

that has given us only recently some difficulties, but most of the districts have been willing to provide us information and to take corrective action to deal with their problem.

The problem of title VI as applying to the North is that the legislative history made it very clear that the Circuit court decision in the case of *Bell v. Gary, Ind.*, was the governing principle for title VI, and that means that title VI applies only where there is an established violation of constitutional rights.

That is the principle which guides the Department in administering the program.

Mr. STEIGER. What you are saying is that your own ability to enforce title VI is dependent upon de jure patterns of segregation, that is, patterns imposed by action of law in a school system.

Mr. LIBASSI. That is right. The state of the law in this is to say the least confusing. We have one circuit court decision which says there is no constitutional obligation on a school board to desegregate its schools if the segregation were brought about by circumstances beyond its control.

That is the *Bell v. Gary, Ind.*, case. However, there is a district court case, Springfield, Mass., which said that there is an obligation and on the school board to correct it, so we have a confused picture of the law.

Nevertheless, the legislative history clearly indicated that the *Bell* versus *Gary, Ind.*, case was to be the governing principle, and we have followed that.

It is a very good idea to know the difference between de jure and de facto segregation. I have a real question as to whether or not there is such a thing as de facto segregation.

Mr. STEIGER. What you are saying from your standpoint you enforce title VI on the basis of the *Bell v. Gary, Ind.*, decision as your method of interpreting de jure segregation?

Mr. LIBASSI. That is right.

Mr. STEIGER. We could ask because I think it is an interesting question, you say that you don't know quite what de facto segregation is. Do you define it?

Mr. LIBASSI. No, we don't define it and the Supreme Court has not defined it yet and therefore we are limited to the wording of the *Bell* case which says there must be some intent or design to deprive the children of their constitutional rights.

We do not define de facto segregation. For instance in the *Chicago* case, we said there are many serious problems of racial segregation in the city of Chicago which may violate a title VI. The school board was willing to take corrective action and deal with their problems. Therefore we never do get to the issue of whether or not what exists in that particular city was or was not a violation of title VI.

Mr. STEIGER. What kind of basis do you have for trying to determine the intent or design?

Mr. LIBASSI. When a complaint is filed that alleges that a school district is segregated and is violating title VI, the regulation requires that we conduct an investigation. The investigation attempts to ascertain what are the facts in the situation and how did the facts come about, what were the decisions of the board which brought about the pattern of segregation.