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Record No. **4752**

PETITION FOR WRIT OF MANDAMUS

In the
Supreme Court of Appeals of Virginia
at Richmond

**THE COUNTY SCHOOL BOARD OF
FLUVANNA COUNTY, VIRGINIA**

v.

**EDITH H. FARRAR, TREASURER OF
FLUVANNA COUNTY, VIRGINIA**

RULE 5:12—BRIEFS.

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

H. G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

199VA427

IN THE
Supreme Court of Appeals of Virginia

AT RICHMOND.

Record No. 4752

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 10th day of June, 1957.

THE COUNTY SCHOOL BOARD OF FLUVANNA
COUNTY, VIRGINIA, Petitioner,
against

EDITH H. FARRAR, TREASURER OF FLUVANNA
COUNTY, VIRGINIA, Respondent.

Upon a Petition for Writ of Mandamus

This day came the County School Board of Fluvanna County, Virginia, by counsel, and presented to the Court its petition praying that a peremptory writ of mandamus do forthwith issue, directed to Edith H. Farrar, Treasurer of Fluvanna County, Virginia, commanding and compelling her to honor a certain warrant in the amount of \$24, payable to Charlottesville Stone Corporation, and to honor such future warrants as may be issued against the proceeds from the sale of bonds authorized by an election of the voters of said county for a certain school on July 17, 1956, and for other relief.

And it appearing to the Court that a copy of the notice of the application and of said petition have been duly served on the respondent, it is ordered that the cause be docketed.

Also came the respondent, by counsel, and on motion leave is granted to file a demurrer, answer or other appropriate pleadings and to file evidence on the issues raised on or before July 1, 1957.

It is further ordered that the record be printed; that the petitioner and respondent each file with the clerk 25 copies of their briefs on or before July 15, 1957; and the cause is continued.

RECORD

* * * * *

Received Jun. 7, 1957 Supreme Court of Appeals Richmond,
Virginia.

UPON MANDAMUS.**NOTICE.**

To Edith H. Farrar, County Treasurer, Fluvanna County,
Virginia, Palmyra, Virginia:

You are hereby notified that the undersigned will, on Monday, June 10, 1957, at 9:30 A. M., or as soon thereafter as counsel may be heard, in the Court Room of the Supreme Court of Appeals of Virginia in Richmond, Virginia, move said Court to award to the Petitioner a writ of mandamus in accordance with the prayer of the Petition for mandamus, a copy of which is attached hereto and made a part of this Notice.

Given under my hand this 7th day of June, 1957.

THE COUNTY SCHOOL BOARD OF
FLUVANNA COUNTY, VIRGINIA
By W. H. RANSON, II.
Chairman.

Executed in the County of Fluvanna, Virginia, on the 7 day of June, 1957, by delivering a true copy of the within notice and petition of Mandamus, in writing, to Edith H. Farrar Treasurer in person.

J. R. HUGHES
Sheriff, County of Fluvanna, Va.

* * * * *

UPON MANDAMUS.

To the Honorable Supreme Court of Appeals of Virginia:

Your Petitioner, The County School Board of Fluvanna County, Virginia, respectfully represents:

1. That The Board of County Supervisors of Fluvanna County, acting upon a request from The County School Board of Fluvanna County, by proper resolution adopted in accordance with Article 3.1, Chapter 19, Title 15, Code of Virginia, requested the Judge of the Circuit Court of Fluvanna County to order an election upon the question of contracting a debt and issuing bonds in the amount of \$750,000 for school construction and improvement purposes;

2. That the Judge of the Circuit Court of Fluvanna County ordered such an election to be held on July 17, 1956, and upon that date the following question was presented to the qualified voters of Fluvanna County:

“Shall debt be contracted and bonds of the aggregate principal amount of \$750,000 be issued by Fluvanna County for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses, such bonds to be payable at such time, not exceeding thirty years after their date, as the Board of Supervisors prescribe?”

3. That in the election 678 qualified voters cast their ballots for the bond issue and 218 cast their ballots against the bond issue, thus resolving the question in the affirmative;

4. That bonds in the aggregate principal amount of \$750,000 bearing interest at the rate of three per centum (3%) per annum, upon which the full faith and credit of the County was pledged, were thereafter issued for the foregoing purposes, and sold to National Bank and Trust Company at Charlottesville, Charlottesville, Virginia;

5. That after the delivery the bonds the proceeds thereof, less certain disbursements, were deposited in the Palmyra Branch of National Bank and Trust Company to three separate accounts, each entitled “Fluvanna County, Virginia, County School Construction Fund and Edith H. Farrar, Treasurer”; one such account being in the present balance of \$300,000 and bearing interest as a time deposit at the rate of 2-1/2 per centum per annum until October 11, 1957, another

being in the present balance of \$150,000 and bearing interest as a time deposit at the rate of 2 per centum per annum until July 11, 1957, and the other being in the present balance of 304,426 and bearing no interest as a deposit withdrawable upon demand;

6. That by resolution of The Board of County Supervisors of Fluvanna County adopted on May 10, 1957, a copy of which is hereto attached as a part hereof and marked "Petitioner's Exhibit A," there was an attempt by that board to direct that the entire proceeds of the bond issue, on deposit as aforesaid, be placed upon time deposits running for twelve months from the dates upon which the accounts first could be so changed, and there was further an attempt by the same resolution to prevent the County Treasurer and The County School Board of Fluvanna County from drawing in the future upon those accounts although they represented the proceeds of the bond issue and according to law should have been available to meet proper costs incurred by The County School Board in going forward with the project authorized by the election of July 17, 1956;

7. That Petitioner, believing such action on the part of The Board of County Supervisors to be unlawful and beyond its legal authority, applied to the Attorney General of Virginia for an opinion on whether it, The County School Board, or The Board of County Supervisors had final authority over the proceeds of the bond issue in view of the circumstances, and thereafter received an opinion from the Attorney General that it, The County School Board had sole authority over the execution of the school construction program and could, therefore, properly issue its warrants at any time against the proceeds of the bond issue to meet costs of the project, notwithstanding the action of The Board of County Supervisors to the contrary;

8. That relying upon the opinion of the Attorney General, Petitioner executed a contract with English Construction Co., Inc., to build a new consolidated negro school in accordance with plans and specifications previously approved, believing such to be its duty in view of that opinion and of the facts that the required land had been purchased for the school site; that the construction of such a school and its plans had been approved originally by The Board of County Supervisors and had been known to be the main purpose of the bond issue and election approving it; that English Construction Co., Inc., had submitted substantially the lowest bid for the work and would not extend the period of time during which its bid was open for acceptance;

9. That in proceeding with the execution of such school construction program, Petitioner recently ordered from Charlottesville Stone Corporation eight tons of stone which would be needed to surround the casing of a well required to be drilled upon the new school site and upon being presented with a bill of \$24.00 for such stone, Petitioner, in payment thereof, properly issued its warrant upon the proceeds of the bond issue;

10. That when the warrant was presented for payment, the Defendant, Edith H. Farrar, County Treasurer of Fluvanna County, acting under directions from The County Board of Supervisors wrongfully refused to honor it and continues so to refuse, that action being in violation of her official duty to honor all warrants properly drawn upon such fund to meet the legitimate costs of the school construction project, such refusal on Defendant's part being shown by her letter dated June 7, 1957, hereto attached as a part hereof and marked "Petitioner's Exhibit B."

WHEREFORE, Petitioner, asserting that it has the legal authority and obligation to proceed expeditiously with the county school construction and improvement program and particularly with the construction of a consolidated negro school as previously authorized and to incur obligations therefor which will be promptly paid by its warrants issued upon the proceeds of the bond issue and in view of the unlawful refusal of the Defendant to perform the ministerial act of honoring such warrants and of the emergency involved and the other factors hereinabove presented it is otherwise without sufficient and adequate remedy, and, therefore, prays that a peremptory writ of mandamus may be issued by this Honorable Court directed to the said Edith H. Farrar, County Treasurer, Fluvanna County, Virginia, Palmyra, Virginia, commanding and compelling her to honor the warrant of \$24.00, payable to Charlottesville Stone Corporation, and described in paragraph 9 hereinabove, and to honor such future warrants as may be issued by The County School Board of Fluvanna County against the legitimate and proper costs of such construction work, and that it may be granted all such other, further and general relief as the nature of its case may require.

THE COUNTY SCHOOL BOARD OF
FLUVANNA COUNTY, VIRGINIA
By W. H. RANSON, II.
Chairman
Petitioner.

Supreme Court of Appeals of Virginia

State of Virginia,
County of Fluvanna, to-wit:

This day, W. H. Ranson, II, Chairman of the County School Board of Fluvanna County, Virginia, Petitioner named in the foregoing petition, being duly sworn, says that the facts and allegations therein contained are true, except as they are therein stated to be on information, and that so far as they are therein stated to be on information, he believes them to be true.

W. H. RANSON, II.

Taken, sworn and subscribed before me this 7th day of June, 1957.

.....
Notary Public.

My Commission expires Jan. 29, 1959.

* * * * *

Rec'd 6/25/57.

H. G. T.

* * * * *

ANSWER OF EDITH H. FARRAR, COUNTY TREASURER, TO PETITION FOR WRIT OF MANDAMUS.

For answer to the Petition for Writ of Mandamus respondent Edith H. Farrar, County Treasurer, Fluvanna County, Virginia, states as follows:

1. Respondent admits the allegations of paragraphs 1 through 5 of the petition.
2. Respondent admits the allegations of paragraph 6 of the petition concerning the resolution of The Board of Supervisors of Fluvanna County of May 10, 1957, except in so far

as it is alleged that The Board of Supervisors "attempted" to do the things stated therein. Said resolution directed and ordered that the bond proceeds be placed on time deposit as set out therein, and said resolution further directed and ordered respondent County Treasurer not to honor warrants drawn by The School Board until further resolution of The Board of Supervisors. All allegations of the control of The School Board over the bond proceeds are denied.

3. Respondent admits that an opinion was sought and received from the Attorney General as alleged in paragraph 7 of the petition, but respondent is without sufficient information to admit or deny the remaining allegations of said paragraph.

4. Respondent admits the allegations of paragraph 8 of the petition that The County School Board executed a contract with English Construction Company for the construction of a consolidated negro school. Respondent is advised that English Construction Company submitted the lowest bid for the job. Respondent admits that she had knowledge that construction of a consolidated negro school was the main purpose of the bond issue and election approving it, but this respondent is without sufficient information to admit or deny the remaining allegations of said paragraph.

5. Respondent admits that the warrant for \$24.00 as described in paragraph 9 of the petition was issued. Whether said warrant was properly issued upon the proceeds of the bond issue is a question of law which your Respondent is not in a position to admit or deny.

6. Respondent admits that she refused to honor said warrant upon presentation for payment as alleged in paragraph 10, but denies that she did so wrongfully or illegally or in violation of her official duty. Instead she acted upon the express order and direction of The Board of Supervisors according to the aforesaid resolution of May 10, 1957, which resolution was lawful and legal and within the power and authority of The Board of Supervisors, so far as your Respondent is now advised.

7. Prior to the election approving the bond issue for public school purposes respondent was advised that Fluvanna County had been informed by the State Corporation Commission that Fluvanna County could expect to receive in the future a substantial increase in tax revenues from public service corporations, and respondent was of the opinion that such an increase would be sufficient for the repayment of such school bonds without an increase in taxes. As County Treasurer respondent

ent has determined that the recent proposal of Judge Catterall of the State Corporation Commission to change the method of taxing the property of public service corporations would have a disastrous effect on the government of Fluvanna County and would require that the present tax rate be more than doubled to continue to operate the county government without consideration of repayment of the school bonds.

8. The County School Board was at all times advised of the position of The Board of Supervisors that the proceeds of the bond issue should not be expended pending settlement of future public service corporation assessments and the directions of The Board of Supervisors that respondent should not disburse any of the bond funds without instructions from The Board of Supervisors all as set out in the aforesaid resolution of The Board of Supervisors dated May 10, 1957, a copy of which was sent to The County School Board. The County School Board was also advised of the consequences which might result if it awarded the school construction contract before the proceeds of the bond issue were released to it.

9. Respondent respectfully requests an opportunity for her Counsel to present oral argument to the Court in this matter.

Wherefore, respondent prays that in view of the serious uncertainties which face her as County Treasurer and Fluvanna County as to its local tax situation, the Petition for Writ of Mandamus be denied.

EDITH H. FARRAR, COUNTY
TREASURER, FLUVANNA
COUNTY, VIRGINIA

By R. P. ZEHLER, JR.
T. JUSTIN MOORE
ARCHIBALD G. ROBERTSON
Counsel.

* * * * *

Rec'd. 6/25/57.

H. G. T.

ANSWER OF THE BOARD OF SUPERVISORS OF FLUVANNA COUNTY, VIRGINIA, TO PETITION FOR WRIT OF MANDAMUS.

Now comes The Board of Supervisors of Fluvanna County, Virginia, and having filed with the Court its Petition for Intervention as a party respondent, to which counsel for The County School Board of Fluvanna County, Virginia, has not objected, The Board of Supervisors begs leave of Court to file its answer.

For answer to the Petition for Writ of Mandamus respondent The Board of Supervisors of Fluvanna County, Virginia, states as follows:

1. Respondent admits the allegations of paragraphs 1 through 5 of the petition.

2. Respondent admits the allegations of paragraph 6 of the petition concerning the resolution of The Board of Supervisors of Fluvanna County of May 10, 1957, except in so far as it is alleged that it "attempted" to do the things stated therein. Said resolution directed and ordered that the bond proceeds be placed on time deposit as set out therein, and said resolution further directed and ordered the County Treasurer not to honor warrants drawn by The School Board until futher resolution of The Board of Supervisors. All allegations of the control of The School Board over the bond proceeds are denied.

3. Respondent admits that an opinion was sought and received from the Attorney General as alleged in paragraph 7 of the petition, but respondent is without sufficient information to admit or deny the remaining allegations of said paragraph.

4. Respondent admits the allegations of paragraph 8 of the petition that The County School Board executed a contract with English Construction Company for the construction of a consolidated negro school and says further that said contract was awarded in a secret meeting of The County School Board without the knowledge of The Board of Supervisors and directly contrary to its direction and orders as set out in its resolution of May 27, 1957, a copy of which was sent to The County School Board. Respondent is advised that English Construction Company submitted the lowest bid for the job, but denies that English Construction Company would not extend the period of time during which its bid was open for acceptance. Respondent denies that it approved any school construction plans, although it admits that it had knowledge

that construction of a consolidated negro school was the main purpose of the bond issue and election approving it.

5. Respondent does not know the purpose for which the warrant for \$24.00 as described in paragraph 9 of the petition was issued, but admits that such a warrant was issued. Respondent denies that said warrant was properly issued upon the proceeds of the bond issue.

6. Respondent admits that Edith H. Farrar, County Treasurer, refused to honor said warrant upon presentation for payment, as alleged in paragraph 10, but denies that she did so wrongfully or illegally or in violation of her official duty. Acting within the scope of its authority, respondent ordered and directed Edith H. Farrar by its resolution of May 10, 1957, not to pay out any of the aforesaid bond proceeds without further resolution from The Board of Directors.

7. Respondent has maintained the position that the aforesaid bond issue was presented to and approved by the voters of Fluvanna County upon the expectation and assurance from the State Corporation Commission that a substantial increase in tax revenues from public service corporations would take care of the repayment of the bonds without any tax increase. Subsequent to the issuance of the bonds and prior to the awarding of the aforesaid school construction contract a change in the method of assessing the property of public service corporations was announced by Judge Catterall of the State Corporation Commission. The Board of Supervisors has contended that such a proposal would result in a serious loss of tax revenue to Fluvanna County, and without taking into consideration repayment of said bonds Fluvanna County would have to more than double the present tax rate to continue to operate the county general budget, which is expressly contrary to the wishes of the voters and citizens of the county. Since any such tax increase is directly contrary to the wishes of the citizens and voters of Fluvanna County, The Board of Supervisors had determined that the school bond proceeds should not be disbursed until after the General Assembly shall have had an opportunity to act upon the aforesaid proposal of the State Corporation Commission and that in the interim The Board of Supervisors has the authority under Section 15-605.10 of the Code to invest the bond proceeds for a period not to exceed 18 months pending application of the funds for school construction purposes.

8. Petitioner, The County School Board, was at all times advised of respondent's position as aforesaid and of the resolutions of May 10, 1957 and May 27, 1957, copies of which were sent to The County School Board, expressing the re-

luctance of The Board of Supervisors to expend the bond proceeds pending settlement of future public service corporation assessments and forbidding The County School Board to obligate or expend such funds. Petitioner was also aware of the consequences which might result if it awarded said School construction contract before the funds were released to it.

9. Respondent respectfully requests the opportunity to present oral argument to the Court.

Wherefore, respondent prays that in view of the serious financial uncertainties which face The Board of Supervisors and Fluvanna County as to its local tax situation and in view of uncertainties in other respects, the Petition for Writ of Mandamus be denied.

THE BOARD OF SUPERVISORS
OF FLUVANNA COUNTY, VIR-
GINIA

By R. P. ZEHLER, JR.
T. JUSTIN MOORE
ARCHIBALD G. ROBERTSON
Counsel.

* * * * *

Rec'd. 6/25/57.

H. G. T.

PETITION OF THE BOARD OF SUPERVISORS OF
FLUVANNA COUNTY, VIRGINIA, FOR
INTERVENTION.

To the Honorable Supreme Court of Appeals of Virginia:

Your Petitioner, The Board of Supervisors of Fluvanna County, Virginia, respectfully represents:

1. There is now pending in this Court a Petition for Writ of Mandamus styled The County School Board of Fluvanna County, Virginia v. Edith H. Farrar, County Treasurer.

2. The purpose of such petition is to secure a peremptory writ of mandamus commanding and compelling the said Edith H. Farrar to honor a warrant against certain school construction funds for \$24.00 payable to Charlottesville Stone Corporation and to honor such future warrants as may be issued

by the said County School Board against such funds for the legitimate and proper costs of school construction work.

3. The Board of Supervisors of Fluvanna County has directed the said Edith H. Farrar to make no disbursements from such school construction funds, and in refusing to honor the aforesaid warrant said Edith H. Farrar was acting under directions from the Board of Supervisors of Fluvanna County, as set out in the petition. The real controversy herein is between The County School Board of Fluvanna County and The Board of Supervisors of Fluvanna County.

Wherefore, your petitioner prays that it is the real party in interest and that it should be permitted to intervene in this proceeding and be made a party respondent with all the rights of the respondent named in the Petition for Writ of Mandamus.

THE BOARD OF SUPERVISORS
OF FLUVANNA COUNTY

By R. P. ZEHLER, JR.
T. JUSTIN MOORE
ARCHIBALD G. ROBERTSON
Counsel.

* * * * *

STIPULATION.

It is hereby stipulated and agreed between Counsel that depositions in this proceeding shall be taken in the office of Hunton, Williams, Gay, Moore and Powell, 1003 Electric Building, Richmond, Virginia, beginning at 10:30 A. M. on Wednesday, June 26, 1957, and continuing on Thursday, June 27, 1957, if necessary.

Depositions shall be taken first on behalf of The County School Board of Fluvanna County to be followed by depositions on behalf of The Board of Supervisors of Fluvanna County.

JOHN S. BATTLE, JR.,
Counsel for The County School
Board of Fluvanna County
R. P. ZEHLER, JR.
T. JUSTIN MOORE
ARCHIBALD G. ROBERTSON
Counsel for The Board of Super-
visors of Fluvanna County.

June 21, 1957.

* * * * *

DEPOSITIONS.

Palmyra, Virginia
June 26, 1957.

Appearances: For the Plaintiff—John S. Battle, Jr., Esq., of Messrs. Perkins, Battle & Minor (Charlottesville, Va.), of counsel.

For the Defendant—Ralph P. Zehler, Jr., Esq., Commonwealth's Attorney for Fluvanna County, and Archibald G. Robertson, Esq., and Harry Frazier, III, Esq., of Messrs. Hunton, Williams, Gay, Moore & Powell (Richmond, Va.), of counsel.

page 2 } The depositions of J. P. Snead, and others, taken before C. Overton Lee, a Notary Public for the State of Virginia at large, pursuant to stipulation and agreement prefixed hereto maturing at ten-thirty a. m., Wednesday, June 26, 1957, in the office of Hunton, Williams, Gay, Moore & Powell, 1003 Electric Building, Richmond, Virginia, but, by further stipulation and agreement between counsel, the time and place thereof was changed to, and the taking thereof was commenced at, twelve o'clock noon, Wednesday, June 26, 1957, in the courtroom of the Circuit Court of Fluvanna County, Palmyra, Virginia, and which depositions taken first on behalf of The County School Board of Fluvanna County and followed by depositions on behalf of The Board of Supervisors of Fluvanna County, shall be read in behalf of the respective parties in the above-entitled proceedings in mandamus now pending in the Supreme Court of Appeals of Virginia.

Mr. Zehler: Mr. Battle, we should like very much, when we proceed with our depositions, to make a statement of the case by counsel, and we will of course ask you to make the same statement at this time, if you prefer.

Mr. Battle: This case comes on upon petition
page 3 } for a writ of mandamus by the County School Board of Fluvanna County v. Edith H. Farrar, County Treasurer, of Fluvanna County, with notice thereto attached.

The petition heretofore filed in the Supreme Court of Appeals of Virginia alleges that Edith H. Farrar, acting in a purely ministerial capacity, wrongfully, unlawfully and improperly refuses to honor the proper warrants of the County School Board, drawn against the proceeds of a bond issue authorized at a special election held on July 17, 1956, for the purpose of incurring a debt and issuing bonds of the County for school construction purposes.

Petitioner takes the position that upon the sale of the bonds in accordance with proper resolutions, and upon the deposit of the proceeds thereof to the School Construction Fund, it thereupon became the right and duty of the School Board to proceed with the construction of the building contemplated in accordance with plans and specifications heretofore approved by both the School Board, State Department of Education, and the County Board of Supervisors. Should there be any question about the authority of the School Board to have entered into a construction contract with English Construction Company, of Altavista, Virginia, it will be petitioner's position that the School Board acted upon an opinion of the Attorney General of Virginia, dated May 22, 1957, in page 4 }

Board had the control and authority over the fund in question. It follows that it was thereupon the duty of the School Board to execute the contract with English Construction Company in view of the fact that it had a clear opinion from the Attorney General; that the offer of English Construction Company to construct the building for the sum of \$510,740 would soon expire and efforts to obtain an extension of time with this construction company had been unsuccessful. Petitioner takes the position further that the County Board of Supervisors in these circumstances had no right or authority to postpone, indefinitely, the program of construction which had been authorized by the voters at a special election held on July 17, 1956; that its authority over the fund in question terminated when the bonds were sold and the proceeds delivered to the County Treasurer, who is the defendant in this case.

Although the above is a general statement of the petitioner's position, the case comes on specifically upon the refusal by the County Treasurer to honor a warrant which was issued by the County School Board in favor of Charlottesville Stone Corporation, which had supplied a quantity of stone needed for the project.

page 5 } Mr. Zehler: Our brief statement of the case is as follows:

By the witnesses that we will introduce when it comes our time to take our depositions, we expect to prove that early in the year 1956 it was agreed by members of the School Board and the Board of Supervisors that there was need for additional school buildings, that is, grade school buildings, for the colored children in this county. After much discussion between the two boards, we intend to show that it was decided

that both boards, together, should proceed to promote a bond issue in order to raise the funds to build the proposed school.

As the record will show, the Public Borrowing Law of 1952 was the procedure adopted, that is, Article 3.1, Chapter 19, of the Code of Virginia of 1950, as amended. This procedure was invoked and followed very carefully. The School Board first passed a resolution, as required by that Act, reciting the need for the schools and requested that the Board of Supervisors in turn request the Circuit Court to order a referendum. This was done and the court order was entered and the referendum was held. The referendum was held on July 17, 1956, as already stated by Mr. Battle, and the bond issue was carried by a great majority.

We expect to prove that up to this point the members of the School Board and the members of the Board of
page 6 } Supervisors, with one exception, and also the county officers, enthusiastically supported the bond issue. We will show that each county officer undertook to persuade the people to vote for the bond issue and also that numerous public meetings were held and various county officers appeared and endeavored to explain the bond issue to the public and to persuade them that they should vote for it.

We will show that these persons not only appeared and asked the public to vote for the bond issue, but that with it they made a very positive promise that because of the additional construction work of the Virginia Electric & Power Company at Bremo, that Fluvanna County could expect additional tax revenue beginning in the year 1959 in the amount of approximately \$160,000.

We will put in evidence a letter from the Tax Division of the State Corporation Commission, dated May 22, 1956, to the effect that as a county, this body could expect the additional tax revenue that I have just mentioned above beginning with the year 1959. This was arrived at in the letter by advising Fluvanna County of the appraised value that could be expected when the work is completed and advising of the tax ratio that would be applied and, as will be seen from the letter, the Tax Division of the State Corporation Commission advised that the 40 percent ratio would be applied.

page 7 } We will show that all of the members of the Board of Supervisors and the School Board and the county officers that supported the bond issue were convinced beyond a reasonable doubt that the bond issue could be repaid over an eleven-year period from this additional income without increasing county taxes. We will show that the letter from the Tax Commission was not the only basis on which this promise

was made. A fiscal agent, who was a tax expert on such matters, was employed by the Board of Supervisors, as will be evidenced by the certified copy of the resolution which will be introduced in evidence. The fiscal agent was retained by the Board as an expert on financial matters. We will show that he was employed to study the tax structure, to study the county revenue and expenditures and to make recommendations to the Board. We will show that this fiscal agent, with the letter from the Tax Division of the State Corporation Commission, recommended to the Board of Supervisors, very positively, that the bond issue could be repaid over an eleven-year period without increasing taxes.

We further intend to show that in the opinion of all of the county officers, the bond issue was passed solely on the promise that there would be no tax increase, and that had the Caterall proposal been known at that time the bond issue would have been defeated by a great majority.

We will continue to show that in the course of page 8 } events the bonds were duly sold to the National

Bank and Trust Company at Charlottesville at 3 per cent interest; and we will show that after the bonds had been delivered and paid for, the money deposited to the Treasurer of this county, the School Board proceeded to advertise bids for the construction of the school. We will show that after the bids had been advertised, but before the date for opening the bids had arrived, the Caterall proposal was made and that immediately the Board of Supervisors was aroused by the very possible realization that the County stood to lose a great deal of tax revenue in the year 1958.

The record will show, and we will present by our depositions, that immediately the Board of Supervisors called an emergency and joint meeting of the School Board to discuss this difficulty; and we will show that at this meeting the attitude of the School Board was very hostile and was not at all receptive to any suggestions by the members of the Board of Supervisors that the safest and most logical way to proceed from a business standpoint, if not from an ethical standpoint, was to delay the school construction until after the Caterall proposal had been adopted or turned down by the General Assembly.

The records will show, and so will the depositions, that as the result of this meeting two members of the Board page 9 } of Supervisors and the Superintendent of Schools, along with our representative in the House of Delegates, was appointed as a committee to meet with the State Corporation Commission and to discuss the Caterall proposal.

We will show by the testimony of the member of the Board of Supervisors on that committee that as a result of the meeting with the Commission it was learned that the Corporation Commission had arrived at the decision that the matter was with the General Assembly, that if the General Assembly did not pass appropriate legislation restricting the Commission or directing them to the contrary, the Corporation Commission would begin in 1958 to put into effect the Caterall proposal.

The record will show, and it is general knowledge, and we will also bring out in our testimony, that the Caterall proposal is simply a recommendation by Judge Caterall, of the State Corporation Commission, that public utilities throughout the State be assessed at the same tax ratio in the various counties as is assessed by that county against other real estate. The Tax Division, as is indicated by our records which we will put into the evidence, apparently arrived at the conclusion that Fluvanna County taxed its land owners at 17.9 per cent of fair market value, whereas public utilities were assessed by the Commission at 40 per cent of cost, page 10 } less depreciation, and that Judge Caterall's proposal would ultimately require Fluvanna County to lose a considerable tax revenue, being the difference between 17.9 and 40 per cent, or, in the alternative, to raise county taxes to a level whereby revenue could be realized to meet the continued county expenditures and to repay the bond issue.

We will prove by the depositions of the witnesses that in view of the very realistic threat that Fluvanna County would lose a tremendous portion of the county revenue, the Board of Supervisors took the very positive position that the proceeds from the bond issue should be held intact and that the proceeds should not be spent or disbursed until after the General Assembly acted on the Caterall proposal. We will further show that the Board of Supervisors took the position that the money could not be wisely spent at this time, not knowing how it could be repaid. The Board of Supervisors further took the position that if the General Assembly, in effect, blocked the Caterall proposal that both boards, together, could and should immediately proceed with the plans for the construction of the school. But we will show that on the other hand, the Board of Supervisors took the position that if the Caterall proposal were put into effect that then the funds should not be disbursed until after a very thorough and careful review of the entire tax structure was page 11 } made by some competent tax expert, and at that time a decision made as to how the fund could be re-

paid, and as to whether or not the bonds could be possibly refinanced, and as to whether or not so expensive a school should be built in view of the fact that there would be considerable difficulty in repaying the amount of the loan.

We will show that the Board was of the opinion that from a strictly business standpoint, disregarding the ethics and the integrity involved, that it would be a poor business proposition to spend so large a sum as \$750,000, not knowing how it could be repaid.

We will show by the deposition of a member of the Board of Supervisors that the School Board's reaction to this stand was violent. They informed the Board of Supervisors that the matter was not any concern of the Board of Supervisors; they further took the position that the decision was for the School Board to make, that they would withdraw to their own meeting place and give it consideration and make their own decision.

We will show that shortly after that time, after much discussion by and among the Board of Supervisors, the Board of Supervisors again attempted to arrange a joint meeting with the two boards to discuss their differences and see if a logical conclusion could be reached. The School Board,

page 12 } we will show by the testimony of the Clerk of the Board of Supervisors, was invited, cordially invited, to attend the meeting, but that a letter was received from the Superintendent of Schools advising that the School Board would not attend in that they could not see where anything could be accomplished by such a joint meeting; and we will show that even though the School Board refused to attend, the Board of Supervisors went ahead with their meeting and after much consideration agreed that they should continue in the firm position they had already taken and that the consensus of opinion of this County should be learned on so important a matter as was before the Board. And to do this, the records, the copy of the resolution of the Board of Supervisors, will show that the Board adopted a resolution to the effect that a straw vote should be held throughout the county at the same time as the Primary would be held in July of this year to learn whether or not the people of this county felt that the money should be spent at this time or should be held up until it would be known how it could be repaid.

We will show that shortly after this meeting was concluded, the next day or so, it came to the attention of the Board of Supervisors, from very unofficial sources, that prior to this time, prior to the time of the last meeting of the Board

of Supervisors (I am referring to the meeting where the School Board was invited and refused to attend), the Board of Supervisors, in secret session, had let the contract. When the Board learned of this, they requested that the Commonwealth's Attorney and a member of the Board of Supervisors go to the School Board and ask to see the minutes of the meeting to learn if it was correct. We will show you that these persons did go to the School Board, they examined the records, and found that the contract had been let in secret session prior to the time that the School Board was invited to attend the last meeting.

We will show that the School Board apparently felt that the Board of Supervisors was so disinterested in the matter that they didn't even care to advise them that the contract had been let, they didn't care to extend to them that courtesy so that they could avoid any further and unnecessary discussion and inconveniences.

The records will show that the School Board did have a thirty-day period in which to accept or refuse the bids. The record will show that the School Board was in no sense of the word obliged or obligated or compelled to accept any bid; they were perfectly at liberty to refuse any and all bids. We intend to show that the School Board was repeatedly advised of the legal consequences that would flow from an unauthorized arrangement whereby they let the contract and obligated funds which were in dispute. We will show that the School Board completely disregarded the advice that was given them and took it upon themselves to conclude this matter in the manner as they did.

After the Board of Supervisors had learned that the contract had been let, the records will show that they then concluded the straw ballot would be without purpose, ineffectual, and it was decided against.

Now the record will show that the Board of Supervisors again reappraised their situation and even though the contract had been let concluded that their stand previously taken was correct, that they could not under any circumstances, businesswise, ethically, morally, or in any other sense of the word, change their position, that in a sense would work what could be described as a fraud against the voters.

The record will indicate that as a result of the matters that had gone forward up to this point the School Board issued a warrant for \$24, that is, they issued the warrant on the school construction fund, and that as directed by the Board of Supervisors in the resolution which will be put in

evidence, the Treasurer denied to honor the warrant, and that the School Board followed it up with this petition for mandamus.

The Board of Supervisors will bring out in their evidence that they in no sense of the word wished to deny page 15 } the Negro children and the Negro people of this county a school building. The Board of Supervisors will bring out the fact that it is realized by each and every one of them that schools or a school is needed in this county, and that when the proper time arrives it or they will be built. The evidence will show that the Board of Supervisors, on the other hand, has taken the position that as the governing body of this county, representing the white and colored taxpayers alike, in all fairness to the residents and the taxpayers they cannot and should not expend these funds in the face of the very positive possibility that the tax revenue of this county will be greatly decreased, that in turn the taxes of all of the people of his county will be greatly increased as a result of this bond issue.

The Board of Supervisors will show in their depositions that they do not for one minute, and have not ever suggested, that the bonds cannot and will not be repaid. Each and every member of the Board realizes that the bonds are now and will be a legally and morally binding obligation on this county and that they will have to be repaid from one source or another, and that they will be repaid.

The Board has not and does not take the position that the school or schools will not eventually be built. They have taken the position, on the other hand, that a school page 16 } or schools will have to be built eventually, but only when it is known how they can be paid for and when it is known what is the wisest thing to do by way of building a school or schools in view of the situation that may exist.

The Board of Supervisors has taken the position that in that the bond issue was promoted and that the bonds were sold pursuant to the Public Borrowing Law of 1952 they were the body by which the bonds were sold and the proceeds paid to the County and that they, the governing and elected body of the County, are authorized by law to invest the fund for a period not to exceed eighteen months, and that pursuant to that authority, they, the Board of Supervisors, at a joint meeting which was attended by the School Board and which will be shown by a certified copy of the resolution of the minutes of that meeting, concluded that the proceeds should

be invested with the National Bank and Trust Company of Charlottesville in a savings account at 3 per cent interest, which arrangement was agreed to by that bank. However, it was a condition to that investment, we will show, that the bank would not take the investment for a period of less than twelve months; and, as the resolution will show, the Board of Supervisors adopted a resolution to that effect, that the

fund should then and there be invested with the
page 17 } bank on a twelve-months time deposit at 3 per cent

interest, which would of course mean that the proceeds would not be costing the county anything by way of interest in that they were paying 3 per cent on the loan and realizing 3 per cent on the investment. However, the Board of Supervisors, even though they had the authority at that time to pass the resolution requiring the fund to be invested, concluded that in all fairness to everyone involved, extending a courtesy to the School Board which was not in return extended back to them, that the funds would not be actually invested as stated in the resolution, but that the Treasurer should hold them in abeyance until a court of jurisdiction had an opportunity to rule on this matter, it being indicated very strongly by the School Board that they would seek a court opinion.

Consequently, the funds were not invested according to the resolution for the twelve-months' period and that except for certain small time deposits which were made before this controversy arose, the balance of the proceeds are on a checking account and are available if the court orders that they should be turned over to the School Board.

The Board of Supervisors has taken the position that they are the body which is responsible for borrowing the money and repaying the loan, that they are the board under whose control the funds are now being held, and that they,
page 18 } the elected and governing body of the county, have
the sole authority and discretion as to when the funds shall be applied and as to what investment shall be made, and when the proper time arrived to dispose and expend the funds they will make that decision within the limits of the law and turn the money over to the School Board for school construction as was authorized by the referendum.

With this statement, we would like to proceed with our evidence.

(Whereupon, at 12:45 p. m., a recess was taken for lunch until 1:40 p. m.)

AFTERNOON SESSION.

Met pursuant to noon recess at 1:40 p. m.

STIPULATION.

Mr. Battle: Preliminary to these depositions, it is stipulated and agreed by counsel for both parties that the following documents are introduced in evidence without objection and thereby become a part of the record in this case:

page 19 } (1) Resolution of Board of Supervisors adopted on February 13, 1956, authorizing the Commonwealth's Attorney to explore the possibility of acquiring land for consolidated schools.

(2) Resolution of School Board adopted March 5, 1956, recognizing need for acquiring twenty acres of land across from Abrams Colored High School for new consolidated elementary school, and directing survey.

(3) Resolution of the Board of Supervisors adopted March 5, 1956, directing Commonwealth's Attorney to arrange for survey of land to be condemned for new school across from Abrams High School.

