

(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-

tion was to check the work of the pupils in the schools of the counties of the State in the tool subjects. It was for the purpose of survey and for diagnostic purposes. It was for many purposes. For the purpose of having the State Department survey the work of the various county schools and the counties were advised to use the results of the test for diagnostic purposes to follow up the remedial work. That is the suggestion we sent out. By remedial work I mean teachers and supervisors study the results of the tests and find out what errors have been made by pupils and find out what the class difficulties are, and what the individual difficulties are and try to help the pupils to overcome those difficulties. The norm used in these examinations is to see how well our children compare with the standards set up by the authors of the test. I went into the Tiggs-Clark test before we took that one. The test is made in California, I think in Los Angeles. I think four or five schools were used to test reliability. They base the results on 1,100 pupils, I think in the California schools. They were supposed to be representative pupils. I have not seen the California course of study. We studied the test and we thought it was a very good, fair test and we thought it was a good way to check up on our courses of study and our own work, by finding out how we checked up against other places. I think the examination was given to the white students in Baltimore County in January, 1935. According to the testimony, it was given to the colored pupils in June, 1935. When the examination was sent out by the State Board, we did not say anything about using it for the purpose of promotion. It was a discretionary matter with the counties. When we sent the examination out, we indicated the purposes of the examination. We sent out suggestions for the giving of this test which was for the purpose of surveying the work in reading, arithmetic and language in the schools from the second grade to the seventh or eighth. There were no geography and history questions except those included in the reading test. All of the counties in the State used that test. I think the examination is a very good test and our results show for instance, in June, that only about 10% of the colored children pass certain phases of that test. It would be possible for 50% to fail. I think that we would find very

few counties in which 50% of the colored children would reach the norm. The norm was based on 1,100 students in California—Negro, Chinese, Mexican and white children.

Q. (By Mr. Marshall) Do you know of your own knowledge whether there are any one-teacher schools in Los Angeles?

(Mr. Rawls) I object.

(The Court) Sustained.

A. There are probably not.

Q. Are there to your knowledge any? A. I don't know.

(Mr. Rawls) Objected to.

(The Court) Sustained.

(Mr. Marshall) Exception.

We only went into the question of the schools used for testing the reliability of this test by the knowledge that they have good schools in Los Angeles. They are supposed to have the progressive course of study and to do work that is well recognized over the Country. I cannot discuss what is meant by the word "progressive." When I said progressive, I meant in a very general way.

CROSS-EXAMINATION.

Mr. Cooper telephoned me and asked me if I thought that the progressive achievement test would be a fair test to use with his seventh grade pupils and I told him I thought it was a very good test. That was all I said to him. We were not concerned with the question as to whether the test was a fair test for high school purposes. I don't know whether or not it was used in other county schools as a test for high school. We get records of promotion and in most of the counties, the pupils who are promoted to high school are counted graduates, but that was not true in Baltimore. I regarded the test as a fair test. We did not check in detail as to whether the course of study in Baltimore County schools comprehended the questions contained in that examination. We wanted something general to check our own work against. I

know the course of study in Baltimore County schools in general and I thought the test would be comprehended in that course. It had been given in places other than Los Angeles. When it was given in June, 1935, it had been used with about 70,000 children in the counties in January, the white children. Not in the seventh grade, but in grades up to the seventh. It has been used in other States but I do not know just what States. It is an accepted test available for use throughout the Country. I could not say whether or not this particular test had been used in a number of States. I know it was being used because we selected it and probably other people selected it. The results of the examination in Maryland indicated that our children were doing very good. A little higher percentage of them reached the norm than had been expected. I think the colored children did better in that test than they have done in most tests that we give. I think the seventh grade colored pupils did better than they have in some tests that we have given, but of course, the colored results are never very high. A small percentage of colored children reached the standard as they went up through the grades. This is based on examinations all over the State. Many of the colored children make excellent scores. In individual cases, we have colored pupils who make as high a mark as the white, but the percentage of them who do it is very much smaller. In a number of cases, the individual marks are as high in one race as in the other. The white children fall off as they go to the higher grades, but not to the same extent as the colored children. The norms of this examination and the scores for this examination are based on the 1100 pupils. So far as the reliability of this examination is concerned, despite the fact that it might have been given to six million pupils, the reliability of it as to these norms as published *her* does not change until they publish another one, until they change the score. We can make our own norms. We often do. First in selecting this examination we did not actually consider the Baltimore County course of study. In stating over the phone that I thought the examination was a fair examination, I did not consult the course of study in Baltimore County. We were selecting a test for the state as a whole and all parts of the state did not use the Baltimore County course of study.

We were trying to select a test that was general in nature, that would fit all parts of the state. In giving my opinion that this examination would be a fair examination for promotion, I was considering that we had chosen it as a fair test in general for all of the grades. Since the white pupils had done so well in it, it seemed that it would be a perfectly fair test for Mr. Cooper to use. I was not consulted on the point that the examination itself was to be the sole criterion for promotion, all I was asked was whether it would be a fair test to use with seventh grade pupils. I think it would have been a very rare exception that a pupil would have been promoted to high school in the white school who had a mark so low as that would probably have not been promoted. I think it would be a matter of discretion with the Superintendent as to whether the examination would be the sole criterion. I thought it was as good a test, a standard test, as was available at that time. In January, the children were probably marked on a norm of 7.5 and if they took the examination in June, they would be required to make 7.9 or 8. In June, they would be required I think to make 7.7. I think they actually took 7.7. In going over the colored examinations in June, 1935, I found that a large percentage of the colored children were below the score in language. They were quite low in the first test in reading but they were farthest below in the language test. The test included spelling and handwriting in "language." The colored pupils were very low in this subject. The white pupils were too. They were not as low as the colored percentage. The norms used are left to the discretion of the county. I did not study the book of the authors of this examination, before we went into it.

EMILIO CRUZ,

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

DIRECT EXAMINATION.

I live in Lutherville and attended the Lutherville colored elementary school. I finished the seventh grade