UNITED STATES
COMMISSION ON CIVIL RIGHTS

QUAL PROTECTION OF THE LAWS
IN
UBLIC HIGHER EDUCATION

1960

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EQUAL PROTECTION OF THE LAWS IN PUBLIC HIGHER EDUCATION, 1960

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UNITED STATES COMMISSION ON CIVIL RIGHTS

JANUARY 13, 1961.

To: THE PRESIDENT OF THE UNITED STATES
THE CONGRESS

The Commission on Civil Rights submits to you, pursuant to Public Law 85–315, Eighty-fifth Congress, a report on equal protection of the laws in public higher education.

We believe that this report provides information of importance to the Government and the people of this country, and that the recommendations which we here put forward deserve serious consideration by both the executive and the legislative branches of the Government.

Respectfully yours,

JOHN A. HANNAH, *Chairman.*
ROBERT G. STOREY, *Vice Chairman.*
DOYLE E. CARLTON.
Rev. THEODORE M. HESBURGH, C.S.C.
GEORGE M. JOHNSON.
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ACKNOWLEDGMENTS

The Commission wishes to express its appreciation to the many State officials, superintendents of public schools, presidents and registrars of public colleges and universities and presidents of private Negro colleges, and to research and educational associations that supplied materials and information requested and cooperated in the fact-finding process by completing or distributing questionnaires.

The Commission is also grateful to the Government agencies and departments that provided current information necessary to the completion of this report.

Acknowledgment is made of the assistance rendered by the American Political Science Association in conducting a special survey in higher educational institutions.

The Commission feels particularly indebted to the members of the State Advisory Committees who cooperated faithfully in gathering material and distributing questionnaires in their States.

The Commission also wishes to acknowledge the assistance of Dr. William M. Beaney, Dr. Ellis O. Knox, and Mr. Richard M. Scammon who served as consultants to the Public Education Section of the Commission.

Finally, special mention should be made of the efforts of the loyal and able members of the Staff of the Public Education Section who, under the direction of David B. Isbell, Assistant Staff Director, Laws, Plans and Research and Mrs. Elizabeth R. Cole, Chief of the Public Education Section, have given themselves unsparingly to the task of producing a detailed, factual, and objective report.

INTRODUCTION

The constitutional command that no State shall deny to any person "the equal protection of the laws" has particular significance in the field of public education in America today. The continuing totalitarian challenge to democratic government has made it increasingly clear that an educated citizenry, long recognized as essential to government by the people, has become in the context of cold war the bulwark of freedom itself. Hence, the opportunity of each citizen to get the education needed to develop his full potential has become an even more vital concern of the Nation.

The declaration by the highest court in the land in 1954 that State-enforced racial segregation in public schools cannot be reconciled with the dictates of the Constitution has called for enormous adjustments, not only in the organization and operation of the schools of one-third of the States, but also in the way of life of their people. It is clear that changes of such magnitude are not easily or quickly made even under the pressure of great national need.

At the same time, the nations of the world that are uncommitted in the global struggle between totalitarianism and freedom, nations for the most part composed of nonwhite peoples, are observing with intense interest all aspects of our treatment of racial and ethnic minorities, to judge the value of our principles in practice.

Aware of the importance of our constitutional problems in the field of public education both to the citizens affected and to the worldwide interests of the United States, this Commission from its beginning has included public education in its studies. Inquiries and research in public education have been undertaken under authority granted by the Civil Rights Act of 1957, which directs the Commission to "study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution," and to "appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution." [1]

The 14th amendment to the Constitution declares that "no State * * * shall deny to any person within its jurisdiction the equal protection of the laws." [2] This means that neither a State nor its agent may arbitrarily deny to any individual or group of persons any right or privilege granted to others. A classification of persons by

[1] Civil Rights Act of 1957, secs. 104(a) (2) and (3), 71 Stat. 634, 42 U.S.C. sec. 1957c(a) (1958).

[2] U.S. Const. amend. XIV, sec. 1.

a State on grounds of color, race, religion, or national origin has been held to be arbitrary and hence a denial of equal protection of the laws.[3] This Commission has directed its studies in education to discrimination on these grounds. Since the prohibition of the equal-protection clause is directed against State, not private, action, its studies are confined to educational institutions controlled by a State or a political subdivision thereof.

In the portion of its 1959 report to the President and Congress dealing with public education, the Commission concentrated attention on public elementary and secondary education. The present report supplements the 1959 report by considering problems of discrimination in publicly controlled junior and senior colleges and universities.

The Commission has accepted the proposition throughout its study that constitutional demands of equal protection in public higher education are essentially the same as those that apply to elementary and secondary education. The equal-protection clause does not allow a State to discriminate on the basis of race, color, religion, or national origin in making educational opportunity available to its citizens. Discrimination against either an individual or a group of persons, if it rests on these grounds, comes under the ban of the 14th amendment. Moreover, since the *School Segregation Cases* [4] in 1954 it has been clear that compulsory racial segregation in either schools or colleges is constitutionally forbidden.

Although the constitutional requirements for public schools and for public higher education are essentially the same, the nature of higher public education differs in important respects from elementary and secondary, or public school education—and the problems presented by the clash between precepts and practices, therefore, also differ. These differences should be noted.

Public school education in this country has long been both universal and compulsory. At this time in the evolution of public education in our Nation it is a basic assumption that *all* children can benefit from an elementary and high school education; indeed, that all or the greater part of such education is the minimum needed by all children. Free public school education, therefore, is available to all school-age children living within the geographic boundary of any public school system.[5] Not only is free education available to all, but for over 40

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[3] Yick Wo v. Hopkins, 118 U.S. 356, 369 (1886) (race, color, or nationality); Crown Kosher Super Market v. Gallagher, 176 F. Supp. 466, 475 (D. Mass. 1959) (religion); Harris v. Sunset Islands Property Owners, Inc., 4 *Race Rel. L. Rep.* 716 (Fla. Sup. Ct. 1959) (religion). See also Griffin v. Illinois, 351 U.S. 12, 17 (1956) (religion).

[4] Brown v. Board of Education, 347 U.S. 483 (1954).

[5] The closing of all public schools by Prince Edward County, Va., in July 1959, in the face of a Federal court order to desegregate, should be noted. No child living in that school district received any public education during the school year 1959–60. State-local tuition grants to attend nonsectarian private schools have been voted by the board of county supervisors for the school year 1960–61. Washington Post, July 3, 1960, sec. F, p. 2.

years school attendance has been compulsory during specified years of a child's life in every State of the Union.[6]

There are no selective standards applied for admission to public schools other than the prerequisites of age and residence. Nor is there ordinarily any significant element of choice involved for the child of school age: he does not decide whether or not he will attend school, nor where he will go; the State decrees that he shall attend, and, if he does not choose private education, tells him what school to attend.

In these circumstances, the major problems of equal protection in the operation of public schools have arisen in those States where a system of racially segregated schools was once decreed by law. The pattern of segregation having been declared unconstitutional, thousands of local communities in 17 States and the District of Columbia [7] were faced with the difficult problem of changing an extensive and long-established social pattern involving not only whole school systems, but more than 10 million students, white and Negro, and their families. Because of the magnitude of this problem, the Commission, in its 1959 report, stated that in its belief the overriding challenge in the field of elementary and secondary education was to find ways to comply with the Supreme Court's decision in the *School Segregation Cases*, while at the same time preserving and even improving the quality of public education.[8]

Public education beyond high school, however, stands on a different footing. Although it is offered by every State, and its importance to the Nation's welfare and security is being recognized more and more, still it is neither provided for all nor compelled of any. It is not based upon the assumption that all young people need or can benefit from it.

Public education beyond high school is not universal, but selective. Each college or university has its own rules to determine who may be admitted, subject only to requirements of State law and constitutional principles. At both the undergraduate and graduate levels the individual must, as a prerequisite to his admission, prove to the satisfaction of the college his scholastic preparation and ability to do the academic work required. In most instances the student must also be able to pay at least part of the cost of the education provided.

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[6] As a result of opposition to desegregation, some State legislatures recently have made an exception to compulsory attendance laws for pupils assigned to a school attended by both races against their parents' wishes, by making enforcement a local matter or by repealing the law entirely and leaving the adoption of such a policy to local authorities. *E.g.*, Fla. Laws 1959, ch. 59–412; Tenn. Laws 1959, ch. 289; Va. Laws (E.S.) 1959, chs. 1, 2.

[7] The 17 States are: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Missouri, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. For convenience, these States and the District of Columbia will sometimes be referred to hereinafter collectively as the Southern States.

[8] *Report of the United States Commission on Civil Rights 1959* at 324 (hereinafter referred to as *1959 Report*).

Moreover, higher education is not compulsory. It is not the State but the student who decides whether he will go to college, and he chooses not only the type of education he wants but also where he would like to get it.

As a result of these differences in the nature of higher education there are differences in the problems of discrimination presented at this level. On the one hand, the recognized right of a college or university, within certain limits, to select only the best qualified students may provide both a basis and a cover for discrimination of a subtle sort that is hard to detect or prove. In the case of any minority-group member the question inevitably arises as to whether a denial of admission in fact was based upon a lawful or unlawful criterion. Discrimination of this sort occurs on an individual basis, rather than as part of an explicit governing rule, as is the case with segregated public schools. And such discrimination, like the subtler forms of discrimination in other fields, is not confined to the Southern States.

The long-established system of racially segregated institutions in some southern elementary and secondary schools is found in higher education as well. But, here, the fact that college education, unlike elementary and secondary education, is neither universal nor compulsory, means that the problem of eliminating the pattern of segregation is entirely different in kind and size from the desegregation of the lower schools. The number of students affected by a change in the pattern is smaller, and only a small part of the general public is touched by the change in the established tradition. The breaches in the segregation pattern when they come generally involve only a few students at a time. No Negro student may be compelled by a State to attend a predominantly Negro college, but he may choose voluntarily to do so. The issue of discrimination is raised only by the few who for various reasons choose to apply to an institution maintained for white students. It is possible, too, that the adjustments of students to new circumstances in recently desegregated educational institutions is far less difficult for college and graduate students than it is for their less mature and more impressionable younger brothers and sisters in elementary and secondary schools.

The Commission's studies of discrimination in the field of publicly controlled higher education presented in this report deal with the two types of discrimination that have been discussed above. First, there are the problems arising from efforts to alter the system of racially segregated institutions of higher learning in the 17 States of the South—problems both similar to and different from the problems in secondary and primary schools. To understand this problem fully, it is necessary to start with the historical development of this pattern of segregation in the colleges, and to trace the development of the law through the crucial decision of the Supreme Court in 1954 in

the *School Segregation Cases*. The effect of that decision in public higher education, and the inapplicability of the rule of compliance "with all deliberate speed" which the Court announced with respect to public schools a year later,[9] are then explored. Finally, the changes that have occurred in higher education since the turning point of 1954, and the present status of segregated education in the South, are examined. This portion of the report is, of course, concerned only with discrimination on grounds of race, directed against Negroes.

The report next deals with the problem of discrimination of another more individualized kind, arising from the process by which institutions of higher learning exercise their right to select their students. Since such discrimination does not depend on segregation and is not necessarily limited to the States where segregated schools have been the rule, the Commission's studies of admission policies have been directed to public colleges and universities not only in the South but throughout the country. Moreover, this aspect of the Commission's studies deals not only with racial discrimination, but also with discrimination on grounds of religion and national origin—equally prohibited by the equal-protection clause.

In this portion of its studies, the Commission has relied not only on conventional research, but also on specific factual inquiries. Public colleges and universities throughout the Nation were sent questionnaires seeking information about their admissions policies. They were also requested to supply a copy of the forms applicants for admission are required to complete. A questionnaire was also sent to a number of Negro students enrolled as freshmen in predominantly Negro colleges and to white and Negro high school seniors in an effort to learn certain facts about their college admission experiences. Finally, interviews in depth were obtained with a number of Negro freshmen students in nonsegregated colleges to learn what, if any, discriminatory practices they had observed and experienced. While the results obtained by use of the questionnaires and by interviews have not been fully satisfactory, valuable information was obtained concerning important aspects of this subject not dealt with in the literature on the subject.

Finally, the Commission has appraised some of the laws and policies of the Federal Government that have a bearing on discrimination in public institutions of higher learning. The historical aspect of this study of Federal laws reveals that the Federal Government has been deeply involved not only in the initial establishment but in the growth and development of the system of racial segregation in higher education in the South. Even now, the National Government is subsidizing segregation through a wide range of programs of financial assistance on an ever-increasing scale to State institutions.

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[9] Brown v. Board of Education, 349 U.S. 294, 301 (1955).

PART I

SEGREGATION IN PUBLIC HIGHER EDUCATION IN THE SOUTHERN STATES BEFORE 1954

An understanding of the equal-protection problems in public higher education in the South requires an examination of the history of the system of racial segregation in that region.

The first chapter of this part traces the origins of that system, which began with the opening of educational opportunities for Negroes after the Civil War, and which was encouraged to a great extent by the policies of the Federal Government. By the turn of the century, racially separate public colleges for whites and Negroes had been established with the assistance of the Federal Government, and soon thereafter a legal framework grew up which made the racial segregation of these separate colleges compulsory.

Chapter 2 presents the history of the "separate but equal" doctrine, the constitutional formula which gave sanction to racial segregation in public education. The erosion of this doctrine by the recognition that the separate institutions that had been set up were in fact far from equal led inexorably to the decision of the United States Supreme Court in 1954 that declared compulsory racial segregation irreconcilable with the Constitution.

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CHAPTER 1

THE ORIGIN AND DEVELOPMENT OF SEGREGATED COLLEGES

EDUCATION FOR NEGROES IN THE PRE-CIVIL WAR PERIOD

The inferior social and economic status of the Negro in the United States before 1865 and the rudimentary nature of educational systems in the various States at the time combined to give little educational opportunity to the Negro. While in the North, where public school systems were developing, Negro children were permitted to attend public schools, sometimes on a segregated basis,[1] in the South the public education of Negroes, whether slave or free, was undreamed of.[2] In some States even private instruction of Negroes was forbidden by law.[3] In fact, there was no public schooling even for white children in most of the States.[4]

At the college level, a few northern institutions are reported to have admitted Negroes as students before the Civil War,[5] and one Negro received a college degree as early as 1826.[6] In the Southern States, no record of or reference to the enrollment of a Negro in any public college has been found, although one is reported to have attended Washington Academy (now Washington and Lee University) in Virginia before 1808,[7] and a substantial number were enrolled in

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[1] See *1959 Report* 147–48.

[2] *But see* Woodson, *The Education of the Negro Prior to 1861* at 131–44 (1919). In Maryland, where almost 50 percent of the Negro population was free in 1860, at least one school for free colored children was established in Baltimore as early as 1835. Special Report of the U.S. Commissioner of Education 353–54, House Exec. Doc., 41st Cong., 2d Sess., vol. 13, No. 315 (1871).

[3] Ala. Laws (Nov.) 1831, sec. 10, p. 16; Fla. Acts 1846–47, ch. 87, sec. 9, p. 44; Mo. Laws 1846, p. 103; N.C. Laws 1830, ch. VI, sec. 2, p. 11 and 1 N.C. Rev. Stats. 1837, ch. 111, sec. 27, p. 578; S.C. Laws (Dec.) 1834, ch. 5, sec. 1, p. 13; 1 Va. Rev. Code 1819, ch. 111, secs. 15–17, pp. 424–25 and Va. Laws 830–31, ch. 39, secs. 4–6, pp. 107–08.

[4] Only five States had authorized free schools for white children prior to 1860: Del. Laws 1829, sec. 5, p. 493; Fla. Laws 1848–53, ch. 229, art. I, sec. 3, p. 25 (1848); La. Laws 1847, p. 178; 2 Mo. Rev. Stats., 1825, p. 711; N.C. Laws 1838–39, ch. 8, p. 12.

[5] Johnson, *The Negro College Graduate* 7 (1938). For the names of institutions attended by Negroes in the pre-Civil War period, see Delany, *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States Politically Considered* 110–36 *passim* (1852).

[6] *I.e.*, John B. Russwurm from Bowdoin College, Brunswick, Maine. Woodson, *The Education of the Negro Prior To 1861.* 279 (1919). See also Johnson, *op. cit. supra* note 5 at 7.

[7] Franklin, *The Free Negro in North Carolina, 1790–1860* at 170 (1943).

Berea College in Kentucky, a private institution which operated on a biracial basis from its founding in 1858 until it was forced to close by the agitation following the John Brown raid.[8] Because of its location in Kentucky, Berea was probably the most important of several colleges privately founded during this period which had the declared purpose of educating all persons of good moral character, and, in fact, prior to the Civil War, admitted some Negroes as candidates for degrees.[9] In addition, three "colleges" for Negroes were founded before the war in Northern States by religious and philanthropic organizations.[10] Thus, a small beginning of higher educational opportunity for free Negroes came before the Civil War.

THE ERA OF RECONSTRUCTION

The plight of the Negro in the Confederate States freed by the conquering Union armies led to the involvement of the Federal Government in the education of the former slaves. Northern religious and philanthropic organizations rushed in after the war to help the freedmen qualify in fact as well as by law for the rights and duties of citizenship. Both these governmental and humanitarian efforts were directed toward establishing schools for Negroes alone. As a result, they gave both source and sanction to the pattern of segregated public schools and colleges for Negroes which took firm root in all of the former slave States.

The first extensive and centralized effort to educate the former slaves was made by the Federal Government. On March 3, 1865, about a month before the surrender of General Lee, the Bureau of Refugees, Freedmen, and Abandoned Lands was created by act of Congress.[11] The Freedmen's Bureau, as it was generally called, at once instituted general supervision over all existing schools for Negroes in the South. Most of these had been started by northern philanthropists and religious organizations, although a few were controlled by tax commissioners and a few were operated by the Negroes themselves.[12] During the 5 years of the Bureau's existence it assisted and supervised 4,239 separate schools for the newly emancipated Negroes. These schools employed 9,307 teachers and instructed 247,333 pupils.[13]

The national and international interest in the solution of the problem created by emancipation was related by J. W. Alvord, General

[8] Alvord, *Seventh Semiannual Report on Schools for Freedmen* 348 (1869).

[9] Other such colleges were Oberlin College, Oberlin, Ohio, (1833); New York Central College, McGrawville, N.Y. (1840); Antioch College, Yellow Springs, Ohio (1853). See Bond, "The Evolution and Present Status of Negro Higher and Professional Education in the United States," 17 *J. Negro Ed.* 224–25 (1948).

[10] Avery College, Allegheny City, Pa., 1850; Ashmun Collegiate Institute, Chester County, Pa., 1856 (Lincoln University since 1865); Wilberforce University, Xenia, Ohio, 1856.

[11] Act of Mar. 3, 1865, 13 Stat. 507.

[12] Jones, *Negro Education* 252 (U.S. Department of the Interior, Bureau of Education, bull. no. 38, 1916).

[13] Alvord, *Tenth Semiannual Report on Schools for Freedmen*, 4 (1870).

Superintendent of Education for the Freedmen's Bureau, in an 1866 report:[14]

> The increasing interest which the great problem of education for the colored man is exciting among the best classes of our own country, and also among the leading philanthropists of Europe, has been very apparent during the last few months. We are applied to for documents on the subject for use in England, Scotland, France, and indeed in almost every enlightened country in the Old World. Eminent gentlemen from abroad have assured us that it was with them *the great question of the age;* and terrible as our war has been, and weighty as are the political questions now agitating us, yet that on their return the chief inquiries will be, *"What is to become of these emancipated Negroes?" "Can they be educated?"*

The General Superintendent made an inspection tour through the Southern States in the first year of the Bureau's operations. He reported with enthusiasm that the average attendance of Negro children was equal to or greater than that usually found in northern schools.[15] He commented particularly on one large school in New Orleans wholly taught by educated colored men which he said would bear comparison with any ordinary school in the North.[16]

In his first report the Superintendent pointed out the need for normal schools to train Negro teachers. He claimed that at least a million of the 4 million freedmen were ready and eager "to engage in the study of books." Twenty thousand teachers were needed, he asserted, and the North could be counted on for only a few thousands and the South for only a handful.[17] The Superintendent continued to recommend the enlargement of normal school programs throughout the period of the existence of the Bureau.

The northern religious and philanthropic societies were stimulated to greater efforts under the centralized direction of the Freedmen's Bureau, and by 1869 high and normal schools as well as colleges for Negroes had sprung up.[18] During the period 1865–67 alone, 15 private institutions struggling to establish higher educational programs for Negroes were granted a total of $168,000 by the Federal Government.[19]

During the period 1865–71 northern religious organizations continued to establish normal schools and colleges for Negroes in the Southern States.[20] This expression of humanitarianism played an im-

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[14] Alvord, *Report on Schools and Finances of Freedmen for July 1866* at 2–3.

[15] Alvord, *op. cit. supra,* note 14 *For January 1870* at 2.

[16] *Id.* at 15–16.

[17] *Id.* at 20.

[18] Jones, *op. cit. supra,* note 12 at 289.

[19] Alvord, *Fifth Semiannual Report on Schools For Freedmen,* 10 (1868). The 15 institutions were: National Theological Institute, Howard University, and Saint Martin's School, all in Washington, D.C.; Normal School, Richmond, Va.; Berea College, Berea, Ky.; St. Augustine's Normal School, Raleigh, N.C.; Wesleyan College, East Tennessee; Fisk University, Nashville, Tenn.; Storer College, Harper's Ferry, W. Va.; Atlanta University, Atlanta, Ga.; Robert College, Lookout Mountain, Tenn.; Marysville College, Tenn.; Alabama High and Normal Schools; St. Bridgit's Parochial School, Pittsburgh, Pa.; and South Carolina High and Normal Schools.

[20] Institutions established by white church boards in the period 1865–71 include: Baptist—Shaw University at Raleigh, 1865, Roger William at Nashville and Morehouse

portant part in educating the Negro of that day, but, together with the policies of the Federal Government, it also contributed to the firm foundation of racial segregation in colleges of the South.

Initially, all of the so-called colleges and universities for Negroes were compelled to offer only elementary and secondary school curricula, even measured by the low academic standards of the period, because of the inadequate preparation of their students. But some of the private Negro colleges, with the encouragement of their sponsors and aided by the early grants from the Federal Government, after some years were able to offer courses of collegiate grade.[21] Some of these are included today among the prestige colleges for Negroes.[22]

THE ESTABLISHMENT OF PUBLICLY CONTROLLED COLLEGES FOR NEGROES

The establishment of public school systems in the Southern States following the Civil War on a racially segregated basis brought a demand for both white and Negro schoolteachers. During the period of operation of the Freedmen's Bureau the schoolteachers, for the most part, were white northerners who were resented and looked upon with suspicion by white southerners. One point of agreement between the white southern and the Negro leaders was that Negroes should be trained as teachers to staff the Negro public schools. Inevitably this led to the establishment of normal schools for Negroes.

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at Atlanta in 1867, Leland at New Orleans in 1869, and Benedict at Columbia in 1871; Free Baptist—Storer at Harpers Ferry, 1867; Methodist Episcopal—Walden at Nashville, 1865, Rust at Holly Springs, 1866, Morgan at Baltimore, 1867, Haven Academy at Waynesboro, 1868, Claflin at Orangeburg, 1869, Clark at Atlanta, 1870; Presbyterian—Biddle at Charlotte, 1867; Episcopal—St. Augustine's at Raleigh, 1867.

The American Missionary Society, at first supported by several denominations, was left to the support of Congregational churches as other denominations undertook individual operations. It restricted its work during this period to the establishment of schools for the preparation of teachers. Among the institutions established by the American Missionary Society were: Avery Institute at Charleston, Ballard Normal at Macon, and Washburn at Beaufort, N.C., in 1865; Trinity at Athens, Ala., Gregory at Wilmington, N.C., and Fisk University at Nashville, 1866; Talladega College in Alabama, Emerson at Mobile, Storrs at Atlanta, and Beach at Savannah in 1867; Hampton Institute in Virginia, Knox at Athens, Ga., Burwell at Selma, Ala., and Ely Normal at Louisville in 1868; Straight University at New Orleans, Tougaloo in Mississippi, LeMoyne at Memphis, and Lincoln at Marion, Ala., in 1869; Dorchester Academy at McIntosh and Albany Normal in Georgia in 1870.

The United States Government chartered Howard University in 1867 "for the education of youth in the liberal arts and sciences," with special provision for the higher education of Negroes without excluding others who might wish to attend. Jones, *op. cit. supra,* note 12, at 252–53. (Although financially supported by the Federal Government, it was given self-perpetuating board of trustees so that it is not under public control and is, therefore, classified as a private institution.)

[21] The first definitive study of Negro education, published in 1916 found that "hardly a colored college meets the standards set by the Carnegie Foundation and the North Central Association." Only Fisk and Howard Universities and Meharry Medical School were classified as "colleges" at that date. Fifteen private and church-supported institutions are listed as "secondary and college" and 15 others as offering college subjects. All of the latter, except Florida Agricultural and Mechanical College for Negroes, are church-supported institutions. These 33 alone were found to be teaching any subjects of college grade among the 653 private and State schools for Negroes then in existence. Jones, *op. cit. supra,* note 12, at 58–59.

[22] *E.g.,* Fisk and Howard Universities.

The first State-supported institution of higher education for Negroes was established by Missouri in 1870—a normal school, for training teachers.[23] Alabama and Arkansas followed Missouri's example in 1873,[24] North Carolina in 1877,[25] Texas and Louisiana in 1879,[26] Virginia in 1882 and Florida in 1887.[27] It was thus recognized that Negroes would have to be trained as teachers for primary and secondary schools; however, there was little inclination to provide higher educational opportunities for Negroes in general. The attitude of the South was described in 1866 by the General Superintendent of Education of the Freedmen's Bureau: [28]

* * * during the last 6 months a change of sentiment is apparent among the better classes of the South in regard to freedmen's schools. Those of higher intelligence concede that education must become universal. There are philanthropic and just men, who would cheerfully give this boon to all. Many planters are convinced that it will secure to them more valuable and contented labor. Some of the leading statesmen are urging that these millions will be a safer element in their midst if made moral and intelligent. * * *

It is true that many who favor such instructions do it with proviso that northern teachers shall no longer be sent; at least, that they themselves will assume the superintendence of the schools, proposing, in some instances, southern instructors, either white or colored. * * *

We cannot conceal the fact that multitudes, usually of the lower and baser classes, still bitterly oppose our schools. They will not consent that the Negro shall be elevated. He must, as they conceive, always remain of a caste in all essential respects beneath themselves. * * *

The first extensive effort by the States to provide colleges for Negroes not devoted solely to teacher training was stimulated by the Federal Government, in connection with the program to establish land-grant colleges in all the States. The establishment of separate colleges for Negroes as part of a federally aided higher education program is of particular significance because no Southern State at that time had any constitutional or statutory policy of exclusion or racial segregation at the higher education level.[29]

The Federal program for land-grant colleges was contained in legislation adopted in 1862 and 1890, known, respectively, as the first and second Morrill Acts.[30] These two acts redirected the trend of American higher education. During the first half of the 19th century many educators and other leaders had become dissatisfied with the classical tradition of American colleges. They believed that the existing higher educational institutions were designed to serve only members of the

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[23] Mo. Laws 1870, p. 136.
[24] Ala. Acts 1873, p. 176; Ark. Laws 1873, No. 97, p. 23.
[25] N.C. Laws 1876–77, ch. 234, secs. 1, 2.
[26] La. Const. 1879, art. 231; Texas laws 1879, ch. 159, p. 181.
[27] Va. Laws 1881–82, ch. 266, p. 283; Fla. Laws 1887, ch. 3692, sec 4, p. 37.
[28] Alvord, *op. cit. supra*, note 14, at 2.
[29] See pp. 9–11, *infra*.
[30] Act of July 2, 1862, ch. 130, 12 Stat. 503; Act of Aug. 30, 1890, ch. 841, 26 Stat. 417, 7 U.S.C. secs. 321–28 (1958).

privileged classes and to prepare youth for the learned professions, and had ignored the interests and welfare of the agricultural workers of the Nation and the rapidly increasing industrial classes in the Northern States.[31] The land-grant college program, inaugurated at a time when the economy was changing in the North and when political and economic reconstruction was taking place in the South, was an assertion of the values of higher education for the formerly neglected masses.

The first Morrill Act, of 1862,[32] offered each State that accepted its provisions land, or land scrip, in an amount equal to 30,000 acres for each Member of Congress from that State. The law provided for the sale of whatever land was not used as a site for a college, the proceeds to be used as a permanent endowment for one or more colleges. It further provided that each such State institution should emphasize agricultural and mechanical arts, without excluding instruction in classical, scientific, and military subjects.

While all of the Southern States took advantage of the land-grant program, only three of them made provisions for Negro youth to share in any benefit from the land-grant funds before the second Morrill Act in 1890; and in only one of these three States was a public institution for Negro education the recipient of the funds. The first State was Mississippi, which in 1871 gave three-fifths of the income from the proceeds of its scrip to Alcorn University, a private institution taken over by the State that year for the education of Negro youth.[33] In 1874 the Legislature of Mississippi transferred the Federal funds to Oxford University, a private Negro institution in the State, but in 1878, one-half of the annual income from the Federal grant was returned to Alcorn University.[34]

In 1872 Virginia granted one-half of the income of the proceeds of its scrip to Hampton Normal and Agricultural Institute, a private college for Negroes. Hampton continued to function as that State's Negro land-grant college until 1920, when the Federal funds were transferred by the Legislature to a State-controlled institution, the Virginia Normal and Industrial Institute at Ettrick, which later became the Virginia State College for Negroes.[35]

South Carolina in 1872 selected Claflin University, also a private institution, to receive all the income from its land-grant endowment. The money received from the land-grant scrip, however, had actually been used for other purposes and Claflin received no income from this source until 1879, when the State legislature recreated the land-grant endowment with State funds but reduced Claflin's share of the

[31] See Knight, *Education in the United States* 406 (1929).
[32] Act of July 2, 1862, ch. 130, 12 Stat. 503.
[33] Klein, *Survey of Land-Grant Colleges and Universities* 838 (U.S. Department of the Interior, Office of Education, bull. no. 9, vol. II, 1930).
[34] *Ibid.*
[35] *Ibid.*

income thereof to one-half. In 1896, this support was withdrawn from Claflin and transferred to a State-controlled college established at Orangeburg, now known as South Carolina State College.[36]

Between the first and second Morrill Acts, Congress augmented the land-grant program by granting additional funds to each State for establishing an agricultural experiment station.[37] This program was later expanded by further appropriations,[38] but Negro land-grant colleges have not benefited therefrom except in the most minor degree. All agricultural experiment stations in the Southern States were established and are still maintained at white land-grant colleges.[39]

In contrast to the modest impact of the first Morrill Act on Negro education, the second Morrill Act of 1890 [40] gave a major boost to the establishment of Negro colleges. In addition to providing for further financial support for land-grant colleges, it prohibited the payment of funds to any State or Territory for the support of a college making a distinction by race or color in the admission of students. This prohibition against racial discrimination was, however, subject to a proviso that separate colleges for white and colored students would constitute compliance if the funds received were equitably divided between them. The act left it to the legislature of any State maintaining separate colleges to establish a just and equitable division of the funds.[41]

By 1900 all of the Southern States, including the then Territory of Oklahoma, had accepted the terms of the second Morrill Act and all but Tennessee and Virginia had established separate State-controlled land-grant colleges for Negroes.[42] Virginia, which had designated Hampton Institute to receive half of the income of its endowment fund received under the provisions of the first Morrill Act in 1862, continued that institution as its land-grant college for Negroes under the second Morrill Act. Tennessee did not establish its land-grant college for Negroes until 1912.[43]

Although the 1890 act specifically authorized academic programs of scientific and classical subjects as well as those in agricultural, mechanical arts, and military science, it was not until more than a quarter of a century later that any of these Negro land-grant colleges offered any work of collegiate grade.[44] A survey of collegiate educa-

[36] *Id.* at 839.

[37] Act of Mar. 2, 1887, ch. 314, sec. 1, 24 Stat. 440.

[38] Act of Mar. 16, 1906, ch. 951, 34 Stat. 63; Act of Feb. 24, 1925, ch. 308, sec. 1, 43 Stat. 970.

[39] See pp. 214–215, *infra*.

[40] Act of Aug. 30, 1890, ch. 841, 26 Stat. 417, 7 U.S.C. secs. 321–28 (1958).

[41] 7 U.S.C. sec. 323 (1958).

[42] The name, location, and date of establishment of all land-grant colleges for Negroes, the date of designation for the receipt of funds under the first Morrill Act, and the year of acceptance of the second Morrill Act are shown in app. A.

[43] See app. A.

[44] In 1916 Florida Agricultural and Mechanical College alone among the 17 land-grant colleges for Negroes was found to be offering any college courses. See note 21 *supra*.

tion for Negroes conducted under the direction of the United States Bureau of Education in 1916 revealed that educational opportunities of a standard collegiate grade were available at that time only in three privately controlled Negro higher educational institutions.[45] Many years were to pass before most of the public institutions were colleges in more than name.

THE LEGAL BASIS OF RACIAL SEGREGATION IN SOUTHERN COLLEGES

In the last 35 years of the 19th century a general policy was established throughout the South, by statute or by constitutional provision, of requiring the segregation of the races in elementary and secondary schools.[46] These legal requirements of racial segregation did not, however, apply to colleges and universities. Nonetheless, a pattern of segregation in higher education was in fact created during this period by individual legislative enactments establishing institutions intended only for one race or the other, and after the turn of the century this pattern was confirmed by statutes extending compulsory racial segregation to the college level.[47]

Before the Civil War, there was little reason for any general requirement of segregated education in the Southern States. Slavery continued there until 1863 or 1865; there were comparatively few freedmen in these States; [48] and, indeed, there was little public schooling of any sort.[49]

At the college level, as has been pointed out, there was virtually no education for Negroes. Before the Civil War no provision in the laws establishing public colleges and universities was found specifying that only white students should be admitted, or stating as the purpose of the institution the education of white youth exclusively. While

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[45] Jones, *op. cit. supra,* note 12, at 60.

[46] The first constitutional or statutory provisions in the various States requiring the establishment of separate schools for whites and Negroes were as follows: Ala. Const. 1875, art. XII, sec. 1; Ark. Acts 1866–67, No. 35, sec. 5, p. 100 and Ark. Acts 1868, No. 52, p. 163; Del. Const. 1897, art. X, sec. 2 and Del. Laws 1898, ch. 67, sec. 22, p. 193; Fla. Laws 1865–66, ch. 1475, p. 37 and Fla. Const. 1885, art. XII, sec. 12; Ga. Laws 1870, No. 53, sec. 32, p. 57; Ky. Laws 1873–74, ch. 521, sec. 16, p. 65 and Ky. Const. 1890, sec. 187; La. Const. 1898, art. 248; Md. Laws 1865, ch. 160, p. 269 (biracial attendance not expressly forbidden); Miss. Laws 1878, ch. 14, sec. 35, p. 103; Mo. Const. 1875, art. XI, sec. 3; N.C. Laws 1868–69, ch. 184, sec. 50, p. 471 and N.C. Const. 1875, art. IX, sec. 2; Okla. Terr. Laws 1897, ch. 34, p. 268 and Okla. Const. 1907, art. XIII, sec. 3; S.C. Const. 1895, art. XI, sec. 7; Tenn. Const. 1870, art. XI, sec. 12 and Tenn. Laws 1869–70, ch. 33, sec. 4, p. 41; Tex. Const. 1876, art. VII, sec. 7 and Tex. Laws 1876, ch. 120, sec. 53–54, p. 209; Va. Laws 1869–70, ch. 259, sec. 47, and Va. Const. 1902, sec. 140; W. Va. Acts 1866, ch. 74, sec. 26, p. 62, W. Va. Laws 1867, ch. 98, sec. 19, p. 117 and W. Va. Const. 1872, art. XII, sec. 8.

[47] The first statutes extending segregation to the college level were: Tenn. Laws 1901, ch. 7, p. 9; Ky. Acts 1904, ch. 85, pp. 181–82; Okla. Laws 1907–08, ch. 77, art. X, sec. 5, p. 695.

[48] In the total Negro population of 4,441,830 in the United States in 1860, about 11 percent, or 488,070, were free. In the Southern States there were 250,787 free Negroes as compared with almost 4 million slaves, or about 6 percent. Woodson, *The Negro in Our History* 244–45 (6th ed., 1931).

[49] See note 4 *supra.*

prohibitions against religious tests for faculty, officers, and students were included in the laws establishing several of these early public institutions,[50] the only reference to race or color was found in the law establishing the University of Missouri, where it was stated that "no person shall be chosen as curator * * * who shall not be a free white citizen in the United States. * * *" [51]

After the Civil War, public school systems were for the most part established for the first time in the South.[52] With a few exceptions,[53] they were established from the start on a dual basis. Among the exceptions were Louisiana and South Carolina, whose first post-Civil War constitutions prohibited racially separate public schools, and even extended this policy to institutions of higher learning.[54] These constitutions were, however, soon superseded, and separate schools (although not colleges) were required.[55] Before 1900 all of the Southern States had explicitly provided for statewide public school systems with separate schools for the two races.[56]

None of the statutes requiring segregation of public schools applied also to colleges. But public colleges specifically for Negroes were being established—both normal schools, to meet the need for teachers for the Negro public schools,[57] and also land-grant institutions, established mainly under the stimulus of the second Morrill Act.[58] The laws

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[50] University of Alabama (1821), Ala. Acts Nov. 1821, sec. 1, p. 3; Newark College (1833) (now University of Delaware) 8 Del. Laws (1830–35) ch. 257, p. 283; University of Maryland (1784), 1 Maxcy's Laws of Maryland, ch. 37, p. 501 (1811).

[51] 2 Mo. Rev. Stats. 1845, ch. 171, sec. 4, p. 1034.