(4) Resolution of Board of Supervisors adopted May 7, 1956, authorizing cost of survey and of the land across from Abrams High School to be paid from the general county fund, and authorizing contract with Scott, Horner & Mason as fiscal agents for bond issue.

(5) Resolution of School Board adopted June 4, 1956, requesting Board of Supervisors to request Circuit Court of Fluvanna County to order an election upon the question of floating the \$750,000 bond issue for school construction purposes.

(6) Resolution of Board of Supervisors adopted June 4, 1956, requesting the Circuit Court of Fluvanna County to order an election on the question of floating the
page 20 } \$750,000 bond issue for school construction purposes.

(7) Order of Circuit Court of Fluvanna County, entered June 21, 1956, directing that a special election be held on July 17, 1956 on the question of floating a \$750,000 bond issue for school construction purposes.

(8) Order of Circuit Court of Fluvanna County, entered on August 6, 1956, finding that the voters voted in favor of floating a \$750,000 bond issue and authorizing the County Board of Supervisors to issue and sell the bonds in accordance therewith.

(9) Resolution of Board of Supervisors adopted February 14, 1957, accepting the offer of National Bank and Trust Company at Charlottesville to purchase \$750,000 of school bonds at an interest rate of 3 per cent per annum.

(10) Resolution of School Board adopted March 4, 1957, requesting Board of Supervisors to issue \$750,000 of county school bonds pursuant to the provisions of the Public Borrowing Law of 1952 for school construction purposes, in accordance with the results of the election held on July 17, 1956 and requesting that the bonds be dated December 1, 1956, and maturing in specified amounts from 1959 to 1967, and to bear interest of 3 per cent per annum.

(11) Resolution of the Board of Supervisors adopted March 4, 1957, authorizing the issuance of the page 21 } bonds in accordance with the School Board's request and setting forth the form and terms of such bonds.

(12) Resolution of Board of Supervisors adopted April 29, 1957, calling upon the State Corporation Commission not to change the method of assessing public utilities by counties for tax purposes.

(13) Resolution of Board of Supervisors adopted May 6, 1957, authorizing proceeds of bond issue to be invested in short-term government bonds until the matter of building a new grade school could be disposed of, and calling a meeting of the School Board and Board of Supervisors to be held on May 10, 1957.

(14) Resolution of Board of Supervisors adopted on May 10, 1957, directing proceeds of bond issue to be placed in savings accounts at National Bank and Trust Company at Charlottesville after paying Scott, Horner & Mason for services and Richmond Times Dispatch for public notice for bidders on construction work, and directing that all other warrants against the fund not be honored unless signed by the Board of Supervisors.

(15) Resolution of Board of Supervisors adopted May 27, 1957, confirming the resolution of May 10, 1957, disapproving and revoking authority of School Board to enter into construction contract with English Construction Company or any other construction company and directing that an unofficial ballot be issued to the voters in July, 1957, to determine whether proceeds of bond issue shall be spent at this time.

This is an explanation: In describing Exhibit No. 15, I have stated that it, among other things, disapproved and revoked the authority of the School Board to enter into the contract.

By offering it, I want it understood in the record that I do not want to admit that it had the effect of revoking the authority. I merely used those terms for the sake of describing that resolution.

(16) Resolution of Board of Supervisors adopted June 3, 1957, confirming the resolutions of May 10 and May 27, except that part relating to the unofficial ballot on the question of spending the money, which part was revoked by this resolution of June 3, 1957.

(17) Invoice of Charlottesville Stone Corporation to the County School Board of Fluvanna County, dated June 6, 1957, in the amount of \$24, for stone to be used in casing for the well at the consolidated elementary school, and approved for payment by the Superintendent of Fluvanna County Public Schools.

(18) Warrant No. 3, payable to Charlottesville Stone Corporation, in the amount of \$24.00, dated June 7, 1957, and drawn upon the proceeds of the bond issue with a printed notation thereon that the warrant was returned un-
page 23 } paid for the reason that the Treasurer refused payment.

(19) Letter from Edith H. Farrar, Treasurer, Fluvanna County, dated June 7, 1957, to Mr. W. A. Pace, Jr., Branch Manager, National Bank and Trust Company, Palmyra, Virginia, giving notice that payment of the warrant described in 18 above was being refused.

(20) A copy of an opinion from the Attorney General of Virginia, addressed to Honorable R. P. Zehler, Jr., and dated May 22, 1957.

It is understood that this opinion is being offered solely for the purpose of showing the basis for the School Board's action in awarding the construction contract.

(21) Summary of bids received by the School Board on May 2, 1957, on the construction of the consolidated elementary school.

The lefthand column shows the contracting concern, the middle column shows the amount of the bid, and the righthand column shows the name of the surety company on the bid bond and the percentage of bid price upon which the bond is based.

(22) Minutes of a meeting of the School Board held May 24, 1957, authorizing the execution of contract with English Construction Company.

J. P. Snead.

(23) Copy of an agreement between English
page 24 } Construction Company, of Altavista, Virginia, and
the County School Board of Fluvanna, Virginia,
dated May 24, 1957, with copy of a letter of transmittal from
English Construction Company, dated May 27, 1957.

Now, gentlemen, can we agree that the following facts are true and become a part of the record of this case:

(1) That the land heretofore mentioned across from Abrams High School was acquired by condemnation in the name of the County School Board of Fluvanna County and that a decree was entered by the Circuit Court of Fluvanna County on October 22, 1956, confirming the title to the land in the County School Board of Fluvanna County.

(2) That plans and specifications and general conditions of the contract were prepared by the architectural firm of Dixon and Norman, of Richmond, and approved by the School Board and the State Department of Education for the construction of a consolidated elementary school.

Mr. Zehler: We agree.

Mr. Battle: I believe that was all I wanted to ask about the stipulation and agreements, and if it is agreeable, we will proceed with the testimony.

page 25 } EVIDENCE ADDUCED IN BEHALF
OF THE PLAINTIFF.

J. P. SNEAD,

sworn in behalf of the plaintiff, deposed as follows:

DIRECT EXAMINATION.

By Mr. Battle:

Q. I believe that you are Mr. J. P. Snead, Superintendent of Schools of Fluvanna County?

A. Yes, sir.

Q. Where do you live, Mr. Snead?

A. Fork Union.

Q. For how long a time have you been Superintendent of Schools of Fluvanna County?

A. Since July 1, '25.

Q. Mr. Snead, it has been agreed that plans, specifications,

J. P. Snead.

and general conditions of contract were drawn by the architectural firm of Dixon and Norman, of Richmond, Virginia, for a consolidated elementary school; were these plans and specifications and general conditions approved by the School Board of Fluvanna County?

A. Yes, sir.

Q. Were they likewise approved by the State Department of Education?

A. Yes, sir.

Q. For what type of building were these plans, page 26 } specifications, and general conditions of contract related to?

A. Well, they were made for an elementary school of twenty-one classrooms, an auditorium, kitchen, and so forth. It was supposed to have twenty-one classrooms.

Q. Where was the school to be located?

A. Across the road, directly across from the present Negro high school, Abrams High School. I don't know the number of that road. What is the number of that?

Q. Was that the land that was condemned for the purpose of being used for a school site?

A. Yes, sir.

Q. Who represented the School Board in the condemnation of that land?

A. Mr. Zehler.

Q. The Commonwealth's Attorney of Fluvanna County?

A. Commonwealth's Attorney.

Q. How was that land paid for, if you know?

A. Well, I understand it was paid for from the general fund by the County, the Board of Supervisors.

Q. Has the architectural firm of Dixon & Norman submitted a statement for their services?

A. Yes, sir, they have.

Q. Do you have that statement with you?

A. Yes, sir, dated June 4, 1957. The charge is page 27 } 5 per cent on the contract bid, the lowest bid. The bill states total amount of \$25,987, less 25 per cent reserved for supervision. Of course, there is no supervision because the school is not built, but the amount due today is \$19,908.05.

Q. So, at the present time, for achitectural services, there is due and owing to Dixon & Norman the sum of \$19,908.05?

A. Yes.

Q. Is it your understanding that that bill would have to be paid regardless of whether the school was built?

J. P. Snead.

Mr. Robertson: I object. That is a legal question.

Mr. Battle: I withdraw the question and rephrase it.

By Mr. Battle:

Q. State whether or not this bill is now due and owing?

A. It is.

Mr. Robertson: I object to that for the same reason, our contention being that it is not due and not owing and was not authorized and should not be paid unless authorized by the Board of Supervisors.

By Mr. Battle:

Q. When were the services of Dixon & Norman page 28 } engaged for these purposes?

A. I have got it here in the minutes. August 6, '56, that the School Board employed Dixon & Norman.

Q. Mr. Snead, as of that time, had there been any indication to you from the County Board of Supervisors that you should not proceed with the task of employing Dixon & Norman for these purposes?

A. There was not.

Mr. Battle: I would like to introduce into evidence by this witness, the present bill of Dixon & Norman.

(The bill was filed as Plaintiff Exhibit 24.)

By Mr. Battle:

Q. Mr. Snead, has Scott, Horner & Mason been paid for their services as fiscal agents?

A. They have.

Q. Under what authority did you pay them?

A. On the authority of the letter that I received dated April 15, 1957, from Mr. Zehler, authorizing me to pay it out of the school construction fund. After we conferred with Miss Farrar, the Treasurer, so the letter says.

Mr. Battle: I would like to introduce this letter page 29 } in evidence by this witness and have it marked.

(The letter was filed as Plaintiff Exhibit 25.)

J. P. Snead.

By Mr. Battle:

Q. From what fund was the bill of Scott, Horner & Mason paid?

A. From the school construction fund.

Q. Was it paid by a warrant of the School Board?

A. Paid by Warrant No. 1.

Q. Other than that warrant, and the warrant to the Charlottesville Stone Corporation, have any other warrants been drawn upon this fund?

A. One other warrant was drawn, payable to the Richmond Times-Dispatch in the amount of \$11.50.

Q. Who drew that warrant?

A. I drew the warrant at the instruction of the School Board.

Q. Was it on order?

A. It was on order.

Q. By Miss Farrar?

A. By Miss Farrar.

Q. Mr. Snead, I think that it has been established that the School Board authorized the execution of the construction contract in a meeting held on May 24, 1957. For how long a period of time was the offer or bid of English Construction Company open for acceptance?

A. Thirty days from the date it was submitted.

Q. On what date was the bid submitted?

A. May 2.

Q. I show you a document entitled "Form of Proposal," dated May 2, 1957, signed by English Construction Company, and ask you if this represents the bid of English Construction Company?

A. This is the bid of the English Construction Company.

Q. This bid shows a bid in the amount of \$518,740. It was originally my understanding that the bid was actually \$519,740. What accounts for this discrepancy?

A. Well, you see the bids were sealed bids and their representative instructed Mr. Dixon, who opened the bids, before he opened the bids to add \$1,000 to his bid, and wrote it on the outside of the envelope.

Q. I show you an envelope from English Construction Company to Superintendent J. P. Snead, with the notation "Please add to base bid the sum of \$1,000.00," signed "English Construction Company," and ask you if that is the notation to which you refer?

A. It is.

J. P. Snead.

Mr. Robertson: Was that received with the other bids, contemporaneously?

page 31 } By Mr. Battle:

Q. Was this received and opened with the other bids?

A. Absolutely.

Q. By the architect?

A. By the architect.

Mr. Battle: I would like to introduce into evidence by this witness the proposal of May 2, 1957, along with the envelope which contains the notation mentioned.

(The proposal and envelope were filed as Plaintiff Exhibit 26 and Plaintiff Exhibit 26(a) respectively.)

By Mr. Battle:

Q. Mr. Snead, you stated that this offer or bid was, according to the terms, to expire thirty days after May 2, 1957. Did you or did you not attempt, on behalf of the School Board, to obtain from English Construction Company an extension of that time?

A. I did. I wrote them a letter on May 16 requesting them to extend it thirty days, and they replied on May 17 stating that they could not do it due to some additional contracts which they had received, and so forth, and thirty
page 32 } days was all that they could allow the bid to stand.

Mr. Battle: I would like to introduce a copy of Mr. Snead's letter and a copy of the letter from English Construction Company and ask that they be marked.

(The letter from the School Board and the reply from the English Construction Company were filed as Plaintiff Exhibits 27 and 27(a), respectively.)

By Mr. Battle:

Q. Mr. Snead, when the bids were opened on May 2, had there, prior to that time, been any request from the County Board of Supervisors that the School Board not go forward with this project?

A. It seems as if we had had a meeting with the Board of Supervisors prior to the letting of the contract, but we

J. P. Snead.

hadn't received any instructions from them about not letting the contract. But the matter was still pending. We had not received any ruling from the Attorney General the day that the bids were opened. We did not receive any instructions from the Board of Supervisors until after May 10, about not letting the bids.

Q. Do you have reference to the copy of the resolution of May 10 that was sent to you by the Board of Supervisors? page 33. }

A. Yes, that's right.

Mr. Battle: Will you answer Mr. Robertson.

CROSS EXAMINATION.

By Mr. Robertson:

Q. Mr. Snead, you have been Superintendent of the Public Schools of Fluvanna County, since 1925?

A. Yes, sir.

Q. Have you lived all of your life in Fluvanna County?

A. Well, not all of my life. I have been out of the county prior to 1922, five or six years.

Q. You were born and raised here?

A. I was born and raised in this county. I was born in Goochland, but I lived in Fluvanna, moved up here as a boy.

Q. So you came to live in Fluvanna at what age, approximately?

A. Well, I should say when I was just about six or seven years old.

Q. And then, except for some five or six years—

A. I went to school in Fluvanna.

Q. Sir?

A. Public school in Fluvanna, Fork Union Military, and University of Richmond. And I went out and taught school five or six years outside of the county, outside of the state.

Q. But, except for five or six years, you have lived all of your life in Fluvanna County?

A. Yes.

Q. You are thoroughly familiar with Fluvanna County, then?

A. Well, I think so.

Q. How many magisterial districts are in the county?

A. Four.

J. P. Snead.

Q. What are the names of them?

A. Palmyra, Cunningham, Columbia, and Fork Union.

Q. And I believe the only towns in the county are Scottsville and Palmyra and Fork Union?

A. Scottsville is *mosely* in Albemarle. Part of it is in Fluvanna, a very small portion of it.

Q. How many people are in that part of Scottsville that is in Fluvanna County.

A. Well, I wouldn't know exactly, but I would say about a hundred people.

Q. About a hundred in Palmyra?

A. I wouldn't know exactly, just a guess.

Q. I mean approximately.

A. Maybe 150.

page 35 } Q. About how many are at Fork Union?

A. Well, Fork Union is not an incorporated town, scattered around, maybe two hundred people.

Q. What is the total population of the county, approximately?

A. 7,021, I think, approximately.

Q. What proportion of it is Negro and what proportion is white?

A. Well, approximately forty percent is Negro.

Q. And the balance is white?

A. Yes, sir.

Q. And the school population is about that same proportion?

A. About that same proportion.

Q. And I believe the only public utilities in the county are the Virginia Electric & Power Company and the Telephone Company, are they not?

A. Well, I think there's a gas line through the county now, two lines, I think.

Q. Do you know for a fact whether they are through the county or not?

A. Yes, I am sure they are. I am sure they are. I wouldn't know, but I am sure they are; the western part of the county.

page 36 } Q. Do you know how much, approximately, the tax values of the county are, the values of the public utilities of the county?

Mr. Battle: Before he answers that question, I want to enter an objection on the record that I object to the question. It is irrelevant and immaterial. And I would take the same

J. P. Snead.

position as to any question regarding the tax revenues of the county for the reason that such questions have nothing to do with the issues here involved. For the sake of saving time, I am willing not to renew that objection each time, if it can be understood that it applies to all similar questions.

Mr. Robertson: Yes, sir.

By Mr. Robertson:

Q. (Continuing) Do you know what percentage of the tax values in the county are public utility tax values? If you don't know, don't hesitate to say so.

A. Well, I don't know exactly, but I think approximately between two-fifths and three-fifths taxes we get come from public utilities.

Q. Two-fifths or three-fifths?

A. Two-fifths or three-fifths.

Q. Do you know what the per capita wealth of the county is, relative to the other counties of the state?

A. I wouldn't be able to answer that.

page 37 } Q. I don't suppose that you know what the per capita wealth is in the county?

A. Well, I wouldn't be able to answer that.

Q. Will you take the four districts, in whichever order you prefer, and state the number of white and colored—first, the number of white—is Scottsville one district?

A. No, it is in Cunningham.

Q. Sir?

A. Scottsville is in Cunningham District.

Q. How many white elementary schools are in Cunningham District?

A. One.

Q. What size is it?

A. About 182.

Q. How many rooms?

A. Eight rooms.

Q. How many grades?

A. Eight grades.

Q. Elementary?

A. Well, I take that back it is not eight, it is seven grades in that school because we have an eighth grade in the high school.

Q. I believe you have a twelve-year school?

J. P. Snead.

A. Twelve-year school.

Q. So there is one school in that district. I do
page 38 } not want to repeat, but how many rooms?

A. We have eight rooms there, eight rooms we
use for teaching.

Q. And seven grades?

A. Seven grades. Some of the grades are larger.

Q. How many colored elementary schools are in that dis-
trict?

A. One.

Q. What is the size of it?

A. About 75 or 80 children.

Q. How many rooms?

A. It was built for two, but we have three teaching rooms
in it. One is a utility room which we use to teach in. We have
three teachers in there.

Q. How does that compare, in terms that we hear so much
of now, in equality of facilities? How do the white and Negro
schools compare in that district?

A. Well, the colored school is very inferior, just a frame
building, no modern equipment. We do have electric lights
in it.

Q. How many grades are in it?

A. Seven.

Q. Then a number of grades are taught *simulataneously*
in the same room?

A. Yes, sir.

page 39 } Q. Let's take the Fork Union district; how many
white elementary schools are in that district?

A. One.

Q. How big?

A. Last year we had about 155 or 160.

Q. How many rooms?

A. Seven teaching.

Q. How many grades?

A. Seven.

Q. How many Negro elementary schools are in the Fork
Union District?

A. Four.

Q. Will you describe each of them in the same way we have
described them before?

A. Well, we have one school known as the Dunbar School
in the Fork Union District that has got four rooms in it, four
teachers.

J. P. Snead.

Then, we have a school known as Westview School that has three teachers in a school that was designed for two, but we still have a utility room that we use for teaching.

Then, we have another school known as the Cloverdale School, which is a one-room school.

There is another school in the Fork Union district known as the Gravel Hill School. It is a one-room school.
page 40 } We teach the first four grades in the last two schools.

Q. What would be the approximate number of Negroes in those schools, in the aggregate number? Well, each one.

A. You want them separately?

Q. Yes, sir.

A. Dunbar School, last year, had about 105 children in it; the Westview School had about 75; Cloverdale School had about 30; Gravel Hill about 25.

Q. Let's come to the Palmyra District. How many white elementary schools are in that district?

A. One.

Q. What is its size?

A. That's seven—an eight-room school, eight classrooms, with auditorium and a cafeteria. I am not counting anything but the classrooms.

Q. You teach seven grades there?

A. Seven grades.

Q. How many pupils?

A. Last year, it was about 180 children there.

Q. How many Negro elementary schools are in the Palmyra District?

A. One.

Q. Size?

A. Well, it's a two-room school, Rosenwall
page 41 } school, I don't know whether you know what that is or not, but it is a school of two classrooms and supposed to be a utility room. We have two teachers in that school. We have about 35 or 40 children.

Q. Altogether?

A. Altogether. Teach all seven grades.

Q. Then in the Columbia District, how many white elementary schools are there?

A. One.

Q. How many rooms?

A. They have five classrooms.

Q. How many children?

J. P. Snead.

A. Last year that school had about 70 children.

Q. And five grades?

A. Seven grades.

Q. Then how many Negro schools are in Columbia District?

A. There is Evergreen, Hollywood, and Rock Crest; three.

Q. Then, the size of each of them?

A. Well, the Evergreen School has two teachers in it and they have about 40 children. The Rock Crest School is a one-room school teaching the first four grades; they have about 25. And the Evergreen School has two teachers; they have about 40.

page 42 } Q. I think you gave one of them twice, did you not?

A. It is not but three schools.

Q. How many white high schools are in the county?

A. One.

Q. Where is that located?

A. Carysbrook.

Q. Describe that, if you will, in size, how many classrooms?

A. It will take a good while to describe that. Would you want me to describe the number of rooms?

Q. Yes.

A. Well, we have twelve classrooms in the same building, and then we have an art room, have a gymnasium, cafeteria, and band room, and a vocational agricultural shop there.

Q. When was that school built?

A. 1934, the main building, and the gymnasium built in 1939.

Q. How many pupils are in there altogether?

A. Last year they had about 275 pupils.

Q. I believe there is one Negro high school in the county?

A. There is one Negro high school.

Q. Where is that located?

A. That is located on 649 route, it is about two
page 43 } or three miles from here, right across the road from
the Abrams High School—I mean right across the
road from this proposed elementary school.

Q. How many rooms are in that school?

A. Seven classrooms, an auditorium, and then we have a vocational agricultural shop.

Q. How many pupils are in that school?

A. That school, last year, had about 145 pupils.

Q. When was that built?

A. The original building was built in 1936. An addition

J. P. Snead.

was put on it when we put heat in it and additional classrooms in '49, I think.

Q. Then that, overall, is a more modern facility than the white high school, isn't it?

A. No, sir.

Q. Is it substantially equal or substantially not equal?

A. Well, it is substantially equal in the physical equipment and so forth.

Q. As I understand it, the Negro elementary facilities, physical facilities, at the present time are substantially less good than the white elementary?

A. Very much so.

Q. And the purpose of this school is to rectify that?

A. That is exactly right, yes, sir.

page 44 } Q. And if this school to cost upwards of \$750,000 is built, the Negro facilities will be far better than any white facilities in the county, or in the elementary schools?

A. Well, this building will be more modern and more up to date built.

Q. It will be a better building?

A. Yes, sir. But we have to do that because of the requirements of the State Board of Education.

Q. I realize that. And as I understand the situation in the public school system, every time you need a new building that embodies the most modern and improved thinking and therefore is substantially better than any existing building; isn't that correct?

A. I think you are right.

Q. So, if this building goes through, the Negroes will have a better elementary school building than any white elementary school building in the county?

A. Well, I wouldn't know that it was so much better for teaching purposes, but it will be more modern.

Q. I am not talking about teaching, I am talking about being a pretty, handsome, costly, modern building.

A. Well, I think that is true.

Q. Is there any concentration of Negro popula-
page 45 } tion in any part of the county?

A. Well, some, yes, but it is not as thickly settled as some other sections.

Q. Where would you say the heaviest Negro school population is?

A. In the Fork Union section.

J. P. Snead.

Q. What part of the county is that in, north, east, south, or west?

A. That is in the northeast and the northwest and all around about two or three miles of Fork Union.

Q. What is the total school population of the county, approximately?

A. Well, the population is around, 2,400, if you carry it on up through the ages of what they figure, from seven through nineteen.

Q. And of that percentage, 60 per cent are white and 40 per cent are Negro. Mr. Snead, I believe you have been here in the courtroom throughout the day and have followed Mr. Battle closely when he introduced the various exhibits that have been put in here?

A. Yes, sir.

Q. You are generally familiar with all of those exhibits, are you not?

A. Well, I am familiar with all of them that the School Board had anything to do with. The others were page 46 } sent me by Mr. Zehler and I suppose the bonding company sent them to him.

Q. As the Superintendent of Schools for the county, I suppose it is your function to really initiate the suggestion for your schools and the location of them, isn't it?

A. Yes, sir, I guess that is true, working with the School Board, initiating and bringing to their attention and getting their approval on what we should do.

Q. And you make your best judgment as to what you think is a wise and helpful suggestion and recommendations and then it goes up to them whether they adopt them—

A. That's right.

Q. As a matter of fact, as I understand it, this consolidated Negro school is to contain twenty-one classrooms and is to afford this desirable facilities for the Negroes and abandon a lot of these inadequate and obsolete schools around throughout the county; is that correct?

A. That is correct.

Q. Would that bring the entire elementary negro school function into that one facility?

A. That is what we figure on, and expect to do.

Q. That is what the plan is?

A. Yes, sir.

Q. Haven't you already received some com-
page 47 } plaints from some Negroes in some parts of the
county that they had to come an unfair distance to
this proposed school?

J. P. Snead.

Mr. Battle: I object to that question as being irrelevant.

Mr. Robertson: I ask you to answer it.

Mr. Battle: You will have to answer it.

A. I will make this statement in that connection. We have had, I believe, one person here at a joint meeting of the School Board and the Board of Supervisors in regard to—that lived over in the section beyond Kent's Store from here, that is about six or eight miles over there—that thought we ought to have a school over there, build two schools. But we took that matter up with the Board of Supervisors, the School Board, and both boards unanimously voted that we build one. And if it develops that that element over there do not want their children to come over here, we will still have a building over there and we will run that school for them if they would rather go to that than come to the new one.

By Mr. Robertson:

Q. Let's understand this, Mr. Snead. I am in sympathy with what you are trying to do and I think it absolutely unfair criticism to say that about bringing a child on a bus to a school like some day we hope we will have here. Now what I want to know is how many miles does the most re-
page 48 } mote Negro child have to come to this proposed school?

A. Well, we have white children that the farthest any of them are coming anywhere from fifteen to sixteen miles.

Q. But I am talking about Negroes.

A. Negroes, I was going to come to that. And we figured that the Negroes—none of them would have to come over that distance.

Q. And then, of course, the nearest one, I reckon, could just walk across the road somewhere?

A. Yes, sir.

Q. Do any white grade school children ride as much as fifteen miles to get to any of the grade schools?

A. Well, I don't know that they do.

Q. How far would you say that the longest ride is that the white children would have to take to get to a grade school?

A. Well, I should say about eight or ten or twelve miles.

Q. Mr. Snead, I will ask you if there wasn't a considerable difference of opinion and considerable controversy as to whether there ought to be one consolidated school or two?

A. Well, I just referred to that a moment ago, but I will

J. P. Snead.

answer your question in this way. We first thought page 49 } of putting one school on the south side of the Rivanna and the other on the north side of the Rivanna. That would have been somewhere around the vicinity of Kent's Store and this school over here. We spent about one week trying to find a location over there, the School Board, Mr. Zehler was with us, and we thought we had a location. A man came down from Pennsylvania and agreed to sell us the land at a certain price, and we started surveying on it. He came back in about half an hour or an hour and said he wanted us to give him an additional thousand dollars for it. We thought that was exorbitant. In the meantime, white people over in that community had begun to raise objections to putting a school over there. That brought up a question. Then we came back to the Board of Supervisors and the School Board in a joint meeting and they both unanimously agreed that we build one school.

Q. On which side of the river?

A. Over here at this location, on the south side of the river.

Q. I believe that one of the exhibits introduced here this morning showed that you had to condemn the site of that school. Was that on account of the unwillingness of property owners to have a Negro school located there?

A. No, sir; because of the number of legatees entailed and we couldn't get a deed until we got it from the page 50 } court.

Q. Was there any objection from the people living in that area?

A. No, no objection from the people there; no objection from the legatees; they are agreed, all said they wanted a hundred dollars an acre for the land and that is what we gave them for it.

Q. There was nothing in any of these exhibits that were put in here today, so far as I recall, that indicates that this consolidated school is to be a Negro school, but there never was any intent that it be anything other than a Negro consolidated elementary school, was there?

A. No, sir.

Q. And it would be a segregated school?

A. It would be segregated—well, it would be a segregated school, yes, sir.

Q. It would be a segregated Negro school?

A. Yes.

Q. You, of course, are familiar with the problem that is

J. P. Snead.

facing Virginia today on the question of segregated schools?

A. Well, I am more or less familiar with it. I have read about it in the papers.

Q. In other words, that you may not misunderstand me, I am defending the present Virginia school laws.

A. Yes, sir.

page 51 } Q. And I believe Mr. Battle is, too. If the Virginia school laws are declared to be invalid and the school authorities of Fluvanna County are faced with the problem of either integrating the schools or closing the schools, you are going to have an entirely different school problem confronting from what you have confronting you now, aren't you?

Mr. Battle: I object to that question. It calls for a legal opinion.

Mr. Robertson: I think it calls for an administrative common sense public school official's opinion.

Mr. Battle: One that nobody has been able to answer heretofore. Maybe Mr. Snead can.

Mr. Robertson: Just answer the question, if you can.

A. I can't answer it.

By Mr. Robertson:

Q. You mean you don't want to answer it?

A. I didn't exactly get your question.

Q. I say, if the Supreme Court of the United States strikes down the right of Virginia to maintain segregated schools so that you have either got to close the schools or integrate the schools, you are going to have an entirely different
page 52 } administrative problem confronting you from what you have with segregated schools, are you not?

A. I imagine you would, but I hope I won't be superintendent when it happens.

Q. So do I, because I hope it will be years hence. And you cannot tell today what those new problems will be if they arise, can you?

A. I can't tell; I don't know who can.

Q. And this proposed Negro consolidated school is located where it is and proposed to be built immediately on the theory that you are going to have segregated schools, isn't it?

A. That is what we are working on, figuring on.

Q. If you were to have integrated schools, in your opinion, would you still build that school at that location?

J. P. Snead.

A. Why, I think so. It is in the section of the county where we don't have a school.

Q. But I say, if you had integration, would you still build that costly school at that location to accommodate both whites and Negroes?

Mr. Battle: I object to that. He has already answered.

Mr. Robertson: Go ahead.

A. As far as I am superintendent, I would, be-
page 53 } cause it is located in a section of the county where
we don't have a school and a lot of white people and
Negroes alike.

Q. You would not then build a number of schools in different localities, but would build that one?

A. We wouldn't have the money to do it.

Q. I say, instead of putting that \$750,000 in one school, in your opinion, would it not become wise to take the \$750,000 and divide it up, into four schools, or three schools, or five schools, in different localities?

A. We would have to have another bond issue to do that because of the requirement of the State Board that requires it to be put in these schools.

Q. What I am trying to develop, and I am not trying to do it in any improper way, that if we are driven to integrated schools you are going to have an entirely different problem confront you from what you have today on the supposition of segregated schools, are you not?

A. Well, I would answer it this way. If we have to have integrated schools, we would have good schools for all children to go to. Otherwise, now we would have some of the children who would have to go to the present Negro schools if we didn't give them schools.

Q. Were you in the county during the campaign for this bond issue?

A. I didn't get your question.

page 54 } Q. You were in Fluvanna County during the
campaign for the bond issue?

A. Yes, sir.

Q. And you were in favor of the bond issue?

A. Yes, sir.

Q. And I reckon you campaigned in a proper way to try to make the bond issue succeed, did you not?

A. I did.

J. P. Snead.

Q. And all the time you were proceeding on the assumption that they were going to get this new Virginia Electric & Power Company tax money and you would not have to increase the county taxes to retire the bonds from the school?

A. We did, because we based that on the letter from the State Corporation Commission.

Q. I would have done exactly the same thing.

A. Yes, sir.

Q. And all that was before the Catterall proposition came forward?

A. That's true.

Q. And if they adopted the Catterall proposition, they have got to substantially increase the tax rate of this county to retire those bonds, have they not?

A. They have got to get the money somewhere.

Q. That is the only place to get it, isn't it?

A. I guess so. But I have no idea that the Catterall position will be adopted; I haven't the slightest idea.

Q. Well, it may be adopted.

A. There is a very bare possibility, in my opinion.

Q. If you had thought for one moment that this \$750,000 bond issue would result in upping the taxes of this county to any such extent as the Catterall proposition will require, would you have voted in favor of the issue?

Mr. Battle: I object to that.

Mr. Robertson: Answer the question.

A. Personally, I would. I don't know—

Q. In those circumstances, do you think the bond issue would have carried?

Mr. Battle: I object to that question.

Mr. Robertson: Answer the question.

A. I couldn't tell you about that. We had something in this besides taxes. We had a question there of solving this integration problem and giving the Negro better school facilities and we had the assurance if we did that they wouldn't attempt to send their children to the white schools, they prefer to go to the Negro schools.

Q. Mr. Snead, I am trying to be completely fair about this with you and I want you to be completely fair with me. Don't you know the facts of life well enough to know perfectly well

J. P. Snead.

that if the voters in Fluvanna County knew that
page 56 } they had to substantially increase their taxes to
pay off the bond issue of that school that they
would never have voted for it?

Mr. Battle: I object to the question because the sole question in this case is what was stated on the ballot, which was submitted to the voters at the special election, and not what Mr. Snead or anybody else thinks the results may have been if some other question had been presented.

Mr. Robertson: The Court of Appeals will decide what is the issue in this case. I am going to ask you to answer it now, Mr. Snead, if you can. I am trying to be fair with you and I want you to be fair with me.

Mr. Battle: Let's have it clearly understood that I am not making these objections to each question in this line of questioning, I am merely doing it, as you know, to preserve my position in the record. I understand Mr. Snead will have to answer your question.

Mr. Robertson: I suggest that you put in an objection to every question I ask on all lines upon the grounds that it is completely irrelevant.

page 58 } Mr. Battle: There are so many lines.

Mr. Robertson: I say, include them all. Go ahead and read the question.

(The following question was read:)

“Q. Mr. Snead, I am trying to be completely fair about this with you and I want you to be completely fair with me. Don't you know the facts of life well enough to know perfectly well that if the voters in Fluvanna County knew that they had to substantially increase their taxes to pay off the bond issue of that school that they would never have voted for it?”

A. I can't answer that question, what the people of Fluvanna would have done under the circumstances.

By Mr. Robertson:

Q. I am just asking you to give your opinion.

A. Sir?

Q. I am just asking for your opinion.

A. My opinion is that the bond issue would have gone over unless it meant a tremendous increase in the taxes, because it went over three and a half to one.

J. P. Snead.

Q. What do you call a tremendous increase?

A. Well, maybe fifteen or twenty per cent. The people know that we have got to have better schools.

page 59 } Q. And they know who has got to pay for them, don't they?

A. Yes; and if they don't want to pay for them, they can't have them.

Q. And they know the white people are going to pay for them, substantially?

A. If we have integration; we haven't anywhere for these children to go but where we have got.

And if we don't build some more it means that we are going to have to use the present Negro schools for both white and colored, if you have integration. I believe that the people in this county, a lot of them would be willing to double their taxes rather than to have that exist.

Q. But you hope at the time you will not be superintendent of schools?

A. Well, I would like to be peaceful and harmonious with everybody that I work with on the thing, and I do not want to get into a mess if I can help it.

Q. When was the English Construction Company bid received?

A. On May 2.

Q. At that time, the School Board and you knew that the Board of Supervisors was opposing the construction of this school at this time, didn't you?

page 60 } A. Well, they hadn't—we have had only one meeting.

Q. I say, you knew that—

A. They were just talking about it and they hadn't passed a resolution.

Q. They may not have passed a formal resolution, but you knew that they opposed it, didn't you?

A. Knew that they opposed what?

Q. The construction of this Negro school at the time that bid was received?

A. Well, I don't know. I reckon they opposed it unless this thing—

Q. What was the date of the Catterall proposal?

A. I don't remember.

Q. Was it before May 2, or after May 2?

A. Before May 2, I think.

Q. Do you not know that from the date of the publication of the Catterall proposal the Board of Supervisors opposed

J. P. Snead.

the construction of this intended school until after that proposition was settled?

A. Well, no, the first meeting we had was before the bids were let. That was a meeting that we went to Richmond and conferred with Mr. Catterall, Mr. Zehler, Mr. Alexander, and Mr. Purcell and myself. But they hadn't formed that until May 10 when they took up the—

page 61 } Q. What did Mr. Catterall tell you when you conferred with him?

A. Well, he explained his plan, what he wanted to do about it, and the rate of taxation, how he wanted to assess the public utilities on the same ratio as the real estate or personal property was assessed in the county. And I asked him the question, "Could that plan go through if the Legislature didn't approve it?" And he said he would have to abide by whatever resolution the Legislature made.

Q. Did he give you any suggestion as to what the Fluvanna County could do?

A. I believe he did.

Q. What was it?

A. I believe he suggested putting some money in the bank.

Q. Did he suggest—

A. I don't know whether he suggested it or whether it was suggested by somebody else, but that was discussed.

Q. I will ask you did he not suggest that the money be put in the bank exactly the way the Board of Supervisors have done it?

A. They haven't done it yet.

Q. It is in the bank, isn't it?

A. Yes, but it is in the bank under the head of
page 62 } school construction.

Q. What did he suggest?

A. He suggested investing it, I believe, in government bonds. I think that was his suggestion.

Q. For what reason?

A. Let it stay there, I suppose, to wait until we could see what could be done about it.

Q. So the School Board couldn't get hold of it?

A. I don't know whether he had that in mind.

Q. Did he tell you what he had in mind? Didn't he tell you what the School Board could accomplish and what the Board of Supervisors could accomplish?

