

The Constitution of the United States is provided for under the Rules of Civil Procedure, Rule 17(b). The point is not important, however, as the suit is brought as a class suit and the members of the association belong to the same class as the plaintiff Alston. Likewise, there can be no question as to the propriety of joining the Superintendent of Schools with the Board as a party defendant, as teachers are employed on the recommendation of the Superintendent (Va. Code sec. 660); he requests the City Council to fix the tax levy so as to net the amount necessary for the operation of the schools (Va. Code sec. 657); and he is named by the statute as one of those charged with the administration of the schools (Va. Code sec. 611).

For the reasons stated, the order appealed from will be reversed and the cause will be remanded for further proceedings not inconsistent herewith. If the allegations of the complaint are established, plaintiffs will be entitled to a declaratory judgment to the effect that the discriminatory policy complained of is violative of their rights under the Constitution and to an injunction restraining defendants from making any discrimination on the grounds of race or color in fixing salaries to be paid school teachers after the current fiscal year. To avoid confusion and inconvenience in the preparation of the budget and the making of contracts for the ensuing year, we have given immediate consideration to the case. The mandate will issue forthwith, to the end that prompt action may be taken by the court below.

Reversed.