[52] Ala. Const. 1867, art. XI, secs. 1, 4 and 5, and Ala. Laws 1868, p. 148; Ark. Acts 1866–67, No. 160, p. 415 (whites), and citations *supra* note 46; Ga. Laws 1866, title X, sec. 3, p. 59 (whites) and citations *supra* note 46; Ky. Laws 1837–38, ch. 898, sec. 18, p. 278, Ky. Laws 1863–64, ch. 196, art. 5, p. 32 (whites) and citations *supra* note 46; Md. citations *supra* note 46; Miss. Const. 1868, art. VIII, sec. 1; Okla. Terr. Acts 1893, ch. 73, sec. 8, p. 1104 (permissive segregation); S.C. Const. 1868, art. X, secs. 3, 10; Tenn. Laws 1866–67, ch. 27, sec. 17, pp. 39–40; Tex. Const. 1866, art. X, secs. 1, 2 and 7; Va. citations *supra* note 46; W. Va. Laws 1863, ch. 137, sec. 17, pp. 250–51.

[53] In Arkansas, Georgia, and Kentucky the first schools were established for whites only. See note 52 *supra*. These were soon followed by separate schools for each race under compulsion of State law. See note 46 *supra*. In Mississippi no reference was made to race in the constitutional directive to establish free public schools for all children nor in the statutory implementation thereof. Miss. Const. 1868, art. VIII, secs. 1 and 5, Miss. Laws 1870, ch. 1, sec. 49, p. 17. See also note 54 *infra*.

[54] The Louisiana constitution of 1868, title VII, art. 135, provided for free public schools and institutions of higher learning for all children "without distinction of race, color, or previous condition." Separate schools or institutions of learning also were expressly prohibited. The Louisiana constitution of 1879 omitted the nondiscriminatory provisions contained in the constitution of 1868, and the constitution of 1898, art. 248, required separate free public schools for the white and colored races.

The South Carolina constitution of 1868, art. X, secs. 3 and 10, directed the general assembly to establish free public schools and declared that all public schools and colleges of the State, supported in whole or in part by public funds, should be free and open to all youths of the State, without regard to race or color. In 1870 the general assembly provided for the recording of sex and color of all school children in each district. S.C. Acts 1870, No. 238, p. 339. Segregation was not made mandatory until the adoption of the constitution of 1895. See note 46 *supra*.

[55] See note 46 *supra*.

[56] *Ibid.*

[57] See p. 6, *supra*.

[58] See pp. 6–8, *supra* and app. A.

establishing these colleges clearly set as their purpose the education of Negroes. Since, simultaneously with the creation of normal schools and land-grant colleges for Negroes, similar institutions for white citizens were being established,[59] a general pattern of racial segregation in practice was established at the college level before 1900. The Federal land-grant program, and especially the second Morrill Act, gave particular impetus, as well as Federal blessing, to this pattern of segregated higher education.[60]

The first brick in the wall of compulsory segregation in higher education was laid by Tennessee, which in 1901 became the first State to adopt a statute requiring racial segregation in all colleges in the State.[61] Kentucky followed in 1904,[62] and Oklahoma in 1908.[63] By 1910 these were the only Southern States where there was a general policy of compulsory racial segregation in institutions above the high school level. In the other 14 States such segregation depended upon the legislative creation of a normal school, college, or university specifically designated to be for the education of white or Negro youth.

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[59] The laws authorizing the normal schools for Negroes listed in notes 25–27 *supra* also provided for normal schools for whites in the States of Florida, Louisiana, and North Carolina. Land-grant colleges for white citizens were established, or a previously created State institution designated to be the land-grant college, following the adoption of the first Morrill Act of 1862. After the second Morrill Act in 1890 the racial character of these institutions was clear.

[60] See p. 8, *supra*.

[61] See note 47, *supra*.

[62] *Ibid.*

[63] *Ibid.*

CHAPTER 2

THE "SEPARATE BUT EQUAL" DOCTRINE AND ITS EVOLUTION

THE RULE OF THE "PLESSY" CASE

In 1896 the Supreme Court seemingly sanctioned the system of segregated education in the South as not in conflict with the 14th amendment. While *Plessy* v. *Ferguson*[1] concerned segregation in transportation, not in education, the Supreme Court's opinion did, in dictum, mention segregated schools as among permissibly separated activities, and the decision was widely accepted as authority for the continuation of racially separate educational systems. At issue in the case was the constitutionality under the 14th amendment of a Louisiana statute requiring "equal but separate" facilities for white and colored persons on railroads operating within the State. The Court conceded that the object of the 14th amendment "was undoubtedly to enforce the absolute equality of the two races before the law" but refused to read into the amendment any intent "to enforce social, as distinguished from political, equality."[2] It found that separation of the races did not necessarily imply inferiority of either race to the other, and was a reasonable exercise of the State's police power.

In support of this argument, the Court cited the established practice of separate schools for whites and Negroes in such a liberal State as Massachusetts, approved by that State's supreme court,[3] and in localities, such as the District of Columbia, directly administered by the Federal Congress. The Court said:[4]

> * * * we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the fourteenth amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

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[1] 163 U.S. 537 (1896).

[2] *Id.* at 544.

[3] *Ibid.* The Court cited Roberts v. City of Boston, 59 Mass. (5 Cush.) 198 (1849). It should be noted, however, that segregation no longer prevailed in Massachusetts in 1896. In 1855 the legislature prohibited any racial distinctions in the admission of pupils to public schools. Mass. Acts and Resolves 1855, ch. 256.

[4] 163 U.S. at 550–51.

Although this reference to school segregation was used merely as an illustration, for the next 58 years the Supreme Court was deemed to have approved racial segregation in educational facilites.

Justice Harlan, in a vigorous and prophetic dissent, strongly attacked the Court's reasoning in *Plessy*. Asserting that "our constitution is color-blind," [5] he went on to argue: [6]

> The arbitrary separation of citizens, on the basis of race * * * is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the constitution.
>
> * * * We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of the law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead any one, nor atone for the wrong this day done.

Twelve years later, the Supreme Court decided in *Berea College* v. *Kentucky* [7] that the matter of segregation of the races in education was one to be left entirely to the States. Berea, a private college incorporated under Kentucky law in 1854, and which operated on a biracial basis both before and after the Civil War, was found guilty of violating a 1904 Kentucky statute [8] that made it unlawful for any person or corporation to maintain any school or college where persons of both the white and Negro races were taught.

The Kentucky Court of Appeals affirmed the judgment of the lower court on the issue of constitutionality of the statute, holding that the college, as a corporation created by the State, had no natural right to teach at all, since all its rights under its charter were subject to the withholding or amending powers of the State.

The Supreme Court of the United States on review turned aside the general question of segregation of the races as not in issue and sustained the constitutionality of the law on the limited ground used by the State court, saying, "In creating a corporation a state may withhold powers which may be exercised by and cannot be denied to an individual." [9]

SEPARATE BUT UNEQUAL

With this tacit approval of the Supreme Court the Southern States continued to enforce racial segregation in public education throughout the first three decades of the 20th century. Although the public schools and colleges in these States were completely separate, they were in fact far from equal. The inequality is readily apparent from a comparison of State appropriations for institutions of higher edu-

[5] *Id.* at 559.
[6] *Id.* at 562.
[7] 211 U.S. 45 (1908).
[8] Ky. Acts 1904, ch. 85, p. 181.
[9] 211 U.S. at 54.

cation for whites and Negroes. Such a study of six Southern States for the year 1937–38 showed that the Negro colleges' share of State appropriations for State colleges and universities was between 4 to 10 percent of the total State appropriations for State colleges and universities.[10] Since Negroes made up 22 to 45 percent of the population of these States, the disparity is apparent.[11] It is also evident that most public Negro colleges were not much more than glorified high schools during the first third of the 20th century. An official study of Negro land-grant colleges in 1928 showed that only 37.5 percent of the total students enrolled were taking college courses while 62.5 percent were in elementary and secondary grades.[12] In the Negro land-grant colleges in both Alabama and Arkansas, where only 2 years work of college grade was offered, the proportion of elementary and secondary students enrolled in the land-grant college exceeded 90 percent of the total enrollment. On the other hand, both the North Carolina and Texas land-grant colleges had eliminated elementary schooling by this date. And in Oklahoma, Tennessee, Texas, and West Virginia the percentage of college-grade students exceeded those in the lower grades.[13]

In the year 1933, a total of approximately 37,000 Negro students were attending public and private Negro colleges in the Southern States.[14] Of the public institutions, however, only two, West Virginia State College and Virginia State College, were fully accredited by their regional associations.[15] In fact, not a single Negro college or university in the country appeared on the list of approved institutions of the Association of American Universities.[16] The public Negro colleges of this period were also deficient as compared with the white institutions with regard to the type of training provided. None offered any courses beyond the baccalaureate degree, nor did they contain professional schools of any kind.[17]

TUITION GRANTS AND THE FIRST CHALLENGES TO SEGREGATION

While the public Negro colleges were struggling to be colleges in more than name, the white colleges in the South had expanded and improved their programs, particularly in the field of graduate and professional training, leaving the Negro institutions far behind. To

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[10] Frazier, *The Negro in the United States* 472–73 (1958).

[11] *Cf.* population census figures for 1950 in *1959 Report* at 167.

[12] Klein, *Survey of Land-Grant Colleges and Universities* 896 (U.S. Department of the Interior, Bureau of Education, bull. No. 9, vol. II, 1930).

[13] For the exact number of college and subcollegiate students in each Negro land-grant college in 1928, see app. B, tables 1 and 2.

[14] Franklin, *From Slavery to Freedom* 539 (1947).

[15] Holmes, *The Evolution of the Negro College* 199–200 (1934).

[16] Thompson, "The Problem of Negro Higher Education," 2 *J. Negro Ed.* 262 (1933), See Selden, *Accreditation, The Struggle Over Standards in Higher Education* 67–76 (1960).

[17] Frazier, *op. cit. supra,* note 10, at 473.

achieve equality for Negro institutions by duplicating the facilities and programs available to whites would have been prohibitively costly.

The more realistic States voluntarily took the first steps toward providing graduate and professional training for Negro residents by enacting statutes authorizing the payment of tuition grants to individual students for attendance at the professional schools that had been developed by such private institutions for Negroes as Atlanta University in Georgia, Fisk and Meharry in Tennessee, Tuskeegee in Alabama, Hampton in Virginia, and Howard in Washington, D.C.

The movement was pioneered by the Missouri Legislature, which passed a law in 1921 authorizing payment of the tuition fees of any Negro resident who wished to attend a university in an adjacent State to take a course of study that was offered at the University of Missouri, but not at Lincoln University, the State's Negro institution.[18]

West Virginia in 1927, Maryland in 1933, Oklahoma in 1935, and Kentucky and Virginia in 1936 voluntarily enacted similar legislation.[19] Under the pressure of court action, Tennessee (1937), North Carolina (1939), and Louisiana (1946), adopted similar programs.[20] By 1948 almost all of the Southern States had provided for such out-of-State graduate tuition grants.[21]

Although the tuition-grant programs were a significant effort to close the gap of inequality resulting from segregation, they eventually proved to be the Achilles' heel in the structure of segregated education under legal attack.

Challenges to the system of segregated education began in the early thirties. The attack started with and was long confined to suits directed toward securing admission to graduate and professional schools.

In 1933, Thomas R. Hocutt, a graduate of the North Carolina College for Negroes at Durham, applied for admission to the School of Pharmacy of the University of North Carolina, considered at the time to be one of the more liberal institutions in the South. Upon rejection of his application on the ground that he had not complied with entrance requirements, he sought a court order directing his admission to the university. His case was lost in a lower State court on technical grounds,[22] and he could not appeal because the president of his undergraduate Negro college refused to certify his scholastic record. He was later admitted to Columbia University.[23]

[18] Mo. Laws 1921, p. 87.

[19] W. Va. Acts 1927, ch. 10, p. 13; Md. Laws 1933, ch. 234, p. 407; Okla. Laws 1935, ch. 34, p. 138; Ky. Acts 1936, ch. 43, p. 110; Va. Acts 1936, ch. 352, p. 561.

The bill passed in February 1936 by the Kentucky Legislature was sponsored by a Negro representative, Charles W. Anderson. *NAACP Ann. Rep. 1936* at 12.

[20] Tenn. Acts 1937, ch. 256, p. 1048; N.C. Laws 1939, ch. 65, p. 88; La. Acts 1946, No. 142, p. 412.

[21] Texas Special Laws 1939, ch. 8, pp. 310, 359 (appropriation act); Ark. Acts 1943, ch. 345, p. 769; Ala. Acts 1945, No. 64, p. 61; Fla. Laws 1947, ch. 24124, sec. 1; Miss. Laws 1948, ch. 282, p. 306; see also N.Y. Times, Jan. 19, 1947, p. 18.

[22] N.Y. Times, Apr. 2, 1933, sec. 6, p. 7.

[23] Dalomba, "The Racial Integration Movement in the State Universities of the South, 1933–54," at 12 (unpublished thesis, N.Y. University, 1956).

Hocutt's attempt to obtain professional training within the State made the North Carolina Legislature aware of a need for immediate action. A bill to provide out-of-State tuition grants for Negro graduate students was passed in the State senate but defeated in the house in 1936. The following year the legislature authorized the Governor to appoint a commission to study the State's public schools and colleges for Negroes. The commission's report presented to the general assembly in 1939 brought about the enactment of a statute and the appropriation of funds for scholarships to Negro residents duly admitted to a graduate or professional school outside the State for the purpose of securing training offered at the University of North Carolina, but not at the then North Carolina College for Negroes at Durham.[24]

Another event disclosing the inadequacy of separate facilities in higher education occurred in Virginia in 1935, when Alice Jackson, a 1934 graduate of Virginia Union University, who had already completed about half of the required graduate work for a master's degree in French at Smith College in Massachusetts, applied for admission to the Graduate School of Romance Languages of the University of Virginia at Charlottesville.[25] While her application was pending, the press spotlighted the real issue involved: "that neither Virginia nor many other Southern States provided graduate and professional educational facilities for Negroes."[26]

The New York Times reported that there was no hope of success for the petition, noting:[27]

> Since the graduate department has considerable leeway in the admission of students, and since the institution from which the applicant graduated is not on the accredited list of the Association of American Universities to which the University of Virginia belongs, technical reasons may be found denying the application.

Alice Jackson's application was rejected by the board of visitors of the university in unambiguous terms. The New York Times reported the following statement by the rector of the board:[28]

> The education of white and colored persons in the same schools is contrary to the long established and fixed policy of the Commonwealth of Virginia.
>
> Therefore, for this and for other good and sufficient reasons not necessary to be herein enumerated, the rector and board of visitors of the University of Virginia direct the dean of the department of graduate studies to refuse respectfully the pending application of a colored student.

Contrary to expectations, no court action appears to have followed the rejection of the application.

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[24] N.C. Laws 1939, ch. 65, p. 88.

[25] The Norfolk Virginian Pilot, Aug. 27, 1935, sec. 1, p. 1, sec. 2, p. 3. See also Dalomba, *supra* note 23 at 12.

[26] N.Y. Times, Sept. 1, 1935, sec. 4, p. 6.

[27] *Ibid.*

[28] N.Y. Times, Sept. 20, 1935, p. 23.

On March 27, 1936, however, the Virginia Assembly enacted the Stephen-Donell bill providing tuition grants to Negroes to obtain graduate and professional education at private colleges in Virginia or institutions in other States.[29] This program continued in Virginia until November 15, 1955, when the State attorney general ordered the suspension of further payments to graduate students currently enrolled in out-of-State institutions on the ground they were improper under a State supreme court decision.[30]

EQUALITY REQUIRES EDUCATIONAL OPPORTUNITY WITHIN THE STATE

The year 1936 brought the first judicial assessment of the tuition-grant method of achieving equality of educational opportunities for Negroes, and the first breach in the structure of segregated education. In *Pearson* v. *Murray*,[31] the Maryland Court of Appeals held that tuition grants did not provide the equality required by the equal-protection clause, and directed the admission of a Negro to an all-white State institution. Within the next 14 years all southern white State-supported colleges and universities, except those located in Alabama, Florida, Georgia, Mississippi, and South Carolina, also opened their graduate and professional schools to Negro students.

In 1935, Donald Murray, an Amherst College graduate, applied to the University of Maryland Law School but was rejected because of his race. There was no State-supported law school for Negroes. A 1933 law authorized the regents of the University of Maryland to set aside part of the State appropriation for the Princess Anne Academy, the Negro branch of the University of Maryland, for partial scholarships to Morgan College (then a private Negro college in Baltimore), or to out-of-State institutions, for professional courses offered whites at the university, but not to Negroes at the academy.[32] Murray declined to apply for an out-of-State tuition grant, however, and instead sought a court order requiring the university to admit him. He appealed from an adverse decision below, and presented the Maryland Court of Appeals with an opportunity to spell out for the first time the kind of equality required by the 14th amendment.

In delivering the court's opinion, Chief Judge Bond stated:[33]

> Equality of treatment does not require that privileges be provided members of the two races in the same place. The state may choose the method by which equality is maintained.
>
> Separation of the races must nevertheless furnish equal treatment.

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[29] Va. Acts 1936, ch. 352, p. 561.

[30] Almond v. Day, 89 S.E.2d 851 (Va. 1955). Sec. 141 of the Virginia constitution was later amended by a constitutional convention in March 1956 to permit appropriations of State funds for that purpose, as had been done in 1952 for the Southern Regional Education program. So. School News, Dec. 1955, p. 3.

[31] 182 Atl. 590 (Md. 1936).

[32] Md. Laws 1933, ch. 234, p. 407.

[33] 182 Atl. at 592–93.

The court found that an out-of-State tuition grant lacked this equality. The financial cost of living away from home instead of commuting, and the deprivation of the opportunity to study law in the State where he expected to practice, destroyed, in the court's opinion, equality of treatment of a Negro law student as compared with that given a white student. Murray was therefore ordered admitted to the University of Maryland Law School in 1936. He graduated 12th in a class of 37 in 1938.[34]

To remedy the situation highlighted by the court's decision, at least at the undergraduate level, the State of Maryland took over Morgan College, a private liberal arts college in Baltimore, which then became Morgan State College.[35]

Encouraged by the success of the *Murray* case, William B. Redmond, a Nashville Negro student, applied in September 1936 for admission to the School of Pharmacy of the University of Tennessee to obtain graduate instruction unavailable at the State college for Negroes. After his application was rejected, he filed suit in the chancery court of Memphis, Tenn.,[36] challenging the validity of the Tennessee law [37] which prohibited the maintenance of biracial schools and colleges within the State. Redmond petitioned the court for an order either admitting him to the University of Tennessee or, in the alternative, requiring the State to establish a separate school of pharmacy for Negroes. He urged that the act of 1869 establishing the Tennessee Agricultural College, predecessor of the University of Tennessee, provided that no citizen could be excluded therefrom by reason of race or color unless provisions were made for equivalent separate instruction.[38]

On April 16, 1937, the court denied the petition because Redmond, after rejection of his application by the university, had failed to appeal to the State board of education or to the legislature instead of directly to the court. The court suggested that the order requested would constitute judicial usurpation of legislative authority, for which the Supreme Court of the United States was being severely criticized at that time.[39]

Although the case was lost, once again it stimulated legislative action. In recognition of the urgency of remedying the existing inequities in the provisions for graduate education as between white and Negro students, the Tennessee Legislature enacted a statute on

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[34] Johnson, *A Study of the Admission and Integration of Negro Students Into Public Institutions of Higher Learning in the South* (Ashmore Papers, Manuscript Collection, Joint University Libraries, Nashville, Tenn., 1953; hereinafter referred to as *Ashmore Papers*).

[35] Md. Laws 1939, ch. 331, p. 719. Funds were appropriated for the purchase in the same year. Md. Laws, 1939, ch. 756, p. 1636.

[36] Redmond v. Hyman (unreported).

[37] Tenn. Laws 1901, ch. 7, sec. 1, p. 9.

[38] N.Y. Times, Feb. 28, 1937, p. 33.

[39] *Id.*, Apr. 17, 1937, p. 5.

May 21, 1937,[40] providing professional scholarships for Negroes to attend a private Negro college in Tennessee or an out-of-State institution to take courses not offered at the State Negro college, but offered at the University of Tennessee.

Stimulated by the *Murray* decision in Maryland, three other States proceeded one step further than tuition grants, and established graduate schools at the Negro State colleges. The Texas Legislature appropriated funds effective September 3, 1937, for a graduate department at the State college for Negroes at Prairie View,[41] and in 1936 Virginia, by resolution of the State department of education, provided for the establishment of graduate courses in education at the State college for Negroes at Ettrick, to be offered for the first time in the 1937 summer session.[42] Louisiana, also acting by resolution of the State board of education, established graduate courses in education for Negroes under the general direction of the dean of the graduate school of Louisiana State University in the summer of 1938.[43]

It was West Virginia, however, that took the ultimate logical step as a result of the *Murray* decision. This State had provided in 1927 for out-of-State tuition grants for Negro students whose race prevented them from receiving a desired graduate education at the University of West Virginia when a comparative program was unavailable at the West Virginia State College for Negroes.[44] But in 1938, two years after *Murray*, the University of West Virginia became the first public institution in the South voluntarily to admit Negro students to its graduate and professional schools.[45]

Thus, the *Murray* case resulted in voluntary action by some Southern States to correct the inequity of providing graduate and professional education for white students without offering similar programs for Negroes in State institutions. But as a decision by a particular State court it lacked authority as a legal precedent in other States. It was not until a similar challenge to the adequacy of separate educational facilities reached the Supreme Court of the United States in the case of *Missouri ex rel. Gaines v. Canada*,[46] in 1938, that there was a decision on this point of national significance, and one that became the law of the land.

Lloyd Gaines, a 1935 graduate of Lincoln University, Missouri, an honor student and president of his senior class, applied for admission to the University of Missouri Law School. His application was rejected because he was a Negro and the State constitution provided

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[40] Tenn. Acts 1937, ch. 256, p. 1048.

[41] Texas Laws 1937, ch. 444, sec. 5, p. 979.

[42] Clement, "Legal Provisions for Graduate and Professional Instruction of Negroes in States Operating a Separate School System," 8 *J. Negro Ed.* 144, 147 (1939).

[43] *Id.* at 144.

[44] W. Va. Laws, 1927, ch. 10, p. 13.

[45] Jordan, "Educational Integration in West Virginia," 24 *J. Negro Ed.* 371–72 (1955).

[46] 305 U.S. 337 (1938).

for "separate education of the races." Gaines sued in a State court, claiming the right to be admitted to the University of Missouri because no other provision had been made for the legal education of qualified Negro students in the State, although a Missouri law[47] not only authorized the curators of Lincoln University to provide out-of-State tuition fees for qualified Negroes but also authorized them to establish at Lincoln all necessary schools and departments. The lower court denied his claim and was sustained by the Supreme Court of Missouri in December 1937.[48]

The Supreme Court of the United States, on appeal, did not question the "separate but equal" doctrine as such, but found that grants for Negroes to attend law school out-of-State and a law school for whites within the State were not equal facilities, and that the applicant's right was a personal and individual one which entitled him to be admitted to the law school maintained for whites. The Supreme Court did, however, offer the State alternative choices to admitting Gaines to the white university: It could discontinue legal education at State institutions, or it could establish an adequate separate school of law for Negroes. The decision was handed down in January 1939, and Gaines prepared to enter the University of Missouri Law School in the fall term of that year.

The State legislature, however, selected the second alternative held out by the Supreme Court, and directed the board of curators of Lincoln University to "reorganize said institution so that it shall afford to the Negro people of the State opportunity for training up to the standards furnished at the State University of Missouri," and specifically to "open and establish any new school, department or course of instruction" to achieve that purpose.[49] The sum of $200,000 was appropriated to establish such graduate schools, and in September 1939 a law school opened at Lincoln University with an enrollment of 30 students.[50]

When the law was enacted, Gaines' attorneys challenged the adequacy of such hurriedly assembled facilities before the State supreme court. The court, however, refused to pass judgment on that factual question and sent the case back to the circuit court for the taking of necessary evidence in August 1939.[51] When the time came for Gaines' further testimony, it was revealed that he had disappeared and could not be located. To this day his whereabouts are unknown.[52] The case was of necessity dropped, and the full benefits of the United States Supreme Court decision were not then reaped in Missouri.

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[47] Mo. Laws 1921, pp. 86–87, sec. 7.
[48] State *ex rel.* Gaines v. Canada, 113 S.W.2d 783 (Mo. 1937).
[49] 2 Mo. Rev. Stat. 1939, ch. 72, art. 21, sec. 10774, p. 2831.
[50] Bluford, "The Lloyd Gaines Story," 22 *J. Ed. Sociology* 242, 245 (1959).
[51] State *ex rel.* Gaines v. Canada, 131 S.W.2d 217 (Mo. 1939).
[52] Bluford, *supra* note 50, at 245–46.

Nevertheless, a new standard of "separate but equal" had been established by the *Gaines* decision, one that marked a step forward in the development of constitutional concepts of equal protection of the laws. Equality thereafter required the same educational opportunity to be made available to all residents of a State.

It was apparent that the tax-supported colleges for Negroes in several Southern States were entirely inadequate under the new standard of equality set up by the Supreme Court. Several States still provided no graduate or professional training for Negroes.[53] A note of alarm was sounded soon after the *Gaines* decision by the president of the University of Georgia in an address before a conference of Southern college representatives:[54]

> We must do something quickly. Already the University of Georgia has received applications for admission from three Negroes and I understand a hearing is to be held soon on a petition for mandamus to force the University of Tennessee to admit six Negroes. * * * Similar situations doubtless exist in other Southern States. * * * The most practical solution would be the setting up of regional Negro universities to which all States in the region would contribute * * *.
>
> However, if it should not meet Supreme Court requirements—and it might not—two other possible solutions suggest themselves:
>
> 1. Expansion of Negro State colleges to provide for adequate instruction in law, medicine, teaching, the ministry, social work, and other such subjects.
> 2. Financial aid to privately-owned Negro colleges and universities to accomplish the same purpose, provided State laws will permit this.

The Legislature of North Carolina was the first to take voluntary action to comply with the *Gaines* decision by establishing departments for the study of law, pharmacy, and library science at the North Carolina College for Negroes at Durham in 1939.[55]

The following year Pauline Murray sued for admission to the School of Social Work of the University of North Carolina, but before the case came up for trial she registered as a voter in New York State and her petition was therefore dismissed for lack of residency within the State.[56]

A new pattern of State action began to appear at this time. As suits were filed by Negroes seeking admission to the graduate and professional schools of white State universities, State legislatures quickly responded by authorizing or establishing "equal" facilities at the Negro State institutions before the suits were adjudicated.

In September 1940, Lucille Bluford, a Negro, applied for the second time for admission to the Graduate School of Journalism at the Uni-

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[53] In the academic year 1949–50 no degree beyond a bachelor's was conferred by any public college for Negroes in the States of Arkansas, Delaware, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Oklahoma, and West Virginia. Badger, *Statistics of Negro Colleges and Universities: Students, Staff, Finances, 1900–1950* at 14–16 (Federal Security Agency, Office of Education, Cir. No. 293, 1951).

[54] Quoted in Ransom, "Education and the Law," 9 *J. Negro Ed.* 116 (1940).

[55] N.C. Laws 1939, ch. 65, sec. 2, p. 88.

[56] *Ashmore Papers.*

versity of Missouri. When she was again rejected, she brought action in a State court to secure admission and in a Federal court for damages.[57] Both suits were dismissed on the ground that she had failed to apply to the Negro university under the new statute for the establishment of a graduate school of journalism that could meet the standards of the white university. Even while the cases were pending on appeal, a graduate school of journalism was opened at Lincoln University. Therefore, the appeals were dismissed.

On October 18, 1939, four Negro students sought admission to the University of Tennessee Graduate School and two applied to the College of Law. When their applications were turned down, they sued unsuccessfully to compel admission in the chancery court of Knox County, Tenn. On appeal, the State supreme court on November 7, 1942, affirmed the adverse decision of the lower court on the ground that their cases were moot.[58] This ruling resulted from the action of the Legislature of Tennessee which in February 1941, while the case was pending, had directed the State board of education to provide educational training at the State college for Negroes equivalent to that provided for white citizens at the State university.[59] As a result the court held that the Negro students should have demanded that the State board of education provide the necessary facilities at the Negro institution under the new law.

In Kentucky, similarly, a Negro, Charles Eubanks, filed suit at first in a State court, then in a Federal court in 1941 after an unsuccessful attempt to enroll in the School of Engineering at the University of Kentucky. While the suit was pending, it was reported that the legislature had authorized the establishment of educational facilities at the college for Negroes equal to that provided for white citizens.[60] Apparently the action was then abandoned by Eubanks, as no record of prosecution of the suit was found.

In Louisiana, in 1946, two Negroes, Charles J. Hatfield and Viola M. Johnson, applied to Louisiana State University for admission to the schools of law and medicine, respectively. Upon being rejected because of their race, they sued in the Federal court for admission.[61] After the suit was filed, the State Legislature enacted a statute providing out-of-State tuition grants to Negroes for professional study.[62] In April 1947, the court dismissed the suit, reportedly on the ground that petitioners had failed to make proper demand upon Southern University, the State's Negro institution, for the educational facilities

[57] State *ex rel.* Bluford v. Canada, 153 S.W.2d 12 (Mo. 1941) ; Bluford v. Canada, 32 F. Supp. 707 (W.D. Mo. 1940), *appeal dismissed,* 119 F.2d 779 (8th Cir. 1941).
[58] State *ex rel,* Michael v. Witham, 165 S.W.2d 378 (Tenn. 1942).
[59] Tenn. Acts 1941, ch. 43, p. 136.
[60] *NAACP Ann. Rep. 1941* at 15 ; *NAACP Ann. Rep. 1942* at 15–16.
[61] N.Y. Times, Dec. 17, 1946, p. 39.
[62] La. Acts 1946, No. 142, p. 412.

in question.[63] The following fall, however, a law school was established at Southern University pursuant to a resolution of the State board of education.[64]

South Carolina also responded to the pressure of litigation. In July 1946, a Negro sued in the Federal district court for admission to the University of South Carolina Law School, the only law school operated by the State.[65] The court, following the *Gaines* case closely, found the plaintiff entitled to facilities equal to those afforded white residents but, treating segregation "as a political rather than a judicial problem," [66] left the selection of such equal facilities to the State. The court gave the State the choice of offering plaintiff a legal education at the State university law school, or at some other State institution, or of furnishing no legal education to any resident of the State of either race.

In 1945, the General Assembly of South Carolina had authorized the board of trustees of the Colored Normal Industrial, Agricultural, and Mechanical College at Orangeburg to establish graduate law and medical departments; [67] in 1946, it appropriated $25,000 for a graduate school in that college; [68] and in 1947, while the Federal court suit was pending, it appropriated $60,000 for a "Graduate and Law School," [69] the latter sum to be used as necessary to "maintain and operate a law school during the coming fiscal year." While the university appealed the district court's decision unsuccessfully, the State established a three-professor law school at the South Carolina State College for Negroes.[70]

Thus, in the 9 years following the *Gaines* decision, all of the States whose systems were challenged, save West Virginia, sought to preserve racial segregation by the expensive and difficult solution of establishing the requested graduate and professional schools in a State college for Negroes.

EQUALITY WILL BROOK NO DELAY

The quality of the separate graduate and professional schools for Negroes so hastily improvised was soon to be tested against the quality of the white graduate and professional schools, but before that occurred another attribute of equality was to be defined by the courts. This attribute might be termed "simultaneous availability."

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[63] Johnson and Lucas, "The Present Legal Status of the Negro Separate School," 16 *J. Negro Ed.* 289 (1947).

[64] For details as to the establishment of the law school, see Wilson v. Board of Supervisors, 92 F. Supp. 986, 987–88 (E.D. La. 1950).

[65] Wrighten v. Board of Trustees, 72 F. Supp. 948 (E.D. S.C. 1947).

[66] *Id.* at 950.

[67] S.C. Acts 1945, No. 223, p. 401.

[68] S.C. Acts 1946, No. 601, p. 1605.

[69] S.C. Acts 1947, p. 622.

[70] N.Y. Times, Nov. 22, 1947, p. 13.

Ada Sipuel, a Negro, applied for admission to the University of Oklahoma Law School, the only State law school, and upon rejection on January 14, 1946, brought action in the State district court to require her admission. She appealed the district court's adverse decision to the State supreme court, which affirmed the judgment on April 29, 1947, on the ground that the State had not had sufficient notice to set up a separate law school for Negroes for her.[71] The Supreme Court of the United States in *Sipuel* v. *Board of Regents*[72] reversed the State court's decision on January 12, 1948. The Supreme Court held that the State's duty under the equal-protection clause was not affected by Ada Sipuel's failure to demand the establishment of a separate law school. The Court stated:[73]

> The petitioner is entitled to secure legal education afforded by a State institution. To this time, it has been denied her although during the same period many white applicants have been afforded legal education by the State. The State must provide it for her in conformity with the equal-protection clause of the 14th amendment and provide it as *soon as it does for applicants of any other group.* [Emphasis added.]

On remand, the Supreme Court of Oklahoma directed the board of regents to afford Miss Sipuel an opportunity to begin the study of law at a State institution as soon as other citizens were afforded such opportunity in conformity with both the 14th amendment and the State statutes requiring racial segregation in higher education.[74] It then returned the case to the Oklahoma district court.

On January 22, 1948, the trial court ordered that, until a separate law school for Negroes was established, the plaintiff be enrolled, if she made timely application, in the first-year class of the law school at the University of Oklahoma, and that she remain there until a separate law school was ready or, in the alternative, that all applications for admission to the university law school be rejected. It further ordered that if a separate law school was established and ready to function, then the board of regents should not enroll the plaintiff in the university law school.[75]

The State seized the opportunity to continue segregation by opening a one-student law school under the title of "Langston School of Law" in the State capital. However, Ada Sipuel, then Mrs. Fisher, refused to attend. Instead, she reapplied for admission to the University of Oklahoma Law School, joining five other Negro students who were applying for admission to study architectural engineering, education, business administration, and biology at the university for the 1948

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[71] Sipuel v. Board of Regents, 180 P.2d 135 (Okla. 1947).
[72] 332 U.S. 631 (1948).
[73] *Id.* at 632–33.
[74] Sipuel v. Board of Regents, 190 P.2d 437 (Okla. 1948).
[75] N.Y. Times, Jan. 23, 1948, p. 25.

spring term.[76] At the same time, Mrs. Fisher asked the United States Supreme Court to review the Oklahoma trial court's decree.

The board of regents of the university then sought the advice of the State attorney general as to its duty regarding the new applicants. The attorney general advised against their admission because, as to Mrs. Fisher, a court order for immediate admission to equal facilities was in effect and such facilities had been supplied by the State, and as to the other five applicants, no court order had been obtained.[77] Accordingly, all these applications were rejected on February 12, 1948, solely because of race.

The Supreme Court of the United States then handed down its ruling on Ada Sipuel Fisher's second petition. In a per curiam decision on February 16, 1948, the Court denied the petition and sustained the order of the State court,[78] stating that the issue as to whether the establishment of a separate Negro law school would satisfy the equal-protection clause had not been raised in the State court and was not before it.

The next requirement of "separate but equal" was, however, clearly forecast by Justice Rutledge's dissent.[79]

> Obviously no separate law school could be established elsewhere overnight capable of giving petitioner a legal education equal to that afforded by the State's long-established and well-known State university law school. Nor could the necessary time be taken to create such facilities, while continuing to deny them to petitioner, without incurring the delay which would continue the discrimination our mandate required to end at once. Neither would the State comply with it by continuing to deny the required legal education to petitioner while affording it to any other student, as it could do by excluding only students in the first-year class from the State university law school.

The case was returned once more to the Oklahoma district court, which on August 2, 1948, again refused to order the admission of Mrs. Fisher and two other students who also had been denied admission to the university in February. As to Mrs. Fisher, the grounds again were that a separate law school, which she refused to attend, had already been provided for her. As to the other students, the court held that their applications, filed with the university 3 days before the opening of the winter session, were too late to allow the State reasonable time to set up the separate graduate schools required.[80] It should be noted that this ground had been used by the State court for rejection of the first *Sipuel* petition, which action had already been reversed by the United States Supreme Court.

One of the rejected applicants, Maude Hancock Wilson, then appealed to the State supreme court, and at the same time reapplied for

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[76] *Id.*, Jan. 29, 1948, p. 21.
[77] *Id.*, Jan. 30, 1948, p. 25.
[78] Fisher v. Hurst, 333 U.S. 147 (1948).
[79] *Id.* at 152.
[80] N.Y. Times, Aug. 3, 1948, p. 23.

admission to the university. The Oklahoma attorney general, however, advised the university that it was under no obligation to admit her[81] although it had meanwhile enrolled another Negro, G. W. McLaurin, as a result of a Federal court order.[82] Since McLaurin's had been a class action and the court order in his favor applied to all similarly situated, Mrs. Wilson, upon the second denial of her application, brought suit in the United States district court as a member of the same class as McLaurin. The Federal district court, however, dismissed her case on the theory that she did not belong to McLaurin's class in view of her election to pursue an equally adequate remedy in the courts of the State, and in view of her tardiness in reapplying for admission.[83] While the new requirement of simultaneity had thus been established in the *Sipuel* case, this extensive litigation had a successful outcome only for the student who had sued initially in a Federal court, G. W. McLaurin.[84] He was in fact admitted to the University of Oklahoma for graduate studies in education in 1948.

The period immediately following the first Supreme Court decision in the *Sipuel* case in January of 1948 was one of intense and widespread activity in the field of higher educational opportunities for Negroes. The opinion in the *Sipuel* case outlining the duty of a State to furnish the same educational programs for Negroes as for whites, and to provide them at the same time, was all too clear. Consequently, the first 10 months of 1948 brought a mixed pattern of accelerated resistance on the part of some Southern States and of timely compliance on the part of others.

THE SOUTHERN REGIONAL EDUCATION COMPACT

Early in 1948 a group of Southern States made a last desperate effort to avoid the tremendous financial burden of setting up reasonably equal and separate professional and graduate educational facilities within each State.

In February 1948, the Governors of 14 Southern States held a conference at Wakulla Springs, Fla.[85] Less than a month after the first Supreme Court decision in the *Sipuel* case they signed a compact that has been called the southern regional education compact.[86] The

[81] N.Y. Times, Oct. 24, 1948, sec. 1, p. 34.

[82] McLaurin v. Oklahoma State Regents, 87 F. Supp. 526 (W.D. Okla. 1948). See pp. 29–30 *infra*.

[83] 87 F. Supp. at 531.

