

January 13, 1967

Mr. Barrett

Re: Preparation for oral argument
in Lee v. Macon County

I agree with Brian's view as to what is necessary in order to prepare for the oral argument in Lee:

1. The one extensive admission concerns the establishment of procedures for effectuating that part of the proposed decree which relates to the adoption of desegregation plans of the 42 named school districts. The premise underlying that part of the decree is that the Jefferson County opinion would bring about a new change in the HEW compliance program and that many of the school districts that have filed a 441-B to date would crumble under the pressure of that opinion. It is also presupposed stating immediately that HEW would be engaged in an extensive program of renegotiation with all of the 42 school districts in Alabama, and that this program of renegotiation would continue after the case had been submitted to the court and the decree issued. In order to make these presumptions conform to reality, and to be able to give meaning to our proposed decree it seems to me that we should now be having some meetings with HEW to inform them of our proposals and plans for desegregation in Alabama. They will need time to assemble the personnel necessary to accomplish this purpose within the limited time that will be available.

2. I certainly do not agree with Brian's proposal contained in paragraph 2 on page 3 of his memorandum of January 11, 1967, insofar as that proposal contemplates discussing the proposed decree with school administrators in Alabama.

Mr. Jim

3. I expect that an annotation of our proposed decree might be more embarrassing than helpful. Most of the parts of the decree have not been anticipated in any decision thus far and those parts of the decree which have been anticipated are almost all embraced with the proposed decree in Jefferson County. Nevertheless, if however the manpower is assigned to such a project, I would be willing to see how such an annotation would look.

Owen Fiss