District Court Of The United States

DISTRICT OF MARYLAND.

Civil Docket No. 170.

Filed November 22, 1939.

WALTER MILLS, PLAINTIFF.

BOARD OF EDUCATION OF ANNE ARUNDEL COUNTY, A CORPORA-TION. AND GEORGE FOX, AS COUNTY SUPERINTENDENT OF SCHOOLS OF ANNE ARUNDEL COUNTY, DEFENDANTS

Thurgood Marshall, Leon A. Ransom, William H. Hastie, W. A. C. Hughes, Jr., Charles Houston and Edward D. Lovett for complainant.

William C. Walsh, Attorney-General of Maryland; H. Vernon Ency, Assistant Attorney-General of Maryland, and Noah A. Hillman for defendants.

Constitutional Law-Fourteenth Amendment of Constitution-Equal Protection of the Laws-Bill for Injunction Against Discrimination As to Salary of School Teachers Because of Race or Color-Injunction Granted.

CHESNUT, District Judge-

Education to secure an equalization of teachers prior to 1918) prescribed a colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored teachers in Anne Arundel County has a parameter paid to white and colored teachers of \$300 colored have filed third-party complaints liar rating has been much less. Their against the State Board of Education salaries have been fixed by statute not and the County Commissioners of Anne on a yearly but monthly basis, and for Arundel County as third party defen- most of the time heretofore, for seven dants, and the latter have moved to months of the year. In 1918 the mini-

tention to the Maryland statute which and in 1955, (by reason of increase in the duration of the school year) to He received an A.B. degree from Morprovides a minimum scale or salaries the duration of the school year) to gan College in 1920 and heat the school year. for white teachers, graduated to pro- \$765 per year. At the present time, fessional qualifications and years of ex- therefore, the respective minima are perience, and a separate statute provid- \$1,250 for white teachers and \$765 for ing a lower minimum for teachers in colored teachers, with comparable procolored schools; and alleges that in fessional qualifications and experience. practical application only white teach- The plaintiff contends that the staters are employed in white schools and utes are unconstitutionally discriminacolored teachers in colored schools, and tory on their face and should be held that the latter are paid less in Anne generally invalid. On the other hand Arundel County than white teachers it is pointed out in defence of the statsolely on account of their race or color, utes that they constitute minimum, not white teachers and 91 colored teachers: The plaintiff contends that this consti-

This case is a natural sequel to that purposes of comparison it will be suffiof Mills vs. Lowndes et al., in this Court, cient to take the case of white and 26 F. S. 792. In that case the same colored teachers respectively who have plaintiff, who is a colored school teacher a first grade rating and nine years or employed by the Board of Education more experience. In 1904 the first miniof Anne Arundel County, of the State mum salary act for white teachers of Maryland, sued the State Board of (there being none at all for colored tended argument, the complaint was elementary schools having a first class dismissed for various reasons stated in rating and more than eight years' exthe opinion, importantly including the perience) to \$450; in 1916 to \$550; in absence from the record as a defendant 1918 to \$600; in 1920 to \$750; in 1922 of the County Board of Education. In to \$1,150; and in 1939, (on a slightly the present suit the plaintiff has sued different basis as to professional qualithe County Board and its superin- fications and experience) to \$1.250, and, tendent alone. Under the practice re- if the teacher held an academic degree, cently established by the new federal to \$1,450. By comparison the minimum rules of civil procedure the defendants for colored elementary teachers of simdismiss these third party complaints. mum was \$280 per year, increased in The complaint in this case calls at 1920 to \$445 per year; in 1922 to \$595; The complaint in this case calls attention to the Maryland statute which and in 1939, (by reason of increase in tention to the Maryland statute which and in 1939, (by reason of increase in the received an A.B. degree from the received and the received an A.B. degree from the received an A.B. degr

colored principal at \$995; but in practice the County Board in many colored teacher who ty solely on account of race or colored teacher who ty solely on account of race or colored teacher who ty solely on account of race or colored teacher who ty solely on account of race or colored teacher who ty solely on account of race or colored teacher who ty solely on account of race or colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers in Anne Arundel Countries that the minimum colored teachers who are colored teachers are colored teachers are colored teachers who are colored teachers are colored teachers. tice the County Board in many cases actually pays higher salaries to the of particular conditions, in consideration of particular conditions. principals of schools, in consideration of particular conditions and capacity of particular conditions and capacities of the respective principals. Thus the plaintiff's salary for the current the plaintiff's salary for the current the has been fixed at \$1,058, or \$103 pear the minimum \$1,058, or \$103 pear to expressly decide that the State than the minimum \$1,058, or \$103 pear to expressly decide that the State than the state the state that the state than the state that the state than the state that the state than the state that the state than the state than the state than the state that the state than the state that the state that the state that the state that the state than the state that the state than the state that the state than the state that th has been fixed at \$1,058, or \$103 more than the minimum, and in the case three white principals of the case that t than the minimum, and in the case of evidence the solory is mentioned in the case of evidence the solory is mentioned in the case of the solory is mentioned in the case of the solory is mentioned in the case of the statute to make the solory is mentioned in the statute to make the solory is mentioned in the solory in the statute to make the solory is mentioned in the case of the statute to make the solory is mentioned in the case of the cas three white principals, mentioned in the case of evidence, the salary is \$1,800 per year, defendants contend that the materially higher salaries of these of these defendance of the salaries of the statute of the salaries o defendants contend that the minimum. The higher salaries of these three white teachers of schools comparable in site thereby becomes entitled to that of which the prejudices the plantation. The which prejudices the plantation of which the prejudices the plantation. The which prejudices the plantation of the project of the prejudices the plantation. The which prejudices the plantation of the project of the pr teachers of schools comparable in size that of which the plaintiff is a poil as it thereby becomes entitled state, as it is the state, as it is is the state, as i to that of which the plaintiff is a printipal is due to the judgment of the have superior professional attainment and efficiency to that of the principals and efficiency to that of the principals and efficiency to that of the principals are also as it thereby becomes entered the superior as it thereby becomes entered to the study as it thereby becomes entered to the superior professional entered to the superior professional attainment to the superior p have superior professional attainments and efficiency to that of Mills; but it personal qualities, while explaining individuals than the minimum color the particular rocks for the rocks. personal quality of the particular greater compensation to the particular individuals than the minimum county scale for the particular position do not be a straightful to the straigh scale for the particular position, do not \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min between the colored teachers' pay up to \$1,058 only received by Min betw scale for the difference between to \$1,058 only received by Mills and the minimum of \$1,550 which by the County only the statutory minimum for the county only the statutory will cost the County only the statutory minimum for the statutory minimum for the statutory minimum for the statutory only the statutory will cost the County only the statutory minimum for the ty scale would have to be paid to any white principal of a comparable school. Or, in other words, if Mills were a white principal he would necessaria white principal he would necessarily receive according to the County seed stitled and seven of the county seed stitled and seven of the county tax seed seven of the county tax seven of the county t

The plaintiff has filed this suit not ty including those teaching in colored by high schools. By the Anne Arundel scale the salaries of teachers and principals of white high schools is cipals of white high schools is some what higher than that for the white elemetary schools, the difference white elemetary schools, the difference rang. ing from \$300 to \$400; and there is also a differential in favor of high school teachers in the scale for the color bre land, but exists in many Southern teachers in the scale for the colored schools, the difference in favor of the Star has Anne Arundel County been high school teacher being about high school teacher being about \$300. There is also a salary differential between elementary and high school leph the pay of its teachers either teachers in colored schools by the colored to the minima of the teachers in colored schools by the State minimum statute. It is not necessary to state further details of the high school schedules in this respect, but the case of Frank E. Butler, a colored principal of the Bates High School at Angan College in 1920 and has been continuously employed as a teacher in or wantes, but indicating an intention to principal of a colored school in Anne final make some increase in the rate of Arundel County for nineteen years. He sooper the colored teachers. For the now receives an annual salary of \$1,600. Doctor 1939-40 it has increased A white principal of a comparable white high school would receive a minimum

I also find from the evidence that in muled teachers than for white teach-Anne Arundel County there are 243 color the increase for the latter being tutes an unconstitutional discriminal minimum for white teachers is higher much salary as any white teacher

statutory minimum for the white te 000, while at the present time it is out \$100,000 from the alization Fund. To raise this extra receive according to the County scale not less than \$1,550 as compared with not less than \$1,550 as compared with his actual salary of \$1,058.