A. I don't know that he discussed that angle of it, what the School Board discussed. He suggested, I think his sugges-

J. P. Snead.

tion was, to put the money in the bank or buy government bonds with it.

Q. Did he say put it in the bank or buy government bonds?

A. I don't remember which, I think it was government bonds.

Q. Did he say why he suggested that?

A. Well, we were discussing the question of his proposal going into effect.

Q. Did he mean put it into government bonds and hold it there until this question of his proposal was settled? page 63

A. I presume he did.

Q. Then he went then to hold the matter in *status quo* until his proposal could be settled one way or another, didn't he?

A. Yes. But that was just the suggestion of one member on the Corporation Commission. There are two others on there, you know, that have a say about it.

Q. There aren't but two there now.

A. There wasn't but one other one there then. The other one was sick.

Q. The bid, I believe you said, was received on May 2?

A. Yes.

Q. And the contract was let on what date?

A. May 24, the day that the School Board authorized, the contract was signed.

Q. And before May 24 and before the contract was let, you knew that the Board of Supervisors opposed it?

A. Yes, we did.

Q. So that the School Board acted with its eyes open and took the risk of whether it had the authority or not?

A. Now, I want to make this explanation. The School Board didn't act after the bids were opened on May 2. The School Board had a meeting to consider these bids page 64 } and we decided that we would not go any further with letting the bids until we had had a ruling from the Attorney General; and I went to Richmond with Mr. Ranson and we went to see Judge Almond. He sent us over to Dr. Paschall's office, Superintendent of Public Instruction for him to request a ruling on this matter. And Judge Almond gave us his ruling. That, is, the first ruling.

Then, on May 10, the Supervisors had a joint meeting which they requested the School Board to attend. That was the time that the resolution was passed about investing this money and holding it up. Mr. Zehler said he had not seen

J. P. Snead.

Judge Almond's first ruling, and I gave him a copy of it that night.

Q. Before the contract was let?

A. Yes, before the contract was let?

Q. All right.

A. And he said that Judge Almond did not have the facts in the case on that first ruling and I suggested— or I think he suggested he would write to him for his ruling. And the second ruling that Judge Almond gave, which was dated on May 22, we didn't do anything on letting that contract until we received that second ruling from Judge Almond. The School Board, on May 2, decided that if Judge Almond—

Q. May 2?

page 65 } A. May 2. May 2, the day the bids were opened, we had a meeting afterwards and decided we would not go any further until we received a ruling from Judge Almond. But we got two rulings stating that the School Board had a right to spend that money, it was their money, and it was voted for that purpose and they had a right to spend it. And they decided at that meeting that if they got that ruling, which they did get on the 22nd or 23rd—we had the meeting on the 24th and I read to the School Board Judge Almond's ruling—then, knowing that the time was going to expire on this contract pretty quick, and knowing that we had received a very reasonable, very low, bid (the difference between the English Construction bid and the next lowest bidder was \$24,000, approximately; the difference between his bid and the highest bidder was \$59,000), and we felt like since he wouldn't extend the time—we had written to him for it—that the logical and fair and proper thing to do was sign the contract with him and save the County money; because we knew if it was put off another year, everybody has assured us that it would go up maybe 25—or \$30,000 higher. We did not act until we had received the second ruling from Judge Almond, Attorney General. That was the reason that we did it.

page 66 } Q. And after you got Judge Almond's second ruling, and before you let the bid, you knew that Mr. Zehler, as the Commonwealth's Attorney, disagreed with Judge Almond's ruling, did you not?

A. Yes, I did.

Q. And therefore, I say, the Board should determine as between those two conflicting opinions and decided to take the risk and let the contract?

A. Well, we took Judge Almond's opinion.

J. P. Snead.

Q. When you let that contract, the English Construction knew of the opinion of Judge Almond, did they not?

A. I don't know that they did.

Q. Do you know whether—

A. I did not tell them.

Q. Do you know whether or not they knew of Mr. Zehler's disagreement with Judge Almond?

A. I don't know whether they did or not.

Q. Do you know whether or not the English Construction Company knew of this disagreement and controversy between the Supervisors and the School Board?

A. I don't know that they did. They never discussed it with me, if they did. I reckon if they read the papers, they must have known about it.

Q. You don't know whether they signed a contract with their eyes open with that risk or not?

page 67 } A. I stated in my letter at the time the bids were opened that some complications had arisen about the matter, but I didn't tell them what they were and they did not ask me.

Q. And if they read the newspapers, they knew what the controversy was?

A. Well, I imagine most everybody in Virginia knew something about it.

Q. And the contract was let at a secret session, wasn't it?

A. Not a secret session, no, sir. There wasn't anything secret about it. We didn't invite anybody, but it was understood that we were going to meet as soon as we got the ruling from Judge Almond.

Q. Among whom?

A. Among the School Board members.

Q. I say, it was a secret meeting of the School Board?

A. I wouldn't call it secret, there wasn't anything secret about it, anybody could have come there that wanted to.

Q. Was there anybody there but the members of the Board?

A. No.

Q. Was the public notified?

page 68 } A. We don't have to notify the public

Q. I know you don't, but I am asking you if you did?

A. No, we did not.

Q. Was it a regular meeting or a special meeting?

A. It was a special meeting.

Q. Mr. Snead, I am referring now to Plaintiff Exhibit 23,

J. P. Snead.

which is the agreement between the contractor and the owner, and I am going to read it in order that we may catch the contacts as I ask the questions.

“THIS AGREEMENT, Made this twenty-fourth day of May in the year Nineteen Hundred and Fifty-Seven by and between English Construction Company, Inc., of Altavista, Virginia, hereinafter called the Contractor and the County School Board of Fluvanna County, Virginia, hereinafter called the County.

“WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows:

“ARTICLE 1. The Contractor agrees to provide all materials, to perform all the work shown on the drawings entitled Fluvanna Elementary School, Fluvanna County, Virginia, Comm. No. 307 dated March 1957, Sheets 1 through 23, and described in the specifications entitled General page 69 } Conditions and Specifications for Fluvanna Elementary School, Fluvanna County, Virginia, Comm. No. 307 dated March 1957, and including Bulletin A dated April 29, 1957, all prepared by the Architect, and in these Contract Documents entitled the Architect, and to do everything required by the General Conditions of the Contract, the Specifications and the Drawings.”

Now, Mr. Snead, I ask you if you knew wherein any of the papers mentioned anywhere in this contract there was any provision whereby the contract would not be binding if there should be a court ruling that the Board of Supervisors and not the School Board had the control of this money?

A. I don't think there was anything in there about that.

Q. I say, was there any side agreement, verbal or written, to the effect that if a court should rule that the Board of Supervisors had the control of the bond money and not the School Board that, in that event this contract would not be binding?

A. I don't think the contract states that, no.

Q. I didn't ask you that, Mr. Snead. I asked you was there any side agreement, written or verbal—

A. No.

page 70 } Q. —of any kind whatsoever to the effect that if the Court ruled that the Board of Supervisors and

J. P. Snead.

not the School Board had control of the bond money then the School Board contract with the English Construction Company would not be binding?

A. No side agreement with them. The only agreement I have had with them was the letter I wrote sending the contract to sign it.

Q. Do you know whether or not the School Board had any such side agreement?

A. None that I know of. I don't think the individual members did. I know I didn't.

Q. Your testimony is that so far as you know, there was no side agreement that would let the English Construction Company or the School Board out of this contract if the Court should rule that the School Board did not have control of the money?

A. No, there wasn't any with me; not with the School Board either, so far as I know.

Q. Could there be one and you not know about it?

A. Well, I don't know. I couldn't tell you that. I don't know. I know I didn't make any.

Q. Have you read this Bulletin, dated April 29, 1957, which is referred to in the contract?

A. I read it, yes.

Q. Have you got it here?

page 71 } A. It is in the specifications, I think.

Q. Do you know what the general purport of it is?

A. It was about some additional thing that they had to do.

Mr. Battle: Do you want to see it?

Mr. Robertson: Yes, sir, but I won't stop to read it now.

Mr. Battle: That is an extra copy if you want it.

(A short recess was taken and the deposition continued.)

By Mr. Robertson:

Q. Mr. Snead, I am still referring to the agreement between contractor and owner and I am calling attention now to Article 5, which says this:

"The Contractor and *Owne* agree that the General Conditions of the Contract, the Specifications and the Drawings,"—that is this; is this what is known as the Contract?

A. Well, that is the contract that it refers to in the specifications.

J. P. Snead.

Q. It is called up here in the top "AGREEMENT BETWEEN CONTRACTOR AND OWNER," and page 72 } then it says over here in Article 5:

"The Contractor and Owner agree that the General Conditions of the Contract, the Specifications and the Drawings, together—"

What are the specifications?

A. Here they are (indicating).

Q. "—together with this agreement—"

Now, they talk about "this agreement," and then they talk about a "contract," is there a separate contract?

A. No.

Q. It looks like they are mentioning something that is not here. You see what I mean there? They say they "agree that the General Conditions of the Contract"—that is one thing; "the Specifications and the Drawings"—that is two more things; "together with this agreement," that looks like another thing. Now, it looks like they are talking about a contract that doesn't appear here. Is there anything else that goes with this agreement, other than this 23, plus the drawings, plus the specifications?

A. Not that I know of.

Q. I will ask you this question in this way. Suppose the Court should rule that the Supervisors are right and the School Board is wrong and were not authorized to make this agreement, do you think the agreement is still page 73 } binding on them, subject to that condition of law, of counsel?

A. Well, if we can't build the school, we can't get the money.

Q. I will ask you if there is anything in the contract, the agreement, the specifications, the drawings, or any side agreement, written or verbal, that in the event of an adverse court ruling against the School Board this agreement with the English Construction Company will not be binding?

A. Nothing. My understanding there, it would be binding. But who has got the authority to make an agreement with the contractor to build a school building?

Q. That is what we are trying to find out in this proceeding. Now, this bill from Dixon and Norman for something over \$19,000, has that actually been presented for payment?

A. No.

J. P. Snead.

Q. How was it that it came into your possession?

A. I think it was two weeks ago.

Q. I say, how did it happen?

A. He sent the bill to me.

Q. For payment?

A. For payment.

Q. Is that in conformity with the general practice of that firm that before they even start to build a school they send in a bill for their—

A. After they have drawn the plans and specifications.

Q. That is the usual practice of that firm?

A. Yes. The money is due after they have drawn the plans and the specifications. Not all of it is due; they reserve some of it for supervision.

Q. Now, you mentioned several warrants issued by the School Board against the bond money which were honored. Every one of them that was honored was honored before Judge Catterall came up with his proposition, weren't they, every single one of them?

A. I think that is true.

Q. Did the School Board ever ask the Supervisors to authorize payment of Dixon & Norman's bill?

A. No, they have not.

Q. Do you know why?

A. Well, this matter now that you took to the Supreme Court—I understand the matter would have to stand still until we have a decision. I have so written Mr. Dixon.

Q. I call attention to a letter that you wrote May 24, 1957, to Mr. Richard George, Clerk of Fluvanna County, and I will just show it to you so you will know whether it is or page 75 } is not your letter.

A. Yes, sir, that is my letter.

Q. Mr. Snead, in your letter to Mr. George, of May 24, 1957, you say:

“Dear Richard:

“I have conferred with members of the Fluvanna County School Board in regard to the joint meeting with the Board of Supervisors on Monday night, May 27, 1957, following your request by phone this morning for a joint meeting as stated by you at the request of Captain John Hughes. It is the opinion of the School Board that there is no necessity for a joint meeting with the Board of Supervisors at this time

J. P. Sneed.

as they have already had two joint meetings recently. Therefore, the School Board will not be present for the meeting on Monday night, May 27."

When you wrote that letter on the 24th, the contract had already been let to the English Construction Company, hadn't it?

A. What is the date of that letter?

Q. May 24.

A. It was written the same day, yes.

Q. I say, when you wrote the letter the contract had already been let, hadn't it?

page 76 } A. I think that that was the same day that we decided to let the work.

Q. I say, when you wrote the letter, the contract had already been let?

A. I don't remember whether I wrote the letter first or afterwards.

Q. And your real reason for not having a joint meeting was not what you stated there, but because the contract had been let, wasn't it?

A. No, the School Board members had said they had been to two joint meetings and nothing especially was accomplished and they didn't see any use in further agitation for it. We had finally gotten the ruling from Judge Almond on the matter and we were basing our action on that.

Q. You didn't write the letter until after the meeting was over, did you?

A. I don't remember whether I wrote it before or after, but it was written on the same day.

Q. What time was the meeting held, if you remember?

A. Ten o'clock.

Q. Night or morning?

A. Morning.

Q. Then you didn't write the letter before the meeting was held, did you?

page 76a } A. I might have written it afterwards. I expect I did.

Q. So you didn't tell the real reason of why you didn't want to meet?

A. Yes, I did tell them the real reason, and the School Board will substantiate me in that, that they didn't see anything that could be accomplished in it.

James B. Hasher.

Mr. Robertson: I have no further questions.

And further this deponent saith not.

(Signature waived.)

page 77 } Mr. Battle: We have no further testimony at
this time.

EVIDENCE ADDUCED IN BEHALF OF THE
DEFENDANT.

JAMES B. HASHER,
was sworn in behalf of the defendant and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Mr. Hasher, what is your full name, sir?

A. James B. Hasher.

Q. And you live in Fluvanna County?

A. All of my life, yes, sir.

Q. What is your business?

A. General merchandise and farming.

Q. In what place?

A. Troy.

Q. What magisterial district is that?

A. Palmyra.

Q. Were you formerly a member of the School Board of Fluvanna County?

A. For the past sixteen years.

Q. And I believe you recently resigned on account of ill health, did you not?

A. That's right.

page 78 } Q. What date did you resign?

A. I don't recall. I think it was about May 11 or 13. I just don't remember.

Q. Mr. Hasher, I believe you have been in court all day today and have heard everything that has gone on here, have you not?

A. I heard it.

Q. And you are generally familiar with the minutes that were put in here from the School Board?

A. From the School Board, yes.

James B. Hasher.

Q. And, of course, I know that you would not be familiar with the ones of the Board of Supervisors?

A. No.

Q. When the matter of the construction of this proposed consolidated Negro school came before the School Board, I believe you voted against it, did you not?

A. That's right.

Q. What was your reason for voting against it?

A. Well, my reason was this, that we had two decisions on it, one from Mr. Zehler and one from the Attorney General, and I thought it would be better to wait until after the thing was settled up before we did anything.

Q. And I believe that what brought you to that thinking was this unexpected announcement of Judge Catterall's proposal to change the method of taxation of Vepco page 79 } here in this county, wasn't it?

A. I didn't quite get you on that.

Q. I mean, what made you think you ought to wait was the prospect that they might not get the money that they counted on getting from Vepco in taxes?

A. Well, what I wanted to wait for was to get it set up to see who the money belonged to and the right to spend it, whether we were supposed to build the school or were not.

Q. And also, whether you were going to get that extra tax?

Mr. Battle: I object. I think it is a leading question and I object for that reason.

Mr. Robertson: Well, he has a hostile witness. He was from the other side.

Mr. Battle: That was not very apparent.

Mr. Robertson: Read it back.

(The pending question was read.)

By Mr. Robertson:

Q. (Continuing) Money from Vepco.

A. That didn't involve my decision. I made my decision on the fact that the money was tied up and possibly would be tied up for a year, I didn't know how long, and it was my thought that they ought to settle it up.

page 80 } Q. You thought they ought to settle it up?

A. Yes, sir. I was not in favor of going along with the building until the question was settled.

Q. When they had the election on the bond issue, I assume you were in favor of it?

James B. Hasher.

A. Yes, sir.

Q. Like the majority of people were?

A. I was.

Q. Would you have been in favor of it if you had believed there would be any substantial increase in taxes in order to pay for the bonds?

A. Well, I would have been in favor of paying more taxes because we figured the necessity of the schools. I would be willing to pay more taxes, even though it was higher.

Q. Would you be willing to pay double taxes?

A. Well, I wouldn't say that. I don't think we would have had to pay double taxes.

Q. Would you have been willing to pay 75 per cent more taxes?

A. Well, I don't know.

Q. Of course, you don't know about 75 per cent, and you don't know whether you would be willing to pay 50 per cent more?

A. Yes, I would be willing to pay more taxes to
page 81 } build the school.

Q. I am talking about for this one Negro school?

A. Yes.

Q. I am not talking about anything else.

A. Yes.

Q. If they have integrated schools, are you still willing to pay 50 per cent more taxes to pay for the integrated schools?

A. We have to have schools. In other words, my grandchildren would have to go down to the Negro school if they didn't build a school.

Q. If they built this consolidated Negro school, are you willing for your grandchildren to go there?

A. They wouldn't have to go there, they would go to Palmyra.

Q. Suppose they get over there and they have got them all mixed up over there, are you willing to send them there?

A. I am not in favor of integration, no, sir, but if it comes to where it is, well, we will be better fixed to take care of the children.

Q. In other words, you think we will find a solution?

A. I think so.

Mr. Robertson: So do I. That is all.

James B. Hasher.

page 82 } CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Hasher, just one question. Did the other members of the School Board vote in favor of executing this contract on May 24?

A. That was the day of the called meeting?

Q. Yes.

A. Yes, they did.

Q. Prior to the vote, was there a full explanation of the circumstances and discussion of the matter before the vote was taken?

A. Yes, there was.

Mr. Battle: I believe that is all.

RE-DIRECT EXAMINATION.

By Mr. Robertson:

Q. I have one other question. Do you know whether or not there was any side agreement or other agreement of any kind that if the Court should rule that the School Board didn't have the right to go ahead with the contract, that the deal was off?

A. No, sir, I do not. I didn't take any part in that and I don't know what transactions were made.

Q. Could there be such a one and you not know
page 83 } about it?

A. I don't know, sir.

Mr. Robertson: I have no further questions.

And further this deponent saith not.

(Signature waived.)

CHARLES ALEXANDER

was sworn in behalf of the defendant, and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Mr. Alexander, you are Charles Alexander?

A. That is correct, sir.

Q. How old are you?

A. Forty-three years old.

Q. Where do you live?

A. I live in Fork Union.

Q. How long have you lived in Fluvanna County?

A. Forty-two years.

Q. What is your business?

A. I am employed by the Virginia Electric & Power Company at Breemo Bluff, and have been for the past twenty-three years.

page 84 } Q. What kind of work do you do?

A. Analytical work in their laboratory.

Q. What is the nature of that work? Do you get the b.t.u.'s out of fuel?

A. That is correct, sir.

Q. Are you a graduate of any engineering school?

A. No, sir, I am not.

Q. You have just been doing that work all the years?

A. Yes, sir.

Q. Are you a member of the Board of Supervisors of Fluvanna County?

A. Yes, sir, I am. I represent the Fork Union Magisterial District.

Q. How long have you been on the Board?

A. Since the first of January, 1956.

Q. You are still on the Board at this time?

A. Yes, sir.

Q. Mr. Alexander, there are a number of these questions that I was going to ask you that I asked Mr. Snead and I do not have to repeat them. I am going to hand you Plaintiff Exhibit 1, which is a copy of the minutes of a joint meeting of the Board of Supervisors and the School Board of Fluvanna County, held here at the courthouse on Monday, February 13, 1956. I believe that the quickest way to bring it back to your memory is this: (Reading:)

Charles Alexander.

page 85 } “Mr. J. P. Snead advised the Board in detail
as to the present crowded situation of the colored
grade schools, and the urgent need for two consolidated
schools.

“After considerable discussion as to need and advisability
of building two new consolidated grade schools for the chil-
dren in Fluvanna County, it was moved and unanimously
agreed that the Commonwealth’s Attorney should proceed
to determine what land is available and how title to it can be
acquired and report back to the Board at the March meeting.”

Can you elaborate a little bit there about what the thought
was on having two schools as distinguished from one?

A. I believe this to be our first meeting with the School
Board.

Q. Yes.

A. The School Board proposed it. Now, since it has been
proposed that this new addition to Vepco would be made
that we would be in a position to do something for our colored
elementary schools which hadn’t been financially able to do
in the past, and that they would like to discuss it with us.
And at that meeting we did discuss it. We discussed—we
expressed our desire at that time to have two
page 86 } schools, one on each side of the Rivanna River.

Q. What was the reason that that was considered
desirable, as brought out in that discussion?

A. Well, I believe—I just don’t know at that point.

Q. But there was a feeling that two schools at two loca-
tions would be better than one consolidated school?

A. That was the feeling of the School Board, as presented
to us, yes, sir.

Q. And did the Board of Supervisors at that time, in Feb-
ruary, 1956, go along with that thought, or did they think
there ought to be one?

A. I don’t believe that we even entertained the idea of one
school at that time.

Q. All of the thinking was about the two schools?

A. The Board of Supervisors expressed themselves as be-
ing in favor of the schools and anything possible that they
could do to help out in the school situation at that time. And
I believe it was agreed at that meeting that members of the
School Board would investigate and find out possible sites
whereby we might be able to locate these two schools and
we would meet back at a later date.

Charles Alexander.

Mr. Robertson: It is going to be necessary for me to refer to some of these exhibits, and I am going to move page 87 } along as fast as I can, but I am referring to them in order that the witness can keep the sequence of events in mind.

Q. I refer now to Plaintiff Exhibit 2, which is the portion of the minutes of the regular meeting of the Fluvanna School Board of March 5, 1956: (Reading)

"It is the considered judgment of this School Board that the public interest demands that the land approximately across from Abrams Colored High School, containing twenty acres, more or less, be acquired for school purposes that is, to build, construct and erect a new consolidated elementary school and, in accordance with Section 22-149 of The Code of Virginia (1950) as amended, we hereby direct that Carroll Gillispie, C. L. S., of Buckingham, Virginia, shall survey the same, whereupon a plat of said survey shall be filed, together with a general statement of the case, with the Clerk of the Circuit Court of Fluvanna County, Virginia."

Is that the site which was subsequently acquired for this proposed school?

A. I think that deals with one consolidated elementary school.

Q. Yes.

page 88 } A. It seems to me that we are skipping a meeting that we had with the School Board in there whereas we experienced difficulties, the School Board did, at least, in acquiring property on the north side of the Rivanna River to establish a site.

Q. I have here, to refresh your memory on that, a regular meeting of the Board of Supervisors on March 5, 1956, which is the same day that the School Board met, which said: (Reading:)

"It is moved, seconded and unanimously approved that Mr. R. P. Zehler, Jr., contact a surveyor and survey land which the County plans to condemn for a new school across from Abram's High School."

I believe that they were going to build one of them at that site whether they had one or two; is that right?

A. I believe that to be true, yes, sir.

Charles Alexander.

Q. So it looks like those two things would fit in together?

A. Yes, sir.

Q. That both of them wanted that survey made to find out about that site across from Abrams High School?

A. Yes, sir.

Q. Now I call your attention to Plaintiff Exhibit 4, which is the minutes of a regular meeting of the Board of page 89 } Supervisors held on May 7, 1956, and in which it says this: (Reading:)

"It is Moved by W. M. Wilson and Seconded by E. C. Browning that one Consolidated Elementary School be built across from Abram's High School. Unanimously approved.

"It is moved, seconded and unanimously approved that the word 'Colored' be struck from the minutes of the meeting of February 13, 1956 and recorded on page 270 of this book.

"On motion of Charles Alexander and second of E. C. Browning, it is unanimously approved that the cost of the survey and the cost of the land for the consolidated elementary school to built across the road from Abram's High School, be paid from the General County Fund.

"Mr. Paul Wisman, who is a representative of Scott Horner & Mason Co. of Lynchburg, Va. was introduced to the board and he explained the procedure for a County Bond issue.

"On motion by W. W. Wilson and Second by Charles Alexander, it is unanimously approved that is proposed contract as described by Mr. Paul Wisman is satisfactory to Commonwealth's Attorney, the Chairman of the Board of Super-

visors is authorized to sign a contract employing page 90 } Scott, Horner & Mason Co., Inc., of Lynchburg,

Va. as exclusive fiscal agent to handle the Fluvanna County bond issue for school building purposes."

Now apparently by the time they had that meeting on May 7, 1956, they had determined to have one consolidated school opposite Abrams High School. Do you remember how the thing developed away from the two schools down to having one consolidated school?

A. The School Board, and I believe Mr. Taylor was with them, who investigated the possible site on the north of the river, encountered a lot of difficulty. We also had some three or four white citizens to appear before the Board of Supervisors in protest to locating a school upon the site which they

Charles Alexander.

had picked. And I think due to that was the cause of the resolution being adopted by the Board to consolidate into one elementary school at the site now proposed.

Q. And on May 7, 1956, then the School Board and the Supervisors were in accord in their thinking as to one school at that site?

A. Yes, sir. You have the minutes there. But I was under the impression that it was not unanimous.

Q. The minutes say unanimous. Of course, the minutes would control.

A. I understand there was one objection. I page 91 } could be wrong.

Q. Now then, it says that Mr. Paul Wisman, of Scott, Horner & Mason—they are security brokers in Lynchburg, are they not?

A. That is true.

Q. Do you know how Mr. Wisman happened to come before the Board to make that explanation?

A. I believe he was asked by Mr. Snead. At this time, we were in thorough agreement, the Board and the School Board—Board of Supervisors and the School Board—and also in one of these meetings a committee composed of Mr. Zehler and myself, Mr. Snead and Mr. Ranson from the School Board, were to contact the State Corporation Commission and find out the approximate amount that he would receive from this new addition at Breemo Bluff so that we would have some basis upon which to base the expenditure of the school money.

Q. I think that is going to come up in here a little later, and what I was trying to develop here was whether or not Mr. Wisman, from Scott, Horner & Mason, came before you at somebody's request to explain what the mechanics were of the bond issue and about what the cost would be.

A. I think that would be true, and I think Mr. page 92 } Snead actually did the correspondence with him.

Q. And then, as I understand it, it was the consensus of the Board there that if they decided to go ahead and if the contract was satisfactory to the Commonwealth's Attorney, they were authorized to go ahead and make a contract with Scott, Horner & Mason?

A. That is true.

Q. I do not want to slow this matter up by reading things that I do not have to read, but I have here Plaintiff Exhibit 5, which is a resolution unanimously passed by the County School Board at its meeting on June 4, 1956, showing that

Charles Alexander.

they passed a resolution requesting the Board of Supervisors to go forward with a bond issue. Do you recall that such a request was received from the School Board?

A. I do, sir.

Q. Now, I call your attention to Plaintiff Exhibit 6, which is a copy of a resolution of the Board of Supervisors on June 4, 1956, to this effect: (Reading:)

“On motion of Charles Alexander and Second of E. C. Browning, the following resolution is unanimously passed:

“WHEREAS, the County School Board of Fluvanna County has, by resolution, requested the Board of Supervisors to request the Circuit Court of Fluvanna
page 93 } County to order the election hereinafter referer
to; NOW, THEREFORE,

“BE IT RESOLVED by the Board of Supervisors of Fluvanna County, as follows:

And then they requested the Court to order an election for the \$750,000 bonds. Do you remember that?

A. Yes, sir, that is true. Could I insert something?

Q. Yes, sir.

A. At that time, we had investigated and had letters and held letters from the S.C.C. stating the approximate amount of revenue that we would receive from this new unit at Bremo Bluff. We had the approximate cost of the school from the architects, Dixon & Norman, and I believe at that time that we had also—in fact, we had at that time employed Scott & Horner and they had investigated our physical setup and we were assured by them that we could pay this bond issue off in eleven years without any increase in taxes to any citizen of this county. With that, I think the motion that you just read was adopted.

Q. I should have called your attention first, to a copy of a letter here from Mr. J. P. Snead, dated May 21, 1956, to Judge H. Lester Hooker, Commissioner, State Corporation Commission, and ask you if that is the letter to which you refer?

A. Yes, sir, this is a copy furnished to me by
page 94 } Mr. Snead.

Mr. Robertson: I offer that letter in evidence and ask that it be marked Defendant Exhibit 1.

(The copy of the letter was filed as Defendant Exhibit 1.)

Charles Alexander.

By Mr. Robertson:

Q. Then, I hand you what purports to be a copy of a reply to that letter, the reply being dated May 22, 1956, addressed to Mr. J. P. Snead, Superintendent, Fluvanna County Public Schools, Fork Union, Virginia, and signed by J. C. Masten, Director, Public Service Taxation Division of the Corporation Commission, and ask you if that is the reply to which you referred a moment ago?

A. Yes, sir, it is.

Q. Where did you get that copy of that letter?

A. From Mr. Snead.

Mr. Robertson: I offer that in evidence and ask that it be marked Defendant Exhibit No. 2.

(The letter copy was filed as Defendant Exhibit 2.)

page 95 } By Mr. Robertson:

Q. So that as I understand it, the bond issue was voted by the Board of Supervisors upon the basis of the information received from the Corporation Commission and from the representative of Scott, Horner & Mason?

A. That is true, sir.

Q. And, on the basis of that information, the bonds could be carried and retired in how many years?

A. In eleven years.

Q. Where were they going to get the money to pay for them?

A. From this additional revenue from the new unit at Bremono Bluff.

Q. Was that to be accomplished without any raise in the taxes of Fluvanna County?

A. It was, sir.

Q. Was it possible to issue those bonds without raising taxes, without the new Vepco tax money?

A. No, sir, it would not have been.

Q. If you had been advised that the County would not get that extra Vepco tax money, but that any bonds issued in such amount and contemplated would have to be paid for by an increased tax in the county, would you have voted to authorize the bond issue or not?

page 96 } A. No, sir, I wouldn't, not for that amount, taking into consideration our present tax structure and our ability to pay, although I would favor a reas-

Charles Alexander.

onable increase in taxes to improve our schools. I have always stood for good schools. I think it is a primary asset of any county.

Q. When you voted in favor of the bond issue at the election, did you assume a continuance of the 40 per cent ratio on public utility property or think it would be changed?

A. I had no idea whatsoever that it would ever be changed.

Q. And was that belief confirmed in that letter that you have introduced from the Corporation Commission, or otherwise?

A. It was stated as such. It wasn't confirmed in that letter. It was stated that the sum that we could expect to receive was—there was no indication in that letter whatsoever that they would, in a few months, come out with a proposal for such a drastic cut in our revenue received from a public corporation.

Q. Before you went down to talk to the Commission, after the Catterall proposal, did you go down and talk to the Commission before the bond issue authorization, about how much revenue you were going to get, or did you rely on that letter?

A. We relied on these letters.

page 97 } Q. Did you vote to have the bond issue election?

A. Yes, sir, I did.

Q. Did you participate in the campaign preceding the election?

A. Yes, sir.

Q. Did you advocate the passage of the bond issue, the authorization of the bond issue by the voters of the county?

A. I did, and I know other members of the Board of Supervisors that worked, and worked hard. I know of people whom I persuaded to vote for this bond issue due to the fact that we could see no way in the world that there could be any increase in taxes to build a school. We told them that. And we worked hard.

Q. Did you go all out and do your very best to put the bond issue over on that basis?

A. I did, sir. And I also stood before the public voters of this county at public meetings and assured them of the fact there would be no increase in taxes. That is why today we feel that we are obligated, morally obligated, to the citizens of this county not to see this money spent, under these circumstances.

Q. If the Catterall plan is adopted and they reduce this

Charles Alexander.

ratio of assessment down to 17.9 in the county, are
page 98 } they going to have the money from the present
 revenues to pay for this bond issue?

A. The State Taxation Board of Assessors state that we are paying a 17.9 per cent where we thought we were assessing at 25 per cent of actual value. The State says we are only paying 17.9. I believe the figures will show that in order to meet our obligation in 1559, that we would have to go from 17.9 assessed valuation to somewhere between 34 and 35 per cent, which would mean, roughly, a double increase in our taxes to meet our obligations in the year 1959.

Q. Do you know what percent of the present real estate tax is collected on an average each year?

A. I can't think that.

Q. I have been told it is 80. I don't know whether it is right or not.

A. Somewhere along there.

Q. Mr. Frazier tells me I am wrong about that, so I will ask to strike that out.

Would you have advocated this bond issue if you had known that the Catterall proposal was coming up?

A. No, sir, I would not have.

Q. Why?

A. Because there is too much uncertainty to it. After the Catterall proposal was presented, counties that
page 99 } rely so heavily on their revenue from public utilities would be so hard hit. This year, on our budget, we would stand to lose, without the new addition, some \$82,000. Of course, that would have to be made up. And I would not consider that a sound basis to venture forth to spend that sum of money, and I am sure—

Q. You have stated that you went all out in favor of the bond issue and made assurances that the bond issue would not result in any increase in taxes in the county. If the Catterall proposal were put into effect and taxes are raised, what position are you personally in with reference to the promises you have made to the taxpayers?

A. Well, as I stated at the first meeting of the School Board, we were on the hook about this thing, we had a moral obligation to our people that I didn't see how when we did have to throw such an increase in taxes on them that they would be able to stay around here in the county. I have lived here forty-two years and I would like to live here maybe my day. I just think it would be something that we couldn't possibly face, should the Catterall plan be adopted.

Charles Alexander.

Furthermore, I think it is very unwise to spend money, that much money, and take a chance and actually gamble where you have no way of determining what the resources will be for the next year, because we don't know what the reaction is going to be to the Catterall plan. With the Catterall plan, we either do or we don't.

Q. You feel that in order to show your good faith in the making of the promises that you did that there would not be any tax raise, that you are in a situation now where you have got to oppose the construction of this school which will entail a tax increase in order to maintain your own integrity before the people of this county?

A. Yes, sir, I do. I would hate to think that I promised them one thing and deliberately did another.

Q. Has anybody accused you of that, up until now?

A. Yes, sir.

Q. What do you tell them?

A. I think both sides of this case have been accused of everything short of murder.

Q. Were any of the members of the School Board present at any of these *meeting* where you were agitating the bond issue on the basis where there would not be any increase in taxes?

A. Yes, sir.

Q. Could you name anyone who was there at any of the meetings that you were there when both of you went all out in favor of the bond issue?

A. I believe Mr. Snead was there. And I am speaking of the meeting that was held in the white elementary school at Fork Union. I believe Mr. Snead at that meeting also stated to the people that there wouldn't be any increase, although Mr. Snead, if I stand corrected, has denied it.

Q. Do you recall whether you were at any such meetings, where any such promises were made, with any other members of the School Board?

A. I don't remember any other members.

Q. I call your attention to the order of the Circuit Court of Fluvanna County of June 21, 1957, which in effect calls for the bond issue election, and that of course is in the form required by law and I do not think it is necessary to question you on that because we know of course that the election was duly called.

A. Yes, sir.

Charles Alexander.

Q. And the bonds issued. I don't know whether I asked you this question or not, but in your opinion if the people of this county had known that there would be any such increase of taxes required to pay these bonds, as will be required if the county does not get this new Vepco tax money, would the bond issue have carried?

A. No, sir; unquestionably, it would not have carried.

Mr. Battle: Of course, it is understood my objection to these questions still stands on that question with-
page 102 } out renewing it.

By Mr. Robertson:

Q. Now I come to Plaintiff Exhibit 8, which is a copy of an order of the Circuit Court of Fluvanna County, entered on August 6, 1956, which just declares that the bond issue had carried and orders it to be put into effect. There is no dispute about that, so I will not stop to question you about it.

Next, is Plaintiff Exhibit 9, which is the minutes of a special meeting of the Board of Supervisors of Fluvanna County, held on February 14, 1957, accepting a bid of the National Bank and Trust Company of Charlottesville for the purchase of the bonds. That has been covered here this morning and you heard the testimony and the exhibits this morning with reference to the bond issue?

A. Yes, sir.

Q. Then, Plaintiff Exhibit 10 is an extract from a meeting of the School Board held on March 4, 1957, in which they requested the Board of Supervisors to go ahead and issue the bonds, and you of course know that the Board of Supervisors received that request and the bonds were duly issued.

A. That's right.

Q. I next come to Plaintiff Exhibit 11, which is a regular meeting of the Board of Supervisors of Fluvanna
page 103 } County, held on March 4, 1957, authorizing and directing the issuance and delivery of the bonds which you know as a fact was done?

A. Yes, sir.

Q. Next I come to Plaintiff Exhibit No. 12, which is the minutes of a special meeting of the Board of Supervisors held on April 29, 1957, where there was a resolution reciting the circumstances under which the bond issue was voted and calling attention to the Catterall proposal and *urging* prompt action upon the proposal so as to counter the tax revenue

Charles Alexander.

situation. You may want to glance through that to refresh your memory, but do you remember what transpired?

