

schools in Baltimore County, but I believe that they must pass an examination and receive a recommendation from their principal. I am not sure as to what the recommendation is.

While I cannot recall definitely what was done with the application of Margaret Williams, I do know that the Board did not consider and did not intend to admit her to the Catonsville High School. They refused her at that time, and speaking personally, so far as I am concerned, she is still refused.

I did not on October 8, when Mr. Marshall appeared before the Board, make the statement that I and the Board did not intend to spend one cent more on the education of Negroes in this county."

JOHN T. HERSCHNER,

a witness of lawful age, being first duly sworn, testified as follows:

"I am Assistant Superintendent of the Schools of Baltimore County; my official duties include general supervision of the colored schools, some administrative duties pertaining to repairs and some other administrative duties relating to the placement of children in some of the schools. I have been in charge of the colored schools since 1900. Superintendent Cooper and the Board are in charge of the white schools; I have nothing to do with the administration of the white schools so far as admission to class and graduation are concerned; I do not know how instruction is supervised in the white schools. There are seven supervisors for the white schools and I am the only supervisor for the colored schools. There are twenty-four schools under my charge, all of them elementary schools. I recommend the employment of teachers in the colored schools. I have visited the Cowdensville Elementary School a number of times during 1933-34-35.

There are no colored high schools in Baltimore County. The Baltimore County Board of Education provides for

the education of colored children in Baltimore City High Schools, if they meet with the requirements of the Board. Five years of high school education are provided in the Baltimore City High School. The Baltimore County Board of Education has been paying for five years in the city high schools, since June, 1934. The white students in Baltimore County receive four years of high school education, receiving a diploma at the end of the fourth year. I do not know whether Baltimore City High Schools grant the Negro students of Baltimore County a diploma at the end of four years or not.

Every Negro child in Baltimore County may go to high school when he so desires, "if he has completed satisfactorily the tests". This test is set forth by the school authorities for entrance into high school. Every seventh grade Negro child in Baltimore County may take that test. I wrote the letter addressed to Mrs. J. Hasty at Overlea, Maryland (Petitioner's Exhibit No. 9), which includes that statement that the principals are instructed by us not to recommend pupils who do not have a fair chance to pass the examination. I also wrote the letter addressed to Mr. C. G. Cooper, President of the Board of Education, Court House, Towson, Maryland (Petitioner's Exhibit No. 10), which included the statement that principals were instructed to send only those applicants (to the examination for admission to high schools), who had a reasonable chance of success. At our regular teachers' *meetings* of Negro teachers we discussed these problems and because there are a number of these Negro children who could not possibly pass the examination and for that reason we do not want to encourage them, we felt it futile in some instances, if they were low grade, and could not possibly pass, for them to make the attempt. But we did instruct the principals that we wanted every child who had any chance whatever to get into that school to come. We left it to the judgment of the principals to determine if a child had any possible chance of passing the examination; although they were instructed at our teachers' meetings to send all the children if they wanted to go. I do not know whether similar instructions were given to white principals about their students. While I may have used, in my letters to the principals, the phrase that they were "instructed by us not to recommend pupils

who did not have a fair chance", that may have been badly worded. What I intended to convey was that they should "discourage" those who could not pass the examination. It would involve time and expense to send the children who had no possible chance to pass. By expense, I mean expense to the patrons and not the taxpayers of Baltimore County.

I expected the principals to determine the children who had a fair chance of passing by their general class work and their examinations in the class rooms. I never gave distinct instructions to the principals of the Negro schools how they should determine whether or not a given child could or would have a fair chance of passing the examination.

I and the principals and teachers in the Negro schools do our best to see that every child in Baltimore County is advanced to the seventh grade and make the same effort to get the child beyond the seventh grade. No teachers are instructed not to allow children in grades other than the seventh to take the examinations to determine whether or not they shall be promoted to the next succeeding grade. That instruction applies only to promotion out of the seventh grade and is conditional and even there the principals are encouraged to let all students go if they want to. I do not have any written instructions to the colored principals in Baltimore County showing this fact. It was only discussed in meetings.

Q. If a principal in a colored high school had a large number of students taking this so-called county-wide examination, and a very small number of those children were able to pass that examination, would that fact be considered by you as having any connection at all with that principal's ability to administer his school problems?

