issues or millage elections?

A. They were prepared — I wouldn't say that they were prepared in connection necessarily with bond issues. That is, they preceded bond issues, because the recommendations did require bond issues. They were made objectively, and the recommendations were a result of the gathering of the data, and the bond issues were a result of the recommendations.

Q. All right. The School System already knew it needed some new schools. You had increasing enrollments. You had school changes you needed to make. Is that correct?

A. Yes, sir. I believe it was apparent to almost everyone who thought about it at all.

Q. And you went to the Ohio State Bureau of Field Services like Dayton has done, like school systems all over Ohio and even outside of Ohio go to centers like that, and you told them were we looking at our needs in terms of new buildings. We have got increasing population at various levels, and we want you to do a study with us as to what we should do in terms of those schools; is that correct? If I have left something out, you put it in.

A. For the first study, especially, we asked them really to do the study. I was a complete neophyte, for example. [5140]

Q. You were what?

A. I was a complete neophyte in —

Q. You went from chemistry to demographics, I understand.

A. Yes, sir. So we worked very much under the direction of the Bureau of Educational Research, in that case Dr. Herrick, and it was also true in the subsequent studies. They gave us the direction. Naturally as time went on we would have been rather obtuse if we hadn't learned something about the techniques and procedures and been able to carry on these studies much more rapidly because we knew about what they wanted.

Q. And you asked the questions. What should we do in this area? How should we solve our problem in the southwestern part of the city, things like that? This was the kind of questions that you asked them? [5141]

A. Well, the data were gathered and presented. The assumptions were arrived at. The basic agreements were agreed to, and the — therefore, the natural questions were, "What shall we do about these situations?"

Q. So there was some basic assumptions that the Board gave you to work with; is that correct, the Board and the Administration?

A. I would say that the basic assumptions were really, again, a result of the guidance of the Bureau of Educational Research people, because, at that time, we really didn't even know what kinds of assumptions — whether there ought to be assumptions. We didn't have any experience in this, and so they said, "Well, you have to make certain decisions," that is, "the Board and the Superintendent have to make certain assumptions on class size, walking distances and those kinds of things."

Q. What your policy would be in terms of walking distance, in terms of transportation, no transportation, those decisions were made by the Board, were they not?

A. Yes, sir.

Q. All right. And you gave them these assumptions. I take it they often work with graduate students as well

in gathering up the base data, they come in in teams and survey schools, this sort of thing?

A. I don't believe that graduate students were used [5142] in these studies very much. They were used in the first two or three studies in the making up of the — of the spot maps from the data that we had, so they were used in that fashion, but otherwise, they really didn't have much to do with these studies.

Q. They did the base data work; would that be a fair statement, making your base data, making spot maps, this sort of thing, —

A. Yes.

Q. Making up data and charts but not the decisional process; is that fair?

A. Yes, for example, the first study, we actually spotted the pupils on maps, at least the first two studies, as I recall, in that fashion. They took the maps which were spotted in pencil and from that they made the final maps which were presentable in a study.

Q. Okay. I take it when you were assigned to this project you were not at that point already totally familiar with all the schools in the system?

A. I certainly was not.

Q. And that's something you had to make yourself familiar with in order to assist the team?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir. [5143]

Q. In that process you became aware of which schools had black enrollments and which schools had white enrollments; did you not?

A. Dr. Herrick and I went around for the first study from school to school.

Q. So you saw which schools were all white and which ones were mostly black; isn't that correct?

A. I suppose we — if by seeing you mean becoming fully and consciously aware, I would say not.

Q. Did you walk through the schools and look at the classrooms when they were empty or when they were full?

A. We walked through the buildings and we knew that there were pupils present and, of course, if most were white, we were probably aware of that; most were black, we were aware of that, but really we didn't give it any thought.

Q. Did the board give the Ohio State team any directions as to what it should do to minimize the existing concentration of white children in white schools and black children in black schools during any of these studies?

A. No, sir.

Q. Did the board ask the Ohio State people to make any recommendations about steps that could be taken in the course of making decisions about school locations and so forth, which would minimize or reduce existing segregation in the Columbus schools? [5144]

A. No, sir.

Q. Let me go back. Did the board ask the team to take any steps to avoid increasing the degree of segregation in the Columbus schools?

A. No, sir. [5144]

* * * * *

[5148] Q. [By Mr. Lucas] Have you got a copy of PX 59? I wonder if you could locate for me quickly the reference that you made to the annexations and how much annexations there had been in this particular report?

A. The reference to annexations?

Q. Yes, I think it is at page 6. Do you want to take a look? Let's make sure we are looking at the same document. Do you have Plaintiffs' Exhibit 59 rather than the '59 study?

A. I have the 1950 study which is marked PX 59.

Q. Okay. Look at page 6.

A. Yes, I see what you mean, the growth of the [5149] Columbus School District.

Q. Yes, that's what I am referring to.

A. Yes, sir.

Q. That indicates that very little territory had been added since the first study in 1939; is that correct?

A. Yes, sir, at that time that was true.

Q. Let's look at the 1960 study — I am sorry, the 1953 study, Plaintiffs' Exhibit 60. Do you find another reference to the annexation?

A. Yes, sir, on page 3.

Q. Page what?

A. Page 3.

Q. What does that indicate?

A. It is indicated that at that time the only annexation — it says of the city, but really to the city and to the City School District since 1949 was the airport area, so that annexation up to that time had little impact.

Q. Only two families; is that correct?

A. Yes, sir.

Q. All right, would you look at Plaintiffs' Exhibit 61, 1966 study? Do you find a reference to the growth of the district there?

[5150] Look at the bottom of page 2, if you will, sir.

A. Yes, sir.

Q. It indicates a total of 8,112.4 acres had been annexed to the City on January 1, '54, through October 17, '55; is that correct?

A. That is correct.

Q. And then it goes on — perhaps you should read from there, the sentence beginning, "Although some of the areas annexed."

A. Although some of the areas annexed were within the boundaries of the Columbus School District, annexation of the areas from adjacent school districts account for approximately 5,310 acres. Little, if any, of this territory newly acquired by the City, even that which —

Q. Skip to page 5.

A. — previously had been a part of the Columbus School District, not then within the City Limits, had been — has been densely populated at the time of annexation primarily because, for about two years, City sewer and water taps have not been permitted outside the limits of the Columbus municipality. However, as soon as annexation proceedings have been completed, the areas affected have been supplied with sewer and water facilities, residential growth has been rampant in almost every case. Business and industrial construction are also encouraged by the [5151] availability of City services.

Q. In these areas outside the Columbus School District, the Columbus Board did have a policy of acquiring sites, school sites, did it not?

A. Yes, sir.

Q. And so, in addition to sewer and water facilities, the Columbus Board acquired sites for new schools in the developing areas in advance of annexations or additions to the district by transfer; is that correct?

A. That is true.

Q. Mr. Rudy, did you — and I take it probably Mr. Beers worked closely with developers in connection with the location of the school sites, acquiring sites within subdivisions, things of this sort?

A. Yes, we tried to, and were usually successful.

Q. All right. I suppose you're familiar, perhaps you're not familiar with the signs, but new developments that say, "New church to be located here, new shopping center, school to be built on this site" as part of the development of the subdivision? You've seen those in your work with developers?

A. I really can't say that I have, sir.

Q. You haven't seen advertisements indicating that the developers new school was going to be built in a certain place; that the School Board had selected the site in [5152] advance?

A. I — I don't believe we had a lot of that. We — I'm sure that it happened, because I know that people had talked to us. I'm sure that in selling a lot, we'll say, for a — or a house, that salesmen would use that approach.

[5153] But I really can't say that I saw a lot of that in advertising.

Q. You didn't see it in signs?

A. In signs or in advertising in newspapers and that sort of thing.

Q. The Board didn't keep its site selections confidential, did it?

A. No, sir.

Q. In fact, they were publicized in various reports of the Board, were they not?

A. They were, and, in fact, when the Board of Education purchased a site, it was public information and in every case, I am sure, reported in the newspaper.

Q. I show you C-76 which also bears Original Plaintiffs' Exhibit 23. I think they are just printed differently. They both have the same title "To Have a School." Since you are familiar with C-76, let's use that one.

Would you turn to the information about Project '71? That was the Monroe Junior High School; is that correct?

A. Yes, sir.

Q. I show you what has been marked for identification Plaintiffs' Exhibit 51I-5(e) which is a newspaper article with a by-line Betty Daft, D-a-f-t. It is a report dealing with the opening of Monroe Junior High School. Would you [5154] begin reading from the full paragraph that begins "At the same time"?

A. At the same time, however —

Q. I am sorry, that would not give the full picture. Read beginning the paragraph before that, please.

A. Civil Rights representatives present at the meeting acknowledged the advancements made in the report and welcomed the announcement from Dr. Watson

Walker, School Board President, that a citizens advisory council would be formed to sit in on future planning sessions. At the same time, however, they soundly denounced the administration's continuing policy of building more schools in predominantly Negro areas as "going farther into racial imbalance, creating more and more problems to correct."

Monroe Junior High due to open in September was singled out as an example of moving Negro youth studying at the integrated Linmoor to a school predominantly Negro.

Q. The next paragraph.

A. The purchase of land by the School Board Tuesday for a possible future elementary at Gladstone and East 25th Street was also questioned as placing a third Negro School in the immediate area.

[5155] Q. Are you familiar with the Gladstone opening as well as the Monroe Junior High?

A. Yes, I am.

Q. Is that the approximate location where the school opened?

A. Yes, it is.

Q. And they did name it Gladstone; is that right?

A. Yes, sir.

Q. Were you aware that Gladstone opened in 1965? Does that sound like the correct date for physical opening of the school?

A. It sounds about right.

Q. And the record, I believe, reflects that in 1966, the first time racial data was reported on the school, it was 78 percent black, and in '67, 91.2 percent black. Were you aware, sir, that Monroe Junior High opened 100 percent black?

A. I wasn't consciously aware of it. I had no particular reason to note it.

Q. You knew it was in a black area, didn't you?

A. Yes, sir.

Q. I am sorry, when did you retire from the system?

A. September 1, 1973.

Q. You were still with the system then at the time the Cunningham Report, another Ohio State University study, was [5156] submitted to the Board for its consideration, were you not?

A. Yes, sir.

Q. I will refer to Plaintiffs' Exhibit 194 and ask you to look at page 3 and see what Ohio State had to say in the second full paragraph on the page.

A. Do you want me to read that?

Q. Yes, sir, please.

A. Due to a number of circumstances, there are racially segregated schools in the Columbus — I am sorry — in Columbus. See Figures 2 and 3. But there is interest in finding ways to handle that problem. Conflict between the schools and segments of the community exists. It cannot be ignored. There is not enough money, but the survey of householders and employers indicated a willingness to spend more for good schools. There are new services as well as increases in existing services required, but these would seem to be achievable.

Q. Let us refer now to Figures 2 and 3 in the report. Figure 2 is a map done in color by Ohio State University showing percentages of Negroes in the public elementary schools, Columbus, Ohio, 1967-68, is it not?

A. Yes, sir.

[5157] Q. And if we can for the record — I know you can see it, but we have to say it for the record. Let's go over the color code. The areas such as Bexley and Whitehall are in the color blue as not being part of the Columbus District; is that correct?

A. Yes, sir.

Q. And then the circles with less than 1 percent Negro students, in the language used in the report, are

red circles or semi-circles. I don't know what you call them. They look like footballs to me.

A. Ovals or something.

Q. Anyway, they are completely white on this particular map; is that correct?

A. Yes.

Q. And would you give us the various colors for the various other percentages?

A. The percentage 1 percent to 4.9 percent is in yellow. The percentage 5 to 24.9 percent is a red oval with two red dots. The percentage 25 to 49.9 is an oval, a red oval with a red X.

Percentage 50 to 74.9 is a black oval with a figure 8, I believe that is.

Q. That looks like it to me.

A. Figure 8 inside. A percentage 75 to 94.9 is a black — we're talking about outlines now.

[5158] Q. Yes.

A. — black oval with red interior and a white dot inside that. Percentage over 95 percent is a black oval colored entirely red inside.

Q. All right. And those that are colored red are all concentrated in one particular area of the city, are they not?

A. They are concentrated in the central section of the city.

Q. And the white circles are pretty much in the periphery of the city, are they not?

A. Yes, they are.

Q. That's elementary school, and I believe the slightly different coding but essentially the same process, the junior and senior high schools are reflected in the map. I don't think we need to read through the code. And that's figure 3; is that correct?

A. Yes, sir.

Q. Thank you.

I refer you now to Page 20 of the Cunningham Report under the heading "Managed School Integration" and ask you to read that paragraph.

A. The mark —

Q. Yes, down to the mark.

A. The concentration of minority groups in certain [5159] sectors of Columbus requires that policies of managed school integration be adopted. The Commission endorses the recent Board of Education decisions on boundaries for the new Southmoor Junior High School. This new school will achieve a reasonable racial balance in its enrollment and at the same time assure the distributions of black and white youngsters in neighboring schools. It is necessary that this principle and process of boundary revision be extended immediately to other segregated schools.

Q. Do you know whether or not that process was extended to the other segregated schools?

A. I don't recall. As — as I recall, as new schools were opened, and there was a possibility of doing this for pupils living within a reasonable distance of the school, I think that an attempt was made, but, of course —

Q. Would that be true — I'm sorry.

A. But, of course, this would not apply to the schools in the central part of the city which had already been established.

* * * * *

[5162] Q. I refer you now to the summary at page 105. Would you read the section beginning "Managed school integration"?

A. Managed school integration can go forward much more intelligently with the knowledge that new segregations are not cropping up in developing areas of the City. Managed integration linked with carefully chosen compensatory education programming has the prospect of offering Columbus the most outstanding large city educa-

tional system in the nation. Pursuing policies of segregation promised little or no hope. They will lead only to further deterioration of the community's confidence in its schools, large school disenchantment on the part of disadvantaged families, black and white, growth and student unrest and eventually economic decline within the metropolitan area.

Q. And this was a study done for the school system in 1968 by the Ohio State University; is that correct?

[5163] A. Yes, sir.

* * * * *

ROBERT W. CARTER

called as a witness on behalf of the
Defendants, having been heretofore duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. PORTER

[5292] Q. [By Mr. Porter] Would you state your name, please?

A. My name is Robert W. Carter.

Q. And where do you live, Mr. Carter?

A. I live in Worthington, Ohio.

Q. And you previously appeared in this case and have given testimony before today?

* * * * *

[5294] Q. In your duties in your department, were you familiar with the rental of facilities by the Columbus Public School System in 1964 and subsequently?

A. Part of my responsibility was to secure, to locate feasible rental facilities where we had overcrowded conditions in nearby schools to be used to house the students.

* * * * *

[5303] Q. The next one is the Highland Elementary School, '70-71 school year. Tell us about that, please.

A. Capacity at Highland that year was 667 with an enrollment of 701. We sent a pre-K, two pre-K classes to Oakley Baptist Church next door.

Q. Directing your attention to McGuffey, would you tell us about that, please?

A. McGuffey, with a capacity of 696 youngsters and enrollment of 904, we housed kindergarten youngsters at the Cooke Recreation Center and the Linden Recreation Center.

Q. Do you recall approximately how many rooms had to be housed for McGuffey at that point in time?

A. I believe we sent two classrooms to Linden Recreation Center and either two or three classrooms to Cooke.

Q. Thank you. And continuing with McGuffey, was it necessary in the next school year, '71-72 — strike that. I [5304] am sorry. Strike that.

Turning your attention now, please, to the Sullivant Elementary School, what was the situation at that school?

A. It had a capacity of 406 students at Sullivant that year and enrollment of 471. It was necessary to locate the pre-K, pre-kindergarten children at the Columbus Methodist House Association.

Q. Why is it necessary when the fingers would indicate that there is — I am sorry.

Why do you deal with pre-K classes so frequently in this situation in the late '60s and early '70s? What's the reason for it from an administration standpoint?

[5305] A. Pre-K was sponsored and financed through the Title program, the ESEA funds out of the Elementary and Secondary Act of 1965, and they were instituted in the years '66, '67, on through, and they — it was necessary to house them in the areas of — the impacted area, the area that we were serving, the Title area.

Q. Now, if you would get before you, please, Plaintiffs' Exhibit 356A, Dr. Foster has testified in this proceeding, Mr. Carter, that there was space available at Kent — excuse me — that there was space available from which the students at Kent, Hamilton, Highland and Sullivant, those students who went to these churches, that they could have been taken to various schools around the city, and those schools are identified in the record. I would like to ask you some questions concerning several of them.

The first one is Kenwood Elementary School which he said could receive students, and I would ask you whether or not, according to Plaintiffs' Exhibit 356A, Kenwood, whether it was receiving two classes from the Winterset Elementary School at that point in time?

A. This was the 1970 school year?

Q. This was the 1970 school year.

A. Yes, sir, they were receiving two classes of students from Winterset.

Q. And directing your attention to the Parsons [5306] Elementary School which he testified had space available, I would ask you again, referring to Exhibit 356A, whether or not it was receiving classes, three classes, from Cedarwood at that point in time?

A. That's correct, it was.

Q. And I would direct your attention to the Stewart Elementary School which he said had space available and ask you whether or not, according to 356A, Stewart was receiving two classes from the Deshler Elementary School?

A. That's correct, it was.

* * * * *

[5308] Q. Directing your attention, please, to the Cassady Elementary School for the period — for the '72-73 and the '73-74 school years.

A. We annexed Mifflin Township in 1971. That year we were able to house Cassady Elementary School in its own facility, but we were growing rapidly, and we were also transporting out of South Mifflin. Thus, we needed a space in the community to house the overflow from these two schools, and this facility that we later named Crossroads for purposes of identification, we had 14 classroom spaces that were designed and modified by the builder for our specifications. It was air conditioned and carpeted, and we housed the overflow from Cassady there. We also housed the overflow from South Mifflin until additions could correct their overcrowdedness.

Q. And this was done for a period of --

A. A couple years. It is still in use.

Q. Now, Dr. Foster testified concerning the excess, the enrollment over capacity at Cassady in 1972. According to the record, he identified certain schools which had space available, one of which was Marburn, and I would ask you to [5308-A] look at Plaintiffs' Exhibit 356A and see whether or not Marburn was receiving three classes from Winterset at that point in time?

[5309] A. That's correct.

Q. He also testified that Homedale had space available for 122, and I would ask you to look at 356-A and see if Homedale was receiving at that point in time six classes from Alpine?

A. That's correct.

Q. He identified Valley Forge Elementary School as having available 63 spaces, and I would ask you to look and see whether or not Valley Forge was receiving at that point in time three classes from Devonshire?

A. That is correct.

Q. He testified that there were 102 spaces available at Kenwood Elementary School, and I would ask you to look at Plaintiffs' Exhibit 356-A and see if Kenwood was receiving five classes from Winterset at that point in time?

A. That is correct.

Q. He testified that Northwood had 66 spaces available, and I would ask you whether or not Northwood was receiving students from South Mifflin?

A. No, it was not.

Q. The next one on the list is South Mifflin, and you may have covered it, but would you please restate it for the period 72-73 and 73-74 school year?

A. South Mifflin during this period of time had a capacity of 493 youngsters and we had enrollment of 826.

[5310] When we annexed Mifflin Township, South Mifflin was housed in a variety of places, Eastland, I believe, was one place. We continued that for a period

of time, and then we housed them for a short period of time in Arlington Park, and the remainder was housed at Crossroads.

Q. Dr. Foster recommended or said that there were certain schools available with space, and the record will indicate whether or not he used the same schools twice, but he also identified Kenwood, and I believe you have testified that Kenwood was receiving five classes from Winterset?

A. That's correct.

Q. I believe that he identified — strike that.

Your testimony with respect to Cassady and South Mifflin you have covered the school year 72-73 and 73-74; am I correct about that?

A. That's right.

Q. You have covered both school years?

A. Yes, sir.

Q. In the 73-74 school year, Dr Foster found that there was space available at Kenwood again, and I would ask you to refer to Plaintiffs' Exhibit 356-A, and would you tell me whether or not Kenwood was receiving now six classes from Winterset?

A. Yes, 73-74, that's correct, six classes from Winterset.

[5311] Q. He also testified again concerning Home-dale, and would you look and see whether or not it was receiving five classes from Alpine?

A. That's correct.

Q. According to Exhibit 358 the Columbus Public System leased additional space at the Crossroads for the purpose of relieving the Mifflin Junior-Senior High and possibly Innis-Cleveland for the 74-75 and 75-76 school year?

A. Yes.

Q. What was the situation, please?

A. This was the same space, the 14 classrooms that we had available at Crossroads. It was used to continue

housing the children from Cassady Elementary School through the 1974-75 school year and then during this past school year, 75-76, we moved the seventh graders over to Crossroads while the Mifflin Junior-Senior High School was going through a renovation program and remodeling.

Q. What is the proximity? What is the relationship of the Crossroads facility to these various schools, please?

A. The Crossroads is about 100 yards from Mifflin Junior-Senior High School. It is approximately a quarter to a half a mile from Cassady Elementary School.

* * * * *

[5322] Q. [By Mr. Porter] Thank you. Now, I would like to turn to the subject of transportation to relieve overcrowding or what I guess has been referred to in this record as intact busing, and I would ask you to tell us first what is its purpose and — let's start with that.

A. Intact busing was used in the Columbus Public Schools to relieve overcrowding wherein we would take and we would use it basically in the elementary grades where we would take a class of elementary youngsters with that teacher and transport them to a nearby school where we had space because of overcrowding at the sending school.

Q. Would you describe for us the mechanics of this, please?

A. Let me explain the rationale behind the transportation of these youngsters to nearby schools. It would always be done on a temporary basis with some objective in mind where we knew we were going to have a relief through an addition or through a new facility someplace down the pike. [5323] So it was always on a temporary basis.

On the basis of that, we would move a teacher and that class to the sending school, and we would retain the organizational affiliation of that teacher and those youngsters to the sending school, to the home school. Because of this it was not necessary, then, to change or to alter

student permanent records, to adjust the student portfolios, or to change the teacher status. All of this would remain intact with the home school organization.

The school where they were located would have available space, would house this teacher and her class for instructional purposes. These youngsters would be contained or would be kept together as a class through the instructional activities, but, on all other activities, the school would attempt to blend them into the organization. The teacher would be assigned extra duty assignments by the principal of that receiving school. The youngsters would generally take recess with the receiving school youngsters. [5324]

If there were a school-wide movie or some other extra-curricular kind of activity that transpired during the school day, those youngsters would participate in such activities as when the music teacher came to that school, they would be assigned to that schedule, and speech therapist, and all those services that reach out to the school housing, that group of intact bused youngsters would participate in that school organization.

But, for record purposes, they kept their identity with the home school.

Q. Let me ask you, pick up some specifics on this, Mr. Carter, if I may, please. If I would understand correctly, then, this was a temporary situation. I suppose that that meant until the school was built or an addition was put on, or something of that nature?

A. Correct.

Q. Did you attempt to avoid transporting the same children for consecutive years?

A. Unless it was a situation where we just could not avoid it, in almost every circumstance that I can recall of transporting youngsters because of overcrowding, we would avoid the transportation of a youngster a second year.

We would move to another grade level or to another grouping rather than repeat the youngster on a transporta-

tion basis, so that he could then return to his home school [5325] and continue in some sort of a normal fashion with his home school situation.

Q. If schools in the area were not available because they were, let's assume, overcrowded, then would you sometimes turn to rental space as an alternative?

A. Rental was used as an alternative if we did not have available space in schools nearby.

Q. So that what you first looked for was what, please?

A. We looked for available classroom spaces in nearby schools, first of all. If we could not find available classroom spaces within a reasonable distance of the home school, then we would turn to rental spaces as an alternative.

Q. I notice that it was not infrequent that kindergarten children were transported. Why were kindergarten children some times transported, Mr. Carter?

A. Kindergarten children, there were a number of reasons why I preferred to transport kindergarten children. They were not restricted to a minimum hour day, by State standards.

Q. What do you mean by that? I don't understand that.

A. Elementary youngsters we have to have in school five and a half hours, and kindergarten youngsters, because at that point in time it was not mandated, a mandated program by the State, we could restrict the number of hours they had in session, so that was one reason.

Another was that it was half-day sessions; that we [5326] could get them out and get them back to their homes in a half-day period of time, and thus we weren't confronted with a lunch problem because those youngsters that we took out of their home school district, we were confronted with a lunch situation, lunching situation, and with kindergarten youngsters, that wasn't a factor.

Another factor that we would consider — I am trying to recall now; the operations of the standards, the lunch

room, the fact that they were flexible; that was voluntary.

Q. What do you mean by the latter, please, that it is voluntary?

A. Parents did not have — if they were adamantly opposed to their children leaving the home school area, they would not have to send their child to kindergarten. They could choose some other alternative.

Q. So that I understand the lunch program aspect, please, and I am sorry to repeat it, but the point is that at the kindergarten level, the child is not served lunch; is that correct?

A. Kindergarten is a half-day program and we would return them to their home school. The morning session kindergarten would come at 9:00 o'clock and return home at 12:00 and be back to their own residences in time for lunch, but grade children, Grades 1 through 6, it is necessary to keep them the entire day, thus we have a lunch problem. [5327]

Q. Am I correct in some impression that I have from somewhere that you also may have at the kindergarten level teacher availability for a half day possibly, or something of that sort; is that right?

A. That's correct. Kindergarten teachers in Columbus are employed for one session or for two sessions. Two sessions is a full-day teacher, and we might have a situation where a teacher had an assignment of a half day kindergarten in one school and she was available for instruction purposes the remaining half of her schedule and would not have enough youngsters in that particular school to fill another section, so we would combine these kind of situations to conserve financially and to make use of her space, because kindergarten spaces are generally a little larger spaces than regular classroom classes, they have different kinds of furniture and equipment, and so we would combine the use of that kindergarten space plus making use of that available teacher and preventing

us from employing additional staff to handle this extra kindergarten.

Q. The children that were being taken intact, as I understand it, were being taken on a some — what seemed to be a temporary basis. Would I be correct, or would you tell me what the situation was with respect to boundary changes or attendance area changes under these circumstances? Were there any, or did the — [5328]

A. No. When a school became overcrowded, if we had an opportunity to change boundary, or if there was no other alternative but to look for another solution, a more permanent solution to relieve the overcrowdedness of that building, then we would be forced to look at boundary changes, but if we knew, and we generally did in advance, because of the bond issue, that we were operating under, from '64 through '68 and now '72 through to the present time, we know whether a school is to receive an addition or whether there will be a new school located in that general area, and so we have fixed in our mind some rationale, some solution to the problem, so those situations where we transported were temporary, we knew on down the pike that we would have some resolution to that particular problem, and we would not have to change boundaries; that by temporarily transporting them, we could house them in the very near future; maybe two months, six months, a year later.

Q. Did you move first graders?

A. We did not move first graders.

Q. Why not?

A. Basically because we felt that first graders needed to have instruction in their home school. They were beginning school for the first time on a full-day basis. They needed all of the advantages we could supply them and muster, and we tried not to disrupt their educational program. [5329]

Q. In dealing with kindergarten children, what were the requirements, if any, so far as the location of the

space? What I have reference to is, is there a restriction on where the space can be located in the building so far as kindergarten children?

A. Yes. State fire codes prevent you from placing kindergarten, first and second grade youngsters above the first floor of the school building.

Q. In the event that there were full-day students, other than kindergarten being taken, was it necessary or not necessary to have lunch facilities at the receiving school?

A. We had to try to resolve the lunch problem. In certain situations I would — and keep in mind early in my service at the Board we operated under a policy that children should go home, if at all possible, during the noon hour, and thus the elementary organization was such noon hour would be an hour and a half in length and youngsters — or an hour and a quarter in length — and youngsters would have that opportunity to go home for lunch, so we had very few elementary schools with lunch room facilities.

In the beginning I attempted to look for those facilities that could accommodate with a hot lunch program in that receiving school. This isn't always possible, but that was one consideration for taking the youngsters, but we did have a lunch problem on children remaining all day.
[5330]

It was an imposition to ask parents who were sending their children to school and then have them furnish a lunch and pack a lunch for their child when we took that child onto the next school, and so it was a severe problem. We tried to deal with it as best as possible, and as the elementary lunch program moved along, we tried to make certain that that elementary school received a lunch program so that we could accommodate those transported youngsters.

Q. With respect to the availability of supplies in a receiving school, was there a policy with respect to at-

tempting to house all of the classes that had to be transported from a sending school, if at all possible, in the same receiving school? [5331]

A. There are good reasons for this. You try to keep youngsters of that particular school together for community relations purposes, as well as organizational purposes, and if—we tried to keep a group of youngsters, classroom of youngsters, together. This wasn't always possible, but we at least attempted to put two classrooms together. This would be one busload or approximately 60 youngsters. So just to accommodate transportation we would generally work in pairs, at least two classrooms. In many situations that I can recall, we would look for maximum amounts of space so we could house the entire transported classrooms in one school to another school.

Q. Now, you have covered some of this before, and I don't want you to repeat it, but I want to deal with the subject, generally the subject of why a class is kept together. You mentioned the organization and record keeping as simplifying that and the fact that it is temporary in nature bearing on that point. I would ask you what happens in these situations so far as the schedule of the group is concerned, its school schedule; does it jibe with the receiving school's schedule or not, or what is that situation, please? [5332]

A. We would attempt as much as possible to have the classroom of youngsters that we were transporting into a receiving school match the time schedule of the receiving school, but this was not always possible. Because of bus schedule conflicts and these kinds of difficulties that we would be confronted with, it would be necessary, from time to time, to alter that schedule, to shorten the lunch period and to reduce or alter recess. To accommodate the time minimum that we had to meet with that transported class and the bus schedule.

Q. Were the classes at the receiving school organized prior to, or what was its relationship with respect to the

principal receiving possible notification that he would have another class?

A. The organizational processes followed in Columbus and one that I adhere to — we began to form classes and to identify and project the enrollments for the coming school year as early as February of each year, so we were working about six months in advance of the actual beginning of the — of school in September, and it was necessary for us at that time to form classes to determine if we could house them all in this school, and, of course, I did not mention earlier and I should, that before transportation from a school, we used every available space in the home school. We would use the multipurpose room. We would use classroom spaces that were not [5333] acceptable, generally speaking, as classroom spaces, but during this temporary arrangement, we would attempt to accommodate the overcrowded school in that situation. We would often times move out of the school special class youngsters. These would be EMR students or LBD students and relocate these youngsters in another situation, do all manner of things to house those youngsters in that particular school before we would take overt actions to transport them to another area.

Q. Now, again, you have identified some of these following matters, and I'll try and avoid duplication, but the principal of the receiving school had the on-site responsibility for the incoming child or children; am I right about that?

A. The incoming principal — the principal of the receiving school worked with the day-to-day problems that would occur within that school. The problems greater in nature or one that would require dealing with the parents would involve the principal of the home school.

Q. Now, with respect to the participation in the school-wide activities at the receiving school, what was the situation?

A. The principal of the school would attempt to organize those extracurricular activities to make these youngsters feel as welcome as possible in that school through their [5334] involvement in the school-wide activities, extracurricular activities of the school.

Q. And what about the scheduling of recesses and assemblies and lunches and field trips, that sort of thing?

A. As much as possible, as much as the organization of the classes would permit, these youngsters would be included in the recess time of the normal school recess or in the lunchtime period, and, basically, it was because that teacher who went to the receiving school was now included in the extraduty roster of the receiving school, and she took her turn at lunch room supervision or at playground supervision along with the staff of the receiving school, and thus, her youngsters would be treated and involved with — in the routine manner with other students. [5335]

Q. She would be expected — the principal of the receiving school would expect her to take her position with respect to these duties along with the other teachers in the building; is that correct?

A. That's correct.

Q. So far as the parents were concerned, were they — did they participate in the PTA at either school or both schools or neither, or what was the situation?

A. Parents in these situations were invited to both schools. We attempted to retain the identity of the parent with the home school; and the teacher that would have been sent away to another school because of overcrowding would on open house occasions or other occasions come back to the home school and participate in those activities so that she could have contact with parents and make herself available to them.

But in the main, parents of children in a situation that were being transported out of their home school would generally be welcomed and attend PTAs of both schools.

Q. In the situation where there is a kindergarten class — and I guess it would be true of any kindergarten class, not just one that is received from another school — do the kindergarten classes have recess periods that are the same as the children in the first grade and older, or do they differ, or what is the situation?

A. Kindergarten youngsters are generally — they [5336] generally have their recess period and their lunch period at different times from the older children. Because they are smaller, they are kept separate. They generally have a separate play area, so they are restricted from participating with the older children in recess activities.

Q. And with respect — and I suspect you have covered this, and I apologize, but the lunch policy so far as the time is concerned for the children that were brought from the other school, what was the situation?

A. Since these children had to eat at school and, as I said earlier, when I first began, the lunch policy, lunch period, would involve about an hour and a quarter period of time, and that was too long of a period for these youngsters to have lunch and wait for the regular schedule to catch up with them. They would generally eat on a shorter lunch period, and thus they could leave the school and return to their home school in time to take advantage of the school boy patrols to help them cross the streets on their way home from school. [5337]

Q. And finally, generally, was race a factor in the selection of the schools?

A. No.

* * * * *

[5380] Q. [By Mr. Porter] Now, I want to take up with you, Mr. Carter, the subject which has been categorized as non-contiguous or [5381] discontiguous zones that have existed in the Columbus Public School System during the time that you have been involved with the Division of Administration. My first question would be: What is

the purpose of a non-contiguous zone? Why have it? How did it come about?

A. We have non-contiguous zones in elementary and in junior high school in Columbus. Basically, these are areas that are locked in geographically by a railroad track, three-way river, whatever, and we find it necessary to transport them. They don't — they don't generally fit the area. There's no easy school to take them to. [5382]

We take them to the school that has space. We have used them a time or two to relieve overcrowding in schools by transferring the attendance area but, generally speaking, once established, we have provided some continuity with this non-contiguous area with that receiving school.

Q. The grade structure or the assignment of those students within the school building, how does that take place, please?

A. They are treated just as the normal attendance area of the receiving school. Children are integrated into the entire school on each grade level, no differentiation on assignment within a facility.

Q. Are changes made or are changes always made or sometimes made with respect to these discontinuous zones if space becomes available at a closer school?

A. If space becomes available and it is more logical to uproot them from the receiving school and reassign them, we have done that. I can think of one discontinuous area that this would apply to.

Q. What happens to the child insofar as the school activities are concerned? What effect does this have, if any?

A. As I testified, all the youngsters, to my knowledge, in discontinuous areas are transported. This does limit them somewhat in extracurricular activities after school, especially in the junior high school where we have sports [5383] activities going on after the close of the school. In elementary it is not quite as severe. But during the school day, they are just as any other youngster in the building.

Q. There are how many discontinuous zones generally in the Columbus System?

A. I believe I can — I consider there to be five, to my knowledge.

Q. Were those zones or have those zones been used during the years, at least the years in which you have been connected with the division of administration, has race been a factor with respect to those zones?

A. No, sir.

* * * * *

[5388] Q. Thank you. Directing your attention now, please, to the Medina Junior High School which has a non-contiguous area attached to it, would you tell us about it, please?

A. The non-contiguous area that is assigned to Medina Junior High School is basically the Arlington Park Elementary School attendance area. The history on this goes back, I suppose, to its annexation. It had to come in in '57, '58, '59, along in there, prior to 1960. This area was assigned to Linden-McKinley, which at that time was a junior-senior high school.