Scale with radiation is thus created for the which is thus created for the tienty, as has been so forcibly urged of assessed valuation of property. also true that the problem pre-Ser nne Arundel County, but exists to ies of the State; and indeed the cor em is not limited to the State of

ndful of or indifferent to its probun As previously noted, it does not line or colored to the minima of the statutes. In January, 1938, the thy with the proposition that the es of white and colored teachers be equalized by State law, and an incident of their general duties.

(5) See "Special Problems of Negro Edustion" by Doxey A. Wilkerson Staff ssing regret that no immediate could be taken by the Board toaction that result in view of the county's its p \$66,000 to \$74,000, which is a from larger proportionate increase for \$210,000 to \$218,000. In January,

it voluntarily increased by ten

law is that the plaintiff is therefore entitled to an injunction against the continuance of this unlawful discrimination. I wish to make it plain, however, that the Court is not determining what particular amounts of salaries must be paid in Anne Arundel County either to white or colored teachers individually; nor is the Board in any way to be prohibited by the injunction in this case from exercising its judgment as to the respective amounts to be paid to individual teachers based on their individual qualifications, capacities and abilities, but is only enjoined from discrimination in salaries on account of race or color.

Counsel, after conference between themselves, can submit the appropriate form of judgment.

(1) As plaintiff has not prayed for an (1) As plaintin has not played for an interlocutory injunction a three-judge Court was not authorized by U. S. C., Title S. S. S. Stratton vs St. Louis, S. W. Ry. Co., 282 U. S. 10; McCart vs. Indianapolis The jurisdiction of the Court in this case is based on 28 U. S. C., s. 41 (1) and (14).

(2) See also Act of 1939, Ch. 514, increasng from 47 cents to 51 cents the county tax levy for school purposes as a condition to the benefit of the "Equalization Fund" discussed in the former case, and hereinafter

also mentioned (3) A non discriminating minimum sal ary for teachers was held constitutional in Bopp vs. Clark, 165 Iowa 697; see also School City of Evansville vs. Hickman, 47 Ind. App. 500. At least 20 States have some form of minimum salary laws for teachers. See "Minimum Salary Laws for Teachers," Nat. Ed. Assoc., Wash., D. C., Jan., 1937. (4) The defendants also contend that the

\$1,800 compensation of these three white

principals (that is \$250 more than the mini mum county scale) is in part justified by the fact that their particular schools are what are called consolidated schools and that the bus transportation of pupils to the school, the busses arriving and leaving at different times, requires the principals of these schools to have approximately 1% hours additional attendance per day a school over and above the time Mills. It appears, however, th required fo Mills. It appears, however, that what is required in this respect is additional time from the teachers of the school to receive a passed a resolution expressing and discharge pupils rather than from the The teachers receive no principal alone. additional compensation for their extra time which seems to be substantially merely

(a) See "Special Fromeins of Negro Education," by Doxey A. Wilkerson, Staff Study No. 12, prepared for the Advisory Committee of Education, published by the Government Printing Office, Washington,

pages 8, 14, 22, 24. See Special Problems of Negro Edu cation by Doxey A. Wilkerson, Staff Study No. 12, prepared for Advisory Committee No. 12, prepared for Advisory Committee on Education, Government Printing Office. of the state of th Association January, 1937.

LEGAL NOTICES.

Fourth Insertion.

P. Waldschmidt, Solicitor, 922 Light Street.

IN THE CIRCUIT COURT OF BALTI-MORE CITY — (B—509 — 1939) — Evelyn Moss, complainant, vs. Martin Moss, defendant

ORDER OF PUBLICATION.

The object of this suit is to procure a divorce a vinculo matrimonii by the complainant. Evelyn Moss, from the defendant,

The bill recites that the parties were married on or about March 23rd, 1935, in the City of Baltimore and the State of the City of Battimore and the State of Maryland by a religious ceremony; that the complainant is now, and has continuously been a resident of the City of Baltimore and the State of Maryland, for more than two years prior to the filing of her held of complaint; that there were no child. than two years prior to the ming or her bill of complaint; that there were no chil-dren born unto the parties to this suit as issue of said marriage; that the complainant has always been that of a chaste, obe-dient and faithful wife towards the defendant; that the defendant abandoned and deserted the complainant on or about De-cember 15th, 1935, without any just cause or excuse therefore, and whilst the parties hereto were residents of the City of Baltimore and the State of Maryland, and he declared his intention to live with her no longer as her husband, and that said separation has continued uninterruptedly for more than three years prior to the filing of this bill of complaint, and is the filing of this bill of complaint, and is the final and deliberate act of the defendant, and the separation of the parties hereto is beyond all reasonable hope or expectation of reconciliation; that the defendant is a non resident of the State of Maryland and was last heard of whilst residing in the Bronx, New York City, N. Y.

It is thereupon this 6th day of November, 1939, ordered by the Circuit Court of Baltimore City, that the complainant, Evelyn Moss, by causing a copy of this order to be inserted in some daily newspaper, published in the City of Baltimore, published in the City of Baltimore, once a week for four successive weeks before the 7th day of December 1939, give notice to the absent defendant, Martin Moss, of the object and substance of the bill of complaint, and warning him to be and apcomplaint, and warning him to be and appear in this honorable Court, in person or by solicitor, on or before the 22nd day of December, 1939, to show cause if any he may have, why the relief prayed for should not be granted.

W. CONWELL SMITH

True Copy-Test: CHAS. R. WHITEFORD

William S. Wilson, Jr., Solicitor, 1001-2 Court Square Building

THE CIRCUIT COURT OF BALTI CITY - (B-511-1939) - Marion Winifred A. Kendall vs. William Kendall.

ORDER OF PUBLICATION.

The object of this bill is to procure decree of divorce a vinculo matrimonii by the plaintiff, Marion Winifred A. Kendall from the defendant, William Kendall.

The bill recites the marriage of the parles in Elkton, Maryland, on January 1, 1935, by a religious ceremony, the residence of the plaintiff in Maryland for more than two years prior to the filing of the bill that no children were born to the parties as a result of the marriage; that without just cause the defendant abandoned and deserted the plaintiff five days after the marriage, namely, on January 6, 1935, and has never returned to live with the plaintiff since that date; that there is no reasonable hope of reconciliation; that the defendant is a non-resident of Maryland whose last

TEGAL NOTICE

practical application only white teachcolored teachers in colored schools, and tory on their face and should be held that the latter are paid less in Anne generally invalid. On the other hand Arundel County than white teachers it is pointed out in defence of the statsolely on account of their race or color. utes that they constitute minimum, not The plaintiff contends that this constitutes an unconstitutional discriminatitles an unconstitutional discrimination which is prohibited by the equal protection clause of Section 1 of the 14th Amendment to the Federal Constitution. The prayer for specific relief is that "the Court issue a permanent injunction forever restraining and enjoining the defendants and each of them from making any distinction solely on the grounds of race or color in the fixing of salaries paid white and colored minimum for white teachers is higher than the minimum for teachers in colored schools, the statutes affecting the latter do not expressly apply to colored teachers as such but only to all teachers in colored. It is also to be noted, as was pointed out in the opinion in the form of salaries paid white and colored than the minimum for white teachers is higher than the minimum for teachers in colored schools, the statutes affecting the colored teachers as such but only to all teachers in colored. It is also to be noted, as was pointed out in the opinion in the form of salaries paid white and colored that the minimum for white teachers is higher than the minimum for teachers in colored schools, the statutes affecting the colored. It is also to be noted, as was pointed out in the opinion in the form of salaries paid white and colored than the minimum for white teachers is higher than the minimum for teachers in colored schools, the statutes affecting the colored teachers as such but only to all teachers in colored. It is also to be noted, as was pointed out in the opinion in the form of salaries paid white and colored than the minimum for white eachers in colored schools, the statutes affecting the action of the minimum for white eachers in colored schools, the statutes affecting the action of the minimum for white eachers in colored schools, the statutes affecting the action of the minimum for teachers in colored schools, the statutes affecting the action of the action of the schools whether white or colored the grounds of race or color in the fixing of salaries paid white and colored teachers and principals employed for the public schools of Anne Arundel County, and from paying to the plaintiff or any other colored teacher or entirely at liberty, in co-operation with principal employed by them a less saltiff or any other colored teacher or principal employed by them a less salary than they pay any white teacher or principal employed by them and filling an equivalent position in the public schools of Anne Arundel County." By an amendment to the original complaint the plaintiff also seeks a declaratory an amendment to the original complaint the plaintiff also seeks a declaratory decree (under 28 U. S. C., s. 400) "that this Court adjudge and declare that defendents' policy complained of herein, in the respects it is maintained and enforced pursuant to State statutes as discrimination in practice, between enforced pursuant to State statutes as discrimination in practice between well as in the respects it is maintained white and colored teachers on account and enforced in the absence of controlling statutes, violates the due prover, equally clear that the statutes do cess and equal protection clauses of the 14th Amendment of the Constitution of discrimination, and there is ample evi-