[84] Ada Sipuel Fisher eventually was admitted to the Law School of the University of Oklahoma in June 1949, after the State legislature amended the school segregation laws as to higher education. N.Y. Times, June 9, 1949, p. 24. See pp. 29–30 *infra*.

[85] The States represented were Alabama, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

[86] N.Y. Times, Feb. 9, 1948, p. 15. The legislatures of all the signatory States except West Virginia ratified the compact within the next 2 years, Ala. Acts 1949, No. 227, p. 327; Ark. House Concurrent Resolution No. 13 approved Mar. 2, 1949, as amended by Act of Feb. 15, 1957, Ark. Acts 1957, No. 51, p. 184; Fla. Laws 1949, ch. 25017, p. 37; Ga.

compact declared the territory of the signatory States to be a single region and provided for the establishment of cooperatively owned and operated regional educational institutions to provide professional, technological, scientific, and literary higher education for both white and Negro students outside their States of residence. The ownership and all powers and functions necessary for the acquisition, operation, and maintenance of these educational institutions were vested in the board of control for southern regional education, composed of the Governor and four citizens of each participant State. Each State would contribute a share of the expenses.[87] The compact also approved a proposal of Meharry Medical College of Nashville, Tenn., to turn over all its facilities for operation as a regional public institution for medical, dental, and nursing education.[88] Meharry, a private Negro institution, and the Medical School of Howard University, a federally financed but privately controlled institution in Washington; D.C., were the only colleges in the Southern States offering medical, dental, and nursing training to Negroes.[89]

A joint resolution giving the consent of the Congress to the compact was introduced in the Senate by 28 Senators from 15 Southern States. Hearings on the resolution were held by a subcommittee of the Committee on the Judiciary. Thirty-five witnesses testified, including both representatives of the compact States in support of the bill and representatives of Negro organizations and labor unions opposing it as an attempt to circumvent the constitutional requirement of the *Gaines* case.[90] Although it was reported out by the Senate Committee on the Judiciary, the measure died when a companion House joint resolution, brought to the floor of the Senate, failed of adoption by referral to the Judiciary Committee on May 13, 1948, by a vote of 38 to 37.[91]

Laws 1949, Vol. I, No. 4, p. 56; La. Laws 1948, No. 367, p. 982; Md. Laws 1949, ch. 282, p. 706; Miss. Laws 1948, ch. 284, p. 307; N.C. Laws 1949, p. 1716; Okla. Laws 1949, p. 790; S.C. Laws 1948, No. 860, p. 2221; Tenn. Acts 1949, ch. 82, p. 280; Texas Acts 1951, ch. 331, p. 567; Va. Acts 1950, p. 1648.

The States of Delaware and West Virginia joined the compact by authority of their legislatures at a later date. Del. Laws 1955–56, Part II, ch. 646, p. 1439; W. Va. Laws 1955–56, ch. 9, p. 686. Kentucky, although not represented at the Wakulla Springs conference, also joined the pact, on Mar. 25, 1950, Ky. Acts 1950, ch. 252, p. 841; Joint Resolution of Mar. 25, 1950, Ky. Acts 1950, ch. 255, p. 850, but with the following proviso (sec. 2, p. 851):

"SEC. 2. In its participation in the regional compact * * * the Comomnwealth of Kentucky shall not erect, acquire, develop, or maintain in any manner any educational institution within its borders to which Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races."

[87] For full text of compact see Hearings on S.J. Res. 191 Before a Subcommittee of the Senate Committee on the Judiciary, 80th Cong., 2d Sess. 7 (1948).

[88] *Ibid.*

[89] *Id.* at 31–33 (testimony of Dr. M. Don Clawson, president, Meharry Medical College).

[90] Hearings, *supra*, note 86.

[91] 94 Cong. Rec. 5777 (1948).

Although scholarships were made available by the States under this program and accepted by many Negroes, the concept of a regional authority approved by the Congress was never realized. Court actions to secure educational opportunity within the State continued to be brought, and scholarships to out-of-State institutions continued to be found insufficient to meet the constitutional standards enunciated in the *Gaines* case.[92]

THE QUALITY OF EQUALITY

The death blow to segregation, at least at the graduate and professional level, was to come when *Sweatt* v. *Painter*[93] reached the United States Supreme Court in 1950. The Court there set forth such strict standards of equality to be met by State segregated institutions that for all practical purposes "separate but equal" was no longer a meaningful concept.

While that case was reaching the Supreme Court, however, there were other developments in some Southern State universities leading to the breakdown of the exclusionary policies of the graduate and professional schools.

On January 30, 1948, the president of the University of Arkansas announced that its school of law was prepared to admit Clifford Davis, a Negro student from Little Rock, who had been rejected for admission in the previous year and was then studying at Howard University. The announcement specified that the courses would be held in the law school building, and taught by regular members of the law school faculty, but on a racially segregated basis.[94]

Davis did not reapply, but on February 2, 1948, another student, Silas Hunt, a World War II veteran and a 1946 graduate of Arkansas Agricultural and Mechanical College, became the first Negro to be admitted to the university law school.[95] Another Negro, W. A. Branton, of Pine Bluff, applied for admission as an undergraduate student in the College of Business Administration of the University of Arkansas and was rejected.[96] Silas Hunt attended law school in a separate classroom with a few white students, and was assigned completely segregated eating and studying facilities.[97]

On August 23, the Medical School of the University of Arkansas announced that in the future it would consider applications from Negro residents of the State, and that Edith Mae Irby, of Hot Springs,

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[92] *E.g.*, McCready v. Byrd, 73 A.2d 8 (Md.), *cert. denied*, 340 U.S. 827 (1950).

[93] 339 U.S. 629 (1950). See pp. 31–33, *infra*.

[94] N.Y. Times, Jan. 31, 1948, p. 32.

[95] N.Y. Times, Feb. 3, 1948, p. 27. It was reported at this time that some 75 years earlier a Negro had been admitted to the university and had attended similar separate classes for a short time as an undergraduate student. *Ibid.*

[96] *Ibid.*

[97] *Ibid.* Stephan, "Desegregation of Higher Education in Arkansas," 27 *J. Negro Ed.* 246 (1958).

Ark., a graduate of Knoxville College, would be admitted for the next term on an entirely nonsegregated basis. The university's vice president stated that "she will be a part of her class just like any other member. It is a physical impossibility in a medical program to offer any measure of segregation." [98]

In the fall of that year another Negro student was admitted to the University of Arkansas Law School, and all attempts to segregate the students after admission disappeared in the law school also.[99]

By the 1949–50 academic year two other Negroes were enrolled in the University of Arkansas Law School without restrictions as to class and study accommodations. In September 1950 there were five Negro students in the law school and two in the medical school at the University of Arkansas.[1]

The University of Arkansas also initiated desegregation in its 1949 summer session by admitting graduate students in education, and in the fall of that year the Graduate Center of the University of Arkansas opened at Little Rock with 59 Negroes in a student body of 290.[2]

On January 31, 1948, 1 day after the University of Arkansas announced its new policy of admitting Negroes to its graduate and professional schools, the border State of Delaware announced that it would admit Negro graduate students to the State-supported University of Delaware for courses not available at Delaware State College for Negroes.[3]

As has been mentioned earlier,[4] on October 6, 1948, a Federal district court, following the principles laid down by the Supreme Court in the *Sipuel* case, held that Oklahoma had a constitutional duty to afford G. W. McLaurin the graduate education he sought as soon as it provided such studies for applicants of any other group, and that the Oklahoma statutes denying him admission solely on the ground of race were unconstitutional and void.[5]

McLaurin was immediately admitted to the University of Oklahoma, and the Oklahoma Legislature on May 28, 1949, enacted an amendment to its segregation laws making an exception to the rule of segregation where programs of instruction were offered at State institutions for whites but not at the Negro college.[6] In such cases Negroes might be admitted to the white institutions, but it was still required that courses be given within those institutions "on a segregated basis." [7] It was on such a basis that McLaurin commenced his graduate studies at the

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[98] N.Y. Times, Aug. 24, 1948, p. 26.
[99] Stephan, *supra*, note 97, at 247.
[1] N.Y. Times, Sept. 3, 1950, sec. 1, p. 25.
[2] Stephan, *supra*, note 97, at 248.
[3] N.Y. Times, Feb. 1, 1948, p. 14.
[4] See p. 26, *supra*.
[5] McLaurin v. Oklahoma State Regents, 87 F. Supp. 526 (W.D. Okla. 1948).
[6] Okla. Acts 1949, ch. 15, p. 609. N.Y. Times, May 29, 1949, p. 4.
[7] *Ibid.*

University of Oklahoma. However, he challenged in court the segregation thus imposed on him, and the Supreme Court's eventual ruling on this question was to further weaken the structure of racial segregation.

Pursuant to the Oklahoma legislation just mentioned, three State institutions opened their doors to Negro graduate students between September 1949 and September 1952.[8]

Kentucky went a step further than Oklahoma. On April 27, 1949, a United States district court ordered the University of Kentucky to admit Negro students who had been rejected by its graduate school.[9] To provide the same program at both the Negro and the white institutions, a scheme had been devised whereby professors from the white university taught Negro students all courses offered at the university but not given at the Negro college. However, there were no graduate seminars open to Negroes and library services were almost inaccessible. The court held that the facilities thus provided were in fact unequal, and that to deny the petitioners admission to the University of Kentucky under such circumstances was a denial of equal protection of the laws.

As a result of this decision, 30 Negro students entered the University of Kentucky in the summer session of 1949,[10] and 9 were admitted in the fall term of that year. In the following academic year, 24 enrolled as regular students in the graduate and professional schools and in the undergraduate school of engineering.[11]

Following Oklahoma's example, the Kentucky Legislature on March 9, 1950, amended the law requiring segregation in all educational facilities of the State, to open the white State colleges not only at the graduate and professional level but also in the undergraduate schools for all courses not offered at Kentucky State College for Negroes.[12]

In August 1949 the University of Texas Medical School in Galveston admitted its first Negro student on a temporary basis, while awaiting the construction of a separate medical school at Texas State University for Negroes, and upon the condition that the medical degree would be conferred by the Negro university.[13]

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[8] Commission questionnaires, Oklahoma.

[9] Johnson v. Board of Trustees, 83 F. Supp. 707 (E.D. Ky. 1949).

[10] Atwood, "The Public Negro College in a Racially Integrated System of Higher Education," 21 *J. Negro. Ed.* 354–55 (1952).

[11] *Ibid.* See also N.Y. Times, Sept. 3, 1950, p. 25.

[12] Ky. Acts 1950, ch. 155, p. 615. In 1948 the legislature had passed a more limited amendment to the Day law to permit desegregation "in the giving of instruction in nursing, medicine, surgery, or other related courses of graduate grade or on the professional level, within any hospital" if approved by its governing body. Ky. Acts 1948, ch. 112, p. 298.

[13] N.Y. Times, Aug. 25, 1949, p. 2. The case of a white student, Jack Coffman, of Houston, Tex., who applied on July 27, 1948, for admission to the newly established Texas State University for Negroes in his hometown, was an interesting counterpart of the struggle of the Negro students for equal educational opportunity. At the request of the board of directors of Texas State University, the State attorney general ruled on August 2, 1948, that under the constitutional and statutory law of Texas a white student could not be legally

In 1950, on the eve of the *Sweatt* decision by the Supreme Court, the Maryland Court of Appeals held that a Negro resident was entitled to be admitted to the School of Nursing of the University of Maryland which had rejected her application solely on the basis of her race, notwithstanding the fact that she had been offered a scholarship to Meharry Medical College, Tennessee, under the southern regional compact provisions. The court held that the State had no obligation to provide nursing training for anyone, but whatever training was made available must be furnished all residents in the same manner and at the same time.[14]

Thus, by June 1950, Arkansas, Delaware, Kentucky, and Oklahoma had recognized that they could not continue their policy of excluding Negroes from their graduate and professional schools for whites since they did not maintain similar schools for Negroes. Only in Kentucky, however, had an issue arisen as to the inequality of a makeshift program for Negroes as compared with that provided whites. This issue was to be dealt with definitively by the Supreme Court in *Sweatt* v. *Painter*,[15] decided on June 5, 1950.

In its preliminary stages the *Sweatt* case was not unlike the *Sipuel* case. As early as 1946, the Texas attorney general had ruled that the application of a Houston Negro, Herman Marion Sweatt, for admission to the University of Texas Law School could be denied unless he had previously made demand for legal training and had been refused equivalent facilities at the Negro university at Prairie View, Tex.[16]

When Sweatt's application to the law school was denied, he brought suit in a State court. The court agreed with Sweatt's contention, but it continued the case for 6 months to allow the State a reasonable time to establish substantially equal facilities. After the university officials announced that a law school for Negroes would be opened at Prairie View University in February 1947, the trial court declined to order his admission to the University of Texas.[17]

Sweatt, however, refused to enroll in the separate school and took his case to the Texas Court of Appeals. That court set aside the lower court's decision and sent the case back for a new hearing on the question of the comparability of educational facilities at the new law school for Negroes and those at the University of Texas Law School.[18]

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admitted to the university for Negroes and, further, that he had no redress under the law as announced in the *Gaines* and *Sipuel* cases in that equal educational opportunities were available to him as a white student at the University of Texas. The attorney general concluded:

"Under these decisions it is unquestionably now the law that States may constitutionally provide separate facilities for the education of Negro and white students so long as the facilities offered both groups are substantially equal."—N.Y. Times, Aug. 3, 1948, p. 23.

[14] McCready v. Byrd, 73 A.2d 8 (Md. 1950), *cert. denied*, 340 U.S. 827 (1950).

[15] 339 U.S. 629 (1950).

[16] 8 Tex. Atty. Gen. Rep., No. 3, O–7126, p. 39 (1946).

[17] See history of the case given in Sweatt v. Painter, 339 U.S. 629, 631–32 (1950).

[18] *Ibid.*

The trial court found that substantially equivalent opportunities for the study of law were offered at the two institutions and denied the petition.[19] The Texas Court of Appeals affirmed this decision on February 25, 1948,[20] and the Texas Supreme Court refused to hear the case, whereupon Sweatt sought review by the United States Supreme Court.

At the same time the Supreme Court of Texas declined to reverse another lower court decision in which the court below had refused to compel the regents of the University of Texas to establish a Negro branch of the university for the graduate study of dental surgery.[21] The court held that the authority to establish such a school rested exclusively with the State legislature, not with the regents, and that only after the legislature had fulfilled the constitutional and statutory requirements could a demand properly be made of the university regents to establish the requested facilities.[22]

The United States Supreme Court reversed the judgment of the Texas Court of Appeals in the *Sweatt* case, and in so doing enlarged the test of equality of separate facilities to include not only such tangible factors as the number and qualifications of teachers, size of the student body, library and educational facilities, but also such subtle and elusive qualities as the reputation of the faculty, the prestige and tradition of the institution, and the influence and standing of the alumni in the community. In deciding that the barring of a Negro applicant from the law school of the University of Texas deprived him of the equal protection of the laws, the Court stressed particularly the negative element of social "isolation" in the proposed segregated facilities that the State had offered Sweatt, saying:[23]

> The law school * * * cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students, and no one who has practiced law, would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned. The law school to which Texas is willing to admit petitioner excludes from its student body members of the racial groups which number 85 percent of the population of the State and includes most of the lawyers, witnesses, jurors, judges, and other officials with whom petitioner will inevitably be dealing when he become a member of the Texas Bar.

In the Court's opinion, the admission of the petitioner to a separate law school did not meet his constitutional right to a legal education equivalent to that offered by the State to white students.

Although the Court in the *Sweatt* case expressly refused to reexamine the "separate but equal" doctrine, it came close to saying that in a

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[19] *Ibid.*

[20] Sweatt v. Painter, 210 S.W.2d 442 (Tex. Civ. App. 1948).

[21] Givens v. Woodward, 207 S.W.2d 234 (Tex. Civ. App. 1947), *appeal dismissed*, 208 S.W. 2d 363 (Tex. S. Ct. 1948).

[22] Givens v. Woodward, 208 S.W.2d 363 (1948).

[23] 339 U.S. at 634.

graduate or professional school "separate" cannot be "equal." The Court had said that education in an "academic vacuum," where the Negro student was isolated from the members of the dominant group among whom he would practice his profession, was not equal education. With isolation as a test of equality, certainly the "separate but equal" doctrine no longer had any substance.

EQUALITY OF TREATMENT AFTER ADMISSION

Immediately after announcing the decision in the *Sweatt* case, the Supreme Court delivered its opinion in *McLaurin* v. *Oklahoma State Regents*.[24] As has been mentioned,[25] McLaurin had successfully sued in a Federal district court for admission to the Graduate School of the University of Oklahoma.[26] However, after his admission he had been segregated from the other students in the school, and had asked the Supreme Court to review the constitutionality of this treatment.

Once again social isolation was the standard applied to determine the equality of opportunity provided. The Court found that a Negro, once admitted to a State graduate school for whites, could not be required to sit apart from the white students in the classroom and library, and eat at a different time in the cafeteria. Such restrictions imposed by the power of the State, the Court held, made his education unequal to that of his fellow students. The Court admitted that the removal of the State-imposed restrictions would not necessarily abate the individual and group predilections and prejudices of his fellow students. "But, at the very least, the State will not [if the restrictions are removed] be depriving appellant of the opportunity to secure acceptance by his fellow students on his own merits." [27]

The *McLaurin* case, immediately following the decision in *Sweatt*, provided the coup de grâce to the "separate but equal" doctrine in public graduate education. Together they seemed to declare that the 14th amendment precludes any and all differences in treatment by the State of the applicant for admission and of the student after admission based upon race. Although in theory separate institutions were still compatible with the 14th amendment, as a practical matter achieving requisite equality under segregated conditions appeared impossible.

After these Supreme Court decisions, the University of Texas enrolled 6 Negro graduate students in its summer session and 14 in the fall session. The University of Oklahoma enrolled about 90 Negro graduate students in summer school and about 40 in the fall, in addition to 2 undergraduate students in law and pharmacy.[28]

[24] 339 U.S. 637 (1950).
[25] See p. 26, *supra*.
[26] McLaurin v. Oklahoma State Regents, 87 F. Supp. 526 (W.D. Okla. 1948).
[27] 339 U.S. at 641–42.
[28] N.Y. Times, Sept. 3, 1950, p. 25; *Id.*, Oct. 23, 1950, p. 29.

Applying the constitutional criteria of equality as defined by the *Sweatt* and the *McLaurin* decisions, State and Federal courts during the following year ordered the admission of Negro students to the major State universities in Virginia, Missouri, Louisiana, North Carolina, and Tennessee.

The first and probably the most impressive of these decisions was issued on September 5, 1950, by a three-judge Federal court at a hearing lasting less than a half hour in *Swanson* v. *University of Virginia.*[29] Gregory Hayes Swanson, a Negro lawyer from Danville, Va., and a graduate of Howard University, had applied for admission to the Law School of the University of Virginia as a graduate student. On July 14, 1950, the board of visitors of the university rejected his application on the grounds that his admission would violate the constitution and laws of the Commonwealth, and that an out-of-State tuition grant was available to him as a colored student.

It was reported contemporaneously that this action was taken by the board in spite of the opinion of the State attorney general that it probably would not be upheld in court.[30]

Swanson filed a class suit in a Federal district court seeking an injunction to prevent the University of Virginia from denying admission to members of his race as graduate law students. The court granted the injunction in the light of the Supreme Court ruling in the *Sweatt* and *McLaurin* cases. No appeal was taken.[31] Thus, on September 15, 1950, the first Negro student registered for graduate training at the University of Virginia Law School.[32]

In the following year the College of William and Mary and its branch, the Richmond Professional Institute, and the Medical College of Virginia admitted one or more Negro students to their law school, graduate school of social work, and medical school, respectively.[33] In 1953, the Virginia Polytechnic Institute also opened its doors to qualified Negro graduate and undergraduate students.[34]

As a result of litigation in the State courts, the University of Missouri and its branch, the Missouri School of Mines and Metallurgy, admitted their first Negro students in September 1950.

On July 7, 1950, a Missouri circuit court, in a case where Negro students were seeking admission to engineering and graduate economics courses at the University of Missouri, ruled that qualified Negro residents were to be admitted to the university whenever they applied for courses that were not available or of equal quality at Lincoln University.[35] As a result the board of curators of the univer-

[29] Civ. No. 30, W.D. Va. 1950.
[30] N.Y. Times, July 15, 1950, p. 15.
[31] *Id.*, Sept. 6, 1950, p. 34.
[32] *Id.*, Sept. 16, 1950, p. 19.
[33] *Ashmore Papers;* So. School News, Dec. 1959, p. 14; N.Y. Times, May 2, 1951, p. 37.
[34] So. School News, Dec. 1959, p. 14.
[35] N.Y. Times, July 8, 1950, p. 16.

sity voted to admit Negro students, and the second semester of the academic year saw 10 full-time Negro students enrolled at the University of Missouri; 5 graduate, 3 undergraduate, and 2 practical nursing students.[36]

On October 7, 1950, a Federal district court in Louisiana, having determined that the separate State law school for Negroes was inferior to the one for whites, ordered Roy S. Wilson admitted to the Law School of Louisiana State University.[37]

In 1951, another Federal court order opened the University of North Carolina Law School to Negroes. The Court of Appeals for the Fourth Circuit, employing the reasoning of the *Sweatt* decision, stressed the prestige, reputation, and high standing of the University of North Carolina Law School as the determining factors in showing the disparity between it and the law school established at the North Carolina College at Durham.[38]

In Tennessee the same results were brought about by a combination of court action and administrative rulings between 1950 and 1952. On September 27, 1950, the Tennessee attorney general, in response to a request of the president of the University of Tennessee, ruled that Negro students who applied at the university for graduate and professional training unavailable at the Tennessee Agricultural and Industrial College, if possessing "the same qualifications, educational and otherwise, as are required for white students, cannot be denied admittance solely on account of color." [39] Nevertheless, the three Negroes applying for admission to the graduate school and the two applying for admission to the college of law were rejected on December 4, 1950, by the board of trustees of the university.[40]

A court action challenging the constitutionality of the Tennessee statutes requiring segregation in public education was initiated before a three-judge Federal district court. The court, however, with express reference to the *Sweatt* decision as the controlling precedent, eliminated the issue of the constitutionality of segregation laws and the case proceeded before a single district judge on the sole issue of whether there was in fact discrimination in the facilities provided by the State.[41] The district court found that under the *Gaines*, *Sipuel*, *Sweatt*, and *McLaurin* cases the plaintiffs were entitled to be admitted to the schools of the University of Tennessee to which they had ap-

[36] So. School News, Nov. 1958, p. 4.

[37] Wilson v. Board of Supervisors, 92 F. Supp. 986 (E.D. La. 1950), *aff'd*, 340 U.S. 909 (1951). Two additional court orders in the unreported cases of Payne v. Board of Supervisors, Civ. No. 894, E.D. La., June 13, 1951, and Foister v. Board of Supervisors, Civ. No. 937, E.D. La., October 15, 1951, respectively, opened the graduate schools of agriculture and of nursing at Louisiana State University to Negroes.

[38] McKissick v. Carmichael, 187 F.2d 949 (4th Cir. 1951), *cert. denied*, 341 U.S. 951 (1951).

[39] N.Y. Times, Sept. 28, 1950, p. 33.

[40] *Id.*, Dec. 5, 1950, p. 29.

[41] Gray v. University of Tennessee, 100 F. Supp. 113 (E.D. Tenn. 1951).

plied, but "believing that the University authorities will either comply with the law as herein declared or take the case upon appeal," the court refused to issue an injunction although it retained the case on the docket.[42]

Plaintiffs went to the Supreme Court of the United States, but that Court, on March 3, 1952, dismissed the case as moot because counsel for the university had stated at the hearing that appellants would be admitted as requested, and it had appeared that one of the petitioners, Gray, had already been admitted as a student, and that the others, because of changed circumstances, were unable to avail themselves of the opportunity.[43]

Thus, immediately before the Supreme Court's decision in the *School Segregation Cases*,[44] Southern white universities in 12 of the 17 States that maintained compulsory segregation in higher educational institutions had opened the doors of their graduate and professional schools to Negro students, although in some cases only for courses not offered at the tax-supported Negro colleges.[45] In 2 of the 12 States, Arkansas and Delaware, such action was taken without the compulsion of a court order.

Only Alabama, Florida, Georgia, Mississippi, and South Carolina still maintained complete segregation.[46] Litigation for the admission of Negro students to the University of Florida graduate schools had been pending since 1949, but no final decision on the issue was to be reached until 4 years after the *School Segregation Cases*.[47]

In his well-known book, *The Negro and the Schools*, published on the same day as the decisions in the *School Segregation Cases*, Harry Ashmore wrote:[48]

> The South's experience with integrated higher education is broad enough and has continued long enough to have considerable significance. It must be recognized, however, that the experience is limited in important ways. For the most part, Negro admissions have been confined to the graduate and professional

[42] Gray v. University of Tennessee, 97 F. Supp. 463, 468 (E.D. Tenn. 1951).

[43] Gray v. University of Tennessee, 342 U.S. 517 (1952) (per curiam).

[44] Brown v. Board of Education, 347 U.S. 483 (1954).

[45] Maryland (1936), West Virginia (1938), Arkansas, Delaware, and Oklahoma (1948), Kentucky (1949), Louisiana, Missouri, Texas, and Virginia (1950), North Carolina, and Tennessee (1951).

[46] Henderson, "Balm for a Troubled Conscience," Educational Record, July 1954, p. 166. A few weeks after the Supreme Court ruling in the *Sweatt* and *McLaurin* cases, the Supreme Court of Alabama in *Ex parte Banks*, 48 So. 2d 35 (1950), rejected the appeal of Negro residents, and denied the issuance of a State licence for the practice of law without examination. The court held that such a license could only be issued without examination to graduates of the University of Alabama Law School; hence, petitioners, being graduates of out-of-State law schools, could not qualify in that they had voluntarily accepted public out-of-State tuition grants to obtain legal education not available at the State Negro colleges, without applying for admission to the Law School of the University of Alabama. The court said petitioners had been fully aware that by such acceptance they would be excluded from being admitted without examination to the practice of law in Alabama.

[47] Florida *ex rel.* Hawkins v. Board of Control, Civ. No. 643, N.D. Fla. June 18, 1958. See pp. 75–80, *infra*.

[48] Ashmore, *The Negro and the Schools* 46–47 (1954).

schools. This in itself is a selective process. * * * On the other side, the first southern whites to experience integration in education on their home grounds have done so at the upper levels and are of a generation which has personally experienced the reorientation of World War II.

The significance of this long and involved struggle to win equality of treatment at the graduate and professional school level should be obvious. The "separate but equal" doctrine had never meant equality in practice. Once courts began to look beneath the surface appearance of equal facilities and to examine the various factors, both tangible and intangible, which characterized white and colored educational institutions, the days of "separate but equal" as a meaningful doctrine were numbered; the principle of segregation itself had been badly weakened and rendered vulnerable to future attack.

SEPARATE UNDERGRADUATE COLLEGES: CONVENIENCE AND COST AS FACTORS IN EQUALITY

The preceding sections of this chapter have dealt entirely with efforts to secure admission to graduate and professional schools. By the 1930's, when Negro leaders began a concentrated effort to secure greater educational opportunities for members of their race, separate public undergraduate colleges for Negroes were to be found in all Southern States. Graduate and professional schools for Negroes, however, were almost nonexistent. It was logical, therefore, that the graduate and professional schools maintained for white residents should be the first target of the legal attack. However, in the latter part of this period of concentrated effort prior to the *School Segregation Cases* in 1954, some Negro students sought admission to undergraduate colleges maintained for white students.

During the years 1946 to 1954 a few publicly controlled colleges and junior colleges in the South voluntarily admitted Negro students; in others, admission was secured by court order. For the most part both actions seem to have resulted from recognition of the fact that to deny admission to some residents of the community served by the college, solely on the basis of race, was unequal treatment. Thus, convenience and relative cost were introduced as factors in measuring equality of opportunity.

Five publicly controlled junior colleges in Texas, currently enrolling Negro students, have informed the Commission that, since they were established, in some cases as early as 1946, they have not excluded applicants on racial ground, and four other 2-year colleges as well as one 4-year college reported that they admitted the first Negro students in 1951–52.[49]

In the academic year 1952–53 undergraduate Negro students were reportedly enrolled at the Richmond Professional Institute of the

[49] Commission questionnaires, Texas.

College of William and Mary in Virginia, and at Kentucky, Kansas City, and Louisiana State Universities.[50]

In Kentucky in 1950, after an amendment to the State law to permit an exception to the statutory rule of segregation of the races in educational institutions above the high school level,[51] the Louisville Municipal College for Negroes was abolished as a separate institution and merged with its parent institution, the University of Louisville. The University of Louisville admitted Negro students at all undergraduate levels in the fall of that year, and they were also admitted to the graduate and professional schools in the following year.[52]

Nevertheless, as was true of graduate and professional school desegregation, more action in opening white colleges to undergraduate Negro students was undertaken as a result of court orders than was done voluntarily.

In May 1950, 1 month before the Supreme Court of the United States issued its opinion in the *Sweatt case*,[53] the Supreme Court of Missouri refused to order the transfer of Negro students from Stowe Teachers College for Negroes to Harris Teachers College for whites on the ground that equal protection demanded only substantial equality, not identical facilities, and that segregation with substantial equality did not violate the equal-protection clause.[54]

However, on August 9, 1950, 2 months after the *Sweatt* decision, the University of Delaware, which had voluntarily admitted Negroes to graduate courses in January 1948, was ordered to desegregate its undergraduate school. The Delaware Court of Chancery, while reaffirming the principle that segregation per se did not violate the 14th amendment if equal facilities were provided, found such great disparity between the facilities at Delaware State College for Negroes and those at the university for whites as to warrant an order for the admission of the Negroes to the university.[55]

Elsewhere, Negro students seeking admission to undergraduate colleges raised another question of equality: Could a public college deny to Negroes residing in the vicinity of the college the privilege of attending college as day students when white students living in the same area could do so and thus secure the economic advantage of attending college while living at home?

In 1951, the first Federal court to which this issue was presented held that it was unlawful discrimination to deny Negro residents of Paducah, Ky., the privilege of attending the community college, Pa-

[50] Johnson, "Racial Integration in Public Higher Education in the South," 23 *J. Negro Ed.* 317, 319–20 (1954).

[51] See note 12 *supra*, at p. 30.

[52] Atwood, *supra* note 10, at pp. 352–53.

[53] Sweatt v. Painter, 339 U.S. 629 (1950); see pp. 31–32, *supra*.

[54] State *ex rel.* Toliver v. Board of Education, 230 S.W.2d 724 (Mo. 1950).

[55] Parker v. University of Delaware, 75 A.2d 225 (Del. 1950).

ducah Junior College, since white residents of the city had that right.[56]

In the same year Hardin Junior College (now Midwestern University), operated by the Wichita Falls Junior College District, Texas, was ordered to admit six Negro students who had been denied admission solely on account of their race.[57] The court, in support of its finding for the plaintiffs, emphasized the lesser cost of attending the local college as compared with the expense of attending the closest Negro junior college approximately 400 miles away.[58]

In a class action brought in September 1953 in a Federal district court by Negro students who had been denied admission to Southwestern Louisiana Institute, a three-judge Federal court, on April 22, 1954, granted an injunction restraining the college from depriving them on account of their race of educational opportunities afforded to white youths living in the same locality.[59] The court, brushing aside the question of the constitutionality of the State segregation statutes, noted that the closest similar State institutions for Negroes were Southern University, 89 miles away, and Grambling College, 216 miles from Southwestern. The court held that the inconvenience and loss of time and money imposed upon Negro students by forcing them to attend such distant schools amounted to a denial of rights, privileges, and opportunities equal to those enjoyed by other groups:[60]

> The State is under no compulsion to establish these colleges; yet, if they establish them, the rights of white and Negro alike must be measured by the test of equality in privileges and opportunities. The right of the individual student to the privilege of public instruction equivalent to that given by the State to the individual student of another race is a personal one.

Thus, the efforts of Negroes to obtain admission to the local undergraduate, often junior, college resulted in another standard for measuring the equality under the "separate but equal" doctrine of racially separate schools, the relative convenience and cost of attending the college in the vicinity of one's residence as compared with a Negro college in another part of the State.

Just as the pretense of equality of separate graduate and professional schools had been shattered by a series of court decisions in which judges, by focusing on the realities of academic life, had made all "separate" facilities in that area vulnerable to attack, the decisions before 1954 with respect to segregated undergraduate institutions revealed the new sense of judicial realism that was to make the next stage possible. The emphasis on real equality as developed by the courts made the continuance of the doctrine of separateness virtually impossible.

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[56] Wilson v. City of Paducah, 100 F. Supp. 116 (W.D. Ky. 1951). *Cf.* Tex. Atty. Gen. Ops., 1948–49, V–645, p. 49.

[57] Battle v. Wichita Falls Junior College District, 101 F. Supp. 82 (N.D. Texas 1951), *aff'd*, 204 F.2d 632 (5th Cir. 1953), *cert. denied* 347 U.S. 974 (1954).

[58] 101 F. Supp. at 85.

[59] Constantine v. Southwestern Louisiana Institute, 120 F. Supp. 417 (W.D. La. 1954).

[60] *Id.* at 421.

PART II

THE PRESENT REQUIREMENTS OF THE EQUAL PROTECTION CLAUSE IN PUBLIC HIGHER EDUCATION

By May 1954, the requirements of equality under the "separate but equal" doctrine had become very stringent. As was shown in the preceding chapter, the courts had held that a State had to provide within its borders, simultaneously in point of time, the same courses of study for Negro residents as it provided for white residents. The educational facilities provided for Negroes had to be the same in size, quality, and variety as those for whites, as did the prestige of the college and reputation of the faculty. Inconvenience of location and the relatively greater cost of attending a college away from home could result in inequality as to particular students. And, finally, segregation rules imposed by the State upon students admitted to an institution were held invalid.

These definitions of equality developed by the courts in the two decades before 1954 were all concerned with the second part of the "separate but equal" formula. As a practical matter, the high standards of equality set by the courts made it difficult if not impossible to maintain separation of the races, but, at least in theory, separate schools were still constitutionally permissible. It remained for the Supreme Court to examine the first part of the "separate but equal" formula, and to determine whether segregation by race of itself was consistent with the equal protection of the laws.

On May 17, 1954, in its historic decision in *Brown* v. *Board of Education*, or the *School Segregation Cases*,[1] the Supreme Court held that racially segregated public schools were inherently unequal and a denial of equal protection of the laws. The *Plessy* [2a] case, upon which the "separate but equal" doctrine had rested, was expressly overruled.

In its decision, the Supreme Court cited as the most recent precedents on the question at issue the graduate and professional school decisions

[1] 347 U.S. 483 (1954).
[2a] Plessy v. Ferguson, 163 U.S. 537 (1896).

in the *Gaines*,[2] *Sipuel*,[3] *Sweatt*,[4] and *McLaurin*[5] cases, noting that in all of them inequality was found in the denial to qualified Negroes of specific educational benefits enjoyed by white students. The Court added:[6]

> *In none of these cases was it necessary to reexamine the doctrine to grant* relief to the Negro plaintiff. And in *Sweatt* v. *Painter, supra,* the Court expressly reserved decision on the question whether *Plessy* v. *Ferguson* should be held inapplicable to public education.
>
> In the instant cases, that question is directly presented. Here, unlike *Sweatt* v. *Painter*, there are findings below that the Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other "tangible" factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education.

Proceeding, therefore, on the premise that tangible conditions in separate schools were equal in the cases at bar, the Court found that segregation in public schools solely on the basis of race deprived the minority-group children of equal educational opportunities, with respect to certain intangible factors and "those qualities which are incapable of objective measurement" which the Court had already relied upon heavily in its *Sweatt* and *McLaurin* decisions.[7]

Although the Supreme Court's ruling was directly concerned only with public schools, by overruling *Plessy* and by its reference to *Sweatt* and *McLaurin*, it also swept away what little remained of constitutional support for the separate-but-equal doctrine as a basis for segregation in higher education. The earlier cases having dealt with professional and graduate education, the *School Segregation Cases* had an important impact in higher education only at the undergraduate level.

On May 31, 1955, a year after the decision in the *School Segregation Cases*, the Court handed down the second *Brown* decision,[8] involving the same cases, but dealing with the problem of implementing the first ruling. In this decision the Supreme Court held that the lower courts should require the school boards involved in the cases to make a "prompt and reasonable start toward a full compliance"[9] with the new constitutional standard "with all deliberate speed."[10] Thus, room was left in the discretion of the lower courts for some delay in achiev-

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[2] Missouri *ex rel* Gaines v. Canada, 305 U.S. 337 (1938). See pp. 19–20, *supra.*
[3] Sipuel v. Board of Regents, 331 U.S. 631 (1948). See pp. 24–25, *supra.*
[4] Sweatt v. Painter, 339 U.S. 629 (1950). See pp. 31–33, *supra.*
[5] McLaurin v. Oklahoma Board of Regents, 339 U.S. 637 (1950). See p. 33, *supra.*
[6] 347 U.S. at 492.
[7] *Id.* at 493.
[8] Brown v. Board of Education, 349 U.S. 294 (1955).
[9] *Id.* at 300.
[10] *Id.* at 301.

ing full compliance where circumstances and the public interest required it.

No such latitude for compliance had been permitted in the earlier decisions dealing with public higher education.[11] The circumstances or conditions that might justify more deliberate action in the case of a public school system were described by the Court as follows:[12]

> * * * the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. They will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system.

Most of the factors that could be considered in allowing additional time to a public school system to adjust to nondiscriminatory operation of its schools obviously have no application to a college or university. Colleges do not provide transportation for their students. Except in the case of few junior college systems, colleges do not have attendance areas to be revised. The capacity of the physical plant and availability of administrative and teaching personnel alone may be problems to be dealt with at the college level. But the fact that a higher educational institution controls its own admission policies (within the limits of State law and constitutional principles) obviates the need to delay compliance because of overcrowding of buildings and insufficient staff for a larger number of students. Lawful selectivity permitted to a college or university, but not to the public school, gives the college power to handle these problems in a nondiscriminatory way—for instance, by raising admission standards. Thus, virtually none of the circumstances or conditions that might justify more deliberate action in the case of a public school system have any pertinence at the higher education level.