Q. Excuse me. Let me interrupt and just clarify that a moment, if I might.

This area had been a part of the Mifflin Township School District prior to 1957 and then was transferred to the Columbus School District at that time.

A. That's correct.

Q. All right. I am sorry to interrupt.

A. When it came in, it was assigned to Linden-McKinley [5389] which at that time was a junior-senior high school. For a period of time, it continued to Linden.

About 1960, because Linden was so overcrowded, so impacted with junior and senior high school youngsters, I believe for one year it was taken to Linmoor which was a new junior high school established in the area in 1957 or '58 to relieve Linden-McKinley, but it was only there for

one year. Then it went back to Linden-McKinley, and it continued there to 1962.

[5390] At that point in time, an attempt was made to remove all of the junior high school youngsters from Linden-McKinley and to make it a completely independent senior high school, and thus McGuffey Elementary-Junior, which was at that time an elementary, was converted to its elementary-junior status. The remaining students from Linden-McKinley were transferred to McGuffey, and this one last island — these youngsters were beyond the limits for walking and, of course, there were safety factors as well, so they were transported. It was decided to transport them to Medina Junior High School which lies to the north of Linden-McKinley, and at that point in time had space to accommodate them.

But in 1962, then, Linden-McKinley became a senior high school with Medina, McGuffey and Linmoor and Clinton Junior serving as the junior high school feeder schools.

It is continued until this day in the Medina district.

Q. The Medina assignment or the taking of the children of the junior high, 7 through 9, to Medina has continued from 1962 down to the present time; is that correct?

A. That's correct.

Q. Directing your attention to the Moler Elementary School, please, which has a discontinuous area which began in 1963, would you describe where it is, please, and what that's supposed to do? [5391]

A. The discontinuous area at Moler is located in the southern portion of the school district. It was part of the original Marion Township transfer to the district in 1957, and at that point in time was a part of the Smith Road School. The Smith Road School was a school established in the Marion Township and was existing when we annexed it, and at that point in time was very crowded.

We built Moler, and it came on line about 1963, and these youngsters, again, were locked because of geographic

barriers, the railroad track on the west and the school district boundary lines on the south and east, and I believe there's a railroad track on the north, so that they were always — it was necessary to transport them, and we simply transported them to the new Moler Elementary School which had space, and those youngsters have continued through to the present time.

* * * * *

[5394] Q. [By Mr. Porter] I now wish to take up boundary changes, and I would like you to first explain why we have boundaries and then we will go through the mechanics of setting it up and the projections that are made with respect to them, and then we will go from there, please.

First, why do you have boundaries? What are their purpose? What's the purpose of them?

A. A boundary serves as a definable area to be serviced by a school facility. It — this boundary is determined based upon its density and the service — the kind of school facility that will service the area.

Generally speaking, in Columbus, elementary boundaries are closely designed boundaries to provide walking distances where at all possible for elementary youngsters, and this is not a hard and fast rule, but generally speaking, we keep walkable distance for elementary youngsters within a mile. Now, there are a few cases where this exceeds it, but generally speaking, elementary attendance areas service children within that walking distance, and that walking distance is within a mile radius.

Junior high school boundaries are a little more extensive, cover a greater area, and yet we attempt — attempt, where at all possible, to keep a walkable distance within two miles, which is the State minimum for a walkable distance to school. [5395]

Q. Excuse me just a moment. Let me correct something.

A. Yes.

Q. Minimum distance while walking --

A. I'm sorry. Maximum distance for walking, yes, and minimum distance for transportation.

Q. After which you become eligible for transportation?

A. That's correct, yes. Thank you.

Q. All right. Go ahead.

A. Senior high schools are larger in respect to attendance and serve a greater area. We'll generally be receiving from two to four junior high school feeder schools and very little consideration is given to walking in these areas. They serve general geographic areas.

Q. What effect does an organization have upon the establishment of boundaries, if any?

A. The organization will have an effect on the boundaries. If it's a primary center, if it's a K-3 center, you'll find the attendance area smaller. We generally try to have an attendance area in the elementary to take in approximately twelve classrooms, ten to twelve classrooms of youngsters as a minimum. This is in the neighborhood of 300 to 360 youngsters, and there's a simple mathematical reason for this, and that is that we like to offer at least two classrooms per grade level in each elementary school. It makes some organizational sense. It helps in the [5396] management of the assignment of pupils in grade levels. You have a choice of teachers, as an example, to assign students, and it provides a more economical base for assignment.

Q. The density of the student population, children population in an area has a bearing, I assume, upon the size of the attendance area, or putting it another way, that the size of the attendance area would be related to density and the capacity of the building?

A. That's correct. The -- I used the example of 300, 360 as a minimum realizing presently there are several schools below the 300 minimum, but this is an attempt to

accommodate an organizational-management level, a minimum level.

As a maximum level in elementary, you feel you ought to keep it at 25 classrooms or less, and on an elementary school larger than this, and this takes you from 700 to 750 students per school — any larger than this causes problems because of distance and just the impact of a large number of youngsters at one site.

At junior high school, our spread, we have attempted to work in the range of 900 to 1000 students. This is a range that is most economical in terms of organizational level.

And in senior high school, we find we can accommodate a reasonable comprehensive program, offering a full range of [5397] subjects and selections for youngsters with a thousand to — with 1200 to 1500 youngsters. Now, realizing that some of our schools go above and some are below this, but this has been the range that we try to adhere to, and this has its effect on the organizational — or the district that we're pulling from, and, of course, the density of that district will have an impact on that attendance area, the largeness or smallness of the area. [5398]

Q. What are the safety factors, if any, involved in the establishment of a boundary?

A. We consider safety factors very carefully with youngsters, try to avoid having them crossing railroad tracks, and in the main, to avoid crossing freeways or heavily traveled thoroughfares. Where we do have them cross thoroughfares, we attempt to provide as much safety as possible by adequate cross lights and crosswalks at these sites, but river, railroads, freeways and thoroughfares are considered very seriously in drawing elementary boundaries.

Junior high boundaries, we are a little freer on this one, because the youngsters are a little older and a little more able to handle themselves.

Q. Is the racial composition a factor to you in setting boundaries?

A. Yes, sir.

Q. What is that, please?

A. Where possible, we have attempted to consider race in the development of boundaries, and this has been since approximately 1967 when the Board of Education first set a policy recommending that race be considered in the development of boundaries.

Q. There has been testimony in this case with respect, I believe there has, if not in it, around it, concerning the neighborhood school. Would you tell us what that is, if [5399] anything, and what part it plays in this?

A. The school will serve a community. These communities are definable, generally speaking, by an attendance area. School communities are — in elementary are small in nature, and for the intent of teachers and principals to work closely with parents in the educational development of their youngsters.

Elementary schools — the school community is a closely-knit kind of thing. It may not follow the — a sociological definition of neighborhood, but it is a definable area that the elementary school will service.

In junior high school, the concept of community is expanded somewhat, and in senior high school, even moreso.

Q. Would I be correct, Mr. Carter, in assuming that, given a density, that density will directly affect the number of schools which will be located in a given geographical area insofar — in relationship to their size?

What I am trying to say is that if you have a high density area and if a satisfactory size of school, for example, would be the number of sections or classes that you are talking about — and let's use as an example 700 students — then that is going to dictate the number of schools that are going to be located within that geographical area. Am I correct about this?

A. That's correct? [5400]

Q. And, of course, the relationship would hold true really throughout a school system, I assume?

A. Yes.

Q. Those factors?

A. Yes.

Q. Now, in your years as a director and executive director and so forth of the division of administration, what did you have to do with the establishment of boundaries, and what were the mechanics of doing that, please?

A. My function at the central administration with respect to boundaries was to work closely with the school principals. I relied on them heavily. This is on existing boundaries and existing attendance areas. I relied on principals heavily to make input to me as to their enrollments and enrollment projections, capacities of the building, and where we were having organizational problems, and then would work with each principal to attempt to fit that organization as best as we possibly could.

Principals, I would expect them to, and they did, identify for me when we were to anticipate some overcrowding, and we began working at solutions to the overcrowding.

As I indicated earlier, if it was necessary to relocate a special education unit that happened to be located or placed in that facility, we would attempt to find some other suitable space for it, and one measure — or we would use some [5401] inadequate space that we hadn't used before, or maybe we would convert a library. Oftentimes we would put a divider in the multipurpose room and use it to use or to house one or two classrooms of youngsters. I hesitated in doing this because this deprived the school of a physical education facility and a multipurpose facility for large group construction, but we would do all manner of things to attempt to accommodate that organization.

If we saw some solution down the road in the near distant future in terms of an addition to the school or a

new school facility being placed in the general area to help us relieve the overcrowdedness, we would continue with temporary kinds of arrangements. This included internal reorganization to accommodate, and I might add that we could include increasing class sizes to accommodate that growth, or we could include reducing the number of students in a particular class to have it fit in an inferior room in terms of size. All these things would fit into the organization.

At one point where we saw that we had to do something, if it was a solution, then we would, and we moved outside the school, then we would rent or transport. But if we saw that that wasn't an answer for us and if we had space in a neighboring school district — and this may be one or two districts over — then it became my responsibility to attempt a reorganization of the school attendance areas to [5402] accommodate this overcrowdedness through boundary changes.

At that point in time, the administrative cadets who were assigned to the school system — these were teachers chosen for their potential as administrators and were in training to become administrators and who were assigned to me for specific field work responsibilities — would then assist me in taking a census of that school attendance area. By a census, I mean we would take cards to the school and have the teachers or students complete the cards, and on this card would be such basic information as grade level and address. We would take these cards and bring them back to a central point where we had work space, and we would simply place the cards by street and then numerically by street, numerically group them and stack them by street. It was a very painful process, I might add, of placing a dot on a map or some representative number on a map representing the number of students living on a block-by-block basis on either side of that particular street we were concerned with until we got a visual impression of the impactedness of that

particular area. Then we began searching for solutions in terms of changes, and we would look at all the things that you referred to earlier such as density. We added mobility because some of these districts were moving in and out, and mobility was a precaution we had to take a hard look at, because if we [5403] overextended a facility and we had more children move in, then we anticipated we would again have overcrowding. So mobility was a factor.

We would look at geographic barriers, and we would look at safety, and we would look at race, and we would take these considerations into account. Then we would make a choice. If we needed to vacate one classroom of students, we would attempt to move 30-plus youngsters or so from the overcrowded school to this neighboring school, and so it went.

Q. What did you do with respect to the setting up of boundaries of a new school? How was this done?

A. The new school, the site of the new school would be placed on a map, and basically the same process, except that now I would be working with one, two or more elementary and junior-senior high school attendance areas, and I would simply have these entire school attendance areas plotted on the map with students living on them. I would code them by grade level so that I could have a visual impression of grade level of movement throughout, as well. That was another thing I would have to consider. With this growing population in Columbus, you had to be very cautious of the number of students coming up through ranks so that if you changed an area, you didn't overimpact it because of the number of youngsters in the lower grades. [5404]

I would take these two or three or four school attendance areas and place the new site on the map and then — and knowing beforehand the available space of the new school, the capacity of the school, I work in concentric circles from that school working in the geographic bound-

aries or barriers and safety and race, all these factors, until I reached a point that would service all of these concerns to the best of our ability to do it, and we would draw that new boundary, rough it out. [5405]

My responsibility was to the deputy superintendent of the schools, and I would report to him on my recommendation and give him a chance to review it. From there he would take it to the superintendent. It would be reviewed again, and then finally this would be in the form of a recommendation to the Board of Education, at which time the area was either accepted or rejected. If it was accepted, we would then begin the process of notifying parents the new school assignment for their students, changing the organization within the system. This means pupil personnel changes, and it means changing, modifying, the school district directory so that others could determine by street and house number where the new attendance area was.

Q. It is basic, I suppose, to what you have said, or maybe you even said it, that when you establish a new area you are going to affect or may affect the — well, you will affect the boundaries of at least the contiguous attendance areas. Am I correct about this?

A. That's correct.

Q. And it could well have some kind of an effect beyond that?

A. Yes. Oftentimes you will see a rippling effect, a domino effect, and you would have to move several school districts to accommodate all the youngsters impacted in this area, so at times it was a very complicated procedure and [5406] involved a number of changes.

* * * * *

[5410] Q. — let me stop you just a moment. I want the Court to be able to see. I'm sorry. That's right. That's right. We'll have to deal with the elementary first, please,

[5411] Start with the Hudson Elementary School, please. Where is it located?

A. Hudson Elementary is located right here (indicating). It is on the southern side of — south of Hudson Avenue, Hudson Road, and was a part of the Hamilton — originally part of the Hamilton Elementary School attendance area. Hudson Elementary School was put on line as a K-through 3 or 4 organization, basically a primary center, and we simply took the northern portion of Hamilton Elementary School and placed those youngsters K through 4 into the Hudson School.

Hamilton was extremely overcrowded and, as you recall, the year before we had added Gladstone to the eastern end of the Hamilton attendance area also to relieve it.

Q. Now, did this change to the Hamilton area reduce its enrollment?

A. In Hamilton in 1965 we had an enrollment of 1,282 pupils, and in 1966 we had decreased that enrollment to 1,061, so we did decrease it.

Q. Of course, Hudson did not open until the '66 school year; am I right about that?

A. That's correct.

Q. And Hudson opened with an enrollment of what, please?

A. We opened Hudson with an enrollment of 359 students.

Q. And of those 359, were there classes sent initially [5412] to Arlington Park but in that attendance area?

A. Yes. Originally we transported four classrooms to Arlington Park.

* * * * *

[5440] Q. [By Mr. Porter] Mr. Carter, I would now like to direct your attention, please, to the subject of optional zones, and I would like to inquire as to the purpose or function of an option zone, at least while you were in charge of the section of the division of administration that dealt with such matters. [5441]

A. An option zone is a portion of an attendance area between two school districts that is opened up and made optional for students living within that defined area to attend either school.

When I came on board in 1964 there were a number of option zones that existed for a variety of reasons. During my tenure, I believe I implemented four zones. They were basically, two of them, to attempt to relieve overcrowded conditions in the two contiguous school districts. One was a safety — for a safety factor, and the fourth one was a distance factor. I, during my tenure, eliminated several.

We used an option, also, as an interim movement to change from one school district to — or one school attendance area to another, especially when we would create a new school. We would — always felt the ninth graders, as an example, or the twelfth graders, should finish at the original school with their friends, and then we would perhaps in a — a good example would be a senior high school. The eleventh graders, we would give them the option of continuing at the original school or going to a new school. [5442]

This basically was for the reason that these youngsters would be involved in athletics or band or orchestra some activities at school, and we felt it was wrong to disrupt that activity, so we would usually leave options open to eleventh, and then the tenth graders would be mandatory. The same kind of application would be made for junior high school. Ninth graders finish at their old school. Eighth graders might have the option. They may not, depending if we needed to get them all out, and seventh graders would be mandatory.

Then we would simply eliminate that option a year later and/or two years later, and they all eventually would be in the new school, in the receiving school.

Q. Did you mention, and you may have and I missed it, but did you mention or was an optional zone used to relieve overcrowding and, if it was, would you explain

that, please?

A. Yes. I used an option zone in two situations to relieve overcrowding. You gamble on an option zone to determine if it will relieve overcrowding, because you are relying on the voluntariness of the students living in the area to choose the option.

Both cases where I used this method were in senior high schools. One was between West and Central, and the other was between Eastmoor and Walnut Ridge. Both options were eliminated. [5443]

The Central-West option was eliminated when we built Briggs, and I refashioned the attendance area for Briggs. The Eastmoor-Walnut Ridge option was eliminated when we created the attendance area for Independence.

At Eastmoor-Walnut Ridge it worked fairly well. West-Central was unsuccessful.

Q. You could accomplish the same adjustment in a different way, couldn't you, and that would be by redrawing the lines?

A. That's correct. I could make it mandatory and refashion the lines, the boundary lines, and force the movement from the district into the school I wanted them to attend.

Q. And is this voluntariness that sometimes is the basis you are saying for the use of the optional zone, as well as the other reasons which you have described?

A. Yes, right.

Q. Why — well, let me ask it this way: You have eliminated or there have been eliminated from the Columbus System several optional zones, which I will identify briefly in a moment, since you took over this particular department or division within the administrative section, some of which you started and some of which you did not, and my question is why were they eliminated?

A. As I had indicated a moment ago, the opportunity presented itself for two of these options involving West-Central [5444] and Eastmoor-Walnut Ridge when I

worked with the attendance areas for Briggs and Independence High Schools, and it just happened that those options fell within the main portion of the attendance area for the new schools. Thus, I could eliminate them. They had served their purpose.

In addition to this, I saw an opportunity to eliminate other zones, especially with Central at the same time, and it was basically because the Board and Superintendent felt that overall they didn't have a very good record in other cities, and perhaps if they served no further purpose for us, that we should strike them from our district. [5445]

Q. How does, mechanically, the zone work? Is it listed in the school directory or on the maps, and so forth, or how is it done?

A. Yes, the school directory is prepared with the streets in the optional zone reflecting that option and some house numbers and street — street names will indicate the choice of the district.

We did require, though, that once a youngster chose the optional school, once he opted for that particular school, then he must finish that school, spending the three years or whatever length of time that was necessary for him to complete that level. This avoided Fifth opting back and forth between districts.

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CROSS EXAMINATION BY MR. LUCAS

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[5461] Q. [By Mr. Lucas] Thank you.

Now, let's talk about these options that were in existence before you came to the central office.

I take it you're in the same position pretty much as to those options, in that, of your own knowledge, you don't know whether race played any part, was not part at all, or was the total reason for any of those before you were in charge; is that correct?

A. It's very difficult for me to grasp the reasons.

* * * * *

[5466] Q. I wonder if you could point to the large map, the Alum Creek School?

A. Alum Creek School is located here just to the north of the railroad tracks and west of Alum Creek Drive in the Alum Creek Apartment complex.

Q. All right. And where is this discontinuous area that you talked about in your direct testimony?

A. The discontinuous area is immediately south of it severed by the railroad tracks here and here and they live in this general area.

[5467] Q. What school do they go to now?

A. They now go, as they have since 1963, to Moler Elementary School.

Q. And at what time did they go to Barrett?

A. To Barrett?

Q. Yes. Didn't they go to Barrett at one time?

A. No, not to my knowledge.

Q. Is there another discontinuous area that went to Barrett?

A. Not to my knowledge. Barrett is a junior high school in our system.

Q. Was there another discontinuous area to the east of the Alum Creek that you discussed in your direct testimony?

A. I was talking about Barnett.

Q. I am sorry, I meant Barnett.

A. Yes.

Q. Excuse me.

A. Okay. There is an area here around Petzinger Road. Washington Square Apartments, that is discontinuous, and we have taken it to Barnett.

Q. What route would you follow on a bus to get to Barnett or by car?

A. You would probably go — you have to come out this way to College Avenue, and you come up through and over [5468] Livingston and up.

Q. Would you go up to Colgate, Livingston, to Barrett?

A. You would follow this general direction up, yes.

Q. And how would you go if you were going to Alum Crest from there?

A. From this area you would need to come down the College Avenue extension of Route 33 to Refugee, and you would go I suppose westward on Refugee and up Refugee.

[5469] Q. All right. Would it surprise you to know that you can go from Washington Square Apartments to Barrett in nine minutes, 3.6 miles, and go to Alum Crest, and it is 2.4 miles, and you can do that in seven minutes?

A. No, that doesn't surprise me.

Q. How long did Alum Crest have 12 empty classrooms which you rented out to another group?

A. Alum Crest had spaces that the Council of Retarded Children used for — I suppose since 1970.

Q. You rented that space out to them, didn't you?

A. That's correct.

* * * * *

[5470] Q. Are you familiar with the East Linden School?

A. Briefly.

Q. All right, and it shows transportation from South Mifflin to East Linden I believe on the third page of the exhibit, doesn't it?

A. Yes, it shows it in 1973, that's correct.

Q. And South Mifflin was 83.4 percent black when students were transferred intact to East Linden at 10.7 percent black?

A. That's correct.

Q. And were you aware that they were placed in a basement room at East Linden and that they had to take their [5471] recesses at separate times and had to eat at separate times from the East Linden children?

A. I wasn't aware of that.

Q. And that took place — what year was that transportation?

A. 1973.

Q. The Sullivant transportation, do you see that also on page 3 of the exhibit?

A. Yes.

Q. How far away is Bellows?

A. It is very close in terms of distance. It is very close.

Q. All right, you had apparently from '69 through '73 an overcapacity situation at Sullivant; is that correct?

A. That's correct, yes.

Q. Was that a situation where one school — well, let's see, Sullivant was 61.4 in '69 and in '73, 70.2. Bellows ranged from 4.1 to 9.5 percent black?

A. That's correct.

Q. Is that a situation where you could have paired the schools and desegregated them on a permanent basis rather than having the intact busing and keeping them in segregated units within the Bellows School?

A. I am sure there are other options that one could have considered. The problem with redistricting is that West Mound [5472] Street that separates the two is a very busy intersection and that, of course, as you may or may not know, has now become a portion of the west freeway which separates the two which made it rather difficult for redistricting purposes.

Q. You are already transporting the students, aren't you?

A. That's correct.

Q. That wouldn't have been a problem to pair them and transport the students across whatever barriers that existed while you transported kindergarten kids; is that right?

A. Our transportation was a temporary attempt at relieving the problem.

Q. It went on for five years; is that right?

A. That's correct.

Q. Would it be a fair statement from examining Plaintiffs' Exhibit 356A to say that the system does not hesitate to transport children in the lowest elementary grades on a regular basis?

A. We generally transport primary age level, second and third grade youngsters, yes.

[5473] Q. As a matter of fact, you select that particular option as a matter of preference rather than going to the higher grades whenever you can; is that correct?

A. That's correct.

Q. As a matter of policy, you prefer to transport younger children?

A. That's correct.

Q. And that includes, I think, in a couple of instances even pre-kindergarten children; is that right?

A. There were rare instances where pre-kindergarten children were transported. They were generally located within that attendance area, and that's because of regulations within the Title programs to locate those services within the Title I eligible schools.

Q. So you were involved in 1967 in the intact transportation between Lexington and Leonard and Brentnell, were you not?

A. Yes, that's right.

Q. Lexington was a hundred percent black?

A. That's correct.

Q. Leonard was a hundred percent black?

A. That's correct.

Q. Brentnell was 37.2 percent black, right?

A. That's correct.

Q. You mean you couldn't have found another option in [5474] the system that would not have — that would have avoided taking blacks to black schools?

A. I'm sure that we could have found a space that would have been more accommodating in terms of racial balance. This was —

Q. That was after — I'm sorry.

A. — a temporary period of time while Lexington was being completed, and Leonard Avenue was in a declining situation. We had available space there, and if I recall — the number of classes, by the way, is an error. I'm quite sure we took the entire school out rather than two classrooms as this exhibit shows.

Q. How many classrooms would that be?

A. My recollection would say that it would have to be 10 to 12 classrooms, the majority of which went to Leonard Avenue, and I believe only a classroom or two at Brentnell.

Q. Thank you.

But after the finished construction at Lexington, you took them from the hundred percent black Leonard and put them back in a hundred percent black Lexington, right?

A. That's correct.

Q. Look at the — on the same page, if you will, sir, the Fair transportation. The Fair School between 1967 and 1970 ranked from 91.5 percent black to 95.6 percent black, [5475] and Pilgrim in 1967 was 99.5, and you sent children from Fair to Pilgrim, and you sent them from Fair to Eastwood in 1968, '69 and '70, and the Eastwood was 66 — I'm sorry — 97.6, 98.7 and 97.6 percent black during that period?

A. That's correct. These were the two closest schools to Fair with space.

* * * * *

[5479] Q. You indicated that since 1967 the racial composition of the schools has been a factor that you considered along with other factors; is that correct?

A. The policy of the Board of Education approved the summer of 1967, or roughly thereabouts, indicated that we would consider ethnic distribution where feasible.

Q. You mentioned in your direct testimony that you looked at various neighborhoods and various areas in discussing the neighborhood school concept as you utilized the term; is that correct?

A. I define it essentially as a school community, yes.

Q. All right. You said that it wasn't quite a sociological community in that sense, but you did define it as a school community; is that correct?

A. That's correct. That's correct.

Q. A school community is an interest group, an interest community, is it not?

A. That would be a way of defining it, yes.

Q. Is that a definition that you would accept as one you'd use?

A. I would live with that -- I can live with that, yes.

Q. All right. And the interest community is the group, usually the group of people who have children enrolled in that particular school?

A. That's right.

[5480] Q. That's your interest group, that's your pressure group, that's your PTA, whatever it may be?

A. That's correct.

Q. Now, if the School Board determines the interest community by where it draws the attendance boundaries for schools, does not the School Board determine the neighborhood?

A. The school community is defined by the boundaries.

Q. And the boundaries are drawn by the School Board; is that correct?

A. By the Board, accepted by the Board.

* * * * *

[5481] Q. You mentioned that at each boundary change you had sort of a ripple effect, I would call it, or domino, or whatever term you find convenient. Do you recall that in your testimony?

A. Yes.

[5482] Q. And I believe you stated that you had more opportunities to make boundary decisions in 1967 than at any other time before or since; is that —

A. 1966, that's correct.

Q. '66. Effective for the '67 school year or —

A. For the '66-67 school year.

Q. Isn't it true that each time you have opportunities to make boundary changes which have ripple or domino effects, each time you have opportunities to assign students in relieving overcrowding that each of those is an opportunity which can be exercised to reduce racial separation in the schools?

A. It depends upon the composition of the communities that you're working with. If the total community is black or a majority black, then that reduces considerably the opportunity to consider race in the distribution of youngsters in the receiving schools. If it is a well-integrated community, then that opportunity presents itself more clearly.

Q. Isn't it a question of how much effort you want to put into it, whether or not you — you've already got the children on a bus, say, to relieve overcrowding? You can send them north on College Avenue or you can send them south and make a couple of turns, maybe go only the same distance and so some desegregating of the school, can't you?

[5483] A. Our charge was to provide the best possible education program for boys and girls to keep the children as close to home school base as possible, to retain the community of the school as nearly as possible.

Q. Well, that's a community that's already been determined by the School Board when it drew the boundary, though; isn't it?

A. That's the school community.

Q. And it's the School Board that makes the decision to exercise certain limitations or choices on you as an administrator as to whether you can go beyond their original decision as to what the community would be when they drew the boundaries; isn't that correct?

A. They make the policies.

Q. And you have to follow them?

A. Yes, sir.

Q. And if their policy is designed in such a way that the foreseeable effect of them is that you're going to end up with black children going to a black school to relieve overcrowding, that's the decision of the School Board and not something you decide personally; am I correct?

A. The transportation of children to relieve overcrowding was a decision that the Division of Administration made, not the Board.

Q. But you had to make it, and make the decisions within [5484] the ambient of the Board's policy?

A. I never received direction from the Board of Education through policy where to send children.

Q. Then you could have sent them to a school further removed and in another direction and provided for desegregation that way if the administration had decided that was something that ought to be done; is that correct?

A. Our charge in our administrative procedure was to send children to the nearest available school with space.

Q. I'm not trying to get into an argument with you. That policy was dictated by the Board, wasn't it, the nearest school?

A. Not necessarily, no.

Q. Oh, that was the decision of administration?

A. That was a decision of administration.

* * * * *

CROSS-EXAMINATION BY MR. ROSS

[5486] Q. [By Mr. Ross] Did you at any time prior to 1963 record the race of students — this is during the period of time that you were teaching — on a white sheet?

A. As a teacher I can never remember being asked to account for the number of non-white students in my classrooms, no.

* * * * *

CROSS-EXAMINATION BY MR. LUCAS

[5495] Q. [By Mr. Lucas] Are you saying that Title I money will follow the child into the classroom at a receiving school because he shows up on the books and records of the sending school?

A. As long as we keep him on the books and records of the sending school, he is a part of that home school area as far as calculations for eligibility for that school are concerned and for, thus, the services.

Q. By the services, you mean the services would be transported to him or her at the receiving school; is that what you are saying? The money is going to follow the child?

A. Services will be rendered to those children who are eligible for it, that's correct.

Q. They will take it over and they will get served and specially treated inside the receiving school; is that what you are saying?

A. I am saying they are serviced inside that school.

Q. Are you telling me that if a school system desegregates, reassigns its priority area of children so that they are evenly dispersed throughout the system, that it is going to lose its Title I money?

A. I understand that — and I can't speak with authority on the matter — that there is some discussion on this issue, that there perhaps is a ruling in schools of a [5496]

desegregated nature, but it would be something very seriously to look at.

Q. You are aware that there are literally hundreds, if not thousands, of school systems in the south receiving Title one money that are under desegregation plans, aren't you?

A. With dispensation from the HEW.

Q. There are different rules when you desegregate than when you segregate; isn't that right?

A. Yes, I understand.

* * * * *

JOSEPH DAVIS

called as a witness on behalf of the
Original Plaintiffs, being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. ROSS

[4053] Q. [By Mr. Ross] Will you state your name for the Court, please?

A. Joseph L. Davis.

Q. And what is your occupation and position at this time?

A. I am Assistant Superintendent in charge of Special Services for the Columbus Board of Education.

* * * * *

JOSEPH DAVIS

called as a witness on behalf of the
Defendants, having been heretofore duly sworn,
testified as follows:

CROSS EXAMINATION BY MR. LUCAS

* * * * *

[5282] Q. [By Mr. Lucas] Now, I want to show you a Board motion from the minutes of the Board of Education dated December 5, 1972, and this deals with the subject I believe you touched on in your direct testimony, the

recommendation for an advisory committee on school sites.
Do you recall that?

A. Did you say 1972?

Q. Yes, sir.

A. Okay. This is entitled, "Proposal for the selection of an advisory committee on school sites."

Q. That's Plaintiffs' Exhibit 44; is that correct?

A. Yes, and it is dated December 5, 1972. Okay.

Q. Read, if you will, the third paragraph, the duties of the advisory committee on school sites as proposed.

A. Okay. May I read the read-in so it will make complete sense?

[5283] Q. Sure.

A. The duties of the advisory committee on school sites shall be the following: There is one, two, and number three says: Solicit assurances from lenders, developers, realtors, realists, builders and employers that equal housing and employment opportunities be made a reality through affirmative action. These assurances and their fulfillment would be a factor in the determination of school sites.

Q. Would you turn to the second page and tell me what the vote was on that?

[5284] The vote was ayes three, noes four.

Q. Would you identify the person who made the motion?

A. The motion was made by Mrs. Castleman, seconded by Dr. Walker.

Q. The ayes were?

A. Mrs. Castleman, Dr. Hamlar, Dr. Walker.

Q. The noes?

A. Mr. Langdon, Mrs. Prentice, Mrs. Redden and President Moyer.

Q. It indicates the motion failed, and the minutes —

A. That's correct.

Q. — and the minutes are shown as approved December 19, 1972?

A. That's correct.

Q. Is that split along racial lines, sir?

A. That is split along racial lines.

* * * * *

JOHN ELLIS

called as a witness on behalf of the Defendants,
being heretofore duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. PORTER

* * * * *

[5709] Q. [By Mr. Porter] Dr. Ellis, there has been substantial testimony in this case concerning the Columbus Plan by other witnesses than yourself, and you have also testified concerning it and you have given your opinion concerning whether or not it is working, and you have identified and put into this record figures from the various school records and exhibits in this [5710] case which support that position.

I would ask you, sir, at this time whether or not in your opinion the Columbus Plan can be improved, and do you intend to improve it?

A. Yes, it certainly can, and, yes, I certainly do. We are only in the third year of the plan and it is obvious that a lot more has to be done.

Q. What are some of the things that have to be done?

A. For example, I personally think we need more alternative schools. We need schools such as Montessori School. I think we have to expand schools as a foreign language school to try to teach bilingual education in an arena where pupils can learn French, Spanish, Russian, Chinese, a variety of language and learn to speak them fluently.

I think that would be highly attractive to some people. Certainly not all like that kind.

We need more informal schools, more traditional schools, more IGE schools, so one basic thing that has to happen is many more alternatives must come on stream, and obviously some are coming on stream.

Q. What are some of the other things that you feel should be done and that you would intend to do?

A. We need to give more attention to encouraging the white pupils to transfer to majority black schools. It is obvious from the data we have presented that there is a [5711] strong flow of black pupils to predominantly white schools, and that has been alluded to in previous testimony and criticized in previous testimony.

We have to develop far more ways of encouraging white pupils to move into majority black schools. We are doing some things, not previously stated. There are 33 white pupils who, on a half-time basis, attend Linden-McKinley High School, so it is something that is now happening, but in my judgment not happening sufficiently.

This Fall we are opening the Douglas Developmental Learning Center which is a school constructed to insure that we had an additional capacity to accommodate pupils from outside the area, and we are involved in a vigorous recruitment effort, and I won't say it's a Woody Hayes effort, but Woody only recruits 25 or 30 people a year, and we have recruited far more than that.

We are recruiting white pupils to go to that particular school.

Community meetings, film strips, personal contacts, teachers will be on the telephones, making home visits all Summer. We have got a vigorous effort going there, but I personally think that this is one of the shortcomings admittedly of the Columbus Plan that has to be improved.

I think we need a better support system for the students who attend the schools. They need more support [5712] in adjusting to the new school, more counseling, perhaps some additional instruction.

We have to stress more a welcoming attitude on the part of the receiving school, and for the most part we have tried to do some of this already.

I think also that we need to continue the use of field trips and exchange trips to develop positive images about one another and about the various schools in the city.

In my opinion the bringing together of various schools, and having children see one another in a positive fashion, visiting the different schools, can and should produce an attitude that the schools are all good and that might be a good place to go.

I recognize that testimony was introduced this morning, and I wasn't present, about one incident or something or other that happened, but I have received numerous calls and statements and letters from people, including one from a child that said, "I wish their school that we visited this afternoon was located across the street because those kids are so nice."

We have had a lot of positive effects, and I personally think that this helps break down the racial isolation, the attitudes, the concerns that people might have that we are all alike, we are all human, and that all schools in this city are good. [5713]

I think also we need to have a lot more publicity, and we have had considerable so far, and better recruitment. Maybe we will have to employ Woody as a consultant, but I think we are doing pretty well, but I am not satisfied.

Q. In your opinion will the Columbus Plan insure that every school is perfectly racially balanced within the next five years?

A. Probably not.

Q. Why not?

A. Whenever you give people choices, some variations exist. The Columbus Plan though can insure that the doors of all schools are open to everyone, and that no child is denied the right to an education that is meaningful and appropriate for that particular child.

The Columbus Plan should reduce racial isolation, improve racial balance, and contribute to integration, particularly if we can gain support from all sections of the community.

Q. Dr. Ellis, as a superintendent of an urban school system, how do you see this whole process of integration proceeding in the large cities of this country?

A. That's a rather massive question, but basically I think that we can't lie on schools alone the burden of integrating society. The schools can help. They can help substantially, but they also need help. [5714]

In my judgment, working in an urban setting, appraising the conditions that change, that are present in every large city, with which I am familiar, we need a stronger enforcement of open housing laws.

I think we need a loan guarantee program that encourages home purchases in racially different areas. [5715]

A. (Continued) I don't think there's enough happening in this area at all. I think we need a wider dispersal of public housing so that the Federal Government isn't guilty of contributing to racial isolation. I think the churches in this community and every other community need to practice what they preach and be an example of integration rather than continuing to demonstrate on Sunday morning one of the most segregated hours in America.

I think we need to strengthen the family structure through adequate jobs, housing, recreational and educational activities. For example, we know that if we want quality education, the children have to come to school able to learn, and we now know that pregnant mothers who have an inadequate diet probably give birth to children that will already have an educational handicap. We are beginning to understand that protein and protein development in the brain creates serious disabilities in children. It is apparent that some of these consequences are reversible, thank goodness, if there is a diet that is sufficiently adequate with children.