A. That wasn't the special meeting that we requested the School Board to attend?

Q. Suppose I run through it a little bit here: (Reading:)

"WHEREAS Fluvanna County recently sold school construction bonds in the total amount of \$750,000.00, at three per cent interest, upon the supposition that the County would realize the same tax revenue from the public utilities in this County as has been realized for many years past; and also upon strength of a statement of the Public Service Taxation Division of the State Corporation Commission, page 104 } issued in May 1956, that this County, by virtue of the new addition to the Virginia Electric and Power Company at Bremono Bluff, could expect additional tax revenue in the amount of approximately \$160,000.00 beginning in 1959;

"WHEREAS the said bonds have been duly sold, delivered and paid for, all according to law, and this County is now holding on deposit the said sum of \$750,000.00, pending the letting of the contract for the construction of the proposed new school buildings, bids for which have been advertised to be opened by the School Board on May 2, 1957;

"WHEREAS Judge Catterall of the State Corporation Commission recently issued a statement to the effect that he recommended to the Commission, starting with the tax year 1958, that public utilities be assessed throughout the various counties of the Commonwealth of Virginia at the same ratio of market value as is assessed by the respective counties against the other real estate in that particular county, and that according to calculations by the Commission, the present ratio in Fluvanna County is 17.9% as compared to the present ratio of 40% assessed against the utilities by page 105 } the Commission;

"WHEREAS Fluvanna County, as indicated above, has obligated itself for years into the future on strength of what it considered a fixed tax structure, producing a fixed amount of tax revenue, and that it is now imperative that that tax revenue be maintained in order that the said bonds may be repaid, and that if the said proposal is adopted by the Com-

Charles Alexander.

mission it would necessitate the raising of real estate taxes in this County by an amount approximately double the present amount of taxes;

“WHEREAS this Board is of the opinion that the citizens of this County would not have approved said bond issue had it been known that such a turn of events was in the making;

“WHEREAS this Board is of the opinion that it should not expend the said funds until it knows for certain that the tax revenue as relied upon will be realized, and if it is of pressing importance that a decision be made promptly as to whether or not a contract or contracts should be let for the construction of said School buildings;

“NOW THEREFORE, be it resolved, That this Board
 page 106 } unanimously opposes the said proposal recom-
 mended by Judge Catterall to the State Corpora-
 tion Commission, and further, that this Board
 unanimously requests the State Corporation Commission to
 act upon the said proposal as promptly as it possibly can,
 so that we, and other counties in like position, will know what
 to expect within the next tax year, and so that we will be in a
 position to make a decision as to whether or not we should
 proceed to let contracts for the construction of the proposed
 school buildings, and thereby obligate the funds now in our
 hands for the construction of said schools.

“BE IT FURTHER RESOLVED, that the Clerk of this Board is hereby directed to send a copy of this resolution to every Board of Supervisors, or other form of County Government, in the Commonwealth of Virginia, and to every city Council or other form of city government in all cities in the Commonwealth of Virginia, requesting that they consider this matter, and that if they thereupon are inclined to do so, that they adopt a like resolution and forward the same to the State Corporation Commission without delay.

“The Clerk of this Board is further directed to forthwith
 page 107 } send a certified copy of this Resolution to the
 State Corporation Commission of Virginia.”

Mr. Alexander, was it along about that time that the committee you mentioned was appointed to do anything about this Catterall proposal?

A. Some few days after the Catterall proposal came out in

Charles Alexander.

the paper, we asked the School Board to meet with us. We asked the School Board if they wouldn't be willing to hold this matter off a while until we could find out more about it, that we thought we were in a bad position on it, which so drastically cut our revenue should this proposal go into effect, and furthermore it would be a shot in the dark and we figured it would be bad business and we were unwilling to spend this money and put our taxpayers in this position not knowing what the results of the Catterall proposal were going to be.

The spokesman, Mr. Snead, for the School Board, at that time, at that particular instance, informed us that he didn't see where it was a matter of concern for the Board of Supervisors, that it was out of their hands. So we went on with the discussion, pro and con. Finally, it was agreed that Mr. Zehler, Mr. Snead, and myself, would go from the School Board and the Board of Supervisors, down and try to meet with the Corporation Commission to see if we could find out more about the proposal. Mr. Snead, Mr. Zehler, Mr. Purcell, and myself met with Judge Catterall and Judge Hooker.

Before this meeting was adjourned, we agreed to meet back once again before anything was done. We went down and met with the Judges of the State Corporation Commission, two Judges, Catterall and Hooker. They informed us—

Q. Was this before the contract had been let?

A. Yes, sir.

Q. All right.

A. They informed us that it was their intention if the General Assembly, this convening General Assembly, didn't take action on it, that they were going to put the Catterall proposal into effect in the State of Virginia. Judge Catterall turned to Mr. Purcell, who represents us in the House of Representatives, and said, "Mr. Purcell, I am putting it out in plenty of time. You are a member of the Legislature; I am putting it out in plenty of time so you and the rest of the members of the General Assembly will have due notice of what we intend doing."

We talked along—

Q. Let me interrupt you there one minute. Did you explain to Judge Catterall and Judge Hooker the promises that you had made to the taxpayers of Fluvanna County when you advocated this bond issue?

page 109 } A. I believe we started to do that and he said, "Oh, I read it in the newspapers, I know what your obligation is."

Charles Alexander.

Q. Did you tell him the jam you considered yourself in if they put that thing into effect?

A. Yes, sir.

Q. Did he have any helpful or hurtful suggestions?

A. Well, they did make a suggestion which I considered was off the record. I wouldn't like to expose either one of them on it. They suggested that we invest this money in possibly government bonds until some decision could be reached as to what the outcome of it would be.

Q. Then what else was said in that meeting, in substance, if anything?

A. I don't—

Q. Let me ask you this question. Was it before or after that the money was put on time deposit with the bank that has bought the bonds, if you remember?

A. I believe it was before that.

Q. Before that?

A. I am pretty sure.

Q. So Judge Catterall's suggestion did not influence the Board of Supervisors in putting any of the bond proceeds on time deposits?

A. No, sir, that was before, because then a de-
page 110 } cision was handed down by Judge Almond the
next few days, stating his opinion on it. Then we had a few days after that and we had a public hearing here in this building with the School Board and almost everyone had something to say. Mr. Snead presented a letter which he had received from Judge Almond stating that the School Board had a right to use the money. Mr. Zehler protested that he thought that Judge Almond had ruled on the wrong issuance of the bonds, I mean, there was some discrepancy as about who actually had sold the bonds.

At that meeting, we adopted a resolution whereas we would put this money in the National Bank & Trust Company at 3 per cent interest for one year's time, but we did not immediately execute that resolution. We still thought, after thinking it over, that there was some hope that we might be able to get together with the School Board and put this thing off long enough whereby we could go on with our proceeding to build this school and not injure any of our citizens to any extent.

Q. Is it a fair summary of what you are saying that the Board of Supervisors are kind of between the devil and the deep, blue sea, that Judge Almond says one thing and the Commonwealth's Attorney says another, and they said oppo-

Charles Alexander.

site things and you are sort of caught between the two of them? Is that right or wrong?

A. That's right, sir.

page 111 } Q. And also you were afraid that the people in the county were going to say that you sold them down the river, too?

A. That's right, sir.

Q. Was it your understanding of Judge Catterall's suggestion that he was suggesting to freeze this money until this question was decided in court?

A. Yes, sir.

Q. Was it your understanding that Judge Catterall was suggesting that this money be frozen until action by the Legislature, or court order, either, or both, or what was your understanding of his suggestion?

A. Well, he said that he had planned, if the General Assembly didn't do something about this, he planned to put his—attempt to put his program in operation next year and that we should wait and find out if the General Assembly took steps and what steps they did take, and to find out more about this thing.

Q. I am referring to Plaintiff Exhibit 13, of a regular meeting of the Board of Supervisors of May 6, 1956. It is very short and I will read it here:

“On report and recommendation of R. P. Zehler, Jr., there was a motion by W. W. Wilson which was duly
page 112 } seconded and approved, that this Board take under consideration the investment of the proceeds of the Bond Issue in short term Government Bonds until the matter of building a new grade school can be disposed of and that a meeting of the Board of Supervisors and the School Board be held on Friday, May 10th at 8:00 o'clock p. m., at Palmyra.”

Did you hear Mr. Zehler's opening statement this morning?

A. Yes, sir, I did.

Q. And do you recall his stating that those short term bonds were not purchased because they decided that they wouldn't tie the money up, but would leave it as it was until this matter was decided?

A. That's true.

Q. According to your best information and knowledge, were the statements made by Mr. Zehler in his opening statement true and correct?

Charles Alexander.

A. To the best of my knowledge.

Q. Are you willing to adopt his statement as substantially your testimony?

A. Yes, sir, I am.

Q. Do you do it?

A. Yes, sir.

Q. I come to Plaintiff Exhibit 14, which is a page 113 } copy of a special meeting of the Board of Supervisors held on May 10, 1957, in which they prohibit future disbursements upon the warrants issued by the School Board against the proceeds of the school bonds and I think I can cover that very briefly. You have heard the testimony here that whatever warrants were issued by the School Board against the proceeds of the school bonds and been issued before Judge Catterall put out his proposal?

A. Yes, sir.

Mr. Battle: Excused me. Honored by the Treasurer, not by the School Board.

Mr. Robertson: I mean, honored by the Treasurer.

By Mr. Robertson:

Q. But honored by the Treasurer with the consent and approval of the School Board?

A. Yes, sir, the Board of Supervisors.

Q. Board of Supervisors. Then after, as I understand the substance of this resolution of May 10, 1957, Judge Catterall's proposal, the Board of Supervisors directed the Treasurer not to honor any more warrants against this fund issued by the School Board?

A. That's true.

Q. Here is a point that I do not believe has been covered here except in Mr. Zehler's opening statement. As page 114 } I understand it, it is the provision of the Board of Supervisors that this money eventually must be spent for school purposes?

A. Yes, sir.

Q. And the question is how to spend it wisely and to the best advantage for the county?

A. The sole issue in this, so far as I am concerned, as a member of the Board of Supervisors, is that I think it is unwise and not good business to spend this money at this time under the uncertainty, and therefore, I am not in favor of spending it if there is any possible way to do it. The minute

Charles Alexander.

that we see our way clear where we can meet this obligation without crippling our people, I, as a member of the Board of Supervisors, am ready and willing to let this money go.

Q. Let me put it to you another way. If this Catterall proposal had not been put out, would you have been in favor of any delay at all in going forward in building this school?

A. Oh, no, sirree; no, sir.

Q. And if this Catterall proposal is once repudiated by the General Assembly and the position is thereby stabilized, will you be in position to be in favor of going ahead?

A. On the instant, sir.

page 115 } Q. And will that be on the theory of segregated schools or integrated schools?

A. On the theory of segregated schools. That is what we built the schools for.

Q. From your knowledge of the county and local conditions here, if the Federal Court, or any other court, should knock out segregation so that you have either got to have integration or close your schools, do you think that the public school problems will be substantially the same, or substantially different from what they are now?

A. I think probably the physical setup with the location of our schools wouldn't be like we planned now.

Q. Would be like it?

A. Wouldn't be like we planned.

Q. In what way?

A. Well, we probably just wouldn't need the schools in the places that they are in if we did integrate.

Q. And even if you spent the same amount of money?

A. Yes, sir.

Q. And even if you spent this particular bond money?

A. Yes, sir.

Q. And I believe the record shows that while it was intended to build this consolidated elementary Negro school, there is no legal limitation anywhere in this record

page 116 } that this particular building has to be built at this particular site, so far as I know. Do you know of any such limitation?

A. No.

Q. I come now to Plaintiff Exhibit 15, which is the minutes of a meeting of the Board of Supervisors held on May 27, 1957, in which the Supervisors deny the authority of the School Board over the proceeds of the bond issue and oppose the expenditure of the bond issue for school construction at this time, and calling for a straw vote at the primary election on

Charles Alexander.

July 11, 1957. Now I think you have discussed everything in that resolution except perhaps the straw vote. What was the purpose of the straw vote as proposed?

A. Since we made a promise to our people that there wouldn't be any increase in taxes, we thought maybe that might be one way that we might be assured, one way or the other as to just how our people did feel in regard to an increase in taxes and to build a new school. In the slang expression, it would be one way for the Board of Supervisors "to get off the hook."

Q. Then I believe that the record shows here, just for the sake of brevity, that the contract was let before June 11 and therefore it seemed unnecessary to hold a straw vote on July 11.

page 117 } A. That is true. We met on Monday night, thinking that there was some possibility—still some possibility—that the School Board might be willing to go along with this, exhausting every hope to try to reach some amiable settlement, and they did not see fit to meet with us. We confirmed our position and, upon adjournment, the next morning or the morning after, we learned that they had already, on the previous Friday, signed a contract with the English Construction Company.

Now I come to Plaintiff Exhibit 16, which is the minutes of a meeting of the Board of Supervisors on June 3, 1957, where there was a resolution rescinding the proposal of a straw ballot in view of the fact that the School Board had already awarded the contract to English Construction Company, and otherwise reaffirmed the resolutions of May 10 and May 27, 1957, as to the proper and correct way that the Supervisors thought this money should be handled, so I don't think we have to question you further on that.

(Whereupon, after a discussion off the record, the depositions were adjourned at 5:12 p. m., until tomorrow, Thursday, June 27, 1957, at 9:30 a. m., at the same place.)

page 118 }

SECOND DAY.

Pursuant to adjournment on yesterday, the depositions were continued at nine-thirty a. m., June 27, 1957, at the same place with the same counsel present as heretofore noted.

CHARLES ALEXANDER,

the deponent on the stand at the adjournment on yesterday, resumed, and further deposed as follows:

DIRECT EXAMINATION (Continued).

By Mr. Robertson:

Q. Mr. Alexander, what is the approximate area of Fluvanna County, in square miles?

A. 288.

Q. 288 square miles?

A. Yes, sir.

Q. Just to sort of summarize your testimony and get back to where I can ask you the few remaining questions, I understood the substance of your testimony, yesterday, so far as this phase of it is concerned, to be that you thought it was unwise to spend the proceeds of this bond issue under discussion in this case until after the situation clarified, both as to the Catterall plan and as to the segregation part; is page 119 } that correct?

A. Yes, sir.

Q. Why do you think that the Board of Supervisors should hold itself in a flexible position until those questions are clarified?

A. Why, we think due to the uncertainty of the Catterall proposal, that if we could prolong the expenditures of this money until the time when we could see whether the Catterall plan did go into effect, or not, and if the Catterall plan was put into effect, that the possibility that we could refinance this loan and not make such a hardship—not impose such a hardship from the tax angle on our people.

Q. Do you mean by that, refinance the bonds over a longer period of time so it would be less money payable in any one year?

A. Yes, sir. We think that should this go into effect and we spend this money now that it would double our tax—double the taxes on our people in the next one or two years and we don't think that our people would be able to stand such a tax. We see no way now under the present setup, under the proposal of the Catterall plan, whereby 60 per cent of our revenue is received from the public utilities that we could even offer any plan of refinancing at this time.

page 120 } Q. Would it be your thought that the entire tax and financial structure of the county be restudied by next spring?

Charles Alexander.

A. Yes, sir, I do. I think that the present Catterall plan, if in effect, would just be too much of a tax shot to our county. Roughly, by going through the methods by which our people are paying their taxes now, under the present setup, very conservatively, we figure that 20 per cent under the Catterall plan would be forced to lose their property.

Q. I believe the election authorizing the financing of the bonds had a maximum of thirty years; is that correct?

A. That is correct.

Q. Would it be your thought that the Board of Supervisors would employ an outside expert to study the tax and financial condition of the county or that the Board would study it itself?

A. I imagine we would employ somebody schooled in that phase of taxation.

Q. Just as you employed Scott, Mason & Horner to study the situation before this bond issue under discussion was authorized?

A. That is true.

Q. You stated that you felt that the Board of
page 121 } Supervisors should maintain a flexible position
also until the segregation problem is clarified.
What was your thinking on that?

A. Of course, since we voted on the bond issue, there has—I might insert this, that in taking the stand we did at the time when we did, we figured on our financial basis that we didn't think this much money should be spent under the circumstances. On second thought, it is, as we know, the integration problem is on a hinge right now and it doesn't look to me—I am not speaking for the Board of Supervisors as a whole—that if we are forced into integration, like there is a possibility of in the very near future, that the expenditure of this much money in this one school would be practical now at this time.

Q. Your thought would be that instead of one school there might be several schools at different localities?

A. The School Board might see fit, in the event the segregation issue should go against us, and we would be forced to integrate.

Q. Mr. Alexander, in fairness to yourself, I think it ought to be in the record so there can't be any question about it: Do you favor the continuance of segregated public schools, or are you in favor of integration?

A. I am in favor of segregated schools, sir. I might add

Charles Alexander.

this: we have a very fine personnel of colored people in our county and when we first started discussing this among the School Board and the Board of Supervisors it was the thought, and I think it still is the thought, of our colored people that they don't want integration. They want better schools and we want to give them better schools. I have two children in the public schools of Fluvanna County now and I most assuredly am willing to put forth every effort, as a Supervisor, to see that we have the best schools that our people can afford.

Q. For both races?

A. Yes, sir.

Q. And, as I understand it, you believe that you further that purpose by maintaining a fluid situation for this money *so* that whatever problem develops the amount of money can be expended to get the most good out of it for the children of both races in the county?

A. That is true, sir.

Q. Have you got any other motive in this thing?

A. No, sir.

Q. Mr. Alexander, I hand you herewith a map of Fluvanna County, which is put out by the Commonwealth of Virginia, showing the primary and secondary highway system, January 1, 1957, and ask you if at my request you have shown on that map the different magisterial districts in the county and the location of all public schools in the county?

page 123 } A. Yes, sir. If I am permitted, I would like to ask one question, if I understood Mr. Snead yesterday to say that there was one colored elementary school in the Cunningham District. I do not have one marked in the Cunningham District—a colored elementary school. This Shiloh School is practically on the line between the two districts of Cunningham and Fork Union.

Q. And I believe that the legend that you have put on the map which you have marked indicates everything that you have shown on the map, does it not?

A. To the best of my ability.

Mr. Robertson: I offer the map in evidence and ask that it be marked Defendant Exhibit No. 3.

(The map was filed as Defendant Exhibit 3.)

Mr. Robertson: I have no further questions of this witness.

Charles Alexander.

CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Alexander, to go back a little bit, when this parcel of land across from the present Abrams colored high school was acquired, as I understand it, it was paid for by the general county fund; is that correct?

A. That is true, sir.

page 124 } Q. At the time of its acquisition, the purpose was to use it for a Negro elementary school?

A. Consolidated, yes, sir.

Q. At the time of its acquisition, it was planned to be a consolidated school?

A. Yes.

Q. And that was to serve the Negro elementary students throughout the county?

A. That is true.

Q. That purpose continued, did it not, up through the campaign on the bond issue election?

A. That is true, yes, sir.

Q. And there was no question up to the time of the bond issue that the people were voting for a consolidated Negro elementary school to be located on this parcel of land?

A. Could I interrupt and say something?

Q. Yes, sir; certainly.

A. Just what you mentioned about the idea of the bond issue would affect one consolidated school, it is true, but I will state here that I have learned since and did not know at the time—had no idea, as much publicity as has been about it—that some people have informed me since the bond issue and since all of this dispute has arisen that they voted thinking that there would be two schools. Of course, page 125 } I hold no contention to that because I don't see why in the world these people with all of the information that they had on it, and as much as it was talked, that they should have thought that.

Q. Was it then in your opinion, true to say that the general consensus of the people of the county was that they were voting for one consolidated elementary Negro school to be located in this location?

A. Yes, sir, that is true.

Q. And that was certainly the publicity and advocacy of the Board of Supervisors?

A. Most assuredly.

Charles Alexander.

Q. I believe that you stated that by the time of the resolution of June 4, 1956, which was the resolution of the Board of Supervisors requesting the Circuit Court to enter its order calling the election, you had approximate cost figures from an architect who had made the plans for this school?

A. That is true.

Q. Were you, in general, familiar with those plans?

A. I was.

Q. Was the Board of Supervisors generally familiar with the plans?

A. I believe they were, sir.

Q. And so far as you knew at that time the plans
page 126 } were drawn in a satisfactory way, so far as what
 you thought the needs were?

A. Yes, sir. I served on that committee, the committee between the School Board and the Board of Supervisors, in finding out from the State Corporation Commission, as I stated yesterday, the amount of anticipated revenue, the cost of the school, and the fact that I believe it was upon our recommendation to the Board of Supervisors that we petitioned the judge for a referendum.

Q. Did that committee also work with the architects?

A. No, sir, we were working as a committee with the School Board.

Q. Did you work closely with the School Board, in such a way as to acquaint yourselves with the plans that were in prospect for the building?

A. No closer than the matters of the number of rooms, the facilities, and so forth, the approximate cost. In fact, I don't believe we met but once and Mr. Snead had all of this information.

Q. Did that information seem satisfactory to you at the time?

A. It did.

Q. Mr. Alexander, I want to ask you a little bit about this resolution of the Board of Supervisors adopted on April 29, 1957, which is Plaintiff Exhibit 12. Before doing
page 127 } it, I think it would be fair for you to look at it
 so that you will be acquainted with it, please, sir.

(The document was handed the witness.)

Q. (Continuing) I want to read you a recitation in the preamble, the second unnumbered paragraph:

Charles Alexander.

“WHEREAS the said bonds have been duly sold * * *”

Is that a true statement as of April 29, 1957? “WHEREAS the said bonds have been duly sold”?

A. This is April?

Q. I beg your pardon, April 29, 1957.

A. Yes, the bonds had been sold.

Q. “* * * delivered and paid for all according to law * * *” Does that represent a true statement, “* * * delivered and paid for all according to law * * *”

Mr. Robertson: That is a legal question. We admit it is correct.

A. Yes, sir.

Mr. Zehler: So far as he knows.

By Mr. Battle:

Q. “* * * and this County is now holding on deposit the said sum of \$750,000.00, pending the letting of the contract for the construction of the proposed new school buildings, bids for which have been advertised to be opened page 128 } by the School Board on May 2, 1957.”

Is it not true that by the language of this resolution adopted on April 29, 1957, it was anticipated by the Board of Supervisors that the School Board would open the bids on May 2—some several days later—and that the fund was being held pending the letting of the contract? Is that the fact, as of the date of this resolution?

A. I am not sure on the dates.

Q. You can look back on it and refresh your memory, if you like.

A. I do know that we called the School Board within less than a week's time before the bid was to be let and that was, to the best of my recollection, our first meeting with the Board after the Catterall proposal, if I stand corrected.

Q. Was that meeting before or after April 29, 1957, when this resolution was adopted?

A. Would our minutes show that?

Q. Let me put it this way to you.

A. I am confused on it.

Q. I know, it is awfully hard to remember the exact dates. I realize that. But let me put it this way: Would you say

Charles Alexander.

on the day this resolution was adopted, that by its very words it anticipated that bids would be opened on May 2 and that the fund was being held pending *he* letting of the page 129 } contract? That seems to be what the resolution states. Do you know any fact that would cause you to disagree with that statement?

A. No, sir.

Q. As of that date?

A. No, sir.

Mr. Robertson: I think in fairness to the witness, you ought to call his attention to the subsequent provisions of that very meeting. It reveals down there that the Board thought it ought not to be done.

By Mr. Battle:

Q. Mr. Alexander, the subsequent sections of the resolution, which you have read before answering these questions, appear to—

Mr. Robertson: Give him a copy of it. Down below there—I know you are not trying to confuse him.

Mr. Battle: No, I am not.

Mr. Robertson: I think when you take the whole thing in its context, it shows—

By Mr. Battle:

Q. The body of the resolution seems to provide simply that the Board of Supervisors go on record as opposing the recommendation of Judge Catterall; that is true, isn't page 130 } it?

A. Yes, sir.

Q. But that does not alter the fact, does it, that in the second preamble there is a recognition of the fact that the fund is held pending the letting of the contract as stated in the second preamble?

Mr. Robertson: I think that the minutes speak for themselves and I insist that the whole minute indicates that they did not approve the letting of the contract in view of the Catterall proposal.

A. Could I insert this also?

Charles Alexander.

“WHEREAS this Board is of the opinion that it should not expend the said funds until it knows for certain that the tax revenue as relied upon will be realized, and it is of pressing importance that a decision be made promptly as to whether or not a contract or contracts should be let for the construction of said School buildings;”

By Mr. Battle:

Q. Is there anything in that resolution which, in your judgment, would prevent or detain the School Board from opening bids on May 2, 1957?

A. Yes, right where we say that which I just read should give an indication to the School Board our position on this thing, that we were opposed to the expenditure of these funds at that time.

Q. Do you say that notwithstanding the recitation that the bids have been advertised to be open by the School Board on May 2, 1957?

A. I think that is a legal position now and I am not in a position to answer that.

Q. All, right, sir. Mr. Alexander, let me ask you something about this Vepco addition. How did you first learn that Vepco planned to make the addition at its Bremono plant?

A. Well, Mr. Battle, I learned through the grapevine, first, and I believe it was in the papers. It came out in the papers, I believe, sometime in the latter part of 1955.

Q. The latter part of '55?

A. In the fall, I would say.

Q. You all started work on this project, I think, in the very early part of '56?

A. '56, that's true.

Q. Did you confer with any representatives of Vepco about the new plant?

A. No, I didn't, just only through rumors and association, company association.

Q. Did you have any more concrete information page 132 } about the new addition than by rumors and what you read in the paper?

A. Well, no, I don't believe I did have.

Q. Do you mean to infer that you voted to set this bond issue in motion expecting the additional revenues from the addition down there, when all you had were rumors and statements in the paper about it?

A. Oh, no, I knew it to be factual that the plant would be

Charles Alexander.

built and that they had stated as much, that they had planned to spend \$23,000,000.

Q. How did you know that to be a fact?

A. Well, you always hear things like this through a grapevine, to start with, and it isn't too long after you hear things like this through a grapevine before the statements are put to press coming from reliable sources.

Q. And you relied upon what you read in the newspapers about it, in addition to the grapevine, so to speak?

A. Yes, sir. I considered it to be factual. I didn't see how it could be any other way than factual. Anybody else would take that position.

Q. I do too, and I am not criticizing that, but I want to have it very clear as to what information you had which led you to the belief that the addition would be made down there.

A. I have no idea that a company of this size, page 133 } or anybody else or any other reputable company, as Vepco, would come out with a statement stating that they proposed in the next year's budget to spend so-many million dollars, and the year thereafter to create a new unit, generating power unit at this station, unless it was most reliable.

Q. I would agree that it probably represented their thinking at that time, but did you ever concern yourself with the fact that that thinking may change, or may have changed?

A. Well, that is very true, but in the public utilities business of generating electric power, we have an obligation to meet the demand of our customers. This, I think, more or less has to be done. It is just like the Rock of Gibraltar, so far as generating power is concerned. But we found out, unfortunately, that the S.C.C. tax structure wasn't.

Q. Looking at this as of February, 1956, what was there about the Vepco plans that made you more certain that they were going to build this new plant than you are now more certain that there may be some future change in the tax structure? In other words, it seems to me that as of February, 1956, there was some uncertainty about this additional revenue, was there not?

A. No, sir, I won't say that because the construction at that time had already moved in and begun.

Q. Construction had begun in February, 1956? page 134 }

A. Yes, sir, they were there. They were there on the job. Although I work for Vepco, Vepco is as strong as the Rock of Gibraltar, in my opinion, and we don't

Charles Alexander.

start things that we don't finish. There wasn't any doubt in my mind about that.

Q. Had they changed their mind, you would have been in about the same dilemma that you are in now?

A. Yes, sir. But of course we hadn't parted company at that time. Unfortunately, we did. Off the record, we have been just as sincere about this thing as we can be, and it has been a drastic blow to us.

Q. It is a fact that there has been no change as of today in the method of assessing public utilities, has there?

A. That's true.

Q. And as I understand you, you fear that there may be some change?

A. That's true.

Q. And that is based entirely on what Judge Catterall said in the newspaper and in the conference you had with him?

A. That is true. And if I am allowed here at this point to insert grapevine information, we are in a position here now where we have two people representing us in the page 135 } General Assembly of Virginia, a representative in the House and a State Senator. We have never, until this hour, this morning, been in a position to find out how our representative in the Senate feels about this Catterall proposal. He hasn't been willing to state himself. That is fifty per cent of our representation in regard to this thing. That is why we are so leary about it.

Q. Mr. Purcell has pretty clearly stated his position, has he not, your representative?

A. Yes, sir.

Q. And you know he is going to do everything he can to keep it in its present status?

A. I am sure he will.

Q. While you are waiting for this thing, according to your program, you are still paying interest on those bonds, as I understand it?

A. I have to refer back to the record. We are paying interest at two different rates that we have on deposit now.

Q. I think you misunderstand, Mr. Alexander. You are paying interest at one rate?

A. That's true.

Q. And you are drawing at the other?

A. Yes, sir, drawing at the other, dated back to December, 1956, I believe. I believe I am correct on that, page 136 } that the interest rate started to make it span out.

Charles Alexander.

Q. And I believe you paid interest just recently?

A. That's true.

Q. Some \$20,000?

A. I would have to refer to that. We are receiving some interest at two different rates and paying at three, so I would rather refer to the records.

Q. In effect, you are paying 3 per cent interest on \$750,000?

A. That's true, yes, sir.

Q. And what you paid recently was for a six-month period?

A. That's right, yes, sir.

Q. So it would be half of 3 per cent on \$750,000, which you paid just recently?

A. Yes, sir.

Q. Isn't it true that dealing with the deposit which is drawing interest, a substantial part of that is drawing no interest?

A. Yes, sir.

Q. And is it not also true that that deposit is in the same form that it was in immediately after the proceeds were received and put in the bank?

A. That is true.

Q. And weren't those proceeds put in the bank
page 137 } with the idea that they would be deposited in such
a way as to be available to meet the bills from the
construction company?

A. That's true.

Q. So a substantial amount was put in there so that it could be withdrawn right away, some more was put in there so it could be withdrawn a little later, and the balance was put in there so it could be withdrawn yet a little later?

A. That's correct.

Q. And it is drawing, as I understand it, a maximum on just the balance of $1\frac{1}{2}$ per cent?

A. That is correct.

Q. Isn't it true that every day that that condition exists, it is costing the county money in interest?

A. That is true.

Q. There has been no effort, as I understand it, on the part of the Board of Supervisors to change these deposits?

A. No, sir, we haven't. To my understanding, we have had an offer from the National Bank and Trust Company where we could deposit this money at 3 per cent for a minimum of one year, in the event we decided. We hesitated to do that. We had resolutions, as I stated, yesterday, to that effect, but

Charles Alexander.

we held those resolutions and didn't do it in the
page 138 } hopes that we might reach some solution with this
problem. We have been in hopes of reaching some
solution of this problem since.

Q. It is true, isn't it, that since you accepted that offer at the bank, you would lose all rights to withdraw any of that money for a period of a year unless you forfeit your interest?

A. That's true. That is why we didn't put that resolution into effect.

Q. That is the real reason why you didn't do it?

A. Yes, sir.

Q. You admit, I think, Mr. Alexander, and I just want to get it straight in my mind, that there is no doubt on your part, or on the part of any other member of the Board of Supervisors that these bonds have to be paid?

A. That is true.

Q. The interest has to be paid as it comes due?

A. Yes, sir.

Q. And the bonds themselves have to be paid as they mature?

A. That is true.

Q. And the fund has to be used for the purpose for which it was voted?

A. That's true.

Q. Why is it that a delay of a year can in any way present a solution to this problem?

page 139 } A. Our opinion has been that—to state, to start
with, this thing came on like a bolt out of a blue sky, to everyone. We ran some figures on it and we figured that should this Catterall plan go into effect, that it would come close to, or double—doubling the taxes on our people. We are of the opinion and are sure that people voted for this bond issue realizing that—assuming that it wouldn't be any tax increase. We took the stand that if we could hold off a while that we could call the people in after we found out something, which we hoped to, after the General Assembly convened, whereas we could have some advice on our tax structure from Scott, Horner & Mason that we might be able to refinance these bonds and refinance so that it wouldn't be such a burden on our people. That was our sole position. We didn't see how we could take any other position, knowing that the people voted for this bond issue under those circumstances; and from a moral obligation, we didn't feel that we could say yes and go ahead and see this money spent and the possibility of having to thrust such a tax increase on our people.

Charles Alexander.

And, Mr. Battle, I just state to you in all fairness that we begged the spokesman for the School Board that night at this meeting to please understand our side, that we had worked on this thing with all of the sincerity which we possessed and we were in a bad spot and we were asking their help. Their reply to us was, "We don't see that the matter even concerns you now."

Still, on the other hand, and by the same token, we, the governing body of the county, when we took office, we swore to protect the people to the best of our ability. There we were, expending the sum of \$750,000, the Board of Supervisors being held responsible for the expenditure of this money, people holding us responsible, not the School Board. We are responsible for the tax structure and the finances of this county. That is why, in all sincerity, that we took the stand that we did. We never entertained, at any moment, the segregation issue. Mr. Snead brought that up in the opening meeting we had. We just solely believe that this money, under the circumstances, should not be spent at this time and that is why we took that stand.

Q. I judge from that answer then that really the segregation issue and the plans to meet it have nothing to do with your decision?

A. Not our decision. I stated that this morning, clearly. I was asked if I believed that if by the court order we were forced to segregate—to integrate, would this expenditure of this money be practical in this one-package deal. I stated that I did not feel it was. I think I have repeated myself here on the same statement that I had made to Mr. Robertson.

Q. But in adopting your resolution, which attempted to delay the use of this money, the segregation problem wasn't the factor, was it?

A. No.

Mr. Robertson: It is very much in the picture now.

By Mr. Battle:

Q. In your opinion, is there present any fact dealing with segregation that didn't exist when these bonds were sold?

Mr. Robertson: I object to that. There are a half a dozen or more court decisions that are weakening the South's position every minute.

Charles Alexander.

Mr. Battle: I understood this witness to state that he considers the segregation problem to be different now. I am simply asking him why he thinks it is different.

A. Yes, sir, I do. I do.

By Mr. Battle:

Q. All right. You have answered my question.

Mr. Zehler: Tell why.

A. I wouldn't dare state those reasons. But you realize the fact that when tempers flare up, things come to light that normally wouldn't, and I most assuredly have
page 142 } learned things. I assure you that the things that
I have learned did not influence my decision on
this bond issue.

Q. Let's go back to this financing a minute, Mr. Alexander. I am not attempting to criticize what you have done, and I do not think that you are attempting to criticize what the School Board does, even though it may disagree with you.

A. We have a right to disagree.

Q. They have a right to disagree with you?

A. And I have no personal feeling toward any of them. Unfortunately, off the record.

Q. You can't put it off the record.

Mr. Robertson: Speak right out and say what you think.

A. I was going to say that, unfortunately, our people have tried to put personalities into it, clubs into it, individuals into it, which hasn't been our position at all. I am a firm believer in the power of prayer and I assure you that I have prayed over this thing, many a time, because this thing vitally concerns the people of our county.

By Mr. Battle:

Q. Let me just ask you this: I understand everything that you say. You realize that the delay of a year, say, will result in an interest cost on those bonds of 3 per cent on \$750,000, which is \$22,500?

page 143 } Mr. Robertson: Excuse me, Mr. Battle. I don't
want to interrupt you, but that is not a correct

Charles Alexander.

premise in view of the record in this case that if the Board of Supervisors retains control of this money, they are going to deposit it there at the bank in Charlottesville and receive 3 per cent interest on it, which will offset the interest which they pay and would wipe out any interest charge against the county.

Mr. Battle: That is what they say they are going to do. My question specifically stated assuming the present situation, so far as the deposit is concerned.

Mr. Robertson: If you are putting it that way, you are assuming that they are not going to do what they say they will do, then a different result will follow.

By Mr. Battle:

Q. (Continuing) Assuming that the money stays in its present status, the interest that these bonds are going to draw is \$22,500 a year?

A. That's right.

Mr. Robertson: The record shows that they are drawing $2\frac{1}{2}$ per cent on part of it right now.

Mr. Battle: The record does not show that.

page 144 } Mr. Robertson: Yes—

Mr. Zehler: Yes, it does.

Mr. Robertson: And only 2 per cent on the rest of it. It shows it is in three different categories: One deposit brought $2\frac{1}{2}$ per cent interest, one deposit brought 2 per cent, and one deposit checking account, brought no interest.

Mr. Zehler: It is in the resolution of May 10.

Mr. Battle: Just a minute. I will straighten this out. I haven't asked him anything except what the bonds are drawing in interest.