A precise understanding of the Maryland statutory scheme of public education is essential to a considered opinion on the question and the considered opinion on the question of the state of the considered opinion on the question of the considered opinion op ion on the question presented by the proved May 11, 1939, and effective September 1, 1939, which established a new State minimum salary schedule for ally been reduced. The average increase white teachers, setting up therein a single salary schedule based on preparation and experience, to replace the former position-experience schedule. The general effect of the Act was to sometric teachers and 92% for the white teachers and 92% for the colored teachers. what increase the minimum salary schedule for white teachers, but without any increase in the previously established minimum salary for teachers in colored schools. Attention should also be called to the Maryland Act of they constitute an unconstitutional disconstitutional disconst dren being generally a month or two shorter than those for white children. Hereafter for both it is required that the schools be kept open not less than 180 actual school days, or nine months in each year.

The historical development of Mary land legislation with respect to the comparative salaries for white and colored teachers is important in this case. The legislation is said to be unique in that while no maximum salary is pre-scribed for payment by the several County Boards of Education, there is a difference which has existed for many elementary schools. The plaintiff, howyears in the minimum requirements with respect to white and colored teachers' salaries, by virtue of which the minimum for white teachers has always been very materially higher than the minimum for colored teachers. The rating of all teachers both white and colored is determined and certified to the County Boards by the State Board, and is based on uniform requirements. The salaries for white teachers (and

with comparable proalleges that in fessional qualifications and experience. The plaintiff contends that the staters are employed in white schools and utes are unconstitutionally discrimina-

the United States; and Sections 41 and dence that in most of the counties of 43 of Title 8 of the United States Code. the State (including Anne Arundel the State (including Anne Arundel County) a very substantial difference between the pay schedules of white and colored teachers has always existed.

Thus it is shown that the annual average salary for whote and colored teachers. ion on the question presented by the pleadings and testimony in this case. The statutory provisions were discussed at length in the former case, 26 F. S. 792 (to which reference is hereby made) and need not now be repeated. The opinion in the former case was filed on March 1, 1939. The only subsequent legislation upon the subject is sequent legislation upon the subject is the Maryland Act of 1939, Ch. 502, apand \$635, and in 1931, \$1,314 and \$848. It is, however, fairly to be noted that in recent years the disparity has gradu-

also be called to the Maryland Act of they constitute an unconstitutional dis-1937, Ch. 552, effective September 1, crimination on account of race and 1939, which made the school term for colored children of colored children children colored children chil 1939, which made the school term for color prejudicial to the planting. We colored children of equal duration to must therefore look to the testimony in extent that it is based solely on this case to see how the statutes have ly having been some disparity in the respective terms, those for colored chil-In the first place we find that for some In the first place we find that for some to the effect that such unlawful discussion of Anne Arundel County, in fixing the salaries of white and colored to the effect that such unlawful discrimination exists; but I do not think the plaintiff is entitled to an injunction Education of Anne Arunder County, in the plaintiff is entitled to an injunction fixing the salaries of white and colored to the extent prayed for in the confixing classes more classes more classes and the present for an inthan the minima required by the general statutes. In 1937 the County Board of Education fixed the scale of salaries for white teachers, in the case of a teacher who has the qualifications and experience above mentioned, at \$1,250 (the comparable statutory minimum being then \$1,150); and for colored teacher in the case of a public schools of Anne Arundel County is a constant of the extent prayed for in the concluding clause of the prayer for an into the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public schools of Anne Arundel County is to the extent prayed for in the concluding clause of the prayer for an into the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public schools of Anne Arundel County is to the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public schools of Anne Arundel County is to the prayer for an intention reading: "and from payment to the plaintiff or any other colored a less salary than they pay any white teacher or principal employed by them and filling an equivalent position in the public schools of Anne Arundel County is to the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public school of the prayer for an intention reading: "and from payment to the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public school of the prayer for an intention reading: "and from payment to the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public school of the prayer for an intention reading: "and from payment to the plaintiff or any other colored teacher or principal employed by them and filling an equivalent position in the public school of the payment to the plaintiff or any other colored teacher or principal employed by the ing then \$1,150); and for colored teachers at \$700, the general minimum being sers at \$700, the general mannatum being sause the positions are equivalent the particular persons filling them are ever, is the principal of a colored elementary school at Camp Parole, Anne Arundel County, Maryland, with three teacher assistants and he is now in his teacher assistants and he is now in his eleventh year of teaching experience. The State minimum statutes do not The State minimum statutes do not prescribe the salary for the position of a principal of a colored elementary school but do for white principals of elementary schools, the minimum for the latter (where the principal has the principal has the grant qualifications as the plaintiff and schools are described.

Arundel County for nineteen years. He now receives an annual salary of \$1,600. A white principal of a comparable white high school would receive a minimum of \$2,600 I also find from the evidence that in

Anne Arundel County there are 243 white teachers and 91 colored teachers; but no one colored teacher receives so much salary as any white teacher of much salary as any white teacher or similar qualifications and experience.

The crucial question in the case is whether the very substantial differential between the salaries of white and colored teachers in Anne Arundel County is due to discrimination on account of race or color. I find as a fact from the testimony that it is. Some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds. Thus it is said that until recently the school term was somewhat longer in the white schools than in the colored schools; and it is also said that the colored teachers are less efficient than the white teachers because the results of examinations in the white and colored schools in Anne Arundel County, when the papers are marked by outside impartial educators, show a substantially lower average for colored pupils than for white pupils. But in opposi-tion to these contentions it is to be noted that the school term has now been made equal for white and colored schools; and the lower grade in examinations attained by colored pupils is than the alleged inefficiency of colored teachers. The contentions of the defendance fendants in this respect seem really un-substantial when the whole problem is wiewed historically in the light of the Maryland law and general state practice on the subject, and particularly in the light of the actual practical applithe light of the actual practical appli-cation of the Maryland statutes in Anne Arundel County. And indeed any controversy over the fact would seem to be ended by the testimony of the defendant, Fox, who is Superintendent of Education in Anne Arundel County and an executive officer of the County School Roard and that of Miss Mo. School Board, and that of Miss Mc-Neely, the financial secretary of the Board, both of whom substantially admitted that the discrimination in the county schedule of minimum salaries for white and colored teachers respec-

tively was at least largely influenced by the fact of race or color.

I conclude therefore from the pleadings and testimony that the plaintiff has established that he as a colored teacher is unconstitutionally discriminated against in the practice of his profession by the discrimination made between white and colored teachers by the County School Board of Anne tinuation of such discrimination to the grounds of race or color, and that he is also entitled to a declaratory decree public schools of Anne Arundel County." It does not follow It does not follow that benecessarily equal in all respects in professional attainments and efficiency and some range of discretion in de termining actual salaries for particular teachers is entirely permissible to the County Board of Education. If the and is based on unnorm required and The salaries for white teachers (and to lesser extent for colored teachers) same qualifications as the plaintiff, and are graduated to professional qualifications as the plaintiff, and that two to four assistants) being \$1,550. The county scale fixes the minimum required for white teachers less than the minimum required for white teachers are somewhat complex; salary of a white principal of a combut for simplicity of statement and for but for simplicity of statement and for a school at \$1,550, and for a based solely on race or color. But the Board has full discretion in its judge.

