lative amendments, to which the defendants are entitled against the State Board of Education and the State officers in charge of the Equalization Fund, or any present remedy over against the County Commissioners of Anne Arundel County. The applicable legal procedure 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 dismissed.

Counsel for the plaintiff are also not unmindful of the financial problems which will necessarily be faced by the County Board of Education and County Commissioners of Anne Arundel County by reason of the injunction to be issued in this case, and have expressed willingness to have the operative effect of the injunctions postponed until the preparation of the next annual budget by the County School Board; and therefore the judgment to be entered will conform to this agreement.

The findings of fact and conclusions of law expressed in this opinion are intended to be in compliance with Rule 52 of the Federal Rules of Civil Procedure; but if counsel on either side desire separate and more explicit findings of fact they can be prepared and submitted for consideration. As already stated, the controlling issue of fact is whether there has been unlawful discrimination by the defendants in determining the salaries of white and

fession by the discrimination made between white and colored teachers by the County School Board of Anne Arundel County; and that he is entitled to an injunction against the continuation of such discrimination to the extent that it is based solely on the grounds of race or color, and that he is also entitled to a declaratory decree to the effect that such unlawful discrimination exists; but I do not think 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 paying 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 public schools of Anne Arundel County." It does not follow that because the positions are equivalent the particular persons filling them are necessarily equal in all respects in professional attainments and efficiency; and some range of discretion in determining actual salaries for particular teachers is entirely permissible to the County Board of Education. If the County Board continues to observe the minimum State statute for salaries for white teachers, it is difficult to see how it would have legal justification for paying colored teachers less than the minimum required for white teachers of similar standard professional qualifications and experience, as such discrimination would seem to be clearly based solely on race or color. But the Board has full discretion in its judg-

however, is not whether the statutes are unconstitutional on their face, but whether in their practical application they constitute an unconstitutional discrimination on account of race and color prejudicial to the plaintiff. We must therefore look to the testimony in this case to see how the statutes have been applied in Anne Arundel County. In the first place we find that for some years past at least the County Board of Education of Anne Arundel County, in fixing the salaries of white and colored teachers, has paid to both classes more than 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 teachers at $700, the general minimum being $680. These figures are for teachers in elementary schools. The plaintiff, however, 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 eleventh year of teaching experience. 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 same qualifications as the plaintiff, and has two to four assistants) being $1,350. The county scale fixes the minimum salary of a white principal of a comparable school at $1,350, and for a

establishing minimum salary for teachers in colored schools.[2] Attention should also be called to the Maryland Act of 1937, Ch. 552, effective September 1, 1939, which made the school term for colored children of equal duration to that for white children, thereby in the respective terms, those for colored children being generally a month or two shorter than those for white children. Heretofore 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 Maryland 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 prescribed for payment by the several County Boards of Education, there is a difference which has existed for many years 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 to lesser extent for colored teachers) are graduated to professional qualifications and years of experience, so that the schedules are somewhat complex; but for simplicity of statement and for a

teacher assistants, by the State Board of Education, and the salaries for white teachers in the County are fixed by the County Board of Education, subject to the approval of the State Board of Education. The State Board of Education also prescribes the minimum salaries for white teachers, and the County Board of Education is required to observe the minimum State statutes for salaries for white teachers. The County Board of Education has the power to employ teachers, and to fix their salaries within the minimum and maximum limits prescribed by the State Board of Education, and to make such additional payments to teachers out of the County School Fund as it may deem proper, subject to the approval of the County Commissioners. The County Commissioners have the power to levy taxes for the County School Fund, and to make appropriations from the County Treasury to the County School Fund, in such amounts as they may deem proper, subject to the approval of the State Board of Education. The County Commissioners have the power to borrow money and to pledge the credit of the County for the purpose of providing funds for the payment of the salaries of teachers and other expenses of the County School System, and to levy taxes for the payment of such loans. The County School Board has the power to make budgets for the County School System, and to make requisitions upon the County Commissioners for the funds necessary for the payment of the salaries of teachers and other expenses of the County School System, and to make requisitions upon the County Commissioners for the funds necessary for the payment of such loans. The County Commissioners have the power to fix the rate of taxation for the County School System, and to make appropriations from the County Treasury to the County School Fund, in such amounts as they may deem proper, subject to the approval of the State Board of Education. The County Commissioners have the power to borrow money and to pledge the credit of the County for the purpose of providing funds for the payment of the salaries of teachers and other expenses of the County School System, and to levy taxes