Mr. Robertson: Oh, well—

Mr. Battle: I will be glad to ask him this question.

By Mr. Battle:

Q. So far as the time deposits are concerned, with a part, \$300,000 at $2\frac{1}{2}$ per cent, and \$150,000 at 2 per cent, they will amount to an offsetting factor; that is true, isn't it?

A. Yes.

Q. Is it not true also that if this possibility of a change in the law comes about, in the course of some future date you will still have to pay these bonds and the interest which is running from your tax revenues?

Charles Alexander.

page 145 } A. That is true.

Q. Have you explored, since this question arose, from any reliable source, the possibility of refinancing?

A. No, sir, I haven't. The Board hadn't entertained that due to the fact that we didn't think that—we didn't know our ability to pay, wouldn't know our ability to pay to meet any obligation under this uncertainty of this proposal, and we didn't see where any concern of that type would entertain—

Q. You don't know whether or not today they can or cannot be refinanced?

A. No, sir.

Q. Tell me this, Mr. Alexander. What was the reason that the Board of Supervisors had for applying to the Attorney General for his opinion on this question?

A. We were advised by our attorney that—

Mr. Robertson: I object to that. The Commonwealth's Attorney applied for that opinion.

A. He did.

By Mr. Battle:

Q. Did you authorize him to do it?

A. We did.

Q. What was your reason for authorizing him to do it?

A. We understood that Judge Almond had
page 146 } ruled on the wrong—well, as to who actually issued the bonds, whether the School Board or the County. It seems some legal technicality there as to who actually sold the bonds; and through the advice of our legal advisor, we asked for the second opinion.

Q. What did you plan to do with that opinion when it came in?

A. Well, we understood that he had ruled wrongly in the first opinion.

Q. Were you seeking an opinion for guidance?

A. No.

Q. What was your purpose in having the opinion?

A. Well, we would—well, I can't answer that question. I think that is a legal question.

Q. You, in fact, were sitting on the Board when the Board authorized and directed, I suppose, Mr. Zehler, the Commonwealth's Attorney, to apply for an opinion from the Attorney General on this question?

Charles Alexander.

A. I believe Mr. Zehler stated publicly the night that we met in a called meeting of the School Board that it was his intention to ask for the second opinion of Judge Almond.

Q. The Board of Supervisors permitted him to do that, did it not?

A. Yes, sir. I don't know that that is in the page 147 } resolution to that effect.

Q. I don't care about that.

A. But it was in general agreement at that same meeting, that night. Mr. Snead had a copy of Judge Almond's ruling, which he read to the Board of Supervisors and the School Board in a public hearing here, and that was the first ruling. Mr. Zehler protested that ruling, publicly.

Q. And you know that the Board of Supervisors consented and authorized Mr. Zehler to apply for another opinion based on the fact that he wanted to present?

A. Well, I don't think we had a resolution to that effect.

Q. I don't care about the resolution.

A. But it was in general agreement.

Q. That he should do it?

A. Yes.

Q. What was the purpose in having him do that?

A. Well, it would still have been some question there of law as to who—the School Board was seeking an opinion from him to guide them. I suppose that when you knew there was a possibility of some mistake in the first opinion, we thought maybe there was a possibility that his second opinion would be that we had the right to hold to the money. I think we had a perfect right, in all sincerity, to ask for the page 148 } second opinion.

Q. Well, you still haven't told me why you asked for it.

Mr. Robinson: I think he has.

A. That is why we did. We wanted an opinion of the Attorney General. He is the man in our state that issues opinions.

Q. What I can't understand—

A. But according to law, we don't always—with all respect to the Attorney General, we do not have to rely on it; we have other methods for disposition. The way I understand it, the Attorney General only passes down an opinion.

Q. What you are saying is that if the Attorney General

Charles Alexander.

had ruled in your favor, you were going to rely on it, and if he ruled against you, you were going to ignore it?

Mr. Robertson: That isn't what he said. He said he wouldn't abide by it, if, after they had the opinion they would abide by it if they saw fit.

By Mr. Battle:

Q. What I can't understand is, if you applied for it, why wouldn't you rely on it?

Mr. Robertson: He has answered that.

Mr. Battle: Let him say it now.

page 149 } A. Why I wouldn't rely?

By Mr. Battle:

Q. No, why did you apply for it if you weren't going to rely on it when you got it?

Mr. Robertson: He hasn't said that. He said they applied for it in an advisory capacity and didn't commit themselves whether they were going to rely on it or not. I think you and I could agree that if it would have been in our favor, we certainly would have relied on it, just like you are trying to rely on it because it happened to be the other way. But he is not infallible and we say he is wrong.

Mr. Battle: Let's let the witness testify.

By Mr. Battle:

Q. You did apply for the opinion; there is not any question about that?

A. Yes, sir.

Q. And when you got it, it was different from what Mr. Zehler had advised you the law to be, wasn't it?

A. That's true. And we still maintain that we hold a right to contest that opinion.

Q. I don't question you on that. But what I want to know is why you ever asked for it? Did you ever expect to be bound by it?

page 150 } A. No.

Q. Let me ask you this: Would you, as a member of the Board of Supervisors, have relied upon it if Mr. Zehler had not insisted that it was wrong?

Charles Alexander.

Mr. Robertson: I object to that. That is pure supposition and speculation.

Mr. Battle: There has been quite a bit of it in the past two days.

Mr. Robertson: I agree with you. If it had been in our favor, counsel would certainly have recommended that they rely on it, just like when we think it is wrong, we recommend that they don't rely on it.

Mr. Battle: Will you please answer my question, if you will?

Mr. Robertson: Read the question, Mr. Reporter.

(The following question was read:)

“Q. Let me ask you this: Would you, as a member of the Board of Supervisors, have relied upon it if Mr. Zehler had not insisted that it was wrong?”

A. If Mr. Zehler hadn't insisted that it was wrong, we had no way of knowing. He is our legal advisor.

page 151 } By Mr. Battle:

Q. And you feel that you should follow him, rather than the Attorney General in these legal questions?

A. I wouldn't say that, no, sir, but he is our legal advisor.

Q. Isn't the Attorney General your legal advisor?

A. Duly elected.

Q. Isn't the Attorney General your legal advisor?

Mr. Robertson: I object. That is a legal question.

A. That is a legal question and I am not in a position to answer it.

By Mr. Battle:

Q. You remember the meeting of May 10, when your Board adopted the resolution directing that this money be deposited at 3 per cent, and so forth? I will show you that resolution to refresh your memory.

(A document was handed to the witness.)

A. Yes, sir.

Q. Do you remember that meeting?

Charles Alexander.

A. Yes, sir.

Q. Is it not true that this is the resolution, which is Plaintiff Exhibit 14, that has the purported effect of telling the Treasurer not to honor any future warrants page 152 } drawn on this fund?

A. That's true.

Q. And it is the resolution that pretty well tells the School Board that the Supervisors take the position that they alone have control over the fund?

A. That's true.

Q. Do you clearly remember that meeting that produced that resolution held on May 10?

A. Could I have the date on the meeting?

Q. May 10.

A. With Catterall that we met?

Q. You can look back. I asked you that because you seem to have made the motion that produced the resolution.

Mr. Zehler: That was the night meeting.

A. The first night meeting we had after the Catterall proposal.

Mr. Zehler: The public meeting held right here.

A. (Continuing) Oh, yes, sir. I am familiar with that one. That was the first meeting after the committee came back from the State Corporation Commission.

By Mr. Battle:

Q. Look at the resolution and see if you did not make the motion or offer the resolution. page 153 } A. I made the motion, yes, sir.

Q. When you made this motion, Mr. Alexander, did you do it by offering this resolution, or was your motion a general one? This resolution that I have here (exhibiting)

A. The resolution was made and read and I made the motion that we adopt it.

Q. Who read the resolution?

A. Mr. Zehler.

Q. Therefore, it had been prepared before the meeting?

A. It had been prepared, yes, sir.

Q. In this form?

A. I believe it had been in that form.

Q. You don't recall any changes in the form as read by Mr. Zehler?

Charles Alexander.

A. No, sir.

Q. Had you seen it before it was read by Mr. Zehler at the meeting?

A. No, sir.

Q. Is it true that you listened to him read it and then you said something like, "I move its adoption"? Was it something of that sort?

A. That's true.

Q. So everything in this resolution was written by Mr. Zehler?

page 154 } A. Yes, sir.

Q. These are not your words?

A. No, sir.

Q. Is it not then true that Mr. Zehler has been the guiding light in the formulating or phrasing of the resolution which contains this question?

A. We have no other legal means to take the position that Mr. Zehler has taken in this dispute. We have relied upon Mr. Zehler to guide us, legally, as a Board of Supervisors in our dispute with the School Board.

Q. Don't you agree that there are certain things in this resolution that are purely a matter of policy, such as how the money is to be deposited, what bills are to be paid, and so forth, as compared with legal questions?

A. Yes, sir.

Q. And Mr. Zehler has been advising you on questions of policy as well as on questions of law in regard to this matter, hasn't he?

A. He has been advising us more in regard to law.

Q. But with regard to policy also?

A. We haven't been led by anyone. We have tried, in all of our decisions that we have made, to make them to the best of our ability. So far as decisions, other than legal decisions, we haven't been led by the nose by Mr. Zehler at all. We have relied upon Mr. Zehler for our legal guidance.

page 155 } Q. But it is true, isn't it, that he prepared this resolution before the meeting, in his own way, his own phraseology, dealing with how the money is to be deposited what bills are to be paid, and what position the Board of Supervisors is going to take with regard to asserting its control?

A. That's true, yes, sir.

Q. Hasn't the same thing been true in general as to the other resolutions respecting this question?

Charles Alexander.

A. Yes, I would say so. And when the parting of company came into being, I think you will agree that any Board should have a legal—should be advised in its legal steps. We have no lawyer on the School Board, and—

Q. I don't disagree with you.

A. —and I don't doubt that the School Board has had some advice on legal steps to take as well as the Board of Supervisors.

Q. Well, we might say that the School Board's legal advice has been separate. Just one or two further questions on that. Am I to understand that this resolution, Mr. Alexander, was not produced by any direction of the Board of Supervisors to Mr. Zehler that he prepare and submit some results, I mean, that there was no direction prior to him, of this page 156 } date, as to what would be the effect of this resolution?

A. Every time that we met reaffirmed our position to Mr. Zehler that we weren't in favor of turning the money loose, or the money being spent, and it was under that feeling of the Board of Supervisors that Mr. Zehler drew up this resolution which you hold in your hand and presented and voted by the Board of Supervisors here on May 10, but which was never executed.

Q. Before the date of the meeting, you, and as far as you know, no other member of the Board of Supervisors, suggested to Mr. Zehler any of the specific details that appeared in this resolution, did you?

A. No, because we are not legally capable of writing a resolution like that.

Q. You are thoroughly capable of deciding how the fund is to be deposited, and things of that sort?

A. Yes, sir.

Q. But you hadn't *maee* any suggestions to him prior to the date of this meeting?

A. He had informed us previous to that that he could, that he held a letter to the effect from the National Bank and Trust Company that they would accept this fund at 3 per cent.

Mr. Battle: I think that is all.

Mr. Robertson: I have just a few more questions, Mr. Alexander.

Charles Alexander.

RE-DIRECT EXAMINATION.

By Mr. Robertson:

Q. Did this resolution of May 10, 1957, substantially set forth the thinking of the Board of Supervisors as it had developed down to that date?

A. Yes, sir.

Q. Is it the usual practice for the Board of Supervisors, after they decide what they are going to do, to request the Commonwealth's Attorney to express it in appropriate language in appropriate resolution?

A. That is true.

Q. When, or approximately when, if you know, did the construction of the new addition to the Bremo Plant commence?

A. I believe, to the best of my knowledge, it was around January 12, 1956, when they first started in with moving buildings from the Possum Point Station.

Q. These dates are already in the record, but I do not recall that. Before the Board of Supervisors voted to submit the question of a bond issue to the people of the county, did they confer with the State Corporation Commission and acquire from the Commission the information as to what taxes they could expect from the Bremo plant?

A. They did, yes, sir, through a committee from page 158 } the Board of Supervisors consisting of Mr. Zehler and I, and you have letters on file as evidence to that effect.

Q. So they had that information before they went before the Board and advocated the bond issue—I mean, before the voters had advocated the bond issue?

A. Absolutely.

Mr. Robertson: That is all.

RE-CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Alexander, you mean to say that the State Corporation Commission advised you as to what additional revenues you could expect from the new plant?

A. I would rather you would read that letter.

Q. I don't know which one it is, Mr. Alexander.

Mr. Zehler: It is in evidence.

Charles Alexander.

Q. (Continuing) Were you referring to a letter dated May 22, 1956, from—

A. J. C. Masten.

Q. —of the State Corporation Commission?

A. Yes, sir. That is a copy of the original letter that Mr. Snead received.

Q. You say you went down there and conferred with them about it?

page 159 } A. No, Mr. Snead. Mr. Snead obtained that information. The letters will indicate that. And then Mr. Snead, Mr. Zehler, Mr. Ranson, and I met in committee and agreed.

Q. Agreed to what?

A. We agreed to more or less the tentative plans of the school and the cost, and that we were pretty well assured by that letter of what tax revenue to expect, and so forth. We were all in agreement.

Q. Prior to this letter, you had taken certain steps as to the bond issue?

A. Preliminary steps, yes, sir.

Q. You had surveyed the land, set the procedure in motion for acquiring the land, had you not?

A. That is true, yes.

Q. You had made a contract with Scott, Horner & Mason, the fiscal agents, before you got this letter?

A. Yes, sir, along about the same time.

Q. I believe you entered into the contract with Scott, Horner & Mason on May 7, 1956?

A. Yes, sir.

Q. And this letter is May 22?

A. Yes; it was somewhere close.

Q. Have you ever taken the position that this letter represents a commitment, more or less, on the part of the State Corporation Commission as to what the assessment of this property will be?

page 160 } A. I had thought after this Catterall plan came up that probably they should—at that time, they had anticipated something like that and I think they probably could have eased it in that letter by saying “Go slow,” or something. But they didn’t see fit to do it. We were acting at that time, the School Board and the Board of Supervisors—Vepco was paying so much of our taxes, and being such a strong organization, we just never dreamed that anything like that would ever happen.

Charles Alexander.

Q. Apparently the State Corporation Commission has officially stated to the Superintendent of Schools that "the assessment in 1959 will be approximately \$8,280,000 on the new project." What I asked you, was if you had taken the position that they are committed on that by virtue of that letter?

Mr. Robertson: I think I ought to state this for the record, Mr. Battle, speaking personally and as counsel in this case, that it never occurred to me until this moment that any such position should be taken, but I think it is a very interesting point. It is certainly a legal point and I do not think the witness ought to state it. But I assure you if we think that we can make it stand, we certainly will take that position as counsel.

Mr. Battle: It seems to me you might have something to go on.

A. We were using it as a guide instead of a commitment.

Mr. Robertson: I am indebted to you for giving us that suggestion.

By Mr. Battle:

Q. You relied on that letter?

A. Yes, we did, and the School Board did, too.

Q. And apparently they knew you were going to rely on it?

A. Yes, sir; and why couldn't they have given us some inkling in that letter of that?

Mr. Robertson: Mr. Battle, to clear the record, we are in accord, I believe, are we not, in thinking that it would be unwise and against the interest of this county, including the Supervisors and the School Board, for the Catterall proposal to be adopted?

Mr. Battle: Yes, sir, I agree with you on that.

Mr. Robertson: We both oppose its adoption?

Mr. Battle: Yes, sir.

Mr. Robertson: And if they will just hold the page 162 } *status quo* and not adopt it, then all of our difficulties will evaporate.

Mr. Battle: What I am trying to develop is that it seems like there is very little likelihood of its being adopted and

J. P. Snead.

that letter seems to represent very strong leverage against its adoption.

I think that is all.

Mr. Robertson: That is all. Thank you, Mr. Alexander.

And further this deponent saith not.

(Signature waived.)

Mr. Robertson: May I ask Mr. Snead one or two more questions?

J. P. SNEAD,
was recalled in behalf of the defendant, and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Mr. Snead, no part of the cost of the pro-
page 163 } posed consolidated Negro school building has
been included in the 1957-58 school budget, has it?

A. No.

Q. Or in any other school budget?

A. No.

Q. Did you participate in the campaign over the bond issue election?

A. Yes.

Q. Did you advocate the bond issue election?

A. Yes.

Q. Did you assure the voters that as then advised, there would be no increase in taxes if the election carried? I am going to ask you just to answer yes or no, and then make any explanation you want.

A. Did I do what now?

Q. Did you make assurances to the voters of Fluvanna County that so far as you were advised, there would be no increase in taxes if the bond issue carried because it would be paid for out of new Vepco tax money?

A. Yes, that we did, based on a letter that we had from the Corporation Commission.

Mr. Robertson: I have no further questions.

J. P. Snead.

page 164 } CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Snead, you say that the cost of this new school does not appear in the budget; you do not normally put costs of construction that will be financed by bond issues in the budget, do you?

A. No.

Q. That is the reason why it did not appear in the budget?

A. That's right.

RE-DIRECT EXAMINATION.

By Mr. Robertson:

Q. It never occurred to you to put it in the budget?

A. We didn't know where the money—the bond issue, we were advised that this money be put in the bank under the head of school construction fund and we have a separate account for that.

Mr. Robertson: I have no other questions.

RE-CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Snead, I would like to ask you this question. Did you order the stone that produced the bill from Charlottesville Stone Corporation?

page 165 } A. Yes, sir.

Q. Was that stone needed and necessary to the project of the new school?

A. It was needed and necessary for the well that we proposed to drill, and that was not included in the general contract. The School Board has to drill the well.

Q. The well is needed for the use of the school?

A. It is the first thing we need, the water, the well.

Q. And you needed the rock for the well?

A. We needed the rock for the well, the casing, and that is the first thing we have to do to laying the building off is locate the well and drill the well. It is very important to mix the mortar, and so forth.

Mr. Battle: That is all.

Mr. Robertson: I have no other questions.

And further this deponent saith not.

(Signature waived.)

John A. Hughes.

page 166 } Mr. Robertson: Captain John A. Hughes.

JOHN A. HUGHES,
was sworn in behalf of the defendant, and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Captain Hughes, your name is John A. Hughes?

A. John A. Hughes, yes, sir.

Q. Where do you live?

A. Down near Kents Store.

Q. That is in what district?

A. Columbia District.

Q. Are you a member of the Board of Supervisors of Fluvanna County?

A. I am.

Q. Elected from the Columbia District?

A. Yes, sir.

Q. Are you Chairman of the Board?

A. I am now, yes, sir.

Q. How long have you been a member of the Board?

A. Since '31.

Q. How long have you lived in Fluvanna County?

A. I have lived here, except for thirty years, all of my life. I was born in Fluvanna, went in the Army for thirty years, and came back.

page 167 } Q. You are then a retired Captain in the United States Army?

A. Yes, sir.

Q. What part of the county is your district in, north, east, south, or west?

A. Southeast, isn't it?

Q. You, I believe, have heard all the testimony in this case, yesterday and today?

A. Yes, sir.

Q. How long have you been Chairman of the Board?

A. Since last February, I believe, when Mr. George Porter died.

Q. That would be September '57?

A. '56.

Q. So you were Chairman of the Board when this matter of the bond issue came before the Board?

John A. Hughes.

A. I was.

Q. Were you in favor of the bond issue, or against the bond issue?

A. I voted for the bond issue—I mean, I voted for the election, for the people to vote for it, whether they wanted it or not, but I was against the bond issue.

Q. You thought that the people ought to have an opportunity to decide, but your own decision was that it ought not to be voted?

page 168 } A. No, sir.

Q. What was the ground of your feeling for thinking that the Bonds ought not to be authorized?

A. Well, we owed \$252,000 before the bond was gotten, and I didn't think one organization was going to pay it. I thought the taxes would have to be raised.

Q. And you thought that independently of the Catterall proposal?

A. Yes, sir.

Q. Captain, approximately how far is it from your home to the courthouse?

A. Fourteen miles.

Q. Approximately how far is it from your home to the site of this proposed new consolidated school?

A. I guess it is about fifteen—about seventeen miles.

Q. Is the concentration of Negro population in your part of the county?

A. Yes, sir, right many.

Q. The testimony is here that the average throughout the county is about 60 per cent white and 40 per cent Negro; would that be about the same in your district, or heavier?

A. I believe so, I don't know, pretty near fifty-fifty, I believe now in my opinion.

page 169 } A. Have you heard any agitation among the Negroes in your district that it is unfair to them to require the Negro children to be transported to where the proposed new consolidated school would be located?

A. I have, sir.

Q. What is the substance of that talk on that subject?

A. Well, two of them—two of the Negroes of Columbia District came up at the time we met here in the courthouse and the Clerk's office and I don't know what they got out of it. I think Mr. Snead said he would fix up something, or something of the kind for them.

Q. But it is a matter of discussion as to whether or not that is unfair to them to make them come that distance?

John A. Hughes.

A. I think there is.

Q. If you were opposed to the bond issue, I suppose you did not advocate it in the campaign?

A. I did not, no, sir.

Q. Did you get out and work against it?

A. I did not.

Q. You took no part one way or the other?

A. People asked me about it and I told them. Some people asked me and I told them that I wasn't going to vote for the bond issue and I told them why.

page 170 } Q. In your opinion and in your thinking over the matter of the bond issue, did you consider the proposition of whether there ought to be the two schools at two sites, or one school at one site?

A. I thought there should be two schools.

Q. Why?

A. They wouldn't have so far to go, the young colored people.

Q. Did you approve it for one school at the site that is proposed for the single consolidated school?

A. I believe I did. I voted the same as the other supervisors did. I think that was my vote on it.

Q. If we come to a point where we have got to have integrated schools, or close the schools, do you think that they still ought to go ahead and build a consolidated school at the site where they are now proposing, or that they ought to break it up into more units at different locations?

A. I don't know. I think there should be two schools, one on each side of the river. That is what they proposed to do when they started getting the money for them, but some of the white people down there objected, I think about seven or eight of them, and they didn't try anywhere else to get any locality.

Q. In your opinion, would the bond issue have
page 171 } carried if the voters of the county thought that there would be a substantial increase in the tax rate in order to pay them off?

A. No, sir, I do not. There is mighty little of anything going on here except agriculture, and I don't believe they could stand it.

Q. As a member of the Board of Supervisors, are you in favor of going ahead and spending this money and building this school now, or of waiting until the situation clarifies over the Catterall proposal and segregation?

John A. Hughes.

A. Well, I think they ought to wait until they find out what they are going to do on cutting taxes on the power plant tax.

Q. You mean as to whether they get that money or not?

A. Yes. I say, honestly, I don't believe the power company tax is going to pay for the school, either. That is my supposition.

Q. If they do not get the power company money, how do you think that the proceeds of the bond issue should be spent? Are you prepared to express an opinion on that?

A. Well, I wouldn't care to express an opinion on it, sir. I left all of that to Mr. Zehler, our legal advisor.

Q. I didn't mean legally, I meant as a matter of policy; do you think it all ought to be spent in one building
page 172 } or different buildings at different localities? Do you still think there should be two schools, one on each side of the river, and break them up into localities, or what?

A. Two schools, I guess, would be plenty.

Q. I believe that whatever resolution Mr. Zehler prepared, whatever activities he took, were under the instructions of and with the approval of the Board of Supervisors, were they not?

A. Yes.

Q. The point I am trying to clear up is whether he was a busy-body running around trying to run the Board or whether the Board was running him?

A. No, sir, he was very accommodating to the Board and doesn't do anything except what we tell him.

Q. In other words, the Board ran Zehler and Zehler didn't run the Board?

A. Yes, sir.

Mr. Robertson: I have no other questions.

CROSS EXAMINATION.

By Mr. Battle:

Q. Captain Hughes, I think you said that it was your judgment that the Board of Supervisors should wait and see what is going to happen on the taxes. How long do you expect to wait to see what is going to happen?
page 173 }

A. I guess the General Assembly would meet during January, doesn't it?

Q. Is it your plan to wait until they meet in January?

John A. Hughes.

A. I think so.

Q. Let's assume for the sake of this question that when they meet in January there is no change from what the situation is now. Then what would be your position?

A. Then, I tell you, I have always been after two schools, and so has the School Board. The School Board came there and made a survey, and so on, and some people objected, and they came up here and the next thing I heard was a big school over here at Abrams High. But I still believe in two schools. I think that—I don't think the colored people want to integrate here at all, and I think that they should consider having two schools.

Q. Then, am I to understand that when the Legislature meets and there is no change, you then think that there ought to be an exploration into whether there would be one or two schools?

A. I do.

Q. Would you advocate, Captain, scrapping the plans that would be made and paid for?

A. No, I don't know whether it would be worth that or not, but the School Board should be able to work that page 174 } out some way.

Q. You understand that these plans have already cost something like \$20,000?

A. Yes, sir.

Q. Is it your feeling that they can be adapted to a smaller school without any additional cost?

A. I don't know. I don't know that. I should think they could be.

Q. Captain Hughes, let me ask you this. If, after the Legislature meets nothing happens, aren't you in exactly the same position then that you are in now? In other words, isn't there always during the term of these bonds for eleven years the possibility that Mr. Catterall and the Corporation Commission may do something about your taxes? Isn't there always that possibility?

A. Well, yes, but it looks to me as if they could postpone the school until they find out about that.

Q. To do that, to be absolutely certain, you would have to postpone it for eleven years, wouldn't you?

A. I don't know about that.

Q. If the tax law can be changed today, it can be changed in 1958, 1959, or 1960, couldn't it?

A. Yes, I guess so.

John A. Hughes.

Q. Is there any more logic in waiting today than there would be in waiting until next spring?
page 175 } A. I believe there is.

Q. Why is there more logic to wait today than to wait later?

A. Well, you see where we get the money to pay for the schoolhouse, school building, and so on.

Q. Well, you are going to get the money from the Vepco plant, aren't you?

A. That is what it is supposed.

Q. And you are going to get it on the basis of the rate of assessment?

A. Yes, sir.

Q. What I am asking you is, isn't it possible for that rate of assessment to change at any time during the life of these bonds?

A. No, sir, I couldn't answer that.

Q. Isn't it just as possible for it to change sometime during the later life of these bonds as it is possible to change now?

A. I couldn't say.

Q. Have you ever thought of that possibility?

A. I have.

Q. What conclusions do you reach?

A. Well, the conclusion is that we not get the money until we can see how we can pay it back.

Q. As long as you are depending upon a fixed
page 176 } rate of assessment on this Vepco property, is it not true that you are always subject to the possibility of some legal change in that rate of assessment?

A. Well, yes, you are, but I couldn't say much about this because it is the first time I ever ran into such a proposition as this. It surprised me when the Corporation Commission said \$82,000 deducted from our appropriation from the utility. Then I don't know what else. Then we asked Mr. Zehler to see if we couldn't postpone it until the Legislature had their meeting. And I don't think it is right to spend this money now and let the people pay more taxes.

Q. What I am trying to develop, Captain Hughes, is this: Isn't it just as likely that you will have the same problem in the spring of 1958, or in the spring of 1959, as you have right now?

A. Yes, sir.

Q. Does that mean that you would advocate postponing this thing indefinitely?

W. H. Ranson, II.

A. I would.

Q. What would happen to the money, just sit there?

A. I think Mr. Zehler has it in the bank, hasn't he?

Q. Keep on paying interest on it? Doesn't it occur to you
that by an indefinite postponement, the interest
page 177 } rate will finally just completely exhaust the fund,
with nothing to show for it?

A. Well, of course, it would, but I hardly know what to say
about that.

Mr. Battle: I think that is all.

Mr. Robertson: I have no other questions. Thank you.

And further this deponent saith not.

(Signature waived.)

Mr. Robertson: Mr. W. H. Ranson.

W. H. RANSON, II,
was sworn in behalf of the defendant, and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Mr. Ranson, your name is W. H. Ranson?

A. W. H. Ranson, II.

Q. What is your business?

A. Salesman.

Q. For what?

A. Certified Electric Corporation.

page 178 } Q. Where do you live?
A. At Bremo Bluff.

Q. In Fluvanna County?

A. Yes, sir.

Q. How long have you lived there?

A. All of my life except for the time I spent in college.

Q. How old are you?

A. Forty-eight years old.

Q. Where did you go to college?

A. V. P. I.

Q. You graduated there in engineering?

A. No, sir, not in engineering; business.

Q. Are you a member of the School Board of Fluvanna
County?

W. H. Ranson, II.

A. Yes.

Q. How long have you been on the Board?

A. I couldn't tell you. I believe it was '52. I am not certain about that.

Q. You are now Chairman of the Board?

A. Yes, sir.

Q. How long have you been Chairman?

A. Since I was appointed on the Board.

Q. That would be since 1952?

A. Yes, sir.

page 179 } Q. I believe you have been in court and have
heard all the testimony in these proceedings, yesterday and today?

A. Yes, sir.

Q. I believe you were in favor of having a campaign as to whether or not there should be a bond issue?

A. Yes, sir.

Q. And you were in favor of the bond issue?

A. Yes, sir, and so voted.

Q. And campaigned in favor of it?

A. Some, not to any great extent, but some.

Q. And to the extent that you did campaign for it, you assured the people that if they passed the bonds there wouldn't be any increase in taxes, didn't you?

A. I assured them that I didn't think it would be necessary to raise the taxes, but to assure somebody that your taxes aren't going to be raised, is a very, very serious thing, because the tax structure can be changed at any time, as you know.

Q. But to the extent that you reasonably believed—

A. We saw no reason to have to raise it with the anticipated income.

Q. I am not trying to get you on the hook on that, I am trying to get you off.

A. Get me off of it.

page 180 } Q. I mean, to the extent that in good faith and
in common sense you could assure the people of
the county that if they passed the bond issue there
was no reason to foresee an increase in taxes on account of the
bond issue?

A. That's true, but with the amount of anticipated income.

Q. Of course, you did that in perfectly good faith and on the facts as you understood them at that time, just as you assume everybody else did?

A. That's true.

W. H. Ranson, II.

Q. And then, when this Catterall proposal burst upon us, it just sort of pulled the rug out from under you?

A. It didn't pull the rug out from under me, because I don't think there is anything to it.

Q. I hope you are right.

A. I hope I am, too. I feel I am going on that assumption, anyhow.

Q. Anyway, if it turned out that they put the proposal into effect, it would become necessary to raise the taxes in this county?

A. Not necessarily.

Q. Where would they get the money?

A. We could refinance the bonds.

Q. Without raising the taxes?

A. Yes, sir.

Q. What is your authority for that statement?
page 181 } A. We have a letter from the bonding company
saying they could be refinanced at the same rate
of interest.

Q. I call for that letter, please.

A. Mr. Snead, you have the letter, do you not?

Mr. J. P. Snead: There is the letter.

(A document was handed to Mr. Robertson.)

By Mr. Robertson:

Q. This is the letter to which you refer?

A. That is true.

Mr. Robertson: I offer the letter in evidence and ask that it be marked Defendant's Exhibit No. 4.

(The letter was filed as Defendant Exhibit No. 4.)

STIPULATION.

Mr. Battle: It is stipulated and agreed that the Mr. Haden referred to in Defendant Exhibit 4 is the president of the National & Trust Company of Charlottesville which purchased the bonds in question.

W. H. Ranson, II.

page 182 } By Mr. Robertson:

Q. It was your understanding that the bonds can be refinanced, if desired, by the proper authorities?

A. Providing the interest rate is not increased.

Mr. Robertson: I have no other questions.

CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Ranson, did you attend the meeting of the School Board at which the contract with English Construction Company was executed?

A. Yes, I did.

Q. Did you vote in favor of executing the contract?

A. I did.

Q. Why did you do that?

A. Due to the fact that the time was about to expire, we had advice that if we did not execute the contract that we would be subject to a suit saying to the effect that we hadn't expended the money wisely of the county, should it cost more to build the school than the \$519,740.

Q. You mean should you not execute it, and it would expire?

A. Yes, sir. We have a letter to that effect.

Q. And you felt that if later you had to advertise for other bids and those bids were higher you might be
page 183 } criticized for letting this one expire?

A. That is true. And we decided it on the opinion of the Attorney General. We had the second opinion, which was no different, in effect, than the first opinion and we used that as our—

Q. You felt that based on that opinion and the fact that the bids were about to expire that you would be subject to severe criticism if you ignored the opinion and let them expire?

A. That's true. Another thing, we were advised that any citizen of the county could demand that that money be spent for the purpose for which it was voted.

Mr. Battle: I think that is all.

W. H. Ranson, II.

RE-DIRECT EXAMINATION.

By Mr. Robertson:

Q. Who advised you that your Board was subject to a lawsuit if they didn't sign that contract?

A. Do I have to answer the question?

Q. Yes.

A. I do?

Q. Yes, sir.

A. Off the record—

Q. No, sir, on the record.

A. The Attorney General.

page 184 } Q. State the circumstances under which he advised you to that effect?

A. Mr. Snead and I visited him in his office and asked him what we should do.

Q. What did he tell you?

A. He told us we could be held responsible if we didn't execute the contract.

Q. Did he say that if you didn't go on and execute that particular contract with the English Construction Company you were subject to a lawsuit?

A. I don't remember about that.

Q. That is what I am asking you. I understood your testimony to be that he told you if you didn't go on and sign the contract with English Construction Company you were subject to a lawsuit.

A. We could be subject to a lawsuit.

Q. Did he give any intimation of how much time you were permitted before you signed any such contract?

A. No.

Q. Did he give you any official opinion to the effect?

A. No, sir, no official opinion, but off the record.

Q. You were talking off the record?

A. Yes, sir.

Q. And not to be quoted as Attorney General?

page 185 } A. That's right.

Q. That was why you were reluctant to state his name, I mean, in a perfectly proper way?

A. I think that would be proper.

Q. I am not implying any impropriety either to you or to the Attorney General, except that you are both legally wrong.

A. That may be so. I don't know anything about the legal end of it.

W. W. Wilson.

Mr. Robertson: I have no other questions.

And further this deponent saith not.

(Signature waived.)

Mr. Robertson: Mr. W. W. Wilson.

W. W. WILSON,
was sworn in behalf of the defendant and deposed as follows:

DIRECT EXAMINATION.

By Mr. Robertson:

Q. Mr. Wilson, your name is W. W. Wilson?

A. That is right.

Q. And you live in Fluvanna County?

A. That's right.

page 186 } Q. How long have you lived here?

A. All of my life, fifty-four years.

Q. What is your business?

A. I am in the mercantile business, a grocery store.

Q. Whereabouts in the county do you live?

A. Bybee, Virginia.

Q. That is in what district?

A. Palmyra.

Q. Are you elected from that district to the Board of Supervisors?

A. Yes, sir.

Q. How long have you been on the Board?

A. Twenty-four years, I believe.

Q. And you are presently a member of the Board?

A. Yes, sir.

Q. Mr. Wilson, I believe you have heard all of the testimony of this case, including the testimony of Mr. Alexander, both yesterday and today?

A. Yes, sir.

Q. I don't want to go over all of that ground again. Do you think that this testimony, so far as you know, is substantially correct?

A. Absolutely.

Q. And you concur in the facts stated by him, so far as they are known to you?

page 187 } A. I do.

Q. I want to ask you specifically these questions.

W. W. Wilson.

Were you in favor of submitting the bond issue to the voters of the county?

A. Yes, sir.

Q. Were you in favor of the bond issue?

A. Yes, sir.

Q. Did you vote in favor of it?

A. I did.

Q. Did you campaign in favor of it?

A. I didn't campaign any more than in my store. I talked it up with everyone that came in.

Q. I would think that would be a pretty effective way.

A. I mean, I didn't get out in a public meeting.

Q. Was your advocacy of the bond issue based on your understanding that the bonds would be paid off with new tax money from Vepco and not any increase of taxes in the county?

A. Yes, sir.

Q. Would you have favored the bond issue if there had been such a prospect of a substantial increase in taxes in the county, as now appears possible?

A. No, sir, I would not.

Q. You agree that the bond issue would have passed if the people of the county had thought there would be
page 188 } any substantial increase in their taxes to pay off the bonds?

A. No, I don't think so.

Q. I believe that the record will show from the exhibits that have been introduced here that you are of the opinion that this money should be held and not expended until the Catterall proposal is clarified and the segregation issue is clarified?

A. That's true.

Q. Do you feel that it is necessary for you to testify as you have done in order to make your position clear in this case and in this county where you made your assurances about the bond issue in sincerity and in good faith and now that the Catterall proposal has put a brand new set of facts into the picture?

A. That's right.

Q. And you want to make it clear that you have acted with integrity and sincerity all of the way through from beginning to end?