soon make some increase in the rate of pay for the colored teachers. For the scholastic year 1939-40 it has increased its budget for colored teachers' salaries from \$66,000 to \$74,000, which is a much larger proportionate increase for colored teachers than for white teachers, the increase for the latter being from \$210,000 to \$218,000. In January 1939, it voluntarily increased by ten per cent. the salaries of colored school teachers for the remaining months of the scholastic year 1938-39. That percentage increase was not continued for the current year; but in October of this the current year; but in October of this year the Board proposed to a representative delegation of county colored school teachers that it would for the school teachers that it would for the succeeding scholastic year and for each year thereafter increase their salaries by an additional ten per cent. until they approximated the State minimum for white teachers, it being estimated that the would require four or five years to bring about such equalization, on the school teachers in the vouchers thereof legally authenticated, day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate of all years to the subscriber on or before the 16th law, be excluded from all benefit of said estate. All persons indebted to said estate of all years to the subscriber on or before the 16th law, be excluded from all benefit of said estate. All persons indebted to said estate of all years to the subscriber on or before the 16th law, be excluded from all benefit of said estate. All persons indebted to said estate of all years to the subscriber on or before the 16th law. The percentage is the percentage in the subscriber on or before the 16th law. The percentage is the percentage in the subscriber on or before the 16th law. The percentage is the percentage in the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or before the 16th law. The percentage is the percentage in the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or before the 16th law of the subscriber on or befor clined by the plaintiff whose action in the matter had the support of all the colored teachers of the county. But these financial considerations cannot control the supreme law of the land as expressed in the 14th Amendment, and

the implementing Acts of Congress which must be controlling here. Some objections by the defendants to the relief asked by the plaintiff were considered in the former case. Thus it is argued that the plaintiff is not entitled to complain because he is a public employe; in the former opinion the view was taken that he has a sufficient status as a qualified school teacher by profession and occupation to have the question determined. Again it is argued that an injunction should not be granted because there is an adequate remedy at law by mandamus in the State Court. This also was dissed in the former case, but in a some tions to an injunction which were there held valid, do not exist here; and Title 8, 8. 43 of the United States Code expressly authorizes an injunction as a

possibly appropriate remedy in this class of cases.
The County e County Board of Education also contends that if the plaintiff is entitled the relief prayed for in this case, oard of Education and the County missioners of Anne Arundel Coun-But for the reasons fully stated opinion in the former case, I do and or conclude that there is any ial remedy, as distinct from legis e amendments, to which the defenare entitled against the State offiin charge of the Equalization Fund, present remedy over against the Commissioners of Anne Arunounty. The applicable legal pro e is that the County Board of Edn will have to prepare a new budr the next scholastic year, and the ty Commissioners, to the extent red by the statutes, will thereafter to fix the necessary county rate axation. I conclude therefore that axation. third party complaints must be dis-

unsel for the plaintiff are also not ndful of the financial problems will necessarily be faced by the Board of Education and County lissioners of Anne Arundel County son of the injunction to be issued case, and have expressed willingto have the operative effect of the lons postponed until the prepaof the next annual budget by the School Board; and therefore

School Board; and therefore agreement.

Andings of fact and conclusions expressed in this opinion are into be in compliance with Rule 52; hederal Rules of Civil Probut if counsel on either side against and more explicit findact they can be prepared and for consideration. As already the Controlling issue of fact is there has been unlawful distingtory by the defendants in detail to be entered and the controlling issue of fact is the controlling issue of fact is the controlling is the defendants in detail to be the defendant to be the defendant to be the detail to be the defendant to be the defendant to be the defen ion by the defendants in dethe salaries of white and n7,14,21,28

Government Printing Office, Washington, 1939, pages 8, 14, 22, 24.

(6) See Special Problems of Negro Education by Doxey A. Wilkerson, Staff Study No. 12, prepared for Advisory Committee on Education. Government Printing Office, Washington, 1939; also Progress and Problems for Equal Pay for Equal Work, published by the National Education Association. 1201 16th St. N. W. Washington. D. Laws for Teachers, published by the Same Association January, 1937.

LEGAL NOTICES.

Kenney & Kalser, Attorneys,
16 St. Paul Street.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of
LUDWIG W. KAISER,
late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 16th day of May, 1940; they may otherwise, by law. be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 13th day of November, 1939.

JOSEPH O. KAISER,

n14,21,28,d5

JOSEPH O. KAISER, Administrator

Fourth Insertion.

Niles, Barton, Morrow & Yost, Attorneys Baltimore Life Building. THIS IS TO GIVE NOTICE, That the sub-scriber has obtained from the Orphans' Court of Baltimore City letters of adminis-

Court of Baltimore City letters of administration on the estate of CHARLES C. WACKER, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May 1940; they may otherwise by to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

ANNA L. WACKER, 17,14,21,28

Administratrix.

Alfonso von Wyszecki, Attorney, 100 East Pleasant Street.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters testamentary on the estate of CHARLES HOWARD MEISTER,

CHARLES HOWARD MEISTER, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

ALFONSO VON WYSZECKI, 7.14.21.28

n7,14,21,28

Francis I. Mooney, Attorney, 111 North Charles Street.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of CHARLES E. RICE, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

REAL ESTATE ONLY.

REAL ESTATE ONLY.

John V. Klier, Attorney, 1222 Fidelity Building.

The bill recites the marriage of the bill recites the marriage of the bill recites the marriage of the plaintiff in Maryland for more than two years prior to the filing of the bill; that no children were born to the parties as a result of the marriage; that without deserted the plaintiff five days after the marriage, namely, on January 6, 1935, and since that date; that there is no reasonable is a non-resident of Maryland whose last is a non-resident of Maryland whose last known address was Washington, D. C. of Baltimore City, this oth day of Norder to be inserted in some daily order to be inserted in some daily week for four successive weeks ber the absent defendant, William Ke warning him to substance of this in person or by solicitor on cannot be and appear in line person or by solicitor on cannot be passed herein.

W. CONWELL SMI st: CHAS. R. WHITEFORD, Clerk n7,14,21,28

PROPERTY SALES.

TRUSTEE'S SALE OF 1504 NORTH GAY STREET

By decree of the Circuit Court No. 2 of Baltimore City, the undersigned, Trustee, will sell at public auction, on the prem-ises, on THURSDAY, DECEMBER 7, 1939

ises, on THURSDAY, DECEMBER 7, 1939

AT 4:00 O'CLOCK P. M.,
ALL THAT LOT in Baltimore, Maryland, on the northwest side of Gay Street at the center of the partition wall between the house on this lot and the house adjoining on the southwest side, being at the distance of 38 feet 3 inches northeasterly from the northwest side of Gay St. with the northwesterly along the center of said partition wall 28 feet 9 inches, more or less, to the end thereof; thence still northwesterly continuing the same direction 36 feet 7 inches, more or less, to the end thereof of side alley 11 feet 9 inches, more or less, to the division between the closet on this lot and the one adjoining on the northeast; thence southeasterly along said division 3 feet 7 inches, more or less; to the division between the closet on this lot and the one adjoining on the northeast; thence southeasterly along the southeast side of said closet 1 foot to a division fence; thence southeasterly along the southeast corner of the brick dwelling adjoining on the northeast; thence northeast; thence northeasterly along the southeast corner of the brick dwelling adjoining on the northeast; thence northeast; thence southeasterly along the center of said partition wall 62 feet 3 inches, more or less, to the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St.; and thence of beginning. In fee-simple and improved by a 3-STORY BRICK DWELL-ING.

Terms: 1/3 cash, balance in 6 and 12 months, with interest on credit balances, or all cash, at purchaser's option; expenses, including special paving tax, if any, to be adjusted to day of sale. Deposit of \$200 required at sale; balance to bear interest from day of sale.

JOHN A. FARLEY, Trustee. SAM W. PATTISON & CO., Auctioneers.

FALL MEETING Accessors accessors and a second

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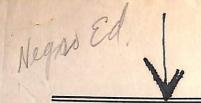
15 DAYS RACING

Nov. 16 to Dec. 2 INCLUSIVE

First Race, 1.30 P. M.

Daily Double Windoy CLOSES 1.15 P. M.

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District Court Of The United States

DISTRICT OF MARYLAND.

Civil Docket No. 170.

Filed November 22, 1939.

WALTER MILLS, PLAINTIFF,

VS.

BOARD OF EDUCATION OF ANNE ARUNDEL COUNTY, A CORPORA-TION, AND GEORGE FOX, AS COUNTY SUPERINTENDENT OF SCHOOLS OF ANNE ARUNDEL COUNTY, DEFENDANTS.

Thurgood Marshall, Leon A. Ransom, William H. Hastie, W. A. C. Hughes, Jr., Charles Houston and Edward D. Lovett for complainant.