We need to have homes where children have good motivation. A bottom line on all this is you can't have quality schools without help and cooperation from the home.

I think also we need a stronger commitment to integration on the part of the national and state leaders and legislators rather than having them focus primarily on [5716] pro or anti busing sentiments.

I also think we need develop approaches in America and here in Columbus on such matters as the Columbus Plan or an improved version of it or an expanded version of it, a plan that relies more on quality schools, choices and incentives rather than on a judicial decree which relies too frequently on fixed ratios and that pejorative label, forced busing.

And finally I would think we need to make city schools so strong that we won't have flight to the suburbs for a variety of reasons. City schools should be of such high quality that people will be pounding at the doors to have their children enrolled. This will take money, commitment, and energy, but I am just naive enough and hopefully optimistic enough to think that it can get done.

* * * * *

HOWARD O. MERRIMAN

called as a witness on behalf of the Defendants,
having been heretofore duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. PORTER

* * * * *

[5499] Q. [By Mr. Porter] All right. I would like you to describe for us, please, briefly, what the situation was so far as facilities were concerned when Dr. Ellis became Superintendent of this System in the summer of 1971?

A. At that time, there were 171 operating buildings. 164 of these were elementary and secondary schools

throughout the School District and serving pupils from the geographically defined attendance areas.

The other 7 facilities were — included the special education schools such as Neil Avenue School for the physically handicapped, A. G. Bell for deaf pupils, Fairfax for the emotionally disturbed, Third Street for EMR girls, [5500] plus the adult education centers, adult day school, adult evening school and the adult education center on Starling Street that served the entire district of 7.

Q. Now, we have had considerable testimony during this trial, much of which was elicited by me, concerning the schools' construction program from 1950 down through 1969, but I wonder if, for the purposes of the record, you could tell us the number of buildings that were in existence in 1971 and the years of their original construction by groupings, please?

A. The original sections of the building — because in many cases there were additions, but I'll use the original sections of the building as a way of categorizing age.

Ranging from the oldest building, which was constructed in 1864, that's the Third Street School, to 1889, there were 10 buildings; from the year 1890 to 1919, 33 buildings; from 1920 to 1949, 24 buildings; and then from 1950 to 1971, 104 buildings.

Q. And this is a total of the 171 that you previously described?

A. That is correct.

Q. All right. What was the date, in order to get this into perspective in this part of the record, please, what was the date of the last approval prior to Dr. Ellis's becoming Superintendent, approval by the voters of a bond [5501] issue for the Columbus Public School System?

A. November, 1964.

Q. And the amount of that, please?

A. \$34,650,000.

Q. Had there been efforts made since November of 1964 and prior to the summer of 1971, made to have the voters approve additional bond issues and, if so, would you describe that?

A. In September of 1969, a special election was held. The voters defeated a proposed \$63.8 million bond issue.

Q. What was the vote on that?

A. 29.3 percent for.

Q. And everybody else against?

A. Everyone else against.

Q. And was there a subsequent issue, or rather, a subsequent attempt made prior to August of 1971?

A. Yes, there was.

Q. And what was that, please?

A. In May, 1971, a primary election, an issue was on the ballot for a bond issue, \$75,950,000. That was defeated. The percentage voting for was 34.3 percent.

Q. Now, would you describe just very briefly for us the growth of the City and the School District during the period from 1960 to 1970?

A. The Columbus City population during that time [5502] period, the ten years from 1960 to 1970, increased by 68,361, which was about a 14½ percent increase. The base population in 1960 was 471,316.

Q. What was the pupil population of the Columbus Public Schools System in 1960 and its growth to 1970?

A. The 1960 population was 83,631 in 1960. It increased by 25,698 to a total of 109,329 in 1970. [5503]

Q. Would you tell us, please, what had been the situation or the increase in dwelling units within the City from January of 1968 to December of 1971?

A. There were 30,000 new dwelling units reported by the City Development Office being built during that period of time, 12,000 of which were built in 1971.

Q. Were there any new school buildings started during that period?

A. No, sir.

Q. What was the situation with respect to the increase in the area of the City of Columbus from 1950 to 1972?

A. In 1950 Columbus had an area of 40 square miles which increased to 147.8 square miles in 1972.

Q. And what was the situation with respect to the Columbus School District?

A. Very similar, but not exactly the same, since there are some instances where the school district and the City of Columbus are not coterminous.

Q. What had happened with respect to the number of school buildings in the district between '50 to '71?

A. There were 70 schools in 1950, and in 1971, there were 171 schools.

Q. I believe it is my recollection and I think the record reflects that in 1971 the State Board of Education approved the transfer of 14 land areas to the Columbus Public [5504] School System. Would you tell us briefly what those areas were and the approximate acreage and the approximate number of students that were estimated living in the areas in 1971 and then, finally, what it was when it got all resolved in Court?

A. In 1971 there was an area involving Washington Local and Upper Arlington District that had four parcels in it which totalled approximately 182 acres, and the tax valuation estimate was 2.6 million with no record of students in the area in 1971.

In the Madison Local-Reynoldsburg School District area, there was one parcel, 802 acres, three-tenths of a million tax valuation and one family at that time.

In the southwestern district there were two parcels, approximately 1200 acres, one and a half million tax valuation, no record of students in the area.

Westerville, six parcels, approximately 1,600 acres, estimated tax valuation - approximately 3.6 million, no record of the number of students in the area in 1971.

Grandview Heights, one parcel, approximately 910 acres, estimated tax valuation — 18.3 million and no record of students in the area in 1971.

Mifflin Local School District, approximately 6,000 acres. It was transferred intact, estimated tax valuation, 29.1 million, approximately 3,600 students involved in that [5505] transfer.

Q. What is the approximate pupil population of those areas at this time?

A. The Washington Local area is approximately 205 students. Estimate of the Madison Local-Reynoldsburg area referred to is estimated between two and three-hundred. The southwestern area, 120. The Westerville area, 2,770. Grandview Heights, 2. Mifflin Local, 3,582.

Q. Now, would you describe for us the situation in 1971 —

MR. LUCAS: Would it be possible for us to get some indication what the source of that information is, those estimates?

MR. PORTER: You mean the latter ones?

MR. LUCAS: Yes.

MR. PORTER: Do you want that now or do you want it on cross-examination?

MR. LUCAS: Anytime.

Q. (By Mr. Porter) With respect to the physical — the school facilities in the summer of 1971, what was the situation so far as their ability to handle the matters which they should have been handling, if that makes any sense? Were they overcrowded?

A. Yes, increasingly so.

Q. What was being done about it?

A. There were three major techniques being used. One [5506] was intact transportation at the elementary level, double or extended sessions at the secondary level and really larger class sizes at all levels. That was one way. Then there were other techniques used to a lesser extent,

including placing some classes in multipurpose rooms within buildings, some rental of facilities and, of course, the use of that one portable at Alpine.

Q. And would you describe the situation in the elementary schools, specifically in the elementary schools?

A. Yes. Intact transportation was a continuing method to relieve overcrowding. The information from 1965-66, there were 58 classes, and the peak or the 1970-71 period, there were about 50 classes transported, increasing to a peak in 1973-74 of 77. At the present time that's down to 8 classes.

There were classes housed in the multipurpose rooms of 11 school buildings in the 1970-71 school year and 7 buildings in '71-72 and 9 schools in the '72-73 year. This was an option that could be used in instances to house students within the buildings to which they were assigned.

Q. What was the situation with respect to rented facilities?

A. In the 1970-71 school year, there were overflow of classes from 5 elementary schools in rental facilities; from 3 schools in '72-73; and from 2 schools in '73-74.

Q. What was the situation at the beginning of the [5507] '71-72 school year with respect to the size — with respect to class size, and what had it been during the preceding six years? I am sorry, that isn't what I mean.

What was it — what was the situation with respect to class size in '71-72, and what had it been a year or two prior to that, and what had happened to it subsequently? [5508]

A. Well, in 1971-72, more than half, 50.6 percent, of all the elementary classes in the system exceeded 31 pupils. Prior to that time, the percentage in 1970, for example, was 39 percent that exceeded class size of 31.

In 19— in the years following 1971, the percentage above 31. 1972 went to 31.2 percent; 1973 to 21.7 percent; 1974 to 22.6 percent; and 1975 to 17.5 percent.

Q. Directing your attention now, please, to the secondary schools, what was the situation with respect to the secondary schools insofar as double or extended sessions were concerned?

A. 21 out of the 39 secondary schools in operation were on double or extended day sessions to handle the overflow enrollment. The major peak in terms of overcrowding was in 1972-73 when 9 schools were on double sessions and 17 others were on extended day schedules.

Q. Give us, please, the number of secondary pupils affected by double and extended day schedules?

A. In 1970 there were — of those 21 schools affected by double or extended day sessions, 24,650 pupils were affected. That represented 55.5 percent of all pupils.

Q. Would you continue?

A. In 1971, 29,232 were affected, and that was 62.6 percent.

In 1972, 31,925 pupils were affected, 68.7 percent.

In 1973, 30,586 pupils, 66.8 percent. [5509]

In 1974, 25,936 pupils or 59.6 percent; and

In 1975, 25,892 pupils, 60.6 percent.

Q. What was the situation at the secondary level with respect to class size for the school year 1971-72, and what is it for the school year starting in 1975?

A. In 1971-72, 14.4 percent of all secondary classes exceeded 33 pupils.

In the '75-76 year that had been reduced to 11.9 percent.

Q. All right. Now, you have given us briefly some of the problems, physical capacity problems, that faced the System in the summer of 1971. I would ask you now to describe what the System did with respect to this problem, and I have specifically in mind, Dr. Merriman, the convening of Project Unite and what its origin and intent was and its structure, please.

A. Project Unite was proposed to the Board at a Committee of the whole meeting in November of 1971 by Dr.

Ellis approximately four months after he was appointed as Superintendent of Schools. At the Committee of the whole it was favorably received, and on December 7, 1971, the Board unanimously adopted a resolution authorizing its implementation. [5510]

The project was intended as a community-wide effort to identify and solve many pressing school problems. The structure was — consisted of 7 search and solve teams, search and solve being to search for the problems and solutions to those problems and propose recommendations.

The teams were composed of interested citizens and assisted by school personnel. A citizen chairperson was appointed for each of the 7 search and solve teams. Those teams were educational programs, building needs, staff resources, finance, long-range organization, urban problems and communications.

Besides the 7 teams was a community coordinator, coordinating the relationship of each of the study teams.

Q. Now, was that later Mr. Hellerman?

A. That is correct.

Q. And I think you identified him as an executive from Nationwide on loan for this Project Unite?

A. That is correct.

Q. And without identifying the individuals, there were, then, seven people from the community who chaired these seven search and solve teams; am I correct about that?

A. Yes. These were lay people who were asked to head up the committees or teams in each one of these areas.

The recruiting effort for personnel to staff the teams was on an entirely voluntary basis. We accepted — [5511] phone calls, letters, radio stations, TV stations and news media and print media were very helpful in helping us recruit persons, and anyone that volunteered to help was part of the action. We didn't turn down anyone.

Q. What then happened subsequent to the Board approving the project, happened between, let's call it, Phase 1 from January through March of 1972?

A. In this first phase, there were over 2,000 citizen participants, volunteers, representing community, business sectors, PTAs, professional staff and other educationally-related organizations as well as students exploring these seven areas of concern, listening to new ideas, discussing them and deciding what should be considered, and by the time the work of the citizen volunteers had been completed in mid-March, all of the different groups and so forth had held about 298 meetings, and at that time we had made an estimate that approximately — well, slightly more than 31,000 manhours had been devoted to the project by the volunteers.

Q. The teams produced or their reports produced, if I remember correctly, recommendations with respect to each area, did it not?

A. Yes, each of the areas produced recommendations related to their particular area.

Q. And what was the total or the aggregate in recommendations?

A. Slightly more than 600. [5512]

Q. What happened, then, after the recommendations were submitted by the search and solve team?

A. These were printed intact in a tabloid newspaper type publication and delivered by PTA and Model City representatives to Columbus households. Over 200,000 were printed and delivered. Funds for doing that were made available by Battelle, Borden Foundation and the Columbus Foundation to print this 12-page summary of recommendations.

Q. What happened then?

A. Then, during the period April 26 to May 11th, there were nine public forums where the representatives of each of the search and solve teams formed a panel,

presented their major findings and listened to questions and concerns by the citizens attending the meeting. There were approximately 750 citizens that attended, and besides this, there had been a community reply card, a giant post-card included in the tabloid which people could react to the report to indicate their particular interest or concerns or reactions to the report and send it back in, as well as taking telephone calls and written letters on the subjects from anyone that was interested. This was all feedback from — we presented the recommendations to the community: Now, what's the feedback from the community?

Q. And what happened then?

A. On May 30th of 1972, the steering committee of [5513] Project Unite presented its official report to the Board of Education.

Q. Now, for the purposes of here I am not going to review the numbers of recommendations and of what they consisted. I think they probably are in exhibits, and they're quite voluminous. I would, however, ask you to describe what happened subsequent to the submission by the steering committee of the final distillation of these recommendations and submission to the Board? What took place?

A. Well, one of the things rather significant is the Board responded to recommendations made by the committees. One of the committees in particular was the Building Needs search and solve team, and in — the Board did respond to the recommendation by the search and solve team to place a bond issue on the ballot in November of 1972 to meet the building needs that had been identified.

Q. Was there a planning process paper reviewed with the Board which described each building recommendation with respect to each building and each facility as to what would take place with the funds from the bond issue?

A. Yes, that document would be what has been encapsulated in Promises Made.

Q. And I believe that that is an exhibit in this case, and I will get the number for it in due course. [5514]

Of what did the Promises Made document consist, please?

A. It contained the June 27, 1972, building proposal that had been presented by the Board of — presented to the Board of Education and acted upon, a planning process paper reviewed with the Board at the Committee of the whole meeting in September, 1972, the priorities — statement on priorities for implementing the building program, a summary of features of the building program which relate to the process of racial integration and a summary of vocational career center implementation plan.

Q. This program was subsequently made known to the community and to the news media; am I correct about that?

A. The document?

Q. Yes.

A. Yes, it was. It was widely distributed. [5515]

And there was, in November of 1972, a bond issue that was voted upon by the public?

A. On the November 7th election, the voters approved the \$89.5 million bond issue, and the percent supporting the issue were 55.7 percent.

Q. Let me hand you, Dr. Merriman, a copy of Plaintiffs' Exhibit 49, entitled "The Bond Issue-1972 Promises Made, Columbus Public School System," and I'd ask you if that is the document to which you have just made reference?

A. It is.

Q. I'll give you back, Dr. Merriman, this exhibit, and direct your attention to the first page inside the cover page, and I would ask you to read that letter which appears there.

A. This is on Columbus Public Schools Administrative Offices' letterhead stationery.

It is vital that the Columbus Board of Education and school administration keep the promises they have made while promoting the school bond issue. Public faith in

all public institutions appears to be low. One way to help rebuild good faith is to follow the principle that a promise made should be kept.

One source of confusion to the public is that comments by various officials may vary. Furthermore, a fact [5516] passed from person to person can become distorted.

It is important to have a single source document that clearly establishes what has been promised. This minimizes the chance that something promised will be omitted or that people will claim that a promise wasn't fulfilled when it was never made.

The following document describes a complete building program and planning practices authorized by the Board of Education and the Superintendent of Schools. This document covers all promises made. Any item not appearing in this document was not promised by anyone authorized to do so. The document consists of:

1. The June 27, 1972 building proposal presented to the Board of Education;
2. The planning process paper reviewed with the Board at the committee of the whole meeting on September 26, 1972;
3. The priorities for implementation of the building program;
4. A summary of features of the building program which relate to the process of racial integration;
5. A summary of the vocational career center's implementation plan.

It is possible and, in fact, probable that slight modifications will occur. No planning is so perfect that it [5517] will meet all possible circumstances, but the basic intention is to fulfill every promise that is possible within the law and financial resources available to the Board.

Sincerely yours, John Ellis, Superintendent of Schools.

Q. There are five major needs identified as critical needs within this document, and I believe that they appear on page 3. Would you please read that material?

A. Page 3 —

Q. Starting on page 3 of Exhibit 49, No. 1.

A. No. 1. Classroom space to solve overcrowding. Due to overcrowding, nine secondary schools must operate on split sessions during the 1972-73 school year, and 17 others on extended schedules. It will be necessary to transport 62 classes of elementary children from the schools they would normally attend to those with available space. Columbus is continuing a period of unprecedented growth with 30,000 housing units constructed from 1968 to 1972, while the School System's facilities have remained virtually unchanged during the same period. [5518]

Item 2. Housing for necessary career-vocational program. The present lack of facilities is severely hampering efforts to offer students important career-vocational programs to equip them for successful employment. Employment trends and student surveys make clear the needs and desire for such programs, but the schools can make little progress without new construction.

3. Installation of modern school libraries. New State standards now in effect call for a modern library in each elementary school equal in size to the space of two classrooms. Only 38 of the School System's 129 elementary schools have libraries at the present time, and even these fall far short of meeting the new State standards. At least 250 additional classroom spaces are needed to install modern libraries in the remaining elementaries and to bring the present facilities in line with the standards.

It is also necessary to upgrade libraries in secondary schools so that they will meet State standards and serve as valuable components in the learning process. A modern library that contains adequate facilities for independent study and can be equipped with newly-developed audio-visual learning materials is a must for every school. Libraries can play a key role in strengthening the reading program at all levels, filling a serious gap in the present [5519] educational program.

4. More and better facilities for handicapped pupils. Because of the shortage of space, nearly 500 children identified as educably mentally retarded cannot be placed next year in State approved special education classes, which require a smaller class size. Facilities are also badly needed for neurologically handicapped, physically handicapped, blind, deaf and emotionally disturbed.

5. Replacement of aged facilities. Several schools in Columbus remain in use far beyond their planned life span of 50 years. Twenty-four buildings were originally constructed prior to 1900 and have been in use from 73 to 103 years. Wherever feasible, these older buildings must be modernized or replaced if we are to offer an up-to-date program under safe conditions to all pupils. [5520]

Q. Now, Dr. Merriman, the Exhibit 49 then continues and sets forth six major provisions of the building program, and would you please identify those, and I think they also appear on Page 4?

A. Six major provisions:

1. Construction of six new secondary and ten new elementary schools, a new school for the physically handicapped and four career-vocational centers.

2. Total replacement of one secondary and two elementary schools that are aged and inefficient.

3. Partial replacement of the sections of one secondary and four elementary schools that are aged and inefficient.

4. Additions to 21 secondary and 37 elementary schools, as well as the school for the deaf.

5. Expansion and improvement of the existing sites of 11 secondary and 22 elementary schools.

6. Site acquisitions limited to those needed for new construction and rapidly developing areas, including five secondary and four elementary school sites, and locations for three career-vocational centers. Early involvement of community people, realtors, planners and developers is necessary in locating these sites.

Q. How did the program propose to satisfy the needs, please, and I believe this material appears also on page 4, [5521] starting at the bottom?

A. Yes. No. 1 would be a response to overcrowding. This building program would allow for the elimination of split sessions by coupling new construction with increased efficiency, using the buildings for longer than the regular school day. It would also make unnecessary the transportation of pupils due to overcrowding, and would permit a substantial reduction in the hundreds of classes whose size alone impairs the learning process and limits the individual attention that can be given students.

2. Career-vocational education. The program would enable the school system to extend to some 8,000 students increased opportunities for career-vocational education, offering a wide range of programs to prepare them for jobs in a variety of fields. Where employments justify, career-vocational programs that do not require facilities for extensive specialized equipment will be offered at the local high school, while programs requiring large areas for highly specialized equipment will be made available to several high schools at the four career-vocational centers. This combination will provide the most economical and efficient approach to improved career-vocational opportunities for students.

3. Libraries. The building program will provide for modern library facilities in every elementary school in [5521A] the school district, and upgrade libraries in all secondary schools so that they will meet State standards and serve as valuable components in the learning process. [5522]

Libraries will contain adequate facilities for independent study, can be equipped with newly developed audio-visual learning materials.

4. Handicapped pupils: Included in the building program are provisions for increased space and improved facilities for special education classes. A new school for

the physically handicapped will be constructed to replace the crowded and inadequate facilities at Neil Avenue. The program calls for converting Clearbrook Elementary into a school for the emotionally handicapped, providing a newer, more flexible and better located facility for the children who are now housed in the congested and aging Fairfax School.

5. Aged buildings: The program would make possible replacing some schools which have been used far longer than intended or should be expected. The total and partial replacements provided for in the building program would insure that students are housed in safe facilities that enhance rather than inhibit the atmosphere for learning.

Q. All right. Now, would you identify for us some of the specific -- what some of the specific needs include or are to be found as being corrected by the program?

A. This would be the general needs which would generalize across the System, basically, space for [5523] overcrowding; space for program expansion at the junior and senior high level; space for vocational career education in the high schools and career centers; space for special education programs in the elementary schools; space for hot lunch programs in the elementary schools; space for multipurpose rooms in elementary schools which had an undersized multipurpose-type facility; space for special programs such as the Title I and State DP-PPF programs; and spaces for small group instructions such as reading and tutoring.

Q. And how were these spaces to be met, please?

A. They could be met by new construction in the case of a new facility, by adding to an existing school the space that was needed or converting within existing space where it is available for those spaces needed or, in another instance, converting existing classroom space such as to a library learning center and building a new replacement space to replace that which had been converted.

Q. Did the program contemplate the modernization of facilities?

A. Yes.

Q. If so, would you describe that, please?

A. Modernization was a major factor in the building program, even though new spaces weren't being added at many locations. That would include such changes as improvements [5524] in heating and ventilating systems, window replacements, plumbing system improvements, electrical system improvements and improvements in fixed and loose furniture and equipment.

Some of these were related to energy-saving moves. Some were related to replacing worn out or outmoded systems and equipment like the ventilating system in a facility. Some were related to upgrading a facility to meet building code requirements, the health and safety requirements that were necessary.

Q. Was there an effort — was there to be an effort made to coordinate these various modernization and construction projects, and would you describe that, please? [5525]

A. Yes. Efforts were made to coordinate and relate modernization and construction of new space where it occurred or conversion of space. Each project, whether it was a new building or an existing building, had a planning committee, and the planning committee consisted of a convener chairman who was the school administrator of an existing building or, in the instance of a new building, an administrator appointed by the superintendent.

It also included members of the faculty, parents, classified staff, community and business leaders and, in the case of secondary schools, students.

The purpose of the planning committee was — or their mission was to develop educational specifications for the project.

Q. Would you give us, please, what the charge was to the planning committees?

A. Yes. There was a memo which was addressed to the members of the advisory committee on educational program and facilities for the planning project, whichever project this was. This was directly from the superintendent's office, and it spoke to the responsibilities of the advisory committee, and it read as follows:

As a member of an advisory committee on educational program and facilities, you have an unusual opportunity to influence the quality of education in your community for many [5526] years to come.

The purpose of this memo is to provide specific information on what is expected of your committee and to establish a common set of expectations for all such committees. Within this framework, your committee will have an ample opportunity to employ originality in identifying and describing the unique requirements of your construction project.

Authority to create your committee was granted by the Columbus Board of Education when the Board adopted a comprehensive document about the proposed construction program that included the following policy statement:

Planning the new facilities is critical. When new buildings are constructed, we will involve the faculty, citizens and administrators with the architect to consider what education should be. We cannot now say that the proposed rooms will be square or round. The sizes, shapes and relationships will be forged in the difficult intellectual planning process.

The architects will be requested to develop a building design to accomplish the educational specifications of the planning committee. With such an approach, the curriculum will be improved and the facilities will be educationally and structurally and economically sound.

The memo goes on: [5527]

In accordance with this Board of Education policy, the school administration has established the following expectations for your advisory committee:

Your committee will prepare the educational specifications for the educational program it would like to see accommodated within the facilities. Educational specifications are a word picture of the programs that will be offered, the activities that will occur, the number and kinds of people who will use the building and how the students and staff will be organized. Sometimes educational specifications are called user requirements; what you need in order to offer the desired program. [5528]

The Planning Committee does not have to draw anything. In fact, architects prefer that you not draw. Simply describe what you intend to do and how you intend to do it. The architects will then draw the space they believe will meet your program. You inspect the drawings, walk around mentally within the proposed facilities, try out mentally the various things you intend to do in the building, and propose modifications to the architects.

The second step is the educational program your committee describes in writing should be stated in the most specific terms possible, should meet the requirements of State law on file with the convenor chairman, should meet standards of the State Board of Education also on file with the convenor chairman, should meet commitments of the Columbus Board of Education and the school administration delineated in the Promises Made Document on file with the convenor chairman and should include a statement of priorities specifying items that could be deleted from your proposal for items that could be added to it if funds are available.

When completed by your committee, the educational specifications should be submitted to the office of the Superintendent on or before the deadline specified in Item 2 of Attachment A.

When the educational specifications have been approved by the office of the Superintendent, the project [5529] architect will be authorized to complete preliminary plans.

Your committee will be expected to maintain communications with the project architect throughout the planning process, to make itself available to the architect while preliminary drawings are being prepared for the purpose of interpreting the educational specifications, and to work with the architect in modifying your proposal to stay within the budget specified in Item 3 of Attachment A.

Your committee will assess the completed preliminary drawings, prepare a statement expressing your assessment of these drawings, and submit this statement to the Executive Director of Development. These services will complete the assignments of your committee.

Members of your committee will be expected to maintain two-way communications with their respective constituencies, teachers, classified employees, parents and secondary students, throughout the planning process. This is interpreted to mean that committee members will make progress reports on the committee's activities at regular intervals and will actively seek the advice and counsel of their respective constituencies.

Throughout the planning process committee members will be expected to be aware of the following criteria which [5530] project architects will be required to observe in developing the building design: Flexibility, adaptability, expansibility, simplicity and compactness.

You have an exciting challenging task. Please think imaginatively and draw upon the consultant services available to you.

Q. Now, was there a committee appointed with respect to each one of these projects?

A. Yes.

Q. And was the committee and its membership furnished with the memorandum that you have just read?

A. Yes.

Q. Would you describe, please, what happened with respect to these committees and how they operate? [5531]

A. Okay. Each committee was provided with a project description which included the information and basic direction for the project. Basic direction for the project was a means of describing how the commitments in Promises Made could be met and the known needs related to that facility which have been collected from various sources since the last construction program at that school.

An architect was appointed by the Board of Education to work specifically with each planning committee. The architect was expected to meet with the planning committee; and as the planning committee discussed and wrote about their project, the architect was expected to express their written and spoken statements in concrete graphic form.

The result of this process was a set of preliminary drawings which were then to be approved by the planning committee as meeting their priorities and reflecting their program intent as nearly as possible within the existing constraints. A letter was required testifying to that effect from each planning committee.

These preliminary drawings were then reviewed by the Board of Education and presented to the Board for their approval prior to the architect proceeding into the working drawing stages of the project. After the architect proceeded through working drawings, if significant changes were required due to budget problems, program needs or previously [5532] unidentified construction problems, these changes were carefully identified to the Board of Education and related to the chairman of the planning committee.

Every effort was being made to keep all parties informed to the extent possible. Whenever official board action was taken related to any of the projects, copies of the Board resolution were automatically sent to the chairman of the committee with the intent that this could then be reported back to the planning committee. Monthly

written reports were prepared to reflect the status of each project in the building program. These reports were distributed to Board members and any interested parties.

The cover letter, of course, in Promises Made indicated the possibility that some changes might be necessary in the program in that not all planning is perfect. In some instances, changes were relatively minor, were made within the budget, and did not conflict with the commitments in Promises Made. Such changes were usually made at the request of the planning committee. Changes of a major nature were done only involving committees, community, the administration and the Board of Education.

Q. What are examples of some of the major changes, please, that occurred?

A. An example of one major change occurred in the area which had been the Mifflin Local School District. Originally [5533] the project called for the remodeling and addition to the existing Mifflin Junior-Senior High School that became part of our district upon annexation of the Mifflin District and additionally called for the construction of a new junior-senior high school to be located in the area of Mock Road and Sunbury Road.

A number of questions were raised by committee members and community members that led to a re-examination of these proposals, developing several alternatives to these proposals, testing the alternative with the planning committee and with the community in making a recommendation to the Board of Education that the existing Mifflin Junior-Senior High School be converted to a junior high through adding to it and remodeling and that a new high school be constructed.

Q. This would be a — this was to be a new senior high school that would serve presumably the area, the same area that the Mifflin Junior High School would then serve, or approximately?

A. That is correct. Rather than have two junior-senior high schools in that geographic area, as the original pro-

posal would require, this would mean one senior high school serving the entire geographic area and one junior high school serving the entire area.

Q. Was there also as an example of major changes a [5534] change in the problems dealing — some problems with the Marion-Franklin High School?

A. Yes, there was.

Q. What was that?

A. In this instance, it was found that the amount of work that was necessary to provide the program space required and to do the modernization work necessary was much more extensive than the original project, scope and budget. This involved community and faculty and planning committee and, of course, administration and, finally, the Board of Education.

Q. Now, directing your attention, Dr. Merriman, to the area of new schools, would you describe briefly for us several categories of new schools, the first of which are the career centers?

A. Vocational career centers are specialized school facilities designed to offer students important vocational career programs to equip them for successful employment. These centers would provide career education using appropriate space and the more costly equipment installations for which enrollments would be too low if they were located at each high school building.

In-school youths would remain enrolled at their resident high school, their normal high school, and would be transported to the vocational career center on a half-day basis. Of course, an ancillary use of these centers would be [5535] in late afternoon and evening to use them for adult programs.

There are four centers that are contained in Promises Made and are on their way to completion. There are some basic programs that are offered in some relative form at all four centers and unique programs available at each of

the centers. Each one has a flavor or unique characteristic. Then students attend the centers on the basis of the programs they select and the proximity to the centers where the appropriate programs are available and the racial composition of the enrollees in order that we maintain racial balance at the career centers. [5536]

The State plan that was developed to meet State requirements for vocational career education establishes the basic rationale for how many spaces need be offered. That is by 1978, the five-year plan called for providing space for 40 percent of the junior and senior high classes of the Columbus Vocational District, including our System, Westerville, Worthington, Arlington and Grandview, or the equivalent of 8,000 spaces — spaces for 8,000 students enrolled in vocational education.

Q. Now, directing your attention to the new secondary schools that were and are contemplated or were contemplated in the Promises Made, Doctor, would you describe them, please?

A. Yes. Promises Made called for the construction of three new junior-senior high schools, and that three included the Mock-Sunbury School that I just discussed previously in relation to Mifflin, two high schools and a junior high school in the construction of the new Franklin Junior High School to replace the existing Franklin and an addition to Fulton School to become a junior high developmental learning center.

One junior-senior high school, Independence, is completed and opened in January, 1976. Beechcroft Junior-Senior High School will be ready for opening September, 1976. Briggs High School is completed and opened on April 26, 1976. [5537] Centennial High School will be completed and open September, 1976. McCutcheon area High School which replaced the proposed Mock-Sunbury Junior-Senior High School, as explained previously, will be completed and open in September of 1977.

THE COURT: Mr. Porter, perhaps we better stop for the day.

Thereupon, the further trial of this cause was adjourned until 9:00 o'clock, A.M., June 10, 1976.

* * * * *

THURSDAY MORNING SESSION,
June 10, 1976.

[5539] THE COURT: Good morning.

MR. O'NEILL: Good morning, Your Honor.

MR. PORTER: If the Court please, I can't help but comment that the presence of Mr. Lyter here I consider to be a rare and distinct pleasure.

THE COURT: Day of enlightenment; pure justice today.

MR. PORTER: We will see if we can't do something wrong with the exhibits.

HOWARD O. MERRIMAN

called as a witness on behalf of the Defendants, having been heretofore duly sworn, testified further as follows:

DIRECT EXAMINATION (CONTINUED)

BY MR. PORTER:

Q. Now, Dr. Merriman, when we stopped yesterday, you had described for me a number of new secondary schools that were being constructed, and I believe that we had gotten down to the new Franklin Junior High School, and would you continue your description, please? [5540]

A. Yes. The new Franklin Junior High School, which is replacing the older building and will be the Franklin Junior High Developmental Learning Center, will be completed and opened in September of 1977. Promises Made called for the Fulton Developmental Learning Center to be redeveloped on the site of the present enclosed Fulton Elementary School. That is in a holding status due to the increasing enrollment at the junior high level and the resulting need to reassess the need for construction of that project.

The junior high school proposed for the Westerville transfer area, which was pending completion of litigation over that transfer, is now under review to determine if capacity exists within the area to house junior high students. This required a census of the community and a review of potential development to occur in the area.

Q. Would you describe for us, please, the new elementary schools that were included within the proposal, the Promises Made proposal?

A. Yes. There were ten new elementary schools listed in Promises Made, one to be constructed near Dresden Avenue and Arlington Avenue, that was to be a developmental learning center, a second near Beechcroft Road and State Route 161, a third near Schrock Road and Skywae Drive, a fourth near Morse Road and Cleveland Avenue, a fifth near Bethel Road and Godown Road, a sixth near Cleveland Avenue and Innis [5540A] Road, a seventh near McCutcheon Road and Stelzer Road, an eighth near Brice Road and I-70, a ninth near Brownfield Road and Refugee Road and tenth near Noe-Bixby Road and Refugee Road. [5541]

Q. Would you give us, please, the status with respect to the various elementary schools which you have just described?

A. Yes, I will.

Q. And identify them, if you would, by name.

A. All right. By number, again, and I will give the name of those that have been named, and the numbers would coincide with the ones previously given as listed in Promises Made.

The first one is called Linden Park IGE School. That was completed and occupied in September of 1975.

Item No. 2 near Beechcroft Road and State Route 161 is in the Westerville transfer area, and that was part of the area completed — to be completed for transfer in July of 1976. The building has not been begun.

No. 3 near Schrock Road and Skywae Drive is also in the Westerville area and similar status to Item No. 2.

No. 4 near Morse Road and Cleveland Avenue, same status as Item No. 2, Westerville transfer area.

No. 5 has been named Gables Elementary. That's to be completed and occupied in September of 1976.

No. 6, Innis Elementary is completed and was occupied in September of 1975.

No. 7 near McCutcheon Road and Stelzer Road is in a hold for development and the need for capacity in that area. [5542]

No. 8 near Brice Road and I-70 is in hold pending development and capacity needs in the area.

No. 9, Brownfield Road and Refugee Road, is in hold pending development and capacity needs in the area.

No. 10, Liberty Elementary, has been completed and was occupied on April 26, 1976.

Q. All right. Now, in Promises Made it also provided or identified the construction of one or more elementary schools to replace facilities. Would you describe that, please?

A. Yes. Promises Made also included the construction of a new elementary school on an expanded Fifth Avenue site to replace the old Fifth Avenue, Ninth Avenue and Michigan Elementary Schools, which are in that same area, with a new facility. That project is under construction. It is to be completed and occupied in September of 1976.

A new elementary school designated as a developmental learning center to replace the existing Douglas Elementary School was proposed. That facility is under construction. It is called the Douglas Learning Center, and it is to be completed and occupied by September of 1976.

Q. There are also, if I recall correctly, a new school, some new special schools or new facilities for some of the special crippled children and so forth. Would you describe that? [5543]

A. A new school for crippled children to replace the inadequate Neil Avenue facility was constructed on the site of and connected to the Colerain Elementary School. That facility was completed and occupied in December of 1975.