Nevertheless, the second *Brown* decision gave rise to the question whether the "all deliberate speed" doctrine applied to higher education, or whether the rule of immediate compliance, established 7 years earlier in the *Sipuel*[13] case still held.

One week after the decision in the first *School Segregation Cases*, the Supreme Court reversed two lower court decisions denying Negroes admission to State institutions of higher education. *Hawkins* v. *Board of Control*[14] involved the University of Florida Law School, and *Tureaud* v. *Board of Supervisors*,[15] the junior division of Louisiana State University. Both cases were remanded by the Supreme

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[11] See *Gaines, Sipuel,* and *Sweatt* cases, pp. 19–20, 24–25 and 31–33.
[12] 349 U.S. at 300–01.
[13] Sipuel v. Board of Regents, 332 U.S. 631 (1948).
[14] 347 U.S. 971 (1954).
[15] 347 U.S. 971 (1954).

Court "for consideration in the light of the *Segregation Cases* * * * and *conditions that now prevail.*" [16] The Court in its brief per curiam orders gave no indication as to the rule of compliance that would be applicable in the cases, but the words "conditions that now prevail" were at least open to the inference that conditions might be found that would justify delaying compliance. The second *Brown* decision was felt by some to strengthen this interpretation.

An indication that the rule of immediate compliance still applied to higher education was provided in October 1955, when the case of *Lucy* v. *Adams* [17] reached the Supreme Court, which was asked to reinstate a permanent injunction issued and later suspended by a Federal district court pending an appeal to the Court of Appeals for the Fifth Circuit. The Supreme Court granted the motion and reinstated the lower court's order enjoining the dean of admissions of the University of Alabama from denying plaintiffs and others in their class the right to enroll at the institution, citing as governing law merely the *Sipuel*, *Sweatt*, and *McLaurin* decisions.

Since the plaintiffs in the *Lucy* case sought admission as undergraduate students, this decision seemed to indicate that admission to public institutions of higher education at the undergraduate level also was deemed by the Court to be a personal and present right as previously determined in the case of applicants for graduate and professional schools. The later history of the *Lucy* case confirms this theory. The court of appeals affirmed the judgment of the district court granting the injunction,[18] and the United States Supreme Court denied *certiorari* on May 14, 1956.[19]

The *Lucy* case did not, however, settle the law. The unfortunate ambiguity of the expression "conditions that now prevail" used by the Supreme Court in the *Hawkins* and *Tureaud* cases led to divergent interpretations by lower courts.

On August 23, 1955, the Court of Appeals for the Fifth Circuit upheld the injunction issued by the district court pursuant to the Supreme Court's mandate in the *Tureaud* case,[20] saying that when facilities are separate and unequal "then we judicially know, certainly in the case of a college as distinguished from the grade public schools, that there are no 'conditions that now prevail' which would authorize denying equal opportunities to all [any] students, regardless [on the basis] of race." [21] The Supreme Court denied *certiorari* on May 7, 1956.[22]

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[16] *Ibid.* (Emphasis added.)
[17] 134 F. Supp. 235 (N.D. Ala. 1955), *motion granted in part*, 350 U.S. 1 (1955).
[18] 228 F.2d 619 (5th Cir. 1955).
[19] 351 U.S. 931 (1956).
[20] Board of Supervisors v. Tureaud, 225 F.2d 434 (5th Cir. 1955).
[21] *Id.* at 447.
[22] Board of Supervisors v. Tureaud, 351 U.S. 924 (1956).

On the other hand, on remand of the *Hawkins* case, the Florida Supreme Court in a split decision stressed the qualifying importance of the "conditions that now prevail" proviso in the Supreme Court's order of reversal as closely related to the latitude authorized by the Supreme Court in the timing of compliance under the second *Brown* decision.[23] The Florida court therefore withheld the issuance of an injunction pending a determination of law and fact as to the proper time for admission in the light of the "conditions that now prevail."

Two dissenting judges, however, noted that the principle of inherent inequality of segregation enunciated by the Supreme Court in the *School Segregation* cases was meant to apply to public schools at all levels and argued that there was, therefore, no lawful reason for delay in the admission of Hawkins to the University of Florida Law School.[24]

On a new application for *certiorari* in March 1956, the United States Supreme Court recalled and vacated the previous mandate in *Hawkins* on three grounds which clarified, at least in part, the confused state of the law.[25] The Court in a per curiam opinion first distinguished between problems of decrees involving graduate study and those of public schools at the elementary and secondary level; it then referred to the established precedents of *Sweatt*, *Sipuel*, and *McLaurin* as governing the case of graduate schools; and, finally, it stated unequivocally that the second *Brown* decree "had no application to a case involving a Negro applying for admission to a State law school." [26] The Court then reversed the judgment and remanded the case once more to the State supreme court on the authority of the *School Segregation Cases*, stating, "As this case involves the admission of a Negro to a graduate professional school, there is no reason for delay. He is entitled to prompt admission under the rules and regulations applicable to other qualified candidates." [27] Thus, the doctrine of all deliberate speed was clearly held to be inapplicable to the admission of a Negro student to a graduate school.

Two additional cases involving the admission of Negro students to the undergraduate schools of the University of North Carolina and of Memphis State University shed further light on the constitutional principles applicable to colleges and universities. In *Frasier* v. *Board of Trustees* [28] in 1956 the Supreme Court affirmed without opinion the judgment of a three-judge district court which had ordered the admission of undergraduate Negro students and others of their class to the University of North Carolina. The lower court had brushed aside as without merit the board of trustees' defense that

[23] Florida *ex rel.* Hawkins v. Board of Control, 83 So. 2d 20 (Fla. 1955).
[24] *Id.* at 29–34.
[25] Florida *ex rel.* Hawkins v. Board of Control, 350 U.S. 413 (1956).
[26] *Id.* at 413–14.
[27] *Id.* at 414.
[28] 134 F. Supp. 589 (M.D. N.C. 1955), *aff'd*, 350 U.S. 979 (1956).

the *School Segregation Cases* applied only to elementary and secondary public schools and, quoting extensively from Chief Justice Warren's language in that case, concluded: [29]

> That the decision of the Supreme Court was limited to the facts before it is true, but the reasoning on which the decision was based is as applicable to schools for higher education as to schools on the lower level. * * * There is nothing in the quoted statements of the court to suggest that the reasoning does not apply with equal force to colleges as to primary schools. Indeed, it is fair to say that they apply with greater force to students of mature age in the concluding years of their formal education as they are about to engage in the serious business of adult life. We found corroboration for this viewpoint in the decision of the late Chief Justice Vinson in *Sweatt* v. *Painter*. * * *

Not all the confusion on this point had yet been dispelled in the lower courts, however. *Booker* v. *Tennessee Board of Education* [30] involved Negroes who were seeking admission to Memphis State University in Tennessee. The United States district court held that, although the Supreme Court's recent rulings dealt directly with public grade schools, unquestionably the same reasoning applied to public higher educational institutions, citing the *Frasier* case. However, as to the manner of compliance, the court refused to order the immediate admission of the plaintiffs, but instead approved a plan submitted by the State board of education for gradual desegregation, a year at a time, from the graduate level down, of all State colleges and universities. Stressing its discretionary powers, the court found that the plan presented by the board was not an evasive method to circumvent the constitutional principle announced by the Supreme Court, but was a reasonable start toward full compliance in good faith, in view of the limited physical facilities of the school and the loss of accreditation that might result from an overcrowding of the college caused by an influx of the large number of eligible colored students in the locality of the college: [31]

> The Court also finds that the respondent members of the Board are proceeding with all deliberate speed in order to complete orderly and peaceful integration. The Court also finds that time is absolutely necessary to carry out in an effective manner the ruling of the Supreme Court.

On appeal, the Court of Appeals for the Sixth Circuit reversed and remanded the lower court's decision on the ground that the reasons given for delay in the admission of the Negro students were insufficient to justify a 5-year postponement in the realization of their rights.[32] In support of its conclusion the majority opinion cited the *Gaines* and *Sipuel* cases as to duty of the State to provide higher education to minority-group students on the same basis as applicants of other races, and suggested that the colleges should limit the admission of out-of-State students rather than of local Negro residents

[29] 134 F. Supp. at 592–93.
[30] Civ. No. 2656, D. Tenn., Nov. 22, 1955, 1 *Race Rel. L. Rep.* 118 (1956).
[31] 1 *Race Rel. L. Rep.* at 121.
[32] Booker v. Tennessee Board of Education, 240 F. 2d 689 (6th Cir. 1957).

to prevent overcrowding of the college. The court cited the *Wichita Falls Junior College* case [33] in asserting the principle that exclusion on account of race which forces the applicant to attend a more distant school at a greater expense is discriminatory. The court concluded that under the "all deliberate speed" rule the 5-year postponement of plaintiffs' admission was "a noncompliance with the declaration of the Supreme Court.[34] The Supreme Court declined review of the decision.[35]

The decision of the Court of Appeals for the Sixth Circuit in the *Booker* case thus required immediate admission of the plaintiffs to the college in question. It was based, however, on reasoning that accepted the doctrine of all deliberate speed as applicable to a question of denial of equal protection of the laws at the undergraduate college level, but merely found that the delay contemplated by the gradual desegregation plan approved by the lower court was not justified. Since the court recognized that the college by control of its admission policies could assure an orderly transition from segregation to nondiscrimination, and, indeed, made recommendations to that end, it is unfortunate that it failed to see that in so doing it was rejecting the *raison d'etre* of the doctrine of all deliberate speed.

The uncertainty left by the *Booker* case, as to whether the rule of all deliberate speed applies to desegregation at the undergraduate level, remains. Since no other State or institution had adopted a plan for gradual desegregation of a college, the question at present is academic. Should it be raised again, it would appear that the rule as to undergraduate colleges should be that of immediate admission, rather than deliberate speed, for there is in general no more justification for gradual desegregation at the undergraduate level than in graduate and professional schools where it was clearly rejected by the Supreme Court in the *Hawkins* case.

Junior colleges may present an exception to the proposition that the rationale of all deliberate speed does not apply to undergraduate colleges. In some jurisdictions the junior college is essentially an extension of the high school which all high school graduates resident in the district are entitled to attend. Under such circumstances if two junior colleges, one for whites and one for Negroes, are maintained and a gradual desegregation plan for successive grades for public schools has been adopted, such a plan might well include the junior colleges serving the same community, particularly if the colleges were operated by the same governing board.

Several constitutional principles may be deduced from the decisions discussed above:

[33] Battle v. Wichita Falls Junior College District, 101 F. Supp. 82 (N.D. Texas 1951), *aff'd* 204 F.2d 623 (5th Cir. 1953), *cert. denied,* 347 U.S. 974 (1954). See p. 39 *supra.*
[34] 240 F.2d at 694.
[35] Booker v. Tennessee Board of Education, 353 U.S. 965 (1957).

1. Compulsory segregation of students by race is a denial of equal protection of the laws at all levels of public education. The equality or inequality of the separate schools is irrelevant. No students may be denied admission to any public educational institution on the grounds of race (*School Segregation Cases*, *Hawkins*, *Tureaud*, and *Frasier* cases). These principles also apply to denials of admission because of religion or national origin.

2. At the graduate and professional level, a qualified student as to whom the only ground of exclusion would be his race is entitled to immediate admission. The second *Brown* decision has no application at this level (*Hawkins* case).

3. At the undergraduate level there is disagreement in the lower courts and there is no Supreme Court decision determining how promptly the qualified student excluded on grounds of race must be admitted. On the whole, the rule of immediate admission applicable to graduate and professional schools seems more appropriate to undergraduate schools than the rule of all deliberate speed which is applicable to the desegregation of elementary and secondary school systems. Only in the case of junior colleges that are, in effect, an extension of the community school system and subject to such factors as attendance areas or a requirement that all high school graduates resident in the district be accommodated would the reasons for the rule of all deliberate speed seem to have any applicability. However:

(*a*) If the segregated State institution for Negroes is unequal to the State institution to which admission is sought in such tangible factors as buildings, curriculum, qualification and salaries of teachers, the rule of the second *Brown* case cannot apply because it was based upon equality as to such factors. Therefore, the admission of a qualified student must be immediate under such circumstances. Although not expressly stated, the rationale seems to be that the inequity to the individual resulting from delayed admission outweighs the public interest that might be served by delay (*School Segregation Cases*).

(*b*) If the segregated State institution for Negroes is equal to the State institution to which admission is sought in all tangible factors, but is unequal when measured by such intangible criteria as the prestige of the institution and the reputation of its faculty, the rule of the second *Brown* decision is still inapplicable because the rule of the *Sipuel*, *Sweatt*, and *McLaurin* cases applies to undergraduate collegiate education (*Lucy* and *Tureaud* cases). In such a case, also, the admission of qualified students must be immediate.

(*c*) If the doctrine of "all deliberate speeed" has any application at the undergraduate collegiate level, it can only apply if the segregated State institution for Negroes is equal to the State institution to which admission is sought in both tangible and intangible factors. In such a case a gradual desegregation plan resulting in delayed admission to a particular applicant might receive court approval because the inequity to the individual resulting from delay would be minimal.

PART III

DEVELOPMENTS IN THE SOUTHERN STATES FROM 1954 TO 1960

This portion of the report traces in considerable detail legal and other developments that reveal the degree of progress in desegregation in public colleges and universities of the Southern States since 1954.

For this discussion the Southern States have been separated into three groups: First, the complying States—that is, the border States of Delaware, Maryland, West Virginia, Kentucky, Missouri, and Oklahoma, which adopted the course of complying with the law of the land as declared by the Supreme Court;[1] second, the token-compliance States of Arkansas, North Carolina, and Virginia, and the limited-compliance States of Tennessee and Texas—so designated because such compliance as exists in these States was obtained mainly through court orders;[2] and, finally, the resistant States, which chose to oppose compliance with the law of the land by a variety of legislative, administrative, and courtroom maneuvers: Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina.

The initial chapter surveys developments in the complying and token-compliance States since the *School Segregation Cases*. In addition to recording court decisions and other legal developments, it provides detailed information obtained by the Commission by questionnaire from the public institutions of higher education in those States as to their admission policies and enrollment.[3]

The following two chapters deal at length with the resistant States; the first reviews legal developments in those States since 1954, and the second contains a comparison of the separate white and Negro public institutions maintained by them.

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[1] See app. C, table 1, for status of desegregation in these States in 1959–60.

[2] See app. C, table 2, for status of desegregation in these States in 1959–60.

[3] Questionnaires, a copy of which may be found in app. D, were sent to all of the publicly controlled institutions of higher education in the 13 Southern States where some degree of desegregation has occurred. The Commission's covering letter promised that the information obtained through the questionnaires would not be attributed to a particular respondent in any case. In this report these questionnaires will sometimes be cited as authority for a statement, but no institution will be identified on the basis of information obtained by questionnaire.

CHAPTER 1

VOLUNTARY AND NONVOLUNTARY COMPLIANCE IN SOUTHERN AND BORDER STATES

THE BORDER STATES

The six border States of Delaware, Maryland, West Virginia, Kentucky, Missouri, and Oklahoma, where the Negro population ranges from 5 to 17 percent of the total,[1] had taken some steps toward the desegregation of publicly controlled institutions of higher education before the 1954 decision in the *School Segregation Cases.*

Desegregation of their State colleges and universities began at the graduate level as early as 1936 in Maryland, 1938 in West Virginia, 1948 in Delaware and Oklahoma, 1949 in Kentucky, and 1950 in Missouri.[2] Although it required Federal court orders to open the graduate schools of the Universities of Oklahoma and Kentucky to Negro students, the legislatures of these States amended their respective school-segregation laws in 1949 and 1950, making desegregation permissible at the higher education level in the discretion of the governing bodies of their public institutions with respect to courses not offered at the State college for Negroes. The Oklahoma statute provided only for admission at the graduate level and on a segregated basis,[3] while the Kentucky act permitted desegregation at any level of higher education.[4]

Desegregation at the undergraduate level was voluntarily initiated as early as 1950 at the University of Louisville, Ky., by the closing of the Louisville Municipal Colleges for Negroes.[5] At the same time the two largest State colleges in Oklahoma, Oklahoma A. & M. and the University of Oklahoma, were similarly opened to Negroes for courses not available at Langston University for Negroes. Also in 1950 the Universities of Delaware and Missouri, as a result of State court decisions, admitted Negroes to their undergraduate schools. In 1953, when Delaware State College for Negroes desegregated vol-

[1] Preliminary figures for the 1960 census show Negroes constituting 14.5 percent of the population of Delaware, 17.1 percent in Maryland, 4.8 percent in West Virginia, 7.4 percent in Kentucky, 9.4 percent in Missouri, and 6.8 percent in Oklahoma.

[2] See pp. 17, 19, 29, 30, 34–35, *supra.*

[3] Okla. Laws 1949, art. 15, at 7.

[4] Ky. Laws 1950, ch. 155, sec. 158.020.

[5] So. School News, Dec. 1959, p. 12.

untarily, Paducah Junior College, Kentucky, admitted its first Negro students after 4 years of litigation in the Federal courts.[6]

OFFICIAL ACTION IN RESPONSE TO THE "SCHOOL SEGREGATION CASES"

Following the *School Segregation Cases*, the six border States and the District of Columbia took prompt legislative and administrative action to achieve complete desegregation in the field of higher education.

On June 23, 1954, about a month after the Supreme Court's decision, the District of Columbia Board of Education approved a desegregation plan providing that the two teachers colleges, Wilson for white and Miner for Negro students, should admit applicants without regard to race in September, and that the two colleges would be merged 1 year later into the District of Columbia Teachers College.[7]

Although the State of Missouri, which took such action in 1957, is the only Southern State that has repealed its school-segregation laws,[8] the attorneys general of West Virginia and Missouri in 1954 and of Maryland in 1955, without waiting for legislative action, issued formal opinions declaring the unconstitutionality of the school segregation laws of their respective States.[9]

The University of Maryland announced its desegregation at all levels in June 1954, and the Maryland State Board of Education by joint resolution with the board of trustees of the State teachers college abolished racial segregation at the five state teachers colleges on June 22, 1955.[10]

In a similar move the Oklahoma State regents for higher education voted on June 17, 1955, to open all State colleges to qualified students of any race in September of that year.[11]

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[6] See Wilson v. City of Paducah, 100 F. Supp. 116 (W.D. Ky. 1951), *aff'd.*, Civ. No. 516, 6th Cir., Feb. 2, 1953.

[7] Report of the Superintendent of the District of Columbia Public Schools, approved by the Board of Education June 23, 1954, p. 7.

[8] Mo. Laws 1957, sec. 1, p. 452.

[9] The West Virginia attorney general on Dec. 15, 1954, ruled with regard to out-of-state tuition funds for Negro college students that the Supreme Court's decision had rendered void the constitutional provisions of art. XII, sec. 8, forbidding that white and colored persons be taught in the same school. His opinion specifically stated "* * * there is now no reason why colored students may not attend West Virginia University or any other State school. Any courses offered in our State-supported colleges shall now be available to all State students regardless of race * * *". *[1954-56] West Virginia Atty. Gen. Rep.*, Op. No. 49, pp. 100–02.

The attorney general of Missouri, in response to a question from the commissioner of education, dated May 25, 1954, as to whether or not segregation was to be abolished in the public schools of Missouri, stated that in his opinion the provisions of the Missouri constitution and statutes as to separate schools "are superseded by the decision of the Supreme Court of the United States and are, therefore, unenforcible." 1 *Race Rel. Rep.* 277, 282 (1956).

The same advice was given by the Maryland attorney general to the State board of education in June 1955. *89th Annual Report of the Board of Education of Maryland*, 32–34 (1955).

[10] See note 9, *supra*, last paragraph.

[11] So. School News, July 1955, p. 7.

The only two legal actions to secure the admission of Negroes to publicly controlled colleges then pending in Oklahoma, *Grant* v. *Taylor*[12] and *Trouillier* v. *Proctor*,[13] were dismissed as moot in 1955 after both the El Reno Board of Education and the board of regents of the Oklahoma College for Women at Chickasha passed resolutions in June 1955 terminating racial segregation at their respective institutions.

The merger of an all-Negro teachers college with the corresponding white institution was accomplished in Missouri when the St. Louis Board of Education discontinued Stowe Teachers College (Negro), merging it with Harris Teachers College (white) on a nonracial basis.[14]

At the junior college level, county boards of education both in Maryland and Missouri ordered the merger of white and Negro institutions. In the fall of 1955, by order of the Montgomery County Board of Education in Maryland, Carver Junior College (Negro) and Montgomery Junior College (white) became the Montgomery County Junior College, and, in Missouri, the Kansas City Board of Education ordered the merger on an integrated basis of Lincoln Junior College (Negro) with the formerly white Kansas City Junior College.[15]

THE OPENING OF WHITE COLLEGES TO NEGRO STUDENTS

Delaware

At the University of Delaware assimilation of Negro students at all levels and in both academic and extracurricular activities was already completed at the time of the decision in the *School Segregation Cases*. The university has had no great influx of Negro students since then.[16]

Missouri

The University of Missouri, which had desegregated by enrolling 10 full-time Negro students at all academic levels in the second semester of the academic year 1950–51, was reported to have over 100 Negro students in the fall of 1959.[17]

The other 12 formerly white Missouri State colleges, which were desegregated after the State attorney general's ruling of 1954, include 6 standard colleges and 6 junior colleges. In reply to the Commission's questionnaire, only one college refused to estimate enrollment by race; two estimated an increase in Negro enrollment from 1954 to

[12] Civ. No. 6404-C, E.D. Okla. 1955.
[13] Civ. No. 3842, W.D. Okla. July 26, 1955.
[14] Walker and Hazel, "Integration in the Junior College," 29 *J. Negro Ed.* 204, n. 1 (1960).
[15] *Ibid.*
[16] Commission questionnaires, Delaware.
[17] So. School News, Dec. 1959, p. 12.

1959; and five reported a very small Negro enrollment. Only the teachers college reported a substantial Negro enrollment, approaching 50 percent in December 1959.

Of the junior colleges, one failed to reply to the Commission's inquiry, two were unable to supply enrollment by race, and one stated that it had graduated its first Negro student in 1959 and no other Negro student had applied for admission. The remaining two reported a 3- and a 10-percent Negro enrollment, respectively, in the fall of 1959.[18]

Maryland

The University of Maryland opened its undergraduate schools in 1954 to all qualified Negro applicants formerly enrolled only at its Princess Anne division. In the fall of 1959, it was estimated that 150 Negro students were enrolled at the College Park campus, together with 183 other nonwhites, in a total student body of over 14,000 full-time resident students, or a total of about 2.5 percent nonwhites.

Among the three teachers colleges in Maryland formerly open only to white students at Towson, Frostburg, and Salisbury, one has never had Negro applicants, another has never had more than three Negroes in its student body, and in the third Negro students constituted 2.2 percent of the enrollment in the fall of 1959.[19]

Among the 10 publicly controlled junior colleges in Maryland, 2 have never had full-time Negro students, and the other 8 had Negro enrollments in the fall of 1959 ranging from a low of one-half of 1 percent to a high of 10 percent of the student body. Only two junior colleges indicated an increased Negro enrollment during the past 4 years.[20]

West Virginia

In West Virginia, between 1954 and 1955, all nine formerly white State colleges admitted Negro students.[21] But since 1955 the number of Negroes has declined at three colleges until none was enrolled in the fall of 1959, two have maintained approximately the same Negro enrollment as in the first year of desegregation, and only four have increased their Negro enrollment year after year so that it represented from 4 to 6 percent of the total student body in 1959–60.[22]

Kentucky

The University of Kentucky, desegregated since 1950, is reported as having enrolled an average of 80 Negro students each year, or slightly less than 1 percent of its total enrollment in the fall of 1959.[23]

[18] Commission questionnaires, Missouri.
[19] Commission questionnaire, Maryland.
[20] *Ibid.*
[21] Jordan, "Desegregation of Higher Education in West Virginia," *27 J. Negro Ed.*, 332, 337 (1958).
[22] Commission questionnaire, West Virginia.
[23] So. School News, Dec. 1959, p. 12.

On the other hand, the University of Louisville, which also desegregated in 1950 upon the closing of the Louisville Municipal College for Negroes, is reported to have maintained an average annual Negro enrollment of "several hundreds" in a total student body of approximately 8,000, and to be completely desegregated at all levels both in academic and extracurricular activities.[24]

Of the 5 other public institutions of higher education in Kentucky, 2 failed to indicate to the Commission their current enrollment by race, and 2 gave evidence of nominal desegregation, enrolling less than 10 Negro students per year in the fall of 1957 and 1959 compared with an enrollment of 2,000–3,000 white students. Two other colleges reported a Negro enrollment of 0.8 and 4 percent for the year 1959–60.[25]

Oklahoma

Replies to the Commission questionnaires from Oklahoma reveal a number of interesting features in the desegregation process of its 16 formerly white senior and 6 junior colleges, all of which supplied information. The geographical distribution of the small Negro population of the State is reflected in the replies. Five senior colleges and one junior college indicated that they had never enrolled any Negro students, although they had had an open admission policy since 1951 at the graduate and since 1954–55 at the undergraduate level. Of the remaining 11 colleges, 2 which had desegregated before 1954 either failed to give their enrollment by race or gave it only for the current year; 6 others indicated an increasing Negro enrollment; 2 a decreasing number of Negroes enrolled, currently below 10; and 1 stated that it enrolled its first Negro student in the fall of 1959. Among the 6 having an increasing Negro enrollment, 4 have never had over 20 Negro students per year, and 2 have reached Negro enrollments of over 60 and 130 students, respectively.

In the academic year 1959-60, at the 11 public colleges of Oklahoma reporting, the enrollment of Negro students ranged from 1 to 135, or 0.2 to 4 percent of their total student bodies.

The five desegregated junior colleges in Oklahoma have had varying experiences. One, which enrolled one or two Negroes in 1956 and 1957, has had a 100 percent white enrollment since that time; two others report a decreasing Negro enrollment from 1957 to 1959; one college has had about the same number of Negroes at all times since 1955, but has had a slight increase in the percentage of Negroes in the student body as a result of diminishing total enrollment; and the fifth junior college, giving figures only for 1959–60, reported a 12 percent Negro enrollment.[26]

[24] *Ibid.*
[25] Commission questionnaires, Kentucky.
[26] Commission questionnaires, Oklahoma.

The opening of all public institutions in the border States to qualified applicants without regard to race produced in varying degrees a phenomenon that has been called desegregation in reverse—that is, white students attending formerly segregated Negro State colleges.

The economic advantage of attending a local college and, in some instances, the quality and type of education offered at the predominantly Negro colleges undoubtedly have been the determining factors in the selection of such institutions by white students.

Delaware

Delaware State College, established in 1891 for colored students, has never experienced more than a token reverse desegregation although it has admitted white students since 1953. After a State court decided in 1950 that its facilities were so grossly inferior to those at the University of Delaware as to require the admission of qualified Negro applicants to the university, the Governor appointed a committee to study the situation at the Negro college. That committee and two later committees recommended the closing of the institution as wasteful and inefficient, stressing the substantial cost to the State and the inferior results obtained. The legislature responded, however, by increasing the college's appropriation. With this increased financial support, the college was then able to secure reaccreditation by the regional accrediting association in 1957.[27]

The 4 to 10 white students enrolled each year since 1954 in Delaware State College have been for the most part servicemen from Dover Air Force Base. The first white student was graduated from the college in May 1957.[28] In the academic year 1959–60 there were 6 white students in an enrollment of 356 full-time students.[29]

Maryland

In Maryland, the board of trustees of Morgan State College, the largest Negro college in the State, announced after the decision in the *School Segregation Cases* that the college would "continue its policy of admitting any qualified student * * * without regard to race."[30] In June 1955, Morgan State graduated its first white students.[31]

The reports from the three Negro State colleges in Maryland and the university's Negro division at Princess Anne show that three of them are desegregated and that an increasing number of white students have attended the formerly all-Negro colleges since 1954. One of these colleges had a 3-percent white enrollment in 1959–60.[32]

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[27] Redding, "Desegregation in Higher Education in Delaware," 27 *J. Negro Ed.*, 253 256 (1958).

[28] So. School News, June 1957, p. 7.

[29] *Id.*, Dec. 1959, p. 1.

[30] Morgan State College Bulletin, Feb. 1955.

[31] So. School News, July 1955, p. 10.

[32] Commission questionnaires, Maryland.

Kentucky

In Kentucky, the only State college for Negroes admitted its first white student in 1954 [33] and has had white students enrolled ever since. A peak of 53 whites in a student body including about 600 Negroes was reached in 1957.[34] The number and percentage of white students have decreased since that time.

West Virginia

Desegregation in reverse has achieved major proportions in the States of West Virginia and Missouri. Since 1954 the traditionally Negro institutions of West Virginia, Bluefield and West Virginia State Colleges, have offered to many local white students an opportunity for college training. In 1954 they enrolled 1 and 15 percent white students, respectively; in 1957, 28 and 50 percent; and in the fall of 1959 about 38 and 60 percent.[35] It was reported in August 1960 that approximately 70 percent of the students to be enrolled at West Virginia State College in the fall of 1960 are white and that they are mostly commuters from nearby localities. The college dormitories, however, are occupied mainly by Negroes.[36]

Missouri

The same rapid progress of desegregation in reverse has taken place at the only Negro public college in Missouri, Lincoln University, which desegregated in the fall of 1954 and which has enrolled an increasing number of white students year after year. It was reported in the spring of 1958 that white students constituted about 36 percent of the student body.[37] In the spring of 1960 it was reported that, in a total enrollment of about 1,450, Negroes were "probably" still the majority.[38]

THE TOKEN-COMPLIANCE STATES

In the States of Arkansas, Virginia, and North Carolina, whose nonwhite population ranges from 21 to 25 percent,[39] the progress of desegregation at the higher education level has been so limited and circumscribed that it appears appropriate to classify each State as giving only token compliance to the Supreme Court's decisions.

Arkansas

The University of Arkansas voluntarily admitted Negroes to graduate courses not offered at the Negro college in Pine Bluff as early as

[33] So. School News, Oct. 1954, p. 7.
[34] Parrish, "Desegregrated Higher Education in Kentucky," 27 *J. Negro Ed.* 260, 265 (1958).
[35] Commission questionnaires, West Virginia.
[36] So. School News, Aug. 1960, p. 4.
[37] Aber, "A Reverse Pattern of Integration," 22 *J. Educ. Sociology,* 283 (1959).
[38] So. School News, May 1960, p. 6.
[39] Preliminary figures for the 1960 census show Negroes constituting 22.5 percent of the population of Arkansas, 21.0 percent in Virginia, and 25.0 percent in North Carolina.

1948. In 1955 this policy was extended to the undergraduate colleges of the university and to other State-supported institutions after the Attorney General ruled that the decisions in the *School Segregation Cases* also applied to State-supported institutions of higher education.[40]

In the fall of 1955, there were Negro students enrolled at the undergraduate level in Arkansas State College, Arkansas Polytechnic College, Henderson State College, and at both the graduate and undergraduate levels at the University of Arkansas.[41]

In the academic year 1959–60 three of the seven formerly white State institutions reported to the Commission a Negro enrollment from 0.03 to 2 percent; one reported no Negro enrollment; and three failed to answer.[42]

It is reported that as a general rule the University of Arkansas accepts Negro students only for courses of study not otherwise available to them in the State; i.e., at the Negro college.[43] This is a continuation of the State's pre-1954 policy.

Virginia

A similar policy is followed at the University of Virginia, which admitted a student to the graduate law school in 1950 under court order, in the *Swanson* case.[44] It continues to limit its admission of Negro students to the graduate and professional schools for courses not available at the Virginia State College for Negroes.[45]

Three other formerly white public institutions in Virginia have also admitted Negroes. The year after the *Swanson* decision both the Medical College of Virginia and the Richmond Professional Institute, a branch of the College of William and Mary, opened their doors to Negro students applying for courses not offered at the State college for Negroes. On June 6, 1952, the State attorney general in a formal opinion requested by the president of the College of William and Mary sustained the president's action in denying admission to Clyde Harper Jones, a graduate of Virginia State College, who had applied for admission to graduate studies in education. The opinion stressed that such studies were available at the Negro college and that the facilities at the two institutions were substantially equal.[46] In 1953, the Virginia Polytechnic Institute adopted the same policy of admitting Negro students only to courses of study not provided at the State Negro college.[47]

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[40] So. School News, Sept. 1955, p. 11.

[41] Stephan, "The Status of Integration and Segregation in Arkansas," 25 *J. Negro Ed.* 212, 219 (1956).

[42] Commission questionnaire, Arkansas.

[43] So. School News, Dec. 1959, p. 1.

[44] See p. 34, *supra.*

[45] So. School News, Dec. 1959, p. 14.

[46] *Virginia Att'y Gen. Rep. 1951–52,* at 52.

[47] So. School News, Dec. 1959, p. 14.

The Richmond Times reported in the fall of 1959 that a total of 41 Negro students were enrolled in these 4 State institutions, 16 at the Medical College of Virginia and 5 at the Richmond Professional Institute, where only the graduate school of social work is desegregated.[48] In both of these institutions, according to this report, no living accommodations are provided for the Negro students. The report also said that 18 Negro students were enrolled at the University of Virginia, where they lived in the regular student dormitories and ate in the students' cafeteria, and 2 were enrolled at the Virginia Polytechnic Institute, which had a total enrollment of almost 5,000 full-time students. The Negro students at the latter institution lived with Negro families not far from the campus and were not allowed to eat in the college dining hall. By policy, Negroes are admitted to VPI at both the graduate and undergraduate levels to study engineering or other courses not offered at Virginia State College for Negroes, but, up to 1960, Negroes have been enrolled only in undergraduate courses.

North Carolina

In North Carolina only the University of North Carolina, of the 14 public institutions of higher education, admitted Negro students before 1954. The university's law school at the Chapel Hill campus admitted Negro students in 1951 as a result of the *McKissick* case,[49] while the Agricultural State College Graduate Division at Raleigh did so voluntarily in September 1953.[50]

Following the decision in the *School Segregation Cases*, a Federal district court held and was sustained by the Supreme Court in the *Frasier* case,[51] that the rule of the *School Segregation Cases* applied also to undergraduate colleges. The University of North Carolina at Chapel Hill then admitted Negro undergraduate students and enrolled a total of 10 Negro students in the fall of 1955, 3 of whom were undergraduates.[52]

The other two divisions of the university, the State college at Raleigh and the women's college at Greensboro, admitted Negroes to both graduate and undergraduate work for the first time in 1956.[53]

In 1957 the legislature repealed all the statutes regulating the racial classification of the nine State senior colleges, exclusive of the University of North Carolina, and enacted a new law eliminating, as to each of the five colleges for Negroes and the three for whites, any

[48] Richmond Va. Times, Nov. 29, 1959, sec. B, p. 1.
[49] See p. 35, *supra*.
[50] Harris, "Desegregation in North Carolina Institutions of Higher Learning" 27 *J. Negro Ed.* 295, 297 (1958).
[51] Frasier v. Board of Trustees, 134 F. Supp. 589 (M.D. N.C. 1955), *aff'd.*, 350 U.S. 979 (1956).
[52] Harris, *op. cit. supra* note 50 at 296.
[53] *Id.* at 297. Commission questionnaire, North Carolina. The State College at Raleigh had desegregated at the graduate level in 1953.

reference to racial limitations in their student bodies.[54] Only in the case of Pembroke College did the new statute retain a racial policy, viz, that Pembroke was to retain responsibility for "the undergraduate education of the Lumbee Indians and other persons who may be admitted under uniform regulations of the board of trustees." [55]

Two of the seven other public institutions of higher education which formerly enrolled only white students failed to reply to the Commission questionnaire, but one of the two, Western Carolina College, was reported to have admitted its first Negro student in 1957.[56] Two teachers colleges and one junior college stated that they were currently denying admission to qualified Negro students because of race; one junior college stated in early 1960 that it was about to abandon its policy of denying admission because of race; and another junior college having a separate Negro branch reported a biracial enrollment at its main campus.

At the University of North Carolina in the fall of 1959 a modest 0.3 percent were Negroes in two of its divisions but, in the third, Negroes made up 10 percent of the enrollment in the graduate schools and 0.8 percent in the undergraduate schools.[57]

It was reported in December 1959 that there were 32 Negroes, constituting 1.2 percent of the student body, enrolled at the Women's College of the University of North Carolina at Greensboro, 12 of them graduate day students and 20 undergraduates, of whom 14 lived in dormitories on the campus.[58]

THE LIMITED-COMPLIANCE STATES

In the other two States in which more than nominal desegregation has occurred at the higher education level, Tennessee and Texas, it was obtained largely through long and complicated court action. Tennessee and Texas have nonwhite populations of 15.7 and 12.4 percent, respectively.[59] Both States include large areas having a very sparse Negro population and smaller sections of much higher Negro density—as high as 70 percent in west Tennessee near the Mississippi River and 55 percent in "deep east" Texas toward the Louisiana border. In these areas of high Negro density, segregation policies and customs are so deeply embedded that desegregation has been slow to come, even at the higher education level.

Both the University of Texas and the University of Tennessee desegregated their graduate and professional schools before 1954 as a result of Federal court decisions in the *Sweatt* (1950)[60] and *Gray*

[54] N.C. Gen. Stat. ch. 116, secs. 116–45 (1957).
[55] *Ibid.*
[56] So. School News, July 1957, p. 6.
[57] Commission questionnaire, North Carolina.
[58] So. School News, Dec. 1959, p. 13.
[59] Preliminary figures for 1960 census.
[60] Sweatt v. Painter, 339 U.S. 629 (1950).

(1952) cases.[61] However, Negro students were thereafter admitted to both universities only for courses of study not offered at the Negro State colleges. Apparently this continued to be the basis for accepting Negro graduate students at the University of Tennessee until at least the fall of 1959,[62] but as early as July 8, 1955, the board of regents of the University of Texas approved a resolution authorizing the admission of qualified students at all levels regardless of race and of whether or not the program desired was offered at the Negro institution.[63]

In other State colleges in these States, various patterns of evasion have marked developments since 1954.

Tennessee

Shortly after the second *Brown* decision in 1955, the *Booker* case [64] was started in a Federal district court in Tennessee. The plaintiff sought the desegregation of one of the five Tennessee State colleges, Memphis State College, located in the southwestern corner of the State, where the proportion of Negroes in the population is high. Only after 5 years of litigation were the doors of that institution opened to all qualified students without regard to race or color.