(Mr. Rawls) I object.

(The Court) I sustain the objection.

(Mr. Ransom) Note an exception, please.

The examinations which are given to the Negro children in Baltimore County are made up by the super-

visors of the white schools under the instructions of the Superintendent, and I am not in on it. I did not assist in drawing the 1935 examination, for that was the "standard test" and Mr. Cooper and I selected it as the test for the examination for promotion to high school in the colored schools. I do not think that it was given to the white pupils for that same purpose. The 1934 test was of the essay type and the supervisors of the white schools prepared that and I was in consultation with them. I do not think I was present when the test for the white pupils was prepared in 1934. I do not recall how many copies of this examination I had printed in 1934.

I do not recall when the examinations for the colored schools were made up probably in April or June; Superintendent Cooper had charge of them. I have no knowledge of when the examinations for the white schools are made up.

I do not know what happens to a high school student in the white schools of Baltimore County who fails one subject during the course of the year, but it is a part of my job to keep tract of the Negro children of Baltimore County for whom tuition is paid into Baltimore City High Schools. I get reports from the principals of these schools to find out how many have failed. We wrote a number of Negro pupils about the regulation of the Board of Education of Baltimore County to the effect that if the student did not satisfactorily perform his work during the year in the high school, his tuition would be no longer paid, in order to stimulate their interest to keep up their work, that that would possibly apply. I think we enforced it in one case this year. I wrote the teachers of the high school that we could not continue his tuition.

Q. Are you familiar with the regulation of the Board of Education of Baltimore County to the effect that if the student does not satisfactorily perform his work during the year in the high school his tuition shall be no longer paid? A. Well, that was—we wrote a number of these pupils, in order to stimulate their interest, to keep up their work, that that would possibly apply. But we did not enforce it, except I think there is one case this year, a child, that talking with the teachers of the high

school, that had been in school, and done very poorly last year, and failed badly.

Q. What do you intend to do about that, or what have you done? A. Well, I wrote them that we could not continue, I did not think we could, and did not see how they could carry the work.

Q. Do you know how many subjects that child did poorly in last year in high school?

(Mr. Rawls) May it please your Honor, there are 24,000 in that, and we will be here until——

(Mr. Ransom) There are not 24,000 from Baltimore County for whom tuition is being paid.

(Mr. Rawls) I object.

(The Court) You can get the benefit of anything you want in the way of an exception by simply stating your proposition. But I am not interested now in finding out anything about the system of high schools in Baltimore City, or the children sent from Baltimore County. What I want to know is whether this child had a right to go to the high school. And I am going to limit it to that, gentlemen. I must do it in the interest of time. I am going to eliminate anything outside of that. All of these things you are going into now I do not consider material. If you were going into the whole case, you might have a right to do so. But I eliminated all of that in my opinion. Of course, if I am wrong in that, I am wrong in everything.

(Mr. Ransom) If the Court pleases, before the Court rules on that particular matter, I want to say I am not trying to prove anything about the system in Baltimore City. I am talking about the system in Baltimore county.

(The Court) Yes, but the trouble is that the child has not gotten there yet. What you say is that the child was entitled to go and had passed all of the necessary tests, and then she was illegally not permitted to go.

(Mr. Ransom) If the Court pleases, I fear that the Court is laboring under a misapprehension. The Court mentioned a few moments ago the fact that we had al-

leged that the girl had passed the examination satisfactorily. We have never so alleged. We do not allege that the child passed any examination. As a matter of fact, we merely said that the girl had satisfactorily completed the seven years of elementary work in the system, and that she was entitled to admission to the high school system. Respondents in their answer set up the fact that they had an examination out there. And in our reply to that answer we denied that there was an such uniform examination; and we asserted on the contrary that it was a mere pretense on the part of Baltimore County Board of Education to prevent the negro children from obtaining a high school education. Now, the theory of our case is that there is no examination necessary, and that there is no uniform system of giving an examination to determine eligibility for admission to the high schools; and that if such an examination was given, then it was merely for the purpose of reducing the number of students for whom Baltimore County pays tuition in the City high schools. And in this case, of course, to make it pertinent, to exclude the petitioner. That is the theory of our case.