The school for the emotionally disturbed formerly housed at Fairfax School was constructed as an addition to the former Clearbrook Elementary School, and that was completed and occupied by April 15, 1976. [5544]

Q. Would you identify for us, please, what I think you have now described as 24 new schools — strike that. Just a moment.

Would you identify for us, please, the seven completed schools and the 12 that are presently under construction with their planned opening dates?

A. The completed schools are the Southeast Career Center, which opened in September of 1975;

Linden Park IGE Elementary School, which opened September of 1975;

Innis Elementary School, which opened in September of 1975;

Colerain School for the physically handicapped, which opened in December of 1975;

Independence Junior-Senior High School, which opened in January of 1976;

Briggs Senior High School opened in April of 1976 and Liberty Elementary, which opened April of 1976.

Q. Now, I may have misspoke. Did I say — I meant to say that the ten schools that are under construction. I'm not sure that that is what I said, but that's what I meant.

Would you identify the ten that are under construction and their planned opening date?

A. Yes. Those are Beechcroft Junior-Senior High, the planned opening is September of 1976; [5545]

Centennial Senior High, planned opening September of 1976;

The Fort Hayes Career Center, planned opening is September, 1976;

Gables Elementary School, planned opening September, 1976;

The new Fifth Avenue Elementary, planning opening September of 1976;

The new Douglas School, planned opening September, 1976;

McCutcheon Senior High School, the planned opening September, 1977;

Franklin Junior High School Developmental Learning Center, planned opening September, 1977;

The Northeast Career Center, the planned opening September, 1977 and the Northwest Career Center, planned opening September of 1978.

Q. Thank you.

Would you describe for us, please, the additions to the existing buildings?

A. Yes. Additions to existing buildings were in each instance related to the general needs discussed previously as we reviewed the Promises Made and what it responded to. Examples given would include an addition to relieve overcrowding, an addition to replace an old, smaller multipurpose [5546] room with a new standard-sized multipurpose room space, in addition, to provide for a library learning center or a teacher work preparation center or a space for a hot lunch facility and space for storage.

Now, in some instances, planning committees found it necessary to convert existing classroom space to meet program needs and construct additional space to replace the classrooms which were converted if they were attempting to find a new way to house students. In such cases, there would be no increase in capacity to house programs. It would be a trade-off of library space for classroom space.

Additions at the secondary level were for the relief of overcrowding, expanding program offerings such as in the vocational area or a second art room or a second home economics room or for library expansion to meet new State standards. Specific information for each school project is identified in the Promises Made, and the actual space added was described in the background statements for each project as it was approved by the Board of Education in the working drawing's stage.

Q. Has it been possible in some instances to convert space in existing buildings to meet the needs that were found and identified in the Promises Made document?

A. Yes, it has.

Q. In how many instances has that taken place, please, [5547] with respect to the library learning center at the elementary schools?

A. For example, to this point in time, at 32 elementary schools it's been possible to convert classrooms into library learning centers.

Q. Now, there have been other improvements made, I believe, based on school-by-school needs to — this is with respect to existing facilities. Would you describe what they are, please, generally?

A. Yes. This would be improvements to the heating and ventilating plans, plumbing systems, the electrical systems, fixed equipment installations, replacement of windows, site expansion and site improvement. [5548]

Q. The planning committees that you described and about which you explained through the reading of that

long memo at my request were involved in the establishment of priorities with respect to the needs of these buildings in this area of improvements?

A. Yes. Generally there had been needs identified by staff at the school and at the central office in the operating and maintenance department that would relate to electrical systems or heating plants and plumbing needs and that kind of improvement. Input from the planning committee, including the classified personnel and so forth, made it doubly certain that we didn't overlook the kind of hidden problems that might exist at a school, and they were able to then express their priorities in those needs so that we wouldn't overlook such a problem.

For the most part, many of these improvements were related to health, safety and comfort of building occupants and to the proper operation of the facilities.

Q. It might be appropriate at this point to remind the record, I guess, that subsequent to your acting as liaison to Project Unite and the passage of the bond issue, what was your job then as of — my recollection is January of 1973; am I right about that?

A. January of '73 I was given the responsibility for the development office which was to implement the building [5549] program in Promises Made.

Q. And you occupied that position until when?

A. Until January of 1976.

Q. And that's when you became Assistant Superintendent of Instruction?

A. Yes.

Q. Now, also in Promises Made there appears the material dealing — recommendations dealing with site expansion. Would you describe that, please?

A. Well, site expansion improvement in some cases were required due to using existing space or expanding the building or adding to the building, in other words, if you built a new multipurpose room that used up some area on

the existing land and that area needed to be replaced to maintain a balance of outside area. In other cases an effort was being made to continue the Columbus Board of Education's program of upgrading school sites at existing buildings.

Q. The rationale for the — would you describe, please, the rationale for the construction of some of the educational programs that were to go into these buildings?

A. Well, a substantial part of the educational building projects has been to house program; for example, the facilities for Vocational Career Education both in the high schools and, of course, in the new Career Centers. [5550] The library learning centers in elementary schools were substantial additions to the educational program facilities that did not exist before. The teacher work preparation areas, areas where teachers offer the resources to prepare materials and to do planning work. Space for small group construction; this would include reading instruction and other small group-type activities that would not take place in a regular classroom setting. Space for special education programs required by increases in special education units. Spaces for tutoring of children, either by the tutoring program or volunteer tutoring that's been organized in many of the schools. Spaces for special programs such as the Title I and State DP programs that had not been housed in adequately arranged spaces previously or were additional programs that had been added at the building.

A substantial part of the program is support-service oriented, such as this provision for the teacher work preparation areas, for the hot lunch kitchens that were going into each of the elementary schools and the storage spaces for office support areas. Then the other portion of the construction program was to relieve overcrowding in existing buildings occurring in the growth areas of the city or the growth that results from the development of housing that would result from previous, present and future possible annexations to the Columbus School District.

* * * * *

[5568] Q. [By Mr. Porter] Now, I wish to — another cleanup question, if I might, please, before I turn to the Division of Instruction, and that is that while you were involved with Project Unite and the Building Program, was there a set of site selection criteria which were used by your office or by the School System in its process of helping to select a school site?

A. Yes, there was.

Q. Do you have that in front of you, or, here, I'll give you mine.

A. Yes, I have it. [5569]

Q. All right. Would you give us the criteria, please?

A. The following factors are given consideration when selecting school sites:

1. Location of existing buildings in the Columbus City School District and adjoining school districts.
2. Land use pattern, including the actual and proposed development of the community.
3. Availability of satisfactory land, including size, shape, contour and related characteristics.
4. Availability of basic services such as gas, water, street, storm sewer and sanitary sewer.
5. Traffic patterns, natural boundaries and related factors and the future development of appropriate attendance areas.
6. Desirable size of schools, including the type of outdoor facilities desirable for the school and community.
7. Short-range, intermediate-range and long-range site and construction plans for the district.
8. Economic factors, including initial cost and development costs.
9. Degree to which the site enhances the probability of providing an integrated school population.

Q. Now, that which you have read from was a written set of criteria that was used by your department; is that [5569A] correct or not?

A. Yes. This was used by the development office in conjunction with the planning committees that were involved in cases where a site had to be selected for a school.

Q. Did, as a matter of my information, Dr. Merriman — I know — I believe — it is my recollection that the Planning Committee, the Community Committee, worked on the site selection with respect to the vocational centers other than Fort Hayes; am I correct about this?

A. That's correct.

Q. What about the committees that you have described yesterday and which you read about; did they function also with respect to other sites?

A. In instances where a site had not been owned by the Board of Education and was not designated as a specific location for a new school, the site selection or the Planning Committee was involved in site selection.

* * * * *

JOAN FOLK

called as a witness on behalf of the
Intervening Plaintiffs, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[6013] Q. [By Mr. Lucas] Would you state your full name and your occupation, please?

A. Joan Folk. I am a counselor, elementary counselor in the Columbus Public Schools.

[6014] Q. How long have you taught in the Columbus Public Schools?

A. About 20 years.

Q. All right. When did you first come to the Columbus System?

A. In 1953.

Q. Would that have been the '52-53 school year or '53-54?

A. '53-54.

Q. All right. And where were you teaching or counseling at that time?

A. I was a teacher at Southwood Elementary School.

Q. Do you recall the grade you were teaching at that time?

A. Yes, third grade.

Q. At that time, as a teacher, were you required to fill out regular reports on the enrollment in the school?

A. Yes. In the spring, we had a State form, an enrollment form that we completed.

Q. Would you describe that form, please?

A. Well, it was two sheets. We had one sheet for boys and one sheet for girls, — it was very exacting — and we placed the names in alphabetical order and the addresses and the race.

Q. All right. Was this a preprinted form from the State?

[6015] A. Yes.

Q. All right. What was the color of the form? I think there's been a reference earlier in the record to that.

A. I think it was yellow.

Q. What did you do with the form after you filled it out as a teacher?

A. I gave it to the principal.

Q. All right. Is there any particular reason why you remember this form from 1953 where it showed the race of the student?

A. Yes. As I said, it was an exacting form, and I made an error. You were not permitted to place nicknames on the form, and it was difficult for my principal to get another form, but he did get one.

Q. You had to do it over?

A. I did it over.

Q. All right. Now, you left the Columbus Public Schools and taught in other school systems for a number of years; is that correct?

A. Yes.

Q. And approximately when did you return to the Columbus Public Schools?

A. In the fall of 1960.

Q. 1960?

A. Yes.

[6016] Q. Let me go back, I'm sorry, to 1953.

Did you have to prepare any other form in which you had to indicate race to the Columbus Board of Education or the State Board?

[6017] A. Yes. I recall we had a white 4-by-6 or 5-by-7 card that at the end of the year was called a promotion card, and, again, along with other identification information, we completed the race for each child.

Q. And that was turned in to the principal of the building at that time by the teacher; is that correct?

A. Yes.

Q. Now, you say you came back in the fall of 1960. When you came back in the fall of 1960, were either or both of these forms still required to be filled out by teachers?

A. I don't recall the state form, but I do remember the promotion card.

Q. And were you required to indicate race in 1960?

A. Yes. It was the same form.

Q. Same procedure, you turned it in to the principal of the building; is that correct?

A. Yes.

Q. Do you recall how long after 1960 that procedure was followed?

A. No, I don't.

Q. Do you recall that at some time thereafter you no longer filled out the promotion cards with the race on them; is that correct?

A. Yes.

MARTIN W. ESSEX

called as a witness on behalf of the Defendants,
being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'NEILL

* * * * *

[6073] Q. [By Mr. O'Neill] Were there any properties around that the State Board [6074] could have had access to and could have transferred to the Columbus Schools?

A Yes, there were some municipally annexed properties which had not been transferred for school purposes. Ultimately it was decided to transfer territory from seven suburban districts to the Columbus School District. [6075]

Q. On what basis could those transfers be made?

A. Because there had been municipal annexation, and this is within the authority of the State Board.

Q. You mean that the city of Columbus had annexed portions of these outlying areas for city purposes, but those portions had not been transferred to the Columbus City School District?

A. That is correct.

Q. The State Board would have the right to approve the transfer of those districts to the Columbus City School District?

A. It has a right to order such a transfer, or we thought we had the right.

Q. Okay, and did the State Board then order the transfer of those outlying areas to the Columbus City School District?

A. Yes, and started the due process of hearings which led into litigation, and the litigation was ultimately consummated in December of this year. It went on for years.

Q. You mean the outlying school districts resented the loss of these territories and attempted to prevent the State Board from carrying out its order?

A. Yes. For example, not far from here just across the river is the Golden Finger of sizeable tax value but

very few children which is associated with the Grandview [6076] Heights District. This has been protected with great tenacity down through the years and, hence, the Grandview Heights District considered this an action which would be very unacceptable to them. It was necessary for them to go back to their electorate and vote an additional levy to carry on their school functions.

Q. Do I understand, sir, from what you have said that the resistance offered by the outlying school districts ended only last December, December of '75?

A. Yes, this winter.

Q. With an Ohio Supreme Court decision that upheld the power of the State Board to order these transfers under the statute giving the State Board that power?

A. Yes, that's precisely what took place. However, it is a complicated matter. Perhaps the Court wouldn't be interested in all the complications through Franklin County and the Board's limited power. The Board could not assign Mifflin to Columbus. It had to go through the Franklin County Board.

Q. What am I interested in establishing, sir, is what has been the racial impact of the match-making efforts by the State Board of Education in this connection?

A. In the seven districts were very few black youngsters and, hence, the land transferred. For example, the Westerville section to the north of Columbus now [6077] with approximately 2,600 youngsters is primarily white, and this gave Columbus, the Columbus School District, additional areas in which largely white persons would be residing. The same was true in the other seven districts in which the transfers took place.

Q. Did it also give to Columbus the Mifflin area which was then increasingly black?

A. Yes. It was moving toward a third black, as I recall.

Q. Would it be fair to say that the overall effect of this effort by the State Board in connection with the

Mifflin - Columbus consolidation has been integrative rather than segregative?

A. Yes, and in the quality of education, there has been a great boon. The Columbus Board has proceeded to take the existing high school, spend more than a million dollars in remodeling it for a junior high school, proceeded to construct a new senior high school, construct elementary schools, provide proper housing and good management. Hence, we have not heard from Mifflin since that time.

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CROSS-EXAMINATION BY MR. STEIN

[6184] Q. [By Mr. Stein] It didn't join at any one portion. Another was Mifflin, and, as to Mifflin, you made a statement that the overall effect of the transfer of the Mifflin District to Columbus was integrative, and you said that seven other districts gave property and transferred territory to Columbus which had already been municipally annexed. What were those seven districts?

A. Southwestern City, Grandview Heights, Washington Local, Westerville City, Reynoldsburg Local at that time, now a city, Madison Local and Upper Arlington, as I recall them, and I am fairly well aware of antagonizing all of those superintendents, so I recall them rather vividly.

Q. And I believe you mentioned that Westerville — strike that question.

Which of these seven districts had students transferred with it to Columbus?

A. All of them.

Q. All of them?

A. I think. There could have been some exception to that. Westerville would have had the largest number of [6185] the seven because —

Q. How many would have been there?

A. The last figures that I saw, and it's been in the newspapers repeatedly over the past year or so, and 2600 was the last figure I believe that I saw.

Q. And do you know how many approximately from Upper Arlington?

A. I am not sure that there was much of a transfer of students from Upper Arlington. It involved a transfer in two directions to clear up boundary lines and to relate to certain property wealth. A part of the transfer took place from Washington Local, the Dublin District, as you might term it, to Upper Arlington and to Columbus, and then some transfer from Upper Arlington to Columbus or Southwestern. It was a very complex transfer arrangement involving, as I recall, several parcels of land, not just seven parcels of land, but numerous parcels of land.

Q. The major industrial parcel is the Golden Finger? Most of the others were residential?

A. Yes. The very high valuation area is the Golden Finger, as you know, along Route 33 and across —

Q. Do you recall how many students came from Reynoldsburg to Columbus?

A. Not very many in the Reynoldsburg instance. Reynoldsburg didn't contest the transfer. They accepted it. [6186]

Q. When you say not very many, do you mean a couple hundred?

A. I really don't have — it's been so many years ago that I don't have a figure.

Q. Would you have an estimate for the entire seven districts, Westerville, Upper Arlington, Southwestern, Washington Local, Madison Local, Reynoldsburg, Grandview Heights all together?

A. No, I have never tabulated the total number of students. We were more concerned with the wealth factor, whether or not this was going to compensate or be adequate to effectuate the inducement of the Franklin County Board of Education to make the transfer and Columbus

to accept.

Q. But we know it is over 2600 because those came in from Westerville?

A. Oh, yes.

Q. Do you know how many students were in the Mifflin District?

A. As I recall, when we initiated the action, it was 3200, and then it moved upward because there was rapid movement inward. It may have been 3600 before it was consummated, perhaps even more. I think we lost count because Mifflin was transferred and they began to receive the services of Columbus very early. The litigation continued. The court required us to retry it again with new [6186A] data, and then it went back to the Supreme Court again, and it was just consummated in December of this winter.

Q. Do you have any approximation in your mind of the racial composition of Mifflin today? [6187]

A. Mifflin was not — did not have a large number of black youngsters. The movement was in that direction in the low cost or the low rental housing, but the percentage was not high.

Q. It was probably around 50 percent, would you think?

A. No, no, it wouldn't be nearly that. Probably more nearly half that.

Q. If I refer you to your testimony once again in the Dayton deposition in November of 1972, when asked about the percentage of — what was the percentage of the district, you were asked whether you thought it was approximately 90 percent or more, and your answer was: No, it would have been much lower than that. I suspect no more than half. Perhaps maybe not half.

A. Essentially that's the same statement I am making now.

Q. You said that to me. I suggested 50 percent. Then it was suggested 90 percent.

A. I said much lower. I certainly in that statement —

Q. So if you have 25 percent of the district at the time that Mifflin near Columbus was black and you have testified that these other seven districts were predominantly — and I am assuming 90 to 100 percent white —

A. Higher than that, actually.

Q. Higher than that? [6188]

A. Well, they are more than 90 percent, I am sure.

Q. Where is the integrative effect?

A. The integrative effect is to provide the Columbus District with room for expansion and the opportunity for expansion and the retention of white homeowners, of white persons in the school district, and we are of the opinion that the Mifflin District will not become a black district. The Sunbury Road area is an attractive home picturesque territory, and we would see it as a desirable place to live, and it would not be low income. If it were to induce black persons to move there, no doubt it would be middle class upward mobility rather than this early impact on a relatively small district that couldn't manage, couldn't handle, couldn't take care of the responsibilities of educating the children, and our first concern again had to be — because we had no other legal premise, our first concern had to be the quality of education of the youngsters.

As I said to you, when I addressed their convocation and visited their schools, I returned to the judgment that they would not be able to manage the impact that was upon them.

Q. So the integrative effect of this transfer was to allow seven districts in the surrounding area to add additional white pupils to Columbus?

A. And space, as well as this number, this ratio, was [6189] not going to be detrimental to the Columbus School balance.

Q. Okay. Testimony in this case has indicated that as of last year, the Mifflin area or what came in with the transfer from Mifflin is approximately 50 percent black at this time. Are you aware that those pupils attending school in the Mifflin District prior to the transfer continue to attend schools in the same geographical district that was Mifflin after the transfer?

A. That would be my assumption, but I could not attest to that.

* * * * *

MARILYN M. REDDEN

called as a witness on behalf of the Defendants,
being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PORTER

* * * * *

[5660] Q. [By Mr. Porter] I wish to ask you a few questions concerning it, Mrs. Redden. They are very simple. I would ask you if you first support the Columbus Plan, and I would then ask you after you answer that question, to tell us what you see for the Columbus Plan?

A. I certainly support the Columbus Plan.

Q. What do you see the Columbus Plan accomplishing? I am speaking now – I am asking you in your capacity as a member of the Board, not for the Board. You cannot testify for the Board?

A. That's correct.

Q. I am asking you for your own opinion.

A. All right. My opinion in the beginning of the Columbus Plan is not too much different than my opinion today of the Columbus Plan, if there is any difference. I see the Columbus Plan as one accepted by the community, primarily because it is a voluntary plan, one that gives parents choices as to what kinds of programs their children may have, and I believe that people want choices. They get it through the Columbus Plan.

It is also a plan that truly integrates children as it provides programs that, yes, attract children, and then students have much in common as they come to these programs or types of learning and are very naturally integrated by their common goals and common interests.

Q. Do you personally support the proposition that the racial balance within the Columbus Public School System is a desirable result and should be one sought after; that it should be improved?

A. Yes, I believe that it should be improved.

Q. Do you visualize that the Columbus Plan will accomplish this?

A. Absolutely.

* * * * *

LEON MITCHELL

called as a witness on behalf of the
Intervening Plaintiffs, in rebuttal, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[6236] Q. [By Mr. Lucas] State your full name and your occupation, please?

A. Leon A. Mitchell. I am Elementary Principal at Gladstone Elementary School here in Columbus.

Q. Mr. Mitchell, you received a subpoena to appear here today?

A. Yes, I did.

Q. How long have you been employed in the Columbus Public Schools?

A. Nineteen years.

Q. Did you serve for a period of time as the principal at the Alum Crest School?

A. Two years.

Q. And could you tell us when that was, sir?

A. 1966-67 school year. Wait a minute. From September, 1966 to June, 1968.

Q. Was there a housing development associated with the Alum Crest School?

A. I believe it was called the Alum Crest Apartments at that time.

Q. How many empty classrooms were there in the Alum Crest [6237] School when you were principal?

A. There were approximately 11 that were rented out to Franklin County Children's Trainable Program, I believe it was called.

Q. And that was not under your administration in any way, shape or form, was it?

A. No.

Q. Were there students, primarily white students, being transported past the Alum Crest School from an area south of the school?

A. Yes, there were.

Q. And what area was that?

A. The Lawndale-Koebel Road area just south of the school.

Q. Where were they being transported to?

A. Moler Road School.

Q. Was Moler a whiter school at that time than Alum Crest?

A. Predominantly white.

Q. And Alum Crest was what, about, at that time?

A. About 80 percent black.

Q. Did this go on for both of the years when you were at Alum Crest?

A. Yes, it did.

[6238] Q. All right. Do you know Mr. Carter from School Administration?

A. Yes, I do.

Q. Did you have a discussion with Mr. Carter about the children being bused past the Alum Crest School to the Moler School?

A. Yes, I did.

Q. And did you advise Mr. Carter as to whether or not, even with the 11 classrooms rented out, whether or not there was capacity in the Alum Crest School at that time for the students being bused past the school?

A. Yes, I did. We had 11 teachers and 210 students, and it is my recollection about 70 youngsters were bused past the Alum Crest every day.

Q. And as principal, did you advise Mr. Carter that you had room for those children, those white children being bused past?

A. I don't know whether I advised him because he was well aware of our numbers. In fact, that was his responsibility, but I did ask him why this was being done because I could stand from the playground and throw a rock into the bus, and he said, "We have always done it that way," and he ended the conversation.

Q. All right. Did you take any further action at that time?

[6239] A. No.

MR. LUCAS: I have no further questions of this witness.

* * * * *

CROSS-EXAMINATION BY MR. LOVELAND

Q. [By Mr. Loveland] Mr. Mitchell, you testified you were principal at Alum Crest in '66 school year and '67 school year; is that correct?

A. Right.

Q. And I believe you testified that 11 classrooms were rented out to the Franklin County — what's the name of it?

A. I can't give you the exact title. It is Franklin County trainable program for trainably retarded children.

Q. And how many teachers did you have at your school in 1966?

A. I had eleven.

Q. How many teachers in 1967?

A. Eleven.

Q. And each of those teachers, I assume, had his or her own classroom?

A. Right.

Q. And how many classrooms were rented out to the Franklin County Welfare Department?

[6240] A. None, none.

Q. How many classrooms were rented out to the Franklin County Child Welfare Board?

A. I don't know who ran that program. You said Welfare Department; none. To the Franklin County trainable program, they leased space in the building. They had their own section with their own office. My responsibility was to coordinate the effort with I think her name was Barbara Applegard.

Q. You said they had their own space in the building. Was that the — what part of the building was that?

A. The school faces Winslow and the park faces Winslow and taking up two rooms coming up toward the front of the building, and some of it ran alongside Alum Creek Drive.

Q. Would it be the northeast corner part of the building?

A. No, it would be the south and southeast corner.

Q. What size rooms were rented out?

A. Regular classroom size.

Q. Isn't it a fact —

A. A couple of the rooms were partitioned to make them smaller for special classes, but — and then we also shared the gym with them. They had a special time that we worked out that they used the gym.

[6241] Q. Isn't it a fact that Alum Crest was built originally with 12 classrooms and had an addition of four classrooms?

A. I don't know when it was built, sir. It was built when I got there.

Q. When you were there, where were your 11 teachers assigned?

A. Which section of the building?

Q. Yes.

A. One teacher was assigned — that building sets kind of cater-cornered, so it is pretty hard. The only way I could explain it is that the building runs this way and back that way (indicating). It runs kind of odd-shaped. Our teachers were assigned in one section, and they were divided in another section.

[6242] Q. And the section that was rented out, isn't it a fact that those were four partitioned rooms which made eight rooms?

A. They also had a couple rooms down the other wing from us. We had a third grade class that abutted there next class, first class.

Q. Mr. Mitchell, isn't it a fact that the students that you described that were transported to Moler in 1966 were transported, also transported to Moler in 1963?

A. I have no knowledge. I was in a classroom in 1963. I know they are still being transferred there today.

Q. Isn't it a fact that in 1963 when they were transported to Moler that that was a new school, Moler?

A. I can't answer that. I was in the classroom at Windsor Elementary School.

Q. So you have no knowledge of the enrollments or capacities at Alum Crest or Moler or Smith Road Schools in 1963?

A. No.

Q. You have no knowledge, I assume, of the enrollments or capacities at Moler or Smith Road in any other years; is that right?

A. You mean prior to —

Q. Anytime since 1963?

A. I don't understand your line of questioning. No —

[6243] Q. You don't know how many students were at Moler School in 1966 then?

A. No, I don't know how many was there.

Q. Now, you say that the students were transported from what area? What was the name of the streets?

A. Well, it is south of Refugee. I do know a couple streets down there, Longdale and Koebel, so I call it the Longdale-Koebel Road area.

Q. I wonder if you could step up to this map here for a second and point out that area on the map?

A. If I could find it, Livingston.

Q. Is it the orange block in green down here?

A. Yes. Here is the creek, this area here.

Q. Would you read off the names of those streets for the record, please?

A. Bellview, Longdale, Liston, Koebel.

Q. And the color of that area where those streets are is what on that map?

A. Orange.

Q. And for the record, this is Plaintiffs' Exhibit 252. Resume your seat.

Mr. Mitchell, isn't it a fact that the Moler School in 1975-75 was 56 percent black?

A. 19 - I don't know. I would have to check the record. I don't know about Moler School. I would assume it is.

[6244] Q. Do you know the racial composition at the present time of the Alum Crest School? Does 80 percent seem about right? 80 percent black?

A. I have been away from Alum Crest for eight years. I have no knowledge about that.

Q. Mr. Mitchell, isn't it a fact that the students on the streets that you pointed to on the map prior to going to Moler were assigned to Smith Road Elementary School in 1962?

A. Once again, I have to remind you, I can't answer that question because I was a classroom teacher. Classroom teachers aren't privy to that type of knowledge.

MR. LOVELAND: No further questions. Thank you.

THE COURT: Anything further?

MR. LUCAS: Just one question.

* * * * *

REDIRECT EXAMINATION BY MR. LUCAS

Q. [By Mr. Lucas] As principal of the school, you would have sent the actual enrollment as you knew it to be whenever the enrollment counts were taken in the records to the main office; is that correct?

A. Pupil Personnel, yes.

Q. What was your testimony again with respect to the number of pupils in the school, the Alum Crest School, as you [6245] operated it?

A. I would say around 210, as I recall.

Q. And regardless of how many classrooms were leased out to some other entity other than the Columbus Board of Education, did I understand your testimony that these students could have been accommodated in the classrooms you were operating?

[6246] A. I felt they could.

Q. Did you see the bus go by?

A. Daily.

Q. And were the occupants in the bus black or white?

A. Predominantly white.

* * * * *

HARRIET LANGSTON

called as witness in behalf of the
Intervening Plaintiffs, in rebuttal, being first
duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LUCAS

[6271] Q. [By Mr. Lucas] State your full name and your occupation, please.

A. Harriet Langston, and I am a school teacher.

Q. And you are employed by the Columbus Public Schools?

A. Yes, I am.

Q. Are you here pursuant to a subpoena served upon you?

A. Yes.

[6272] Q. How long have you been a teacher in the Columbus Public Schools?

A. Three years.

Q. And I believe your mother is a teacher, also, and has been for many years?

A. Yes.

Q. Were you assigned to teach at the East Linden School?

A. Yes, my second year of teaching, I was a teacher at South Mifflin, but due to overcrowding, we were assigned to be bused to East Linden.

Q. All right. You were originally assigned to South Mifflin, right?

A. Right.

Q. Was that a predominantly black school at that time?

A. Yes, it was.

Q. And what year was that?

A. The school year of 1973-74.

Q. All right. And did the teachers or the pupils all go over to East Linden in the same bus?

A. Yes, the teachers and the students went intact from South Mifflin to East Linden.

Q. And was East Linden a predominantly white school?

A. Yes, it was.

Q. All right. Was there more than one class sent from [6273] Mifflin to East Linden?

A. Yes, there were two classes.

Q. All right. And I assume, therefore, there were other teachers with them?

A. Right.

Q. What kind of classroom was your class put in?

A. My classroom was a very old — an older part of the building, the intermediate part. The room that I was in had been previously a detention room. The lighting was very poor in the room. The floors were warped and just wavy (indicating), and we were right beneath the cafeteria where a fan blew constantly where we could barely hear. I had to speak loud; the children had to speak loud. It was really kind of a bad room, I thought.

[6274] Q. All right. Were the children permitted to take recess with the white children at East Linden?

A. No, they were not.

Q. I take it most of the children in your class were black; is that correct?

A. Yes, they were.

Q. And were your children permitted to eat lunch with white children?

A. No, they weren't.

Q. Now, when did you have to take your class to lunch?

A. We had to take our class for lunch at 11:20 before any of the rest of the school ate. We had to be out of the cafeteria by 20 minutes of 12:00 so that the children could go outside and be out of the cafeteria by the time the East Linden children started to eat.

Q. All right. Were you served the same food the East Linden children were?

A. On three occasions we were not served the same food that the other children were served. They have a menu board, and we could see it as we came in, you know, getting off the bus. The children would look at the menu to see what they were going to have for lunch.

When they went to get in line for lunch, on three different occasions it was something different. They asked why, you know, they were getting something different than [6275] what the menu said. The cook would say, "Well, we don't have enough of, you know, what the menu says,

so therefore we are giving you this." But I always thought that when they ran out, it would be at the end and not at the beginning.

Q. Did you protest or complain in any way about the separate lunch times, separate menus and separate recess periods for the children from Mifflin?

A. Yes, I did. On the day before school was to start, we had an all-day meeting at East Linden with the principal and the faculty there, and we were told that our separate — about our separate lunch schedule and recess schedule.

After the meeting at the end of the day, I went to see the principal there, and I asked him why we would be on separate lunch schedules. Why wouldn't we be with the rest of the children? Just because we were, you know, being bused, you know, because we were overcrowded, we should still be together with the rest of the children, and the children should be on the same recess and the same lunches. He said that he preferred to do it that way, and that was the end of it.

Q. Did you express any concern about whether or not the children and teachers should have been fully dispersed throughout the school at East Linden rather than kept in a [6276] separate class?

A. Yes. I told him that I felt that, you know, that the children, they would feel like they were different if they were separated, and I told him I didn't think it was fair, you know, that they should be with the rest of the school because it was the same educational system, the same — you know, we were just bused because we were overcrowded, and not because we are different or because we are taking different courses. We are taking the same courses. We are doing the same educational program, and I felt that we should be with the rest of the students and that we as teachers should be with the rest of the faculty.

Q. Did you observe in the children any differences in their feelings and attitudes because of their being kept separate and intact and away from the other children?

MR. PORTER: Objection.

THE COURT: Overruled.

Q. (By Mr. Lucas) Go ahead, you may answer.

A. Yes, I did. The children felt hostile at times because they noticed a difference, and you — it is difficult to tell them that there isn't any difference when they know that they are separated and there is.

Q. Did the — did you have a parents' night for the children in your class?

[6277] A. Yes, we had open house like we do every year.

Q. All right. And when you had the open house, where did you have the open house for your classroom?

A. We had to have our open house at East Linden in our own rooms.

Q. And the day you had open house at East Linden, was the building full or empty? In other words, was East Linden having its open house, too?

A. No, there were just the two teachers, me and another teacher, and we were the only two in the building other than the janitors.

Q. So that the black parents who came in to see what their children were doing came into the empty school except for your two classes; is that right?

MR. PORTER: Objection.

THE COURT: Sustained.

Q. I take it with the black children, most of the parents were black; is that correct?

A. Yes.

Q. When they came to the school, were there white parents of children who were assigned to East Linden at that school for open house, teachers' night or whatever you may call it?

A. No, they weren't.

Q. Who else was there besides you and your children [6278] and the other teacher and her children?

A. No one but the janitor.

Q. No one but the janitors.

Were you in this particular situation one year or more than one year?

A. One year.

MR LUCAS: I have no other questions.

THE COURT: Cross-examine.

MR. PORTER: Yes, Your Honor.

* * * * *

CROSS EXAMINATION BY MR. PORTER

Q. [By Mr. Porter] Mrs. Langston — it is Missus; is that correct?

A. Yes, that's correct.

Q. Am I correct in assuming that you disapprove of the concept of taking a group from one school because of overcrowding, placing them in another school and maintaining that class intact in the second school; am I right about that?

A. No, sir, I don't object to that. I don't object to the busing intact at all from one school to another and keeping that class — keeping the classroom as such, you know, with the teacher in their room. I object to the fact that the children at recess time should be together with the other children in that building and that the [6279] teachers should be — share the duties equally with the rest of the faculty.

Q. All right. So that I understand you, please, and if I don't, I would appreciate it if you would tell me —

A. Yes, sir.

Q. Then you do not object to the concept itself, where you have overcrowding, you do not object to the concept to take children to another physical facility and maintain that class at the second physical facility as a group; am I correct about that?

A. No, sir, I do not object to that.

Q. All right. But what you do object to is what you would consider discrimination in this case because you say that the — or infer that the children from South Mifflin had a different recess time and a different eating time, and I've forgotten what the third is; am I correct about that?

A. Yes, sir.

Q. All right. Now, you do recall, do you not, that the South Mifflin Elementary School, during the period after the Mifflin School System was annexed to the City of Columbus, that it was experiencing enormous overcrowding in the South Mifflin School; am I right about that?

A. Our school was very overcrowded, yes.

Q. And it is my understanding that it was necessary [6280] to move about six classes a year over a period of several years; am I not right about that?

A. Yeah, the particular year that I was bused, there were over six classes.

Q. And two of them went to East Linden, and some went to Crossroads and some went to Arlington Park; am I right about that?

A. Yes, sir.

[6281] Q. And the two classes that went to East Linden, there was yourself as a teacher and a white teacher, I believe; is that right?

A. Yes, sir.

Q. All right. And you and she had the same schedule at East Linden; is that correct?

A. Yes, sir.

Q. All right. Now, it's also my understanding that initially — initially, you and/or somebody on your behalf or on behalf of the other teachers asked that you not be included within the normal recess scheduling; am I not correct about that?

A. No, sir, you are not.

Q. It is true, is it not, that in October, approximately October of 1973, the scheduling of recess teachers was changed and you were included along with the other lady

with the normal East Linden recess program of handling the people out on the playground; am I right about that?

A. No, sir.

Q. All right. Now, it is also my understanding that your class started the day at East Linden at the same time that the East Linden children started the class; is that right?

A. No, sir, we did not start at the same time.

Q. Oh, you didn't? When did you start?

[6282] A. We — due to the bus ride, we started at 9:00 o'clock, and their class took up at quarter of 9:00. We were enroute between quarter of 9:00 to 9:00 o'clock.

Q. So that your schedule was different, wasn't it?

A. We got there about 15 minutes, you know, later than they did.

Q. And if I understand correctly, and you correct me, please, if I'm wrong, your schedule was such that you got back, you were brought back by bus to South Mifflin; isn't that right?