The details of this litigation reveal the effectiveness of combined legislative and administrative actions to avoid desegregation even while participating in a Federal court proceeding. As part of its defense to the suit, the Tennessee Board of Education, which governs all State colleges but not the State university, on June 15, 1955, adopted a one-step-a-year desegregation plan for all State colleges starting at the graduate level, and justified this 5-year program as compliance with the Supreme Court's "all deliberate speed" formula in the second *Brown* decision. The plan was scheduled to go into effect in September 1955, but only if State constitutional and statutory provisions requiring segregation in public education had been held invalid in a legal proceeding by that date.[65]

The plan was accepted by the Federal District Court for the Western Division of Tennessee, which stated in an oral opinion on October 17, 1955:[66]

> The Supreme Court has very definitely ruled that racial discrimination in public schools is unconstitutional, * * * all State or local laws requiring or permitting racial segregation in the public schools must yield to this principle.
>
> While the Supreme Court in its recent decisions was dealing with public grade schools, unquestionably, * * * the reasoning in those cases is as applicable to public schools of higher education such as Memphis State College.

[61] Gray v. University of Tennessee, 342 U.S. 517 (1952).
[62] So. School News, Dec. 1959, p. 13.
[63] So. School News, Aug. 1955, p. 2.
[64] Booker v. Tennessee Bd. of Educ., 1 *Race Rel. L. Rep.* 118 (W.D. Tenn. 1955), *rev'd*, 240 F.2d 689 (6th Cir.), *cert. denied*, 353 U.S. 965 (1957).
[65] Res. of the State Bd. of Educ. of Tenn., 1 *Race Rel. L. Rep.*, 262–63 (1956).
[66] Booker v. Tennessee Bd. of Educ.; 1 *Race Rel. L. Rep.* 118, 119, (W.D. Tenn. 1955).

In its conclusions of law the court added: [67]

> The court is of the opinion that the decision of the Supreme Court of the United States in the case of *Brown* v. *Topeka*, * * *, definitely established the invalidity of the Tennessee constitutional provisions and statutes requiring the segregation of the races in the public schools, * * * such invalidity is so patent that a three-judge district court is unnecessary to determine such invalidity.

The Court of Appeals for the Sixth Circuit on January 14, 1957, agreed with the district court's ruling as to the invalidity of the Tennessee constitutional and statutory provisions on segregation, but reversed the lower court's acceptance of the defendants' plan on the ground that a 5-year delay in admission of the plaintiffs did not constitute "all deliberate speed" within the meaning of the Supreme Court's decision.[68] The Supreme Court declined to review the decision.[69]

Immediately after the district court approved the plan, the president of Memphis State College announced that a special entrance examination would be established for applicants to the graduate school. This action was interpreted by Negroes in the State as intended to limit the admission of Negroes to the graduate level.[70]

The day after the State board announced the desegregation plan for the State colleges a Negro student applied for admission to Austin Peay State College at the graduate level [71] and was enrolled.[72] On November 21, 1955, East Tennessee State College also announced that it had approved the admission to its graduate division of a Negro teacher for the second semester of the academic year.[73] A suit was then filed in a State court by taxpayers against the chairman and members of the State board of education, challenging the legal right of these officials to disburse funds to these two colleges, since State laws forbade disbursement of public funds to integrated schools.

The State court on May 7, 1956, held that the legislature had made the appropriations in the light of the *School Segregation Cases* and had therefore impliedly authorized funds to be used for nonsegregated schools.[74] It also reached the important conclusion that the Tennessee constitutional provisions and statutes requiring segregation were invalid.[75] The Tennessee Supreme Court on September 10, 1956, in a different case involving desegregation of public schools, agreed with the lower Tennessee court as to the invalidity of the State segregation laws.[76]

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[67] *Id.* at 121.
[68] Booker v. Tennessee Bd. of Educ., 240 F.2d 689 (6th Cir. 1957).
[69] Tennessee Bd. of Educ. v. Booker, 353 U.S. 965 (1957).
[70] Redd, "The Status of Educational Desegregation in Tennessee," 25 *J. Negro Ed.* 324, 328 (1956).
[71] So. School News, July 1955, p. 9.
[72] So. School News, Nov. 1955, p. 8.
[73] So. School News, Dec. 1955, p. 16.
[74] Davidson v. Cope, 1 *Race Rel. L. Rep.* 523, 526 (Ch. Tenn. 1956).
[75] *Id.* at 525–526.
[76] Roy v. Brittain, 297 S.W.2d 72, 73 (Tenn. 1956).

Thus, by September 1956 both State and Federal courts had declared all Tennessee school-segregation laws invalid, and specifically those pertaining to higher education. In addition, the Court of Appeals for the Sixth Circuit had rejected the officially proposed gradual desegregation plan for all State colleges. In spite of these holdings however, the State board of education managed to postpone desegregation of Memphis State College and two other public institutions of higher education under its control for 2 more years by legal and other maneuvers.

Of the five State colleges in Tennessee, only the two already desegregated at the graduate level in the previous academic year, East Tennessee and Austin Peay State Colleges, enrolled Negro students in the summer session of 1957—eight and two, respectively.

Memphis State College, raised to the rank of a university in January 1957,[77] rejected 2 Negro applicants for the summer session of that year on the ground of late registration, but announced that 10 other applications from Negroes had been filed for the fall term.[78]

In August of 1957 the State board of education named a committee to draft a new desegregation program for the colleges and university under its control.[79] This action was immediately interpreted by the president of Memphis State University "as meaning the present [segregation] policy remains in effect until the board dictates otherwise." This suggested that the 14 Negro students who had then applied for admission for the fall term would be rejected, as in fact, they were.[80] The committee met with the State college presidents and made recommendations to the State board the nature of which are not known. Immediately thereafter the board, pursuant to legislation enacted in 1957,[81] resolved on November 8, 1957,[82] to authorize the admission of "all qualified applicants * * * effective at the beginning of the fall term of 1958." It agreed that colleges which had reached full capacity might place a limitation on enrollment by selective devices recommended by the college administration and approved by the Board, "provided that said devices shall apply equally to all prospective students." [83]

It is reported that one of those praising the action of the State board was the then 33-year-old Elijah Noel, one of the original 1954 applicants for admission to Memphis State—who also stated that after 4 years of litigation he could no longer afford to go to college since his school privileges under the GI bill had expired and he had a family to support.[84]

[77] Tenn. Code Ann. ch. 32, sec. 49–3201 (1957).
[78] So. School News, Aug. 1957, p. 7.
[79] So. School News, Sept. 1957, p. 3.
[80] So. School News, Oct. 1957, p. 6.
[81] Tenn. Code Ann. ch. 32, sec. 49–3221 (1957).
[82] Res. of the State Bd. of Educ. of Tenn., 2 *Race Rel. L. Rep.* 1176 (1957).
[83] *Ibid.*
[84] So. School News, Dec. 1957, p. 9.

In fact, only the University of Tennessee and East Tennessee State College enrolled any Negro students in the academic year 1957–58, 25 and 3 graduate students, respectively.[85]

Memphis State University was the only Tennessee institution to avail itself of the board's new policy, which allowed the colleges facing overcrowding to set up selective entrance requirements. In February 1958, the university submitted a plan to the board requiring all new students to take entrance examinations for admission. The plan, ostensibly aimed at limiting enrollment, was approved by the board, but, according to press reports, some members unofficially admitted that it was in fact intended to limit the enrollment of Negro students.[86] When 8 of 10 Negro applicants passed the new entrance examination, the university president in August 1958 asked the State board for a 1-year postponement of desegregation because "the proposal is not acceptable to a large majority of the people." [87] The board granted the requested postponement, but failed to take any action on a similar motion by the president of Austin Peay College where five Negro undergraduate students had applied for admission. Consequently, Austin Peay, and also East Tennessee State College desegregated at the undergraduate level in the fall of 1958, while the University of Tennessee, unaffected by the policy of the State board, continued to enroll Negroes only as graduate students.[88]

Four of the Negroes rejected for admission from Memphis State University immediately filed suit in the Federal court to restrain the State board from granting the postponement of desegregation, claiming that they had been denied admission too late for them to register at any other college. The court, however, denied the injunction on procedural grounds on September 15, 1958, and set a hearing on defendant's motion to dismiss for February 1959.

In an effort to expedite the hearing of the case, the plaintiffs applied to the Court of Appeals for the Sixth Circuit for an order to compel the Federal district court to hold immediate hearings on their motion. On February 17, 1959, the court of appeals, after several procedural skirmishes, declined to rule that the district judge had abused his discretion in giving priority to a hearing on defendant's motion to dismiss, and denied the petition.[89]

At the conclusion of the case on August 4, 1959, the district court found the case moot on three grounds among others: first, that the 1-year postponement granted by the State board to Memphis State

[85] Long, "The Status of Desegregated Higher Education in Tennessee," 27 *J. Negro Ed.* 311, 313, table I (1958).

[86] So. School News, Mar. 1958, p. 14.

[87] So. School News, Sept. 1958, p. 10; *Id.*, Oct. 1958, p. 10.

[88] *Ibid.* On Nov. 1960 the board of trustees agreed to admit Negroes to the undergraduate division in Jan. 1961 at the beginning of the winter quarter. Washington Evening Star, Nov. 19, 1960, p. A–2.

[89] Prater v. Boyd, 263 F.2d 788 (6th Cir. 1959).

University in August 1958 was about to expire; second, that the president of the university had stated in open court that all qualified students, including the four plaintiffs, would be admitted to the university in the September term; and, third, that the Tennessee attorney general had testified that he had advised the State board of education "that it is no longer any lawful excuse for the State board to exclude qualified Negroes from the university and that said board is reconciled to the enrollment of Negro students at said university at the next September semester." [90]

Thus, in the academic year 1959-60, 5 years after suit was brought, 8 Negro graduates of Memphis Negro high schools became the first Negroes enrolled at Memphis State University, 6 as freshmen and 2 as sophomores, in a total enrollment of about 4,500 students. Their classes were all scheduled in the morning so that they would not have to eat in the college cafeteria, and special restrooms and lounges were set aside for their use.[91]

Elsewhere in Tennessee, Austin Peay State College enrolled 6 Negroes in the fall of 1959 in a total student body of about 1,500, East Tennessee State College had 22 Negroes at both the graduate and undergraduate level among 4,150 white students, while the University of Tennessee had 69 Negroes in its student body of 15,300, although the Negro students were enrolled only in professional and graduate schools at the Knoxville, Memphis, and Nashville campuses.[92]

It was also reported "on the authority of the University of Tennessee dean of admissions in Knoxville" that in October 1959 the first two Negro undergraduates in the history of the University of Tennessee Evening Division were attending classes with 1,300 whites.[93]

Of the remaining State colleges, one is still 100 percent white and the other reports enrolling in 1959 its first Negro student in a total student body of over 2,700.[94] The Tennessee Agricultural and Industrial State University was reported as having no white students in the fall of 1959 but as having enrolled some in the past.[95]

Texas

Information received by the Commission from the public institutions of higher education in Texas shows that five junior colleges and one senior college voluntarily adopted an open admission policy before 1954.[96] It is also reported that Howard County Junior College desegregated before that time.[97]

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[90] Prater v. Tennessee Bd. of Ed., 4 *Race Rel. L. Rep.* 888, 890 (D.C. Tenn. 1959).
[91] Washington Post, Sept. 11, 1959, Sec. B, p. 7.
[92] So. School News, Dec. 1959, p. 13.
[93] The Commercial Appeal, Oct. 14, 1959, p. 21.
[94] Commission questionnaire, Tennessee.
[95] So. School News, Dec. 1959, p. 13.
[96] Commission questionnaire, Texas.
[97] So. School News, April 1958, p. 11. The College President stated in 1958 that his institution had been integrated for "the last eight years."

When the Supreme Court issued its ruling in the *School Segregation Cases*, a number of suits involving Negro plaintiffs seeking to gain admission to public colleges in the State of Texas were pending in Federal courts in Texas. Other suits were filed soon thereafter.

One of the pending cases was *Wichita Falls Junior College Dist.* v. *Battle*,[98] where a Federal district court had issued an order directing Hardin Junior College to desegregate. In the summer of 1954, after the United States Supreme Court declined to review the lower court's decision, Midwestern University at Wichita Falls, as the college was then called, desegregated.[99]

Eleven Negro students suing for admission to Kilgore Junior College secured a favorable decision in a Federal court,[1] but the court withheld entry of judgment until after the Supreme Court's second decree in the *School Segregation Cases*. In July 1955, the college offered to accept the applications of four Negro students.[2]

On July 8, 1955, the board of regents of the University of Texas approved a resolution to admit students regardless of race in September of that year at Texas Western College, a branch of the university at El Paso, and at the main university in Austin in the fall of 1956. Admission was to be granted even though the desired programs of study were offered at the State-supported Negro college.[3] Ten days later, a Federal court also held that a Negro student was entitled to enroll as an undergraduate at Texas Western,[4] where 11 Negro students enrolled in the fall of 1955.[5]

In June 1955, the presidents of San Antonio and St. Philip's Colleges, white and Negro junior colleges in San Antonio, announced their desegregation. Two Negroes were enrolled at the former white institution and 28 whites at the Negro college.[6]

By the end of 1955 a long-litigated case seeking the desegregation of Texarkana Junior College finally ended when the Court of Appeals for the Fifth Circuit declared that plaintiffs had a constitutional right to admission on the same basis as white students.[7] However, they failed to apply for admission to the second term of that academic year.

Further desegregation was brought to the public institutions of higher education of Texas in 1956 through a combination of voluntary and forced action.

In January, the board of directors of Texas Southern University approved the admission of white students as of the fall of that year,[8]

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[98] 204 F.2d 632 (5th Cir. 1953), *cert. denied,* 347 U.S. 974 (1954).
[99] See p. 39, *supra.*
[1] Allan v. Master, Civ. No. 1481 E.D. Tex., Jan. 18, 1955.
[2] So. School News, Aug. 1955, p. 2.
[3] *Ibid.*
[4] White v. Smith, 1 *Race Rel. L. Rep.* 324 (W.D. Tex. 1955).
[5] So. School News, Feb. 1956, p. 9.
[6] So. School News, July 1955, p. 12.
[7] Whitmore v. Stillwell, 227 F.2d 187 (5th Cir. 1955).
[8] So. School News, Feb. 1956, p. 9.

and the Agricultural and Industrial State College, now Texas College of Arts and Industries at Kingsville, also opened its doors to Negro students.[9]

A district court decision in December 1955 [10] brought desegregation to North Texas State College at Denton in February 1956. In the summer term of 1956 the college admitted two Negro women to a college dormitory.[11]

Thus, in the second term of the academic year 1955–56, 12 junior colleges and 4 standard 4-year colleges in addition to the University of Texas were reported desegregated, while Texarkana Junior College, although under court order to desegregate, had no Negro students for lack of applications.[12] Two other junior colleges, Gainesville College and Cisco Junior College, admitted their first Negro students in the fall of 1956.[13]

Two Negro graduates of Texas high schools who had been rejected by Lamar State College of Technology filed suit in a Federal district court and obtained a decree in August 1956 ordering the college to desegregate in its September term. Five Negroes enrolled there in the fall of 1956 along with 4,500 white students.[14]

In the same year, suit was also filed in the State courts to test the constitutionality under Texas laws of the payment of State funds to the University of Texas, which had desegregated without a court order. The Texas Supreme Court, however, refused to halt the use of State funds.[15]

The question of desegregation at Texarkana Junior College came before the Federal district court again in the fall of 1956 after three Negro students were prevented from enrolling in September by picketing on the campus.[16] A contempt action was filed in the names of two students against the college president and one of the trustees who allegedly had made prosegregation statements at the time of the picketing. The court dismissed the action after the students testified that they had not retained the NAACP attorney nor requested him to file suit.[17]

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[9] So. School News, June 1956, pp. 4–5.

[10] Atkins v. Mathews, 1 *Race Rel. L. Rep.* 323 (E.D. Tex. 1956).

[11] So. School News, July 1956, p. 7.

[12] So. School News, Mar. 1956, p. 2.

[13] So. School News, Sept. 1956, p. 12; *Id.*, Oct. 1956, p. 14.

[14] *Ibid.*

[15] *Ibid.*

[16] *Ibid.*

[17] On the basis of this testimony, a suit was brought by the State against the NAACP to restrain it from further operations in Texas on the ground, among others, that it had solicited litigation in integration suits. A temporary injunction was issued against the NAACP in the lower State court on Oct. 24, 1956, and later made permanent. Texas v. NAACP, 1 *Race Rel. L. Rep.* 1068 (Tex. Dist. Ct. 1956) (temporary injunction issued); 2 *Race Rel. L. Rep.* 678 (1957) (final decree). After a change of venue was denied, a modified permanent injunction was issued on May 8, 1957, restraining the NAACP, not from doing business in the State, but only from committing any of the alleged abuses,

By the fall of 1957, another junior college, Temple College, had admitted Negro students, thus bringing to 15 the number of public junior colleges actually desegregated (14 formerly white and 1 Negro institution), with no change in the number of desegregated senior colleges over the previous year.[18] In the fall of 1957, North Texas College enrolled 181 Negroes but reported that 43 percent of its Negro enrollment had dropped out by the spring term. St. Philip's College, the junior college in San Antonio, mentioned earlier, enrolled 200 white and 800 Negro students.[19]

The academic year 1958–59 brought no substantial new developments in desegregation except the enrollment of five white students at Texas Southern University and a declaration of an open policy issued by Texas Southmost College. There was, however, a substantial increase of enrollment of minority students in previously desegregated institutions.

According to a survey conducted in January 1959 by the Dallas Morning News, North Texas State was leading in Negro enrollment with 203 Negroes among its 6,500 white students, the University of Texas had an estimated 65 Negroes and 15,900 whites, Lamar Technological Institute had 84 Negroes and 5,600 whites, and St. Philip's Junior College at San Antonio had a one-third white enrollment, i.e., 635 Negroes and about 300 non-Negroes.[20]

The Texas Legislature in 1959 elevated two junior colleges, Arlington and Tarleton State Colleges, to senior college rank. These institutions together with the Agricultural and Mechanical College and the Prairie View Agricultural and Mechanical College for Negroes constitute the strictly segregated Texas A. & M. College system.[21]

In the fall of 1959, the Commission distributed questionnaires on admission policies and enrollment by race in the 1959–60 academic year to the 50 public institutions of higher education in the State, including 18 standard colleges and universities, 29 junior colleges formerly for white students, and the 2 standard colleges and 1 junior college formerly for Negroes.

Replies were received from 18 of the 20 colleges and universities and 23 of the 30 junior colleges. Among the 18 colleges replying to the questionnaire, 11 reported that as of December 1959 they were still maintaining a policy of complete exclusion of Negro students, and, in the case of 1 Negro college, of white students. Five of them supported their policy by citing the provisions "for white students

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namely, engaging in lawsuits in which it had no direct interest, soliciting litigation and paying litigants to bring suits, as well as lobbying in activities contrary to State law. A penalty in accrued franchise taxes was also imposed.

[18] So. School News, Sept. 1957, p. 11.

[19] So. School News, April 1958, p. 11.

[20] "Report on Integration," Dallas Morning News, Jan. 6, 1959, p. 6; *id.*, Jan. 8, 1959, p. 4; *id.*, Jan. 9, 1959, p. 4.

[21] So. School News, Feb. 1960, p. 4.

only" in their establishing acts. It must be noted that 7 of these 11 institutions did report having one or more oriental students.

Of the remaining seven colleges currently desegregated, one failed to state its enrollment by race and the other six indicated that they had a Negro enrollment making up from 0.1 percent to 3.5 percent of their student bodies.[22]

Among the 23 junior colleges replying to the inquiry, 3 stated that under the current policies of their institutions they denied admission because of race to Negro students, 5 stated that they did not deny admission to qualified Negro applicants but had a 100 percent white enrollment, and the remaining 15 institutions indicated that they were desegregated. Three of the latter failed to give their enrollment by race, and the other 12 reported a Negro enrollment in the fall of 1959 ranging from 0.2 to 4 percent of the total student body.[23] It is reported that in the fall of 1959 the formerly Negro St. Philip's Junior College continues to have a one-third white enrollment.[24]

The most recent step toward desegregation in public higher education in Texas was again achieved through a Federal court order. On February 11, 1960, West Texas State College was enjoined from denying admission to the plaintiff, a Negro graduate of Amarillo Junior College, and other Negro applicants.[25] The court rejected defendants' argument that the Constitution allowed a "salt and pepper" higher education system in the State—including all-white, all-Negro, and integrated colleges. Apparently, there was no appeal from the court's decision. This is the first desegregation order affecting one of the six completely segregated State teachers colleges in Texas.

It was reported in April 1960 that, as a consequence of the desegregation of public colleges in Texas, the Texas Commission of Higher Education had initiated a special study to ascertain whether or not the out-of-State scholarship program was still justified in view of the fact that deans of the desegregated University of Texas medical schools at Dallas and at Galveston, and of its dental college at Houston, had reported a scarcity of qualified Negro applicants, while 30 Texas Negroes were studying medicine and 8 studying dentistry at Meharry Medical School under the out-of-State scholarship program sponsored by the State.[26]

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[22] Commission questionnaires, Texas.
[23] *Ibid.*
[24] So. School News, Dec. 1959, p. 13.
[25] Shipp v. White, Civ. No. 2789, N.D. Texas, Feb. 11, 1960.
[26] Dallas Morning News, April 19, 1960, Sec. 1, p. 16.

CHAPTER 2

RESISTANCE IN THE DEEP SOUTH

The preceding chapter has described developments in Southern States where, albeit in widely varying degrees, there has been voluntary or court-compelled desegregation. A characteristic common to these States has been a willingness in general to abide by the law of the land, and an absence of a general program of resistance initiated and carried out by State and local officials.

Attention will now be directed to an examination of events and practices in the six Southern States which have intensively resisted desegregation of their institutions of public higher education by a combination of legislative and administrative techniques. In Louisiana, four State institutions have reluctantly desegregated under court order, but only after a vigorous and prolonged fight. In Florida, after 9 years of litigation the University of Florida has opened its doors to Negroes, but to graduate and professional schools only. In Mississippi, South Carolina, Alabama, and Georgia, all public institutions of higher education remain segregated, although the University of Alabama and the Georgia State College of Business Administration are under court order to admit qualified Negro students. A detailed factual survey of the experience in each of these strongly resistant States follows.

LOUISIANA

Under the spur of legal action Louisiana State University admitted its first Negro students to the law school as early as 1950, and to the graduate schools of agriculture and nursing in 1951.[1] Following this breakthrough, a steadily increasing number of Negro students attended the university graduate schools between 1951 and 1954, reaching a total of 58 in the spring of 1954 [2] and 229 in the summer session of that same year.[3]

Three colleges were compelled to desegregate soon after the decision in the *School Segregation Cases* in 1954. On the eve of the Supreme Court decision, a Federal district court ruled that Negro students were

[1] See p. 35, *supra*.
[2] So. School News, Sept. 1954, p. 13.
[3] N.Y. Times, July 20, 1954, p. 9.

entitled to admission at Southwestern Louisiana Institute,[4] and on July 17, 1954, it issued a permanent injunction against the institute,[5] whereupon 5 Negro undergraduate students were enrolled in the 1954 summer school and about 80 in the fall term of 1954.[6] A similar pattern occurred at a second Louisiana college. In June 1954, 16 Negro students applied for admission at McNeese State College and were rejected.[7] They then sued in a Federal district court, and by December had secured an order directing their admission.[8] The third college to desegregate, Southeastern Louisiana College, also acted as a result of Federal district court order.[9]

In contrast, efforts of Negro students to gain admission as undergraduates at Louisiana State University met prolonged and strenuous resistance by the State board of supervisors. In August 1953, A. P. Tureaud, Jr., was denied admission as a prelaw student to the undergraduate school of arts and science of the university, reportedly because the president of the university had declared that it was the policy of the university to reject any application of Negro students to its undergraduate courses unless directed to do so by a court.[10] Tureaud then sued in a Federal district court on the ground that facilities at Southern University (a Negro college) were unequal to those at Louisiana State, and obtained a temporary injunction on September 11, 1953, restraining Louisiana State from denying him admission.[11] The filing of a notice of appeal by the State did not prevent him from enrolling at the university for that term.[12]

The Court of Appeals for the Fifth Circuit in a 2-to-1 opinion then reversed the district court's order on procedural grounds and remanded the case for trial before a three-judge constitutional court.[13] The story now becomes involved. Tureaud appealed immediately to the Supreme Court of the United States,[14] but on November 11 the university cancelled his registration, thus barring him from attending courses.[15] Then, a week after its decision in the *School Segregation Cases*, the Supreme Court vacated the judgment of the court of appeals and remanded the case to the district court for consideration in the light of its holding in the *School Segregation Cases* and of the "conditions that now prevail."[16] The district court on March 30,

[4] Constantine v. Southwestern Louisiana Institute, 120 F. Supp. 417 (W.D. La. 1954).
[5] N.Y. Times, July 18, 1954, p. 34.
[6] So. School News, Sept. 1954, p. 13; *id.*, Nov. 1954, p. 3.
[7] *Id.*, Jan. 1955, p. 3.
[8] Combre v. Frazier, Civ. No. 4743, E.D. La., Dec. 17, 1954.
[9] Wells v. Dyson, Civ. No. 4679, E.D. La., April 2, 1955.
[10] N.Y. Times, Aug. 6, 1953, p. 13.
[11] Tureaud v. Board of Supervisors, 116 F. Supp. 248 (E.D. La. 1953).
[12] N.Y. Times, Sept. 19, 1953, p. 6.
[13] Board of Supervisors v. Tureaud, 207 F.2d 807 (5th Cir. 1953).
[14] N.Y. Times, Nov. 6, 1953, p. 13.
[15] *Id.*, Nov. 12, 1953, p. 27.
[16] Tureaud v. Board of Supervisors, 347 U.S. 971 (1954).

1955, reinstated its former injunction against denying admission, and the court of appeals affirmed on August 23, 1955.[17]

Tureaud then applied for admission, first, for the 1955 summer session, then for the fall term of the university, but was turned away both times on the ground that his application for admission stated an intention to take courses leading to a major in "education" rather than a prelaw program to which the court had ordered his admission.

In the meantime, the university had filed a petition for rehearing in the court of appeals, which was granted on October 26. On rehearing, the order of August 23 affirming the injunction was set aside on procedural grounds.[18] The victory of the university was, however, short lived. Upon submission of the case to the court *en banc*, the court reversed itself, 6–1, and vacated the order of October 26.[19] This had the legal effect of reinstating the judgment of August 23, 1955, and reimposing the earlier injunction against denying admission on racial grounds.

The State authorities then turned to other ways of preventing Negro admissions. Anticipating the Supreme Court's denial of review in the *Tureaud* case,[20] the board of supervisors held an executive meeting on February 4, 1956, for the purpose of planning ways to minimize the registration of Negro undergraduates.[21] Proposals to raise standards for admission through health and entrance examinations and by requiring the filing of two letters of recommendation from Louisiana State University alumni were defeated at the conclusion of two secret meetings, but the idea of tightening admission requirements was not abandoned by State officials.[22] Two new events intensified the efforts of the State to resist integration. In February 1956, three Negro students attempted to register at the segregated Louisiana Polytechnic Institute, but were rejected on the ground that their previous college records had not been transferred in time.[23] At the same time, a motion was filed to advance hearing in the case of *Williams* v. *Prather*,[24] a suit pending for the desegregation of another white State institution, Northwestern State College.

In the face of this broad attack against segregation in higher education, the State began a counterattack through judicial and legislative action. The attorney general in July 1956 obtained a preliminary injunction from a State court against any further activity of the NAACP in Louisiana until its membership lists were filed with the State. Simultaneously, the legislature enacted 12 measures sponsored

[17] Board of Supervisors v. Tureaud, 225 F.2d 434 (5th Cir. 1955).
[18] Board of Supervisors v. Tureaud, 226 F.2d 714 (5th Cir. 1955).
[19] Board of Supervisors v. Tureaud, 228 F.2d 895 (5th Cir. 1956).
[20] Board of Supervisors v. Tureaud, 351 U.S. 924 (1956).
[21] N.Y. Times, Feb. 5, 1956, p. 60.
[22] So. School News, Mar. 1956, p. 5.
[23] *Ibid.*
[24] Civ. No. 5000, W.D. La. 1955.

by the joint legislative committee on segregation,[25] including two statutes aimed at eliminating any possibility of admission of Negroes at the State colleges and universities for whites.

One act, No. 15, provided that any applicant for registration at a tax-supported college must file a certificate of eligibility and good moral character signed by his high school principal and school district superintendent.[26] Three other acts, Nos. 249, 250, and 252, made advocacy of racial integration in schools and colleges by a school employee a cause for dismissal.[27] As interpreted by one of the segregationist legislative leaders, the signing of a certificate of eligibility for a Negro by a school official would be an act favoring school integration.[28]

Act No. 15 was at first interpreted broadly by the State attorney general as applying to all students, both those enrolled in the previous term and new applicants. Later, in reply to an inquiry from the president of Louisiana Polytechnic Institute, he modified his ruling to exempt from this requirement for the coming academic year 1956–57 about 400 Negro students who had attended desegregated colleges in the preceding year.[29] The ruling aroused a protest by the chairman of the legislature's committee on segregation, who insisted that the legislature had intended the law to apply to both new and old students. The attorney general nevertheless adhered to his narrow interpretation of the act.[30]

In any event, no new Negro students applied in the fall of 1956 for admission to Louisiana State University nor to any of the three desegregated colleges, and the total Negro enrollment at white institutions dropped from 400 to approximately 200.[31]

Another measure intended to prevent desegregation in higher education was passed at a special session of the legislature held in the fall of 1956. Two 4-year colleges were authorized to be established in New Orleans, one for whites as an extension of Louisiana State University, the other for Negroes as a branch of Southern University.[32]

The legislature had additional steps in mind. Its joint committee on segregation successfully exerted pressure on the board of regents of Louisiana State University in October and the State board of education in November to adopt the harsher interpretation of Act No. 15 rather than the attorney general's ruling for the second term of the academic year. This meant that both new and old students would

[25] N.Y. Times, July 13, 1956, p. 20.
[26] La. Acts 1956, No. 15, p. 43.
[27] La. Acts 1956, No. 249, p. 538; No. 250, p. 540; No. 252, p. 542.
[28] So. School News, Aug. 1956, p. 11.
[29] 2 *Race Rel. L. Rep.* 261 (1957).
[30] 2 *Id.* at 262 (1957).
[31] So. School News, Oct. 1956, p. 5.
[32] *Ibid.*

be required to submit a certificate of eligibility.[33] The enforcement of these new rules would obviously have ended desegregation in higher education in January 1957. However, a Federal court challenge by Negro students already enrolled resulted in the issuance of temporary restraining orders against Louisiana State University on January 17,[34] and against McNeese and Southeastern Louisiana Colleges and Southwestern Louisiana Institute on January 28, 1957.[35] The court enjoined the institutions from refusing registration to plaintiffs and others in their class pending a court test on the constitutionality of the two statutes involved, Act No. 15 (requiring a certificate from the principal and district superintendent) and Act No. 249 (making advocacy of desegregation by a public employee grounds for his dismissal).[36] Protected by the court order, 37 Negro graduate students enrolled at Louisiana State University in the spring term, 34 at Southwestern Louisiana Institute, 12 at Southeastern, and about 20 at McNeese.[37]

The three cases, having been consolidated for trial, were decided on April 15, 1957. The district court found both acts violative of the 14th amendment equal-protection clause[38] and enjoined State officials from refusing to admit qualified Negro applicants because of failure to present certificates of eligibility.[39] In reaching its decision, the court looked at the intention of the legislators and found that both acts were passed as part of a group of obvious segregationist measures sponsored by the joint legislative committee on segregation. It examined the practical effect of the statutes and found that not a single school official had signed a certificate for admission of a Negro to a white college. The court, therefore, viewed this as an attempt of the Louisiana Legislature to reimpose segregation, which "nevertheless fails because the 14th amendment of the Constitution 'nullifies sophisticated as well as simple-minded modes of discrimination.' "[40]

One sidelight is of interest. While the State's appeal was pending before the Court of Appeals for the Fifth Circuit, school officials continued to apply the provisions of Act No. 15 to white students. It was reported that a number of white inmates of the State prison, seeking to take extension courses at Louisiana State University, obtained certificates attesting to their good moral character and eligibility from school officials. The university, however, refused to enroll them.[41]

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[33] *Id.*, Nov. 1956, p. 15; *id.*, Dec. 1956, p. 15.
[34] Ludley v. Board of Supervisors, Civ. No. 1833, E.D. La., Jan. 17, 1957.
[35] Bailey v. Louisiana State Board of Education, Civ. No. 1836, E.D. La., Jan. 28, 1957, and Lark v. Louisiana State Board of Education, Civ. No. 1837, E.D. La., Jan. 28, 1957.
[36] So. School News, Feb. 1957, p. 16.
[37] *Id.*, Mar. 1957, p. 8.
[38] Ludley v. Board of Supervisors, 150 F. Supp. 900 (E.D. La., 1957).
[39] N.Y. Times, April 17, 1957, p. 27.
[40] Ludley v. Board of Supervisors, *supra*, note 38, at 901.
[41] So. School News, Aug. 1957, p. 5.

In the fall of 1957 there were between 160 and 175 Negroes attending Louisiana State University and the other 3 desegregated colleges.[42] The lower court decision was affirmed by the court of appeals on February 13, 1958,[43] and in the fall the Supreme Court of the United States denied *certiorari*.[44] In the meantime, the State proceeded to establish the New Orleans branch of Louisiana State University as approved by the legislature in 1956.[45] Registration for freshman students began in April 1958, and 75 Negroes applied, but none were accepted.[46] A new court action was therefore filed in July by Negroes seeking admission to the new branch of the university.[47] On September 8, the court granted a preliminary injunction in their favor.[48]

When an appeal on the preliminary injunction was rejected by the court of appeals 4 days later,[49] 69 Negro freshmen were enrolled along with 1,500 white students at the New Orleans branch of Louisiana State University.[50]

This course of events prompted the State board of education to take steps toward establishing the New Orleans branch of Southern University, which the legislature had also authorized in 1956, with an appropriation of over $1 million.[51] Building began in January 1959 and was scheduled to be completed by September of that year. Nevertheless, 78 Negro students again enrolled at Louisiana State University in New Orleans for the spring term of 1959.[52]

The Court of Appeals for the Fifth Circuit, on April 23, 1959, affirmed the injunction against the New Orleans branch of the university,[53] rejecting the board of supervisors' contentions that as a special agent of the State it could not be sued without the State's consent, and that the students had failed to exhaust their administrative remedies before instituting the suit. The court found that the policy of the board was clearly evidenced by two letters from the university registrar, and that pursuit of State administrative remedies would therefore have been in vain.[54]

The 1959 fall enrollment at the New Orleans branch of Louisiana State University increased markedly to 417 Negroes and 1,603 white students in freshmen and sophomore classes, the only ones held there.[55]

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[42] *Id.*, Nov. 1957, p. 16.
[43] Board of Supervisors v. Ludley, 252 F.2d 372 (5th Cir. 1958).
[44] Board of Supervisors v. Ludley, 358 U.S. 819 (1958).
[45] So. School News, Nov. 1957, p. 16 ; *id.*, Jan. 1958, p. 7.
[46] *Id.*, May 1958, p. 13.
[47] *Id.*, Aug. 1958, p. 3 ; *id.*, Sept. 1958, p. 5.
[48] Henley v. Louisiana State University Board of Supervisors, Civ. No. 2105, E.D. La., Sept. 8, 1958.
[49] Board of Supervisors v. Fleming, Civ. No. 17556, 5th Cir., Sept. 12, 1958.
[50] N.Y. Times, Sept. 14, 1958, p. 51.
[51] *Ibid.*
[52] So. School News, Mar. 1959, p. 8.
[53] Board of Supervisors v. Fleming, 265 F.2d 736 (5th Cir. 1959).
[54] *Ibid.*
[55] So. School News, Oct. 1959, p. 10.

The two State universities and colleges which replied to the Commission's questionnaire indicated that Negroes made up 0.5 and 5 percent respectively, of their total enrollment in the fall of 1959.[56] The remaining institutions declined to answer, basing their refusals on the orders from the State attorney general to that effect.

It is reported, however, that Louisiana Polytechnic Institute, Northwestern State College, and Francis T. Nicholls State College, against which no suits have been brought, have no Negro students. Southwestern, on the other hand, reportedly had an enrollment of about 200 Negroes in the fall of 1959, while Southeastern and McNeese have been desegregated since 1956.[57]

FLORIDA

At the time of the decision in the *School Segregation Cases* and for 4 years thereafter no Negro student was admitted to any public institution of higher education in Florida. The struggle to achieve desegregation in higher education, realized at least in part by the fall of 1958, appears in the history of *State ex rel. Hawkins* v. *Board of Control*.[58] This case exhibited a wide variety of legal tactics to resist the Supreme Court's rulings and to discourage Negro applicants for admission to the University of Florida.