(The Court) I get your point; but I am not going into that at all. I am going to stand on my opinion that it is necessary for you to show that this child was kept out of that school arbitrarily, and that there was no examination. I am going to decide that the School Board of Baltimore County has the right to make tests, examinations. You can not get away from that; I do not think you can.

(Mr. Ransom) I want to except to that statement or ruling of the Court.

(The Court) All right.

(Mr. Ransom) I am also excepting to the overruling, or rather, to the sustaining of the objection to the last question that was asked of the witness.

(The Court) All right.

The schools in Baltimore County closed on June 21, 1935. They closed on June 22, 1935. We gave the examination for admission to the high schools to the colored

seventh grade pupils on June 15, 1934. We gave it on Thursday, June 20, 1935.

This report card for Margaret Williams (Petitioner's Exhibit No. 1) is the official report card used in the Baltimore County schools, furnished by the Board of Education to all the principals, both white and colored. The words "promoted to Eighth" on this card, I suppose mean promoted to the eighth grade. By the term "promoted" I understand that in Baltimore County we have two grades of promotion, "one to high school", as stated yesterday by the superintendent, and another, "promoted." "Promoted" simply gives promotion from the seventh grade, giving the child the right to leave school to work, but does not promote him to high school. I suppose the distinction is that they are promoted from, they are promoted to. The words "promoted to eighth grade" on Margaret Williams report card do not mean that she was promoted to the next higher grade, but simply promoted. She could leave the system or repeat the grade if she wished. If she had repeated the seventh grade and was given this card with the words "Promoted to the Eighth" on it, this was the act of the teacher without authority. The teacher did not have authority to promote her to the eighth grade. I gave this teacher and other teachers in the colored schools instructions about promoting out and promoting to. Those instructions were similar to the instructions set out in the regulations by the Board of Education and the Superintendent of Schools for promotion to high schools and promotion. I do not recall whether those instructions were in writing, but I did discuss the provision of the Board with them in their teachers' meetings. That provision is that in the promotion to high school the children were required to pass a certain standard examination as set out by the superintendent of the Board. I never authorized the colored principals to promote the children to high school. I do not know whether the white principals were so authorized or not. My instructions to the principals were that there would be a stated (standard?) examination for children who wanted to go to high school and there would be promotions to those who had completed the standard grade of work as best they could, to pass out of the elementary school. The Negro

principals are permitted only to promote and not to promote to high school. They can recommend those who shall take the examination for promotion to high school, but cannot promote them of their own accord.

The teacher had no authority to write anything except "Promoted" on the report card in the blank space provided. She could write "Promoted to Completion of Seventh Grade" if she wished. After the teacher had marked "Completed the Seventh Grade", the petitioner could have returned and repeated the grade if she wished because some of the students did not do work which would justify their promotion to high school. Looking at the report card of Margaret Williams, I should say that with credits such as are indicated on that card, her teacher would probably rate her as a fair pupil. There are seventeen subjects on that card and, with the exception of two, her credits are all "A's" or "B's", with a predominance of "A's". The teacher should rate her as a very good student, which is what she has done. Margaret Williams should have been encouraged to take the examination. The teacher who taught Margaret Williams is fair, being strong in teaching, but weak in administration.

The examinations in 1935 were given to the Negro students in five centers—Catonsville, Reisterstown, Towson, Sparrows Point and Turners. I suppose the examinations for the white students in 1935 were given in their schools. The standard test that we used in 1935 was received from the Board of Education. This test was sent out by the State Board to be used throughout the entire state to test all students. I first saw the tests some time early in the year. Superintendent Cooper and I decided that we would give them to those applicants for high school in June. My instructions to the colored principals were to discourage those who could not possibly pass from taking the examination, but still if they wanted to take the examination, they could do so. No colored principal has ever sent all of his students in the seventh grade to take the examination.

Q. When did you give this test to the other grades in the colored schools?

(Mr. Rawls) I object.

Q. Aside from the seventh.

(Mr. Rawls) I object.

(Mr. Ransom) If the Court pleases, that is very material. If there was one examination given, the same examination given to all the students, it becomes very material, as to the time when the examination was given to other students before it was given to the particular applicant.