A. Yes, sir.

Q. And you arrived back at South Mifflin in time to be dismissed with the total South Mifflin Schools; isn't that true?

A. Yes, sir.

Q. All right. And that meant, that meant that the time available for classroom curriculum or non-bus riding, if you wish, was decreased, was it not?

A. No, sir, not really. Even though we did not start at the same they did, the 15-minute period for the bus ride did not really take up that much of the class time. During a 15-minute period from quarter of 9:00 to 9:00 o'clock, you take attendance and the lunch count, and that's about all you get done. We had reading promptly at 9:00 o'clock. Therefore, it did not take us that much time.

[6283] Q. Miss Langston, I am not going to argue with you, and that's not my question. I will ask it again, please. If you came back to South Mifflin and you got out

of class at the same time that the youngsters who attended South Mifflin did, it meant that you had lost some time in transportation between East Linden and South Mifflin, did you not?

A. Oh, yes, we did.

Q. And if I recall correctly, that time was picked up by dropping out an afternoon recess, was it not?

A. No, by dropping out a morning recess.

Q. All right, it dropped out one of the two recesses?

A. Right.

Q. Now, there were, I believe, in East Linden approximately 500-and-some students; am I right about that?

A. I don't know.

Q. There were several hundred, weren't there?

A. At East Linden?

Q. Yes.

A. I don't know what the enrollment was at East Linden.

Q. Let me ask it a different way. The record in this case will show what the enrollment is, so let me ask it a different way. The dining room at East Linden was not large enough to handle all of the student body at East Linden [6284] at one time, was it?

A. No, it wasn't.

Q. And, as a matter of fact, they had a staggered or stacked noontime lunch period, did they not?

A. I don't know what you mean by staggered or stacked.

Q. All right, I will explain what I mean. The first and second graders at East Linden came into the cafeteria, got their lunch and took their lunch back to their rooms and ate it, did they not?

A. Yes, they did.

Q. And the group from East Linden came in and they got their lunch and they sat down after those first and

second graders had moved through the cafeteria line and gone back; isn't that right?

A. Yes.

Q. And then the remainder or rather another group of East Linden came in, got their lunch and sat down at the same time the group from South Mifflin was sitting there and eating; isn't that true?

A. No, sir, we did not eat together.

Q. And they were followed in turn by a fourth group; isn't that true?

A. No, sir.

Q. All right. When did — strike that.

[6285] Your class was a fourth grade class; am I correct?

A. You are correct.

Q. And I believe, if I have worked this through correctly, and you please correct me, that this group had not been taken to a school on an intact busing situation before, or had they?

A. Some of the children had and some hadn't.

[6286] Q. In looking at the program for a period of years during this period of time, it appears as though there is an effort made to see that a child does not go to — by bus two years in a row; am I correct about that?

A. That's correct.

Q. As a matter of fact, you have only gone the once; isn't that right?

A. That's true.

Q. But your children, some of the children that you have taught have been to South Mifflin, Arlington Park and East Linden and possibly Crossroads; am I right about that?

A. That's true.

Q. Now, you have described the physical facilities under which you taught?

A. Yes.

Q. And I would like to ask you some questions about that, please. The first is, it is my understanding that the East Linden Elementary School was a part of the Mifflin, the old Mifflin School District. Am I correct about that?

A. I guess so.

Q. And it is my understanding that it was built in about 1911. Is that — it is an old building, is it not?

A. It is an old building.

Q. You were located in I believe Room 6; is that right?

[6287] A. I guess so. I don't remember the room number.

Q. It is on the second floor; isn't it?

A. Yes.

Q. And on the second floor adjacent to you were the regular fourth grade classes from East Linden; isn't that right?

A. Next door.

Q. Well, let's — there was a teacher by the name of Hall who taught fourth grade at East Linden; is that right?

A. That's right.

Q. Is that Miss or Missus or Mister?

A. Mrs. Hall.

Q. And she was by your room, was she not?

A. Next door.

Q. And there was a Ferguson: is that right?

A. Right.

Q. Miss or Missus?

A. Mrs. Ferguson.

Q. And she was there right by your room, was she not?

A. She was across and down some steps.

Q. And then there was a teacher by the name of Grow, Miss or Missus?

A. Mrs. Grow.

Q. And she was there on the second floor adjacent, was she not?

[6288] A. Yes, she was.

Q. So that your classroom was immediately adjacent in complete proximity to the other fourth grade classroom at East Linden; isn't that true?

A. Yes, sir, that's true.

Q. So that the cafeteria noises and the fan noises that existed over your room were exactly the same as existed over the others, were they not?

A. No, sir, that's not true.

Q. Did you have any white youngsters in your class?

A. Yes, sir.

Q. Approximately how many?

A. About three.

Q. Were there any black youngsters at East Linden?

A. Yes, sir.

Q. Some in the fourth grade classes at East Linden?

A. I don't know.

Q. Are the youngsters at South Mifflin now all back at South Mifflin with the exception of a kindergarten class?

A. Yes, they are.

Q. So they are all housed back in that building?

A. Yes.

[6289] MR. PORTER: Just a few more questions, Ms. Langston.

* * * * *

RECROSS EXAMINATION BY MR. PORTER

Q. [By Mr. Porter] I understand in addition to these other matters about which you described for Mr. Lucas or, rather, in that description, you have said on three occasions during the year you were served food that was different from the food that was served to the children whose normal, permanent school was East Linden; am I right about that?

A. Yes.

Q. And you made no — you did not say, nor do I assume do you claim that the food was inferior, do you?

A. No, sir, I don't claim that it was inferior.

Q. It's just that it was different?

A. It was different.

Q. You would agree, would you not, Ms. Langston, that the principal at South Mifflin did have a significant problem in his own building in the handling of these children for about five years; isn't that right?

A. I don't know, sir. About the problem?

Q. Do you know about the overcrowding?

A. Oh, as far as the overcrowding?

Q. Yes.

[6290] A. The building was overcrowded.

Q. And it is true, is it not, that this put a burden upon the teachers and the students at South Mifflin insofar as the necessity of dealing with that overcrowding, using facilities that were too small and going to other classes, other buildings; isn't that right?

A. I wouldn't say so. We just did our job.

Q. All right. And would you agree that it placed, the overcrowding placed upon Arlington Park and the other schools, Eastland and the other schools which made room for and housed the students from South Mifflin, it created a problem for them, too, didn't it?

A. I wouldn't say so, sir, because they had the room to house us.

MR. PORTER: I have no other questions of this witness.

MR. LUCAS: I have a couple of questions.

* * * * *

REDIRECT EXAMINATION BY MR. LUCAS

Q. [By Mr. Lucas] Ms. Langston, Mr. Porter asked you about the teachers who taught across the hall, down the stairs and on either side of you, and so forth.

A. Yes.

Q. Was the noise or the fan from the cafeteria or [6291] heat or whatever it was from the cafeteria, or whatever you were speaking about, different from the classroom you were assigned to?

A. Yes, sir, because we were on an outside room. Well, it would have been outside except for the cafeteria was right under us right here (indicating). The other rooms had the streets. They didn't have the cafeteria at all. The cafeteria was right here (indicating) in a long building, right next to us. The fan would come on — we had windows all along the — L-shaped, and when the fan came on, even though we closed the windows, you could hear it constantly and it connected right through the — not the heater, but the — you know, whatever that thing is, the vents, and the fan continually went and we heard it through the vents. We did not have — on that side of the room, they did not hear it.

Q. All right. Did you have any problem in teaching the children in your classroom when they were in class and the rest of the white children of the school were out at recess? Did that create difficulty?

A. Constantly.

MR. PORTER: Objection.

A. They played outside. After reading, we did not have a morning recess, and the children outside — they had two different primary and intermediate recess times, and it [6291-A] did disrupt, especially during the spring-time and early in September.

[6292] Q. All right. Did you speak to the principal about it and again urge that the recesses be made at the same time?

A. Yes, sir, I spoke to him several times about it.

* * * * *

TRANSCRIPT OF JULY, 1977 REMEDY HEARINGS
MOTION BY MR. PORTER

[4] MR. PORTER: If the Court please, there are several issues to which I would like to speak and address two motions to the Court, and in doing it, I would like to guess review what I consider to be the law applicable to the matters before the Court at this stage of this proceeding, and to make some comments with respect to it and the Court's opinion and order of March 8th and of last week.

At the outset, I respectfully point out to the Court and counsel that this is a matter which is bifurcated; that the issue of liability has been tried and has been determined by this Court; that the matter before this Court at the present time is one of remedy and that, under the traditional rules governing an action of this type where equitable relief is sought, the matter at issue is entitled to treatment to the same degree of legal refinement as the previous part of it. [5]

By that, what I mean is this is not a sentencing, but rather is a hearing under the traditional Rules of Evidence and Burden of Proof dealing with the remedy that the Court must ultimately adopt.

On June 27, 1977, the Supreme Court of this country, in Dayton Board of Education versus Brinkman vacated a Sixth Circuit Court of Appeals decision which had upheld a remedy plan requiring that the racial distribution of each school be brought within 15 percent of the 48 to 52 percent black/white population of the Dayton schools.

Justice Rehnquist set forth the following duties of the lower courts in school desegregation cases:

The duty of both the District Court and the Court of Appeals, in a case such as this where mandatory segregation by law of the races and the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which

was intended to and did, in fact, discriminate against minority pupils, teachers or staff.

All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate.

If such violations are found, the District Court, in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted. [6]

When that distribution is compared to what it would have been in the absence of such constitutional violations, the remedy must be designed to address that difference, and only if there has been a systemwide impact may there be a systemwide remedy. Obviously, I am going to refer to that language a number of times in my comments this morning.

I would make this initial comment: That in the part of the statement on what the Court must determine; that is, how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, is a critical question. It is a question or a test which, to a large degree, deals with the responsibility of the Court in fashioning a remedy to rectify violations of the Constitution which took place sometime in the past.

What I have reference to is that if there has been a violation of the Constitution, that unless there is presently present, but for that violation, no effect, then there is no remedy to be fashioned by the Court.

I will come back to this a number of times because I think that it is the critical issue. I think it is the United States Supreme Court struggling with the whole problem of affirmative action and what responsibility this generation has for problems that may have taken place years in the past.

If the Court will remember, the Court addressed to me about ten months ago in this room the question of [7] the responsibility of the Columbus Board of Education. I think the example your Honor used is what responsibility, Mr. Porter, does the Court have or does the school have, if it discriminates with respect to Pilgrim Elementary School. What must it do in 1976?

That is paraphrasing your Honor's question to me, and I believe that my answer was that if that school system, that school is presently racially balanced the way it is because of the housing patterns that exist there and has nothing to do with prior acts of discrimination that may have taken place, then it has no responsibility, and I believe that is the way I answered that question.

I believe that is exactly what this particular test of the United States Supreme Court is dealing with at least in part.

The Columbus Defendants respectfully submit that Dayton requires the Court to determine the incremental segregative effect of the constitutional violations identified on March 8, 1977, in an opinion and order, before any remedy can be required. The Dayton case also instructs the Court in the method of determining such effect.

The Court must compare the racial distribution of the Columbus school population as presently constituted to what the racial distribution would have been in the absence of the constitutional violations found.

It is the difference yielded from that comparison that must be remedied. [8]

The applicability of Dayton to other school desegregation cases was illustrated on two Supreme Court cases announced on June 29, 1977.

In both cases, the Supreme Court vacated lower court judgments.

In the Omaha case, the District Court had originally found in favor of the school system. On appeal, the

Eighth Circuit reversed and held that the segregation in the Omaha schools must be eliminated root and branch and remanded with directions and guidelines with development of a systemwide remedy.

The Court of Appeals in that case found: "We conclude that in five decision-making areas, the Appellant produced substantial evidence that the Defendants' actions and inactions, in the face of tendered choices, had the natural, probable and foreseeable consequence of creating and maintaining segregation."

The five areas include: Faculty assignment, student transfers, operational attendance zone, school destruction and deterioration of Tech High.

The proof in each area was sufficient in and of itself to trigger the assumption of segregative intent.

We also conclude that the Defendants failed to carry their burden of establishing that segregative intent was not among the factors which motivated their actions. Accordingly, we hold that the segregation in the Omaha Public Schools violates the Constitution and must be eliminated root and branch. [9]

The Supreme Court denied certiorari in 1975 on that case. On remand, the District Court ordered a comprehensive systemwide student integration plan in accordance with the guidelines.

The plan was affirmed by the Court of Appeals. The Supreme Court, on January 29, in its decision, vacated the Eighth Circuit's decision, affirming a systemwide remedy because neither that court nor the District Court had addressed, "the inquiry required by our opinion."

If the court said, neither the Court of Appeals nor the District Court in addressing themselves to the remedial plan mandated by the earlier decision of the Court of Appeals addressed itself to the inquiry and required by our opinion in *Dayton Board of Education versus Brinkman* in which we said that if such violation are found, the Dis-

strict Court in the first instance, subject to review by the Court of Appeals, must determine the incremental segregative effect these violations had on the distribution of the Dayton school population as presently constituted when that distribution is conformed to what it would have been in the sense of such constitutional violations.

The remedy must be designed to address that difference and only if there has been a systemwide remedy, may there be — systemwide impact, may there be a systemwide remedy.

The petition for certiorari is accordingly granted and the judgment of the Court of Appeals is accordingly vacated for reconsideration in the Village of Arlington Heights in Dayton. The systemwide remedy order in Omaha was vacated, pending the [10] determination of the incremental segregative effect of the specific constitutional violations found.

The Court of Appeals' broad declaration that a systemwide remedy was required were not sufficient, absent the more specific determination required by Dayton. On the same day, the Supreme Court applied the Dayton case to the Milwaukee school segregation litigation, Brennan versus Armstrong. As in Omaha, the Supreme Court vacated the judgment of the Court of Appeals for reconsideration in light of the Village of Arlington Heights in Dayton.

In the Milwaukee case, the District Court originally found intentionally caused segregation in the Milwaukee system and said the Court concludes that the defendants have knowingly carried out a systematic program of segregation affecting all of the city's students, teachers and facilities, and have intentionally brought about and maintained a dual school system.

"The Court therefore holds that the entire Milwaukee Public School System is unconstitutionally segregated." The Seventh Circuit Court affirmed this finding by the lower court and the school board sought a Writ of Certiorari from the United States Supreme Court.

On March 17, 1977, the District Court ordered implementation of a systemwide plan of desegregation. On June 29, the Supreme Court, in vacating the Seventh Circuit decision, said neither District Court in ordering development of a remedial plan nor the Court of Appeals in affirming, addressed itself to the inquiry mandated in our opinion by the case of Brinkman in which we said and the Court again quoted [11] the lines I have read.

“The Petition for Certiorari is accordingly granted and the judgment of the Court of Appeals is vacated and remanded for reconsideration in the light of the Village of Arlington Heights versus Metropolitan Development.”

Notwithstanding, the lower Court's general pronouncements that the violations or liability in the Milwaukee case was systemwide, the Supreme Court remand required the lower Court to address and to make the specific determination of incremental segregative effect as defined in Dayton.

Respectfully, I submit that this Court is also required to address itself to the inquiry mandated by the Supreme Court's Dayton opinion. As in Dayton, Omaha and Brennan, this Court must determine how much incremental segregative effect these violations had on the racial distribution of the Columbus school population as presently constituted when that distribution is compared to what it would have been in the absence of such constitutional violations.

As made clear in Brennan, the required inquiry should be made when it is ordered the development of a remedial plan. Only in that matter will the Court and the litigants know what type of remedy must be designed to address that difference.

The Court's March 8 opinion and order, like the decisions in Omaha and Brennan, finds constitutional violations and holds that the liability is systemwide.

In its memorandum and order of July 7, the Court [12] said that it would not, “order implementation of a

plan which fails to take into account the systemwide nature of the liability of the Defendants.”

In view of the recent decisions of the Supreme Court, this Court is required to do more. It must determine the difference between the present racial distribution in the Columbus Public Schools as compared to what it would have been in the absence of such constitutional violations.

It is only that difference, the incremental segregative effect, that must be remedied under constitutional principles.

Because of the mandatory considerations now required by Dayton, Omaha and Brennan, the findings of fact contained in March 8, 1977 opinion and order of this Court are insufficient to permit the formulation of an appropriate remedy. It is respectfully submitted that a remedy cannot be fashioned in accordance with constitutional requirements until the Court first defines the contemporary effects of the constitutional violations described in the March 8 opinion and order.

In the Dayton case, the Court said, the District Court said, that the ultimate conclusions that racially imbalanced schools optional attendance zones and recent board actions are cumulative. A violation of the equal protection clause. This appears at page six of the Slip opinion by the United States Supreme Court.

This Court in its memorandum and opinion that was issued last week, stated the Court found that the Columbus Public Schools were officially segregated by race in 1975, and further found that the Board of Education never actively [13] set out to dismantle this dual system.

The Court discussed in detail – and I am quoting from your opinion and order – “a variety of post-1954 board decisions and practices, such as creating and maintaining optional attendance zones and additions contiguous to attendant zone areas and choosing sites for schools which had the natural formal intent of enhancing rather

than reducing racially imbalanced schools that were purposely established by the board in 1975.”

In the Dayton case, the United States Supreme Court quoted from the Court of Appeals’ decision and it quoted at page nine of the Slip opinion and it stated that in the Dayton case, there was a three-part cumulative constitutional violation amply supported by the evidence and they imposed a systemwide remedy and the Court then went on and said it had — the Court of Appeals had no warrant for imposing a systemwide remedy.

There was no showing that such a remedy was necessary to eliminate all vestiges of the state-imposed plan.

The Court seems to have reviewed the structure of the Dayton School System as a sort of fruit of the poisonous tree. The point I wish to make is that in the Dayton case, there was a finding of three violations, racially imbalanced schools. That is a total systemwide type of finding.

Optional attendance zones, recent board actions; those are three general statements by the Court of Appeals and the District Court. When you turn and look to the basis of the support for those conclusions, then, you pick up [14] specific pieces of evidence or specific schools or specific acts, and the Court is saying, I respectfully submit, that they are saying that in this situation, there is nothing the matter with the three statements that are made. They are general, but they are not supported by the evidence.

In your Honor’s decision, you have made also general statements of this type and you have relied on five pre-1954 schools and you have relied on certain acts since 1954, and the same type of thing can be done, I respectfully submit, with your decision or anybody’s decision. Or anybody’s decision.

I would like to move from that for just a moment to what I respectfully and very respectfully submit is this Court’s approach to this case, and in doing this, I want to refer to your March 8 opinion and order.

In talking about real estate in page 58 of the Court’s

opinion, it is stated, "It is not now possible to isolate these pictures and draw a picture of what schools or housing would have looked like today without the other influence."

I don't think that such an attempt is required. I spoke earlier of your question addressed to me concerning Pilgrim and I think it was Pilgrim, but it doesn't matter. It was one of the pre-1954 schools and my response to that.

I would submit that your Honor, I believe, takes the position that if there was a violation at some point in time, there is an affirmative duty to act today.

I think that this is demonstrated¹ in several places [15] in your Honor's very fine opinion at page 60. There is the statement made again, which I would like to quote, that in discussing — it is under the burden of proof, I believe — no, it was dealing with the five schools.

"Nothing has occurred to substantially alleviate that continuity of discrimination of thousands of black students over the intervening decades." This appears at page 60.

Again, at page 61, "Defendants have not proved that the present admitted racial imbalance in the Columbus Public Schools would have occurred even in the absence of the segregation — of their segregated acts and omissions," and at page 75, "It is extremely difficult to roll back the clock and determine what the school system would look like, had the wrongful acts and omissions never occurred." [16]

In your Honor's memorandum and order of last week, it is stated that the Defendant school board must certainly have the opportunity to provide to meet their Swann burden concerning predominantly white schools which remain identifiably white under a substituted plan. I would submit to your Honor that the substance or the purpose or the thrust of the Dayton case is to provide information to this Court and the District Court and the Court of Appeals.

It does provide a standard, and that standard is the one that I have read several times. and I think that there has to be a finding as to what the situation would be, but for, and absent that, I think that the Supreme Court three times last week or the week before said that if you don't have that, then, there is no basis for such a remedy.

Now, I would submit that there is nothing unusual about this. There is nothing unique about it. I agree with your Honor's statement that — it is a traditional approach. I think that is correct. It sounds a lot like normal tort language that we are all familiar with. It is a causation problem, in part, and I see that this is not unusual.

I think it is really the traditional function of the Court, and I recognize that in the Dayton case, the United States Supreme Court recognized the difficulty of applying this type of standard as a matter of fact; that it is difficult to do, that they also stated that this is [17] what the requirement is.

The Court in its opinion of last week, and I should read it, comments that two days after the Dayton decision with three justices dissenting, that the Omaha and Milwaukee cases were vacated and remanded. The Court then says, "The Seventh and Eighth Circuit Court of Appeals and perhaps, ultimately, the Supreme Court will decide whether the cases cited by the Supreme Court have any impact upon the Omaha and Milwaukee litigation."

It may be that I am missing the point of the language, but what I understand that to be saying is that the Supreme Court has not acted. I would suggest and respectfully submit that the Supreme Court has acted and it has said that where there is a finding of a systemwide violation, there still must be a determination of what the system would be like but for the violations of the Constitution, and I don't understand how, I respectfully submit, that I don't understand how the Omaha and Milwaukee case can be ignored.

I think that one came up on a liability. One came up on a remedy. They both did substantially the same thing,

and the Supreme Court of the United States sent it back and said, "You can't do that. You have to make these findings."

I recognize that there are great difficulties in a case of this type, and I recognize that they are emotional and that they impose an enormous burden upon a court and counsel. Unfortunately, I suppose, that we all [18] approach matters with some preconceived ideas, and the difficulty of sorting that out is hard. We certainly all recognize that it is not the function of the Court to replace the legally elected officials of the school system or to take over the responsibilities, even though one might do it differently. [19]

There certainly has been, in some decisions elsewhere, a tendency to sometimes reach far.

There was a very interesting article within the last week that appeared, I think, in the New York Times, dealing with what appeared to be a trend in the judicial — at the Supreme Court level and the Legislative and Executive Branches of government with respect to the conceived idea of what is the responsibility within the legal system because of past practices. How is this dealt with?

I would suggest to the Court that the Dayton case really is struggling with that problem. I would suggest that this is exactly what it is dealing with. It is one aspect, I suppose in a way, of the struggling with the so-called affirmative action problems.

I understand that the NAACP has taken the position, as recently as yesterday, that there is a responsibility on government to rectify wrongs that were committed in the past. I am suggesting that in the Dayton case and the Omaha and the Brennan cases, the U. S. Supreme Court is not saying that is wrong, but they are saying you have got to find that there is a causal connection, and you have got to find out what it is but for that, and that is what the responsibility is, and I submit that that is a traditional con-

cept and a legitimate function of the Court and one that has to be indulged in and pursued here.

In the Milwaukee case, the lower courts said, in referring to Milwaukee, they have knowingly carried out [20] a systematic program of segregating affecting all the city students, teachers and school facilities and have intentionally brought about and maintained a dual school system. They found it existed with respect to boundary, busing, open transfers, faculty, additions to schools.

In the Omaha case, they said the system must be dismantled root and branch there. They found there was discrimination in faculty assignments, student transfers, operational attendance zones, school construction and zoning with Tech High School.

These are broad decisions, but yet they were remanded and sent back for a specific finding; findings that there must be a determination of what this would be but for.

I don't suggest to know the answer. Alpine Elementary School, I submit, is not white because of any action by the Columbus Board of Education. I submit that Pilgrim Elementary School is not black today because of any action by the Columbus Board of Education, and I would submit that Linden McKinley is not black today because of any action because of the Columbus Board of Education.

These schools were built, as the Court pointed out on pages 13 and 14 of his opinion on March 8th, were built in accordance with recommendations by Ohio State University.

They are what they are because of housing patterns that existed around them, not because of any action by the Columbus Board of Education in an attempt to [21] discriminate.

To say that a school built on the edge of a school district sometime after 1954, in an area that wasn't in the district in 1954, and built in response to recommenda-

tions by Ohio State University that it must be racially balanced under a rule which says the remedy must rectify the violations is to read something into that rule that, I submit, is not there.

I don't propose to, and I am sure not permitted, but I don't propose to make an opening statement at this point. I wish to make a comment, if I might.

I think the evidence will show that the plan that was submitted on June 10, by the Columbus Board of Education, was a bona fide and legitimate effort made by the Board to deal with the Judge's decision of March 8th.

The plan submitted by the Board on July 8, is a bona fide attempt to interpret that decision in light of Davis, Omaha, Brinkman.

Now, it may be that the advice or the recommendations to the Board are bad, but I assure you that is what gives rise to it, and I would submit that a reading of the Dayton case, a reading of the Dayton case and a comparison of the general language that exists in Judge Rubin's decision and exists in the other cases and exists in this case, when you bring it down to the specifics of the matter, and attempt to deal with the problem of what is it that a Board must do, what must it rectify, that the Board of Education has attempted to do that, and it has dealt with those things which the Judge has identified. [22] Now, we would ask the Court to, and so move, determine how much incremental segregative effect the constitutional violations found in its March 8, 1977 opinion and order, had on the racial distribution of the Columbus Public School population as presently constituted, and each elementary, junior and senior high school when that distribution is compared to what the racial composition of what the Columbus school population would have been in the absence of such constitutional violations in each elementary, junior and senior high school in the system.

We would respectfully submit that that is what the Supreme Court requires, and we would respectfully sub-

mit that it is consistent with the traditional approaches and concepts which govern legal matters, and would respectfully ask the Court to do that, and I would point out that it is not, is not a question of burden shifting.

The burden, I would respectfully say, by the way, never did shift, but putting that aside, the question of burden shifting has nothing to do with this problem. This requires specific findings, and if it is not done by the Court or by the Plaintiffs or if the Defendants are ordered to do it, and they fail, there is no basis, there is no basis for the Court acting consistent with that decision.

It is simply a matter of the Plaintiffs sustaining their burden with respect to an element of their case, to wit, damage or remedy.

I have a second motion that is very short, and [23] that is we respectfully move the Court for an order directed to the Plaintiff to submit a plan which the Plaintiffs believe complies with the Court's opinion and order of March 8th.

I am not going to belabor it. I will simply say that it is not to abdicate the responsibility of Columbus Board of Education to submit a plan. We have done that, and we will continue to comply with the Court's orders.

I do not believe any proceeding that has gone on for four years with the type of expertise that the Plaintiffs have and the talent they have that they have demonstrated in this courtroom, professionally and through experts, that they take the position that they have no responsibility to submit a plan. That makes no sense to me, and I think they should be required to do it, and I think they should face up to what do test decisions mean and what do they mean.

I thank you for your Honor's patience.

THE COURT: Mr. Michael, the Court notes that this morning you caused to be filed a motion for supplemental finding. Would you wish to speak to that?

MR. MICHAEL: Very briefly, if I may, your Honor, to supplement what Mr. Porter has already said. I don't

wish to belabor the points Mr. Porter has already made, and I believe our motion speaks to the same issue.

A motion was filed on the same basis, that is [24] that the Dayton, Omaha and Milwaukee cases require this Court to go further in its fact finding than an application of presumption, which we feel is how the Court has gone to systemwide remedy in its plan.

I think that is reflected in the Court's July 7 order, on page five, where it stated, and I quote, "Systemwide liability is the law of this case pending review by the Appellate Court. Defendants had ample opportunity at trial to show, if they could, that the admitted racial imbalance of the Columbus Public Schools is the result of social dynamics or of the acts of others for which Defendants owe no responsibility. This they did not do."

I would respectfully suggest that the Dayton, Omaha and Milwaukee cases do require this Court to make specific findings outlining the contemporary fashions of the present city school system of past segregative acts.

This Court did recognize the difficulty of making such determination in those portions of the March 8th order that Mr. Porter has already recounted.

I think the Dayton case was foreshadowed by some of the language in the case pending, specifically page 189 of Keyes, where the Court stated, "In Swann we suggested that at some point in time the relationship between past segregative acts and present segregation may become so attenuated as to be incapable of finding de jure segregation warranting judicial intervention.

I think what the Court has said in Dayton is that [25] this Court must make specific findings, findings that that relationship in specific areas in the city, specific school systems has not become so attenuated.

To put it another way, I think Dayton suggests that while Keyes permits an influence of segregative intent insofar as the remainder of the school system is concerned,

that Dayton demands that this Court examine the present composition of the remainder of that system and determine whether or not that intent is actually the cause of the effect or the present racial imbalance.

I think the language regarding the fruit of the poisonous tree, as referred to at page 10 of the Dayton Slip opinion, allows us to draw that kind of conclusion.

Thank you.

THE COURT: The Court is going to take a ten-minute recess.

(Short recess.) [26]

THE COURT: Mr. Lucas, you may argue.

MR. LUCAS: May it please the Court, I am not sure if the Defendants are relying on this argument at all, and it was mentioned, for whatever reason, they recited that the Court in Dayton set a ratio in the assignment of pupils, racial ratio. I might simply point out that although it was a major point of argument in the Defendants' briefs in the Supreme Court that the Court had set a ratio, and it was our response that that was simply a starting point and a flexible one at that.

The Supreme Court expressed no disapproval of the flexible ratio set by the District Court in Dayton despite a major dispute about that issue.

Going on to the rest of the Defendants' argument, I think it is safe to say that what the Defendants are suggesting here is, A, a retrial of the case, and B, an analysis of the Columbus Public Schools that requires the Court to treat it as 172 systems instead of one system with a number of schools.

Perhaps it is appropriate to discuss a little bit about what the Supreme Court said in Dayton and did not say. The Supreme Court noted in Dayton that the case was important obviously because of the important constitutional issues raised, but it was every bit as important for the issues raised as a proper allocation of functions between the District Court and the appellate courts.

Very simply, the Supreme Court's opinion, I think, may be fairly characterized as a critique of a District Court opinion which did not reach a number of issues and [27] which used a phrase which the Court of Appeals, the Supreme Court, and the parties found to be ambiguous, and that is the human violation phrase. It seemed to mean different things to the District Court as different times and different things — different possibilities as pointed out by the Supreme Court. [28]

The Supreme Court makes reference to the duty of District Courts, no matter how difficult, to make the kind of detailed findings of fact which this Court made in its opinion in March. It points out that the District Court in Dayton simply did not make those findings.

It then goes on to discuss the opinion of the Court of Appeals, and it notes that while the Court of Appeals gave a far more detailed analysis of both the historical facts and some of the present facts and expressed some concern about a variety of areas of constitutional concern usual in school cases, such as on page ten, serious questions as to staff assignments, school construction, break structure, realization, transfer and transportation, the Supreme Court pointed out in what I could only describe as frustration that the Court of Appeals had failed to resolve those issues.

It said that not so much as a criticism of the lower courts, but rather, to indicate it is the sort of situation where everybody assumes that the other person knew what they were talking about, and perhaps the language of both courts, in the words of the Supreme Court was stated in too conclusionary terms.

That is not the situation we have here. What the Supreme Court sent the Dayton case back for in major pressure was to determine what constitutional violations there were in the first instance. As was pointed out in their opinion, all parties conceded that if you conceived [29]

of the violations as being only the three as articulated in the Petitioner's brief in the Supreme Court and summarized by the Court in its opinion, that no one said that standing alone was enough.

As Mr. Justice Rehnquist pointed out, however, there are a number of other factors in the record. In fact, there are quite a volume of facts in the record which were not decided by the District Court in some instances and not resolved in any instance by the Sixth Circuit, and that there should be further consideration of that matter.

The defendants argue that there needs to be a concern by this Court with matters in the Dayton case. The Dayton case says that there must be new findings and conclusions as to violations in light of *Washington versus Davis and Village of Arlington Heights*.

This Court considered both of those cases and made its findings, conclusions in consideration of the principles expressed in both of those opinions. So that is an inquiry this Court has already accomplished because it had an opportunity to do so, those opinions having been rendered prior to its decision.

The Supreme Court noted in *Dayton* that there was confusion, and I quote, as to the, "applicable principles to be applied and confusion as to the appropriate relief."

The Supreme Court said that where there was system-wide impact, there should be systemwide remedy. There is nothing in any of the Supreme Court decisions [30] that says the Court must make fact findings as to each and every school. That indicates that that school is solely affected in its racial composition by an act of discrimination.

There is no law that says that a Court must find that the sole cause of racial composition of a school is racial discrimination on the part of the Board of Education.

Keys, it is still good law; it is cited and relied upon by the Court. As a matter of fact, on page 14 of the Slip Opinion, the Court says, "if there has been a systemwide

impact, then, there may be a systemwide remedy," and it cites Keyes at page 213.

Now, the Court very well could say if that were its intention, that there must be shown to have been an impact on each school in the system. [31]

As this Court noted and as other courts and the Supreme Court have noted, you cannot have a black school without a white school. There are reciprocal situations. There are reciprocal effects from constitutional violations.

The Defendants make a point about certain schools located at the edge of the district. Well, I don't see anything in Dayton, Milwaukee, or Omaha that says Swann is not good law, and if Swann, as this Court noted in its opinion, the Court said that the location of schools at the furthest edge of the district, concentration of black schools in the inner part of the district may well be a segregative tool. So the fact that we have Alpine School at the edge of the district as a part of an overall pattern of school construction which more often than not opened as black or white, it is not an indication that that school is unaffected by the racial discrimination.

At page 61 of this Court's opinion, the Court talked about, and by picking a few of these out, I don't mean to indicate these are the only references. Let's start at page 60.

The Court pointed out that the assignment of teachers and administrators in the Dayton Schools have negatively influenced the racial character of the schools. It didn't say this only happened in one year. It didn't say this happened only in the remote past. It said that it has happened. [32] It said that recent acts have lessened the sting of the practice that have not served to substantially removed the evil it helped to create. I think that demonstrates that this Court has considered the present condition in schools, the present pattern in schools, and whether or not there is a system of impact from the discrimination practice by the Board of Education.

At the end of page 61, the Court points out that the Defendants have not proved that the present racial composition of the Columbus Public Schools would have occurred even in the absence of their segregative acts of admission cited in the 1977 Supreme Court case. That is Mount Healthy School District, Board of Education versus Doyle.

The Defendant's argument requires this Court to assume or to require a burden of proof on its self and that the Plaintiffs — that the Plaintiffs create a time machine. The Defendants are saying, "Okay, assuming that the Court is right, that we committed all of these segregative acts and the schools are still around and that the pattern of construction continued, the pattern of assignments continued, the pattern of the faculty assignments continued." Nevertheless, the Court is required to go back and recreate the world. We must start over and assume that those things hadn't been done, and then go forward and say it would still be that way today. That is an assumption the Defendants make. We submit that logic, whether it be from tort law or any [33] other law, indicates that where the Defendants have done certain actions and they have certain demonstrable effects today and that there is a pattern to those effects within a system operated not as a series of independent republics, but a series of public schools operated by the same administrative unit, that those schools as they exist today are a product of that discrimination. If we have to go backwards in time and say that that discrimination did not exist and, therefore, we go forward and say some other forces would have made it happen this way anyhow, it seems to me that that burden is on the Defendants in any case to establish that sort of condition. They had the opportunity, as this Court pointed out, to show that these schools were the product of some other forces, that the pattern of observed racial discrimination in this system was not a product of the

discriminatory acts of the Board. They simply did not meet that burden. [34]

We agreed with the Court that the principles have not changed, that the Court has made the analysis required, and the Defendant has been given the opportunity that is set forth in *Keyes* to demonstrate that somehow or another, areas of the system were not affected by the original discrimination or the continuing pattern of discrimination.