William C. Walsh, Attorney-General of Maryland; H. Vernon Eney, Assistant Attorney-General of Maryland, and Noah A. Hillman for de-

Constitutional Law-Fourteenth Amendment of Constitution-Equal Protection of the Laws-Bill for Injunction Against Discrimination As to Salary of School Teachers Because of Race or Color-Injunction Granted.

CHESNUT, District Judge-

plaintiff, who is a colored school teacher employed by the Board of Education of Maryland, sued the State Board of Education to secure an equalization of salaries paid to white and colored teachers in the public schools of Maryland. On motion of the defendants after extended argument, the complaint was dismissed for various reasons stated in the opinion, importantly including the the County Board and its superinhave filed against the State Board of Education and the County Commissioners of Anne on a yearly but monthly basis, and for Arundel County as third party defenmost of the time heretofore, for seven dants, and the latter have moved to months of the year. In 1918 the minidismiss these third party complaints.

fessional qualifications and years of ex-therefore, the respective minima are perience, and a separate statute provid-\$1,250 for white teachers and \$765 for ing a lower minimum for teachers in colored teachers, with comparable procolored schools; and alleges that in fessional qualifications and experience. practical application only white teach-

This case is a natural sequel to that purposes of comparison it will be suffi of Mills vs. Lowndes et al., in this Court, cient to take the case of white and 26 F. S. 792. In that case the same colored teachers respectively who have a first grade rating and nine years or more experience. In 1904 the first miniof Anne Arundel County, of the State mum salary act for white teachers (there being none at all for colored teachers prior to 1918) prescribed a minimum for white teachers of \$300 per annum; in 1908 and 1910 this was increased (for a teacher in white elementary schools having a first class rating and more than eight years' experience) to \$450; in 1916 to \$550; in absence from the record as a defendant 1918 to \$600; in 1920 to \$750; in 1922 of the County Board of Black and the period of the County Board of Black and the period of the County Board of Black and the period of the county Board of Black and the period of the county Board of Black and the period of the county Board of Black and the period of the county Board of Black and the period of the p of the County Board of Education. In to \$1,150; and in 1939, (on a slightly the present suit the plaintiff has sued different basis as to professional qualifications and experience) to \$1,250, and, tendent alone. Under the practice re- if the teacher held an academic degree, cently established by the new federal to \$1,450. By comparison the minimum rules of civil procedure the defendants for colored elementary teachers of simthird-party complaints ilar rating has been much less. Their salaries have been fixed by statute not mum was \$280 per year, increased in The complaint in this case calls at 1920 to \$445 per year; in 1922 to \$595; tention to the Maryland statute which and in 1939, (by reason of increase in provides a minimum scale or salaries the duration of the school year) to for white teachers, graduated to pro-\$765 per year. At the present time,

The plaintiff contends that the staters are employed in white schools and utes are unconstitutionally discriminacolored teachers in colored schools, and tory on their face and should be held that the latter are paid less in Anne generally invalid. On the other hand Arundel County than white teachers it is pointed out in defence of the statsolely on account of their race or color. The plaintiff contends that this constitutes an unconstitutional discriminal discrim tutes an unconstitutional discrimina- minimum for white teachers is higher tion which is prehibited by the equal protection clause of Section 1 of the 14th Amendment to the Federal Constitution. The prayer for specific relief is that "the Court issue a permanent in injunction forever restraining and ended in the defendants and each of them the minimum for teachers is affecting the case is whether white or colored schools, the statutes affecting the tachers as such but only to all teachers the colored teachers in colored schools whether white or colored schools whether white or colored. It is also to be noted, as was pointed out in the opinion in the form making any distinction solely on mer case, that the County is the unit for the defendants to institute and the minimum for teachers is higher than the minimum for teachers in colored schools, the statutes affecting the tachers as such but only to all teachers till between the salaries of white and colored teachers in Anne Arundel County is due to discrimination on action of the pointed out in the opinion in the form the testimony that it is. ny distinction solely on paying to the defendants to justify the difference in salaries on other grounds.

Count of race or color. I find as a fact from the testimony that it is. Some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds.

Thus, it is said that until recently the count of the paying to the defendants of the full authority for discretion as to the some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds.

Thus, it is said that until recently the some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds.

Thus, it is said that until recently the some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds. ads of race or color in the fixing for public education in the State; that Anne Arundel actual amount to be paid to their teach-

of particular conditions and capacities of the respective principals. Thus the I do not find it necessary in this case I do not find it necessary in the I do not find it necessary in this case I do not find it necessary in the I do not find plaintiff's salary for the current year to expressly decide that the State has been fixed at \$1,058, or \$103 more minimum statute for white teachers is than the minimum, and in the case of necessarily on its face unconstitutional, three white principals, mentioned in the case of necessarily on its face unconstitutional, three white principals, mentioned in the because it is the county practice rather evidence, the salary is \$1,500 mere types of the statute defendants contend that the materially are practical advantages to the County higher salaries of these three county higher salaries of the higher salaries of these three white school Board in observing the State teachers of schools comparable in the school school schools comparable in the school schools comparable in the school school schools comparable in the school sch teachers of schools comparable in size statute, as it thereby becomes entitled to that of which the plainties is size statute, as it thereby becomes entitled to that of which the plainties is size in the so-called Equality to that of which the plaintiff is a prin-cipal is due to the indepent of the participate in the so-called Equalicipal is due to the judgment of the zation Fund provided by the State as have superior professional attainments of mer case. That is to say, it will be and efficiency to that of Mile to mer case. That is to say, it will be and efficiency to that of Mills; but it les expensive to Anne Arundel County is to be importantly noted that these toraise the colored teachers' pay to the scale for the particular position, do not zation Fund. The evidence shows that account for the difference between to bring the colored teachers' pay up to \$1.058 only received by William to be tween to bring the colored teachers' pay up to \$1,058 only received by Mills and the the statutory minimum for the white minimum of \$1,550 which had and the minimum of \$1,550 which by the County only ty scale would have to be reit to the statutory of the county only ty scale would have to be reit in the statutory of the county only ty scale would have to be reit in the statutory of the county only ty scale would have to be reit in the statutory of the county only ty scale would have to be reit in the statutory of the county only the statutory of the county only the county of the county

teachers in the scale for the colored Maryland, but exists in many Southern schools, the difference in form schools, the difference in favor of the high school teacher being about \$300. minimum statute. It is not necessary to state further details of the high school schedules in this respect, but the case of Frank E. Butler, a colored prin-

much salary as any white teacher of 1939, it voluntarily increased by ten

evidence, the salary is \$1,800 per year, than the mere terms of the statute or \$250 more than the minimum. The which prejudices the plaintiff. There defendants contend that the meterical advantages to the County Board that the three white principals fully explained in the opinion in the have superior professional attaining. That is to say, it will be personal qualities, while explaining minum of the State statute for white greater compensation to the particular individuals than the minimum county with and lose the benefit of the Equility scale would have to be paid to any \$4000, while at the present time it is white principal of a compared to any specific scale would have to be paid to any specific scale with the present time it is white principal of a comparable school. receiving about \$100,000 from the Or, in other words if Mile school. receiving about \$700,000 from the Or, in other words, if Mills were a white principal he would necessarily receive according to the Country tax receive according to the County scale additional on the general County tax not less than \$1,550 as common scale additional on the general County tax not less than \$1,550 as compared with his actual salary of \$1,058.

The plaintiff has filed this critical representation of the difficult financial posi-The plaintiff has filed this suit not tion which is thus created for the only individually but on behalf at only individually but on behalf of other County, as has been so forcibly urged colored teachers in Anna Armada County, as has been so forcibly urged. colored teachers in Anne Arundel County has a present ty including those tageliar to the county has a present ty including those tageliar to the county has a present ty including those tageliar to the county has a present ty including those tageliar to the county has a present ty including those tageliar to the county has a present ty including those tageliar to the county has a present typical tageliar typical typical tageliar ty including those teaching in colored very high schools. By the Arrange County high schools. By the Arrange County high schools by county high schools by the Arrange County high schools by county high schools by the Arrange C high schools. By the Anne Arundel state of tagebox or assessed valuation of property. scale the salaries of teachers and principals of white high schools is somewhat higher than that for the some sented by this case is not peculiar alone what higher than that for the some Arundel County, but exists to what higher than that for the white to anne Arundel County, but exists to elemetary schools the difference or less extent in many other elemetary schools, the difference rang- a more or less extent in many other ing from \$300 to \$400; and the ing from \$300 to \$400; and there is also countries of the State; and indeed the a differential in favor of high school problem is not limited to the State of teachers in the scale for the school problem is not limited to the State of teachers in the scale for the

States.