(Mr. Rawls) I object; may it please the Court, they are talking about grades from 2 to 7, and we are only concerned with the seventh. They are different examinations, as I understand it, entirely different examinations.

(The Court) Yes, confine it to the seventh.

(Mr. Ransom) I except to the ruling, if the Court pleases.

(The Court) Yes.

Q. (By Mr. Ransom) Mr. Hershner, was this same examination used for testing more than one grade in the system in Baltimore County? A. Yes.

(Mr. Ransom) Now, if the Court pleases, I will ask the witness at what time this examination was given to the other students?

(Mr. Rawls) I object.

(The Court) I sustain the objection.

(Mr. Ransom) I except to the Court's ruling.

(The Court) Yes.

The course of study for both white and colored students in Baltimore County is made up by the Superintendent of Schools and the supervisors and experts.

I have not authorized any modifications of this course of study for the Negro schools. We try to follow it. We use the same text books in the colored schools as are used in the white schools. We teach hand-

writing and have books for it in the colored schools and had them quite a long time before 1936. We do not have a penmanship instructor within the colored schools. Penmanship was one of the subjects upon which the petitioner was tested in the standard achievement test in 1935. The possible score that she might have made on penmanship is 15, while her actual score was 6, being a difference of 9 points. Her total actual score on the examination was 244. The passing mark for the examination was 260, but we did reduce it, on my recommendation to 251, the difference of 9 points, which might have been allowed for spelling or handwriting, which would have passed her.

The reason we reduced the passing score in the colored schools from 260 to 251 was that there were so few who had passed the higher standard. My recommendation was made after the papers had been graded. This test is a standard achievement test devised by Ernest W. Tiegs of the University of Southern California and Willis W. Clark, Director of Administrative Research, Los Angeles County Schools. The manual which accompanies the test states the standard or grade which the child should make on the completion of the seventh grade. This manual says that the standard for a grade placement of 7.9, that is for the ninth month of the seventh year, should be a score somewhere between 255 and 259.

I do not know whether a report card, marked as the petitioner's was, with "Promoted to Eighth" grade on it, would be sufficient to entitle the holder of the card to admission to the Baltimore City High Schools without examination if she paid her own tuition. Such a card would be no evidence that the Baltimore County Board of Education had passed her as a student equipped to attend high school. The Board of Education of Baltimore City does not require us to give an examination in Baltimore County. I do not know whether Baltimore City High Schools inquired of us whether or not a child had satisfactorily completed the elementary work in our school system when that child made application for admission to the Baltimore City High School and indicated his intention to pay his own tuition. We have a red card that indicates the grade standing which we use for trans-

fers. If an inquiry were made of us, we might answer that she had completed the seven years elementary work, but not taken such an examination. It would depend upon whether or not the inquiry were made. This red card is an elementary school record given to the pupil when that pupil transfers to another school to show his grade standing, his attendance record and the date of his entrance in the school system. That card is given to the student only if he calls for it and wishes to transfer. We have a similar white card which is held by the teacher in the school. If the student did not apply for his transfer card and an inquiry were made of us for the student's record, we would write the principal of the school telling her to send the transfer card. The teacher or principal keeps these records. She could write on it, if she wished to, that the child had graduated. That has been done on the two cards that have just been shown to me. The transfer card that I now hold belongs to Margaret Williams and the penciled handwriting on that card is mine. It says "Failed in the Examination" and I put it there last Saturday, I think. I obtained this card from the Cowdensville School after we were instructed to get all the papers from that school and I merely made these notations on each of the cards to show what had happened to the children. There is no place on the card for the teacher to indicate that Margaret Williams ever took the examination and either passed or failed. I do not recall ever having notified the teachers of the schools which of their students passed and which failed in the examinations, but I did notify the students. I think I may have sent notices to the teachers in 1935, but I am not sure. I do not recall whether or not I have a copy of any such notification. In 1934 three students from the Cowdensville School took the examination and one passed it. In 1935 four took it and one passed it. The annual report in 1934 shows that there were three students in the seventh grade and all three were promoted out of that grade. In 1935 four were promoted and one failed. The school is small, having an average attendance of twenty to twenty-one. The annual report refers in 1934 to these three as "graduates". The term "graduates" means there that they have satisfactorily completed the course according to the teacher's judgment.