I don't think it is unusual in school desegregation law for the defendant to come into court after each and every decision and claim that somehow or another, the new decision means that they are exculpated or should not be required to integrate their schools either completely or as much as they have already done or propose to do. I think that is a consistent phenomena. At the time that *Swann* was before the Supreme Court, many, many school districts and the number of courts said, "We will wait to see what the Supreme Court does in *Swann*." The school boards argued that *Swann* would be controlling and would decide the case.

After *Swann* came out, each and every school board said that, obviously, *Swann* did not apply to it because of some perceived difference in the facts. I think that the circumstances here are very similar. The school board is going to take — I don't fault them, I think this is a function that lawyers often engage in — but every school board will be in its respective court saying that, somehow or another, the new decision means that the Court has abandoned busing, and the Court now requires proof as [35] to every school building, that somehow or another the desegregation should not take place. I think that the Court is correct, that the fundamental principles have been reaffirmed as Mr. Justice Brennan noted in his separate concurring opinion, and that this Court has conducted the requisite inquiry.

The burden is clearly, we think, on the Defendants to demonstrate why any school should be left out of the plan as the Swann requirements dictate. Once the Plaintiffs have shown a substantial amount of segregation in the district affecting schools in the district, the burden does not shift under *Keyes*, which I think is simply reaffirmed by the court on *Dayton*, to the Defendants to meet the burden of proof as to the intentional impact, as to the remedial effects, and any other matter that would cause a school to be left out of a particular plan of desegregation.

The language of the Supreme Court with regard to incremental effect, I think, is not to be read as requiring some sort of scale to be set in the Court and to measure the number of children or each child and the effect on them. I think it is instructive to look at the Supreme Court's decision the same day in *Detroit*. There is no requirement in the *Detroit* case that the Court go back and find out if the achievement level of each black child has been affected or if the achievement level of black children in terms of their reading test scores has been affected. The Court simply notes that there was testimony that within [36] the system, was a pattern of underachievement in terms of reading test scores that should be dealt with in terms of remedial orders of the Court or that it was appropriate for the remedial order of the Court to deal with.

The logical extension of the Defendants' argument, and read in light of the kinds of relief set forth in *Detroit*, will require a finding as to each child before that child could be involved in a reading program or before it could be involved in the counseling services or before it could be affected by the in-service work with teachers or the changes in the testing program that are required by the District Court and affirmed by the Supreme Court in the *Detroit* case.

I think it is clear that the word "system" is still with us. It is clear that the word "affect" is still with us, and it

is clear also that the Supreme Court has not required either a time machine or the thought of theoretical recreation of the world that the Defendants would have this Court do.

This Court has had the advantage of the Arlington Heights decision, Washington versus Davis, and has reviewed the facts. It has found not simply three optional schools in what the Supreme Court characterizes vague language as having some segregative effect in the past. It has found not just statistical racial imbalance in the school system; it has found a whole series of detailed facts indicating a dual system in 1954. Certainly, there were a smaller number of schools at that time [37] representing the black population in the community of that period. The fact that the number of schools may have been smaller does not change the violations or the duty of the Defendants. A dual system is precisely that, a dual system. It affects all schools within that system.

The Court's findings and examples of the patterns and types of violations, the types of action and inaction on the part of the Defendants is the sort of findings that the Supreme Court has indicated should have been made one way or the other, either in favor of the Plaintiffs, in favor of the Defendants by the District Court in Dayton. That is not as much a criticism of that Court, but simply this Court in the way it sought to proceed in this action dealt with these matters in great detail. I think the parties submitted large volumes of proposed findings to the Court, and, hopefully, they were some assistance to the Court in coming up with its detailed comprehensive opinion.

The Defendants have suggested somehow or another that there is some great wrong being done to them because Plaintiffs haven't presented a plan, and I must confess that is one of the more novel arguments I have confronted in a school case. [38]

While we appreciate the kind words and the compliments that have been passed out by Mr. Porter with

respect to the witnesses we have had and the evidence we have presented, the Supreme Court has made it very clear to district courts that they must — not that they may — but they must in the first instance look to school boards for desegregation plans.

I have a suspicion that had we been in here with a plan and this plan had been adopted, Mr. Porter would have been the first man in the Sixth Circuit to complain that the Court had not given the school board its required first bite at the apple.

There are plans before the Court, some of which do a substantial amount of desegregation, and one of which prepared by the staff of the board of education and adopted by some of the members of the board, goes a long way to disestablishing the pattern of desegregation in Columbus.

I think that we certainly don't have the wealth that was suggested by a reporter in the hall to provide all of the services to the system in terms of a plan. If the Court deems, after making a determination of the adequacy or inadequacy of the plans, that it would like the assistance of the Plaintiffs or any of their experts as to any area of the plan or the plan as a whole, we will endeavor to be of every assistance to the Court that we can be.

However, we think Swann commands this Court to rely on the board in the first instance. The Defendants have [39] suggested supplemental findings. I have covered that, I think, in major part. What the Defendants really want is another shot at the same arguments that have been advanced at the trial.

The Court will recall that a great deal of the defense of the Defendants in this case was right in line with their argument today about Dayton, that there were no present effects, that the violations in the past had become attenuated. If the Court would simply review their proposed findings, they will see many of these arguments are articulated and articulated very well.

There were arguments that housing patterns had certainly overcome and subsumed whatever the board might or might not be doing. It was argued that they were the sole cause of what had gone on.

I think that basically, the Defendants' argument is that you must show that desegregation or discrimination was the sole cause of the racial composition of the schools today. I don't think that is a legal standard. I think all that is required is that the present condition of the segregation in the district has been affected by factors of racial discrimination in violation of the Fourteenth Amendment.

For the Court to make supplemental findings concerning its original opinion, it simply is in disguise a motion for reconsideration of that opinion. Certainly, this Court in making whatever determination it makes on the remedy will have in mind all of the applicable law, [40] all of the applicable decisions and will deal with it at that time.

To follow the procedure they suggest, we would adjourn these remedy hearings, and perhaps submit new briefs and the Court would issue supplemental findings, rearguing the original case, and thereafter, there would be the development of plans.

We suggest that is but a transparent device to delay any possibility of desegregation, not only for September, but for thereafter.

Thank you.

THE COURT: Mr. Ross?

MR. ROSS: Your Honor, the original Plaintiffs concur with the intervening Plaintiffs and do feel that this Court has complied with those standards set by the Supreme Court in the Dayton case, and that the Court has shown there to be a reciprocal effect of the violations pointed out in its findings throughout the Columbus School System.

THE COURT: Mr. Porter, you may reply.

MR. PORTER: Your Honor, I only wish to make this additional comment: I recognize it is possible to make the

argument that Mr. Lucas has made with respect to the Dayton case. I don't read it the way he does, but that may be expected. However, the Dayton case did not stand by itself. There is also the Omaha and Milwaukee cases and they specifically dealt with situations where there in the one instance by the District Court and affirmed by the Court of Appeals, and in the other, a reversal by the [41] Court of Appeals, were findings by the respective circuits that there was systemwide — there had to be a systemwide remedy, and I think in the words of the Omaha case, root and branch.

They dealt with a number of factors that were found to be violations of the Constitution and the systemwide remedies were put into effect or initiated, and in both instances, the United States Supreme Court two weeks ago pointed out that there had to be a determination made of what the system would be but for the — at the present time, but for these acts.

I don't see how, personally, those cases could be ignored and we would respectfully renew our motion or request the Court to sustain our motion in this instance.

THE COURT: Mr. Michael?

MR. MICHAEL: I would join in Mr. Porter's comments. I have nothing further, your Honor.

THE COURT: I suppose that in the time that I have occupied this bench, I have had to make some decisions which are weighty and involved some very important considerations, but of all those, the decision that these fine arguments of counsel have pointed out cause me to now make perhaps the most weighty that I have ever had to make, but nevertheless, my oath of office compels me to make this kind of decision. [42]

It has been my attitude throughout the course of this litigation that counsel for the litigants and the community should clearly understand what the Court does, what the Court does not do and the reasons therefor. So

that if the Court's judgment has been erroneous, and I might say this Court is far from infallible, that erroneousness will be clear for all to see, and it is with that spirit that I rule on this matter right now. The fact that I rule on it now without going in and reading the law books again does not mean that it is a knee jerk sort of decision, but rather, a decision made after reading and rereading, and reading and rereading the Dayton case, the Omaha case and the Milwaukee case.

I simply do not agree with the position taken by the Defendants and respect them for calling these matters to the Court's attention. That is their duty and they should not have operated otherwise, but I simply do not agree and it will not help us to have further comment from me in this regard. I act quickly so that the hearings that we expect to have the rest of this week will be with the knowledge of the Court's position concerning the Dayton case.

So therefore, the Court respectfully must say to all who are interested in this matter that it finds the defense motions urged this morning are not well taken and they are denied.

* * * * *

JOSEPH L. DAVIS

being first duly sworn,
as prescribed by law, was examined
and testified as follows:

DIRECT EXAMINATION BY MR. PORTER

[54] Q. [By Mr. Porter] Would you state, Dr. Davis, your full name and your present position with the Columbus Public School System?

A. Joseph L. Davis, Interim Superintendent of Schools.

* * * * *

[100] Q. Dr. Davis, I will hand you what has been marked as Defendant's Exhibit H and ask you if that is the amended plan that was adopted by the Columbus Board of Education on July 5th and submitted to this Court on the 8th of July?

A. Yes. It appears to be.

Q. What did the amended plan or the amendments do to the plan that we filed on July 10th? What are the differences, please?

A. The most significant difference was in the pupil [101] distribution component of the July 10th plan which sharply reduced the number of pupils who would be involved involuntarily in the pupil distribution component, I think, by the order of some 90 percent.

Then, the educational program and the support services, the staff development, all of the other components were scaled back accordingly.

Transportation, for example, instead of requiring 250 buses, an estimate of 250 for the involuntary component, that was reduced to 30.

The costs also reduced in a commensurate fashion.

Q. Directing your attention to page 12 of the amended plan, or exhibit H, I will ask you if one finds in the amended plan a statement as to the guidelines for developing the distribution plan for students, whether that is set forth?

A. Yes, it is.

Q. Would you read it please?

A. The basic guidelines followed in developing a distribution plan for students to meet the requirements of the court order was to eliminate all racially identifiable black schools cited as instances of guilt in the Court's opinion and order. If the student population of the school was greater than 47 percent black, it was considered to be racially identifiably black. The citywide ratio used in this plan was 32 percent black and 68 percent nonblack.

[102] Q. Then, in the amended plan, am I correct that there then appears under the involuntary section, there appears the schools that are so identified and the pairings and clusterings that were made?

A. Yes, I do note that I have two planning sheets Mr. Porter. It is in that very section, and they appear to be — it appears to be complete. There are just two extra blank sheets tucked in. That begins at page 15.

Q. And it continues then through page 29?

A. That is correct.

Q. And those schools were identified by the planning committee or it is your understanding that the schools were identified by the planning committee for the planning committee by counsel; is that correct?

A. That is my understanding.

* * * * *

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**PLAINTIFFS'
EXHIBIT**

**No.
11**

**COLUMBUS PUBLIC SCHOOLS
Columbus, Ohio**

**HEW Civil Rights Survey
1975-76 School Year
October 8, 1975**

PUPIL ENROLLMENTS

<u>School</u>	<u>Non- Minority</u>	<u>Black</u>	<u>Span. Amer.</u>	<u>Asian</u>	<u>Amer. Indian</u>	<u>TOTAL</u>	<u>% Non- White</u>
Briggs	229	44				273	16.1
Brookhaven	1,384	206		7		1,597	13.3
Central (incl. Occup.)	855	369	1			1,225	30.2
East	13	1,312			1	1,326	99.0
Eastmoor	871	497	1	5		1,374	36.6
Independence Jr-Sr	790	108	2	2		902	12.4
Linden	151	1,292				1,443	89.5
Marion-Franklin	806	632	2			1,440	44.0
Mifflin Jr-Sr	566	949				1,515	62.6
Mohawk Jr-Sr	213	565	1			779	72.7
North	1,214	266	2	7		1,489	18.5
Northland	1,568	110		4		1,682	6.8
South	1,000	815	1	3	1	1,820	45.1
Walnut Ridge	1,919	141	4	9		2,073	7.4
West	1,558	294		3		1,855	16.0
Whetstone	1,650	44	8	15		1,717	3.9
Evening (under 21)	90	102	8	5	1	206	56.3
Adult Day (under 21)	31	74	1	4		110	71.8
	<u>14,908</u>	<u>7,820</u>	<u>31</u>	<u>64</u>	<u>3</u>	<u>22,826</u>	<u>34.7</u>
Barrett	896	119	1		2	1,018	12.0
Beery	226	397			1	764	70.4

HEW Civil Rights Survey (Continued)

School	Non-Minority	Black	Span. Amer.	Asian	Amer. Indian	TOTAL	% Non-White
Buckeye	762	16	3			781	2.4
Champion	11	497				508	97.8
Clinton	1,016	83	4	6		1,109	8.4
Crestview Jr.	496	108	2	7		613	19.1
Dominion	723	77		6		806	10.3
Eastmoor Jr	309	277	5	3		594	48.0
Everett	610	218		3		831	26.6
Franklin	38	525		3		566	93.3
Hilltonia	595	224	1	1		821	27.5
Indianola Jr	398	166		6		570	30.2
Johnson Park	696	278	5	2		981	29.1
Linmoor	37	811				848	95.6
Medina	736	230	1	5		972	24.3
McGuffey Jr	401	323		2		726	44.8
Monroe	5	349				354	98.6
Ridgeview	734	27	5	10	3	779	5.8
Roosevelt	194	495		2		691	71.9
Sherwood	759	131	1	5		896	15.3
Southmoor	257	394		1		652	60.1
Starling	620	151	1	1		773	19.8
Wedgewood	662	36				698	5.2
Westmoor	822	91	1	2		916	10.3
Woodward Park	1,322	41		7		1,370	3.5
Yorktown	602	45	4	2		653	7.8
	<u>13,927</u>	<u>6,249</u>	<u>34</u>	<u>74</u>	<u>6</u>	<u>20,290</u>	<u>31.4</u>
Alpine	512	5		9		526	2.7
Alum Crest	28	107	1			136	79.4
Arlington Park	103	402				505	79.6
Avondale	478	5		2		485	1.4
Barnett	198	23		1		222	10.8
Beatty Park	6	339				345	98.3
Beaumont	329	38				367	10.4
Beck	293	52		1		346	15.3
Bellows	245	29				274	10.6
Berwick	135	145				280	51.8
Binns	487	4		2		493	1.2
Brentnell	16	378				394	95.9

HEW Civil Rights Survey (Continued)

School	Non-Minority	Black	Span. Amer.	Asian	Amer. Indian	TOTAL	% Non-White
Broadleigh	263	148	3	8		422	37.7
Burroughs	609	76		1		686	11.2
Calumet	250	41		9		300	16.7
Cassady	66	552				618	89.3
Cedarwood	573	11		2		586	2.2
Chicago	310	75	3			388	20.1
Clarfield	65	353				418	84.4
Clinton Elem.	552	9	2	5		568	2.8
Colerain	90		2	2		94	4.2
Como	427	26	2	1		456	6.4
Courtright	325	164	1	6		496	34.5
Cranbrook	373	28	26	40		467	20.1
Crestview Elem.	320	39		2		361	11.4
Dana	502	4				506	.8
Deshler	280	522		4		806	65.3
Devonshire	563			1		564	.2
Douglas	42	302	5			349	88.0
Duxberry Park	60	464	1			525	88.6
Eakin	339	80	1	1		421	19.5
East Columbus	194	256				450	56.9
Eastgate		345				345	100.0
Easthaven	574	59		6		639	10.2
East Linden	372	175	2			549	32.2
Eleventh	49	340				389	87.4
Fair	16	427				443	96.4
Fairmoor	425	37	3	2		467	9.0
Fairwood	25	492		1		518	95.2
Fifth	213	8		8		229	7.0
Forest Park	489	7	1	4		501	2.4
Fornof	176	7				183	3.8
Franklinton	202	69			3	274	26.3
Garfield		225				225	100.0
Georgian Hts	464	1				465	.2
Gettysburg	296					296	0
Gladstone	10	398				408	97.5
Glenmont	331	8				339	2.4
Hamilton	6	480				486	98.8
Heimandale	143	80				223	35.9

HEW Civil Rights Survey (Continued)

<u>School</u>	<u>Non-Minority</u>	<u>Black</u>	<u>Span. Amer.</u>	<u>Asian</u>	<u>Amer. Indian</u>	<u>TOTAL</u>	<u>% Non-White</u>
Heyl	503	93				596	15.6
Highland	192	386	2	3		583	67.1
Homedale	157	6		6		169	7.1
Hubbard	339	6				345	1.7
Hudson	57	276				333	82.9
Huy	559	12		1		572	2.3
Indianola Elem.	352	76	2	3		433	18.7
Indian Springs	380	6	1	1		388	2.1
Innis	391	149	3	2		545	28.3
James Rd	257	11		4		272	5.5
Kent	47	431		1		479	90.2
Kenwood	284			10		294	3.4
Kingswood	295	29	6	13		343	14.0
Koebel	105	291	1			397	73.6
Leawood	602	62		5		669	10.0
Lexington	7	219				226	96.9
Liberty	427	6		3		436	2.1
Lincoln Park	320	208	3			531	39.7
Lindbergh	310	7		2		319	2.8
Linden	550	246		5		801	31.3
Linden Park	277	150	1	2		430	35.6
Livingston	220	486	2			708	68.9
Main	26	373				399	93.5
Maize	409	11		2		422	3.1
Marburn	254	8	5	5		272	6.6
Maybury	442	6				448	1.3
McGuffey Elem.	325	148	1	2		476	31.7
Medary	492	21		4		517	4.8
Michigan	293	15	1			309	5.2
Milo	19	243				262	92.7
Moler	195	249		3		447	56.4
North Linden	367	25	1	2		395	7.1
Northridge	439	7	1	1		448	2.0
Northtowne	345	19		5		369	6.5
Oakland Park	248	4	3	3		258	3.9
Oakmont	405	27	3	2		437	7.3
Ohio	78	492		1		571	86.3
Olde Orchard	562	4		11		577	2.6

HEW Civil Rights Survey (Continued)

School	Non-Minority	Black	Span. Amer.	Asian	Amer. Indian	TOTAL	% Non-White
Parkmoor	352	24		3		379	7.1
Parsons	310	21	1			332	6.6
Pilgrim	20	272				292	93.2
Pinecrest	433	48	3	8		492	12.0
Reeb	392	60	1		4	457	14.2
Salem	512	12		2		526	2.7
Scioto Tr.	349			2		351	.6
Scottwood	288	184				472	39.0
Second	295	79	2	2		378	22.0
Shady Lane	377	23		3		403	6.5
Sharon	281	7				288	2.4
Shepard	7	168				175	96.0
Siebert	356	2				358	.6
Smith Rd	209	154		2		365	42.7
South Mifflin	83	522				605	86.3
Southwood	583	7	1		2	593	1.7
Stewart	203	131				334	39.2
Stockbridge	387		1			388	.3
Sullivant	80	275				355	77.5
Thurber	286	86	1	3		376	23.9
Trevitt		328				328	100.0
Valley Forge	421	10	2	4		437	3.7
Valleyview	225	1		2		228	1.3
Walden	431	17		8		456	5.5
Walford	273	3				276	1.1
Watkins	44	229				273	83.9
Wayne	220	22				242	9.1
Weinland Pk	318	229	2	1		550	42.2
West Broad	867	17	1			885	2.0
Westgate	457	25				482	5.2
West Mound	533	86				619	13.9
Willis Pk	316	26	2	1		345	8.4
Windsor	8	493				501	98.4
Winterset	708	4		16		728	2.7
Woodcrest	493	22				515	4.3
	<u>35,471</u>	<u>16,230</u>	<u>106</u>	<u>277</u>	<u>9</u>	<u>52,093</u>	<u>31.9</u>

HEW Civil Rights Survey (Continued)

<u>School</u>	<u>Non-Minority</u>	<u>Black</u>	<u>Span. Amer.</u>	<u>Asian</u>	<u>Amer. Indian</u>	<u>TOTAL</u>	<u>% Non-White</u>
Alexander							
Graham Bell	102	20				122	16.4
Clearbrook	47	29				76	38.2
Neil Ave.	161	27				188	14.4
Third St.	86	43			1	130	33.8
Bethune Center	1	73				74	98.6
	<u>397</u>	<u>192</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>590</u>	<u>32.7</u>
Senior High	14,908	7,820	31	64	3	22,826	34.7
Junior High	13,927	6,249	34	74	6	20,290	31.4
Elementary	35,471	16,230	106	277	9	52,093	31.9
Special Schools	397	192			1	590	32.7
	<u>64,703</u>	<u>30,491</u>	<u>171</u>	<u>415</u>	<u>19</u>	<u>95,799</u>	<u>32.5</u>
Miscellaneous (Home Instruction, Upham Hall, Part Time, etc.)						<u>199</u>	
						<u>95,998</u>	

Excerpt from
Plaintiffs' Exhibit No. 62
"The 1958-59 Study of the Public School
Building Needs of Columbus, Ohio,"
Bureau of Educational Research,
Ohio State University,
July, 1959

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* * * * *

Elementary School Recommendations

* * * * *

11. IT IS RECOMMENDED that a primary center (elementary school grades K-3) having seven classrooms and one kindergarten room be constructed on the board-owned Sixth Avenue site, and that the site be expanded.

The elementary school pupil density of the area bounded by High Street on the west, Chittenden Avenue on the north, the New York Central Railroad on the east, and Fifth Avenue on the south has increased rapidly in the last two years. Although eight classrooms were added to the Weinland Park Elementary School in 1957, more classrooms must be provided.

* * * * *

Excerpts from
Plaintiffs' Exhibit No. 63
"The 1967-68 Study of the Public School
Needs of Columbus, Ohio," Educational
Administration and Facilities Unit,
College of Education, Ohio State
University, March, 1969

* * * * *

BACKGROUND INFORMATION

Population Growth

1. The population of Columbus increased by 69,814 between 1940 and 1950. From 1950 to 1960 population grew from 375,901 to 471,316, an increase of 95,415. The Columbus Area Chamber of Commerce estimates that population in 1968 is 581,833; indicating that the rate of growth for Columbus is higher in the 1960's than it was in the 1950's. (See Tables 1 and 2).
2. Only three of Ohio's other large cities gained in population between 1950 and 1960. Dayton grew by only 18,000; Akron, by only 16,000; and Toledo, by only 14,000. Ohio's four other large cities actually lost population between 1950 and 1960. Cleveland lost 39,000; Canton, 3,000; Youngstown, nearly 2,000; and Cincinnati, more than 1,000.
3. Since 1870 Franklin County's population has grown faster than either the total Ohio population or that of United States. Much of this growth has been in Columbus. (See Table 3).
4. In discussing the Columbus area in the 1980's, a report entitled *The Columbus Area Economy, Structure and Growth, 1950 to 1985*, which was prepared by the Bureau of Business Research, The Ohio State University, for the Comprehensive Regional Plan, estimates that some 1,300,000 people may be residing in the Columbus area. The report also states that the population of Franklin County will be almost as large as that of Cuyahoga County today, and that Columbus will undoubtedly surpass Cleveland in population (approximately 825,000 in 1967).

5. Short-range population estimates for Columbus are extremely difficult to prepare due to rapid change in boundaries resulting from a vigorous annexation program. This explains why Chamber of Commerce projections are prepared on an annual basis.
6. Table 4 provides actual and estimated summaries of employment, population, labor, and dwelling units for 1950 through 1985. Figures 4 and 5 show the existing and proposed general locations for housing, recreation, employment areas, activity centers, and major streets, highways, expressways, and freeways for 1968 and 1985.

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Table 1

**POPULATION OF COLUMBUS BY DECADES
1900 - 1960**

<u>Census Year</u>	<u>Population</u>	<u>Increase</u>	
		<u>Number</u>	<u>Percent</u>
1900	125,560	37,410	42.4
1910	181,511	55,951	44.6
1920	237,031	55,520	30.6
1930	290,564	55,533	22.6
1940	306,087	15,523	5.3
1950	375,901	69,814	22.8
1960	471,316	95,415	25.4

Source: Census Data

Table 2
POPULATION OF COLUMBUS BY YEAR
1960 - 1968

<u>Year</u>	<u>Population</u>
1960	471,316
1961	478,472
1962	497,774
1963	512,881
1964	531,994
1965	540,961
1966	559,389
1967	573,280
1968	581,883

Source: Census Data and Columbus Area Chamber of Commerce

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Table 3
TOTAL POPULATION, COLUMBUS, FRANKLIN
COUNTY, OHIO AND THE UNITED STATES
1900 - 1960

<u>Year</u>	<u>Columbus</u>	<u>Franklin County</u>	<u>Ohio</u>	<u>United States</u>
1900	125,560	164,460	4,157,545	75,994,575
1910	181,511	221,567	4,767,121	91,972,266
1920	237,031	283,951	5,759,394	105,710,620
1930	290,564	360,841	6,646,697	122,775,046
1940	306,087	388,712	6,907,612	131,669,275
1950	375,901	503,410	7,946,627	150,690,361
1960	471,316	682,962	9,706,397	178,464,236

Source: Census Data and Regional Plan Reports

* * * * *

Births and Birth Rates

1. The birth rate for Columbus has exceeded the state-wide birth rate during each of the last thirteen years.
2. The number of annual births peaked at 13,500 in 1959 and has decreased slightly each succeeding year to a total of 10,245 births in 1967.
3. During the six-year period from 1956 through 1961, inclusive, there were 76,787 births to Columbus residents. During the six-year period from 1962 through 1967, inclusive, there were 68,708 births to Columbus residents. During the six-year period 1950 through 1955, inclusive, there were 59,127 births to Columbus residents.
4. Many demographers are predicting an upturn in future birth rates due to the large numbers of young people reaching the age for marriage.

Geographical Growth

1. From January, 1954, to January, 1968, the area of Columbus increased from 41,735 square miles to 114.056 square miles, or more than 72 square miles.
2. Table 7 includes all annexations to Columbus from January, 1964, to March, 1968, and Table 6 includes an annual summary of such annexation activity. From March, 1968, to November, 1968, eight areas involving approximately 1600 acres were annexed to the City of Columbus. The total area of the City of Columbus as of November, 1968, is 117.88 square miles.
3. Numerous petitions involving several hundred acres for possible annexation to the City of Columbus have been filed with the Franklin County Commissioner.

4. From March 16, 1963, to March 11, 1968, inclusive, 66 areas were annexed to the City of Columbus. Four of these areas were already in the Columbus City School District. Of the remaining 62 areas, 53 had not been transferred to the school district (see Table 8).

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5. During much of the past four years, the State Board of Education imposed a moratorium on school district transfers. Such a policy has increased the difficulty of planning for new buildings and other school facilities. On June 11, 1965, eleven areas that met the published transfer criteria of the State Board of Education were requested for transfer to the Columbus City School District. Nine of the proposed transfers were refused. The two areas transferred included 23 acres in Truro Township and the tax-exempt property surrounding the Columbus workhouse. Since 1965 the only areas transferred to the Columbus City School District are as follows:
 - a. A small area near McNaughten Road and East Main Street was approved for transfer by the voters of the Reynoldsburg Local School District and subsequently was approved for transfer by the State Board of Education.
 - b. In 1968, the Worthington and Columbus boards of education agreed upon the transfer of approximately 2,000 acres to the Columbus City School District. This area was approved by the State Board of Education for transfer effective in September, 1968.
6. The Columbus City School District is suffering substantial loss due to the relocation of families to areas of Columbus that have not been transferred to the Columbus City School District. If such a policy continues

the entire school district will be encircled and unable to benefit from the expected growth of the future.

* * * * *

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Table 6

SUMMARY OF ANNEXATIONS FROM 1954 - 1967

<u>Year</u>	<u>Number of Annexation</u>	<u>Acreage</u>	<u>Square Miles</u>	<u>Accumulated Total Square Miles</u>
1954	64-70 (7)	1,816.59	2.84	44.57
1955	71-92 (22)	6,291.45	9.83	54.40
1956	93-127(35)	7,682.94	12.26	66.66
1957	128-144(17)	11,613.12	18.26	84.92
1958	145-153(9)	1,013.35	1.58	86.50
1959	154-164(11)	1,612.12	2.52	89.02
1960	165-172(8)	1,397.35	2.18	91.20
1961	173-178(6)	982.75	1.54	92.74
1962	179-186(8)	309.11	0.48	93.23
1963	187-192(6)	705.23	1.10	94.33
1964	193-202(10)	1,361.05	2.13	96.457
1965	203-220(18)	5,285.87	3.20	104.716
1966	221-234(14)	4,243.63	7.08	111.792
1967	235-247(13)	1,462.24	2.28	114.056

Total Annexed Area 1954 to 1967, Inclusive:

67.28 Square Miles

Source: City Planning Commission, Columbus, Ohio

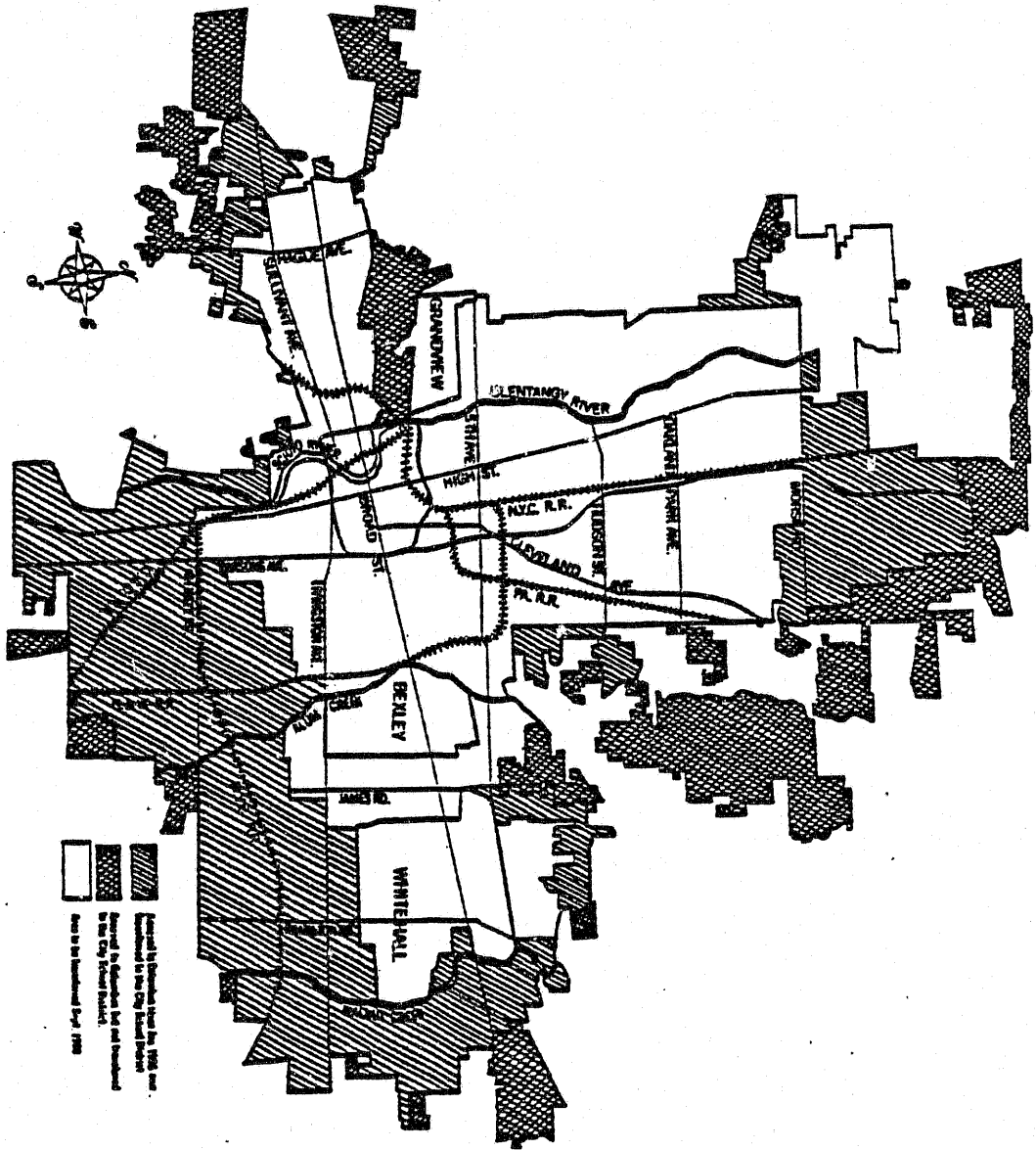


Figure 1

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Table 7

**ANNEXATIONS TO COLUMBUS
FROM JANUARY, 1954 TO MARCH, 1968**

<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
64	1- 4-54	2-54	Franklin	45.11
65	9-13-54	1169-54	Sharon	38.00
66	9-13-54	1168-54	Franklin	19.24
67	11- 8-54	1481-54	Clinton	93.33
68	11-15-54	1492-54	Truro	1,250.00
69	11-22-54	1530-54	Clinton	49.70
70	11-22-54	1529-54	Clinton	321.21
71	1-10-55	38-55	Marion	44.15
72	1-31-55	121-55	Blendon, Clinton Sharon, Mifflin	518.00
73	2-14-55	241-55	Clinton	14.80
74	2-14-55	242-55	Truro	319.00
75	3-14-55	393-55	Clinton	75.00
76	5-31-55	733-55	Sharon	1,037.00
77	6-20-55	830-55	Marion	151.00
78	6-20-55	831-55	Marion	168.00
79	6-20-55	832-55	Marion	282.00
80	6-27-55	876-55	Clinton	619.00
81	6-27-55	877-55	Sharon	14.50
82	7-11-55	920-55	Mifflin	170.00
83	9-12-55	1170-55	Franklin	212.00
84	9-12-55	1171-55	Franklin	14.00
85	9-19-55	1222-55	Truro	19.00
86	9-19-55	1223-55	Truro	26.00
87	9-19-55	1224-55	Clinton	533.00
88	10-10-55	1308-55	Mifflin	694.00
89	10-10-55	1309-55	Truro	8.00
90	10-10-55	1310-55	Clinton	78.00
91	10-17-55	1340-55	Clinton	586.00
92	10-17-55	1341-55	Jefferson	710.00
93	1-23-56	83-56	Clinton	251.00
94	1-23-56	87-56	Truro	32.00
95	2-20-56	224-56	Clinton	91.00
96	2-27-56	254-56	Franklin	138.00
97	3- 5-56	281-56	Truro	168.51

<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
98	4-16-56	496-56	Marion	266.00
99	4-16-56	497-56	Mifflin	33.84
100	5- 7-56	617-56	Sharon	256.00
101	5-14-56	646-56	Truro	183.00
102	5-14-56	647-56	Clinton	27.25
103	5-21-56	677-56	Clinton	20.00
104	5-21-56	678-56	Clinton	120.86
105	5-21-56	679-56	Truro	1,042.00