A. Yes, sir.

Mr. Robertson: I have no other questions.

W. W. Wilson.

CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. Wilson, how long do you think it will take for the Catterall position and the segregation question to page 189 } be clarified?

A. Well, I really don't know. As I understand, the General Assembly will either approve or disapprove it.

Q. How about the segregation?

A. Well, I don't know about the segregation part of it.

Q. But you mean to say that the funds are to be held in present status until both the possibility of a change in the tax structure and the segregation question are clarified so that you will know exactly what both is going to be?

A. No, I didn't mean particularly about the segregation part. What I am interested in is to hold the money until the General Assembly decides on the public utility rate. That is what I am interested in.

Q. Well, the segregation question doesn't really enter into your thinking?

A. No, not in that part. I am interested in holding this money until we know whether our tax rate on public utilities will be cut, or would not be cut.

Q. Is it correct then to assume that if it hadn't been for the Catterall proposal you would have been in favor of going ahead with this school construction?

A. Yes, sir.

Q. And it is merely the Catterall suggestion? page 190 }

A. That is right.

Q. That delays you?

A. That's right.

Q. In wanting to go ahead?

A. Yes, sir.

Q. What would be your position if the Legislature just doesn't do anything this winter?

A. Well, we would probably have to call in a tax expert and try to work out a long period of time, something would have to be worked out.

Q. But if the Legislature does nothing, you understand that the taxpayer's picture would remain the same?

A. Oh, you mean if they don't do anything?

Q. Yes, sir.

A. Oh, I misunderstood you. If they don't make any change

Richard F. George.

and cut the rate back, I am in favor of going on and building the school.

Q. Even though it may change at a later date?

A. Well, we can't—I mean, you can't foresee that. Nobody can do that.

Mr. Battle: I think that is all.

Mr. Robertson: I think the record ought to be clear to this effect, that all of us understand here that for the Catterall proposal to go into effect that it requires action page 191 } of the General Assembly disapproving it to keep it from going into effect, and when the witnesses on both sides have discussed it, they are meaning there will be action in the Legislature to prevent its going into effect, or else the Legislature will do nothing, whereby it will go into effect. They haven't always worded themselves that way.

Mr. Battle: Wouldn't you agree that it would go into effect providing a majority of the members of the State Corporation agree to that change?

Mr. Robertson: And the General Assembly did nothing to prevent their putting their agreement into effect.

Mr. Battle: Yes, sir. In other words, Judge Catterall alone can't make the change.

Mr. Robertson: No, sir.

I have no other questions of Mr. Wilson.

And further this deponent saith not.

(Signature waived.)

page 192 } RICHARD F. GEORGE,
was sworn in behalf of the defendant, and deposed
as follows:

DIRECT EXAMINATION.

By Mr. Frazier:

Q. Mr. George, I believe your name is Richard F. George?

A. That's correct.

Q. Where do you live, please?

A. In Palmyra District.

Q. Fluvanna County?

A. Yes, sir.

Q. I believe you are the Clerk of the Circuit Court?

Richard F. George.

A. That's correct.

Q. How long have you been Clerk?

A. Since the first of January 1952.

Q. Were you deputy clerk before that?

A. From the late summer of 1950.

Q. As Clerk of the Court, are you also Clerk of the Board of Supervisors?

A. That is correct.

Q. As Clerk of the Board of Supervisors, do you work with the Board of Supervisors in any capacity which they request of you?

A. Yes. I keep the minutes of the Board of Supervisors, mail out checks, and letters, and so forth.

page 193 } Q. Do you also prepare the budget for the county?

A. Yes, I do, with help of course.

Q. Of course, in preparing the budget for the county, you rely on the various county officials, do you?

A. Yes, sir, I do.

Q. Mr. George, you *have* here in the court yesterday and today, I believe, and have you heard the testimony about the bond issue?

A. Most of it, yes.

Q. Are you familiar with the background of that bond issue?

A. Yes.

Q. Did you take a public stand on the school bond issue when it was up for discussion here in Fluvanna County?

A. No, I did not.

Q. Did you vote for or against the bond issue?

A. I voted for it.

Q. Was your vote for the bond issue based on any considerations of whether or not there would be a necessary tax increase to meet the payment of the bonds?

A. Well, I was rather reluctant at first to vote for it, and it seemed, in all fairness, the colored needed the school and we could go on with no further increase in tax.

Q. I do not think it is quite clear, but do I
page 194 } understand you to mean that you could float the bond issue without a tax increase?

A. At the present tax rate.

Q. And therefore, you were for it?

A. Yes, sir.

Q. What is your present position as to spending this money

Richard F. George.

in view of the uncertainty that faces the citizens of Fluvanna County?

A. I don't feel like it should be spent.

Q. What is your reason for that?

A. It is true that some of the other counties have higher tax ratios and rates than we do, but also, they have greater employment advantages than we do. This is an agricultural economy. The records tell us that over fifty per cent of the farms are under a hundred acres in size, and we just simply do not have the income capacity that some counties have.

Q. Let me ask you right there—are you familiar with the area and the population of this county?

A. Fairly so.

Q. What are those figures, if you know?

A. I believe it is 282 square miles and a population of a little over 7,000.

Q. Are you familiar enough with the other counties in the State of Virginia to tell whether Fluvanna is a page 195 { small county or large county, or what?

A. It is a small county.

Q. Getting back to this economy, you mentioned that it was an agricultural economy, primarily. What about the manufacturing establishments? Are there any in the county of any consequence?

A. Not of any great size, no.

Q. Do you have any idea how many manufacturing establishments there are in the county?

A. If you classify sawmills as manufacturing, there are several. They don't have very much taxable property, just trucks, mill and unit, and a few things.

Q. Outside of sawmills, do you know of any industry of any size at all?

A. There is, of course, a planing mill that is in Columbia in the same general line, the lumber line.

Q. Are there any big corporations that have plants or factories around here in Fluvanna County?

A. No, not in manufacturing.

Q. What does the tax wealth come from then?

A. Well, the greater portion perhaps from Virginia Electric & Power Company at Bremono, and then from the usual real estate and personal property and merchants' capital.

Q. The usual real estate is what, homes and farms?

A. Yes, to a large extent.

page 196 { Q. I would like to ask you, very briefly—you mentioned, I believe, that the agricultural eco-

Richard F. George.

nomy was not at a very high level; have you got any information on the relative wealth of the citizens of this county, as compared to other parts of the state?

A. I have the figures from the Division of Planning and economic development.

Q. Is this a state agency? Do you know?

A. I believe it is.

Q. All right. What information do you have on the wealth of the citizens here?

A. Would you like for me to give the per capita income for different years?

Q. If you think that illustrates it, okay.

A. For 1951 (not giving all of the years), Fluvanna County, \$797.00; state average, \$1,303.00. I believe that is about 61 per cent of the state average in income. The state average, of course, would not be too high.

Q. So that do I understand that Fluvanna County per capita income was only 61 per cent of the average for the whole state?

A. That is correct.

Q. Is that the latest available figure, so far as you are advised?

A. This is the latest sheet that I have from the page 197 } Division of Planning and Economic Development.
This was revised in January 1954.

Q. Do you have any similar information on the family income as opposed to per capita?

A. The median income of families, according to this, in 1949 was \$921.00; the state, \$2,172.00. I believe that figures for the family income 43 per cent of the state average. The Fluvanna Area would be 43 per cent of the state average figure.

Q. You mentioned a moment ago that the largest part of the revenues came from the utilities. Have you any information as to what percentage of the revenues are derived from the utilities?

A. Our percentage should go up with each addition to the Virginia Electric & Power Company plant. For 1956 and '57, I believe it figures to be around 59.8 per cent. For 1957-58, around 63.3. And we are thinking, or we are informed, for 1959-60, it should be around 77.7.

Q. Is that revenue that the county expects to derive?

A. Tax revenue, yes.

Q. The balance of it comes from where?

Richard F. George.

A. Well, I was not including any carry-over from a previous year.

Q. Are you including any revenue sources from page 198 } the state or anything like that?

A. I was including all revenue that comes in, yes.

Q. From local sources or all sources?

A. All sources.

Q. In connection with this Catterall proposal, have you made studies as to what that is going to do to the tax picture here in Fluvanna County if the tax proposal goes through?

A. I have.

Q. First, I would like to ask you what the assessed values are in Fluvanna County for real estate and personal property and the public service corporations, and also the revenue that is derived from them as of the tax year 1956-57?

A. Revenue for 1956, from taxes in Fluvanna County, real estate, the revenue would be \$63,682.10 on an assessed value of \$3,184,155.

Personal property would be \$22,752.30 on an assessed value of \$1,137,615.

Machinery and tools, \$524.40 on an assessed value of \$26,220.

Merchants' capital, \$6,094.90 on \$304,745.

Corporations, \$148,737.60 on \$7,436,880.

Q. Mr. George, by the term "corporations," what do you mean?

A. Well, Virginia Electric & Power, Chesapeake page 199 } & Ohio, Transcontinental, Central Virginia, Virginia Telephone & Telegraph, maybe one or two small ones.

Q. They are public utilities, are they?

A. Yes.

Q. That figure, I take it, does not include any private corporations, but public service corporations only?

A. They would be public utility corporations, I believe.

Q. Of the public utilities, which is the largest one of them? What is the assessed value on that?

A. Vepco. The assessed value in 1956 was \$5,844,980.

Q. That is most of the figure, is it not?

A. Yes.

Q. What is the present tax rate in the county per hundred?

A. \$2 per hundred.

Richard F. George.

Q. Does that rate apply to all classes of local taxable property?

A. Yes, sir.

Q. For your budget for the year 1957, did you use the same or different figures for real estate and personal property?

A. I believe they were the same, based on the same as 1956.

page 200 } Q. In your experience in working with these budgets, has the personal property and real estate assessments of Fluvanna County remained relatively stable over the past six years?

A. They have.

Q. In looking to the year 1957-58, what have you included in your budget for the public service corporations?

A. Assessed value of \$8,011,880.

Q. That, I take it, appears to be an increase over the year 1956-57?

A. Yes, that's correct.

Q. In preparing your budget, what source did you rely on for the increased public service corporation valuation?

A. I think we had a letter from the State Department of Taxation showing the additions that we could count on.

Q. Is that the normal procedure you use in preparing your budgets?

A. That is correct.

Q. If the Catterall proposal goes into effect, can you tell us the dollar loss that this county will sustain from its public service corporation revenue for the year 1957-58? Let's first do it for the year 1956-57.

A. If it had come into effect?

Q. Yes.

page 201 } A. I believe that was \$82,178 quoted in the newspapers.

Q. For the year 1957-58, what would the loss be for that year?

A. I computed that to be \$88,531.28.

Q. Have you received any of the same information or similar information that has been testified about here today on the expected Vepco addition when it is completed for the year 1959-60?

A. Yes.

Q. How much would that add in taxable property to the public utility tax growth?

Richard F. George.

A. According to my notes here, the assessed value would increase by 1959 by approximately \$8,240,000.

Q. Is that about double what it was in 1957-58?

A. That is about double.

Q. Have you been able to determine what the tax loss for the year 1959-60 would be, continuing the same rates as we now have, that is, under the Catterall proposal?

A. According to the figures made some while back that I have, it would be \$179,583.29.

Q. If the Catterall proposal goes into effect?

A. Yes, sir.

Q. Mr. George, have you investigated what Fluvanna County must do in the future to maintain the same
page 202 } revenues as they are now getting or can expect to
get in the future if the Catterall proposal goes
into effect?

A. I have tried various arithmetic on the revenue we need from taxes, yes.

Q. Have you reached a conclusion as to what the Board of Supervisors must do in the way of changing its local tax rate to make up the deficit caused by the Catterall proposal?

A. It appears to me that individual taxes would be approximately double.

Q. Mr. George, I hand you what purports to be a synopsis of the tentative budget of Fluvanna County for the year 1957-58 and ask you to identify it.

A. Yes, sir, that is a copy I mimeographed.

Q. Is that the budget that you prepared?

A. That is correct.

Q. Will you show that to Mr. Battle and introduce that?

(The document was tendered Mr. Battle.)

Mr. Battle: Go ahead. I will look at it later.

Mr. Frazier: I introduce that as Defendant Exhibit 5.

(The copy of the budget was filed as Defendant
page 203 } Exhibit 5.)

By Mr. Frazier:

Q. Does that budget also include the school budget as well as the general county budget?

A. That is correct.

Q. I will ask you further whether under present conditions

Richard F. George.

in Fluvanna County the expenditures consumed all of the available revenue or more than the available revenue or less than the available revenue?

A. They appear to consume more than the available revenue. We have just been fortunate in having a little past surplus to draw on.

Q. Do your budgets take into account the repayment of the school bonds?

A. This, I believe, is only the school budget as given by Mr. Snead and the county budget. Of course, in Mr. Snead's budget it has the literary fund and debt charges on that.

Q. The school bond issue that we have just been talking about here?

A. It does not include that.

Q. Is any of the money to repay the school bond issue coming out of the fund that you already have available now, or the sources that you have available now?

page 204 } A. I believe that comes out of the bond issue.

Q. These figures that you have given us here about the impact of the Catterall proposal upon the finances of the county and the doubling of the tax rate, does that take into account the repayment of the bonds or is that over and above the repayment of the bonds?

A. That would be the repayment of the bonds.

Mr. Frazier: Those are all of the questions I have.

CROSS EXAMINATION.

By Mr. Battle:

Q. Mr. George, I just have one or two short questions. I did not follow you too closely, but did you give the total tax that you are now realizing from the present Vepco plant?

A. Revenue for 1956?

Q. Yes.

A. The figures I have before me indicate \$116,899.60 for 1956 on taxes.

Q. You received in 1956 that amount of taxes from the Vepco property?

A. That is from the Commissioner of Revenue, I believe.

Q. What assessed valuation did you have on that property for the year 1956?

page 205 } A. That yielded that much tax?

Q. Yes, sir.

Richard F. George.

A. \$5,844,980.

Q. Roughly \$5,000,000?

A. Yes, sir.

Q. As I understand it, that is based on 40 per cent of cost less depreciation; is that correct?

A. I think so.

Q. And, as I understand it, the other real estate in the county owned by individuals is based, roughly, upon 20 per cent of value? I think the figure is 19.—something, isn't it?

A. We planned to assess it at 25 per cent of the actual value. The State Department of Taxation claims that we actually assessed it at 17.9 per cent of—

Q. It is your effort to assess it at 25 per cent?

A. It was at that particular assessment.

Q. What is it now?

A. No more assessments have been had since that date.

Q. That is the last assessment?

A. That's right.

Q. Do you know the total cost of the new addition to Vepco?

A. From the letter (Defendant Exhibit 2) of the
page 206 } State Corporation Commission, under date of May
22, 1956, in paragraph 1, it states as follows:
“The company estimates it will spend \$23,000,000 for the entire project.”

I am just quoting portions of the paragraph. “Assuming that the power company completes the project and spends \$23,000,000 before the end of 1958, the assessment in 1959 will be approximately \$8,280,000 on the new project, in addition to the assessment on the other property.”

Q. Let's examine it to see what will happen with the theoretical assumption that the Catterall proposal takes effect. Suppose you continue to assess the property of individuals at 25 per cent. That, in itself, would not result in any loss of revenue, would it?

A. I don't believe it would.

Q. As of 1959, if you assessed the Vepco plant at 25 per cent of the cost, less depreciation, you would have an additional assessed value as of that date on your records of 25 per cent of \$23,000,000, wouldn't you?

A. I don't quite follow that. I think we would have to go by the percentage as quoted by the State. They claim that we are assessing at the rate of 17.9 per cent and I think we would be required to assess—they would take 17.9 per cent less depreciation, rather than 40 per cent less depreciation.

Richard F. George.

Q. You recall, Mr. George, that my question re-
page 207 } lated to the individual properties based upon an
assessment of 25 per cent, which I understand is
what you are trying to do now?

A. Well, that depends on the way you look at it, theoretically or actually. If we are actually assessing it at 17.9 per cent and raise it to 25, it would be an additional amount. If we use the same assessment and call it whatever you may, 17.9 or 25 per cent, which I judge your statement means, then of course we would have roughly the same income.

Q. Let me put it this way: You have been making the effort, as I understand it, to assess individuals' property at 25 per cent?

A. Yes, sir.

Q. You are doing the best you can to do it on that basis, aren't you?

A. Yes, sir.

Q. And, judging from what you have said, I suppose if you actually assess it at 25 per cent you would have added revenue from individuals' properties, wouldn't you?

A. Yes.

Q. All right. Now, if you did not change your announced plan, as far as individual properties are concerned, and continued to assess on the realistic basis of 25 per cent, you would have added revenue?

page 208 } A. To assess on a realistic basis of 25 per cent,
we would have to raise the assessment from 17.9
to 25 per cent.

Q. And the individual would pay slightly more taxes?

A. Yes.

Q. Suppose the other part of the picture, you drop down to the year 1959 to 25 per cent of this Vepco property—do you follow me?

A. Yes, sir.

Q. —you would at that time have additional property valued at \$23,000,000, wouldn't you?

A. On the present basis.

Q. I am talking about 1959 when the plant is completed.

A. I am talking about on the present basis of the Catterall—I mean, the State Corporation Commission, the 40 per cent. It appears that \$23,000,000 in expense here would raise our assessment by about \$8,000,000, according to the letter just read.

Q. The point I am trying to get at, if the Catterall plan went

Richard F. George.

into effect, which was the first thing that I asked you about, it would reduce it—if it reduced it from 40 per cent to 25 per cent, you would still have an additional value of \$23,000,000 upon which to make an assessment of 25 per cent, page 209 } wouldn't you?

A. I assume that they would reduce their percentage rate from 40 per cent to 17.9 per cent, the same as the figure we actually assess. We would gain more revenue, that is true.

Q. You would gain more revenue.

A. With more assessed value.

Q. They wouldn't reduce your rate of assessment below the point at which you are actually assessing other property, would they?

A. I think they plan to have all properties assessed at the same ratio.

Q. If the Catterall proposal goes through?

A. Yes, sir.

Q. And you are announcing that you are trying to assess other property at 25 per cent; you have already told me that; isn't that a fact?

A. It was the attempt, but perhaps due to inflation in the meantime that we now find that we actually are not.

Q. That just calls for a reassessment, doesn't it?

A. Well, reassessment would change the picture.

Q. What I am trying to get at, Mr. George, it doesn't seem to be as complicated as we are making it. You admit that in 1959 you will have \$23,000,000 of taxable values in this county, do you not?

page 210 } A. They will spend that much.

Q. Well, you are going to base your assessment on the cost, aren't you?

A. The State Corporation Commission comes out with the figure on which we can base it. That is a fraction of the actual cost. The depreciation and other factors enter into that and I don't know their exact formula.

Q. Isn't the formula simply cost less depreciation?

A. Times our percentage, I would think.

Q. I beg pardon?

A. Multiply it by their percentage.

Q. What percentage?

A. Whatever percentage they use; 40, at present.

Q. But the basis for the percentage is cost less depreciation?

A. I believe that would be correct.

Richard F. George.

Q. All right. Now, in the year 1959, which is the year in which it is completed, it will be the cost, won't it?

A. Apparently not.

Q. Do you think that you would have depreciation the first year?

A. It appears to be 10 per cent.

Q. So it is a fixed rate of 10 per cent each year, 10 per cent the first year?

page 211 } A. I don't know whether the same rate applies each succeeding year or not.

Q. It is probably a declining balance rate; is that correct?

A. I don't know.

Q. Well, deducting the 10 per cent that you say the property will be depreciated the first year, you would have, on a \$23,000,000 cost, a deduction of \$2,300,000, wouldn't you?

A. That sounds right for the percentage applied.

Q. Then you would apply the percentage to \$20,900,000?

A. That sounds correct.

Q. And that would represent additional taxable property for the year 1959?

A. Yes.

Q. What I am leading up to is this. You were giving figures of losses. Isn't it true that in arriving at those losses you were comparing into the future what you would have in the way of revenues on the present basis as against what you would have in the way of revenues on the present basis as against what you would have in the way of revenue if the Catterall proposal goes through?

A. That is correct.

Q. And it wasn't a comparison into the future of what you now have in the way of revenue with what you
page 212 } will have even if the Catterall proposal goes through?

A. No, but the reason for that was our expenses in paying back the bond issue increase in the future.

Q. I understand that.

A. In the past, we have not had that.

Q. Is it not true that even if the Catterall proposal goes through, in view of this addition to Vepco you would actually receive in the county more tax revenue?

A. Not what we counted on.

Q. I am not talking about what you counted on, but I am talking about in comparison of dollars in taxes in 1959 with the Catterall proposal in effect against what it is today.

Richard F. George.

A. I don't believe I have the figures on that at the moment.

Q. Have you ever calculated those figures?

A. I have calculated them in a variety of ways. I don't know as I have calculated that particular way. If so, I don't have the figure in front of me.

Q. There seems to be a great theory in this county on the part of some people that the Catterall proposal is going to go through. Do you agree with that?

A. I believe it will.

Q. Hasn't it occurred to you to see what would happen in your dollar volume of revenue if it does go page 213 } through?

A. Yes.

Q. What is the figure?

A. Well, I figure for 1959, normally, I mean everything being normal, with the addition to the plant, that we could expect some \$418,292.30. That would be with the personal real estate yielding a revenue of about \$63,683.10. Now, to approach that revenue—I haven't figured exactly, but I figure to within a thousand dollars—it would be \$419,367.32. The real estate, under one ratio here, would have to yield \$123,807.96, which would be practically double the \$63,683.10.

Q. Well, you are figuring to retire these bonds on the basis of your present expected expenditures?

A. To the yield of the expected revenue.

Q. Let me ask you this, Mr. George. If you can answer it, it is all right, and then I will be through. Do you know, or do you not know, whether the county, with the new Vepco plant being built, will receive more or less revenue, even though the Catterall plan may be in effect? Now I am speaking of more or less compared with what it is getting today in dollar volume or what it may get in 1959 in dollar volume.

A. I am not prepared to answer that at the moment. I don't know.

Mr. Battle: All right, that is all.

page 214 } Mr. Frazier: I have no further questions.

And further this deponent saith not.

(Signature waived.)

Mr. Zehler: Miss Farrar, will you please be sworn.

EDITH H. FARRAR,
was sworn in behalf of the defendant and deposed as follows:

DIRECT EXAMINATION.

By Mr. Zehler:

Q. Miss Farrer, will you please state your full name, please?

A. Edith H. Farrar.

Q. You are the Treasurer of Fluvanna County; is that correct?

A. Yes, sir.

Q. Where do you live, Miss Farrar?

A. About four miles north of Palmyra.

Q. How long have you been Treasurer?

A. Since January 1, 1936.

Q. You are the defendant in this proceeding; is page 215 } that right?

A. Yes, sir.

Q. In other words, the School Board brought this proceeding against you?

A. That's right.

Q. And you have, by counsel, filed your answer to the petition?

A. Yes, sir.

Q. And, so far as you know, all of the statements and the allegations in the Answer are true and correct?

A. So far as I know.

Q. Miss Farrar, you were of course Treasurer of Fluvanna County when this bond issue was first proposed; is that correct?

A. Yes, sir.

Q. Was it brought to your knowledge that a bond issue was being discussed and that possibly a referendum would be held?

A. It was.

Q. At the time, Miss Farrer, were you brought into the discussion with the Board of Supervisors as to the tax structure and feasibility of having a bond issue?

A. I was in on the meeting. Of course, I had nothing to say, but I was in on the meeting.

Q. As Treasurer of the county, of course you have knowledge as to the income of the county and the expenses of the county?

A. That's right.

Edith H. Farrar.

Q. In those preliminary negotiations, Miss Farrar, was it your opinion that if the tax structure remained the same in Fluvanna County, that these bonds could be sold and repaid without increasing county taxes?

A. That's right.

Q. That was your understanding?

A. Yes, sir.

Q. Did you support the bond issue, Miss Farrar?

A. I did.

Q. Did you vote for it?

A. I did.

Q. In your opinion, would the bond issue have passed had the people known of the possibility of a substantial tax increase?

A. Well, I couldn't say, but I think that would have affected it right much.

Q. Would you have voted for it had you known of the possibility of the Catterall proposal?

A. Well, that is hard to say. Of course, I know they need the school. That is all I can say.

Q. You, of course, understand what the Catterall proposal is?

A. I do.

page 217 } Q. Miss Farrar, you have heard Mr. George testify, you were present when he testified?

A. I was.

Q. As to the sources of revenue and the expenditures of Fluvanna County. Do you substantially agree with the testimony that he offered?

A. Yes, I do.

Q. As to our revenue, our expenditures, and what we can expect in the years to come?

A. I do.

Q. Did you take an active participation in the campaign for the bond issue?

A. Well, I talked it some with people that came in.

Q. Did you tell—

A. That I was in favor of it.

Q. You were in favor of it?

A. Yes.

Q. Did you tell any voters that so far as you could determine there would be no increase in taxes if the bond issue were carried?

A. I think I did, that I understood it that way.

Aubrey G. Wright.

Q. In your opinion, were the people of this county generally informed that if the bond issue were carried there would be no tax increase?

A. I imagine they were.

page 218 } Mr. Zehler: That is all.
Mr. Battle: I have no questions.

And further this deponent saith not.

(Signature waived.)

Mr. Zehler: Mr. Wright, please.

AUBREY G. WRIGHT,
was sworn in behalf of the defendant and deposed as follows:

DIRECT EXAMINATION.

By Mr. Zehler:

Q. Will you state your full name, please?

A. Aubrey G. Wright.

Q. Mr. Wright, you are the Commissioner of Revenue for Fluvanna County; is that correct?

A. Yes, sir.

Q. How long have you been the Commissioner of Revenue?

A. Let's see, I believe it's fourteen years. I had been Deputy Commissioner for twelve years before that.

Q. What is your age, Mr. Wright?

A. Eighty-one.

Q. How long have you lived in Fluvanna
page 219 } County?

A. About sixty years, I believe, fifty-nine.

Q. Fifty-nine or sixty years. You were Commissioner of Revenue when this bond proposal was first discussed; is that correct?

A. Yes, sir.

Q. And as Commissioner of Revenue, were you brought into discussions with the Board of Supervisors as to the ability of the county to sell these bonds and pay them back?

A. Yes, sir. I was present at most of the meetings.

Q. After having considered the matter duly and in view of the potential tax increase from Vepco, was it your opinion

Aubrey G. Wright.

that these bonds could be sold and repaid without increasing taxes?

A. Yes, sir, that was my understanding. I knew there was a possibility that there could be a change in some way; but I didn't think probably there would be.

Q. As Commissioner of Revenue, it was your thought that we could sell those bonds and repay them without increasing taxes; is that correct?

A. That's right.

Q. Did you vote for the bond issue, Mr. Wright?

A. Yes, sir.

Q. Did you persuade other people to vote for it?

A. Yes, sir. Many people came in my office and page 220 } asked me what I thought of it and if I thought it would be a raise in taxes, and so on. I told them I didn't see where there should be, that so far as I could see, there wouldn't.

Q. In other words, you told the voters that in your opinion they should vote for it and there would be no tax increase; is that correct?

A. Yes, sir.

Q. Are you familiar with the Catterall proposal, Mr. Wright?

A. I think so.

Q. You have heard the testimony of Mr. George; is that correct? You were in the courtroom when he testified?

A. Yes, sir.

Q. And you are familiar with the income and the expenditures of Fluvanna County. Do you agree, substantially, with what he testified to?

A. Yes, sir, I do.

Q. You agree to those figures. And do you—of course, I am sure you do—agree with the conclusion that if the Catterall proposal goes through there will be a substantial decrease in the expected revenue for this county? Is that correct?

A. That is the way it seems to me.

Q. Mr. Wright, in your opinion, should this page 221 } bond money be spent at this time, or held until we know how we are going to get the money to repay these bonds?

A. Well, I thought it would be well to hold up until we see where the money is coming from.

Burl Warren Seay.

Mr. Zehler: That is all.

Mr. Battle: I have no questions.

And further this deponent saith not.

(Signature waived.)

BURL WARREN SEAY,
was sworn in behalf of the defendant and deposes as follows:

DIRECT EXAMINATION.

By Mr. Zehler:

Q. Will you state your full name, please. sir?

A. Burl Warren Seay.

Q. I believe you are the County Judge for Fluvanna County; is that correct?

A. Yes, sir, that is correct.

Q. And before you were made County Judge, you were Trial Justice of Fluvanna County; is that correct?

A. Yes, sir, that's right.

Q. And when were you made a Trial Justice,
page 222 } Judge Seay?

A. 1932, I think it was.

Q. That was when the system was first invoked is that correct?

A. Yes, sir.

Q. And before you were Trial Justice, were you a judicial officer of any kind?

A. I was a Magistrate and Judge of the Juvenile Court.

Q. When were you appointed to that position?

A. 1925.

Q. How old are you, please, sir?

A. Seventy.

Q. How long have you lived in Fluvanna County?

A. All my life except seven years.

Q. You were, of course, either Judge or Trial Justice at the time that the bond issue in controversy here was first proposed; is that correct?

A. I was, yes, sir.

Q. Were you aware of the proposal from the beginning, Judge?

A. Yes, I was.

Q. As a matter of fact, your office is in the same room

Burl Warren Seay.

where the Board of Supervisors meet and you are present
at practically all of the Board meetings; is that
page 223 } correct?

A. I am.

Q. Do you sometimes enter into discussion with the Board on matters that are before them?

A. I do, and other public matters of interest.

Q. And you were present and you were aware of this proposed bond issue when it was first brought to the Board of Supervisors; is that correct?

A. Yes, sir.

Q. Will you state, please, Judge, what was the thought on your part, and so far as you knew, the thought of the Board of Supervisors, as to what effect, if any, this bond issue would have on our tax revenue in this county?

A. It was my information and it was the information upon which I acted in support of the bond issue, that there would be no raise in our levy.

Q. Did you vote for the bond issue?

A. I did, and worked for it.

Q. You persuaded others to vote for it?

A. I did.

Q. Did you make any promises to them concerning the taxes?

A. Yes, sir. I felt safe in doing that because I had been led to believe that there would be no raise in taxes.

Q. Are you familiar, Judge, with the proposed
page 224 } Catterall arrangement concerning the taxes on
public utilities?

A. Yes; I read the reports in the papers and I think I pretty well understand it.

Q. Then you agree that in the event the proposal is put into effect, the expected tax revenue for Fluvanna County will be greatly curtailed; is that right?

A. Yes, sir. My information is that the taxes would be practically doubled.

Q. The taxes of the landowners in this county would be practically doubled?

A. Yes, sir, that's true.

Q. That is in order to continue to operate our general budget and repay the bond issue?

A. That's true.

Q. With that knowledge, Judge,—or let me put it this way:

Burl Warren Seay.

Had you known of the Catterall proposal before the referendum, would you have voted for the bond issue?

A. I certainly would not have.

Q. Would you have persuaded other people to vote for it?

A. No, sir.

Q. Being in a position to know a great many of the people and their attitudes on matters, in your opinion
page 225 } would the bond issue have passed had the Catterall proposal been known at that time?

A. I think it would have been rejected entirely.

Q. In your opinion, Judge, in view of the Catterall proposal, do you think we should spend the money at this time and go ahead and build the school, or should we withhold the funds until we know what will be done with the Catterall proposal and how we can repay the money?

A. I was in full agreement with those who advocated withholding the spending of this money until the tax status was determined definitely.

Q. In other words, you think that the position taken by the Board of Supervisors on this matter is correct?

A. I certainly felt that way about it.

Mr. Zehler: That is all.

CROSS EXAMINATION.

By Mr. Battle:

Q. Do you attend all the meetings of the Board of Supervisors, Judge Seay?

A. No, sir, I do not, but I was interested in this particular matter that was up before the Board and I have attended, I think, all meetings pertaining to this subject.

Q. Even the evening meetings?

page 226 } A. I beg pardon?

Q. Even the evening meetings?

A. Yes, sir.

Q. And you enter into the deliberations of the Board on these questions?

A. Not the deliberations, but I express my views to the Board voluntarily.

Q. I was interested in one thing you said, Judge Seay. You said that it was your information and that you were led to believe that there would be no raising of taxes to finance this bond issue. May I ask you who gave you the information and

Burl Warren Seay.

who led you to believe that there would be no increase in taxes?

A. I would say that my first impression was derived when we had a public meeting here, at which time Mr. Snead appeared—no, am I wrong there? Wait one minute. It was before the Board, before the Board endorsed this movement. And I was led to believe from Mr. Snead's information, and I was relying entirely at that time on his information, that the cost of this new school could be paid and would be paid from the proceeds, the tax proceeds, from this new plant over at Bremono Bluff, and that there would not be any raise in taxes. That was the impression that I got from the whole discussion of the matter.

Q. That was at the first meeting of the Board of page 227 } Supervisors?

A. Yes, sir, and other times when Mr. Snead came over and submitted this proposition to the Board for their approval.

Q. Was he the only one that made the suggestion that there would be no increase in taxes?

A. Well, I think we all were relying on Mr. Snead at that time. I don't recall that the members of the Board were aware of the situation at all. But after that, why it was a general matter of discussion and I think pretty nearly everybody was under the impression that there would be no raise in taxes and that the expense of this building would be defrayed in that manner.

Q. There were people other than Mr. Snead taking that position, weren't they?

A. Well, the School Board met with us and I don't know that any of those gentlemen entered into the discussion that night. I don't recall. Mr. Snead was the spokesman and there was no statement to the contrary on the part of anybody.

Q. You do not mean to infer, do you, that this tax situation, as you thought it to exist at the time, before the referendum, was based entirely on Mr. Snead's opinion alone, do you?

A. No, I think several were convinced. And page 228 } why they were convinced, I am not in a position to say, but through investigation, no doubt, and discussion with us who perhaps they felt knew about the situation. I am not saying that Mr. Snead projected the whole proposition to the Board of Supervisors alone, but we were all of that opinion, that we agreed that that would be a

Burl Warren Seay.

fine thing; we wanted the school and we felt that that was a wonderful manner in which to get it without any hardship being imposed on the taxpayers of Fluvanna County.

Q. And you were thinking in terms, as I understand it, of one school, which is the so-called consolidated Negro School across from Abrams School?

A. No, not at first. At first, there was discussion as to locating one school in Columbia District and one over here. And I think that was the consensus of opinion at that time, that that would be the wise stand to take. And, as a matter of fact, I found out later than Mr. Snead had tried to secure a suitable location in Columbia District. Well, just how long after that, I am not sure, the new proposition was presented. That is, to consolidate all of the elementary schools—colored schols—in this one big school over here at the colored high school.

Q. And that then became the purpose of the bond issue, the election?

A. Yes, that's true, or insofar as I know, yes.

page 229 } Mr. Battle: I think that is all.
Mr. Zehler: That is all.

And further this deponent saith not.

(Signature waived.)

Mr. Zehler: The defense rests.

Mr. Battle: We have no further testimony.

STIPULATION.

Mr. Frazier: The following exhibits will not be printed:

Plaintiff Exhibits 17, 26, and 26-A.

Defendant Exhibit 3.

All pleadings will be printed, including the petition of the Supervisors to intervene and their proposed action; and excluded are Exhibits A and B filed with the petition for the writ of mandamus.

(Whereupon, the taking of depositions was concluded at 1:20 p. m., June 27, 1957.)

page 230 } REPORTER'S CERTIFICATE.

COMMONWEALTH OF VIRGINIA, at large, to-wit:

I, C. Overton Lee, a Notary Public in and for the Commonwealth of Virginia at large, of qualification in the clerk's office of Rockingham County, Virginia, at Harrisonburg, whose commission expires February 1, 1958, do certify that pursuant to notice hereto prefixed and change as to time and place thereunder, as hereinbefore noted, the within deponents appeared before me in the courtroom of the Circuit Court of Fluvanna County, at Palmyra, Virginia, as hereinbefore set forth, and after each was first duly sworn by me to testify to the truth, the whole truth, and nothing but the truth, of his knowledge touching and concerning the matter in controversy in this action, each was thereupon examined upon his oath by counsel for the respective parties and his examination reported in shorthand by me and reduced to typescript under my direction; that the depositions herein are true, correct, and full minutes of the testimony adduced, the exhibits filed therein and made a part hereof, and other matters set forth therein and relating thereto; and that by consent of counsel for both parties each signature thereto was waived.

I further certify that I am not in the employ
page 231 } of, nor related to, any counsel or party to this
proceeding, nor otherwise interested in the event
thereof.

Given under my hand and notarial seal at Richmond, Virginia, this 31st day of June, 1957.

(Seal) C. OVERTON LEE,
Notary Public.

PLAINTIFF EX. 1.