I, myself, have given examinations to colored pupils for promotion to high school, giving one in 1934 at Sparrows Point, in 1935 at Towson and again at Towson in 1936. The other examinations during those years were given by the supervisors and persons authorized by the Superintendent. No colored school teacher or principal has ever been authorized to give any of these examinations to the colored students. They have been instructed to be present at the examination and to help distribute the papers. None of them could give any instructions as to the examination. Such colored teacher could help in the arrangement of the pupils in the class room and when there was an overflow, he could remain in the overflow room to see that "conditions were favorable". I cannot answer whether there are any white principals in Baltimore County especially trained to give examinations. Some of the colored principals have had experience in giving examinations, but I do not know whether any of them are trained specifically for giving such tests. However, their qualifications for certification are the same as those of white teachers.

In giving the examinations I know what students were authorized to take them, because the principals reported the names of those who would be there. Many came who were not named. The principal had to report all of the seventh grade pupils and if they came and took the examination, it was all right. I think the principal gave me a separate list of those whom he recommended for the examination. I did not know all the seventh grade pupils in 1934 and 1935 either by sight or by name. The child, when he came to the examination, did not bring a report card or record of any sort from the principal. Miss Grace gave the examination at Catonsville in 1934. Miss Nellie Gray gave the examination at Catonsville in 1934. She was formerly one of the supervisors and is now principal of the white elementary school at Catonsville. I think that she gave the same examination to the white students in her school and then to the colored students under my supervision. The duties of Miss Gray do not include supervision of the Negro schools in the county. She has been present at some of the Teachers' Meetings with me, but I do not recall that she has ever been present

before any of the Negro pupils. I do not think that Miss Gray has ever done any work among the colored students.

The purpose of the examination given to the seventh grade pupils in the colored schools is for admission to the high schools of Baltimore City and to determine whether or not the student has completed the course of study prescribed by the Board of Education of Baltimore County. The teacher, yes, the teacher in the seventh grade gives an examination of her own making and choosing to her pupils at the end of the year to determine whether or not they shall be promoted out. The student might get "A's" and "B's" and the teacher might certify that she had satisfactorily completed the work of the seventh year and yet not be able to do the work of the high school. I remember one case in which the teacher was urging two children to go to high school and I said it was useless to encourage children like that to go to high school. The thing to do was to carry them along and finally let them get through the grade so that they could get their permits to go to work. One of these children was in the third grade and the other was in the fifth and they were not doing satisfactory work there. I do not know whether they were getting "A's" and "B's" or not. If a child is incapable of doing satisfactory work, it would be the teacher's duty to require him to repeat the work of that particular grade and if after repetition the child was still unable to do satisfactory work, all that we could do is promote him along to the seventh grade and then I would say promote, not graduate him out of the seventh grade, in order to comply with the compulsory attendance law.

The teachers and principals make up the records of the colored elementary school which are submitted in a report to the State Board of Education. They come into our office and we make up the reports from these records. We mark them in the last column as graduates. The figures in the column which refer to the students as being promoted and in the column which refer to them as graduated are the same, but they were probably not to be interpreted the same from our point of view. To me, the term "graduated" would mean that the child is capable of going on to high school. It would not always mean

that. In this case he would have to take the examination to determine that. I pay very little attention to the word "graduated". I think there should be some change in the reports going to the State Board. The examination given by the County Board for admission to high school is given to determine whether or not the child has completed the work according to the standards of the Board of Education for the seventh year. The teacher gives the examination for that same purpose. The teacher does not always make and choose that examination herself. Sometimes they are made up by the teachers and sometimes by the supervisors of the white schools and the school authorities. I do not think there is any duplication of purpose in these examinations. The reason is because the teacher could not promote those children who took her examination to high school. They can only be promoted on our examination. The teacher is required to give an examination in order to mark the students promoted or not promoted. Its purpose is to see if they have completed the work of that grade satisfactorily. My recollection is that prior to 1935 the children who took the examination for promotion to high school did not have to take the examination submitted by the principal. The teacher would recommend those who took our examination on the basis of their class work throughout the year. The teacher might give the child a card certifying that he had been promoted and our office might send the record to the State Board of Education that he had been graduated without his having taken the teacher's examination. I do not recall a single case in which that has been done, however. I have never given any instructions to the colored principals not to give examinations to those students who were going to take the high school examination. I do not recall ever having discussed it with the teachers. If a child did not take the teacher's examination and the teacher recommended her or him to us for permission to take the high school examination and that child failed our examination, I do not know how the teacher should mark his or her promotion card. I have never given any instructions in a case like that. I do not put any confidence in or accept the teacher's certification that the child has completed the work of the seventh grade for admission to high school. We would