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<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
106	5-28-56	726-56	Mifflin	41.20
107	5-28-56	727-56	Truro	496.00
108	6- 4-56	748-56	Sharon	241.00
109	6- 4-56	749-56	Mifflin	128.85
110	6-18-56	816-56	Marion	982.00
111	6-25-56	854-56	Clinton	10.69
112	7- 9-56	909-56	Marion	142.00
113	7-30-56	982-56	Mifflin	43.60
114	9-10-56	1117-56	Mifflin	134.00
115	9-10-56	1118-56	Truro	362.87
116	10-15-56	1272-56	Truro	243.00
117	10-15-56	1273-56	Truro	101.00
118	11-19-56	1453-56	Clinton	20.99
119	12-10-56	1552-3	Franklin	90.23
120	12-13-56	1570-56	Sharon	463.00
121	12-31-56	1650-56	Franklin	100.00
122	12-31-56	1651-56	Sharon	329.00
123	12-31-56	1652-56	Sharon	359.00
124	12-31-56	1653-56	Sharon	120.00
125	12-31-56	1654-56	Franklin	401.00
126	12-31-56	1655-56	Franklin	147.00
127	12-31-56	1656-56	Franklin	259.00
128	1- 9-57	1696-56	Mifflin	2.90
129	1- 9-57	1697-56	Sharon-Blendon	182.00
130	1- 9-57	1700-56	Clinton	56.00
131	1-27-57	42-57	Marion-Hamilton- Madison	7,100.00
132	3-11-57	336-57	Truro	3.77

<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
133	3-11-57	338-57	Sharon-Perry	295.58
134	4-10-57	480-57	Clinton	12.00
135	4-22-57	577-57	Mifflin	71.85
136	5- 6-57	641-57	Mifflin	21.53
137	5- 6-57	643-57	Clinton	153.00
138	6- 3-57	781-57	Jefferson	630.00
139	9-10-57	1050-57	Clinton	18.11
140	9-10-57	1164-57	Clinton	40.00
141	9-10-57	1165-57	Clinton	1.80
142	9-10-57	1166-57	Truro-Madison	2,754.00
143	12- 9-57	1519-57	Perry	7.10
144	12-16-67	1459-57	Jefferson	336.00
145	2- 3-58	165-58	Franklin	25.87
146	2- 3-58	166-58	Franklin	241.00
147	3- 3-58	314-58	Clinton-Perry	273.00
148	3- 3-58	315-58	Franklin	53.17
149	4-21-58	627-58	Franklin	16.26
150	4-28-58	651-58	Sharon	7.80
151	5-12-58	677-58	Franklin	49.26
152	10- 6-58	1364-58	Hanford (Marion)	64.00
153	11-17-58	1542-58	Truro	283.00
154	1-13-59	50-59	Clinton	132.00
155	3- 9-59	323-59	Clinton	7.80

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<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
156	4-27-59	567-59	Franklin	1.12
157	7-13-59	960-59	Sharon	145.00
158	7-20-59	1043-59	Mifflin	84.00
159	9-14-59	1189-59	Clinton	70.00
160	9-21-59	1335-59	Clinton-Mifflin	24.40
161	11-23-59	1574-59	Franklin	15.89
162	12- 7-59	1661-59	Franklin	910.00
163	12-28-59	1722-59	Clinton	2.91
164	12-28-59	1724-59	Truro	219.00
165	1-11-60	32-60	Clinton	3.65
166	6- 8-60	413-60	Truro	546.58

<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
167	5- 3-60	445-60	Clinton	9.75
168	5- 2-60	532-60	Sharon	104.00
169	6- 6-60	669-60	Franklin	44.38
170	10- 4-60	1178-60	Truro	538.00
171	10-10-60	1723-59	Mifflin	151.00
172	12- 9-60	1486A-60	Franklin	0.96
173	7-10-61	868-61	Perry-Clinton	434.00
174	7-17-61	869-61	Perry	39.39
175	7-17-61	934-61	Hamilton	251.00
176	9-11-61	1092-61	Franklin	41.55
177	11-13-61	1398-61	Franklin	48.81
178	11-20-61	1423-61	Sharon	168.00
179	1- 8-62	14-62	Mifflin	21.75
180	3- 5-62	322-62	Truro	83.92
181	4-16-62	513-62	Mifflin	14.15
182	5-14-62	663-62	Sharon	25.00
183	6- 4-62	779-62	Franklin	67.50
184	7-30-62	1037-62	Franklin	2.25
185	9-10-62	1186-62	Franklin	44.54
186	9-10-62	1187-62	Truro	50.00
187	3-13-63	159-63	Perry	118.00
188	3-13-63	160-63	Sharon	24.03
189	7- 3-63	630-63	Truro	78.00
190	7-24-63	683-63	Mifflin	413.00
191	8-13-63	1316-63	Mifflin	0.30
192	12- 2-63	1420-63	Truro	71.90
193	1-13-64	64-64	Sharon	426.00
194	1-20-64	1522-63	Truro	22.20
195	1-28-64	102-64	Franklin	29.77
196	6-24-64	736-64	Franklin	93.76
197	7- 2-64	771-64	Franklin	132.50
198	7-13-64	776-64	Perry	111.00
199	9-21-64	1066-64	Mifflin	245.82
200	9-21-64	1067-64	Mifflin	127.00
201	9-21-64	1068-64	Mifflin	150.00
202	11-16-64	1270-64	Truro	23.00
203	2-18-65	139-65	Sharon-Blendon	532.00
204	3- 1-65	268-65	Truro	43.02
205	3- 1-65	265-65	Clinton	3.26

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<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
206	1-19-65	1398-63	Franklin	410.29
207	4 19-65	510-65	Mifflin	7.48
208	5- 3-65	567-65	Mifflin	56.05
209	5-10-65	414-65	Clinton-Mifflin	23.00
210	4-19-65	521-65	Franklin-Jackson	257.25
211	6- 7-65	729-65	Perry	46.50
212	6- 7-65	730-65	Perry	223.70
213	7- 8-65	872-65	Franklin-Prairie	735.00
214	9-27-65	1301-65	Franklin	30.29
215	10- 4-65	1336-65	Franklin	48.55
216	10-18-65	1406-65	Sharon	84.00
217	11- 3-65	1506-65	Sharon	13.48
218	11-29-65	1577-65	Franklin	356.00
219	11-30-65	1618-65	Sharon	2,413.00
	2-14-66	254-66	Perry	
220	12- 6-65	1656-65	Sharon (incl. on 219)	
221	2-14-66	246-66	Mifflin	1,483.00
222	4- 4-66	468-66	Hamilton	16.94
223	4- 4-66	501-66	Mifflin	285.00
224	5- 9-66	743-66	Franklin-Prairie	748.50
225	5-16-66	774-66	Mifflin	445.00
226	5-23-66	811-66	Clinton	.76
227	6-20-66	942-66	Mifflin	92.50
228	7-11-66	1027-66	Franklin	98.00
229	7-11-66	1030-66	Perry	227.70
230	7-18-66	1048-66	Franklin	38.11
231	7-25-66	1100-66	Hamilton	4.83
232	9-12-66	1254-66	Sharon-Blendon	802.00
233	9-12-66	1255-66	Franklin	186.00
234	12-12-66	1722-66	Mifflin	100.00
235	1- 9-67	25-67	Clinton	.44
236	1-23-67	98-67	Sharon	135.00
237	2- 6-67	145-67	Sharon	55.90
238	5-29-67	634-67	Blendon-Sharon	367.00
239	6- 5-67	674-67	Clinton	3.88
240	7-10-67	816-67	Franklin	37.50
241	7-17-67	817-67	Madison	235.79
242	9-11-67	1052-67	Franklin	10.36

<u>No.</u>	<u>Date</u>	<u>Ordinance Number</u>	<u>Township</u>	<u>Acres</u>
243	9-11-67	1053-67	Perry	17.00
244	9-11-67	1054-67	Blendon	550.00
245	9-11-67	1055-67	Franklin	23.25
246	10-30-67	1336-67	Jefferson	9.55
247	12-18-67	1591-67	Franklin	16.57
248	1- 1-68	1-68	Prairie	70.86
249	1- 1-68	2-68	Blendon-Mifflin	557.00
250	1- 1-68	3-68	Mifflin	87.00
251	1- 8-68	9-68	Mifflin	31.70
252	1-28-68	102-68	Madison	65.48
253	2-19-68	214-68	Clinton-Mifflin	5.74
254	3-11-68	282-68	Prairie	417.30

Source: City of Columbus, Planning Commission

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Table 8

**AREAS ANNEXED TO COLUMBUS BUT NOT
TRANSFERRED TO THE COLUMBUS
CITY SCHOOL DISTRICT**

MAY, 1968

<u>City Annexation Number</u>	<u>Township</u>	<u>Acres</u>
129	Sharon-Blendon	182.00
131*	Marion-Hamilton-Madison	7,100.00
135	Mifflin	71.85
138	Jefferson	630.00
143	Perry	7.10
144	Jefferson	336.00
162	Franklin	910.00
175	Hamilton	251.00
180*	Truro	83.92
190	Mifflin	413.00
191	Mifflin	0.30
192	Truro	71.90
194	Truro	22.20

<u>City Annexation Number</u>	<u>Township</u>	<u>Acres</u>
195	Franklin	29.77
196	Franklin	93.76
197	Franklin	132.50
198	Perry	111.00
199	Mifflin	245.82
200	Mifflin	127.00
201	Mifflin	150.00
203*	Sharon-Blendon	532.00
204	Truro	46.02
207	Mifflin	7.48
208	Mifflin	56.05
209*	Clinton-Mifflin	23.00
210	Franklin-Jackson	257.25
211	Perry	46.50
212*	Perry	223.70
213	Franklin-Prairie	735.00
214	Franklin	30.29
215	Franklin	48.55
216	Sharon	84.00
218	Franklin	356.00
219	Sharon	2,413.00
220	Sharon	(incl. on 219)
221	Mifflin	1,483.00
222	Hamilton	16.94
223	Mifflin	285.00
224	Franklin-Prairie	748.50
225	Mifflin	445.00

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<u>City Annexation Number</u>	<u>Township</u>	<u>Acres</u>
227	Mifflin	92.50
228	Franklin	98.00
230	Franklin	38.11
231	Hamilton	4.83
232*	Sharon-Blendon	802.00
233	Franklin	186.00
234	Mifflin	100.00
236	Sharon	135.00

<u>City Annexation Number</u>	<u>Township</u>	<u>Acres</u>
237	Sharon	55.90
238	Blendon-Sharon	367.00
240	Franklin	37.50
241	Madison	235.79
242	Franklin	10.36
244	Blendon	550.00
245	Franklin	23.25
246	Jefferson	9.55
247	Franklin	16.57
248	Prairie	70.86
249	Blendon-Mifflin	557.00
250	Mifflin	87.00
251	Mifflin	31.70
252	Madison	65.48
253*	Clinton-Mifflin	5.74
254	Prairie	417.30

* part only

* * * * *

Excerpts from
 Plaintiffs' Exhibit No. 64
 "The 1963-64 Study of the Public School
 Needs of Columbus, Ohio," Bureau of
 Educational Research, Ohio
 State University, June, 1964

[page 65]

* * * * *

20. IT IS RECOMMENDED that a new elementary school having ten classrooms and one kindergarten room be constructed on a site located near Gladstone Avenue and Twenty-fourth Avenue, which site is scheduled for purchase in 1964.
21. IT IS RECOMMENDED that a site located near the intersection of Clinton Street and Jefferson Avenue be purchased and that a new elementary school hav-

ing ten classrooms and one kindergarten room be constructed thereon.

Recommendations 20 and 21 are designed to provide classroom space needed in the area bounded by Hudson Street on the north, the Pennsylvania Railroad on the east, the North Freeway on the west and Seventeenth Avenue on the south. These recommendations not only will provide space for growth but also will provide facilities for approximately ten classrooms of children that will be transported during the 1964-65 school year.

* * * * *

Plaintiffs' Exhibit No. 137
Table of Annexations to the
Columbus City School District

* * * * *

Data is provided where available and was gathered from a review of numerous documents in the office of the Clerk-Treasurer as well as a listing of R.C. 3311.06 transfers prepared by the State Department of Education.

As can be seen from a comparison of P31-7(1) and 7(2), the following table may not be complete.

<u>Date of Approval by State Board</u>	<u>Losing District</u>	<u>Annex'n. Nbr.</u>	<u>City Ord.</u>	<u>Acres</u>	<u>Nbr. of Students</u>			
6-10-57	Mifflin	136	641-57	21.5				
9-14-59	Franklin Twp.	156	567-59	1.12	0			
11-09-59	Mifflin	158	1046-59	84				
11-09-59	Mifflin	128	1696-59	2.9				
8-14-61	Worthington	168	532-60	104	80			
3-12-62	Upper Arlington	174	869-61	39.39	1			
3-12-62	Worthington, Westerville	157	960-59	145	70			
3-12-62	Worthington			200	0			
6-11-62	Upper Arlington Worthington Washington	} 173	868-61	434	18			
6-11-62	South-Western						150.58	156
4-08-63	Reynoldsburg					186	1187-62	50

<u>Date of Approval by State Board</u>	<u>Losing District</u>	<u>Annex'n. Nbr.</u>	<u>City Ord.</u>	<u>Acres</u>	<u>Nbr. of Students</u>
4-08-63	South-Western	183	779-62	67.5	
4-08-63	South-Western	184	1037-62	2.25	
4-08-63	South-Western	185	1186-62	44.35	
6-10-63	Mifflin	179	14-62	21.75	
6-10-63	Mifflin	181	513-62	14.15	
° 8-12-63	Reynoldsburg	105	679-56	1042	
° 8-12-63	Reynoldsburg	115	1118-56	362.87	
° 8-12-63	Reynoldsburg	116	1272-56	243	
° 8-12-63	Reynoldsburg	117	1273-56	101	
° 8-12-63	Reynoldsburg	153	1542-58	283	
° 8-12-63	Reynoldsburg	164	1724-59	219	
° 8-12-63	Reynoldsburg	166	413-60	546	
° 8-12-63	Reynoldsburg	170	1178-60	538	
4-13-64	Worthington	188	160-63	24	
6-08-64	Reynoldsburg				
8-09-65	South-Western	206	1398-63	410	
11-08-65	Madison	202	1270-64	23	
4-12-71	Madison				
	Reynoldsburg	} 265	156-69	802.54	0
	Eastland Joint Vocational				
°° 4-12-71	Grandview	162	1661-59	910	7
°° 4-12-71	Westerville	129	1697-56	182	} 400 to 600
		203	139-65	532 (part)	
		232	1254-66	802 (part)	
		236	98-67	135	
		238	643-67	367	
		259	1303-68	177	
°° 4-12-71	Washington	} 198	776-64	111	}
	Upper Arlington				
°° 4-12-71	Washington	211	729-65	46.50	} 95
		261	1332-68	32.0	
°° 4-12-71	South-Western	218	1577-65	356.00	} 40
		260	1331-68	898.5	

° Large maps showing the territory so transferred from Reynoldsburg are in the possession of the Clerk-Treasurer and available to plaintiffs' counsel pursuant to Rule 33(c).

The Columbus City Ordinance numbers shown for transfers listed above may provide access to maps which are in the possession of the City.

°° These transfer orders have not been effected at this time because of litigation. See Case No. 75-230, Ohio Supreme Court.

3. The entire Mifflin Local School District was transferred to the Columbus City School District pursuant to R.C. 3311.231 effective July 1, 1971. At that time, Mifflin served approximately 3300 students at South Mifflin Elementary, Cassady Elementary, East Linden Elementary, and Mifflin Junior-Senior High School. The approximate racial composition of such students is available from the document marked P31-34(5), which was previously provided to plaintiff's counsel.

4. The Columbus City School District was expanded pursuant to the procedures set forth in R.C. § 3311.24 on three occasions. On March 12, 1962, the State Board of Education approved the transfer of territory from the Worthington school district to the Columbus district. On December 10, 1962, the State Board approved the transfer of territory from the Westervill school district to the Columbus district. On April 13, 1964, the State Board approved the transfer of territory from the Worthington school district to the Columbus district.

* * * * *

Plaintiffs' Exhibit No. 140
 Extract from Minutes of the
 State Board of Education
 of Ohio, July 10, 1972

* * * * *

The Superintendent presented Item 29 of his report as follows:

29. TRANSFER OF TERRITORY UNDER SECTION 3311.24, O.R.C.

From Columbus City School District to Bexley City School District.

The Columbus City Board of Education transmitted a petition from qualified electors together with a map requesting the transfer of certain described territory from the Columbus City School District to the Bexley City

School District, pursuant to Section 3311.24, Ohio Revised Code. Pertinent information related to the transfer is outlined below.

- I. Prior to April 1, 1972, a petition complying with Section 3311.24, O.R.C., was filed by the Columbus City Board of Education with the Ohio Department of Education. The Columbus City Board of Education also filed objection to the transfer and requested further consideration.

II. Geographical consideration

1. Map of area provided.
2. Would not create an island district.
3. The area would relate more directly to the Bexley City School District.
4. Transfer would contribute to improved district organization.
5. Within the City of Columbus for municipal services.
6. Residential in nature.

III. Pupils in the area

1. Twenty-five in elementary; thirteen in high school with only one or two in public schools.

IV. Transportation

1. No transportation required.
2. Distances to school in miles
Columbus – Elementary 1.4-1.9; Junior High 1.5-2.3; High School 1.2-2.7
Bexley – Elementary .8; Junior High .8; High School .8

V. Educational planning for the area

1. Regular planning by district serving the area.

VI. Financial Considerations

	Operation		Total	Debt	Total School	Total All Purpose
	Inside	Outside				
Columbus	4.51	27.10	31.61	3.65	35.26	48.26
Bexley	5.70	33.60	39.30	5.55	44.85	62.20

1. There would be an inside millage problem which would cost the Bexley City School District 1.19 mills.
2. Valuation of area \$952,200; per pupil valuation \$25,058.
3. Total valuation of Columbus \$1,745,505,060; Bexley \$48,747,660. Per pupil valuation of Columbus \$15,843; Bexley \$18,299.
4. The per pupil value of the area is greater than the per pupil value of either district. The total value and number of pupils would not be significant.
5. The area is paying the same millage rate as Columbus and is willing to pay the higher Bexley rate.
6. The equalizing effect of the foundation program would tend to offset any gain or loss.

VII. Miscellaneous

1. No school building in the area.
2. The potential receiving district could accommodate the additional pupils.
3. Raises the question of percentage of racial mix.
4. No previous transfers.
5. Columbus states that this transfer would cause a detrimental loss of human resources.
6. The receiving district cannot be acceptable to the transfer.

VIII. General statements by proponents of the transfer

1. Area is surrounded on three sides by the City of Bexley.
2. Over 75% of the residents desire the transfer.
3. Distances to schools slightly less to Bexley.
4. Area separated from Columbus on west by recreation park, a creek, a railroad embankment with limited cross-through and another park.
5. Geographically the inhabited area is more a part of Bexley for most community affairs and should be for schools.
6. Means of travel to the west are limited by bridges and tunnels.

IX. General statements by opponents of the transfer

1. Columbus Board of Education policy states that all territory within the municipal boundaries should also be in the city school district.
2. The loss of \$925,000 valuation and the human resources of the area is of vital concern.
3. Most of the schools which the students would attend are on a regular day program — no extended day or double session except Eastmoor Senior High.

The recognition of the inside millage problem substantiated by a letter from the Franklin County Auditor's Office caused the proponents for the transfer to propose that their request for the transfer be withdrawn.

A hearing was held in accordance with Chapter 119, O.R.C., on June 6, 1972, at the Ohio Departments Building.

The hearing referee found that the proposed transfer would have the effect of eliminating a mutual school district and municipal boundary insofar as the City of Columbus is concerned. The interest of orderly planning *prima facie* consideration should be given to achieving an identity of boundaries for both school purposes and other

municipal purposes. The posture of the record at the time testimony was concluded was insufficient evidence to dictate a departure from the presumption of maintaining co-extensive municipal and school boundaries. Hence, the referee recommended that the proposed transfer be disapproved.

It was moved by Mr. Judd and seconded by Dr. Bixler that the following resolution be adopted:

WHEREAS a petition requesting the transfer of certain described territory from the Columbus City School District to the Bexley City School District was filed with the State Board of Education of Ohio by the Columbus City Board of Education in accordance with Section 3311.24, Ohio Revised Code; and

WHEREAS the Columbus City Board of Education protested the proposed transfer, a hearing was held in compliance with Chapter 119, O.R.C., on June 6, 1972, at the Ohio Departments Building, Columbus, Ohio; and

WHEREAS the hearing referee recommended that the transfer be denied, a copy of the recommendation was served upon all proper parties to the transfer request in accordance with Chapter 119, O.R.C.; and

WHEREAS the State Board of Education of Ohio has given due consideration to the petitioners' request, the referee's report and recommendation, and the possible effects of such proposed transfer upon the school districts involved, (as delineated in Item #29, pages 29-31 of the Agenda for the State Board of Education of Ohio, Regular Meeting, Monday, July 10, 1972, and recorded in the minutes of such meeting): Now, Therefore, be it

RESOLVED, That the requested transfer of territory from the Columbus City School District to the Bexley City School District under Section 3311.24, O.R.C., be DENIED.

The President called for a voice vote on the motion. Motion carried.

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Plaintiffs' Exhibit No. 383
Columbus Public Schools
Pupil enrollments by school by per cent
Black from 1964 to 1975-76

**ELEMENTARY SCHOOLS
PUPIL ENROLLMENT BY % BLACK**

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
ALPINE	1966	—	—	—	—	—	—	—	0.2	0.2	0.2	0.5	0.6	0.7	0.9	1.0
ALUM CREST	1961	—	—	—	50.0	70.0	80.0	72.9	67.3	77.0	78.6	86.4	78.5	79.2	78.7	78.7
ALLINGTON																
PARK	1957	—	—	—	—	—	—	0.4	0.8	4.9	14.5	20.6	38.9	55.8	62.2	79.6
AVONDALE	1891	—	—	—	3.0	2.0	5.0	1.2	1.2	0.5	0.5	0.8	0.8	0.8	1.2	1.0
BARNETT	1964	—	—	—	—	—	—	—	—	2.0	1.9	5.1	3.4	3.7	4.1	10.4
BEATTY																
PARK	1954	—	—	—	99.9	99.0	100.0	100.0	98.7	98.0	99.2	98.5	98.2	98.0	98.3	98.3
BEAUMONT	1957	—	—	—	—	—	—	—	—	0.2	0.2	0.5	3.0	2.2	9.3	10.4
BECK	1884	—	—	—	12.0	12.0	9.0	10.0	11.8	13.5	8.5	9.4	10.0	14.8	17.2	15.0
BELLOWS	1905	—	—	—	9.0	7.0	6.0	7.8	5.7	4.1	5.5	6.9	9.4	9.5	11.0	10.6
BERWICK	1956	—	—	—	0.3	0.4	0.1	0.6	4.2	13.8	18.5	26.2	32.7	42.1	46.6	51.8
BETHEL																
GODOWN																
BINNS	1957	—	—	—	—	—	—	0.4	—	—	0.3	0.3	0.5	0.2	0.7	0.8
BRETNELL	1962	—	—	—	75.0	80.0	83.0	87.2	87.1	90.7	92.7	92.2	94.5	95.5	95.9	95.9
BROADLEIGH	1952-															
BURROUGHS	1953	—	—	—	2.0	2.0	0.2	3.0	2.5	4.0	4.1	7.1	7.7	14.8	28.4	35.1
1921	—	—	—	—	16.0	16.0	15.0	14.9	14.6	14.6	16.4	14.5	12.4	11.7	12.5	11.1
CALUMET	1961	—	—	—	0.3	0.4	0.4	1.1	0.9	0.5	—	0.3	—	3.1	3.6	13.7
CASSADY	1964-															
1971A	—	—	—	—	—	—	—	—	—	—	—	31.8	43.9	47.9	55.5	89.3
CEDARWOOD	1965	—	—	—	—	—	—	—	—	1.1	1.0	0.2	0.3	0.3	0.7	1.9
CHICAGO	1897	—	—	—	37.0	40.0	45.0	39.0	40.2	32.9	33.3	30.0	29.9	26.4	19.8	19.3
CLARFIELD	1926	—	—	—	50.0	70.0	80.0	84.9	85.8	87.9	87.1	89.9	87.8	87.7	83.9	84.4

Non-White

A—Annexed school
 1—Schools under construction
 °—Closed schools

ELEMENTARY SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
CLEARBROOK	1957	—	—	—	85.0	77.0	80.0	87.0	81.7	88.3	90.1	94.4	96.0	closed	—	—
CLINTON	1904-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ELEM.	1922	—	—	—	—	—	—	—	—	0.2	—	—	0.1	0.4	0.1	1.6
COLERAIN	1957	—	—	—	—	—	—	—	—	—	1.5	—	0.9	3.7	1.8	—
COMO	1954-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1955	—	—	—	—	—	—	—	0.3	—	—	0.2	1.1	1.9	2.4	2.8	5.7
COURTRIGHT	1927	—	—	—	—	—	—	—	—	—	2.0	3.3	11.2	20.6	27.7	33.1
CRANBROOK	1957	—	—	—	—	—	—	0.3	0.2	0.4	1.0	1.7	1.0	4.1	4.8	6.0
*CRESTVIEW	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ELEM.	1915	—	—	—	—	—	—	0.7°	—	—	0.8°	—	1.4°	4.1°	5.4	10.8
DANA	1911	—	—	—	5.0	3.0	5.0	2.2	2.6	1.4	2.0	1.7	0.6	0.4	1.0	0.8
DESHLER	1953	—	—	—	7.0	11.0	20.0	35.1	39.1	46.6	51.2	53.8	59.6	61.3	63.1	64.8
DEVONSHIRE	1963	—	—	—	—	—	—	—	—	—	—	—	—	—	0.3	—
DOUGLAS	1875-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1900	—	—	—	—	54.0	68.0	73.0	84.0	86.0	86.7	86.4	80.9	85.9	85.1	85.0	86.5
DUXBERRY	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
PARK	1959	—	—	—	30.0	40.0	33.0	45.8	50.4	74.4	80.4	86.2	86.6	91.1	90.6	88.4
EAKIN	1960	—	—	—	—	—	0.1	—	—	0.8	1.3	3.2	2.9	3.9	9.1	19.0
EAST	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
COLUMBUS	1920	—	—	—	26.0	35.0	39.0	43.8	49.7	55.9	53.3	57.0	59.4	59.0	59.5	56.9
EASTGATE	1954	—	—	—	35.0	98.0	99.9	99.8	99.3	98.7	98.1	97.0	99.2	100.0	98.9	100.0
EASTHAVEN	1968	—	—	—	—	—	—	—	—	—	0.6	0.7	3.0	3.9	4.9	9.2
EAST	1911-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
LINDEN	1911A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1911A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EASTWOOD	1905	—	—	—	100.0	99.0	99.9	99.0	97.6	98.7	97.6	98.1	98.5	97.4	closed	—
ELEVENTH	1906	—	—	—	79.0	90.0	90.0	86.1	88.5	90.5	83.8	84.9	89.3	88.1	89.9	87.4
FAIR	1890	—	—	—	92.0	90.0	95.0	91.5	96.5	95.0	95.6	95.0	98.2	98.2	96.7	96.4

} Non-White

°—Combined statistics, Jr.-Elem. or Jr.-Sr. some years

ELEMENTARY SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-	1976
FAIRMOOR	1950	—	—	—	0.1	—	0.1	0.2	0.2	0.9	1.3	2.4	4.2	7.0	4.6	7.9	
FAIRWOOD	1924	—	—	—	69.0	80.0	90.0	96.6	95.0	95.9	94.2	94.8	93.7	94.7	94.2	94.9	
FELTON	1898	—	—	—	100.0	98.0	99.9	100.0	100.0	100.0	90.0	89.4	84.2	81.5	94.9	closed	
FIFTH AVE.	1886	—	—	—	2.0	2.0	1.3	0.8	0.9	0.4	2.5	2.5	3.7	4.3	2.7	3.5	
FIRST	1873-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
1891	—	—	—	—	48.0	50.0	40.0	36.3	40.8	31.3	32.8	29.2	closed				
FOREST	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
PARK	1962	—	—	—	—	—	—	—	—	—	—	—	—	0.3	0.8	1.4	
FORNOF	1925-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
1927	—	—	—	—	0.2	0.3	—	1.2	0.9	2.0	1.5	0.4	1.4	3.5	3.5	3.8	
FRANK	1873-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
LINTON	1887	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
R.B.	1953	—	—	—	35.0	40.0	22.0	17.6	27.4	20.7	22.1	21.1	27.1	27.6	25.2	25.2	
FULTON	1921	—	—	—	85.0	60.0	40.0	48.0	41.8	44.6	48.8	47.7	49.4	55.2	closed		
GARFIELD	1953	—	—	—	99.0	93.0	98.7	98.7	97.2	98.3	100.0	98.8	99.5	100.0	99.3	100.0	
GEORGIAN	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
HCTS.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	0.4	0.2	
GETTYSBURG	1969	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
GLADSTONE	1965	—	—	—	—	—	78.0	91.2	92.2	96.7	97.4	99.4	99.0	99.6	99.1	97.6	
GLENMONT	1952	—	—	—	0.3	0.4	0.1	0.2	0.2	0.4	0.2	0.7	0.5	0.3	0.6	2.4	
HAMILTON	1953	—	—	—	27.0	48.0	61.0	85.0	90.3	93.0	93.4	96.7	97.3	97.7	97.9	98.7	
HEIMAN-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
DALE	1955	—	—	—	40.0	40.0	31.0	32.4	30.0	34.3	35.8	34.4	33.8	37.7	36.9	35.9	
HEYL	1910	—	—	—	11.0	18.0	11.0	11.2	11.3	11.0	11.2	15.5	15.9	16.7	16.6	15.6	
HIGHLAND	1894-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
1905	—	—	—	—	75.0	70.0	68.0	73.6	72.0	71.7	68.9	70.3	69.1	72.7	72.	66.2	
HOMEDALE	1923-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
1968A	—	—	—	—	—	—	—	—	—	0.6	1.0	1.5	2.5	2.2	5.1	3.6	
HUBBARD	1894	—	—	—	7.0	5.0	5.0	3.5	2.5	1.8	2.1	2.0	0.5	0.6	0.9	1.7	

Non-White

A—Annexed school

ELEMENTARY SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-1976
MAIZE	1960	—	—	—	—	—	—	—	—	0.1	0.3	0.5	0.7	2.4	2.3	2.6
MARBURN	1960	—	—	—	—	—	—	—	0.3	—	0.3	0.3	1.1	0.4	1.6	2.9
MARYLAND	1958	—	—	—	98.0	99.0	100.0	98.5	98.8	98.1	77.6	82.5	closed	—	—	—
MAYBURY	1964	—	—	—	—	—	—	0.2	—	—	—	—	0.1	0.4	1.0	1.3
*McGUFFY																
ELEM.	1927	—	—	—	—	—	0.1	5.9°	6.7	12.4	20.4°	22.2	34.4°	37.0°	31.1	31.1
MEDARY	1892	—	—	—	2.0	2.0	0.1	0.8	1.2	0.5	1.3	2.0	1.7	1.7	2.7	4.1
MICHIGAN	1904	—	—	—	13.0	15.0	15.0	6.7	6.4	5.5	5.4	5.5	3.3	3.1	2.7	4.9
MILO	1894	—	—	—	90.0	90.0	88.0	90.1	91.7	94.2	93.5	93.3	91.2	88.9	89.6	92.7
MOHAWK																
ELEM.	1952	—	—	—	11.0	10.0	10.0	—	—	—	—	—	—	—	—	—
MOLER	1963	—	—	—	0.2	0.3	2.5	3.9	5.6	8.7	12.4	22.7	38.1	46.3	50.1	55.7
NINTH	1896	—	—	—	1.5	0.8	5.0	0.5	0.4	3.3	2.1	1.7	6.4	closed	—	—
NORTH																
LINDEN	1950	—	—	—	—	0.2	—	1.0	1.0	0.7	0.5	3.7	3.9	7.7	4.5	6.3
NORTHBRIDGE	1956	—	—	—	—	—	—	—	—	—	—	—	—	—	2	1.5
NORTH-																
TOWNE	1968	—	—	—	—	—	—	—	—	1.9	1.4	2.1	5.2	5.4	6.4	5.1
NORTHWOOD	1874-															
1905	—	—	—	—	2.0	2.0	0.1	0.7	0.9	0.9	1.9	0.7	1.3	—	1.1	closed
OAKLAND																
PARK	1952	—	—	—	—	—	—	1.6	0.2	—	—	0.6	1.2	1.0	1.1	1.6
OAKMONT	1966	—	—	—	—	—	—	—	—	—	—	—	0.9	1.0	2.5	6.2
OHIO	1893	—	—	—	80.0	83.0	88.0	90.3	89.7	91.6	93.1	91.3	87.8	90.2	87.2	86.2
OLDE																
ORCHARD	1965	—	—	—	—	—	0.1	0.4	0.2	0.2	0.2	0.2	0.2	0.6	2.2	7
OLENTANGY	—															
(See Thurber)																
PARKMOOR	1966	—	—	—	—	—	—	0.3	—	0.6	0.4	0.4	—	0.3	2.9	6.3
PARSONS	1960	—	—	—	—	—	—	0.2	0.2	—	—	0.3	0.3	1.5	1.5	6.3

°—Combined statistics, Jr.-Elem. or Jr.-Sr. some years

Non-White

ELEMENTARY SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year		1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-
	Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1976
PILGRIM	1922	—	—	—	100.0	100.0	98.8	99.5	100.0	99.3	100.0	99.7	84.8	86.7	90.1	93.2
PINECREST	1959	—	—	—	—	1.0	—	—	—	—	—	0.2	0.9	3.3	6.2	9.8
REEB	1904	—	—	—	27.0	25.0	26.0	20.8	17.0	16.8	15.3	15.4	16.1	15.7	12.6	13.1
REFUGEE-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
NOE-BIX	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
(See Liberty)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SALEM	1962	—	—	—	—	—	—	—	0.3	—	—	—	0.3	0.2	1.1	2.3
SCIOTO TRAIL	1927	—	—	—	0.6	—	—	—	0.2	—	—	—	—	—	—	—
SCOTTWOOD	1957	—	—	—	—	—	—	—	0.3	4.1	7.6	11.6	20.8	30.0	34.6	39.0
SECOND	1874-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1883	—	—	—	—	28.0	25.0	28.0	29.5	30.4	25.7	34.5	24.8	21.0	16.7	17.0	20.9
SHADY LANE	1956	—	—	—	—	—	0.1	0.4	0.5	0.7	0.7	0.8	2.3	2.0	2.3	5.7
SHARON	1947	—	—	—	—	—	—	—	—	—	—	—	1.0	1.3	1.0	2.4
SHEPARD	1906	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SIEBERT	1888-	—	—	—	86.0	87.0	91.0	91.4	94.6	95.5	94.1	94.7	90.6	90.4	93.3	96.0
1902	—	—	—	—	2.0	2.0	2.0	0.2	—	0.4	—	—	—	0.3	—	0.6
SIXTH	1961	—	—	—	91.0	90.0	87.0	91.1	85.1	91.7	91.5	87.6	91.0	94.6	closed	—
SMITH ROAD	1915	—	—	—	—	—	—	—	—	0.4	1.3	6.4	20.3	29.5	38.4	42.2
SOUTH	1952-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
MIFFLIN	1971A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SOUTHWOOD	1894	—	—	—	1.0	1.5	1.4	1.4	1.4	1.1	1.6	1.5	1.0	0.3	0.9	1.2
STEWART	1874-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1893	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1899	—	—	—	—	—	—	—	0.6	0.3	—	—	—	1.3	—	2.6	39.2
STOCKBRIDGE	1959	—	—	—	—	—	—	—	—	—	—	—	—	0.3	—	—
SULLIVANT	1954	—	—	—	60.0	70.0	51.0	56.1	58.9	61.4	60.1	60.7	65.5	70.2	69.4	77.5
THURBER	1922	—	—	—	11.0	10.0	10.0	10.5	9.4	8.8	4.5	3.9	22.3	28.2	21.4	22.9
(OLENTANGY)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Non-White