In April 1949 seven Negro students sought admission to the graduate and professional schools of the University of Florida in Gainesville, among them Hawkins, who applied for admission to the law school to obtain training not offered at the State Negro institution, Florida A. & M. College.[59] On May 13, the university's board of control rejected the applications on the ground of State constitutional and statutory provisions requiring racial segregation, but offered the students out-of-State tuition funds, which they refused.[60] Five of the Negro students then filed suit in a State court to compel their admission to the university. Of the original five plaintiffs only Hawkins continued the fight through 9 years to its conclusion. When the case was finally determined in his favor in 1958, he was 48 years old and, ironically, failed to qualify under new admission regulations established by the board. Another student was the first Negro admitted to the Law School of the University of Florida in the fall of 1958.[61]

The first round in the *Hawkins* case and four related cases reached its conclusion on August 1, 1950, when the State supreme court ruled that out-of-State tuition grants did not meet the requirement of equal protection of the laws, but also concluded that equal protection did not require identical treatment, and therefore denied the five Negroes'

[56] Commission Questionnaires, Louisiana.
[57] So. School News, Dec. 1959, p. 12.
[58] For citations see notes 62, 65, 66, 67, 68, 71, 74, 79, 85, 87, 89, *infra*.
[59] 27 *J. Negro Ed.* 356 (1958).
[60] N.Y. Times, Mar. 13, 1956, pp. 1, 15.
[61] *Id.*, Sept. 14, 1958, p. 52; *id.*, Sept. 16, 1958, p. 18.

petition for admission to the university.[62] In reaching this conclusion, the court found acceptable a resolution passed by the board of control on December 21, 1949, and submitted to the court in its answer to the suit. This resolution proposed that if the Supreme Court found existing out-of-State arrangements for the higher education of Negro students to be unconstitutional these applicants should be admitted temporarily on a segregated basis at the University of Florida, while actually enrolled at Florida A. & M., until adequate facilities in the required courses could be established at the latter (Negro) college.[63] The court treated the entire issue as a procedural and preliminary matter, and found it unnecessary to take testimony or hear evidence on the factual issue as to whether the proposed law school for Negroes would meet the requirements of equal protection. It stated merely that the new school was intended and expected to offer substantially equal graduate work.[64]

The Negro students, however, refused to accept this solution, and reapplied to the State supreme court for a peremptory writ of mandamus. On June 15, 1951, the court denied the writ, accepting the university's argument that the students had not exhausted all "reasonable means" to obtain legal training in the State since they had not applied for admission to the Negro institution.[65] A few months later the Supreme Court of the United States denied review of this order of the State supreme court on the ground that the controversy had not yet been finally adjudged by the lower tribunal.[66]

Meanwhile, a new law school was set up exclusively for Hawkins at Florida A. & M. College. When a third motion for a peremptory writ was filed by the five students, the State supreme court in a unanimous opinion took judicial notice of the quality of the new law school, viewing it as substantially equal, and dismissed the suit since the students had never even applied to the new school for admission.[67] This judgment by the State court then came for the second time before the Supreme Court of the United States, which, on May 24, 1954, ordered the State judgment vacated, and remanded the case to the Florida Supreme Court for consideration in the light of the *School Segregation Cases* and "conditions that now prevail."[68] Shortly after this decision two Negro students reportedly sought admission to the St. Petersburg Junior College for whites, the only junior college then available in the area, and were rejected, whereupon some white

[62] State *ex rel.* Hawkins v. Board of Control, 47 So. 2d 608 (Fla. 1950); State *ex rel.* Lewis v. Board of Control, 47 So. 2d 617, (Fla. 1950); State *ex rel.* Maxey v. Board of Control, 47 So. 2d 618 (Fla. 1950); State *ex rel.* Boyd v. Board of Control, 47 So. 2d 619 (Fla. 1950); and State *ex rel.* Finley v. Board of Control, 47 So. 2d 620 (Fla. 1950).

[63] N.Y. Times, Jan. 21, 1950, p. 7; *id.*, Aug. 2, 1950, p. 27.

[64] State *ex rel.* Hawkins v. Board, *supra*, note 62.

[65] State *ex rel.* Hawkins v. Board of Control, 53 So. 2d 116 (Fla. 1951).

[66] State *ex rel.* Hawkins v. Board of Control, 342 U.S. 877 (1951).

[67] State *ex rel.* Hawkins v. Board of Control, 60 So. 2d 162 (Fla. 1952).

[68] State *ex rel.* Hawkins v. Board of Control, 347 U.S. 971 (1954).

citizens in the community raised funds to pay for their education outside the State.[69]

At the next stage, the State supreme court, to which the case had been remanded, decided to withhold action in the *Hawkins* case until the United States Supreme Court had handed down its ruling on the implementation of the *School Segregation Cases*.[70] Thus, it was not until October 1955 that the Florida court passed on the merits of the *Hawkins* case.[71] It then recognized, of course, that racial segregation was no longer legal in Florida as a result of the Supreme Court decisions, but its 5–2 decision interpreted the Supreme Court's second *Brown* decision as applying to public universities as well as public schools, and therefore as allowing the State courts to implement desegregation under equitable principles. It also found that the grave problems and the difficulties of adjustment raised by desegregation, as described by the university, warranted a delay in admitting Hawkins until it could be determined that the university was able to accept Negro students without irreparable harmful effects.

For this reason the court withheld issuance of a mandamus, and instead ordered the appointment of a commissioner to take testimony about local conditions and to determine by Feburary 19, 1956, what adjustments would be necessary, and at what time it would be possible to admit Negroes to the university without creating "public mischief." [72] On application by the State board of control the time for filing the report was later extended to May 31, 1956.[73]

On appeal, the Supreme Court of the United States unanimously rejected the State court's approach.[74] It once again reversed the 1952 decision of the State court, and remanded the case for the third time to the Florida Supreme Court, specifying that there was no implication in its previous decisions that decrees affecting admission of Negroes to graduate schools presented the same problems to be found in elementary and secondary schools. On the contrary, it saw no reason for delay in the admission of Negro students to State universities, and held that Hawkins was entitled to prompt admission under the rules and regulations applicable to other qualified candidates.[75]

The fight, however, was far from over. Immediately after the Supreme Court's decision the State board of control, admittedly "with the segregation issue in mind," [76] approved a set of regulations to go into effect September 3, 1956, requiring for the first time that applicants pass examinations for admission, such as the graduate rec-

[69] 24 *J. Negro Ed.* 222 (1955).
[70] *Ibid.*
[71] State *ex rel.* Hawkins v. Board of Control, 83 So. 2d 20 (Fla. 1955).
[72] N.Y. Times, Oct. 20, 1955, p. 16.
[73] So. School News, Mar. 1956, p. 13.
[74] State *ex rel.* Hawkins v. Board of Control, 350 U.S. 413 (1956).
[75] *Id.* at 414.
[76] N.Y. Times, Mar. 17, 1956, pp. 1, 10.

ord test conducted by the Educational Testing Service of Princeton, N.J. Then, on April 2, the attorney general of Florida applied to the United States Supreme Court for a rehearing, warning that the desegregation order at the University of Florida would "endanger public safety." [77] He further charged that the decision denied the State court's right to proceed with its own orderly review of the case.[78] Rehearing was, however, denied.[79]

Encouraged by these events, two Negro students filed applications for admission to white universities, one to the University of Florida as a transfer student from Florida A. & M., the other to Florida State University Graduate School of Business. Both applications were rejected.[80] Meanwhile, despite the Supreme Court's mandate, the highest court of Florida continued its appraisal of "conditions" in the *Hawkins* case. It accepted the evidence submitted by the assistant attorney general in support of his motion for a delay in desegregation, consisting principally of the results of a survey indicating that violence and other trouble would follow Hawkins' admission to the university.[81] In August of 1956 Hawkins was the only Negro in a group of applicants who were given the newly required test for admission to the University of Florida Law School.[82] The attitude of some Florida officials is revealed by a report that at the 1957 school opening a white graduate student of Florida State University who had made a political speech at a Negro meeting and had invited foreign students enrolled at Florida A. & M. to a Christmas party on the Florida State University campus was barred by the dean of students from enrolling in the winter semester on the ground that he had violated the State board of control's segregation policies.[83]

Then came the dramatic March 8 decision of the Florida Supreme Court [84] in which it refused in a 5–2 decision to comply with the United States Supreme Court's mandate on the theory that it came before the commissioner's findings were available to the Florida court. Relying on the compelling duty of the State to maintain peace and order, and on reports indicating that desegregation in higher education would produce violence and a disruption of the university system, the court refused to issue an order requiring Hawkins' immediate admission to the University of Florida. The two dissenting justices stressed the finality of the mandate of the Supreme Court of the United States and the duty of State courts to uphold the Federal Constitution. Upon Hawkins' appeal—the fourth—to the United States Supreme

[77] *Id.*, April 3, 1956, p. 21.
[78] *Ibid.*
[79] State *ex rel.* Hawkins v. Board of Control, 351 U.S. 915 (1956).
[80] So. School News, May 1956, p. 4.
[81] *Id.*, June 1956, p. 12; *id.*, Oct. 1956, p. 11.
[82] *Id.*, Sept. 1956, p. 13.
[83] N.Y. Times, Jan. 27, 1957, p. 57.
[84] State *ex rel.* Hawkins v. Board of Control, 93 So. 2d 354 (Fla. 1957).

Court, the latter denied review without prejudice to his seeking relief in the lower Federal courts.[85]

It was then the late fall of 1957. Hawkins, hoping to be able to enroll at the university in the second semester, filed a new class suit in the Federal district court and moved for a temporary injunction that would permit his immediate enrollment. But at a hearing on the motion on January 28, 1958, the court rejected Hawkins' attempt to introduce evidence and refused to issue the temporary order until a final hearing was held on the issues involved.[86] This decision was reversed by the Court of Appeals for the Fifth Circuit, which, after noting the 9 years Hawkins had been seeking judicial relief, remanded the case to the lower court on April 9, 1958.[87]

The State board of control then threw another final block in Hawkins' path. It adopted a new admission rule on May 15 requiring that applicants to the Law School of the University of Florida who had already been tested have a minimum score of 250 points, and that those tested in the future have a minimum score of 340 points. The State assistant attorney general hurriedly verified that Hawkins' score in his 1956 test was 200.[88]

It was an ironic ending of the prolonged suit when the Federal district court in June 1958 enjoined the board of control from following the practice of limiting admissions to the graduate and professional schools of the University of Florida to white persons only[89] that Hawkins was automatically excluded from admission because of his low law-test score. The district court recognized Hawkins' right to maintain a class action, but found that he had failed to establish his own right to enter the University of Florida Law School "under the law applicable to cases of this character."[90] Later he enrolled as a graduate student at Boston University.[91]

It is interesting to note the language of the final paragraph of the court's opinion:[92]

> The Court recognizes that defendants have full and complete statutory authority to regulate admissions to the University of Florida and to act in emergencies to avoid public mischief and to take such normal, reasonable and necessary steps as will provide for the orderly and peaceable administration of said University, and nothing in this Memorandum Decision or in the Order of this Court entered pursuant thereto will be construed as in any way limiting the authority of the Board of Control of Florida and the officers of the University of Florida vested with authority to supervise and control the activities of

[85] Florida *ex rel.* Hawkins v. Board of Control, 355 U.S. 839 (1957).
[86] N.Y. Times, Jan. 29, 1958, p. 15.
[87] Hawkins v. Board of Control, 253 F. 2d 752 (5th Cir. 1958).
[88] N.Y. Times, May 17, 1958, p. 39.
[89] Hawkins v. Board of Control, 162 F. Supp. 851 (N.D. Fla. 1958).
[90] *Id.* at 853.
[91] Miami Herald, Nov. 1, 1959, Sec. A, p. 8.
[92] 162 F. Supp. at 853. It was reported that this language was included at the request of the State Attorney General. N.Y. Times, June 19, 1958, p. 35.

students from taking all necessary steps as will provide for the orderly and peaceable administration of said University.

In August 1958, the university announced that a Negro had qualified for admission to the law school.[93] The successful applicant, George Stark, of Orlando, Fla., a business administration graduate of Morehouse College in Atlanta, Ga., and an Air Force veteran, registered on September 15 at the University of Florida Law School.[94] In the winter term another Negro student, a Gainesville high school teacher, enrolled for a graduate course in education.[95] In the summer of 1959 the University of Florida accepted for graduate studies three additional Negro students, and at the beginning of the 1959–60 academic year it enrolled a Negro woman, Esther Langston, in its medical school.[96] Stark dropped out in the second semester because of academic difficulties, as did Esther Langston in June 1960.[97]

On September 20, 1960, however, a second Negro student, Willie George Allen, a 24-year-old graduate of Florida A. & M., began attending classes at the University of Florida Law School.[98]

In mid-September 1960, also, the first white junior college in Florida was desegregated, when three Negro freshmen enrolled at the new Dade County Junior College for preengineering courses not offered at the Negro junior college.[99]

MISSISSIPPI

Since 1954, Mississippi and South Carolina have found and employed highly effective means of discouraging attempts by Negro students to enroll at higher educational institutions for whites.

In November 1950, long before the *School Segregation Cases*, the editor of the University of Mississippi student newspaper daringly wrote an editorial urging the admission of Negroes at all graduate schools because equal graduate facilities were not available to Negroes in the State.[1] It was also reported that in 1954, but before the Supreme Court decision was handed down, Medgar Evers, a graduate of Alcorn A. & M. and a World War II veteran, tried to enroll in the Law School of the University of Mississippi but was rejected by the board of trustees, which immediately passed a rule requiring all applicants for admission to State colleges to have their petitions approved by five alumni of the college residing in the applicant's county of residence.[2]

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[93] N.Y. Times, Aug. 27, 1958, p. 17.
[94] *Id.*, Sept. 16, 1958, p. 18.
[95] *Id.*, Feb. 10, 1959, p. 28.
[96] So. School News, Dec. 1959, p. 12.
[97] Tampa Tribune, Feb. 5, 1960, p. 1; So. School News, Mar. 1960, p. 14; *id.*, July 1960, p. 4.
[98] Washington (D.C.) Evening Star, Sept. 20, 1960, sec. D, p. 8.
[99] Atlanta (Ga.) Constitution, Sept. 15, 1960, p. 5.
[1] N.Y. Times, Nov. 9, 1950, p. 23.
[2] So. School News, Dec. 1959, p. 12.

On the eve of the Supreme Court decision, in April 1954, the Mississippi Legislature established by concurrent resolution a legal educational advisory committee, with the Governor as chairman, to recommend legislation aiming at preserving racial segregation in public education in the State.[3] Later that year the Mississippi Legislature enacted a law to maintain segregation at the new University of Mississippi Medical School then under construction.[4] This was necessary because the legislature at an earlier time had abolished out-of-State scholarship funds for Mississippi students and had established new scholarships to be given to the new school. Since no provision was made for Negro students, this would have given them ground to apply for, and eventually compel, their admission to the new medical school. The law was therefore quickly amended to continue the grant of out-of-State scholarships for Negro students to study medicine at Meharry Medical College in Tennessee.[5] On May 6, 1958, the legislature enacted a statute authorizing the Governor to close public schools and institutions of higher education in the State by proclamation whenever he believed such closing to be in the best interest of the State or necessary to maintain public peace and tranquility.[6]

In the face of these barriers only two attempts have been made by Negro students to enroll in Mississippi white institutions, one at the University of Mississippi in 1958 and one at Mississippi Southern College in 1959. Both attempts encountered drastic countermeasures by the State.

One of the episodes involved Clennon King, a 37-year-old Negro history professor at Alcorn A. & M., who had been the center of a violent controversy at the college in 1957 because of his sharp criticism of the NAACP in the local press. Over 85 percent of the students at Alcorn, angered at King's statements, staged a protest strike demanding his firing, but the board of trustees retained him, expelled a number of students, and removed the college president. Then, on June 5, 1958, King attempted to enroll in the University of Mississippi summer school. While waiting in line with the other students, King was invited into the administration building, allegedly for a conference with the registrar, and from there was bodily ejected from the campus by highway patrolmen who forced him into a car and spirited him away.[7]

King was then taken to the chancery court, where a lunacy warrant was drawn out, and the chancellor, after ejecting King's attorney and a newspaper reporter from the courtroom, ordered him committed to the State mental hospital for examination.[8] The Governor was re-

[3] Miss. Laws 1954, ch. 420, p. 585.
[4] Miss. Laws 1954 (E.S.), ch. 27, p. 31.
[5] N.Y. Times, Sept. 10, 1954, p. 21.
[6] Miss. Laws 1958, ch. 311, p. 527.
[7] N.Y. Times, June 6, 1958, p. 25.
[8] *Id.*, June 7, 1958, p. 10.

ported to have stated at a news conference that King faced the alternatives of being found of unsound mind or, if sane, of being charged with disturbing the peace and resisting arrest.[9] King's wife instituted habeas corpus proceedings in the Hinds County circuit court for his release on the grounds that the lunacy proceedings were illegal because they were held outside his county of residence.[10] Finally, after 13 days of detention, King was declared sane and released on June 18,[11] and on the following day he left Mississippi to return to his native Georgia.[12]

The other attempt by a Negro to get admitted to a white State institution involved 30-year-old Clyde Kennard, who tried for the third time on September 15, 1959, to register at Mississippi Southern College. His application was rejected because of alleged irregularities in the papers submitted. After conferring with the college president and a special investigator for the sovereignty commission, the State's official agency for the preservation of segregation, created in 1956,[13] he left the administration building and returned to his car. He was then immediately arrested and charged with illegal possession of whisky and reckless driving.[14] Despite Kennard's denial of the charges against him, he was found guilty on both counts by a justice of the peace and fined $600 and costs.[15]

Mississippi has sought other means of resisting desegregation. Among a number of measures enacted by the Mississippi Legislature in May 1960 is a law giving the board of trustees of State institutions of higher education final authority to determine who shall be privileged to enter, or graduate from, those institutions.[16] Another law, house bill No. 425, requires all law-enforcement officers and judges to report to school officials and the secretary of the State college board in Jackson any violation of law amounting to a misdemeanor if committed by a college student. It was reported that this and other laws were rushed through the legislature during Negro student demonstrations against segregation in other Southern States to deter similar activity by Mississippi students.[17]

SOUTH CAROLINA

The only suit ever filed in South Carolina by a Negro student for admission to a white State college was decided by a Federal court in 1947, and resulted in the establishment of a law school at the South

[9] *Id.*, June 15, 1958, p. 68.
[10] *Ibid.*
[11] *Id.*, June 19, 1958, p. 31.
[12] *Id.*, June 20, 1958, p. 24.
[13] Miss. Laws 1956, ch. 365, p. 520.
[14] Meridian (Miss.) Star, Sept. 16, 1959, pp. 1, 2.
[15] N.Y. Times, Sept. 30, 1959, p. 16.
[16] Washington (D.C.) Post, May 8, 1960, Sec. B, p. 6.
[17] So. School News, June 1960, pp. 10–11.

Carolina State College for Negroes at Orangeburg.[18] This college became the center of a bitter controversy in 1956, when its faculty and student body attempted to assert their opposition to the State policy of segregation.

The South Carolina General Assembly in that year enacted a number of measures designed to curb any attempt to desegregate State institutions of higher education. It incorporated in the general appropriation law of 1956 a provision that each institution of higher education must remain segregated in order to receive appropriated State funds; it provided for the closing of any white college ordered desegregated by court decree, and declared that if any State college were closed on that ground the State would also close the South Carolina State College for Negroes.[19]

Another statute passed in that session prohibited the employment of any member of the NAACP by the State, and directed the board of trustees of any State college to demand an affidavit of nonmembership in that organization from each teacher or other employee.[20] Still another action which clearly posed a threat to academic freedom was a joint resolution authorizing a legislative investigation of NAACP activities among the faculty and students at South Carolina State College. This legislative act resulted in the adoption of a resolution by vote of about 90 percent of the college faculty approving the NAACP, and an almost 100-percent student strike in protest against the State's segregation policies, especially its proposed investigation of the school.

The strike was ended by the direct intervention of the Governor and resulted in the expulsion of the president of the student body and 15 other students.[21] It was also announced that the contracts of three faculty members were not to be renewed, and that several other teachers had voluntarily left the college.[22] In spite of these actions by the State, two Negro soldiers from Cheraw, S.C., applied for admission to Clemson College's school of textile chemistry in July 1956, in order to attend courses upon their discharge from military service. No action was taken on their applications.[23]

In the following year even stricter control of higher education was established when the legislature passed, among other measures for the preservation of segregation, a concurrent resolution establishing the State sovereignty commission.[24] Consistent with the State policy, the board of trustees of Clemson College decided in August 1957 to renounce a $350,000 Federal grant from the Atomic Energy Commission for nuclear research, and returned $99,000 already granted, rather than

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[18] See p. 23, *supra*.
[19] S.C. Acts 1956, No. 813, p. 1841, 1 *Race Rel. L. Rep.* 731 (1956).
[20] S.C. Acts 1956, No. 741, p. 1747.
[21] So. School News, May 1956, p. 14.
[22] *Id.*, July 1956, p. 11.
[23] *Id.*, Aug. 1956, p. 9.
[24] *Id.*, May 1957, p. 8.

comply with the conditions imposed in the agreement with the Federal Government that "the grantee agrees that no person shall be barred from participation in the educational and training program involved or be the subject of other unfavorable discrimination on the basis of race, creed, color or religion." [25]

In the school year 1957–58 a private Negro institution, Allen University, had State approval of its teacher-training program withdrawn by the State board of education because of the admission of a white Hungarian student; thereupon, 11 Negro students from Allen University sought to be admitted as transfer students at the University of South Carolina, but on January 15, 1958, the registrar refused to give them admission blanks. On the following day, five of them presented completed applications for admission, which were again refused by the university officials.[26] No further action appears to have been taken.

A revealing indication of the strictly segregated pattern still prevailing in this State is the recent report that Negro leaders in upper South Carolina have been asking the State committee on education to establish and support a badly needed junior college for Negroes in the Oconee, Pickens, Greenville area, using the facilities of a junior college for whites which was closed in the late 1930's.[27]

ALABAMA

As early as August 1950 it was reported that a Negro student had applied for admission to the University of Alabama Law School but had been advised by the dean of admissions that only out-of-State educational grants were available to colored students.[28] In June 1951 a Negro Air Force private, included in a group of 24 men sent to the University of Alabama for a 2-week clerical training course for which the Air Force had contracted with the university, was promptly transferred without being admitted to classes.[29]

The most celebrated desegregation case in Alabama, *Lucy* v. *Adams*, had its inception long before the *School Segregation Cases*. Two Negro women, Polly Myers and Autherine Lucy, arrived on the campus of the University of Alabama on September 20, 1950, but were denied admission in spite of the fact that their applications for admission had been accepted, copies of their transcripts from Miles College (a private Negro college) had been received, and rooms had been assigned them in a college dormitory.[30]

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[25] Charlotte (N.C.) News, Aug. 26, 1957, p. 3.
[26] N.Y. Times, Jan. 16, 1958, p. 22; *id.*, Jan. 17, 1958, p. 10.
[27] So. School News, June 1960, p. 10.
[28] For résumé of facts, see Lucy v. Adams, 134 F. Supp. 235 (N.D. Ala., 1955).
[29] N.Y. Times, June 16, 1951, p. 15.
[30] N.Y. Times, Sept. 21, 1952, p. 35.

The two students spent over a year in fruitless administrative proceedings before the board of trustees and Governor of the State, and then filed suit in the Federal court. After preliminary procedural delays and substitution of defendants, the court ruled in *Lucy* v. *Board of Trustees* [31] that the University of Alabama could not refuse to enroll plaintiffs because of their race, and issued a temporary injunction to that effect.[32] Two days later the ruling was amended by the same judge to extend to all Negro students scholastically qualified to pursue courses at the University of Alabama.[33]

The university immediately countered with a motion for a rehearing on the injunction.[34] The court, after excluding any consideration of the validity of the Alabama segregation laws, invoked the equal-protection clause and granted a permanent injunction against the university forbidding it to deny admission to students solely on account of race.[35]

Ten days later, however, the same court granted the university's motion to suspend the injunction for a period of 4 months pending its appeal to the Court of Appeals for the Fifth Circuit.[36] The suspension of the injunction was affirmed by the court of appeals, but was vacated on October 10, 1955, by the Supreme Court of the United States, which reinstated the trial court's injunction against the university.[37]

In the face of this order, the university still refused to enroll them, alleging that the two women had failed to present themselves for registration before the deadline of October 6. Contempt proceedings were then instituted against the university's dean of admissions, but the court dismissed the action on October 28, accepting the contention of counsel for the university that only tardiness in registration had prompted their rejection, and that no evidence had been offered to show that they had been denied admission because of race.[38]

On December 30, 1955, the court of appeals affirmed both rulings, the one on the merits granting a permanent injunction against the university and the one dismissing the contempt proceedings.[39]

The scene was set for a series of events and disorders that were widely publicized in the United States and abroad.[40] On January 31, 1956, the university agreed to accept Autherine Lucy for registration

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[31] 213 F. 2d 846 (5th Cir. 1954).
[32] N.Y. Times, June 30, 1955, p. 50.
[33] *Id.*, July 2, 1955, p. 1.
[34] *Id.*, July 13, 1955, p. 54. Twenty-three grounds for denying the injunction were pleaded by the university.
[35] Lucy v. Adams, 134 F. Supp. 235 (N.D. Ala. 1955).
[36] N.Y. Times, Sept. 7, 1955, p. 27.
[37] Lucy v. Adams, 350 U.S. 1 (1955).
[38] N.Y. Times, Oct. 29, 1955, p. 38.
[39] Adams v. Lucy, 228 F.2d 619 (5th Cir. 1955), *rehearing denied,* Feb. 1, 1956, *cert. denied,* 351 U.S. 931 (1956); Lucy v. Adams, Cir. No. 15871, 5th Cir. Dec. 30, 1955, 1 *Race Rel. L. Rep.* 88 (1956).
[40] N.Y. Times, Feb. 9, 1956, p. 26.

on February 1 for the spring term, but denied admission to Polly Myers on the ground of unsatisfactory conduct and marital status.[41]

On the following day Miss Lucy registered and was enrolled as an undergraduate student, in spite of the fact that she had graduated in 1952 from Miles College, a 4-year private Negro institution. Although general university policy required undergraduate women to live on the campus, she was notified upon registration that the university would not grant her dormitory and boarding privileges.[42] During the following days, while she attended classes, disorders broke out on campus, with the burning of crosses and riotous demonstrations by over 1,000 students.[43] On the night of February 6, Miss Lucy was excluded from classes by the board of trustees, allegedly for her own safety and the safety of others.[44]

In contrast to the hostile demonstrations by some students, 750 students at this time signed a petition addressed to the president of the university, requesting that the students taking part in the demonstrations be "apprehended and subjected to severe disciplinary action, up to and including permanent expulsion." [45]

The next move was by Miss Lucy, who again initiated contempt proceedings against the university officials, accusing them of excluding her in bad faith and in defiance of the order of the court. On February 29, the court dismissed the contempt action on the ground that her suspension was in good faith and not in defiance of the court's injunction, but ordered the university to reinstate her by March 5.[46] The State's reaction was swift. On the same day, the board of trustees of the university expelled her permanently from the university because of the accusations incorporated in her motion, which they termed "outrageous, false and baseless." [47]

The State legislature then took action in support of the university. It passed a resolution on February 14, 1956, commending the board of trustees of the university for their action in restoring peace and order on the campus by barring the Negro student "whose presence precipitated the rioting at the University," [48] and it demanded in another house resolution that the president of the university publish the names of all the students who had signed the pro-Lucy petition at the time of her expulsion.[49]

In addition, two bills were introduced, one of which would have cut off the State appropriation of $350,000 to Tuskegee Institute and the $82,500 earmarked for out-of-State scholarship funds in the event

[41] *Id.*, Feb. 1, 1956, p. 64.
[42] *Id.*, Feb. 2, 1956, p. 17.
[43] *Id.*, Feb. 5, 1956, p. 60.
[44] *Id.*, Feb. 9, pp. 1, 26.
[45] *Ibid.*
[46] *Id.*, Mar. 1, 1956, pp. 1, 28; 1 *Race Rel. L. Rep.* 323 (1956).
[47] N.Y. Times, Mar. 2, 1956, pp. 1, 14; 1 *Race Rel. L. Rep.* 456 (1956).
[48] Ala. Acts 1956, No. 118, p. 174; 1 *Race Rel. L. Rep.* 422 (1956).
[49] N.Y. Times, Mar. 2, 1956, pp. 1, 14.

a Negro student was ever admitted for as long as 10 days to a white college in Alabama.[50] The other bill would have required that every applicant to a State college file an affidavit of "fitness and character" from three alumni of the college to which he had applied.[51] These bills, however, failed to pass, as did similar bills introduced at the following session of the legislature.[52]

On March 3, 1956, the president of the University of Alabama issued a puzzling statement to the effect that, while the university would not violate the law by refusing to admit qualified Negroes, the university was still opposed to desegregation, and probably would resist the admission of Negro students by carefully screening their qualifications. He added that applications of six Negro students were then pending for the fall session; four for admission to the medical college, and two to the school of dental hygiene.[53] As to the permanently expelled student, Autherine Lucy, the president stated that she had been "admitted when there was no further legal recourse," while the other applicant's character had brought the rejection of her application.[54]

A week later, the board of trustees decided to expel one of the white students reputed to be the leader of the riots, and to take disciplinary action against other students participating in the demonstrations.[55] But there was no word as to reinstating Miss Lucy.

On March 9, 1956, Autherine Lucy filed a motion to have the court's order of February 29, 1956, amended to provide for her readmission to the university by the September 1956 term.[56] This motion was denied by the court on August 29 on the ground that in the absence of a clear showing of deprivation of constitutional rights it had no jurisdiction to interfere with the discretionary powers of the university's board of trustees.[57]

She then filed a new motion seeking a contempt judgment against the board of trustees on the ground of their permanent expulsion order, and on November 15 the court directed the board to show cause why it should not be held in contempt for refusing to admit her.[58] At a final hearing on the motion on January 24, 1957, the court ruled that the university was justified in expelling Miss Lucy, accepting defendants' contention that, as the board had expelled both Miss Lucy and a white student considered the leader of the student riots, they had not discriminated against her on account of race.[59]

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[50] *Ibid.*
[51] *Ibid.*
[52] So. School News, April 1957, p. 13.
[53] N.Y. Times, Mar. 4, 1956, pp. 1, 52.
[54] *Ibid.*
[55] *Id.*, Mar. 12, 1956, pp. 1, 19.
[56] *Id.*, Mar. 10, 1956, p. 14.
[57] Lucy v. Adams, 1 *Race Rel. L. Rep.* 894 (1956).
[58] So. School News, Dec. 1956, p. 13.
[59] 2 *Race Rel. L. Rep.* 350 (1957); So. School News, Feb. 1957, p. 15.

On March 26, 1957, Autherine Lucy, who had become Mrs. Foster, stated through her attorney that she had given up the fight for admission to the University of Alabama.[60]

The university is still under court order to admit qualified Negro students, but has not done so to date, and neither has any other State institution of higher education in Alabama. In the fall of the academic year 1956–57, the dean of admissions of the University of Alabama stated that two applications from Negro students were pending, but could not be processed because they were incomplete.[61] Some of the Negro students from Alabama State College who had been expelled or placed on probation for participating in sit-in demonstrations also attempted to register in the spring of 1960 at the University of Alabama Extension Branch in Montgomery. Thirteen students applied in March for enrollment in the spring session,[62] but were told that they had not completed their applications by the April 4 deadline because their school transcripts arrived too late.[63] Two of the rejected students applied again in May, without success.[64]

The State board of education, which had been instrumental in having the sit-in Negro students expelled from Alabama State College, on June 14, 1960, ordered the dismissal of Dr. Lawrence Reddick, a faculty member of that institution. Dr. Reddick had been head of the history department for 6 years, but the Governor of the State now termed him an agitator and Communist sympathizer. The firing was strongly protested by the American Association of University Professors.[65] Following threats made by the Governor against the president of Alabama State College, that official immediately reported in detail to the State board concerning the disciplinary action he had taken against 51 students during the demonstrations.[66]

On July 14, 1960, six of the Negro students expelled in March from Alabama State College as leaders in the sit-in demonstrations filed suit in the Federal district court seeking readmission to the Negro State College, and an injunction to stop the board from interfering with their right to complete their education.[67] But on August 30, 1960, the court refused to order the students' readmission, ruling that the expulsion was a justified disciplinary action against the sit-in protests which were "calculated to provoke and did provoke discord, disorder, disturbance and disruption on the campus and in the college classrooms generally." [68]

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[60] So. School News, April 1957, p. 13.
[61] N.Y. Times, Sept. 18, 1956, p. 18.
[62] So. School News, Apr. 1960, p. 9.
[63] *Id.*, May 1960, p. 3.
[64] *Id.*, June 1960, p. 4.
[65] *Id.*, June 1960, p. 3.
[66] Norfolk (Va.) Journal & Guide, Aug. 6, 1960, p. 20.
[67] So. School News, Aug. 1960, p. 11.
[68] Jackson (Miss.) Clarion-Ledger, Aug. 31, 1960, p. 6.

The Governor of Alabama reportedly testified at the hearing that he recommended dismissal of some of the students only hours after they took part in the sit-in at the courthouse grill for whites and that, among the hundreds of students later involved in racial rallies, those who had joined the sit-in were the only ones expelled by the school board on March 2, 1960. This testimony was reported to have been corroborated by the president of the college.[68a]

The long-range impact of such reprisals against Negro students as the expulsion from a State college was highlighted a few weeks later when St. John Dixon, one of the students expelled from Alabama State and among those denied redress in the Federal court on August 30, applied for admission at San Jose State College, California. His application was at first denied for late filing, and according to the president of San Jose State because "by gentleman's agreement we do not take students who do not have honorable dismissals from their former schools." [68b] Through the personal intervention of the State attorney general the student was notified of admission for the spring semester.[68c]

GEORGIA

The most effective technique for maintaining a segregated system of higher education appears to be that developed by the State of Georgia through the combined efforts of the board of regents of the university system and the State legislature.

Four years before the *School Segregation Cases* were decided by the Supreme Court of the United States, a young Negro, Horace Ward, applied for admission to the Law School of the University of Georgia for the June 1951 term. Ward was an honor graduate of Morehouse College and had a master's degree in political science from Atlanta University, a private college for Negroes.[69] His application was turned down by the board of regents in June 1951 without explanation, and he was offered instead an out-of-State scholarship to study law, which he refused.[70]

This attempt by a Negro to enter the university prompted immediate action by the Georgia Legislature, which, in its 1951 session, passed a number of measures aimed at maintaining segregation in higher education. In its appropriation bill for the State university system passed on February 15, 1951,[71] a clause was included providing that no Georgia university could obtain State funds if it failed to enforce segregation, and providing, further, that, if desegregation was

[68a] Biloxi-Gulfport (Miss.) Daily Herald, Aug. 23, 1960.
[68b] N.Y. Times, Sept. 26, 1960, p. 34.
[68c] San Francisco Examiner, Sept. 28, 1960, p. 6.
[69] Guzman, *Twenty Years of Court Decisions Affecting Higher Education in the South: 1938–1958* at 24 (Tuskegee Institute, June 1960).
[70] N.Y. Times, June 14, 1951, p. 55.
[71] *Id.*, Feb. 16, 1951, p. 48.

imposed by court order upon a school or university, all State funds would be cut off from the entire system affected.[72] To improve the educational facilities at the State colleges for Negroes the legislature made available almost $2 million for new buidings at the three Negro State colleges and also increased appropriations for their operating expenses for the new fiscal year from $598,703 to over $925,000.[73] Other provisions equalized the salaries of white and Negro teachers and set up a $100,000 fund for out-of-State tuition grants for Negro students.[74]

In the meantime, Ward, whose application for admission to the law school had been denied, appealed to the university president, who appointed a committee of the dean and two law school professors to interview him. The committee reported that Ward did not have the necessary qualifications as to character, personality, and attitude to entitle him to admission.[75] On September 14, 1951, the president notified Ward that his appeal had been denied. The next 5 months were marked by unsuccessful appeals by the Negro student to the chancellor of the university system, the board of regents, and its committee on education. On the committee's recommendation the board of regents passed a resolution on February 13, 1952, conferring upon its faculty exclusive power to establish requirements for admission to the law school.[76]

Four months later the board of regents, on recommendation of the faculty, adopted a resolution providing that all applicants for admission to the law school must take a series of three tests, the Ohio State psychological test, the Iowa legal aptitude test, and the Strong vocational interest inventory. It also required that as a part of the application for admission a student should submit recommendations from two alumni of the University of Georgia Law School and from the judge of the superior court of the circuit of applicant's residence.[77] It was a well known fact that there were no Negro alumni of the law school and no Negro superior court judges. Recognizing this, Ward refused to file a new application on the ground that these rules had been enacted after his original application had been filed in September 1950.[78] On June 23, 1952, he filed suit in a Federal district court.[79]

The court fixed a deadline for the board to pass on Ward's application, after which failure to decide would be interpreted as rejection of the application. But Ward, who had previously been exempt from

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[72] *Id.*, Jan. 20, 1951, p. 19; *id.*, Feb. 11, 1951, p. 64; *id.*, Feb. 15, 1951, p. 33.
[73] *Id.*, April 22, 1951, p. 58.
[74] *Ibid.*
[75] Facts summarized in Ward v. Regents, Civ. No. 4355, N.D. Ga. Feb. 12, 1957, 2 *Race Rel. L. Rep.* 369, 370.
[76] 2 *Race Rel. L. Rep.* at 371.
[77] *Id.* at 372.
[78] *Id.* at 371.
[79] N.Y. Times, June 24, 1952, p. 15.

military service because of physical disability, was suddenly inducted into the Army and his case was taken off the court calendar.[80]

Two and a half years later, on July 8, 1955, the attorney general of Georgia announced that he was informed that Horace Ward would be discharged that month from the service and was planning to reactivate his case. He said that if Ward should win admission to the law school at the University of Georgia, State law could compel the closing of the law school in the fall.[81]

Upon his discharge, Horace Ward reactivated his case, but refused to file a new application to the law school, although the law school took the position that a new application was required in all cases where a previous application had been denied, or where action on an application had been postponed because of induction into military service.[82] Various procedural moves delayed the trial of Ward's case until December 1956. In the meantime he had been admitted to Northwestern University Law School for the fall term of 1956, and at the time of the hearing was enrolled as a student at that law school.

At the trial, testimony was heard from the chancellor of the university system to the effect that he would recommend the admission of qualified Negro students to Georgia white colleges in the future; that the State constitutional requirement of racial segregation applied only to elementary and secondary schools; and that the provisions of the recent appropriations act did not *per se* bar admission of Negroes to the white State colleges, but only cut off State funds from any public college admitting Negro students.[83] Other State witnesses were produced to testify that the denial of admission to Ward was not based on his race but on his lack of qualifications.[84] The university registrar also stated in the course of his testimony that Ward's application was rejected on the ground that his undergraduate credits were unacceptable to the University of Georgia because they came from unaccredited institutions, namely, Atlanta University and Morehouse College, which were only approved by, but were not members of, the Southern Association of Colleges and Secondary Schools.[85]

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[80] Brazeal, "Some Problems in the Desegregation of Higher Education in the 'Hard Core' States," 27 *J. Negro Ed.* 352, 361 (1958).