C. O. LEE, N. P.

At a joint meeting of the Board of Supervisors and School Board of Fluvanna County held at the courthouse, thereof, on Monday, February 13, and in the Year of Our Lord One Thousand Nine Hundred and Fifty-Six, at 7:30 P. M.

Present: John A. Hughes, W. W. Wilson, Charles Alexander, E. C. Browning.

Mr. J. P. Snead advised the Board in detail as to the present

crowded situation of the colored grade schools, and the urgent need for two consolidated schools.

After considerable discussion as to need and advisability of building two new consolidated grade schools for the children in Fluvanna County it was moved and unanimously agreed that the Commonwealth's Attorney should proceed to determine what land is available and how title to it can be acquired, and report back to the Board at the March meeting.

Adjourned at 9:10 P. M.

JOHN A. HUGHES
Chairman.

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5, Page 270, Fluvanna County, Va.

PLAINTIFF EX. 2.

C. O. LEE, N. P.

Abstract of a portion of the minutes of the regular meeting of the Fluvanna County School Board held on March 5, 1956.

"It is the considered judgment of this School Board that the public interest demands that the land approximately across from Abrams Colored High School, containing twenty (20) acres, more or less, be acquired for school purposes, that is, to build, construct and erect a new consolidated elementary school, and in accordance with Section 22-149 of The Code of Virginia (1950) as amended, we hereby direct that Carroll Gillispie, C. L. S., of Buckingham, Virginia, shall survey the same, whereupon a plat of said survey shall be filed, together with a general statement of the case, with the Clerk of the Circuit Court of Fluvanna County, Virginia.

W. H. RANSON, 2nd
Chairman of Board.

Attest:

(Seal)

J. P. SNEAD
Clerk of Board.

PLAINTIFF EX. 3.

C. O. LEE, N. P.

At a regular meeting of the Board of Supervisors of Fluvanna County held at the Courthouse, thereof, on Monday, March 5, and in the Year of Our Lord One Thousand Nine Hundred and Fifty-Six.

Present: John A. Hughes, W. W. Wilson, Charles Alexander, E. C. Browning.

It is moved, seconded and unanimously approved that Mr. R. P. Zehler, Jr. contact a surveyor and survey land which the County plans to condemn for a new school across from Abram's High School.

An Extract—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book 5, pages 270-272. Fluvanna County, Va.

PLAINTIFF EX. 4.

C. O. LEE, N. P.

At a Regular meeting of the Board of Supervisors of Fluvanna County held at the courthouse, thereof, on Monday, May 7, and in the Year of our Lord One Thousand Nine Hundred and Fifty-six.

Present: John A. Hughes, W. W. Wilson, Charles Alexander, E. C. Browning.

It is moved by W. W. Wilson and Seconded by E. C. Browning that one Consolidated Elementary School be built across from Abram's High School. Unanimously approved.

It is moved, seconded and unanimously approved that the word "Colored" be struck from the minutes of the meeting of February 13, 1956 and recorded on page 270 of this book.

On motion of Charles Alexander and second of E. C. Browning, it is unanimously approved that the cost of the survey and the cost of the land for the consolidated elementary school *to built* across the road from Abram's High School, be paid from the General County Fund.

Mr. Paul Wisman, who is a representative of Scott, Horner & Mason Co. of Lynchburg, Va. was introduced to the board and he explained the procedure for a County Bond issue.

On motion by W. W. Wilson and Second by Charles Alexander, it is unanimously approved that *is* proposed contract as described by Mr. Paul Wisman is satisfactory to Commonwealth's Attorney, the Chairman of the Board of Supervisors is authorized to sign a contract employing Scott, Horner & Mason Co. Inc., of Lynchburg, Va. as exclusive fiscal agent to handle the Fluvanna County bond issue for school building purposes.

An Extract—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5 Pages 282-284
Fluvanna County, Va.

PLAINTIFF EX. 5.

C. O. LEE, N. P.

COPY.

LHW 5/31/56-6c.

The following resolution was unanimously passed by the Fluvanna County School Board at its regular meeting on June 4, 1956, all members of the Board being present: W. H. Ranson, II, Chairman, W. L. Kidd, J. B. Hasher, Dr. S. W. Selden.

WHEREAS, the County School Board of Fluvanna County is of the opinion that it is necessary to make the school improvements hereinafter described and to expend therefor the sum of \$750,000.00 in addition to any other moneys available to finance the cost of such school improvements; NOW, THEREFORE,

BE IT RESOLVED by the County School Board of Fluvanna County, as follows:

(1) The Board of Supervisors of Fluvanna County is hereby requested to request the Circuit Court of Fluvanna County to order an election upon the question of contracting a debt in

the amount of \$750,000.00 by the issuance of bonds of Fluvanna County, pursuant to the provisions of the Public Borrowing Law of 1952 of Virginia, for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses.

(2) The Clerk of the County School Board is hereby directed to present a certified copy of this resolution to the Board of Supervisors of Fluvanna County at the next meeting of such Board of Supervisors.

I, J. P. Snead, Clerk of the Fluvanna County School Board, certify that this is a true copy of a resolution passed at a regular meeting of the Fluvanna County School Board on June 4, 1956.

(Seal)

J. P. SNEAD, Clerk.

COPY.

LHW 12/19/56 3c.

State of Virginia,
Fluvanna County ss.:

I, J. P. Snead, Clerk of the School Board of Fluvanna County, in the Commonwealth of Virginia, DO HEREBY CERTIFY as follows:

1. A regular meeting of the School Board of said County was held on June 4, 1956, and minutes of said meeting have been duly recorded in the Minute Book kept by me in accordance with law for the purpose of recording the minutes of meetings of said Board, and such minutes appear at page 12, inclusive, of said book.

2. I have compared the attached extract with said minutes so recorded and said extract is a true copy of said minutes and of the whole thereof in so far as said minutes relate to matters referred to in said extract.

3. Said minutes correctly state the time when said meeting was convened and the place where such meeting was held and the members of said Board who attended said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and have hereunto affixed the seal of said School Board, this 2nd day of January, 1957.

J. P. SNEAD

Clerk of School Board of Fluvanna County, Virginia.

(Seal)

PLAINTIFF EX. 6.

C. O. LEE, N. P.

At a regular meeting of the Board of Supervisors of Fluvanna County held at the courthouse, thereof, on Monday, June 4, and in the Year of Our Lord One Thousand Nine Hundred and Fifty-six.

Present: John A. Hughes, W. W. Wilson, Charles Alexander, E. C. Browning.

On motion of Charles Alexander and Second of E. C. Browning, the following resolution is unanimously passed:

WHEREAS, the County School Board of Fluvanna County has, by resolution, requested the Board of Supervisors to request the Circuit Court of Fluvanna County to order the election hereinafter referred to; NOW, THEREFORE,

BE IT RESOLVED by the Board of Supervisors of Fluvanna County as follows:

1. The Circuit Court of Fluvanna County, or any Judge thereof, in and for said County, is hereby requested to order an election in said County upon the question of contracting a debt in the amount of \$750,000.00 by the issuance of bonds of Fluvanna County, pursuant to the provisions of the Public Borrowing Law of 1952 of Virginia, for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses.

2. The Clerk of the Board of Supervisors is hereby directed to certify a copy of this resolution and to file it with the Judge of the Circuit Court of Fluvanna County.

A Copy—Teste of minutes this date that pertain to School Bond Issuance.

RICHARD F. GEORGE, Clerk.

PLAINTIFF EX. 7.

C. O. LEE, N. P.

Minutes of Board of Supervisors, Book #5, pages 285-287, Fluvanna County, Va.

At a Circuit Court of Law for Fluvanna County, held at the Courthouse thereof, on Thursday, the 21st day of June, and in the 180th year of the Commonwealth.

Present: Hon. Lyttelton Waddell, Judge.

In the matter of the issuance of \$750,000 Bonds of the County of Fluvanna for school purposes.

The Clerk of the Board of Supervisors of Fluvanna County having filed with the Judge of this Court a resolution, certified by said Clerk, as having been adopted by the Board of Supervisors of said County on June 4th, 1956, requesting the Circuit Court of Fluvanna County or any Judge thereof, in and for said County, to order an election in said County upon the question of contracting a debt and issuing bonds for the purpose of purchasing sites for school buildings or *additons* to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses, and determining that the maximum amount of debt to be contracted and the maximum amount of money to be raised by the issuance of said bonds is \$750,000.

AND the Court having considered said resolution and being satisfied it was duly adopted by the Board of Supervisors of said County and that the County School Board of said County had, prior to its adoption, requested said Board of Supervisors to take such action; THIS Court doth hereby order as follows:

(1) A special election shall be held in Fluvanna County on July 17, 1956, which is a date not less than ten nor more than thirty days from the date of this order.

(2) At said election the Judges of Election duly appointed for the several Election Districts in Fluvanna County shall open the polls at the various polling places in the County and shall conduct said election in such manner as is provided by law for other elections.

(3) The polls at said election shall be opened at the hour of 6:30 o'clock, A. M., Eastern Standard Time, and shall be closed at the house of 7:30 o'clock, P. M., Eastern Standard Time. The election shall be held at the respective voting places prescribed by law for such Election Districts.

(4) The Clerk of the Circuit Court of Fluvanna County is hereby authorized and directed to give notice of such special election by publishing a notice in substantially the following form:

FLUVANNA COUNTY, VIRGINIA

NOTICE OF SPECIAL ELECTION

A Special Election will be held in Fluvanna County, Virginia, on July 17, 1956, pursuant to and in accordance with an order made by the Circuit Court of Fluvanna County, in order to submit to the qualified voters of said County, for their determination, the question whether they shall approve or disapprove the contracting of debt and the issuance of bonds of the aggregate principal amount of \$750,000 of said County for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school building or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses.

The election will be held at the voting places prescribed by law for the several Election Districts in Fluvanna County. The polls will be opened at the hour of 6:30 o'clock, A. M., Eastern Standard Time, and will be closed at the hour of 7:30 o'clock, P. M., Eastern Standard Time.

By order of the Circuit Court of Fluvanna County.

Dated, June , 1956.

Clerk of the Circuit Court of Fluvanna County, Virginia.

Such notice shall be published once in The Scottsville Sun, a newspaper of general circulation in said County, at least ten days prior to the date of such election.

(5) The Electoral Board of said County shall have printed appropriate ballots for use in voting at said special election and such ballots shall be in substantially the following form:

SPECIAL ELECTION HELD IN FLUVANNA COUNTY
ON JULY 17, 1956.

QUESTION:

Shall debt be contracted and bonds of the aggregate principal amount of \$750,000 be issued by Fluvanna County for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses, such bonds to be payable at such time, not exceeding thirty years after their date, as the Board of Supervisors shall prescribe?

[] FOR BOND ISSUE

[] AGAINST BOND ISSUE

(6) The poll books and certificates of the Judges of Election shall be delivered by one of the Judges of Election from each Election District to the Clerk of the Circuit Court and the returns shall be canvassed as returns are canvassed in regular elections, and the result thereof certified by the Clerk of the Circuit Court to the County School Board of Fluvanna County and to the Circuit Court.

LYTTELTON WADDELL
Judge.

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Common Law Order Book #13, Pages 479-481 Fluvanna County, Va.

PLAINTIFF EX. 8.

C. O. LEE, N. P.

At a Circuit Court of Law for Fluvanna County, held at the courthouse thereof, on Monday, the 6th of August, and in the 181st year of the Commonwealth.

Present: Hon. Lyttelton Waddell, Judge.

In the matter of the issuance of \$750,000 bonds of the County of Fluvanna for school purposes.

It appearing to the Court that the Judges of Election of the County of Fluvanna, acting pursuant to and in accordance with the order made by this Court on June 21, 1956, did, on the 17th day of July, 1956, open a poll and take the sense of the qualified voters of the County on the following question:

Shall debt be contracted and bonds of the aggregate principal amount of \$750,000 be issued by Fluvanna County for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses, such bonds to be payable at such time, not exceeding thirty years after their date, as the Board of Supervisors shall prescribe?

and

It further appearing to the Court that a copy of said order certified by the Clerk of said Court was certified to the Chairman of the Electoral Board of said County and that notice of such election was duly given by publishing and posting copies of the notice of such election as provided in said order, and that said election was duly called and held in all respects as prescribed by said order and by law; and

It further appearing that the ballots were counted, returns made and canvassed, as required by law, and the results certified by the Commissioners of Election to the Circuit Court, and that 896 qualified voters of said County voted at said election, and that 678 of said qualified voters voted for said bond issue and that 218 of said qualified voters voted against said bond issue;

NOW, THEREFORE, the Court doth hereby order and determine that a majority of the qualified voters voting at said election were in favor of and have approved the issuance of said bonds, and that the Board of Supervisors of the County of Fluvanna is hereby authorized to issue and sell said bonds in accordance with the wishes of the voters of said County.

And the Court doth hereby direct the Clerk of this Court to certify a copy of this order to the Board of Supervisors of Fluvanna County.

LYTTELTON WADDELL
Judge.

An Extract—Teste:

RICHARD F. GEORGE, Clerk.

Common Law Order Book #13 Pages 488-489 Fluvanna County, Va.

PLAINTIFF EX. 9.

C. O. LEE, N. P.

At a special meeting of the Board of Supervisors of Fluvanna County, held at the courthouse, thereof, on Thursday, February 14, and in the Year of Our Lord One Thousand Nine Hundred and Fifty-seven.

Present: John A. Hughes, Chairman, W. W. Wilson, Charles Alexander, E. C. Browning.

On motion of Charles Alexander and second of W. W. Wilson, the Board of Supervisors of Fluvanna County unanimously accepts the offer of the National Bank and Trust Company of Charlottesville, Virginia to purchase the \$750,000.00 bond issue at 3% interest, payable semiannually, according to the letter of the National Bank and Trust Company of Charlottesville, Virginia, to the Board of Supervisors of Fluvanna County, dated February 13, 1957, which is quoted below:

“Gentlemen:

We wish to submit to you an offer to purchase all of the Seven Hundred and Fifty Thousand Dollars of Fluvanna Virginia General Obligation School Bonds. These bonds shall

be dated December 1, 1956 and mature serially in annual installments as follows:

\$60,000 on December 1, 1959

\$70,000 on December 1, 1960

\$80,000 on December 1, 1961

\$90,000 on December 1, in each of the years 1962 to 1967 inclusive.

The bonds shall be coupon bonds payable to bearer, bearing interest at a rate of three percent (3%) per annum, payable semi-annually on the dates of June 1 and December 1. We will pay to you on the day of delivery Seven Hundred and Fifty Thousand Dollars (\$750,000.00) plus accrued interest from the date of the bonds to the date of delivery. The delivery date will be on or before April 15, 1957.

This offer to purchase is contingent upon National Bank & Trust Company at Charlottesville, Virginia being designated as paying agent for this issue. The fees for this service shall be one-twentieth of one percent of the principal amount of bonds redeemed plus five cents (\$.05) for each coupon presented for payment.

We are to be furnished with the approving legal opinion of Reed, Hoyt, Taylor and Washburn of New York City upon delivery of the bonds.

This offer is subject to immediate acceptance

Sincerely,

s/ H. A. HADEN

t/ H. A. HADEN, President."

HAH/erm

JOHN A. HUGHES, Chairman,
Fluvanna County Board of
Supervisors.

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book 5, Page 302 Fluvanna County, Va.

PLAINTIFF EX. 10.

C. O. LEE, N. P.

COPY.

LHW 2/19/57-6c

EXTRACTS FROM MINUTES OF SCHOOL BOARD,
REGULAR MEETING, MARCH 4, 1957.

The regular March 1957 meeting of the Fluvanna County School Board was held on Monday, March fourth (4), 1957 at the usual hour ten o'clock a. m. at the regular meeting place i. e., Superintendent's office in the Fork Union Elementary School, Fork Union, Virginia.

All members of the School Board were present, i. e. W. H. Ranson II, Chairman, W. L. Kidd, J. B. Hasher and Dr. S. W. Selden.

Mr. W. L. Kidd presented the following resolution and moved that it be adopted. His motion was seconded by Mr. J. B. Hasher. The Chairman of the Fluvanna County School Board, W. H. Ranson II, called for a vote and the resolution was unanimously adopted.

* * * * *

W. L. Kidd presented the following resolution and moved that it be adopted; and it was adopted as stated above:

WHEREAS, a majority of the qualified voters of Fluvanna County voting at a special election duly called and held on July 17, 1956, were in favor of the contracting of debt and the issuance of bonds of said County of the aggregate principal amount of \$750,000 for the purposes hereinafter set forth, and an order was duly entered on August 6, 1956, in the Circuit Court of said County authorizing the Board of Supervisors of said County to proceed to carry out the wishes of the voters of said County; and

WHEREAS, the Fluvanna County School Board desires that said bonds shall be issued forthwith: NOW, THEREFORE,

BE IT RESOLVED by the County School Board of Fluvanna County as follows:

1.

I certify the above is a correct copy:

J. P. SNEAD

Clerk of School Board.

COPY.

(1) The Board of Supervisors of Fluvanna County is hereby requested to issue bonds of the County of the aggregate principal amount of \$750,000, pursuant to the provisions of the Public Borrowing Law of 1952 (Chapter 371 of the Acts of 1952 of Virginia), and in accordance with the proposition approving the issuance of said bonds adopted by a majority of the qualified voters of said County at an election held on July 17, 1956, for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses.

(2) The Board of Supervisors is further requested to provide that said bonds shall be dated December 1, 1956, and shall be payable in annual installments on December 1 in each year as follows: \$60,000 in 1959, \$70,000 in 1960, \$80,000 in 1961, and \$90,000 in each of the years 1962 to 1967, inclusive, and that said bonds shall bear interest at the rate of 3% per annum. Said interest shall be payable on June 1, 1957, and thereafter semi-annually on June 1 and December 1.

(3) The Clerk of the County School Board is hereby authorized and directed to prepare a certified copy of this resolution and to present it to the Board of Supervisors of Fluvanna County.

The motion having been duly seconded, the resolution was unanimously adopted.

* * * * *

I certify the above is a correct copy.

J. P. SNEAD

(Seal)

Clerk of School Board.

At a regular meeting of the Board of Supervisors of Fluvanna County held at the courthouse, thereof, on Monday, March 4, and in the year of Our Lord One Thousand Nine Hundred and Fifty-seven.

Present: John A. Hughes, W. W. Wilson, Charles Alexander, E. C. Browning.

PLAINTIFF EX. 11.

C. O. LEE, N. P.

FLUVANNA COUNTY (hereinafter referred to as "County"), a political subdivision of the Commonwealth of Virginia, hereby acknowledges itself indebted and for value received promises to pay to the bearer of this bond the sum of ONE THOUSAND DOLLARS (\$1,000) on December 1, 19—, and to pay interest thereon from the date of this bond until it shall mature at the rate of Three per centum (3%) per annum, payable on June 1, 1957, and semi-annually thereafter on June 1 and December 1 in each year, upon presentation and surrender of the coupons therefor attached hereto, as they severally mature. Both principal of and interest on this bond are payable at the office of The National Bank & Trust Company of Charlottesville, in Charlottesville, Virginia, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This bond is one of an issue of bonds of like date and tenor, except as to maturity and number, and is issued pursuant to the provisions of the Public Borrowing Law of 1952 of Virginia (Article 3.1 of Chapter 19 of Title 15 of the Code of Virginia, 1950) to finance the cost of the following school purposes: purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses. The contracting of the debt evidenced by this bond and the issuance of this bond has been approved by a majority of the qualified voters of the County voting at an election duly called and held on July 17, 1956.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the Commonwealth of Virginia to exist, be performed or happen precedent to or in the issuance of this bond, exist, have been performed and have happened, and that the amount of this bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by the Constitution or statutes of said Commonwealth.

The faith and credit of the County are hereby pledged to the punctual payment of the principal of and interest on this bond in accordance with its terms.

IN WITNESS WHEREOF, the Board of Supervisors of the County has caused this bond to be signed by its Chairman and to be attested by its Clerk, and the seal of the County to be hereunto affixed, and the interest coupons hereto annexed to be authenticated with the *fac-simile* signatures of said Chairman and Clerk, and this bond to be dated December 1, 1956.

.....
Chairman of Board of Supervisors

ATTEST:

.....
Clerk of Board of Supervisors.

(Form of Coupon)

No. _____ \$ _____

June,

On the 1st day of December, 19—, Fluvanna County, a political subdivision of the Commonwealth of Virginia, will pay to bearer

.....DOLLARS (\$.....)
at the office of The National Bank & Trust Company of Charlottesville, in Charlottesville, Virginia, in any coin or currency of the United States of America which is then legal tender for the payment of public and private debts, being the interest then due on its School Building Bond dated December 1, 1956, No.——.

Charles Alexander presented the following resolution and moved that it be adopted:

WHEREAS, a majority of the qualified voters of Fluvanna County voting at a special election duly called and held on July 17, 1956, were in favor of the contracting of debt and the issuance of bonds of said County of the aggregate principal amount of \$750,000 for the purposes hereinafter set forth, and an order was duly entered on August 6, 1956, in the Circuit Court of said County authorizing the Board of Supervisors of said County to proceed to carry out the wishes of the voters of said County; and

WHEREAS, the County School Board has by resolution requested the Board of Supervisors to authorize the issuance of said bonds, and

WHEREAS, The National Bank & Trust Company of Charlottesville has offered to purchase said bonds at par and accrued interest, and

WHEREAS, the Board of Supervisors desires to make provision for the issuance of said bonds; NOW, THEREFORE,

(1) Fluvanna County shall issue its bonds of the aggregate principal amount of \$750,000, pursuant to the provisions of the Public Borrowing Law of 1952 of Virginia (Article 3.1 of Chapter 19 of Title 15 of the Code of Virginia, 1950), and in accordance with the proposition approving the issuance of said bonds adopted by a majority of the qualified voters of said County at said election held on July 17, 1956. The moneys raised by the issuance of said bonds shall be used to finance the cost of the following school purposes: purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for the storage, care and repair of school busses.

(2) Said bonds shall be designated "School Building Bonds" and shall consist of seven hundred and fifty bonds of the denomination of \$1,000 each, numbered from 1 to 750, inclusive, in the order of their maturity, and shall be dated December 1, 1956, and shall be payable in annual installments on December 1 in each year as follows: \$60,000 in 1959, \$70,000 in 1960, \$80,000 in 1961, and \$90,000 in each of the years 1962 to 1967, inclusive. Each of said bonds shall bear interest at the rate of three per centum (3%) per annum, and such interest shall be payable on June 1, 1957, and semi-annually thereafter on June 1 and December 1. Said bonds shall be coupon bonds payable to bearer.

(3) Both principal of and interest on the bonds shall be payable at the office of The National Bank & Trust Company of Charlottesville, in Charlottesville, Virginia, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(4) Said bonds and interest coupons representing the interest payable thereon shall be in substantially the following form:

(Form of Bond)

No.——

No.——

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
FLUVANNA COUNTY

\$1,000

SCHOOL BUILDING BOND

\$1,000

Chairman of Board of Supervisors.

Clerk of Board of Supervisors.

(5) The Chairman and Clerk of the Board of Supervisors are hereby authorized and directed to cause said bonds to be prepared and to execute said bonds in accordance with their terms.

(6) The County Treasurer is hereby authorized and directed to deliver said bonds to The National Bank & Trust Company of Charlottesville, in Charlottesville, Virginia, when they have been duly executed, and upon receiving payment therefor of the face amount thereof, plus any interest which shall have then accrued thereon.

The motion to adopt said resolution having been duly seconded, was put to a vote and unanimously adopted.

JOHN A. HUGHES
Chairman.

An Extract—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5, Pages 302-306,
Fluvanna County, Va.

PLAINTIFF EX. 12

C. O. LEE, N. P.

At a special meeting of the Board of Supervisors of Fluvanna County, Virginia, held at Palmyra in said County on the 29th day of April, 1957.

Present: John A. Hughes, Chairman, Charles Alexander, W. W. Wilson and E. C. Browning.

WHEREAS Fluvanna County recently sold school construction bonds in the total amount of \$750,000.00, at three per cent interest, upon the supposition that the County would realize the same tax revenue from the public utilities in this County as has been realized for many years past; and also upon strength of a statement of the Public Service Taxation Division of the State Corporation Commission, issued in May 1956, that this County, by virtue of the new addition to the Virginia Electric and Power Company at Bremo Bluff, could expect additional tax revenue in the amount of approximately \$160,000.00, beginning in 1959;

WHEREAS the said bonds have been duly sold, delivered and paid for, all according to law, and this County is now holding on deposit the said sum of \$750,000.00, pending the letting of the contract for the construction of the proposed new school buildings, bids for which have been advertised to be opened by the School Board on May 2, 1957;

WHEREAS Judge Catterall of the State Corporation Commission recently issued a statement to the effect that he recommended to the Commission, starting with the tax year 1958, that public utilities be assessed throughout the various counties of the Commonwealth of Virginia at the same ratio of market value as is assessed by the respective counties against the other real estate in that particular county, and that according to calculations by the Commission, the present ratio in Fluvanna County is 17.9% as compared to the present ratio of 40% assessed against the utilities by the Commission;

WHEREAS Fluvanna County, as indicated above, has obligated itself for years into the future on strength of what it considered a fixed tax structure, producing a fixed amount of tax revenue, and that it is now imperative that that tax revenue be maintained in order that the said bonds may be repaid, and that if the said proposal is adopted by the Commission it would necessitate the raising of real estate taxes in this County by an amount approximately double the present amount of taxes;

WHEREAS this Board is of the opinion that the citizens of this County would not have approved said bond issue had it been known that such a turn of events was in the making;

WHEREAS this Board is of the opinion that it should not expend the said funds until it knows for certain that the tax revenue as relied upon will be realized, and it is of pressing importance that a decision be made promptly as to whether or not a contract or contracts should be let for the construction of said School buildings;

NOW THEREFORE, be it resolved, That this Board unanimously opposes the said proposal recommended by Judge Catteral to the State Corporation Commission, and further, that this Board unanimously requests the State Corporation Commission to act upon the said proposal as promptly as it possibly can, so that we, and other counties in like position, will know what to expect within the next tax year, and so that we will be in a position to make a decision as to whether or not we should proceed to let contracts for the construction of the proposed school buildings, and thereby obligate the funds now in our hands for the construction of said schools.

BE IT FURTHER RESOLVED, that the Clerk of this Board is hereby directed to send a copy of this resolution to every Board of Supervisors, or other form of County Government, in the Commonwealth of Virginia, and to every city Council or other form of city government in all cities in the Commonwealth of Virginia, requesting that they consider this matter, and that if they thereupon are inclined to do so, that they adopt a like resolution and forward the same to the State Corporation Commission without delay.

The Clerk of this Board is further directed to forthwith send a certified copy of this Resolution to the State Corporation Commission of Virginia.

JOHN A. HUGHES
Chairman.

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5, Pages 316-317,
Fluvanna County, Va.

PLAINTIFF EX. 13.

C. O. LEE, N. P.

At a regular meeting of the Board of Supervisors of Fluvanna County held at the courthouse, thereof, on Monday, May 6, and in the year of Our Lord One Thousand Nine Hundred and Fifty-seven.

Present: John A. Hughes, W. W. Wilson Charles Alexander, E. C. Browning.

On report and recommendation of R. P. Zehler, Jr. there was a motion by W. W. Wilson which was duly seconded and approved, that this Board take under consideration the investment of the proceeds of the Bond Issue in short term Government Bonds until the matter of building a new grade school can be disposed of and that a meeting of the Board of Supervisors and the School Board be held on Friday, May 10th at 8:00 o'clock P. M., at Palmyra.

An extract—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5, Pages 317-318.

PLAINTIFF EX. 14.

C. O. LEE, N. P.

At a special meeting of the Board of Supervisors of Fluvanna County, Virginia, held at Palmyra in said County on the 10th day of May, 1957.

Present: John A. Hughes, Chairman, Charles Alexander, and W. W. Wilson.

WHEREAS, pursuant to the Public Borrowing Law of 1952, Article 3.1, Chapter 19, of the Code of Virginia (1950), this County recently sold bonds in the amount of \$750,000.00, at 3% interest, which said bonds were sold for school construction purposes:

WHEREAS, this Board is satisfied that the bond issue was duly approved by the voters of this County upon the promise

and presumption that this County would continue to receive the same tax revenue from the public utilities as in the past, and, also, that this County would realize an additional tax revenue in the amount of \$160,000.00, beginning in the year 1959, from the new addition to the Virginia Electric and Power Company plant at Bremono Bluff, and that there would accordingly be no tax increase to the taxpayers of this county:

WHEREAS, the State Corporation Commission has recently proposed to reduce the tax ratio to be assessed against Public Utilities in this County, which new ratio, if applied, would drastically curtail the present and future tax revenue from said utilities to such an extent that it would be necessary to more than double the taxes of the taxpayers of this County in order to repay said bond issue:

WHEREAS, the proceeds from said bond issue, plus accrued interest, have not yet been spent or obligated, except for the hereinafter mentioned disbursements, and are on various time deposits at various rates less than 3%, with the National Bank and Trust Company of Charlottesville, Virginia, under the exclusive control and direction of this Board of Supervisors, which present total balance is \$754,426.00, and this Board is of the opinion that said proceeds should not be spent or obligated until the tax ratio issue is decided:

WHEREAS, the said National Bank and Trust Company of Charlottesville, Virginia, has offered to receive the entire amount, or any part, of said proceed at an interest rate of 3%, upon the condition that said deposits must not be withdrawn for a period of twelve months, that is, the sum of \$300,000.00, which is presently on deposit with said Bank for a six month period to expire October 11, 1957, will be redeposited with said Bank on October 11, 1957, for a period of one year from that date with interest at 3%; the sum of \$150,000.00, which is presently on deposit with said bank for a period of three months to expire on July 11, 1957, will be redeposited on July 11, 1957, for a period of twelve months from that date with interest at 3%; and the sum of \$304,426.00, which is presently in a checking account with the said bank, or any part thereof, as hereinafter directed, will be immediately deposited upon the passing of this resolution, for a period of twelve months from the date of said deposit at 3% interest.

WHEREAS, the sum of \$3,761.50; has been expended from the total proceeds of said bond issue for the following purposes, to-wit: To Scott, Horner and Mason for representing this County as fiscal agent for said bond issue, \$3,750.00; and to the Richmond Times Dispatch the sum of \$11.50 for the publication of the notice for bids on the construction of the work, leaving on hand the present balance of \$754,426.00, which includes \$8,187.50, accrued interest, paid by the National Bank and Trust Company at Charlottesville, Virginia:

WHEREAS, the aforesaid disbursements were made by warrants No. 1 and 2 of the School Board, both dated April 24, 1957, and although the said School Board was never specifically authorized to write said warrants, but this Board is of the opinion that said amounts were properly owed and that said warrants should be approved, and ratified by this Board, but that hereafter no further disbursements shall be made from said proceeds except by a properly signed check of this Board:

NOW THEREFORE BE IT RESOLVED that the aforesaid balance of \$754,426.00 be deposited with the National Bank and Trust Company of Charlottesville, Virginia at 3% interest from the dates and on the terms mentioned above, with the exception that the County Treasurer is authorized to withhold from said balance in the present checking account an amount which she ascertains will be necessary to pay any lawful obligations which may have been incurred prior to this time on account of said bond issue or school construction, and that until further resolution of this Board, no further disbursements shall be made from said funds except for said debts or obligations that may have been previously incurred and which constitute legal obligations of this County, and that if and when any such obligations are paid, it shall be done only by check or checks of this Board of Supervisors.

✓ BE IT FURTHER RESOLVED that the aforementioned disbursements heretofore made to Scott, Horner and Mason and to the Richmond Times Dispatch, and the two warrants by which the same were paid, are hereby approved, ratified and confirmed in all respects.

✓ And the Clerk of this Board is hereby directed to send a certified copy of this resolution to the School Board, to the Treasurer of Fluvanna County, and to the National Bank and Trust Company of Charlottesville, Virginia.

On motion of Charles Alexander Seconded by W. W. Wilson, Unamionusly adopted.

JOHN A. HUGHES, Chairman of
the Board of Supervisors of Fluvanna County, Virginia.

ATTEST.

Clerk.

It is moved by W. W. Wilson and seconded by Charles Alexander that the motion passed at the former Board Meeting of May 6th to spend \$50.00 for painting the fire house be *recinded* and this painting not be done. Unanimously approved.

After Motion of W. W. Wilson and seconded by Charles Alexander the following resolutions were unanimously approved:

1. Be it resolved that the Board of Supervisors of Fluvanna County, Virginia do hereby request the Department of Highways of the Commonwealth of Virginia to add to the State Secondary System of Highways a road beginning on a point on Route #657 at a point .8 of a mile north of Route #656 and extends in a northeasterly direction along a private Road for .15 of a mile to end of maintenance, and we hereby guarantee an unrestricted forty foot right of way for this purpose.

2. Be it resolved that the Board of Supervisors of Fluvanna County, Virginia do hereby request the Department of Highways of the Commonwealth of Virginia to add to the State Secondary System on Highways a road beginning on a point on Route #650, 1.7 miles South of Route #6 and extending Southeasterly direction along a private road a distance of .3 miles to end of maintenance, and we hereby guarantee an unrestricted forty foot right of way for this purpose.

3. Be it resolved that the Board of Supervisors of Fluvanna County, Virginia do hereby request the Department of Highways of the Commonwealth of Virginia to add to the State Secondary System of Highways a road beginning on a point on Route #656, .3 of a mile west of Route #655 and extend-

ing in a northerly direction along the private road .7 of a mile to end of maintenance, and we hereby guarantee an unrestricted forty foot right of way for this purpose.

JOHN A. HUGHES
Chairman.

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book #5. Pages 318-320,
Fluvanna County, Va.

PLAINTIFF EX. 15

C. O. LEE, N. P.

At a special meeting of the Board of Supervisors of Fluvanna County, Virginia, held at Palmyra in said County on the 27th day of May, 1957.

Present: John A. Hughes, Chairman, E. C. Browning, Charles Alexander, W. W. Wilson.

On motion, which was duly made and seconded the following resolution was unanimously adopted:

WHEREAS, this Board realizes the urgent need for a new consolidated grade school in this county, and is anxious to have said school built as soon as is reasonably possible.

WHEREAS, however, this Board is of the opinion, in view of the proposed tax cut as to utilities by the State Corporation Commission, that the funds raised by the recent bond issue for the construction of said school cannot at this time be properly spent or obligated to be spent, until after the public opinion of the voters of this county is known by an unofficial vote to be held at the primary in July of this year or until after the General Assembly acts on the matter at its next session in 1958, after which, either or both, this board in conjunction with the School Board, if they are willing, and without them, if they are not, will then determine the proper action to take in view of the then circumstances.

NOW THEREFORE BE IT RESOLVED that this Board expressly confirms its resolution adopted at the special meeting held on May 10, 1957, in regards to the funds on deposit to the credit of this Board for the construction of a new consolidated grade school, and, in addition thereto, hereby resolves that so far as this Board has authority to do so, it hereby expressly disapproves and revokes any and all authority in the School Board to bind this Board or any funds under its control, particularly the aforesaid proceeds of the said bond issue, by contracting with, or agreeing to contract with, English Construction Company of Altavista, Virginia, or any other company or contractor, for the construction of the said proposed consolidated grade school, until further resolution of this Board.

BE IT FURTHER RESOLVED that this Board hereby orders and directs that a special, unofficial ballot shall be prepared and submitted to the voters in the primary to be held in July of this year, on the question as to whether or not the said funds should be spent at this time or should be withheld pending action by the General Assembly at its session next year.

The Clerk of this Board is hereby directed to send a certified copy of this resolution to the secretary of the Electoral Board and to the School Board.

On motion by W. W. Wilson duly seconded by Charles Alexander it is unanimously approved that the following accounts be paid from the School Construction Fund by the Fluvanna County Board of Supervisors:

For additional Treasurer's Bond, due Fidelity and <i>Casualty Co.</i>	\$250.00
For Clipping Bond Coupons, due National Bank and Trust Co.	37.50
For Interest due June 1st, due National Bank and Trust Co.	\$11,250.00

A Copy—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book 5, Page 321.

JOHN A. HUGHES
Chairman.

PLAINTIFF EX. 16.

C. O. LEE, N. P.

At a regular meeting of the Board of Supervisors of Fluvanna County held at the courthouse, thereof, on Monday June 3rd. And in the year of our Lord One Thousand Nine Hundred and Fifty-Seven.

Present: John A. Hughes, Charles Alexander, W. W. Wilson, E. C. Browning.