A—Annexed school

ELEMENTARY SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-
		1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1976
TREVITT VALLEY	1964	—	—	—	—	97.0	98.0	99.0	98.9	98.8	98.8	97.9	97.8	99.0	98.6	100.0
FORCE	1963	—	—	—	—	—	—	—	—	—	0.1	0.3	0.9	0.9	2.8	2.3
VALLEYVIEW	1957	—	—	—	—	—	—	—	—	—	—	1.3	1.0	1.2	.4	.4
WALDEN	1968	—	—	—	—	—	—	—	—	—	2.0	1.8	0.7	2.3	3.0	3.7
WALFORD	1961	—	—	—	—	—	—	—	—	—	—	—	0.3	0.3	2.7	1.1
WATKINS	1961	—	—	—	24.0	62.0	64.0	73.5	75.1	76.4	77.1	79.7	80.5	82.1	81.9	83.9
WAYNE	1968	—	—	—	—	—	—	—	11.7	10.0	11.5	10.8	11.8	12.1	9.7	9.1
WEINLAND PARK	1952	—	—	—	30.0	30.0	29.0	30.8	33.7	41.2	39.0	32.2	32.2	30.5	46.7	41.6
WEST BROAD	1910	—	—	—	—	—	0.1	0.6	0.5	0.7	0.5	0.8	1.1	1.3	1.0	1.9
WESTGATE	1952	—	—	—	3.0	3.0	4.0	4.4	3.6	4.3	4.4	5.4	4.5	4.0	4.3	5.2
WEST MOUND	1952	—	—	—	15.0	15.0	15.0	16.8	17.9	16.1	16.5	17.4	17.8	17.7	16.5	13.9
WILLIS PARK	1958	—	—	—	—	—	—	0.2	1.3	0.7	0.6	1.4	0.8	2.3	1.6	7.5
WINDSOR	1959	—	—	—	91.0	97.0	88.0	93.9	93.7	95.2	95.2	97.2	98.9	98.8	98.9	98.4
WINTERSET	1968	—	—	—	—	—	—	—	—	—	0.5	—	0.2	0.7	0.3	0.6
WOODCREST	1961	—	—	—	0.1	0.1	—	—	0.4	0.5	0.3	0.5	0.9	1.5	3.3	4.3

Non-White

**JUNIOR HIGH SCHOOLS
PUPIL ENROLLMENT BY % BLACK**

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
BARRETT	1898	—	—	—	12.0	13.0	20.0	13.0	7.7	8.1	8.0	7.9	8.4	8.6	10.3	11.7
BERRY	1956-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
(Marion-Franklin)	1957	—	—	—	22.3	20.0	35.0	39.6	54.1	61.4	66.9	67.2	68.9	68.9	69.9	70.3
BUCKEYE	1963	—	—	—	—	0.1	—	0.1	—	0.6	0.8	0.5	0.5	0.4	0.3	2.0
CHAMPION	1909	—	—	—	100.0	99.0	99.9	99.5	99.3	100.0	99.9	99.4	99.9	98.3	97.9	97.8
CLINTON Jr.	1955	—	—	—	—	—	—	—	—	0.5	1.3	1.3	1.6	1.7	3.4	7.5
CRESTVIEW Jr.-Elem.	1915	—	—	—	0.2	—	0.1	0.7	0.3	0.5	0.8*	1.5	1.4*	4.1*	10.1	17.6
DOMINION	1956	—	—	—	—	—	—	—	0.5	0.8	0.9	1.2	1.4	1.3	3.8	9.6
EASTMOOR Jr.	1962-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EVERETT	1963	—	—	—	30.5	30.0	28.0	32.0	33.4	34.4	38.0	42.2	49.0	47.4	45.3	46.6
FRANKLIN	1898	—	—	—	35.0	30.0	30.0	29.9	25.3	26.4	25.6	25.6	26.5	27.8	24.9	26.2
HILLTONIA	1898	—	—	—	85.8	93.0	88.0	98.1	94.1	96.3	97.1	96.3	95.9	95.3	93.7	92.8
INDEPEND-	1956	—	—	—	19.2	20.0	23.0	23.6	23.1	22.8	25.0	40.1	27.2	27.3	27.4	27.3
ENCE Jr.	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	12.0*
INDIANOLA Jr.	1929	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
JOHNSON	1958-	—	—	—	13.7	13.0	16.0	19.8	36.2	27.0	25.3	33.3	28.2	30.6	27.6	29.1
PARK	1959	—	—	—	0.3	0.6	0.6	0.2	1.8	2.9	4.9	8.1	13.5	19.3	26.7	28.3
LINMOOR	1957	—	—	—	60.0	70.0	75.0	84.4	88.7	89.6	92.5	95.0	97.2	96.4	96.6	95.6
MEDINA	1959-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1960	—	—	—	—	—	—	—	0.2	0.3	1.1	3.1	5.0	7.4	16.0	20.5	23.7
*McCUFFY	1927	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.-Elem.	1924-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
*MIFFLIN	1971A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.-Sr.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
*MOHAWK	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.-Sr.	1952	—	—	—	40.0	45.0	38.0	50.0*	57.7*	61.4*	66.4*	67.5	74.9*	72.3*	72.4*	72.5*
MONROE	1963	—	—	—	100.0	99.7	99.4	99.7	99.8	99.4	98.5	98.9	98.9	97.7	97.3	98.6

Non-White

*—Combined statistics, Jr.-Elem. or Jr.-Sr. some years

JUNIOR HIGH SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-1976
RIDGEVIEW	1966	—	—	—	—	—	—	—	0.3	0.1	0.4	0.7	0.2	0.4	0.9	3.5
ROOSEVELT	1916	—	—	—	39.6	43.0	45.0	55.8	55.5	55.1	68.2	69.6	74.4	73.8	76.3	71.6
SHERWOOD	1966	—	—	—	—	—	—	0.1	0.4	0.9	1.4	1.2	2.5	5.5	8.1	14.6
SOUTHMOOR	1968	—	—	—	—	—	—	—	33.5	45.8	44.1	41.5	52.0	56.4	60.6	60.4
STARLING	1908	—	—	—	25.0	25.0	19.0	19.1	19.0	17.6	16.6	19.3	18.4	17.1	18.1	19.5
WEDGE-	1965-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
WOOD	1966	—	—	—	—	0.1	1.0	—	—	—	1.0	1.2	1.1	1.3	2.0	5.2
WESTMOOR	1958-	—	—	—	3.9	5.0	4.0	6.5	9.4	9.3	9.2	9.7	9.6	9.1	9.6	9.9
WOODWARD	1959	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
PARK	1967	—	—	—	—	—	—	—	—	0.1	0.1	0.3	0.7	1.2	1.4	3.0
YORKTOWN	1967	—	—	—	—	—	—	—	0.3	0.2	0.4	0.2	1.0	2.1	2.9	6.9

} Non-White

SENIOR HIGH SCHOOLS PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
ADULT DAY	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
IBEEHCROFT	—	—	—	—	—	—	—	—	—	32.4	55.0	53.3	44.4	62.4	69.3	67.3
¹ BETHEL-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
GODOWN	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
BRIGGS	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
BROOKHAVEN	1961-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	16.1
CENTRAL	1963	—	—	—	—	—	—	0.1	0.2	1.1	1.3	1.8	2.5	3.8	7.4	12.9
EAST	1924	—	—	—	27.0	28.0	26.0	31.1	31.1	30.4	33.3	30.6	28.1	28.6	33.5	30.1
EASTMOOR Sr.	1922	—	—	—	94.9	96.0	98.0	98.2	98.9	98.9	98.1	99.6	99.7	99.5	98.9	98.9
EVENING	1955	—	—	—	10.6	12.0	11.0	13.7	15.4	17.8	18.4	18.3	26.2	32.9	34.9	36.2
^o INDEFEND-	.....	—	—	—	25.0	—	37.0	27.5	35.5	45.7	46.1	51.2	56.8	40.9	39.8	49.5
ENCE	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	12.0*
LINDEN-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
McKINLEY	1928	—	—	—	12.1	15.0	34.0	45.0	49.4	55.8	62.2	79.9	89.6	90.6	92.3	89.5
MARION-	1952-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
FRANKLIN	1953	—	—	—	17.6	20.0	19.0	24.9	23.4	25.2	28.8	33.1	36.9	38.5	40.3	43.9
¹ McCUTHCH-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EON	.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
^o MIFFLIN Sr.	1924-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	1971A	—	—	—	—	—	—	—	—	—	—	41.2	48.1*	51.9*	57.5*	62.6*
^o MOHAWK Sr.	1952	—	—	—	—	—	—	50.0	57.7	61.4	66.4	67.8	74.9	72.3	72.4	72.5
NORTH	1924	—	—	—	7.2	8.0	6.0	8.4	9.3	9.6	10.4	10.5	10.8	12.6	14.1	17.9
NORTHLAND	1966	—	—	—	—	—	—	—	—	0.3	0.3	0.2	0.3	0.6	1.6	6.5
SOUTH	1923	—	—	—	9.8	10.0	23.0	29.3	31.6	33.8	35.9	34.9	40.5	43.0	44.1	44.8
WALNUT	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
RIDGE	1961	—	—	—	—	—	—	0.1	0.1	0.3	0.5	1.1	1.7	2.1	2.7	6.8
WEST	.....	—	—	—	10.8	13.0	12.0	12.6	13.4	13.5	14.1	12.9	12.7	13.9	14.1	15.8

Non-White

*—Combined statistics, Jr.-Elem. or
Jr.-Sr. some years

SENIOR HIGH SCHOOLS — Continued
PUPIL ENROLLMENT BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
WHETSTONE	1961	—	—	—	—	—	—	0.1	0.1	0.2	0.3	0.6	0.5	0.4	0.9	2.6
								} Non-White								

[THIS PAGE LEFT BLANK INTENTIONALLY]

Plaintiffs' Exhibit No. 385
Columbus Public Schools
Professional staff by school by per cent
Black from 1964 to 1975-76

ELEMENTARY SCHOOLS TEACHERS BY % BLACK

School Name	Year											1975- 1976				
	Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970		1971	1972	1973	1974
ALPINE	1966	—	—	—	—	—	—	—	—	—	—	—	9.5	9.5	15.8	10.0
ALUM CREST	1961	—	—	—	33.3	40.0	40.0	50.0	42.9	40.0	46.2	87.5	77.8	50.0	25.0	16.7
ARLINGTON																
PARK	1957	—	—	—	—	—	12.5	16.2	15.8	23.5	17.7	21.4	20.0	20.0	21.4	22.2
AVONDALE	1891	—	—	—	—	10.0	4.8	5.0	10.0	4.4	4.6	10.0	10.0	10.0	10.5	10.5
BARNETT	1964	—	—	—	—	—	—	—	—	—	—	8.3	—	18.2	20.0	—
BEATTY PARK	1954	—	—	—	100.0	90.0	70.0	62.5	61.9	62.5	57.9	57.1	64.7	41.2	27.8	26.3
BEAUMONT	1957	—	—	—	—	—	—	—	—	—	—	—	—	5.9	12.5	11.8
BECK	1884	—	—	—	—	—	10.0	3.9	4.2	11.5	8.7	8.7	10.0	9.5	23.8	15.0
BELLOWS	1905	—	—	—	—	14.3	12.5	—	—	6.7	8.3	9.1	8.3	16.7	16.7	20.0
BERWICK	1956	—	—	—	—	—	—	—	—	—	—	6.2	13.3	13.3	14.3	9.1
¹ BETHEL																
GODOWN																
BINNS	1957	—	—	—	—	4.8	5.3	8.9	4.6	3.7	8.7	5.0	5.0	10.0	9.1	10.0
BRETNEL	1962	—	—	—	29.4	22.2	21.1	18.6	38.1	27.3	47.6	47.4	52.6	42.1	22.2	25.0
BROADLEIGH	1952-															
	1953	—	—	—	—	—	5.6	4.8	—	—	4.8	—	4.8	18.2	15.0	20.0
BURROUGHS	1921	—	—	—	—	9.7	6.5	5.8	—	3.1	—	—	7.4	10.7	18.5	25.0
CALUMET	1961	—	—	—	—	—	—	—	—	—	—	—	—	6.7	7.1	9.1
CASSADY	1964-															
	1971A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
CEDARWOOD	1965	—	—	—	—	—	20.0	13.3	13.3	10.5	5.3	5.6	4.8	9.5	15.0	21.0
CHICAGO	1897	—	—	—	15.7	15.0	14.3	13.9	9.1	13.0	9.1	5.0	10.0	15.0	26.3	27.8
CLARFIELD	1926	—	—	—	15.0	5.9	5.9	23.4	12.0	11.5	17.4	26.1	27.3	19.0	15.0	30.8

White - Non-White

Data

Ex. - *16

A — Annexed School

I — schools under construction

ELEMENTARY SCHOOLS — Continued
TEACHERS BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
CLEARBROOK	1957	—	—	—	80.0	66.7	66.7	77.8	75.0	60.0	55.6	83.3	60.0	closed	—	—
CLINTON	1940-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ELEM.	1922	—	—	—	—	—	—	—	—	—	—	—	—	—	—	3.7
COLERAIN	1957	—	—	—	—	—	—	—	—	—	—	—	—	—	—	8.0
COMO	1954-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	28.6
COURTRIGHT	1955	—	—	—	—	—	—	9.5	5.3	4.6	—	—	—	—	—	—
CRANBROOK	1927	—	—	—	—	—	—	—	—	—	—	—	—	5.0	10.0	11.1
CRANBROOK	1957	—	—	—	—	—	—	—	—	—	—	—	—	5.6	5.6	16.7
CRANBROOK	1957	—	—	—	—	—	—	—	—	—	—	—	—	5.9	5.6	11.8
*CRESTVIEW	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ELEM.	1915	—	—	—	—	—	—	2.2*	—	—	2.2*	2.3*	—	—	6.3*	25.0
DANA	1911	—	—	—	—	9.1	9.1	13.6	9.5	4.2	4.4	5.0	4.8	13.6	23.8	19.0
DESHLER	1953	—	—	—	—	4.2	8.3	—	7.7	12.5	12.5	20.6	16.2	15.6	18.2	20.0
DEVONSHIRE	1963	—	—	—	—	—	—	—	—	—	—	—	4.3	8.7	9.1	9.5
DOUGLAS	1875-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
DOUGLAS	1900	—	—	—	78.3	73.9	62.9	41.9	33.3	25.0	26.9	29.2	36.0	30.8	29.2	27.3
DUXBERRY	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
PARK	1959	—	—	—	—	14.3	12.5	13.8	15.4	8.7	27.3	25.0	34.5	30.8	25.9	20.8
EAKIN	1960	—	—	—	—	—	9.5	4.3	8.3	7.7	4.6	5.6	5.3	11.1	15.8	11.8
EAST	1920	—	—	—	—	5.3	10.5	25.0	10.0	13.6	4.8	10.5	10.0	9.5	22.7	26.3
COLUMBUS	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EASTGATE	1954	—	—	—	35.7	33.3	66.7	23.5	29.4	22.2	33.3	42.9	53.8	25.0	23.1	25.0
EASTHAVEN	1968	—	—	—	—	—	—	—	—	—	6.7	11.8	10.0	8.0	13.0	13.1
EAST LINDEN	1911-	—	—	—	—	—	—	—	—	—	—	—	—	5.3	10.5	15.8
EAST LINDEN	1971A	—	—	—	—	—	—	—	—	—	—	—	—	—	—	16.7
EASTWOOD	1905	—	—	—	64.3	64.3	57.1	57.1	53.9	60.0	50.0	40.0	60.0	33.3	closed	—
ELEVENTH	1906	—	—	—	32.3	32.1	19.5	33.3	24.1	25.0	23.3	30.8	32.1	29.6	19.2	25.0
FAIR	1890	—	—	—	83.3	63.6	54.2	57.6	44.1	37.1	55.9	56.2	58.6	41.2	23.3	25.9

A — Annexed School

* — Combined data some years, Jr. - Elem.;

see Jr. High Schools

White - Non-White

Ex. - #16

(F) Data 1966

possible error

**ELEMENTARY SCHOOLS -- Continued
TEACHERS BY % BLACK**

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
FAIRMOOR	1950	—	—	—	—	—	—	—	—	4.0	4.4	10.0	9.1	13.6	18.2	10.0
FAIRWOOD	1924	—	—	—	20.0	24.0	33.3	28.6	28.0	32.1	34.6	43.5	48.0	42.3	24.1	28.0
FELTON	1898	—	—	—	100.0	72.2	44.4	41.9	37.9	32.0	34.8	28.6	27.3	27.3	23.8	closed
FIFTH AVE. FIRST	1886	—	—	—	—	—	—	10.0	12.5	—	—	—	—	9.1	20.0	20.0
FOREST PARK	1873- 1891	—	—	—	25.0	25.0	25.0	16.7	8.3	14.3	7.7	15.4	closed	4.5	10.0	11.1
FORNOF	1925- 1927	—	—	—	—	—	—	—	—	3.6	4.2	4.5	4.5	4.5	20.0	12.5
FRANK- LINTON	1873- 1887	—	—	—	—	—	—	6.7	7.1	10.5	12.5	—	—	10.0	20.0	12.5
R.B. FULTON	1953	—	—	—	6.3	12.5	12.5	17.6	17.6	18.8	21.4	6.2	11.8	17.6	23.5	28.6
GARFIELD	1953	—	—	—	52.9	60.0	38.1	33.3	29.4	22.2	35.7	33.3	36.4	27.3	closed	25.0
GEORGIAN	1953	—	—	—	88.2	73.7	80.0	78.3	75.0	63.6	72.2	71.4	80.0	53.8	27.3	25.0
HCTS.	1959	—	—	—	—	—	—	—	—	—	—	—	—	5.0	9.5	10.5
GETTYSBURG	1969	—	—	—	—	—	—	—	—	—	—	—	—	9.1	8.3	9.1
GLADSTONE	1965	—	—	—	—	—	30.0	41.7	35.3	27.3	18.2	26.3	31.6	25.0	25.0	21.0
GLENMONT	1952	—	—	—	—	—	—	—	—	—	—	—	7.1	7.1	7.7	6.7
HAMILTON	1953	—	—	—	—	5.7	5.4	8.3	18.9	9.5	13.5	8.6	25.6	27.0	22.9	25.8
HEIMANDALE	1955	—	—	—	40.0	37.5	47.1	53.3	46.7	46.7	35.7	36.4	27.3	25.0	27.3	25.0
HEYL	1910	—	—	—	—	3.6	7.1	12.9	4.0	7.1	4.3	4.8	4.3	16.0	23.1	21.7
HIGHLAND	1894- 1905	—	—	—	4.6	13.0	8.3	25.4	25.0	22.6	16.7	14.8	20.7	20.0	16.7	24.1
HOMEDALE	1923- 1968A	—	—	—	—	—	—	—	—	5.3	14.3	14.3	12.5	11.1	12.5	16.7
HUBBARD	1894	—	—	—	—	5.0	4.6	4.8	10.5	4.4	—	—	4.8	4.5	11.1	12.5

ELEMENTARY SCHOOLS — Continued TEACHERS BY % BLACK

School Name*	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
MAIZE	1960	—	—	—	—	—	—	—	—	—	—	—	—	4.3	15.0	11.1
MARBURN	1960	—	—	—	—	—	—	—	—	—	—	—	—	7.7	8.3	10.0
MARYLAND																
PARK	1958	—	—	—	88.9	75.0	62.5	70.6	60.0	54.5	55.6	55.6	closed	—	—	—
MAYBURY	1964	—	—	—	—	—	—	4.6	—	—	4.0	3.7	3.8	7.1	12.5	12.5
*McGUFFY																
ELEM.	1927	—	—	—	—	—	3.7	6.8*	3.7	3.1	8.6*	15.3*	16.7*	16.7*	18.5	25.0
MEDARY	1892	—	—	—	—	—	—	4.3	4.0	—	—	—	—	5.6	11.8	10.0
MICHIGAN	1904	—	—	—	—	—	5.6	5.0	4.8	4.8	5.6	6.3	5.9	11.1	25.0	25.0
MOHAWK																
ELEM.	1952	—	—	—	—	—	80.0	—	—	—	—	—	—	—	—	—
MILO	1894	—	—	—	32.1	34.5	33.3	46.7	39.3	34.5	32.1	52.2	63.6	47.6	27.8	23.5
MOLER	1963	—	—	—	—	—	—	6.1	6.7	10.5	5.9	6.2	11.8	16.7	11.8	30.8*
NINTH	1896	—	—	—	—	—	11.1	—	—	—	—	—	—	closed	—	—
NORTH																
LINDEN	1950	—	—	—	—	—	—	—	—	—	—	—	—	15.0	18.8	18.8
NORTHBRIDGE	1956	—	—	—	—	—	—	5.1	5.6	4.6	—	—	—	6.3	6.7	13.3
NORTHTOWNE	1968	—	—	—	—	—	—	—	—	—	—	—	7.1	7.7	18.8	7.1
NORTHWOOD	1879- 1905	—	—	—	—	—	—	6.7	—	5.3	—	—	—	10.0	11.1	—
OAKLAND																
PARK	1952	—	—	—	—	—	—	12.5	6.3	—	—	9.1	—	8.3	25.0	16.7
OAKMONT	1966	—	—	—	—	—	—	—	—	7.1	7.1	7.1	6.7	11.8	12.5	17.6
OHIO	1893	—	—	—	44.0	48.0	37.9	45.0	54.5	38.3	40.5	48.8	55.3	38.9	22.2	20.6
OLDE																
ORCHARD	1965	—	—	—	—	—	—	—	—	—	—	—	9.1	13.6	17.4	18.2
OLENTANGY	-----															
(See Thurber)																
PARKMOOR	1966	—	—	—	—	—	—	—	—	—	—	—	—	6.3	14.3	14.3
PARSONS	1960	—	—	—	—	—	—	5.6	—	—	—	7.1	—	13.3	21.4	9.1

*Combined data, Jr. - Elem. some schools; sec. Jr. High Schools

ELEMENTARY SCHOOLS — Continued
TEACHERS BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
PILGRIM	1922	—	—	—	100.0	86.7	75.0	94.1	87.5	73.7	76.5	80.0	72.2	52.9	27.8	28.6
PINECREST	1959	—	—	—	—	—	4.0	4.1	4.4	3.7	4.4	5.0	4.8	4.3	14.3	11.1
REEB	1904	—	—	—	13.1	—	12.9	14.3	9.7	14.7	10.3	3.7	7.4	12.5	16.0	17.4
REFUGEE NOE-BIX. (See Liberty)		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SALEM	1962	—	—	—	—	—	—	—	—	—	—	—	4.8	4.8	10.5	11.1
SCIOTO TRAIL	1927	—	—	—	—	—	—	—	5.3	—	—	—	6.3	5.9	6.3	7.1
SCOTTWOOD	1957	—	—	—	—	—	—	—	—	—	—	—	5.9	17.6	11.1	11.1
SECOND	1874-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SHADY LANE	1883	—	—	—	10.0	10.0	15.4	13.3	11.1	21.4	—	18.2	19.2	13.0	22.7	23.8
SHARON	1956	—	—	—	—	—	—	—	—	—	—	—	6.3	11.8	6.7	7.1
SHEPARD	1947	—	—	—	—	—	—	—	—	—	—	—	—	6.3	7.7	8.3
SIEBERT	1906	—	—	—	8.3	7.7	7.7	42.9	38.5	6.7	8.3	10.0	40.0	20.0	22.2	25.0
	1888-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
SIXTH AVE.	1902	—	—	—	—	5.3	10.0	5.0	—	9.5	5.3	5.9	5.9	6.7	7.1	14.3
SMITH ROAD	1961	—	—	—	33.3	33.3	22.2	18.2	36.4	41.7	50.0	70.0	57.1	30.0	closed	—
SOUTH	1915	—	—	—	—	—	—	—	—	—	—	—	12.5	25.0	26.7	21.4
	1952-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
MIFFLIN	1971A	—	—	—	—	—	—	—	—	—	—	8.3	21.9	21.2	24.3	24.1
SOUTHWOOD	1894	—	—	—	—	—	4.0	4.3	4.2	4.0	—	—	—	4.8	18.2	22.7
STEWART	1874-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	1893	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
STOCKBRIDGE	1959	—	—	—	—	—	—	—	—	—	7.1	—	—	10.0	18.2	7.1
SULLIVANT	1954	—	—	—	—	—	—	10.5	5.3	5.6	—	6.7	12.5	12.5	20.0	15.4
THURBER	1922	—	—	—	11.1	27.8	35.0	40.0	57.1	44.0	41.7	41.7	39.1	33.3	26.1	23.8
(OLENTANGY)		—	—	—	—	—	—	—	—	—	—	—	18.2	19.0	20.0	22.2

**ELEMENTARY SCHOOLS — Continued
TEACHERS BY % BLACK**

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1968	1969	1970	1971	1972	1973	1974	1975- 1976
TREVITT VALLEY	1964	—	—	—	—	50.0	45.5	40.0	37.5	26.7	25.0	25.0	46.7	36.4	30.4	21.7	21.1
FORCE	1963	—	—	—	—	—	—	4.2	—	—	—	—	—	—	4.8	9.5	10.0
VALLEYVIEW	1957	—	—	—	—	—	—	—	7.7	—	—	—	—	—	9.1	11.1	12.5
WALDEN	1968	—	—	—	—	—	—	—	—	—	—	—	—	—	6.3	18.8	6.7
WALFORD	1961	—	—	—	—	—	7.7	7.7	7.7	—	—	—	—	—	15.4	16.7	10.0
WATKINS	1961	—	—	—	20.0	10.0	10.0	14.3	20.0	22.2	31.3	31.3	35.7	33.3	33.3	21.4	25.0
WAYNE	1968	—	—	—	—	—	—	—	22.2	18.2	22.2	22.2	10.0	—	10.0	9.1	11.1
WEINLAND PARK	1952	—	—	—	3.8	3.7	3.6	7.1	7.1	11.8	8.8	8.8	10.3	17.2	14.3	19.4	25.8
WEST BROAD	1910	—	—	—	—	—	—	3.5	—	3.0	—	—	3.4	3.2	6.3	12.1	16.1
WESTGATE	1952	—	—	—	—	—	—	—	—	4.4	4.8	4.8	5.6	5.6	10.5	15.8	16.7
WEST MOUND	1952	—	—	—	—	—	4.5	3.9	4.3	7.7	4.3	4.3	5.0	5.0	9.1	17.4	18.2
WILLIS PARK	1958	—	—	—	—	—	—	—	5.0	4.6	5.0	5.0	6.2	13.3	12.5	12.5	13.3
WINDSOR	1959	—	—	—	40.0	35.5	27.8	26.3	38.1	39.0	47.4	47.4	45.5	52.8	37.1	26.5	25.0
WINTERSET	1968	—	—	—	—	—	—	—	—	—	—	—	—	—	10.0	8.7	8.7
WOODCREST	1961	—	—	—	—	—	—	—	—	—	—	—	—	5.0	10.0	10.0	10.5

JUNIOR HIGH SCHOOLS TEACHERS BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
BARRETT	1898	—	—	—	2.2	4.3	4.0	9.8	10.0	5.7	3.8	4.0	5.5	9.4	13.5	18.9
BERRY	1956-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
(Marion-Franklin)	1957	—	—	—	—	—	3.1	7.5	10.8	7.5	20.9	19.5	27.3	27.3	28.9	23.3
BUCKEYE	1963	—	—	—	—	4.2	3.7	2.9	2.7	2.5	4.8	5.1	5.1	8.1	11.1	8.1
CHAMPION	1909	—	—	—	97.3	90.6	80.0	75.0	73.7	72.5	76.2	63.9	71.8	56.4	35.0	24.3
CLINTON Jr.	1955	—	—	—	—	—	2.0	2.1	2.1	2.0	4.0	4.1	6.9	7.5	8.5	14.6
CRESTVIEW Jr.	1915	—	—	—	—	—	2.4	2.2	—	3.0	2.2*	2.3*	—	6.3*	9.4	15.6
DOMINION	1956	—	—	—	—	—	2.9	2.7	2.4	2.4	2.4	2.6	2.4	5.0	10.3	11.4
EASTMOOR Jr.	1962-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1968	—	—	—	—	—	6.3	5.9	5.3	8.1	9.8	7.7	9.1	8.6	11.8	15.2	15.6
1988	—	—	—	—	7.1	7.0	5.0	7.1	6.4	3.9	3.7	4.3	8.0	12.5	15.2	17.8
FRANKLIN	1898	—	—	—	32.6	28.9	31.7	43.8	42.5	34.6	78.2	78.7	70.4	54.9	45.8	23.9
HILLTONIA	1956	—	—	—	—	7.5	7.7	7.6	9.8	6.8	4.4	6.8	9.3	18.2	16.7	21.6
INDEPEND-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ENCE	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
INDIANOLA	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.	1929	—	—	—	—	5.6	2.7	7.7	7.3	8.5	6.4	6.8	11.4	14.6	23.8	21.0
JOHNSON	1958-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
PARK	1959	—	—	—	—	—	2.4	4.5	4.4	2.0	2.0	2.1	8.9	12.5	12.7	20.4
LINMOOR	1957	—	—	—	—	8.3	15.9	24.3	26.8	25.8	27.4	34.5	32.2	28.3	21.7	23.7
MEDINA	1959-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1960	—	—	—	—	—	—	2.2	4.4	2.2	2.1	2.1	2.1	2.0	4.4	12.5	12.8
MCGUFFY Jr.	1927	—	—	—	—	—	3.6	6.8	15.2	7.9	8.6*	15.3*	16.7*	18.1*	18.6	26.5
*MIFFLIN Jr.	1924-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1971A	—	—	—	—	—	—	—	—	—	—	—	19.4	11.9*	17.3*	22.7*	21.1*
MOHAWK Jr.	—	—	—	—	11.8	5.6	8.3	18.0	18.8*	13.8*	17.5*	29.0*	34.8*	35.4*	21.7*	23.2*
MONROE	1963	—	—	—	—	39.4	41.2	41.7	38.9	47.4	48.6	58.8	51.4	40.5	23.5	25.0

*—Combined statistics, Jr.-Elem. or

Jr.-Sr. some years

A — Annexed School

P-31-521,
Non-white

JUNIOR HIGH SCHOOLS — Continued
TEACHERS BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975-
		1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1976
RIDGEVIEW	1966	—	—	—	—	—	—	7.8	6.3	8.3	5.6	3.0	2.6	5.4	5.4	5.6
ROOSEVELT	1916	—	—	—	5.1	8.8	8.6	9.5	12.5	15.2	19.1	23.3	34.7	27.7	23.9	22.7
SHERWOOD	1966	—	—	—	—	—	—	2.9	2.9	—	—	—	5.0	5.4	12.8	14.8
SOUTHMOOR	1968	—	—	—	—	—	—	—	11.1	8.8	8.8	20.6	23.1	20.5	21.1	17.1
STARLING	1908	—	—	—	2.5	4.8	5.0	4.4	8.5	6.1	4.2	6.2	6.4	8.9	11.9	16.7
WEDGEWOOD	1965-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	1966	—	—	—	—	—	5.9	3.7	3.7	6.5	3.2	3.3	5.9	8.8	8.3	13.5
	1958-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
WESTMOOR	1959	—	—	—	—	—	2.5	2.6	2.6	2.3	2.3	2.3	6.7	8.7	13.0	17.8
WOODWARD	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
PARK	1967	—	—	—	—	—	—	8.3	6.5	5.4	1.8	1.7	3.0	6.3	9.1	11.1
YORKTOWN	1967	—	—	—	—	—	—	7.4	6.5	5.7	5.0	4.8	3.8	11.3	14.5	13.5

} P 31-524
Non-white

SENIOR HIGH SCHOOLS TEACHERS BY % BLACK

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
ADULT DAY	-----	—	—	—	—	—	—	—	—	—	—	12.5	30.0	10.0	10.0	12.5
¹ BEECHCROFT	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
¹ BETHEL-	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
GODOWN	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	22.2
BRIGGS	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
BROOKHAVEN	1961-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
1963	—	—	—	—	—	1.5	1.5	3.1	3.1	2.8	2.7	3.0	5.3	5.1	7.1	8.2
1924	—	—	—	—	2.5	3.6	3.7	4.5	9.4	9.4	10.5	10.8	12.8	15.0	17.6	23.7
CENTRAL	—	—	—	—	12.7	15.0	21.3	24.8	32.4	28.9	35.2	37.3	41.5	36.8	31.3	23.7
EAST	1922	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EASTMOOR	—	—	—	—	—	1.8	1.9	1.6	1.5	4.0	4.5	10.6	8.8	13.3	15.2	16.2
1955	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EVENING	-----	—	—	—	7.0	4.3	5.0	9.8	11.9	8.7	16.4	14.5	14.8	—	50.0	—
INDEPEND-	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ENCE	1975	—	—	—	—	—	—	—	—	—	—	—	—	—	—	25.6
LINDEN-	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
McKINLEY	1928	—	—	—	—	1.4	2.8	6.1	7.9	10.9	15.4	27.3	44.4	37.9	30.5	22.9
MARION-	1952-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
FRANKLIN	1953	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
¹ McCUTHCH-	-----	—	—	—	2.1	7.4	6.7	9.1	6.8	8.8	10.5	11.1	15.4	15.9	17.3	19.7
EON	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
*MIFFLIN	1928-	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.-Sr.	1971A	—	—	—	—	—	—	—	—	—	—	12.8	11.9*	17.3*	22.7*	21.3*
*MOHAWK	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Jr.-Sr.	1952	—	—	—	—	—	—	18.0*	18.8*	13.8*	17.5*	29.0*	34.8*	35.4*	21.7*	23.2*
NORTH	1924	—	—	—	—	1.6	1.7	1.6	3.1	—	3.8	4.1	5.1	11.4	14.3	13.2
NORTHLAND	1966	—	—	—	—	—	—	—	1.8	1.4	1.5	3.1	2.6	6.3	9.8	10.7
SOUTH	1923	—	—	—	—	1.5	1.3	2.7	3.8	5.8	5.7	5.9	8.0	12.9	13.9	19.8
SOUTHEAST	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
*WALNUT	-----	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
RIDGE	1961	—	—	—	—	1.6	3.1	1.8	—	1.4	2.5	2.3	2.2	6.1	9.0	9.2
WEST	1929	—	—	—	—	2.4	1.3	3.2	2.2	4.3	4.1	5.7	5.2	9.1	12.7	13.3

*—Combined Jr.-Sr. data some years.

1—Schools under construction

**SENIOR HIGH SCHOOLS -- Continued
TEACHERS BY % BLACK**

School Name	Year Opened	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975- 1976
WHEATSTONE	1961	--	--	--	--	1.9	2.0	1.6	1.6	1.4	1.3	1.4	2.6	7.4	11.1	10.0

Plaintiffs' Exhibit No. 505
 Table of Pupil Segregation
 Indices Prepared by Plaintiffs'
 Expert Witness, Dr. Karl Taeuber

COLUMBUS

Pupil Seg - Minority vs. Non-Minority

		<u>Elem.</u>	<u>Jr.</u>	<u>Sr.</u>
Fall	1975	70	56	54
	74	73	62	56
	73	76	64	57
	72	76	66	58
	71	77	67	57
	70	80	66	55
	69	81	67	56
	68	81	68	53
	67	79	69(25)	50
May(65)	66	80	61(20)	53
Feb.(64)	65	79	63	54
Feb.(63)	64	76	63	55