[81] N.Y. Times, July 9, 1955, p. 17.

[82] Brazeal, *supra*, note 80, at 361–63.

[83] N.Y. Times, Dec. 19, 1956, p. 64.

[84] *Id.*, Dec. 20, 1956, p. 32.

[85] So. School News, Jan. 1957, p. 16.

The transcript of testimony from Ward v. Regents discloses the following (The registrar of the University of Georgia is responding to questions on cross-examination):

"A. Well, I reviewed it to see that the applicant fulfilled the entrance requirements for the University of Georgia School of Law.

"Q. Yes. And what was your determination in that respect?

"A. That he did not.

"Q. In what respect?

"A. To enter the school of law at that time, I believe it required a minimum of 2 years of college.

On February 12, 1957, the court dismissed the suit, specifying that the action was not a class suit but only disposed of Ward's individual application for admission. The court's opinion gave as the grounds for its decision Ward's failure to file a new application, which the court said made it impossible for the board of regents to pass on his qualifications for admission; therefore, Ward had not exhausted his administrative remedies. The court also pointed out that, upon being admitted to the law school of Northwestern University, Ward had ceased to be an applicant as a first-year student to the University of Georgia Law School, so that his case had become moot, and that his amended pleadings of January 1957, asserting his right to be admitted to the University of Georgia as a transfer student in the future, presented a question which could not properly be determined in that case.[86] The request of Ward's counsel that the court retain jurisdiction pending the disposition of Ward's application for admission to the university as a transfer student was denied for lack of jurisdiction, and because of "dilatory action on part of plaintiff." [87]

The long-drawn-out legal drama thus ended in favor of the State, which had employed administrative and legal techniques skillfully. The result was attributed by some observers, at least in part, to awkward use of legal procedures on the part of Ward's attorneys.

In March 1956, while Ward's case was still pending, six Negro students attempted to enroll at the Georgia State College of Business Administration, but were unsuccessful in their visits to the college, the State board of regents, and the Fulton County chancery judge.[88] It will be recalled that under a resolution adopted by the board of regents of the Georgia university system on April 8, 1953, all applicants to the various institutions of the system were required, in addition to passing intelligence and aptitude tests, to submit certificates from two citizens of Georgia who were alumni of the institution which the applicant wished to attend. The alumni had to state that they were personally acquainted with the applicants and could attest to their moral character, reputation in the community, and fitness and

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"Q. Two years of college?

"A. At a——

"Q. And he didn't have 2 years of college?

"A. I have not finished—that it required 2 years of college at a school accredited by the regional association; the two schools which he had attended were not members of the Regional Association of Schools and Colleges which [in] our region is the Southern Association, and we do not admit any one who does not have credits from an accredited institution.

"Q. Was Atlanta University and Morehouse College, they were not members at all of that association?

"A. They were not members of the Southern Association.

"Q. Well, nevertheless, do you know whether they were accredited?

"A. Well, to be accredited by them they would necessarily have to be members of the association."

[86] Ward v. Regents of the University System of Georgia, Civ. No. 4355, N.D. Ga. Feb. 12, 1957, 2 *Race Rel. Rep.* 369.

[87] *Id.* at 599.

[88] N.Y. Times, Mar. 24, 1956, p. 15.

suitability for admission to the institution. Applicants were also required to file a certificate from the clerk of the superior court of their county of residence as to the fact of their residence in the county and their character and reputation in the community. Shortly after the applications of these six Negro students were rejected, these requirements were amended by a resolution adopted by the board of regents on May 9, 1956, allowing applicants who resided in a county of over 100,000 population to substitute for the certificate of the clerk of the superior court a statement by a third alumnus of the institution taken from a list of the alumni designated by the president of the alumni association.[89]

On June 14, 1956, five other Negro students completed applications for admission with the exception of the alumni certificates, and attempted to file them with the registrar of the Georgia State College, who rejected them as incomplete. A written appeal to the president of the college and the board of regents, requesting a waiver of the requirements of the alumni certification on the ground that the prospective students had no personal acquaintances among the alumni, met with a refusal.

Three of the applicants then filed a class suit in the Federal court alleging that the requirement of certificates from alumni discriminated against Negroes otherwise qualified for admission. The case was tried in December 1958 and decided on January 9, 1959.[90] At the trial, counsel for the State attempted to prove bad faith and disreputable character of the plaintiffs.[91] The court in its decision did not direct the college to accept any of the three plaintiffs, holding that moral character was a legitimate consideration in excluding an applicant, and that two of the applicants might be of unsatisfactory character. However, the court declared that the racially segregated policy and practice of Georgia State College of Business Administration violated the constitutional rights of Negro students of Georgia under the principles of the *School Segregation Cases.* It found that the scholarship program to permit Negroes to attend private institutions within the State or out-of-State institutions did not meet the requirements of equal protection under the *Gaines* case,[92] and specifically that the alumni certification requirement was invalid under the 14th amendment as applied to Negro students, since it was stipulated that there were no Negro alumni of any white institutions of the university system of Georgia, so that it was virtually impossible for Negro applicants to qualify. Then the court on January 14, 1959, issued a permanent injunction against the college officials from con-

[89] 1 *Race Rel. L. Rep.* 968 (1956).
[90] Hunt v. Arnold, 172 F. Supp. 847 (N.D. Ga. 1959).
[91] N.Y. Times, Dec. 10, 1958, p. 21.
[92] 305 U.S. 337 (1938).

tinuing to limit enrollment to white students and from requiring Negro applicants to furnish certification of eligibility from alumni. It stressed, however, as the court did in the *Hawkins* case, that "the primary right and duty of fixing admission requirements and passing upon the qualifications of applicants for admission to the Georgia State College of Business Administration rests upon those in authority at that institution, and that nothing in this order shall be construed to restrict the proper exercise of that right." [93]

By that date registration had already been completed for the winter session at the State colleges, and the State board of regents, fearing that applications would be filed by Negro students for the spring term, and reportedly upon the recommendation of the Governor-elect, immediately suspended the acceptance of any applications to any of the 19 colleges in the university system.[94] It also voted to apply stricter admission rules in general, such as requiring the filing of applications at least 20 days before registration date and greater consideration of social responsibility, character, and general fitness of applicants.[95]

In his first message to the legislature the new Governor of Georgia proposed two measures, among others, aimed at preserving segregation: one authorizing the Governor as conservator of the peace to close any unit in the university system whenever he deemed it necessary in order to preserve and keep peace,[96] and the other setting age limits for new students at 21 for undergraduates and 25 for graduates, with exceptions as to teachers and veterans and "where special dispensation is made." The latter measure was aimed, according to the Governor, at Negroes seeking to enter white colleges, since they were predominantly above normal enrollment age.[97] The two measures were enacted on February 3 and 4, 1959,[98] despite a stormy debate in the house over the question of the impact of the age-limitation bill on admission of white students.[99]

The first repercussion of this law was a sharp decrease in the enrollment of white students in the spring session, particularly at the junior college level. Servicemen from military installations near Savannah and Columbus who were mostly over 21 years of age had been attending Armstrong Junior College at Savannah in large numbers. According to its president, new enrollment dropped 90 percent in the spring of 1959.[1] Officials of the University of Georgia stated that the provisions of the new law were threatening the existing university's

[93] Hunt v. Arnold, Civ. No. 5781, N.D.Ga., Jan. 14, 1959, 4 *Race Rel. L. Rep.* 86 (1959).
[94] N.Y. Times, Jan. 11, 1959, pp. 1, 45.
[95] So. School News, Mar. 1959, p. 7.
[96] N.Y. Times, Jan. 16, 1959, p. 14.
[97] *Id.*, Jan. 21, 1959, p. 16.
[98] Ga. Laws 1959 vol. 1, no. 8, p. 18; No. 11, p. 21.
[99] N.Y. Times, Jan. 29, 1959, p. 56.
[1] So. School News, Apr. 1959, p. 7.

seven off-campus adult educational centers where extension courses were offered to students, 85 percent of whom were over 21.[2]

In spite of this the Governor refused to call a special session of the legislature to repeal the law, stating that regulations could be adopted by the board of regents to remedy the situation.[3] Taking the cue, the board of regents approved new rules on April 22 to end the freeze on enrollment at all State colleges, and to give a greater freedom to individual institutions in accepting or rejecting students. Designed to implement the provision of the law exempting from the age limit persons possessing such ability and fitness that their further education at public expense would be justified, the new regulation spelled out for the presidents of individual institutions a number of grounds for making exceptions, such as applicants' good intent and proper public sense of social responsibility.[4] The colleges were specifically authorized to administer tests, conduct personal interviews, and require such information and evidence as necessary to determine whether or not the applicant complied with the provisions of the age-limit law.[5]

Negro students continued to attempt to enroll at white colleges. Nine Negro women obtained application forms at Georgia State College and 3 Negro men at Georgia Institute of Technology, but, of the 12, only 3 women were able to complete and mail their applications to Georgia State College in time for consideration for admission to the summer session of 1959. All were rejected, allegedly not on racial grounds but for other reasons, such as overage, failure to submit transcripts, insufficient credits in required courses, or lack of college entrance examinations. The rejection of applicants had the effect of barring them permanently from the university, since they would exceed the prescribed age limit by the next university session.[6]

On July 10, 1959, two Negro graduates of Atlanta's Turner High School filed applications for admission to the University of Georgia with the registrar, who stated to the press that no additional admissions for the fall quarter would be made and that even prospective white students had been turned away because the university was filled to capacity.[7] These two 18-year-old students, Charlayne Hunter and Hamilton Holmes, then filed suit in a Federal court on September 2, 1960, in an effort to gain admission to the university in the fall term. They asked that their applications for admission be considered still in effect, and that the court issue a preliminary and permanent injunction against the university registrar, ordering him to consider their applications, to stop his dilatory handling of applications of

[2] *Ibid.*
[3] *Ibid.*
[4] N.Y. Times, Apr. 23, 1959, p. 8.
[5] *Ibid.*
[6] So. School News, June 1959, p. 16.
[7] N.Y. Times, July 11, 1959, p. 19.

Negroes, and to refrain from setting requirements for Negroes which were not imposed upon white applicants.[8]

On September 25, 1960, the district court denied a motion for a preliminary injunction which would have permitted plaintiffs to register at the university for the fall term, reportedly on the grounds that the important issues involved in the action required a full-scale court hearing and that the State administrative remedies had not been exhausted.[9]

The details of the story of the resistance of Georgia and the other States included in this chapter should enable the reader to draw his own conclusions as to whether the "rule of law," in its traditional sense, has been followed by officials whose duties require that they observe the law of the Constitution of the United States and of their own State. It seems clear that by one device or another these States have deprived Negroes who seek the benefits of nonsegregated public higher education within their boundaries from enjoying the equal protection of the laws.

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[8] Atlanta (Ga.) Constitution, Sept. 4, 1960, sec. A, p. 3.

[9] *Id.*, Sept. 26, 1960, sec. A, p. 1. At the date of writing, the final outcome of this suit is not known.

CHAPTER 3

A COMPARISON OF PUBLIC COLLEGES FOR WHITES AND NEGROES IN THE RESISTANT STATES

The continuation of compulsory racial segregation in public colleges and universities in the academic year 1959–60—4 years after the applicability of the constutional principles of the *School Segregation Cases* to higher educational institutions was clearly settled by the United States Supreme Court in *Florida ex rel. Hawkins* v. *Board of Control*[1] and *Frasier* v. *Board of Trustees*[2]—is in defiance of the law of the land and causes a serious deprivation of educational opportunity to Negro students in those States.

The Commission has found that four Southern States[3] still maintain an unbreached policy of segregation at the higher education level and that two additional States[4] have attempted to maintain such a policy as long as and to the fullest extent possible without risking outright defiance of court orders. These six States, Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina, have, therefore, been classified by the Commission as resisting desegregation.

There is disparity between the public higher educational program for whites and Negroes in other Southern States, but the impact of State policy is greatest on the Negro student in the six resistant States where his only choice is to attend the segregated Negro college or face prolonged litigation. These States, therefore, will be used for a comparative study of the white and Negro State college.

While recognizing that compulsory segregation is constitutionally indefensible and with no intention of supporting the discarded concept of "separate but equal," the Commission will present a comparison of the education offered at the white public college with that of the Negro public college for the purpose of revealing the magnitude of the Negro student's continuing deprivation of educational opportunities under segregation.

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[1] 350 U.S. 413 (1956). See pp. 43–44 *supra.*
[2] 134 F. Supp. 589 (M.D. N.C., 1955), *aff'd,* 350 U.S. 979 (1956). See pp. 45–46 *supra.*
[3] Alabama, Georgia, Mississippi, and South Carolina.
[4] Florida and Louisiana.

The Supreme Court recognized in the *Sweatt* [5] case that inferiority in education may result from tangible or intangible factors. Tangible factors include such things as value of plant and equipment, teacher preparation and salaries, size of the college library, and the type of training and variety of courses offered students. Intangible factors mentioned by the Court include the prestige of the college and the reputation of its faculty for scholarship.

In the comparison of white and Negro institutions to be presented here, four of the tangible factors that have been mentioned by the courts as basis for measuring equality will be considered: (1) the number and location of white and Negro public colleges and universities; (2) the accreditation, or lack thereof, of such institutions by the regional accrediting agency recognized by the Federal Government; (3) the types of programs and degrees offered by such institutions; and (4) the financial support provided them by the State. The Commission recognizes that these are not the only tangible factors that would be taken into account in a complete assessment of the relative quality of institutions of higher education, but they are readily measurable, and they may be fairly said to be representative. Nor does the Commission contend that tangible factors have the greatest importance in determining the quality of a college or university. Intangibles such as the reputation of the faculty, the presence of certain persons on the faculty, the traditions of the institution, and the quality of the student body may weigh more heavily in academic ratings. But these factors cannot be reduced to numerical terms for comparative purposes. Moreover, it may be said to be generally true that the intangible advantages tend to follow the material ones.

In making this comparison each of the six States will be considered separately after a brief general discussion of the criteria to be applied.

BASES OF COMPARISON

Number and location of colleges

The increasing cost of a college education to the individual as well as to the State makes the number and location of colleges serving the two races within each State an obvious measure of the comparative equality or inequality of opportunity to attend college. The economic advantage of attending college while continuing to live at home rather than having to attend a school many miles away as a resident student has been recognized by the courts [6] as well as by hundreds of thousands of citizens throughout the land attending college in that

[5] Sweatt v. Painter, 339 U.S. 629 (1950).

[6] Wilson v. City of Paducah, 100 F. Supp. 116 (W.D. Ky. 1951); Battle v. Wichita Falls Junior College, 101 F. Supp. 82 (N.D. Texas 1951), *aff'd*, 204 F.2d 632 (5th Cir. 1953), *cert. denied*, 347 U.S. 974 (1954); Constantine v. Southwestern Louisiana Institute, 120 F. Supp. 417 (W.D. La. 1954).

way. In States maintaining a number of colleges for whites and few for Negroes, or only a few standard colleges and universities, but many junior or community colleges for the first 2 years of college study for white students and few, if any, junior colleges for Negroes, the disadvantage suffered by the Negro student denied admission because of his race to the college serving the community in which he lives is obvious.

Accreditation

Accreditation of an educational institution may be defined as an official certification of conformity to certain standards. The Federal Government has never fixed standards for either public or private educational institutions in the various States, both for constitutional reasons and because of the American tradition of local responsibility for education. However, since 1952 6 nongovernmental regional associations[7] organized by colleges and universities themselves and covering geographically the 50 States have had the official approval of the Federal Government.[8] In some States an official State agency is empowered by law to approve and set minimum requirements for all public and/or private educational institutions within the State granting a diploma or a degree. But not all States do this[9] and such standards necessarily vary from State to State. Therefore, the Commission will use accreditation by the regional association recognized by the Federal Government as its measure of conformity to recognized educational standards.

Accreditation of a college or university by the appropriate regional association, or lack thereof, has definite consequences for its students, graduates, and faculty members and for the institution itself. Veterans of the Korean conflict cannot qualify for Federal veterans' assistance to attend a nonaccredited college unless the courses in the nonaccredited institution are acceptable by the State department of education for credit for a teacher's certificate or a teacher's degree.[10] An accredited university may not admit a graduate of an unaccredited college to any of its graduate schools without imperiling its own accreditation.[11] Those who move to another State after graduation from college may find their employment opportunities in teaching limited if the college from which they graduated was nonaccredited since State

[7] Middle States Association of Colleges and Secondary Schools, New England Association of Colleges and Secondary Schools, North Central Association of Colleges and Secondary Schools, Northwest Association of Secondary and Higher Schools, Southern Association of Colleges and Secondary Schools, and Western College Association.

[8] 17 *Federal Register*, 8929–30, (Oct. 4, 1952).

[9] Selden, *Accreditation: A Struggle Over Standards in Higher Education* 48 (1960).

[10] Veterans' Readjustment Assistance Act of 1952, 72 Stat. 1186, 38 U.S.C. sec. 1653 (1958).

[11] See Southern Association of Colleges and Secondary Schools, ***Constitution and Standards***, Dec. 3, 1959, p. 15.

certification is required of public school teachers.[12] Under some civil service regulations employment and grade status may be determined by graduation from an accredited institution.[13] With rare exceptions, a professor in a nonaccredited institution is ineligible for membership in the American Association of University Professors.[14] An unaccredited college is ineligible to become a member of the Association of American Colleges or the American Council on Education.[15] Grants from foundations may be withheld from the nonaccredited college.[16]

The problems of those attending a nonaccredited institution do not begin upon graduation from a nonaccredited college. Graduation from an accredited high school may be an admission requirement of an accredited college,[17] particularly in the case of a nonresident.

The Southern Association of Colleges and Secondary Schools is the regional association accrediting both high schools and colleges in the States under consideration. Therefore, the organization and standards of the Southern Association will be outlined briefly.

The objective of the association, which was organized in 1895, is to improve education in the South through leadership and cooperative effort.[18] There are three classes of members of the association: (1) institutions of higher education; (2) secondary schools; and (3) State departments of education.[19] The first two classes attain membership upon accreditation by commissions of the association and the third upon recommendation of the association's executive committee.[20] It is important to note that membership and accreditation are synonymous.

The Commission on Colleges and Universities of the Southern Association, composed of 54 members from different institutions, prepares standards to be met and maintained by member institutions and those desiring membership, makes inspections and investigations, and submits for approval of the association at its annual meeting[21] a list of institutions conforming and not conforming to the standards. The composition and duties of the commission on secondary schools are similar.[22]

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[12] The present plight of Mississippi Negroes training for the teaching profession in their home State, where only one private college among the three public and seven private colleges for Negroes is accredited by the Southern Association of Colleges and Secondary Schools, was recently brought to the Commission's attention. A complaint was filed with the Commission in the fall of 1960 from north Mississippi alleging, among other handicaps of Mississippi Negroes, the lack of accreditation of their teachers colleges with the consequent limitation in the acceptance of the graduates of those colleges when they try to find employment out of the State.

[13] See *Federal Personnel Manual*, X–1–48; *Handbook* X–118; 5 C.F.R. pt. 24 (1949). Certain positions with the Federal Government involve positive educational requirements.

[14] Selden, *op. cit. supra*, note 9, at 4–5.

[15] *Id.* at 4.

[16] *Id.* at 5.

[17] See pp. 106, 112, 117 *infra*.

[18] *Constitution and Standards, supra*, note 11, at 1.

[19] *Ibid.*

[20] *Ibid.*

[21] *Id.* at 2, 4.

[22] *Id.* at 4–5.

The present standards to be met by colleges cover the following subjects: (1) requirements for admission, (2) requirements for graduation, (3) instruction, (4) training and development of faculty, (5) teacher load, (6) salaries and tenure of the faculty, (7) financial support, (8) educational expenditures, (9) the library, (10) physical plant and equipment, (11) student personnel work, (12) extracurricular activities, (13) intercollegiate athletics, (14) general administration, (15) special activities or relations (affiliated institutions and branches), (16) alumni records and contracts, and (17) graduate work.[23] There are supplementary standards and minimum standards for master's and doctor's degrees and professional schools or departments elaborating the requirements for graduate work.[24] The commission on colleges and universities also accredits junior colleges for which separate and less exacting standards are set.[25]

A total of 11 of the 17 Southern States that maintained separate colleges for white and Negroes in 1954 are included within the Southern Association.[26] The other six are in the Middle States [27] and North Central Associations.[28] Although both of the latter associations accredited Negro colleges and universities by admitting them to membership as early as 1925 [29] and 1926,[30] respectively, the Southern Association did not vote to admit any Negro colleges to membership until its annual meeting in December 1957 and has not yet admitted any secondary schools as members.[31] Although membership was denied to all Negro institutions before 1957, the Southern Association voted at the annual meeting in December 1929, to rate Negro colleges and high schools as a service to them,[32] granting them approval if they met the association's standards. The first lists of "approved" Negro colleges were issued in 1930 and 1931, respectively.[33] Since these colleges were not members of the association, which status carries with it accreditation, they were listed by the association merely as "approved."

Initially, the Negro colleges rated were given two classifications. An "A" classification indicated that the standards used for membership were fully met, and "B" that one or more standards for membership were not fully met but the general quality of the work of the college justified the admission of its graduates to any academic or

[23] *Id.* at 9–14.
[24] *Id.* at 14–19.
[25] *Id.* at 21–26.
[26] Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.
[27] Delaware and Maryland.
[28] Arkansas, Missouri, Oklahoma, and West Virginia.
[29] Morgan State College, Baltimore, Md.
[30] Lincoln University, Jefferson City, Mo.
[31] Letter to U.S. Commission on Civil Rights from Southern Association of Colleges and Secondary Schools, dated Nov. 19, 1959, p. 1.
[32] *Id.* at 2.
[33] *Ibid.*

professional work requiring an approved bachelor's degree.[34] This dual classification of Negro institutions that are not members but are approved appears to be still in use,[35] although there is no mention of this in the "constitution and standards" of the association.

When the first Negro colleges were rated in 1930, one was classed "A" and six were given "B" ratings.[36] As of December 1933, 9 standard 4-year colleges, including only 1 publicly controlled institution, were rated "A," and 22, including 7 publicly controlled institutions, were classed as "B." [37] As of December 3, 1959, the date of the last annual meeting of the Southern Association, the picture had changed considerably in all of the Southern States. Nineteen of 43 public colleges and universities formerly for Negroes only in the 17 Southern States were members and 3 had unqualified approval; 6 public Negro colleges had only qualified approval either for failure to meet one or more standards, or because they were on probation, and 17, mostly junior colleges, lacked even that status.[38] In other words, about one-half of the public colleges for Negroes in the Southern States as a whole are now accredited or approved by the appropriate regional accrediting association.

In addition to the accreditation status of the white and Negro college, the standing of the public high schools of each State will also be considered because of its importance in qualifying students for college work. Secondary schools as well as colleges and universities are inspected and rated by the Southern Association. White schools meeting the standards of the association are admitted to membership which carries with it accreditation; Negro schools satisfying the standards set are rated as "approved" in the same way that Negro colleges were prior to 1957.

Types of Programs and Degrees

Twenty-two years ago the Supreme Court held in the *Gaines* case [39] that a State could not exclude a Negro applicant from the State law school when it maintained no law school for Negroes within the State. A State owes no duty to provide residents with any particular educational program, but if it elects to do so the 14th amendment requires that it be available to all State residents who can meet the admission requirements, which may not include race.[40]

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[34] Holmes, *The Evolution of the Negro College* 198 (1934).

[35] See Southern Association of College and Secondary Schools, "List of Member Universities and Colleges of the Association," December 3, 1959, List of Approved Colleges and Universities.

[36] Holmes, *op. cit. supra*, note 34, at 198.

[37] Id. at 198–99.

[38] Data obtained from lists of member universities and colleges of Middle States, North Central, and Southern Association secured from these organizations, and from listing in U.S. Office of Education, Department of Health, Education, and Welfare, *Education Directory 1959-60*, Pt. 3, "Higher Education," as under public control.

[39] Missouri *ex rel.* Gaines v. Canada, 305 U.S. 337 (1938).

[40] *Ibid.*

The constitutional command is so clear that an examination and comparison of the types of programs and degrees offered in the resistant States by white colleges and universities and by the Negro colleges is indicated.

Immediately following the Civil War the preparation of Negroes to take over the teaching in the Negro schools of the South had great importance to both white southerners and the newly emancipated Negroes.[41] Ninety-five years later, the predominance of the same program among educational opportunities open to Negroes is not only a measure of the educational deprivation of the present-day Negro in the South, but reveals a continuing pattern in which socially, culturally, and educationally deprived teachers of each generation are called upon to instruct the next generation of similarly handicapped teachers. Practically speaking, the only white-collar job open to Negroes in the South, and the only educational preparation offered to them, is in teaching. The young Negro living in these States who aspires to more than a blue-collar job has little choice but to qualify as a teacher in the State college for Negroes. The Nation may desperately need additional trained manpower in the physical and natural sciences, in engineering, and mathematics, but to a great extent the South offers only history of education and teaching methods to its Negro youth. The potential physicist, chemist, mathematician, psychologist, sociologist among the Negroes of the South is lost to the Nation, as well as personally thwarted, for lack of educational opportunity denied him solely because of the color of his skin.

Financial support

No other single factor so directly affects the quality of education a college can offer as its available financial support. Most of the standards to be met by members of the Southern Association carry a price tag: teacher load (teacher-student ratio), salaries of faculty, financial support of the college, direct education expenditures, the library, to mention a few of the most obvious.[42] Higher education is a costly business.

Although public colleges and universities get financial support from private endowments and also from the Federal Government for specific purposes or programs, the former is a very small part of the total and the latter will be considered separately in another chapter. In this chapter attention will be directed to what the State or an agency of the State is doing for its own citizens.

The six resistant States' higher educational program to be compared here will be dealt with separately so that the considerable variation in the economic ability of the individual States to support higher education will not enter into the comparison.

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[41] See pp. 4–5 *supra.*

[42] See p. 101 *supra.*

The following materials have been prepared to compare the white and Negro colleges in each State:

(1) A map showing the location of each publicly controlled higher educational institution in the State, the standard 4-year colleges and universities for whites and for Negroes being indicated by one set of symbols and the junior or community colleges, if any, for each race by another set of symbols.

(2) A table comparing the white and Negro colleges as to number, accreditation status, degrees granted, types of programs offered, and State financial support for the fiscal year 1957–58.

(3) Two charts showing graphically the State support of white and Negro colleges over a span of 9 years (1950–58), one on the basis of students enrolled and the other per resident of the State by race. Five years are covered, so that trends, if any, may appear, while year-to-year variations resulting from temporary increases or decreases in enrollment will be minimized.

To a large extent the facts speak for themselves, but the reader is reminded that the effects of deprivations are cumulative. Economic and social handicaps affect scholastic performance adversely: ill prepared teachers and inadequate high schools inspire few young people, least of all those whose home backgrounds may not stimulate ambitions; the cost of attending college at a long distance from home is an additional financial burden, to which must be added the limited employment opportunities open to the educated Negro. But without education and training even the hope of opportunity must vanish.

ALABAMA

Number and location of white and Negro colleges and universities

Alabama maintains seven colleges and universities for white students and two for Negroes. It appears from the map of the State that, whereas the white colleges are well distributed throughout the State, large areas served by a white college have no Negro institution within many miles.

The Commission has received a complaint from Negroes living in Birmingham that no college in that city admits Negro students. However, the two white colleges in Birmingham are private institutions, so that their policy of excluding Negroes does not come within the purview of the 14th amendment. But there are three State institutions for white students within 25 to 65 miles of Birmingham that exclude Negro students. The nearest Negro college is 100 miles away.

Accreditation status

All seven State colleges and universities for white students are members of the Southern Association.[43] Both of the two Negro insti-

[43] Southern Association of Colleges and Secondary Schools, "List of Member Universities and Colleges of the Association," Dec. 3, 1959.

ALABAMA


LAUDERDALE
LIMESTONE
MADISON
JACKSON
COLBERT
LAWRENCE
DE KALB
FRANKLIN
MARSHALL
CHEROKEE
MARION
WINSTON
CULLMAN
ETOWAH
BLOUNT
LAMAR
WALKER
CALHOUN
CLEBURNE
FAYETTE
JEFFERSON
SAINT CLAIR
Birmingham
TALLADEGA
CLAY
RANDOLPH
PICKENS
TUSCALOOSA
SHELBY
Tuscaloosa
COOSA
TALLAPOOSA
CHAMBERS
GREENE
TOM
SUMTER
HALE
BIBB
PERRY
ELMORE
LEE
AUTAUGA
DALLAS
MACON
MARENGO
MONTGOMERY
RUSSELL
CHOCTAW
LOWNDES
BULLOCK
BARBOUR
WILCOX
CRENSHAW
PIKE
CLARKE
BUTLER
MONROE
WASHINGTON
CONECUH
COFFEE
DALE
HENRY
COVINGTON
HOUSTON
ESCAMBIA
GENEVA
MOBILE
BALDWIN
Gadsden
Anniston
Alexander City
Montgomery
Mobile
WHITE COLLEGES & UNIVERSITIES
NEGRO COLLEGES & UNIVERSITIES
WHITE JUNIOR COLLEGES
NEGRO JUNIOR COLLEGES

tutions have had the approval of the Southern Association, but were placed on probation in December 1959.[44] The terms of the probation and reasons therefor are not given in the official listing.

The Commission has not been able to find out whether the white colleges of Alabama, or any of them, require graduation from a regionally accredited high school for admission. Some institutions in other Southern States appear to make this requirement.[45] At all events, the regional accreditation status of the high schools of the State for white and Negro students speaks for the preparation of their graduates to do college-grade work. In Alabama, 126 white high schools, or 36.9 percent of all white high schools in the State, are members of the Southern Association, but only 24 Negro high schools, 17 percent of all Negro high schools, are approved.[46] Proportionately, more than twice as many white as Negro high schools are accredited.

The inadequate preparation of Negro high school graduates for college work could be an important factor in the academic rating of the Negro colleges, since their admission requirements and program offerings obviously must be tailored to the qualifications and development of those served. Some 30 years ago a large proportion of the students enrolled in Negro colleges were in fact doing secondary or even elementary school work.[47] While this is no longer true, even today many Negro colleges are forced to offer extensive remedial courses to bring ill-prepared students up to the level of college work.

Degree offerings and type of programs

As is shown by table 1, two of the white universities of Alabama offer a Ph. D. degree or its equivalent, and the other five grant a master's and/or the second professional degree. In contrast, one Negro college grants a master's and/or a second professional degree and one a bachelor's and/or first professional degree. The type of program offered makes the picture clearer. Whereas two of the white universities have a liberal arts and general program with three or more professional schools, one with one or more professional schools, and two with a teacher-preparatory course, the Negro colleges are confined to liberal arts programs with teacher preparation in one case and terminal occupational (subprofessional courses) as well as teacher preparation in the other. The program offering strongly suggests that the master's degree offered in the one Negro college is in education only. This would be the second professional degree for a teacher.

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[44] *Id.*, List of Approved Colleges and Universities.

[45] See pp. 91–92 *supra* and 117 infra. The Southern Association reported in a study published in the September 1958 issue of its *Newsletter of the Commission on Secondary Schools* that the term "accredited" in admission requirements "is used somewhat loosely and appears to mean that the school must be approved either by the State department of education or by the regional association."

[46] App. H.

[47] See p. 14 *supra*.

TABLE 1.—*Comparison of white and Negro public colleges and universities: Alabama*

	White	Negro
List of senior colleges and universities:[1]		
Number	7	2
Accreditation status:		
Members, Southern Association	7	0
Approved but on probation December 1959	0	2
Highest degree offered:		
Ph. D. or equivalent	2	0
Master's and/or second professional	5	1
Bachelor's and/or first professional	0	1
Type of program:		
Liberal arts and general with—		
3 or more professional schools	2	0
1 or 2 professional schools	1	0
Teacher preparatory	2	1
Teacher preparatory and terminal occupation	1	1
Teacher preparatory only	1	0
State and/or local income or appropriation, 1957–58:[2]	$14, 514, 078	$1, 504, 412
College enrollment[2]	27, 782	2, 667
Funds per student enrolled[2]	$522. 43	$564. 08
Population[3]	2, 201, 363	1, 007, 121
Funds for colleges, per resident[3]	$6. 59	$1. 49

[1] See app. G, table 1.
[2] See app. E, table 1.
[3] See app. F, table 1.

State financial support

In the fiscal year 1957–58, the last year for which a report was available, the State of Alabama appropriated $564.08 for every Negro student enrolled in a public college and $522.43 for every white student. Thus, the appropriation for each Negro student enrolled exceeded the appropriation for a white student by about 8 percent.

An examination of the record for the years 1950–58, particularly the enrollment figures as compared with State and local funds,[48] suggests that the generous allowance per Negro student enrolled in 1958 is the result of a drop in enrollment in the Negro colleges in 1958 of over 25 percent rather than largesse on the part of the Alabama Legislature. The increase in the appropriation of less than 2 percent would have amounted to less than $10 per student had the enrollment been equal to that of 1956. In the other 4 years examined, as appears on the accompanying chart, the funds provided for each white student enrolled exceeded that for Negro students by from $156 to $417, which is 40 to 138 percent more than the State and local funds for each Negro student.

However, this does not tell the entire story because, as a result of cumulative deprivations over a period of 90 years and lack of access

[48] See app. E, table 1.

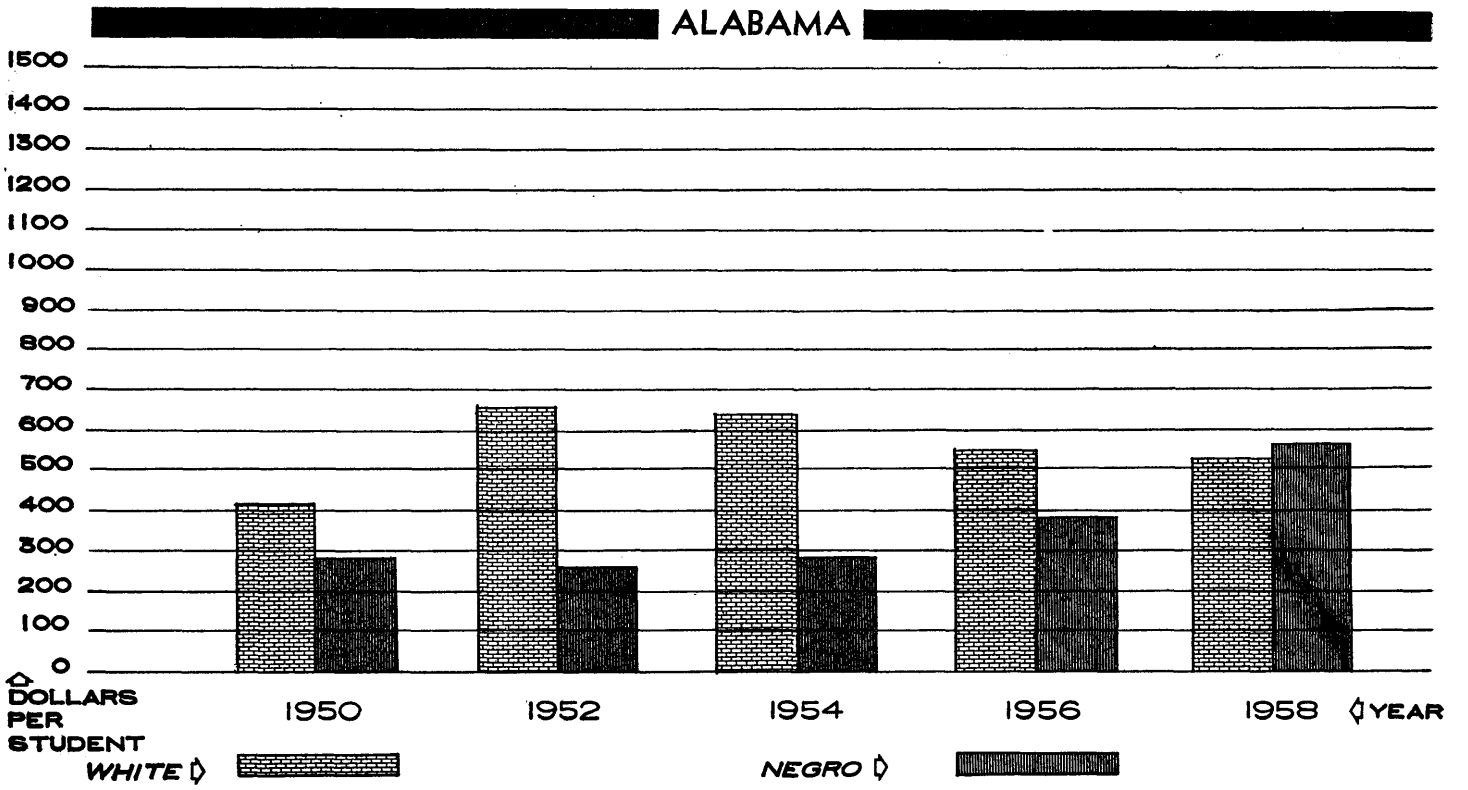

Chart 2—State and Local Funds for Public Colleges

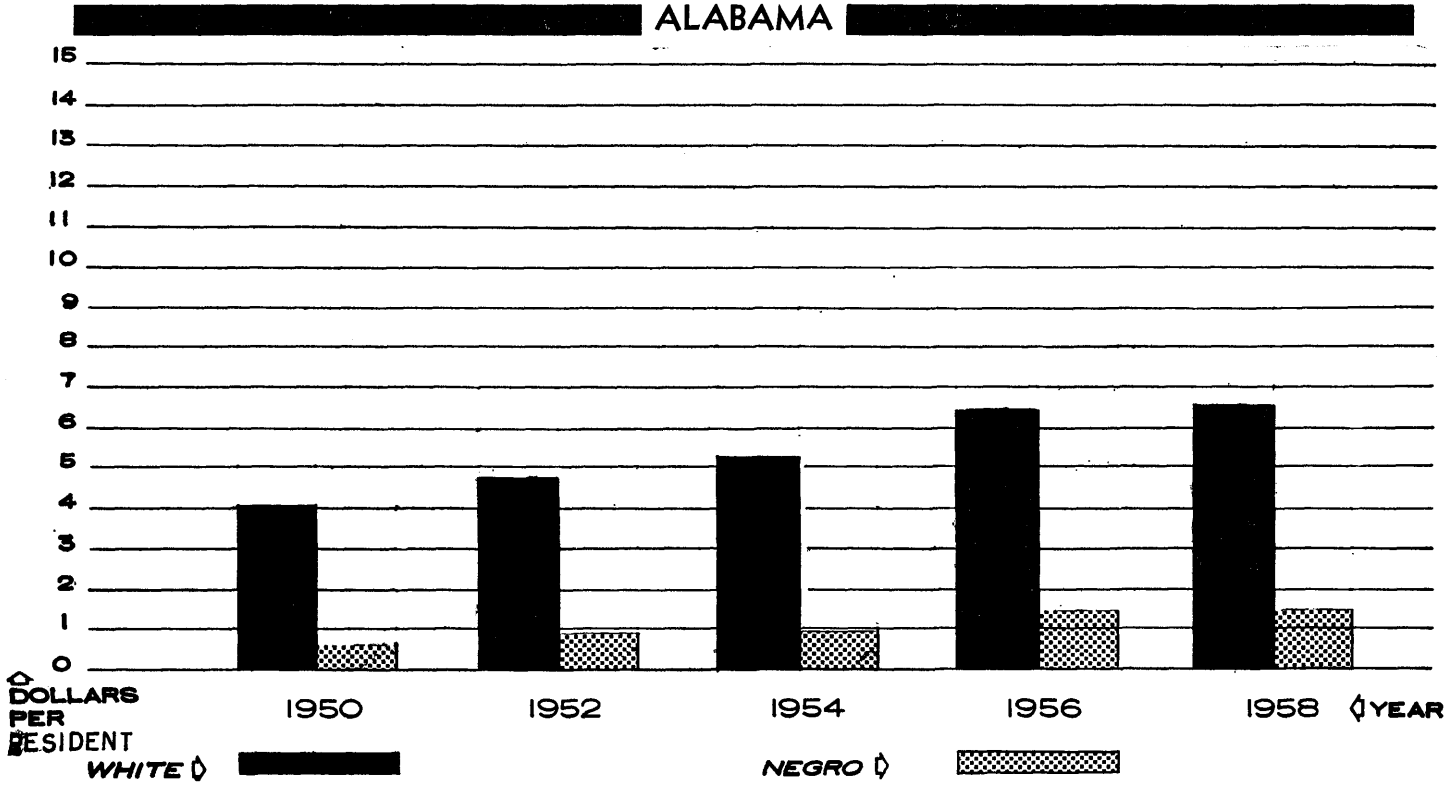

Chart 3—State and Local Funds for Public Colleges

to local institutions, proportionately fewer Negroes are able to go to college. The State appropriation for the higher education of its white citizens as a whole should be compared with what it does for its Negro citizens.