Nor has Anne Arundel County been There is also a salary differential between elementary and high school lend. As previously noted, it does not teachers in colored schools by the State limit the pay of its teachers either minimum statute. It is not the state limit the pay of its teachers either limit the white or colored to the minima of the State statutes. In January, 1938, the cipal of the Bates High School at Annapolis may be taken for illustration. He received an A.B. degree from Morgan College in 1920 and has been continuously employed as a teacher in or principal of a colored school in Annapolis and County for nineteen years. He now receives an annual salary of \$1,600.

A white principal of a comparable white high school would receive a minimum of \$2,600.

I also find from the evidence that in Anna Arundel County there are 243 white teachers and 91 colored teachers; but no one colored teacher receives so may be taken for illustration. He received an A.B. degree from Morgan College in 1920 and has been continuously equalized by State law, and expressing regret that no immediate action could be taken by the Board toward that result in view of the county's finances, but indicating an intention to soon make some increase in the rate of pay for the colored teachers. For the scholastic year 1939-40 it has increased to scholastic year 1939-40 it has i of 1959, it voluntarily increased by ten per cent, the salaries of colored school teachers for the remaining months of the scholastic year 1938-39. That percentage increase was not continued for the current year; but in October of this year the Board proposed to a representative delegation of county colored tative delegation of county colored succeeding scholastic year and for each succeeding scholastic year and for each year thereafter increase their salaries to by an additional ten per cent, until they approximated the State minimum for in which teachers, it heing estimated that

colored principal at \$995; but in prac- ment to pay more than the minimum colored teachers in Anne Arundel Counting the County Board is the County Board in the colored teacher when the colored teachers in Anne Arundel Counting the County Board is the colored teacher when the colored teachers in Anne Arundel Counting the County Board is the colored teachers in Anne Arundel Counting the County Board is the County Board in the County Board is the County Board in the County Board is the County Board in the County Board in the County Board is the County Board in the County Board in the County Board in the County Board in the County Board is the County Board in th tice the County Board in many cases to any white or colored teacher who ty solely on account of race or color, actually pays higher coloring the discrimination and my finding from the testimony is actually pays higher salaries to the merits it, provided the discrimination and my finding from the testimony is principals of schools, in consideration is not solely on account of race or that this question must be answered in of particular conditions and the conclusion of the affirmative, and the conclusion of law is that the plaintiff is therefore entitled to an injunction against the continuance of this unlawful discrimination. I wish to make it plain, however, that the Court is not determining what particular amounts of salaries must be paid in Anne Arundel County either to white or colored teachers individually; nor is the Board in any way to be prohibited by the injunction in this case from exercising its judgment as to the respective amounts to be paid to individual teachers based on their individual qualifications, capacities and abilities, but is only enjoined from discrimination in salaries on account of race or color.

Counsel, after conference between themselves, can submit the appropriate form of judgment.

(1) As plaintiff has not prayed for an interlocutory injunction a three-judge Court was not authorized by U. S. C., Title 28, s. 380 Stratton vs St. Louis, S. W. Ry. Co., 282 U. S. 10; McCart vs. Indianapolis Water Co., 302 U. S. 410.

The jurisdiction of the Court in this case is based on 28 U. S. C., s. 41 (1) and (14).

(2) See also Act of 1939, Ch. 514, increasing from 47 cents to 51 cents the county tax levy for school nurposes as a condition to

levy for school purposes as a condition to the benefit of the "Equalization Fund" dis-cussed in the former case, and hereinafter

cussed in the former case, and hereinafter also mentioned.

(3) A non discriminating minimum salary for teachers was held constitutional in Bopp vs. Clark, 165 Iowa 697; see also School City of Evansville vs. Hickman, 47 Ind. App. 500. At least 20 States have some form of minimum salary laws for teachers, See "Minimum Salary Laws for Teachers," Nat. Ed. Assoc., Wash., D. C., Jan., 1937.

(4) The defendants also contend that the \$1,800 compensation of these three white principals (that is \$250 more than the minimum county scale) is in part justified by the fact that their particular schools are what are called consolidated schools and that the bus transportation of pupils to the school, the busses arriving and leaving at different times, requires the principals of these schools to have approximately 1% hours additional attendance per day at school over and above the time required for Mills. It appears however, that what is hours additional attendance per day ac school over and above the time required for Mills. It appears, however, that what is required in this respect is additional time from the teachers of the school to receive and discharge pupils rather than from the principal alone. The teachers receive no additional compensation for their extra additional compensation for their extra cipal of the Bates High School at An- Salaries of white and colored teachers time which seems to be substantially merely

LEGAL NOTICES.

Third Insertion.

Third Insertion.

THIS IS TO GIVE NOTICE. That the subscriber has obtained from the Orphans' Court of Baitimore City letters of administration c. t. a. on the estate of Interest of Said City, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 16th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate

LEGAL NOTICES.

Fourth Insertion.

Edward P. Waldschmidt, Solicitor,
922 Light Street.

IN THE CIRCUIT COURT OF BALTIMORE CITY — (B—509—1939) — Evelyn
Moss, complainant, vs. Martin Moss, defendant

ORDER OF PUBLICATION.

The object of this suit is to procure a divorce a vinculo matrimonii by the complainant, Evelyn Moss, from the defendant, Martin Moss.

divorce a vinculo matrimonii by the complainant. Evelyn Moss, from the defendant, Martin Moss.

The bill recites that the parties were married on or about March 23rd, 1935, in the City of Baltimore and the State of Maryland by a religious ceremony; that the complainant is now, and has continuously been a resident of the City of Baltimore and the State of Maryland, for more than two years prior to the filing of her bill of complaint; that there were no children born unto the parties to this suit as issue of said marriage; that the complainant has always been that of a chaste, obedient and faithful wife towards the defendant; that the defendant abandoned and deserted the complainant on or about December 15th, 1935, without any just cause or excuse therefore, and whilst the parties hereto were residents of the City of Baltimore and the State of Maryland, and he declared his intention to live with her no longer as her husband, and that said separation has continued uninterruptedly for more than three years prior to the filing of this bill of complaint, and is the final and deliberate act of the defendant, and the separation of the parties hereto is beyond all reasonable hope or expectation of reconciliation; that the defendant is an on resident of the State of Maryland and was last heard of whilst residing in the Bronx, New York City, N. Y.

It is thereupon this 6th day of November, 1939, ordered by the Circuit Court of Baltimore City, that the complainant, Evelyn Moss, by causing a copy of this order to be inserted in some daily newspaper, published in the City of Baltimore, once a week for four successive weeks before the 7th day of December 1939, give notice to the absent defendant, Martin Moss, of the object and substance of the bill of complaint, and warning him to be and appear in this honorable Court, in person of becember, 1939, to show cause if any he may have, why the relief prayed for should not be granted.

W. CONWELL SMITH.

W. CONWELL SMITH.

True Copy-Test: CHAS. R. WHITEFORD, Clerk. n7,14,21,28

William S. Wilson, Jr., Solicitor, 1001-2 Court Square Building.

IN THE CIRCUIT COURT OF BALTI-MORE CITY—(B—511—1939)— Marion Winifred A. Kendall vs. William Kendall. ORDER OF PUBLICATION.

The object of this bill is to procure decree of divorce a vinculo matrimonii by

decree of divorce a vinculo matrimonii by the plaintiff, Marion Winifred A. Kendall, from the defendant, William Kendall.

The bill recites the marriage of the parties in Elkton, Maryland, on January 1, 1935, by a religious ceremony, the residence of the plaintiff in Maryland for more than two years prior to the filing of the bill; that no children were born to the parties as a result of the marriage; that without just cause the defendant abandoned and deserted the plaintiff five days after the marriage, namely, on January 6, 1935, and marriage, namely, on January 6, 1935, and has never returned to live with the plaintiff since that date; that there is no reasonable hope of reconciliation; that the defendant is a non-resident of Maryland whose last known address was Washington, D. C.

known address was Washington, D. C.