probably accept that certification that the child has satisfactorily completed the work of the seventh grade according to the teacher's judgment. But I would not rely upon the teacher's judgment to the extent that I would say that having done the work of the seventh grade satisfactorily, the child is presumably capable of going on and doing the work of the eighth grade.

After the examinations for admission to the high school are given, they are marked usually by the supervisors or by a committee appointed by the Superintendent. These are not always the same persons who give the examination. After the papers are marked, the grades are sent to the office of the Board of Education. They are filed in my office. I do not think I have them as far back as 1926. I know that we have them as far back as 1932. We have not held all of them because of lack of storage space in the basement of the Court House. The law only requires us to keep them for six months, but we do keep them longer than that. After the grades were in the office prior to 1936 I sent out personal letters to the student notifying him or her of the results of the examination. I always examine the results before sending the notices.

After the child has passed the examination, if he is recommended by me, he can be recommended to the Baltimore City High School. My recommendation is based upon the standard marks for the examination set by the Board of Education upon my recommendation or that of the Superintendent. On several occasions I felt we ought to reduce the standards. I felt we ought to get through more children. I recommended a reduction of the average grade from 60 down to 50 and on one occasion to 30. I did this because I felt we ought to get more children into high school. My recommendation that the child shall be promoted to high school, after he has taken the examination, is based solely upon the results of the examination. I only consult the principal in order to ascertain the standards or grades of the children. I do not recall how long I have been doing that. The records from the principals contained in 1936 for the first time a place for the teacher to answer the following question: "Do you recommend the pupil's admission to high school?" This

question appears on the record for 1936 (Petitioner's Exhibit No. 6). It does not appear on the record for 1934 (Petitioner's Exhibit No. 11). It does not appear on the record for 1935 (Petitioner's Exhibit No. 12). In 1934 there is a paragraph in my letter of May 10 which says, (addressed to the principals) "Star names of pupils who are recommended for high school." The same statement appeared in my letter of 1935. The instructions on the records that we gave to the teachers in those years read "Record names of all seventh grade pupils and star those who expect to take the scholarship examination for free tuition. The star was for the purpose of letting us know how many would take the examination.

I know a Mrs. Hasty. I had an interview with her after the examination for admission into high school. I did not make a statement to her to the effect that there must be an effort made to discourage too many of these colored children from taking the examination because I did not want them getting into high school at too early an age. I did not say that I was making this statement because I knew of one student who was only eleven years old and ready for high school. I may have discussed the question of children's getting into high school too young, but I did not say, so far as I recall, that I was discouraging young children from going to high school.

If the petitioner, Margaret Williams, had passed the examination given, either in 1934 or in 1935 to determine her eligibility, I would not recommend that she be admitted to the Catonsville High School because that is a school for white students only. We have separate schools for colored students.

CROSS EXAMINATION.

There are twenty-four colored schools in Baltimore County under my supervision. The examination given in the colored schools in 1934 was the same examination given in the white schools in 1934 to determine whether or not the student was eligible for promotion to the high school. That examination was made up by the supervisors of the white schools, the Superintendent and myself.