BE IT RESOLVED that this Board is now of the opinion that the straw vote heretofore provided for would serve no useful purpose in view of the fact that the School Board has already let the construction contract, and that the resolution passed by this Board on May 27, 1957, providing for the same, is hereby revoked and declared null and void, and

BE IT RESOLVED that this Board expressly confirms its resolution adopted at the special meeting held on May 10, 1957, in regards to the funds on deposit to the credit of this Board for the construction of a new consolidated grade school and its resolution of May 27th, 1957 which expressly disapproves and revokes any and all authority in the School Board to bind this Board or any funds under its control, particularly the proceeds of the bond issue, by contracting with or agreeing to contract with, English Construction Company of Altavista, Virginia, or any other company or contractor, for the construction of the said proposed consolidated grade school, until further resolution of this Board, and

BE IT RESOLVED that the Commonwealth's Attorney is hereby given authority to retain associate counsel if needed, and

BE IT FURTHER RESOLVED that the Commonwealth's Attorney is hereby authorized to take what legal steps he deems advisable in regards to the said school construction funds, including the right to bring a suit or action, as he deems

Fluvanna Co. School Board v. Edith H. Farrar, Treas. 167

advisable, but with the provision that he report back to this Board before acting hereunder.

JOHN A. HUGHES
Chairman.

Attest:

RICHARD F. GEORGE, Clerk.

An Extract—Teste:

RICHARD F. GEORGE, Clerk.

Minutes of Board of Supervisors, Book 5, Pages 322, 323,
Fluvanna County, Va.

PLAINTIFF EX. 18

C. O. LEE, N. P.

Warrant No. 3

Returned unpaid
Reason Checked, if known.

From
National Bank and Trust Company
Charlottesville, Va.

[✓] Treasurer refused Payment.

W. A. P.

SCHOOL FUND YEAR 1956-57

Fluvanna County, Va.

PALMYRA, VA. June 7, 1957

The Treasurer of Fluvanna County

PAY TO Charlottesville Stone Corporation, OR ORDER
Twenty-four and 00/100 DOLLARS \$24.00 for Eight tons of
gravel at \$3.00 per ton to be used around well casing said
well to be drilled by the Fluvanna County School Board on
the location of the Consolidated Negro Elementary School

and paid for out of funds provided for by recent Bond Issue passed on July 17, 1956, said funds deposited in the National Bank and Trust Company, Palmyra, Virginia, under head of School Construction Fund.

By order of County School Board

W. H. RANSON, 2nd
Chairman

J. P. SNEAD
Clerk.

Payable through
The National Bank & Trust Co.
Palmyra Branch—Palmyra, Virginia

PLAINTIFF EX. 19.

C. O. LEE, N. P.

Palmyra, Virginia
June 7, 1957.

Mr. W. A. Pace, Jr., Branch Manager
National Bank & Trust Company
Palmyra, Virginia

Mr. J. P. Snead, Superintendent of Fluvanna County Public Schools and Clerk of Fluvanna County School Board Fork Union, Virginia.

Gentlemen:

Today the Charlottesville Stone Corporation presented to me warrant number 3 of the Fluvanna County School Board in the amount of \$24.00, said warrant being drawn on the School Construction Fund.

This is to notify you that I have refused to honor this warrant as a charge against the proceeds of the recent bond issue upon which it is drawn because of instructions recently received from the County Board of Supervisors. I believe that

Fluvanna Co. School Board v. Edith H. Farrar, Treas. 169

I have no other alternative upon this warrant or future warrants drawn on the proceeds of this bond issue until the question of authority to honor such warrants is decided by a competent court.

Your very truly,

EDITH H. FARRAR, Treasurer,
Fluvanna County.

EHF/dg

PLAINTIFF EX. 20.

C. O. LEE, N. P.

COPY.

Commonwealth of Virginia

Office of

THE ATTORNEY GENERAL

Richmond

May 22, 1957.

Honorable R. P. Zehler, Jr.
Commonwealth's Attorney
Fluvanna County
Palmyra, Virginia

My dear Mr. Zehler:

This is in reply to your letter of May 13, 1957, in which you state that, pursuant to the Public Borrowing Law of 1952, Article 3.1, Chapter 19, Title 15 of the Code of Virginia, Fluvanna County recently issued and sold bonds in the amount of \$750,000.00. These bonds were issued for the sole purpose of school construction. You further state that, on May 10, 1957, the Board of Supervisors adopted a resolution that these funds should be deposited at three per cent in a Charlottesville bank and that, until further resolution of the Board, no further disbursements should be made from the proceeds from the sale of the bonds. You state that this action was

taken by the Board of Supervisors because of a recent statement made by a member of the State Corporation Commission that the Commission was contemplating changing its method of determining the assessed valuation of property of public service corporations and that such a change could result in a large loss of tax revenues for Fluvanna County. You request my opinion in answer to the following two questions:

"1. Under the Public Borrowing Law of 1952, as cited above, does the Board of Supervisors have authority to delay the school construction plans, and to invest the bond proceeds with the aforesaid Bank for a period not to exceed eighteen months, pending application of the proceeds to the purposes for which said bonds were authorized?

"2. Are the proceeds from the said bond issue exclusively under the control of the Board of Supervisors, and has that Board the authority to instruct the County Treasurer that no disbursements shall be made from said proceeds except by a duly and properly signed check by the Board of Supervisors?"

When I rendered my opinion to the Honorable Davis Y. Paschall, Superintendent of Public Instruction, on May 8, 1957, concerning this matter, I stated that the opinion was predicated upon the assumption that the bonds for school construction were issued pursuant to Article 2, Chapter 9, Title 22 of the Code of Virginia, and, therefore, that opinion is not controlling in this case, since the bonds were in fact issued pursuant to Article 3.1, Chapter 19, Title 15 of the Code of Virginia, the Public Borrowing Law of 1952.

The question submitted to the voters of Fluvanna County in the referendum held on July 17, 1956, read as follows:

"Shall debt be contracted and bonds of the aggregate principal amount of \$750,000 be issued by Fluvanna County for the purpose of purchasing sites for school buildings or additions to school buildings, constructing new school buildings or additions to existing school buildings, furnishing and equipping school buildings or additions to school buildings, and erecting and equipping buildings for storage, care and repair of school busses, such bonds to be payable at such time, not exceeding thirty years after their date, as the Board of Supervisors shall prescribe?"

The issuance of the bonds as voted on by the people in the questions stated on the ballot was not predicated on any one

source of tax revenues, nor was it predicated on there being no increase in property taxes in the county. Section 15-605.12 of the Code of Virginia provides as follows:

“The governing body of any county issuing bonds under the provisions of this article shall levy and collect annually, at the same time and in the same manner as other county taxes are assessed, levied and collected, a tax upon all taxable property in the county subject to local taxation, sufficient to provide for the payment of the principal of and the interest upon such bonds as the same respectively become due.”

The Board of Supervisors, as well as the electorate, had constructive notice of and were bound by this section. Therefore, the possibility of a decrease in tax revenues from public service corporations cannot be given any consideration in the legal questions involved.

Sections 15-605.4, 15-605.5 and 15-605.6 of the Code provide how the bond referendum may be held and the results ascertained. I am assuming that all of these provisions were complied with. Section 15-605.7 provides how the bonds are issued and, before the bonds may be issued, if for school purposes as these bonds were, there must be a resolution of the school board requesting their issuance and a resolution of the Board of supervisors authorizing the issuance of the bonds. This provision has been complied with, and the bonds have been issued.

Section 15-605.9 authorizes the board of supervisors to sell the bonds in such manner and for such price as it may deem in the best interest of the county, with certain limitations. These bonds have been sold and the proceeds have been received by the County. Section 15-605.10 provides that, pending the application of these proceeds to the purpose for which authorized, all or any part of such proceeds may be invested by the board of supervisors. That section further provides:

“Any security so purchased as investment of the proceeds of such bonds shall be deemed at all times to be part of such proceeds, and the interest accruing thereon and any profit realized from such investment shall be credited to such proceeds. Any security so purchased shall be held by the treasurer of the county as custodian thereof and shall be sold by the county treasurer upon resolution of the governing board of the county directing such sale, at the best price obtainable, or presented for redemption, whenever it shall be necessary, as determined by such resolution, so to do in order to provide

moneys to meet the purposes for which the bonds of the county shall have been authorized.”

The proceeds have been received by the County and they may be invested within the limitations of this section until they are needed for the project which was authorized by the voters at the bond referendum. I am of the opinion that the last sentence of the above-quoted section of the Code is purely a ministerial provision regulating the sale or the redemption of the investments. This provision is intended to be a control on the treasurer, preventing him from selling or redeeming the investments until such time as the board of supervisors authorizes him to dispose of them. This provision does not give the board of supervisors authority to refuse to dispose of the investments if the funds are needed for school construction purposes as authorized by the voters.

Section 22-72 of the Code of Virginia provides, in part, as follows:

“The school board shall have the following powers and duties:

“(6) School buildings and equipment. To provide for the erecting, furnishing, and equipping of necessary school buildings and appurtenances and the maintenance thereof.”

Sections 22-73 through 22-78 of the Code prescribe the procedure to be followed by the school board in issuing warrants and by the treasurer in honoring such warrants. None of these sections of the Code gives the board of supervisors any authority over the issuance of the warrants and the payment thereof, so long as the warrants are issued for valid school purposes and functions, and so long as the treasurer has sufficient school funds on deposit to honor the payment of the warrants. Section 15-253 of the Code provides, in part, as follows:

“The board of supervisors shall receive and audit all claims against the county, except those required to be received and audited by the county school board * * *”

In answer to your first question, I am of the opinion that, under the Public Borrowing Law of 1952, if bonds have been authorized by the voters, issued, sold and the proceeds received by the county for school construction purposes, the board of supervisors has authority to invest the bond pro-

ceeds until said proceeds are needed to cover the cost of the school construction project, but the board of supervisors does not have authority to delay the school construction plans, once the proceeds of the bond issue have been received. The school board then has control over the execution of the school construction program and only they may delay said program.

In answer to your second question, I am of the opinion that, once the proceeds from bonds for school construction have been received by the County, the only control that the Board of Supervisors has over the proceeds is that they may invest them pursuant to the provisions of §15-603.10 of the Code until such time as the proceeds are needed for school construction, and the School Board, not the Board of Supervisors, determines when they are needed for school construction. The School Board issues and signs the checks or warrants drawn against these funds. The Board of Supervisors does not have authority to draw against these funds, nor does the Board of Supervisors have authority to prohibit the School Board from drawing checks or warrants against these funds, or to instruct the treasurer not to honor these checks or warrants.

With best wishes, I am
Very sincerely yours,

J. LINDSAY ALMOND, JR.
Attorney General.

16:22

PLAINTIFF EX. 21.

C. O. LEE, N. P.

COPY.

SCHOOL: FLUVANNA ELEMENTARY SCHOOL
COUNTY OR CITY: FLUVANNA COUNTY, VIRGINIA
DATE: May 2, 1957

CONTRACTORS	BASE BID	BID BOND
English Construction Co. Altavista, Virginia	\$519,740.00	Seaboard 6%
Harry B. Graham Co. 216 Third Street, N. E., Charlottesville, Virginia	\$543,733.00	Seaboard 6%

J. M. Turner & Co., Inc.
317 McClanahan St., S. W.,
Roanoke, Virginia

\$546,000.00 Federal 6%

Mottley Const. Co., Inc.
Farmville, Virginia

\$549,800.00 North America 6%

Rittenhouse Bros.
Scottsville, Virginia

\$552,748.00 Hartford 6%

Edward E. Harwell Const.
Co.

\$558,990.00 Travelers 6%

Box 685

Orange, Virginia

C. E. Nuckols
1103 E. Main Street
Richmond, Virginia

\$574,000.00 Hartford 6%

A. H. Ewing's Sons, Inc.

3 W. Cary Street

Richmond, Virginia

\$579,000.00 Aetna 6%

PLAINTIFF EX. 22.

C. O. LEE, N. P.

MINUTES OF THE FLUVANNA COUNTY SCHOOL BOARD SPECIAL CALL MEETING HELD MAY 24, 1957.

A special call meeting of the School Board was held on Friday, May 24, 1957. All members of the School Board, i. e. W. H. Ranson, II, Chairman, S. W. Selden, J. B. Hasher, and W. L. Kidd, were present. This special call meeting was held for the purpose of considering the matters listed below and the following business came before the Board and was disposed of as stated below:

1. The School Board had received copy of the second ruling from the Attorney General of Virginia, Judge J. Lindsay Almond, given at the request of Mr. Ralph P. Zehler, Jr., Commonwealth's Attorney for Fluvanna County, and also at the request of Dr. Davis Y. Paschall, Superintendent of Public Instruction, State Board of Education of Virginia, regarding the use of the \$750,000.00 bond money voted by the people

of Fluvanna County on July 17, 1956. The second ruling received from Judge Almond was the same as his first ruling, as per copy of his letter attached to these minutes. This is to the effect that the bond money could be spent only for school purposes as set forth on the ballot and could be spent only by the School Board of Fluvanna County and that the Board of Supervisors of Fluvanna County had no legal right to hold up this money.

This matter was fully discussed by the School Board and on a motion by Dr. S. W. Selden, seconded by Mr. W. L. Kidd, the following members of the School Board, i. e. Dr. S. W. Selden, Mr. W. L. Kidd, and Mr. W. H. Ranson, II, voted to award the contract to the English Construction Company, the lowest bidder, Mr. J. B. Hasher stated that he was also in favor of the bond money being used and the school being built but that he was afraid that some complications would arise in the Court and would prefer to have this matter cleared up before he would vote to award the contract.

2. The School Board instructed the Chairman of the School Board, Mr. W. H. Ranson, II, and the Clerk of the School Board, Mr. J. P. Snead, to sign said contract and send same to the English Construction Company for their signature.

3. Supt. Snead stated to the Board that should this matter come to Court it would be necessary to have an Attorney represent the School Board. The School Board authorized him to employ Mr. John Battle, Jr., to represent the School Board in this connection, and if it developed that public funds could not be used to pay the fee charged by Mr. Battle the members of the School Board and Supt. Snead stated that they would be personally responsible for his fee.

4. Supt. Snead also stated to the School Board that Capt. John Hughes, Chairman of the Board of Supervisors, had requested, through phone call from Mr. Richard George, Clerk of Fluvanna County, to have a joint meeting with the Board of Supervisors on the night of May 27, 1957, Monday, at eight o'clock at the Courthouse. The School Board, after considering this request, decided that nothing constructive could be accomplished by another joint meeting with the Board of Supervisors, since two joint meetings with them had already been held recently, and since the Board of Supervisors had passed a resolution setting forth their views, i. e. favoring the postponement for one year of the construction of the consolidated elementary school and the Board of Supervisors had passed a resolution attempting to tie up the bond money for that period of time. Supt. Snead and the School Board noted, however, that Judge Almond's second ruling stated

that the resolution referred to above by the Board of Supervisors was not legal and that the money could not be held up by the Board of Supervisors.

There being no further business the School Board adjourned to meet at its next regular meeting in June 1957.

Signed: W. H. RANSON, II.

Signed: J. P. SNEAD, Clerk.

JPS:AC

PLAINTIFF EX. 23.

C. O. LEE, N. P.

AGREEMENT BETWEEN CONTRACTOR AND OWNER.

THIS AGREEMENT, Made this twenty-fourth day of May in the year Nineteen Hundred and Fifty-Seven by and between English Construction Company, Inc., of Altavista, Virginia, hereinafter called the Contractor and the County School Board of Fluvanna County, Virginia, hereinafter called the Owner.

WITNESSETH: That the Contractor and the Owner for the consideration hereinafter named agree as follows:

ARTICLE 1. The Contractor agrees to provide all materials, to perform all the work shown on the drawings entitled Fluvanna Elementary School, Fluvanna County, Virginia, Comm. No. 307 dated March 1957, Sheets 1 through 23, and described in the specifications entitled General Conditions and Specifications for Fluvanna Elementary School, Fluvanna County, Virginia, Comm. No. 307 dated March 1957, and including Bulletin A dated April 29, 1957, all prepared by the Architect, and in these Contract Documents entitled the Architect, and to do everything required by the General Conditions of the Contract, the Specifications and the Drawings.

ARTICLE 2. The Contractor agrees to furnish the Owner with bond underwritten by a surety company authorized to do business in the State of Virginia, in the amount of 100 per cent of the contract as soon as practicable after signing this agreement, such bond to be approved by the Architect

and Owner and to be furnished before any payments are made as provided under Article 4 of this agreement.

ARTICLE 3. The Contractor agrees that work under this contract shall be completed not later than June 1, 1958, and agrees that from the compensation otherwise to be paid, the Owner may retain a sum not to exceed Fifty Dollars (\$50.00) for each day thereafter, Saturdays, Sundays and holidays included, that the work remains uncompleted, which sum shall represent the proper measure of liquidated damages which the Owner will sustain per diem by the failure of the undersigned to complete the work at the time stipulated and this sum is not to be construed as in any sense a penalty.

ARTICLE 4. The Owner agrees to pay the Contractor in current funds for the performance of the Contract Five Hundred and Nineteen Thousand, Seven Hundred and Forty Dollars (\$519,740.00) subject to additions and deductions as provided in the General Conditions of the Contract, and to make payments on account thereof as provided therein as follows: On or about the 1st day of each month 90 per cent of the value proportionate to the amount of the contract, of materials on the ground to be incorporated in the work, and of labor and materials incorporated in the work of the building complete up to the first day of that month, as estimated by the Contractor, certified by the Architect and approved by the Owner, less the aggregate of previous payments, upon substantial completion of the entire work a sum sufficient to increase the total payments to 90 per cent of the contract price, and 30 days thereafter, provided the work be fully completed and the Contract fully performed, and provided further that the Contractor furnish the Architect with a certificate from the surety underwriting the bond, such certificate stating the surety is satisfied the balance be paid, the balance due under the contract.

ARTICLE 5. The Contractor and Owner agree that the General Conditions of the Contract, the Specifications and the Drawings, together with this agreement, form the Contract, and that they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the Owner for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF THEY HAVE EXECUTED
THIS AGREEMENT AND AFFIXED THEIR SEALS
THE DAY AND YEAR FIRST ABOVE WRITTEN.

ENGLISH CONSTRUCTION CO., INC.
By: HELEN ???, Sec. Treas. (Seal)
Contractor.
COUNTY SCHOOL BOARD OF
FLUVANNA COUNTY
By: W. H. RANSON, 2nd. (Seal)
Chairman.

ATTEST:

J. P. SNEAD, (Seal)
Clerk.

PLAINTIFF EX. 23(A).

C. O. LEE, N. P.

ENGLISH CONSTRUCTION COMPANY, INC.

GENERAL CONTRACTORS

ALTAVISTA, VA.

May 27, 1957

Mr. J. P. Snead, Superintendent
Fluvanna County Public Schools
Fork Union, Virginia

Re: Fluvanna County School

Dear Mr. Snead:

We are returning to you herewith contract for the construction of the Fluvanna Elementary School, which has been executed by this office.

Very truly yours,

ENGLISH CONSTRUCTION CO., INC.
By C. H. WRIGHT,
Projects Manager.

CHW:d

Enc.

Fluvanna Co. School Board v. Edith H. Farrar, Treas. 179

PLAINTIFF EX. 24.

C. O. LEE, N. P.

DIXON AND NORMAN
SCHOOL ARCHITECTS
1103 East Main Street
Richmond 19, Virginia

June 4, 1957

COUNTY SCHOOL BOARD OF FLUVANNA COUNTY
ATTN: SUPT J. P. SNEAD

For Professional Services Rendered
Architectural Services, plans, specifications and supervision

FLUVANNA ELEMENTARY SCHOOL	
Contract \$519,740.00 @ 5%	\$25,987.00
less 25% reserved for supervision	6,496.75
	<hr/>
	\$19,490.25
Add. 5% Sewerage Plant	417.80
Cost \$8,356.00	
	<hr/>
Amount now due	\$19,908.05

PLAINTIFF EX. 25.

C. O. LEE, N. P.

OFFICE OF THE COMMONWEALTH'S ATTORNEY
FLUVANNA COUNTY

Court Green
Palmyra, Virginia
April 15, 1957

RALPH P. ZEHLER, JR.
Commonwealth's Attorney

Telephone
Palmyra 41

Mr. J. P. Snead
Fork Union
Virginia

Dear Mr. Snead:

Inclosed please find a statement from Scott, Horner & Mason for \$3,750.00, for services rendered. This is according to the agreement made by the Board of Supervisors. I

✓ have discussed this with Miss Farrar and she suggests it will be necessary for you to write a warrant on the school construction funds.

✓ You will recall that this amount was figured in the original loan and, of course, should be paid from the school construction fund.

With kindest personal regards,

Sincerely yours,

R. P. ZEHLER, JR.

RPZhvp

Inclosure

Phone 41.

PLAINTIFF EX. 27.

C. O. LEE, N. P.

May 16, 1957

English Construction Company
Altavista, Virginia

Attention: Mr. English

Gentlemen:

On May 2, 1957, your company submitted a bid to the Fluvanna County School Board for the construction of an elementary school, amount of said bid being \$519,740, which was the lowest bid we received at the opening of the bids.

Some complications have arisen which I am afraid will require a little longer than thirty days from date bids were opened to work out. I am writing to know if you would be willing to extend time for acceptance of your bid by the School Board for another thirty days, making same some sixty days from May 2, 1957.

The School Board wishes to accept your bid and we know that you are a good, reliable construction company. I am hoping that we will be able to get things in shape so that the bid can be awarded to you, but believe it will take a little longer than the thirty day period.

The bonds for this job have been sold and the money is in the bank but the Board of Supervisors feel that we should delay construction for one year due to the suggestion by one member of the State Corporation Commission in an article in the newspapers that the tax ratio on public utilities in this County might be changed, although same has not been done as of this date and I doubt very much if same will be done.

We need this school very much in Fluvanna County and I hope you will agree to extend your bid at least thirty days because it looks now as though it would take us that much extra time to get things worked out and for the School Board to know whether or not this money can be used for construction of this school. We are awaiting final opinion from the Attorney General on this matter.

~~I hope that I may hear from you favorably re extension of this acceptance date for your bid as requested above, and that I may hear from you at once.~~

Yours very truly,

J. P. SNEAD
Superintendent

JPS:AC

PLAINTIFF EX. 27(A).

C. O. LEE, N. P.

ENGLISH CONSTRUCTION COMPANY, INC.

GENERAL CONTRACTORS

Altavista, Va.

May 17, 1957

Mr. J. P. Snead, Superintendent
Fluvanna County Public Schools
Fork Union, Virginia

Re: Fluvanna County School

Dear Mr. Snead:

In reply to your letter of May 16th requesting that we extend our time of your acceptance of our bid on the Fluvanna

County School from 30 to 60 days, we are indeed sorry that we cannot comply with your request.

We are very busy at this time and have been awarded two jobs since we bid your job and are bidding several more within the next few weeks; therefore, we do not see how we can hold up a superintendent and a crew of men that would be available for your job—say for an additional 30 days.

Should you not be able to award the contract in 30 days and would care to talk to us after that time we would be happy to review our situation and talk to you accordingly.

With best wishes, we are,

Very truly yours,

ENGLISH CONSTRUCTION CO., INC.

By W. C. ENGLISH, Pres.

WCE:d

DEFENDANT EX. 1.

C. O. LEE, N. P.

COPY.

May 21, 1956

Judge H. Lester Hooker
Commissioner
State Corporation Commission
Richmond, Virginia

Dear Judge Hooker:

Several months ago the *Richmond Times Dispatch* published an article to the effect that the Virginia Electric and Power Company was planning to build an addition to their electric plant at Breemo Bluff in Fluvanna County. The article stated that the estimated cost of same would be approximately twenty-two million dollars, and said addition would be started in the early spring of 1956 and completed in the spring of 1958.

The people of Fluvanna County, especially the School Board and the Board of Supervisors, are very much interested in the amount of additional taxes this new addition will bring to Fluvanna County. It will be necessary within the next year if possible for these two Boards to work out financial plans for the construction of additional school buildings in the County and the only plan we have before us is a bond issue

which, as you know, will have to be approved by a majority of the voters in the County.

We are hoping that the additional funds that will come to the County in taxes each year will be sufficient to retire the bonds within a period of ten years without an increase in the present tax rate which is two dollars per hundred valuation at the present time. Since the valuation for tax purposes on this addition will be made by the State Corporation Commission the School Board and the Board of Supervisors would very much appreciate the following information:

1. Find out for us the approximate amount that VEPCO is planning to spend within the period from the spring of 1956 to the spring of 1958.

2. What percentage of the amount spent on cost of said addition would be subject to local taxation? Further, would this assessment change from year to year after the first year, and if so how much?

3. Would any assessment in connection with this addition be made by the Commission before same is completed and put into operation? In other words, would the County realize any taxes from this addition in 1956 since VEPCO has already started on this addition? In 1957 they will have same, in my opinion, about half completed. Please explain fully the policy of the Commission regarding assessments during the construction period.

4. I am informed by our County Treasurer that the assessment put on this plant for 1955 for tax purposes was \$5,968,-678.00, but she had not received amount for 1956. Please, when you reply to this letter, give me the amount for 1956.

5. I trust it will be possible for the Commission to furnish the information requested in this letter in the next few days as same will have a very important bearing on our future plans for financing the necessary school building needs in the County. Both the Fluvanna County School Board and the Board of Supervisors will very much appreciate receiving the information requested above as both are much interested in this information.

Thanking you for your cooperation in giving this your attention as soon as possible, and with kindest regards, I am

Sincerely yours,

J. P. SNEAD
Superintendent

JPS:AC

DEFENDANT EX. 2.

C. O. LEE, N. P.

COPY.

COMMONWEALTH OF VIRGINIA

State Corporation Commission

May 22, 1956

W. Marshall King
Chairman

N. W. Atkinson
Clerk of the Commission
Box 1197
Richmond 9

Ralph T. Catterall
Commissioner

H. Lester Hooker
Commissioner

Mr. J. P. Snead, Superintendent
Fluvanna County Public Schools
Fork Union, Virginia

Dear Mr. Snead:

Judge Hooker has directed me to reply to your letter of May 21st regarding assessment of the new electric unit to be installed at the Bremo Bluff Plant of the Virginia Electric and Power Company in Fluvanna County.

In reply to the questions set forth in your letter, we wish to advise as follows:

1. The company estimates its will spend \$23,000,000 for the entire project. The budget for 1956 has an item of \$2,313,000 to be spent during the year. Assuming that the power company completes the project and spends \$23,000,000 before the end of 1958 the assessment in 1959 will be approximately \$8,280,000 on the new project, in addition to the assessment on the other property.

2. When the new unit is complete and put into operation the assessment will be consolidated with the assessment of the old property and, of course, annual depreciation will be considered on the entire property. The new property will be assessed at approximately 36% of cost although, as stated

above, it will be included in the total assessment of the entire plant.

3. During construction of the new unit all of the material used or on the location will be assessed at 40% of its cost. In view of the fact that the construction did not begin until after January 1, 1956, there will be no additional assessment on account of the new construction for the current year.

4. The Commission's assessment for 1956 will not be final until about August 15th, however, we have checked the preliminary figures and it appears that the assessment for the current year will be \$5,844,980. This is a reduction under 1955 of \$123,698 which is due to a reduction *the* the quantity of materials and supplies on hand at the Bremo Bluff Plant as of January 1, 1956, and a slight depreciation allowance on the old property. Of course, the figure you mentioned in your letter of \$5,968,678 includes all of the property of the Virginia Electric and Power Company in Fluvanna County. Likewise, our figure of \$5,844,980 includes all property.

We trust the above gives you the desired information.

Yours very truly,

J. C. MASTEN, Director
Public Service Taxation Division

JCM/elh

DEFENDANT EX. 4.

C. O. LEE, N. P.

SCOTT, HORNER & CO.

LYNCHBURG, VIRGINIA

INVESTMENTS

DIAL 82821

May 24, 1957

Mr. J. P. Snead
Superintendent of Schools
Fluvanna County
Fork Union, Virginia

Dear Mr. Snead:

As I told you on the telephone this morning, I talked with Mr. Washburn of Reed, Hoyt, Taylor & Washburn concerning

the refunding of the \$750,000 School Building bonds. Mr. Washburn advises that the bonds can be refunded for a longer period of time by exchanging new bonds for the existing bonds. However, the new bonds must carry the same rate of interest as the bonds for which they are exchanged.

This refunding can be accomplished by having Mr. Haden agreeing to take the longer bonds. Then the Board of Supervisors would pass upon a resolution which would be prepared by Mr. Washburn. However, as you stated, it may be difficult to work out something with Mr. Haden.

Please keep me advised and if necessary, I will be glad to come up there for a meeting with both boards.

Kindest regards,

Yours very truly,

SCOTT, HORNER & CO.

PAUL P. WISMAN

Municipal Department

PPW :ehc

DEFENDANT EX. 5.

C. O. LEE, N. P.

NOTICE

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF FLUVANNA COUNTY, HELD AT THE COURTHOUSE THEREOF, ON MONDAY, MARCH 4, AND IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND FIFTY SEVEN.

PRESENT: John A. Hughes, W. W. Wilson, E. C. Browning and Charles Alexander.

The following is a synopsis of the tentative budget filed with and unanimously approved by the Board of Supervisors, and notice is hereby given in accordance with Section 15-577 of the 1950 Code of Va. that a public hearing on said budget will be held on April 1, 1957, at 11:30 A. M. Any citizen wishing to state his views thereon is requested to be present at that time.

RICHARD F. GEORGE,
Clerk of Board of Supervisors.

GENERAL FUND.

	Appropriations year Ending June 30, 1957	Proposed Expendi- tures year Ending June 30, 1958.
COUNTY ADMINISTRATION		
Board of Supervisors, Auditing, Advertising, etc.	2,785.00	2,785.00
ASSESSMENT OF TAXABLE PROPERTY		
Board of equalization	0	0
Commissioner of Revenue (salaries, bookbinding, telephone, office supplies, etc.)	3,565.72	4,048.12
COLLECTION & DISBURSE- MENT OF TAXES		
(salaries, advertising, telephone, office supplies, etc.)	4,254.00	4,752.75
RECORDING OF DOCU- MENTS		
(salaries, auditing, books, bind- ing, telephone, office supplies, etc.)	4,075.00	4,195.00
ADMINISTRATION OF JUS- TICE		
(Compensation of Judge, Jurors, Witnesses, etc.)	1,170.00	1,170.00
T. J. Court supplies, etc.	40.00	0
Commonwealth's Attorney's Sal- ary, Special Attorney, etc.	2,048.16	2,220.00

CRIME PREVENTION AND DETECTION

Salaries, Telephone, supplies, etc.	3,162.67	3,702.86
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Posters & rewards for capture	250.00	250.00
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Confinement & care of prisoners	1,000.00	1,000.00
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FIRE PREVENTION AND EXTINCTION

State Forest Fire Service	1,300.00	1,300.00
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Full time warden (Co. Share)	1,000.00	1,000.00
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County fire truck operation	1,350.00	1,175.00
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PUBLIC WELFARE

County Welfare	14,774.00	14,877.00
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Hospitalization Program	1,500.00	1,500.00
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Lunacy Commissions	150.00	150.00
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PUBLIC HEALTH

Registrars, Health Unit, T. B.	4,292.00	4,781.01
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ADVANCEMENT OF AGRIC. & HOME EC.

Salaries, Agents, Asst's., Tele- phone	4,235.00	4,235.00
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PROTECTION OF LIVE- STOCK AND FOWLS

Vaccinating cattle etc.	50.00	50.00
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ELECTIONS

Compen. Officials, rent, supplies	2,100.00	2,170.00
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**MAINTENANCE OF BUILD-
INGS & GROUNDS**

Janitor, electricity, fuel, repairs, water, supplies	8,450.00	8,580.00
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STREET LIGHTING

Current	90.00	90.00
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ROAD ADMINISTRATION

Road Viewers	80.00	80.00
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SCHOOL ADMINISTRATION

Superintendent	640.00	840.00
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**MISCELLANEOUS OPERAT-
ING FUNCTIONS**

Bookmobile	1,613.98	2,606.25
Miscellaneous Personal Service	25.00	2,461.77
Contributions	50.00	50.00

CAPITAL OUTLAYS

Construction, equipment Fire apparatus, furniture, etc.	5,749.53	2,550.00
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TOTAL—GENERAL FUND	69,800.06	72,619.76
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DOG FUND

**PROTECTION OF LIVE-
STOCK & FOWLS**

Comp. of game warden, purchase of record books & tags, fowl & livestock claims	1,925.00	2,061.60
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Estm. of Balance for transfer to General Fund	1,055.00	1,037.40
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15% to State of Virginia	570.00	591.00
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Balance in Fund as required by law	250.00	250.00
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TOTAL—DOG FUND	\$3,800.00	\$3,940.00
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SYNOPSIS OF SCHOOL BUDGET SESSION 1956-1957, 1957-1958

Appropriation, year Ending June 30, 1957		Proposed Expenditures year Ending June 30, 1958
\$ 10,350.00	Administration	\$ 10,030.00
239,430.31	Instruction (Teacher)	246,850.31
13,400.00	Other Instructional Costs	14,540.00
47,550.00	Transportation	48,060.00
12,450.00	Auxiliary Agencies	15,500.00
17,570.00	Operation of Plant	19,300.00
13,250.00	Maintenance of Plant	12,000.00
2,634.00	Fixed Charges	2,660.50
7,712.60	Capital Outlay	12,000.00
18,244.24	Debt Service	17,986.64
<hr/> \$382,591.15		<hr/> \$398,927.45
	TOTAL	

REVENUE ESTIMATES FOR THE YEARS ENDING JUNE 30, 1957 and JUNE 30, 1958

Year Ending June 30, 1957		Year Ending June 30, 1958
\$146,653.70	From State Funds	\$146,046.66
8,200.00	From Federal Funds	8,200.00
231,174.40	From County Funds	231,174.40
4,735.00	From Other Funds	5,485.00
15,181.94	Balance Beginning of Year	8,171.95
<hr/> \$405,945.04		<hr/> \$399,078.01
	TOTAL	

ESTIMATE OF REVENUES FROM REAL ESTATE, TANGIBLE PERSONAL PROPERTY AND CORPO- RATIONS AT \$2.00 ON THE HUNDRED DOLLARS IN VALUE OF ALL ASSESSABLE PROPERTY FOR THE YEAR ENDING JUNE 30, 1958.

	Assessed Value	Tax	
Personal Property	\$ 1,468,580.00	\$ 29,371.60	
Real Estate	3,184,155.00	63,683.10	
Corporations	8,011,880.00	160,237.60	
TOTAL	\$12,664,615.00	\$253,292.30	\$253,292.30

Fluvanna Co. School Board v. Edith H. Farrar, Treas. 191

A. B. C.....	20,490.46
Total Dog Tag Sales.....	3,940.00
Capitation	1,000.00
Wine Tax	1,000.00
Transfer Fees on Real Estate.....	150.00

TOTAL REVENUE \$279,972.76

Anticipated Surplus (Beginning)..... 31,724.00

TOTAL REVENUE AND SURPLUS \$311,696.76

Less Delinquents	\$ 5,000.00	
Less Appropriation for School Fund	231,174.00	
Less Dog Fund Requirements	2,902.60	
Less County Expenditures	72,619.76	
Surplus Ending	0	
Present Long term County Indebtedness		\$257,862.28
Recently added		\$750,000.00
Total Long Term County Indebtedness		\$1,007,862.28

A Copy—Teste:

H. G. TURNER, Clerk.

INDEX TO RECORD

	Page
Order of June 10, 1957	1
Record	2
Notice	2
Petition for Mandamus	3
Answer of Edith H. Farrar, County Treasurer	6
Answer of the Board of Supervisors of Fluvanna County..	9
Petition of the Board of Supervisors of Fluvanna County, Virginia, for intervention	11
Stipulation	12
Proceedings	13
Stipulation	22
Witnesses:	
J. P. Snead	25, 102
James B. Hasher	54
Charles Alexander	58
John A. Hughes	104
W. H. Randon, II	110
W. W. Wilson	115
Richard F. George	118
Edith H. Farrar	131
Aubrey G. Wright	133
Burl Warren Seay	135
Stipulation	139
Reporter's Certificate	140
Plaintiff Exhibit 1	140
Plaintiff Exhibit 2	141
Plaintiff Exhibit 3	142
Plaintiff Exhibit 4	142
Plaintiff Exhibit 5	143
Plaintiff Exhibit 6	145
Plaintiff Exhibit 7	147
Plaintiff Exhibit 8	149
Plaintiff Exhibit 9	150
Plaintiff Exhibit 10	152
Plaintiff Exhibit 11	154
Plaintiff Exhibit 12	157
Plaintiff Exhibit 13	160
Plaintiff Exhibit 14	160