It is hereby ordered by the Circuit Courorder althore City, this thin day of Novem
or Balthore City, this thin day of Novem
order to be inserted in some daily newspaper published in Baltimore City once a
week for four successive weeks before the
7th day of December, 1939, give notice to
the absent defendant. William Kendall, of
the object and substance of this suit and
warning him to be and appear in this Court
in person or by solicitor on or before the
2nd day of December, 1939, to answer the
premises and abide by and perform such
decree as may be passed herein.

protection clause of Section 1 of the ored schools, the statutes affecting the 14th Amendment to the Federal Constitution. The prayer for specific relief teachers as such but only to all teachers is that "the Court issue a permanent in colored schools whether white or injunction forever restraining and en-colored. It is also to be noted, as was joining the defendants and each of them pointed out in the opinion in the forfrom making any distinction solely on mer case, that the County is the unit the grounds of race or color in the fixing for public education in the State; that of salaries paid white and colored the County Boards of Education have teachers and principals employed for full authority for discretion as to the the public schools of Anne Arundel actual amount to be paid to their teach-County, and from paying to the plainers both white and colored, and are tiff or any other colored teacher or entirely at liberty, in co-operation with principal employed by them a less salthe County Commissioners of the Counary than they pay any white teacher or ties respectively, to pay higher salaries principal employed by them and filling than the minimum fixed by law; and an equivalent position in the public that in fact nine of the twenty-three schools of Anne Arundel County." By an amendment to the original complaint the plaintiff also seeks a declaratory and colored teachers of equal profesdefendents' policy complained of here-tical application the statutes of themin, in the respects it is maintained and selves do not necessarily require actual enforced pursuant to State statutes as discrimination in practice between and enforced in the absence of controlling statutes, violates the due pro- ever, equally clear that the statutes do cess and equal protection clauses of the permit the County Boards to make such 14th Amendment of the Constitution of discrimination, and there is ample evi-

A precise understanding of the Mary-

schedule for white teachers, but withestablished minimum salary for teachly having been some disparity in the

The historical development of Maryland legislation with respect to the comparative salaries for white and col-

than the minimum for teachers in col latter do not expressly apply to colored City, do pay equal salaries to white decree (under 28 U. S. C., s. 400) "that sional qualifications and experience. It this Court adjudge and declare that is clear enough, therefore, that in pracwell as in the respects it is maintained white and colored teachers on account the United States; and Sections 41 and dence that in most of the counties of 43 of Title 8 of the United States Code. the State (including Anne Arundel land statutory scheme of public edu-between the pay schedules of white and County) a very substantial difference cation is essential to a considered opin- colored teachers has always existed. ion on the question presented by the Thus it is shown that the annual averpleadings and testimony in this case. Thus it is shown that the annual average salary for whote and colored teach-The statutory provisions were discussed ers in elementary schools in the Maryat length in the former case, 26 F. S. land Counties for the period of 192r to 792 (to which reference is hereby 1939 is in the ratio of nearly two to one made) and need not now be repeated. in favor of the white teachers. In 1921
The opinion in the former case was filed on March 1, 1939. The only subwhite teachers and \$442 for colored; in sequent logislation. sequent legislation upon the subject is 1930 the respective figures were \$1,199 proved May 11, 1939, and effective September 1, 1939, which established a new State minimum and established a new State minimum. State minimum salary schedule for ally been reduced. The average increase white teachers, setting up therein a in salary over the nineteen-year period single salary schedule based on prepara- has been \$433 for white teachers and tion and arranged asset on preparation and experience, to replace the for-mer position and experience, to replace the for-such that the property of the proper mer position-experience schedule. The age of increase of 49% for the white general effect of the Asia and testimony that the plaintiff

be called to the Maryland Act of they constitute an unconstitutional dis-1937, Ch. 552, effective September 1, crimination on account of race and 1939, which made the September 1, crimination on account of we 1939, which made the school term for colored children the school term for colored children that for white children, there previous this case to see how the statutes have by having been content to the statutes have the statutes have a supply that the statutes have the statutes have been content to the statutes have been content to the statutes have the s espective terms, those for colored chilling the first place we find that for some tren being generally for colored chilling the first place we find that for some tren being generally for colored chilling the first place we find that for some trends of the country Board of of Education fixed the scale of salaries for white teachers, in the case of a ored teachers is important in this case.
The legislation is said to be unique in that while no marked to be unique in the comparable statutory minimum bethat while no maximum salary is preing then \$1,150); and for colored teachscribed for payment a salary is preing then \$1,000; the general minimum being years in the minimum requirements ever, is the principal of a colored ele-with respect to white and requirements ever, is the principal of a colored elesalaries, by virtue of which the drundel County, Maryland, with three been very materially there has always teacher assistants and he is now in his teacher very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with three been very materially the drundel County, Maryland, with the drundel County and the dru very materially higher than the eleventh year of teaching experience. for colored teachers. The The State minimum statutes do not

at qualifications and experience The crucial question in the case is whether the very substantial differential between the salaries of white and colored teachers in Anne Arundel County is due to discrimination on account of race or color. I find as a fact from the testimony that it is. Some effort has been made by counsel for the defendants to justify the difference in salaries on other grounds. Thus it is said that until recently the school term was somewhat longer in the white schools than in the colored schools; and it is also said that the colored teachers are less efficient than the white teachers because the results of examinations in the white and colored schools in Anne Arundel County, when the papers are marked by outside mpartial educators, show a substantially lower average for colored pupils than for white pupils. But in opposi-tion to these contentions it is to be noted that the school term has now been made equal for white and colored schools; and the lower grade in examinations attained by colored pupils is readily explainable on other grounds than the alleged inefficiency of colored teachers.5 The contentions of the defendants in this respect seem really unsubstantial when the whole problem is viewed historically in the light of the Maryland law and general state practice on the subject, and particularly in the light of the actual practical application of the Maryland statutes in Anne Arundel County. And indeed any controversy over the fact would seem to be ended by the testimony of the defendant, Fox, who is Superintendent of Education in Anne Arundel County and an executive officer of the County School Board, and that of Miss Mcthe Maryland Act of 1939, Ch. 502, apand \$635, and in 1931, \$1,314 and \$848. Board, both of whom substantially admitted that the discrimination in the county schedule of minimum salaries

or white and colored teachers respecively was at least largely influenced by the fact of race or color. general effect of the Act was to some- teachers and 92% for the colored has established that he as a colored schedule for white teachers, but without any increase in the previously established minimum salary teachers.

The controlling question in the case, however, is not whether the statutes fession by the discrimination made beteacher is unconstitutionally discrimiare unconstitutional on their face, but tween white and colored teachers by ers in colored schools. Attention should whether in their practical application the County School Board of Anne also be called to the Account the County School Board of Anne Arundel County; and that he is enthat for white children of equal duration to must therefore look to the testimony in that for white children of equal duration to must therefore look to the testimony in that for white children of equal duration to must therefore look to the testimony in the extent that it is based solely on the grounds of race or color, and that he grounds of race or color, and that he dren being generally a month or two years past at least the County Board of crimination exists; but I do not think the plaintiff is entitled to an injunction shorter than those for white children. Hereafter for both it is required that task schools be kept open not less than the school days of pine scatter than the minima required by the gentium of the plaintiff is entitled to an injunction to the extent prayed for in the concluding clause of the prayer for an injunction reading: "and from payment than the minima required by the gentium of the plaintiff or any other colored." to the plaintiff or any other colored teacher or principal employed by them a less salary than they pay any white teacher or principal employed by them and filling an equivalent position in the Seribed for payment by the several ers at \$700, the general minimum being cause the positions are equivalent the particular persons filling them are County Boards of Education, there is \$680. These figures are for teachers in particular persons filling them are a difference which has a content schools. The plaintiff, howsounds of Education, there is \$680. These figures are for teachers in particular persons filling them are spears in the minimum selementary schools. The plaintiff, hownecessarily equal in all respects in property in the minimum selementary schools. The plaintiff, hownecessarily equal in all respects in property in the minimum selementary schools. with respect to white and colored teachers' salaries, by virtue of salaries, by virtue of salaries of termining actual salaries for particular rating of all teachers. The Colored is determined and continued to salaries for the Colored is determined and continued to salaries for the Colored is determined and continued to salaries for white teachers it is difficult to see how the colored teachers. the County Boards by the State Board, school but do for white principals of it would have legal justification for paying colored teachers less than the esser extent for colored teachers (and graduated to professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as such discontinuous control of similar standard professional qualifications and experience, as such discontinuous control of similar standard professional qualifications and experience, as such discontinuous control of similar standard professional qualifications and experience as such discontinuous control of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications are professional qualifications as the plaintiff, and of similar standard professional qualifications are professional qualifications as the plaintiff, and of similar standard professional qualifications are professional qualifications are professional qualifications as the plaintiff, and of similar standard professional qualifications are professional qualifications are professional qualifications. elementary schools, the minimum for paying colored teachers less than the

teachers for the remaining months of the scholastic year 1938-39. That percentage increase was not continued for the current year; but in October of this year the Board proposed to a representative delegation of county colored school teachers that it would for the succeeding scholastic year and for each year thereafter increase their salaries by an additional ten per cent. until they approximated the State minimum for white teachers, it being estimated that it would require four or five years to bring about such equalization, on the condition that the present suit be withdrawn; but this proposition was declined by the plaintiff whose action in the matter had the support of all the colored teachers of the county. But these financial considerations cannot control the supreme law of the land as expressed in the 14th Amendment, and the implementing Acts of Congress which must be controlling here.