I heard the testimony that the examination in 1935 was given to the white schools in January and to the colored pupils in June of 1935. The examination was provided by and given at the suggestion of the State Department of Education. The teachers mark "Promoted" on the report card of a colored pupil may represent at least two classes of students—one being those who have satisfactorily and successfully, in the teacher's judgment, completed the seventh grade, and the other class those who are promoted for the purpose of having them leave the seventh grade. The word "Promoted" would not indicate to which of these classes the student belonged. Ordinarily, the teacher's examination preceded the examination given under the supervision of the Superintendent. The notice which appears on my circular of June 10, 1935, reading "All seventh grade pupils will take the regular scheduled examination for pupils, which begins Friday, June 14, which is authorized to those who are recommended by the principal as eligible for high school, refers to the regular examination in the classes. All pupils took that examination. It was for the purpose of instruction. The examination for admission to high school was held on June 20. That examination was the same for both white and colored schools. The same is true for 1935. I might have some students listed as promoted from the seventh grade who would be taking the seventh grade over again the following year. This plaintiff repeated the seventh grade in 1935 after she had taken the examination in 1934. We have approximately 200 children in the seventh grade in Baltimore County. A goodly number of them would be repeating the seventh grade. I would guess that there might be fifty repeaters. I think that would be a low estimate.

The committee which marked the papers in 1934 was composed of the seven white supervisors. I did not mark any of the papers myself, but I was there and the committee consulted me in regard to these colored applicants. That was in 1934. In 1935 a special committee arranged for and planned by Superintendent Cooper did the marking of the uniform tests. The members were persons trained to do that type of work. No consideration other than the successful passing of the examination entered into the recommendation for admission to high

school. I make the recommendation to Mr. Cooper and he in turn, makes it to the Board. I have always recommended every pupil who successfully passed the examination. Recommendation follows automatically upon passing. Mr. Cooper has always taken my recommendation. I have recommended "some below that", and the Board has approved some of them. The purpose of my statement in my letters to the principals, which read "Star names of pupils who are recommended for high school", was to get the principal's judgment on the applicants appearing upon the list of those who were taking the examination.

RE-DIRECT EXAMINATION.

If a principal should say that he did not recommend a particular student for examination and the student should take the examination and pass, I would recommend him for the high school, despite the principal's judgment. The test given by me to the colored pupils of the seventh grade in 1935 was provided by the State Board of Education for the purpose of determining the achievements of the pupils and to determine the teaching as done by the principals in the schools. I do not know what instructions from the State Board accompanied the tests. I did not pay much attention as to whether or not the State Board requested that the examination be given within a certain period. I think it was intended by the State Board that the examination be given to all of the students in the seventh grade, white and colored, throughout the state. We gave it to all excepting those who failed to appear for that seventh grade examination. They were privileged to appear if they wished. The same thing applied to the white schools, I suppose. I testified on cross examination that I knew that the test was given to the white children in January, 1935. It was not optional with them whether or not they could take the examination. They had to take it, but some may not have been present. The Negro children in Baltimore County could refuse to take the examination. I have urged them to attend such examinations and insisted that they be present, if there was any possible chance of passing. I am not an expert, but I am familiar with that type of

examination. I have given a number of them. Its purpose is to analyze the weakness of both the student and the teacher. If this examination were not given to all the colored students in the seventh grade in 1935, the teachers or the principals of the colored schools or I, as supervisor could still determine in what subject these children were deficient so that they would not have any possible chance of passing the high school examination from the teacher's knowledge of the student's general classroom work and his ability to do it. I would not ask the teacher to discourage such deficient children from taking the examination. I would ask the principal to encourage all to take the examination who had a "ghost of a show."

I testified that there are two recommendations before the Negro child can get into the high school. I recommend to the Superintendent and I suppose he passes that recommendation on to the Board. My recommendation alone would not be sufficient to entitle the child to admission to high school. On cross examination I testified that I did recommend some colored students who had *take* examination and failed. By that I mean some who fell below the standard set out by the Board of Education. In 1935 the standard set by the achievement test was 260. I recommended that all who had scored above 251 be admitted for *for* free education in the Baltimore City High Schools. What we did was to lower the passing score finally established. I have never recommended anyone who has not met the minimum passing score in any examination since 1926. It is true that automatic recommendation follows passing the examination, automatic failure to recommend follows not passing the examination."

DAVID W. ZIMMERMAN,

having been previously qualified, resumed the stand and testified as follows. "I gave this achievement test in my school in January, 1935. Some of my children failed this test. Those who failed remained in the same grade, but there was some reclassification within the sections