

Q. If a student should fail the examination by six points, say, and should be a very good pupil, would he necessarily fail? A. I can not say.

Q. You do not know, do you? A. I really do not know, there are so many things to be considered.

Q. Then, the examination is not the sole guide as to whether he shall be promoted to high school or not, is it? A. Not in the white schools.

Q. That is right. They also take into consideration the class-room work and all; is that correct? A. And the recommendation of the teacher.

CROSS-EXAMINATION.

I really do not know whether in the case of colored children they may be promoted without passing the examination. I do not know whether the rule is different in the colored schools. I know that the examination has been the prerequisite for promotion the past year and has been in various years. I really do not remember the exact wording of the directions we had in 1934 and 1935. Exceptions were very rare. In that case, the teacher would appeal to the Superintendent and the Supervisor. And the Supervisor would grant a promotion. It was a matter of careful consideration. I do not know about the colored schools. I am both principal and Supervisor. I am principal of the elementary school at Catonsville and supervise four schools in the Catonsville section.

RE-DIRECT EXAMINATION.

The Cowdensville school is not among these schools and I do not supervise the Cowdensville school.

ELIZA MERRITT,

a witness of lawful age, produced on behalf of petitioners, having been first duly sworn was examined and testified as follows:

I am attendance officer in the Baltimore County schools, visit the schools to learn something of the attendance, confer with the teachers concerning attendance and problem case of children, visit the homes of parents and I am responsible for the keeping of records of attendance in our schools. It is a part of my duty to make out the reports of Baltimore County, summarize the principal's annual reports of enrollment, attendance and promotion. (Witness shown principal's annual report for 1935.) I made this report out as well as one for 1934. (Books marked Petitioners' Exhibits No. 17 and No. 18.) In these reports there is a place for promotion and non-promotion, another for not promoted and a far column "graduates." The sum total of promotions from the seventh grade in the colored elementary schools appear in the column "graduates." There is no distinction in this book between the figures "promotion from the seventh grade" and the figures for "graduates." This book is for high school as well as elementary and of course, we have our graduates from fourth year high school. The reason I included in the group "promoted" the same figure as in the column "graduates from the seventh grade elementary school," is that in the promotions column we make up these reports from the teachers individual reports and the teacher marks the child promoted or retained and whether promoted to high school or promoted from the seventh grade to go out to work, they were all counted in that column. On the teachers individual report, the teacher showed no difference. They were all according to the teachers report and the teachers judgment of a child marked promoted or retained. There is nothing in the colored teachers seventh grade report to show whether or not the child is promoted to high school or promoted to go back. The same is true for the white schools. The same figures appear in the 1935 report. When I make up my report to the School Board, I do not know how many are promoted and how many are promoted to high school. In my duties as attendance officer, I know that the age limit for compulsory attendance is 16. I try to enforce the attendance laws as to the colored children also. A colored child 15 years of age who has once repeated the seventh grade and who is unable to qualify for high school education, oftentimes wants to go to

work. If the child did not want to go to work and wanted to go back and repeat his grade I think he could still go back again. I would not require this. I should say not after a child had been in the seventh grade for two years and had repeated his grade and had attended regularly and applied himself. Then I would say that it is of little value for him to go back. The 16-year law says that the children shall be in school, but if they have been through the grades and had two years in the seventh grade, as I said, we do not compel him to go back. The child has been promoted so that he may go out to work; and usual thing is that they would rather and would like to. (Witness shown a letter from the Board of Education of Baltimore County, dated July 24, 1934.) I have seen this letter. The second paragraph reads: "Any pupil who fails to receive the required average for the free tuition to attend high school and who has had but one year in the seventh grade, may repeat the seventh grade, if he or she has not reached the age of 16. I would not urge a child below the age of 16 to repeat the seventh grade if he had had two years in the seventh grade."

Q. (By Mr. Marshall) Would you in your position as attendance officer refuse to permit the girl under the circumstances we have been mentioning, to repeat the seventh grade the second time?

(Mr. Rawls) I am going to object, may it please the Court.

(The Court) I sustain the objection.

(Mr. Marshall) Exception, please.

Q. (By Mr. Marshall) Did you have any part in the preparation of the — first of all, I ask if you are acquainted with the letter from the Assistant Superintendent advising the teachers to discourage pupils from taking the examination for free tuition, and stating that pupils under fourteen years of age, should repeat the grade?

(Mr. Rawls) I am going to object to that. It is not the letter, and it is not a fair statement of the letter. I object to it.

(The Court) Let me have that question.

(Question read by the reporter.)

(Mr. Rawls) The letter, may it please the Court, appears in two forms. One is that they were to discourage students who had no possibility of passing the examination, and the other, I think in form, had no fair chance of passing the examination. There is all the difference in the world in that kind of a letter and the statement of the question. I object to it, and ask that even the question be stricken from the record.

(The Court) I sustain the objection.

(Mr. Marshall) Exception, please.

Q. (By Mr. Marshall) Miss Merritt, are you acquainted with the letter from J. T. Hershner, Assistant Superintendent, stating that, under date of May 10th, 1934, stating that teachers should discourage pupils from taking the examination for free tuition to high school, if they did not have a fair chance of passing it, pupils under fourteen years of age should repeat the grade if not successful in the examination.

(The Court) Isn't that the same question?

(Mr. Rawls) The same question, may it please the Court.

(The Court) I sustain the objection.

(Mr. Marshall) Exception.

BESSIE C. STERN,

a witness of lawful age produced on behalf of petitioners having been first duly sworn was examined and testified as follows:

I am Statistician of the State Board of Education. I consider examinations and different kinds of tests. In the year 1935, there was a standard test sent out to the schools in the State. It was a progressive achievement test by Tiggs and Clark. The purpose of this examina-