Some objections by the defendants to the relief asked by the plaintiff were considered in the former case. Thus it is argued that the plaintiff is not entitled to complain because he is a public employe; in the former opinion the view was taken that he has a sufficient status as a qualified school teacher by profession and occupation to have the question determined. Again it is argued that an injunction should not be granted because there is an adequate remedy at law by mandamus in the State Court. This also was discussed in the former case, but in a somewhat different connection. The objections to an injunction which were there held valid, do not exist here; and Title pressly authorizes an injunction as a

to the relief prayed for in this case, it has a remedy over against the State Board of Education and the County Commissioners of Anne Arundel County. But for the reasons fully stated in the opinion in the former case, I do not find or conclude that there is any judicial remedy, as distinct from legislative amendments, to which the defendants are entitled against the State Board of Education and the State offior any present remedy over against the County Commissioners of Anne Arundel County. The applicable legal pro cedure is that the County Board of Education will have to prepare a new budget for the next scholastic year, and the County Commissioners, to the extent required by the statutes, will thereafter have to fix the necessary county rate for taxation. I conclude therefore that the third party complaints must be dis-

Counsel for the plaintiff are also not unhindful of the financial problems ch will necessarily be faced by the anty Board of Education and County Commissioners of Anne Arundel County eason of the injunction to be issued in his case, and have expressed willingto have the operative effect of the injunctions postponed until the prepa ration of the next annual budget by the nty School Board; and therefore the judgment to be entered will conform

his agreement. he findings of fact and conclusions expressed in this opinion are intended to be in compliance with Rule 52 of the to be in compliance with Rule 52 Federal Rules of Civil Prothe latter (where the plaintiff, and straduated to professional qualifications as the plaintiff, and of similar standard professional qualifications are somewhat complex; salary of a white principal of a comparable school at \$1,550, and for a straduated to professional qualifications as the plaintiff, and of similar standard professional qualifications and experience, as such dissomething the country scale fixes the minimum salary of a white principal of a comparable school at \$1,550, and for a straduated to professional qualifications as the plaintiff, and of similar standard professional qualifications and experience, as such dissomething the country scale fixes the minimum should seem to be clearly based solely on race or color. But the Board has full discretion in its judg the latter (where the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professional qualifications as the plaintiff, and of similar standard professiona but if counsel on either side

Third Insertion.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans Court of Baltimore City letters of administration c. t. a. on the estate

JACOB ECK,
late of said city, deceased,

late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 16th day of May, 1940; they may otherwise, by law. be excluded from all benefit of said estate. All persons indebted to said estate agree reguested to make impressing a payment. estate. An personal control of the c

Kenney & Kaiser, Attorneys,

16 St. Paul Street.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of LUDWIG W. KAISER, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 16th day of May, 1940; they may otherwise, by law. be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 13th day of November, 1939.

JOSEPH O. KAISER,

JOSEPH O. KAISER, Administrator.

Fourth Insertion.

Niles, Barton, Morrow & Yost, Attorneys, Baltimore Life Building.

Baltimore Life Building.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of CHARLES C. WACKER, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May 1940; they may otherwise, by to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

ANNA L. WACKER, no.7,14,21,28

Administratrix.

Alfonso von Wyszecki, Attorney, 100 East Pleasant Street.

THIS IS TO GIVE NOTICE, That the sub-

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters testamentary on the estate of CHARLES HOWARD MEISTER, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

ALFONSO VON WYSZECKI, n7,14,21,28

Francis I. Mooney, Attorney, 111 North Charles Street.

111 North Charles Street.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of CHARLES E. RICE, late of said city, deceased. All persons having claims against said deceased are hereby warned to exhibit the same, with the vouchers thereof legally authenticated, to the subscriber on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

REAL ESTATE ONLY.

REAL ESTATE ONLY.

John V. Klier, Attorney, 1222 Fidelity Building.

THIS IS TO GIVE NOTICE, That the subscriber has obtained from the Orphans' Court of Baltimore City letters of administration on the estate of EMMA C. STEWART,

stration on the estate of EMMA C. STEWART, late of said city, deceased, All persons having claims against said deceased are hereby warned to file in said Court their claim against said decedent, with the vouchers thereof legally authenticated, on or before the 9th day of May, 1940; they may otherwise, by law, be excluded from all benefit of said estate. All persons indebted to said estate are requested to make immediate payment. Given under my hand this 6th day of November, 1939.

BERTHA T. STEWART, Administratrix.

It is hereby ordered by the Circuit Court of Baltimore City, this 6th day of November, 1939, that the plaintiff, Marion Wintfred A. Kendall, by causing a copy of this order to be inserted in some daily newspaper published in Baltimore City once a week for four successive weeks before the 7th day of December, 1939, give notice to the absent defendant, William Kendall, of the object and substance of this suit and warning him to be and appear in this Court in person or by solicitor on or before the 22nd day of December, 1939, to answer the premises and abide by and perform such decree as may be passed herein.

W. CONWELL SMITH True Copy-Test: CHAS. R. WHITEFORD, Clerk.

PROPERTY SALES.

TRUSTEE'S SALE OF 1504 NORTH GAY STREET

By decree of the Circuit Court No. 2 of Baltimore City, the undersigned, Trustee, will sell at public auction, on the prem-

THURSDAY, DECEMBER 7, 1939

THURSDAY, DECEMBER 7, 1939

AT 4:00 O'CLOCK P. M.,

ALL THAT LOT in Baltimore, Maryland,
on the northwest side of Gay Street at the
center of the partition wall between the
house on this lot and the house adjoining
on the southwest side, being at the distance of 35 feet 3 inches northeasterly from
the corner formed by the intersection of
the northwest side of Gay St. with the
north side of Oliver St.; and running
thence northwesterly along the center of
said partition wall 28 feet 9 inches, more
or less, to the end thereof; thence still
northwesterly continuing the same direction 36 feet 7 inches, more or less, to the
southeast side of an alley 10 feet wide;
thence northeasterly along the southeast tion 36 feet 7 inches, more or less, to the southeast side of an alley 10 feet wide; thence northeasterly along the southeast side of said alley 11 feet 9 inches, more or less, to the division between the closet on this lot and the one adjoining on the northeast; thence southeasterly along said division 3 feet 7 inches, more or less; thence southwesterly along the southeast side of said closet 1 foot to a division fence; thence southeasterly along said fence 4 feet 1½ inches to the westernmost corner of the brick dwelling adjoining on the northeast; thence northeasterly 4½ inches to the vesternmost corner of the brick dwelling adjoining on the northeast; thence northeasterly 4½ inches to the vesternmost corner of the brick dwelling adjoining on the northeast; thence southeasterly along the center of said partition wall 62 feet 3 inches, more or less, to the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St.; and thence southwesterly binding on the northwest side of Gay St. 15 feet 1 inch to the place of beginning. In fee-simple and improved by a 3-STORY BRICK DWELL-ING.

Terms: 1/3 cash, balance in 6 and 12

Terms: 1/3 cash, balance in 6 and 12 nonths, with interest on credit balances, or ill cash, at purchaser's option; expenses, neluding special paving tax, if any, to be dijusted to day of sale. Deposit of \$200 required at sale; balance to bear interest rom day of sale.

JOHN A. FARLEY, Trustee. SAM W. PATTISON & CO., Auctioneers. n14,21.28,d7

FALL MEETING

15 DAYS RACING M E Nov. 16 to Dec. 2

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T

N

INCLUSIVE

First Race, 1.30 P. M.

Daily Double Window CLOSES 1.15 P. M.