In 1957–58 the State appropriation for higher education for each white resident of the State was $6.59 a year in contrast to $1.49 for each Negro.[49] In relation to the racial composition of the population, over four times as much money was supplied by State and local governments for higher education of whites as Negroes. The comparative State support for higher education for white and Negro residents, 1950–58, is shown graphically on the chart following.

The facts clearly show that the educational opportunity of the Negro resident of Alabama is grossly inferior to that provided for white residents. At the high school level, proportionately twice as many high schools for whites are accredited by the Southern Association; there are more than three times as many colleges for whites in the State, making them easily accessible to more students at lesser cost; all white colleges are accredited by the regional accrediting agency, while both State Negro colleges are on probation; the white colleges offer more advanced degrees and a wider variety of training; and, finally, except for the year 1958, when enrollment in the Negro colleges dropped 25 percent, the white colleges received substantially more financial support per student from the State than the Negro colleges. Viewed as a whole in relation to the racial composition of the population, the public support of higher education for whites is more than four times that for Negroes.

FLORIDA

Number and location of white and Negro colleges and universities

In the academic year 1959–60 the State of Florida maintained two universities for white students and one for Negroes.[50] Additionally, there were 10 public junior colleges for white students and 6 for Negroes.[51]

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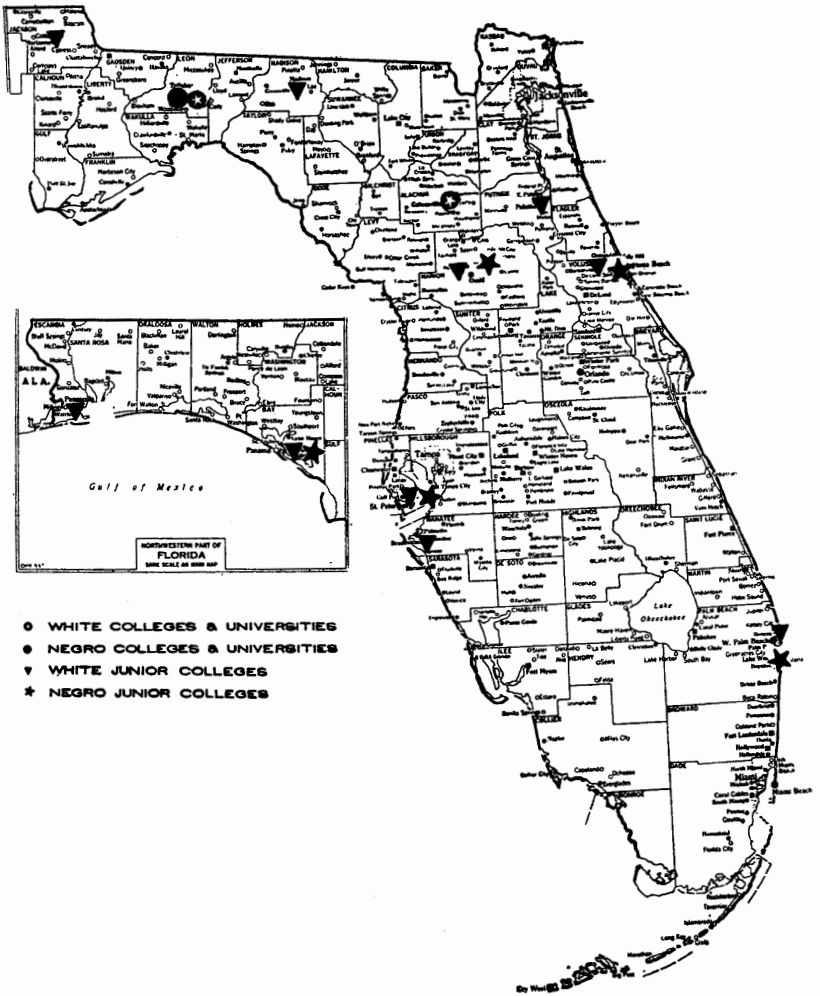
[49] See app. F, table 1.

[50] A new university for white students, the University of South Florida, opened to freshmen in September 1960 and will add a class a year until 4-year status is achieved. N.Y. Times, Aug. 28, 1960, p. 64.

[51] In September 1960, 4 additional junior colleges for white students and 4 additional junior colleges for Negro students were opened. Four of the 14 State-approved areas still lack junior colleges for Negroes, but in 2 of these special arrangements have been made for Negro students. Negro students in Dade County attend the Northwestern Center of *Dade County Junior College*. Negro students in Manatee County are provided transportation to Gibbs Junior College in St. Petersburg, Pinellas County. Letter from Department of Education, State of Florida, Sept. 12, 1960.

FLORIDA


Gulf of Mexico
NORTHWESTERN PART OF FLORIDA
WHITE COLLEGES & UNIVERSITIES
NEGRO COLLEGES & UNIVERSITIES
WHITE JUNIOR COLLEGES
NEGRO JUNIOR COLLEGES

The map shows that the only standard college for Negroes is in the northern part of the State—about 200 miles away from Negroes living in southern Florida. White students living in southern Florida have a choice between the Florida State University, in the same location as the Negro college, and the University of Florida at Gainesville, some 50 miles closer.[52]

Two Negro students were finally admitted to professional schools at the University of Florida after a 9-year court battle.[53] Their efforts to enroll for courses not offered at the State Negro college brought reluctant compliance by the State with constitutional requirements announced by the Supreme Court in the *Gaines* case in 1938. In the fall of 1960 another Negro was admitted to the law school.[54] Token desegregation of the graduate division occurred with the admission of three Negroes for graduate study in the 1959 summer session.

At the junior college level the map shows that in six areas of the State both a white and Negro junior college are provided in 1959–60, but in four locations where there is a white junior college there is none for Negroes.[55]

The Commission has had a complaint from a citizen of Florida against the State policy of developing a dual statewide junior college system after racial segregation in public education and even higher education was declared unconstitutional.[56] The complaint asserts that the State, by authorizing new projects on a segregated basis, has pushed the date of full obedience to the law into the more distant future, as indeed would seem to be the case.

Accreditation status

As is shown by table 2, both white universities and the Negro university are members of the Southern Association. Of the 10 white junior colleges, 4 are members of the Southern Association, but none of the 6 Negro junior colleges has that status, nor is any rated as "approved" by that organization.

It is reported that the educational requirements for admission of students to each State university are graduation from an accredited Florida secondary school with a score on the "Florida statewide 12th-grade testing program tests" above that of the lowest 8 percent of freshmen admitted to the particular college in September 1955, or by special consideration of such factors as grades and rank in class, cumulative high school record, recommendation of the high school

[52] The opening of the white university at Tampa accentuated the disparity between accessibility of white and Negro colleges. See note 50 *supra*.

[53] See pp. 75–80 *supra*.

[54] See p. 80 *supra*.

[55] But see note 51, *supra*.

[56] Commission files, letter dated June 11, 1958.

principal, and/or special entrance tests.[57] Whether the word "accredited" in this admission requirement means accredited by the State of Florida or the Southern Association is not stated. In fact, the percentage of accredited high schools, both white and Negro, in Florida is higher than that in any other Southern State studied. The Southern Association has accredited 197 of 234 white high schools, or 84.1 percent, and 62 out of 115, or 53.9 percent, of the Negro high schools.[58] Proportionately, there are three of the State's white high schools accredited to two of the Negro schools. Florida comes much closer to equality in this respect than any other of the States under study.[59]

Degree offerings and type of program

Both of the white universities of Florida grant doctoral degrees and have a liberal arts and general program with three or more professional schools. The Negro university is similarly classified as to type of program, but the highest degree granted is a master's, or second professional degree.

TABLE 2.—*Comparison of white and Negro public colleges and universities: Florida*

	White	Negro
List of senior colleges and universities: [1]		
Number	2	1
Accreditation status: Members of Southern Association	2	1
Highest degree offered:		
Ph. D. or equivalent	2	0
Master's and/or second professional	0	1
Type of program: Liberal arts and general with 3 or more professional schools	2	1
List of junior colleges: [1]		
Number	10	6
Accreditation status:		
Members of Southern Association	4	0
Approved, Southern Association		0
Years offered: 2 but less than 4 beyond 12th grade	10	6
Type of program:		
Liberal arts, general and terminal occupation	3	3
Plus teacher preparatory	7	3
State and/or local income or appropriation for 1957–58: [2]		
Senior colleges only [3]	$25,242,503	$2,876,541
Senior college enrollment [2]	23,386	3,192
Funds per student enrolled [2]	$1,079.39	$901.17
Population [4]	3,642,023	820,617
Funds for senior colleges, per resident [4]	$6.93	$3.51

[1] See app. G, table 2.
[2] See app. E, table 2.
[3] Appropriations for junior colleges not available.
[4] See app. F, table 2.

[57] Resolution of Florida State Board of Control of Higher Education, Mar. 21, 1956, quoted in 25 *J. Negro Ed.* 200 (1956). (It is editorially noted that the resolution was adopted after the Supreme Court's decision in the *Hawkins* case.)
[58] See app. H.
[59] In two Southern States not here being studied, namely, North Carolina and Kentucky, the proportion of Negro schools approved exceeds that of white schools.

At the junior college level, three white and three Negro junior colleges offer only a liberal arts and general curriculum and terminal occupational courses, while seven white and three Negro institutions offer additionally a teacher-preparatory course.

State and local financial support

In the year 1957–58 the State of Florida provided its universities with $1,079.39 per student enrolled it its white institutions and $901.17 per student enrolled it its Negro university. On the basis of enrollment, the State provides 19.7 percent more support for its white institutions than its Negro.

No data were available from which the Commission could compare State and local support of the public junior colleges, white and Negro, per student enrolled.

The comparative public financial support for white and Negro universities for the even calendar years 1950–58 is shown graphically on the accompanying chart.

If State and local financial support for education of white citizens beyond high school is related to the racial composition of the State population as a whole it appears that $6.93 per white resident is provided as compared with $3.51 per Negro resident. In other words, through public funds about 50 percent more financial support is provided for the higher education of white residents than for Negro residents. This comparison is also shown graphically for the period 1950–58 in the chart following.

In number and location of colleges and universities, the Negro student of Florida is at some disadvantage as compared with the white student. None of the junior colleges for Negroes are approved by the Southern Association, but only 40 percent of the white junior colleges have accreditation by that association. At the college preparatory level proportionately more white than Negro public high schools are accredited by the regional accrediting association. The only public Negro university in the State does not grant a degree beyond a master's, but both white universities do. However, the Negro university is given the same classification as the white universities as to type of program offered. In financial support, also, the white institutions are favored. However, the Negro of Florida, by the criteria selected, does not suffer the degree of educational deprivation that exists in the other Southern States studied as a result of the continued policy of racial segregation imposed by the State in opposition to the law of the land.

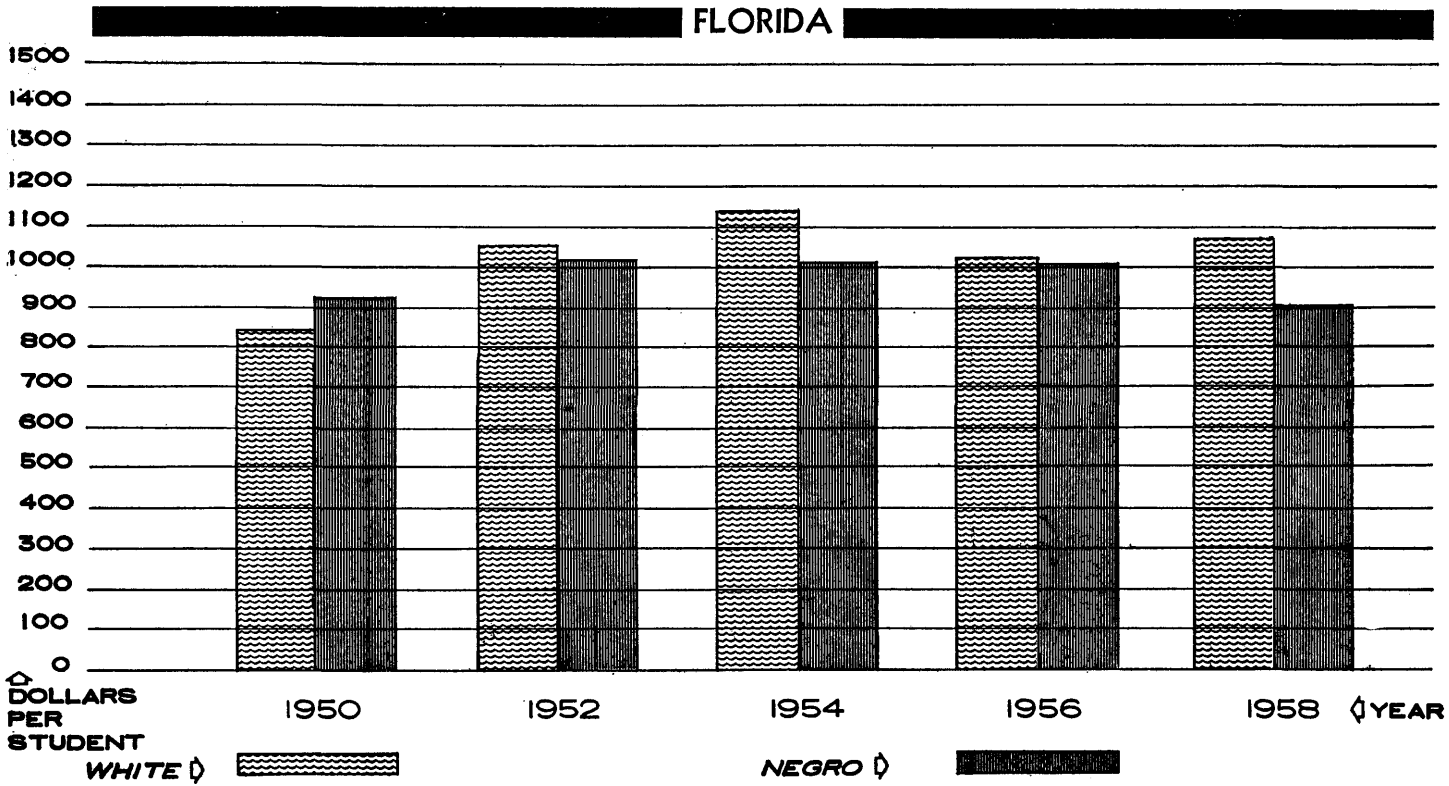


Chart 5—State and Local Funds for Public Colleges

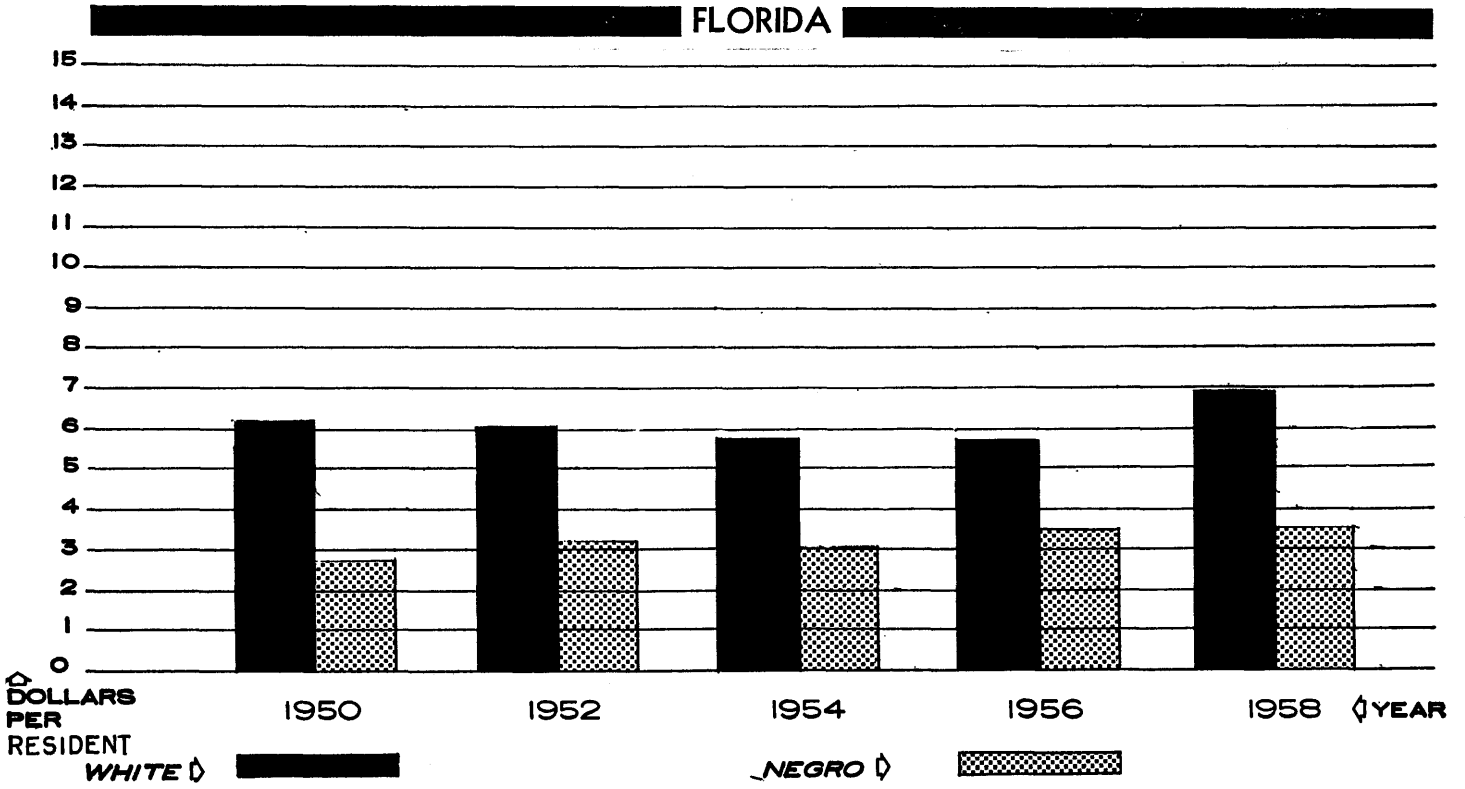


Chart 6—State and Local Funds for Public Colleges

Number and location of white and Negro colleges and universities

Georgia has nine standard colleges and universities for white students and three for Negroes. Additionally, it has nine junior colleges for white students and none for Negroes.[60] The northern part of the State, which includes Atlanta, has no public college of any kind for Negroes.

The accompanying map shows the wide distribution of junior and senior colleges for white students throughout the State. White students living in 14 locations have the economic benefit of attending college while living at home, while only 3 locations offer this advantage to Negroes. A Negro living on the northern border of the State must go almost three times as far to get to the nearest Negro college as does any white student to get to the nearest white college.

Accreditation status

As is shown by table 3, eight of the nine standard colleges and universities for white students are members of the Southern Association or, in the case of the Medical College of Georgia, the appropriate and recognized national professional agencies, as are two of the three Negro colleges. One white teachers college is not accredited and one Negro college, although approved by the Southern Association, is listed as not meeting one or more standards.

Among the nine junior colleges for white students, eight are members of the Southern Association. There are no junior colleges for Negroes.

Whether graduation from a high school accredited by the regional accrediting association is required for admission to a public college in Georgia is not entirely clear to the Commission. In the case of *Ward* v. *Board of Regents*[61] the registrar of the University of Georgia testified in a Federal district court that "accreditation" as distinct from "approval" (the only recognition given Negro high schools by the Southern Association) was required.[62] Since no Negro resident of Georgia attending Georgia public schools has graduated from a regionally accredited high school as of this date, such a rule which might have scholastic justification in another context clearly serves a discriminatory purpose in Georgia. Even if one ignores this and other admission requirements of the public colleges of Georgia that would not survive challenge in the Federal courts, the regional ac-

[60] For details see table 3.

[61] Civ. No. 4355, N.D. Ga., Feb. 12, 1957, 2 *Race Rel. L. Rep.* 369 (1957).

[62] So. School News, Jan. 1957, p. 16. See also pp. 91–92, *supra*.

GEORGIA


WHITE COLLEGES & UNIVERSITIES
NEGRO COLLEGES & UNIVERSITIES
WHITE JUNIOR COLLEGES
NEGRO JUNIOR COLLEGES

creditation status of the white and Negro high schools is of significance as an evaluation of the qualifications of its graduates to do college-grade work. Out of 346 public high schools for white students, 219, or 63.5 percent are accredited by the Southern Association.[63] In contrast, 52 of 181 Negro high schools, which is only 28.7 percent, enjoy this status.[64] Proportionately, more than twice as many white as Negro high schools are approved by the regional accrediting agency.

TABLE 3.—*Comparison of white and Negro public colleges and universities: Georgia*

	White	Negro
List of senior colleges and universities: [1]		
Number	9	3
Accreditation status:		
Members of Southern Association	8	2
Not meeting 1 or more standards		1
Highest degree offered:		
Ph. D. or equivalent	2	
Master's and/or 1st professional	4	1
Bachelor's and/or 1st professional	3	2
Type of program:		
Liberal arts or general with—		
3 or more professional schools	1	
1 or 2 professional schools	1	
Teacher preparatory	4	2
Terminal occupation and teacher preparatory	1	1
Professional, technical with—		
Teacher preparatory	1	
Terminal occupation	1	
List of junior colleges: [1]		
Number	9	0
Accreditation status:		
Members of Southern Association	8	
Approved		
Years offered: 2 but less than 4 beyond 12th grade	9	
Type of program:		
Liberal arts, general, terminal occupation	7	
Plus teacher preparatory	2	
State and/or local income or appropriation for 1957–58: [2]		
Senior colleges	$14, 585, 007	$1, 539, 972
Junior colleges	745, 202	
Total	15, 330, 209	1, 539, 972
Enrollment: [3]		
Senior colleges	25, 831	2, 247
Junior colleges	3, 109	
Funds per student enrolled: Senior colleges [3]	$564. 63	$685. 35
Population [3]	2, 694, 369	1, 122, 950
Funds for all colleges, per resident [3]	$5. 69	$1. 37

[1] See app. G, table 3.
[2] See app. E, table 3.
[3] See app. F, table 3.

[63] See app. H.
[64] *Ibid.*

Two white universities, one of which has a liberal arts and general program with three or more professional schools and the other of which has a professional and technical program, grant a Ph. D. or equivalent degree. None of the Negro colleges has these top degree offerings. Four white colleges grant master's and/or first professional degrees. One, the Medical College of Georgia, offers terminal technical courses in medical and X-ray technology as well as a degree in medicine or medical science; two offer both liberal arts and general and a teacher preparatory course; and one, the Georgia College of Business Administration, has liberal arts and general programs as well as one or two professional schools. In contrast, one Negro college grants a master's degree and/or the first professional degree, but its program is limited to liberal arts, general, and teacher-preparatory courses. Three white colleges grant a bachelor's and/or first professional degree, as does one Negro college. All offer liberal arts and general programs with teacher-preparatory courses.

It is not necessary to discuss the nine white junior colleges in the State because no such institutions for Negroes exist.

State and local financial support

The financial support for standard colleges and universities must be considered separately from that given junior colleges, both because the State has no junior colleges for Negroes and because the program for the first 2 years of college is normally devoted to preparation for specialization after transfer to a standard college or to a less exacting and less expensive semi- or sub-professional terminal programs, and therefore cannot properly be compared with the expense of operating a 4-year college program.

At the standard 4-year college level in 1957–58 the State of Georgia expended $685.35 for each Negro student enrolled as compared with $564.63 for each white enrolled in a similar institution. This means that the State of Georgia spent 21.2 percent more per Negro student enrolled than per white student. This ratio of expenditure has not existed in Georgia very long, as appears from the chart immediately following.

In 1950 and 1952, the expenditure for each white student enrolled exceeded the expenditure for each Negro college student by approximately 50 and 70 percent, respectively. In the year of the Supreme Court decision in the *School Segregation Cases* the financial support of white and Negro colleges on the basis of students enrolled was approximately equal; in 1956 the support per Negro student exceeded white about 30 percent; and in 1958 by 20 percent. Furthermore, the increase in 1958 appears to have been due in part to a decline in enrollment of Negro students of 5.3 percent from 1956 in contrast with an increase in enrollment of about 12 percent from 1954 to 1956.

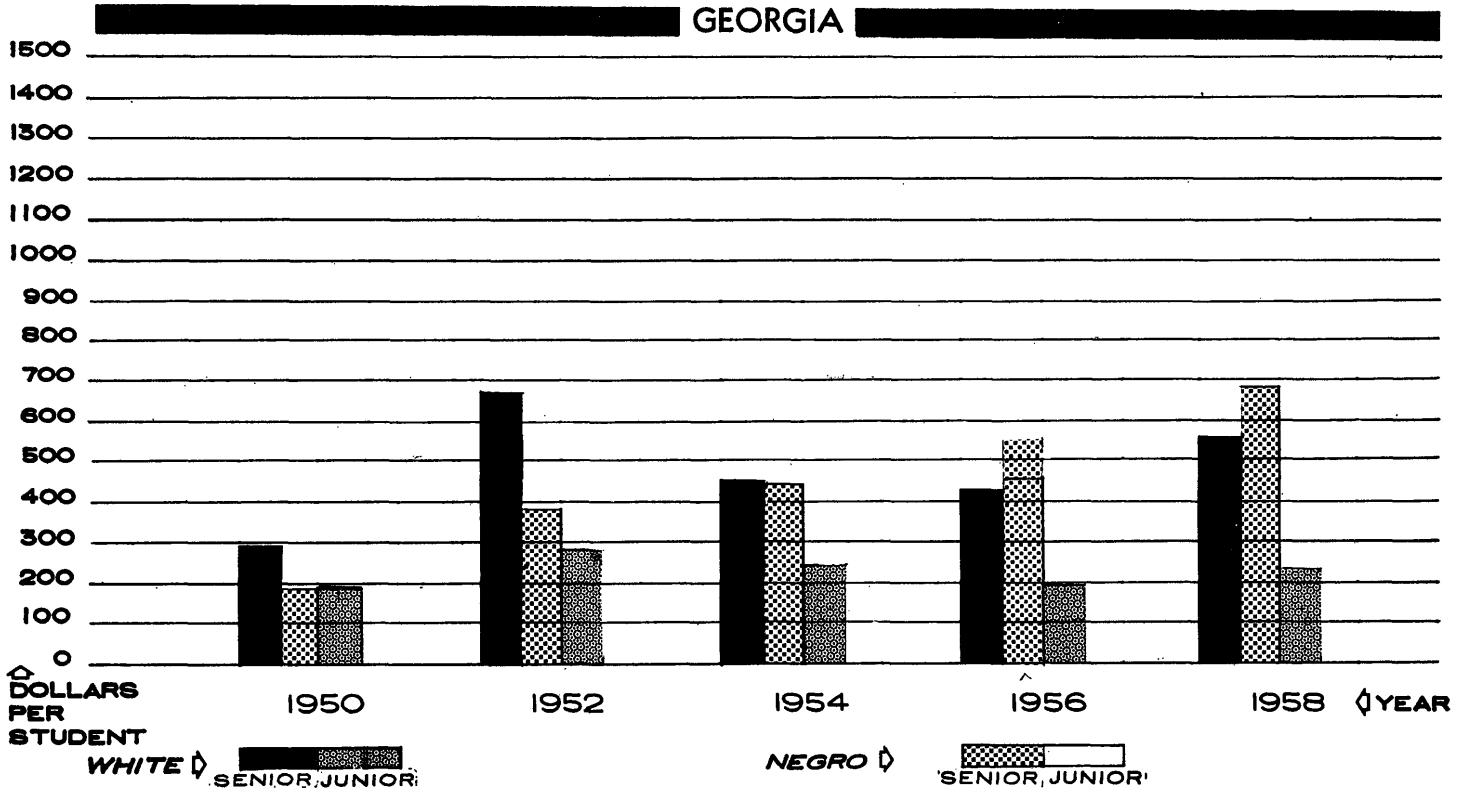


Chart 8—State and Local Funds for Public Colleges

The total appropriation for Negro colleges was increased only 3.8 percent from 1956 to 1958. The combination of lower enrollment and a larger appropriation to take care of a possible increase could account for the excess expenditure per Negro student in 1958. Unfortunately, 1960 figures are not yet available to confirm or disprove this hypothesis.

In the year 1957–58, in addition to the students enrolled in standard 4-year colleges, there were 3,109 white students enrolled in junior colleges in Georgia on which State and local governments expended on the average $239.69 per pupil. Since there are no public junior colleges for Negroes in the State, this sum may be compared with $0.00 spent for the education of Negroes in junior colleges.

If public higher education for white citizens of the State as a whole is compared with that provided for its Negro citizens the result is $5.69 for each white citizen in the year 1957–58 as compared with $1.37 for each Negro citizen, or more than four times more for white citizens than for Negro citizens. The same support for even calendar years 1950–58 is shown graphically on the chart immediately following.

Without regard to the inherent inequality of segregation, the State policy of Georgia results in real deprivation of educational opportunity to the Negro residents of the State. The greater number of white colleges, standard and junior, throughout the State makes them readily accessible to white students; Negro students must travel three times as far on the average to go to college, and few can enjoy the benefit of attending college while living at home. Eighty-eight percent of the standard white colleges are members of the Southern Association as compared with 67 percent of the Negro colleges. There are nine junior colleges for white students in the State, eight of which are fully accredited, and no public junior colleges for Negro students. With respect to college preparation, Negro students also are at a disadvantage. Proportionately more than twice as many white as Negro high schools are approved by the Southern Association. A comparison of degree offerings and types of program available at Negro and white colleges again shows that Negroes are deprived of educational opportunity. In fact, the Negro in Georgia who aspires to a public education that will lead to an adult career has little choice—teaching or subprofessional training that does not appear to offer, for example, medical or X-ray technology such as is available to white students at the Medical College of Georgia.

If a Negro, even in the field of education, the approved career for Negro intellectuals in the South, wants to work for a Ph. D. (or Ed. D.) degree, he must do so outside of the State although it is offered to white students at the University of Georgia.

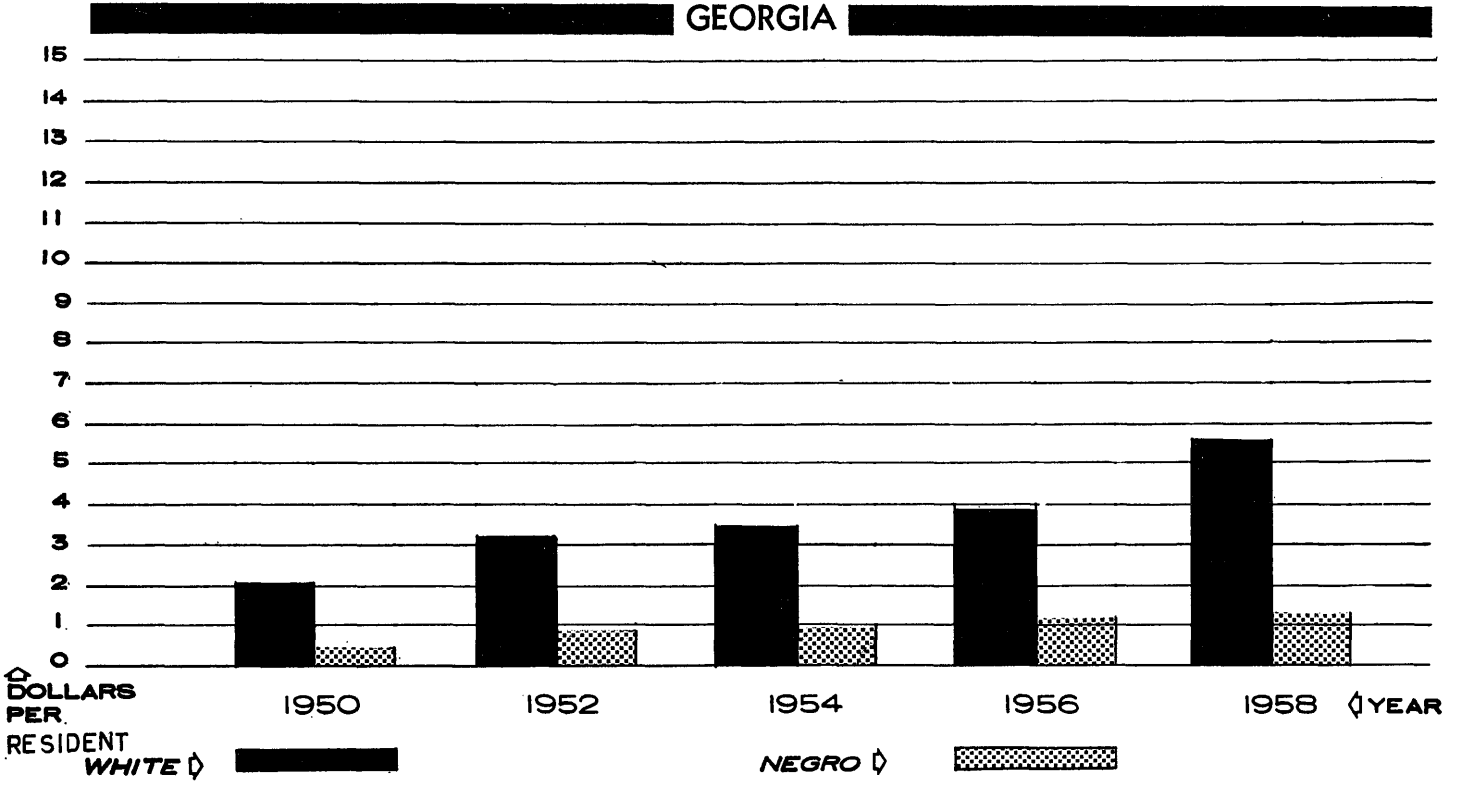


Chart 9—State and Local Funds for Public Colleges

Number and location of white and Negro colleges and universities

The State of Louisiana maintains seven standard colleges and universities for white students and two for Negroes.[65] There are no public junior colleges in the State. As appears from the accompanying map, one Negro college is in the northern part of the State and one in the south. Although there are more white colleges than Negro, they also cluster in the north and south, leaving the central portion of the State barren of public colleges. Court action has opened four of the formerly white colleges in the southern part of the State to qualified Negro students in some degree, so that only the Negro citizen of the northern half of the State suffers acutely from lack of accessibility of public colleges without regard to other factors.

Accreditation status

As is shown by table 4, all of the white public colleges and universities of Louisiana are members of the Southern Association, as is one of the Negro colleges. The other Negro college is "approved," without qualification. In preparation for college, Negro residents of the State do not fare as well. Whereas 270 out of 349 high schools for white students, or 77.3 percent, are members of the regional accrediting organization, only 36 out of 158 Negro high schools, or 22.7 percent, are "approved." [66] Proportionately, 34 white to every 10 Negro high schools are approved by the Southern Association.

Degree offerings and type of program

Only one university in the State grants a Ph. D. or equivalent degree. This is Louisiana State University, which was opened to Negro graduate students by court order in 1957.[67] Undergraduate students are not yet admitted at the main campus, but the New Orleans branch has a substantial undergraduate Negro enrollment.[68] Three white institutions and both Negro institutions grant a master's or first professional degree. One of the Negro colleges has a liberal arts and general program with one or two professional schools while the other is primarily teacher preparatory. The three white institutions, on the other hand, all have, in addition to liberal arts and general, three or more professional schools.

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[65] For details see table 4.

[66] See app. H.

[67] Wilson v. Board of Supervisors, 92 F. Supp. 986 (E.D. La. 1950), *aff'd*, 340 U.S. 909 (1951).

[68] See pp. 74, *supra*.

LOUISIANA

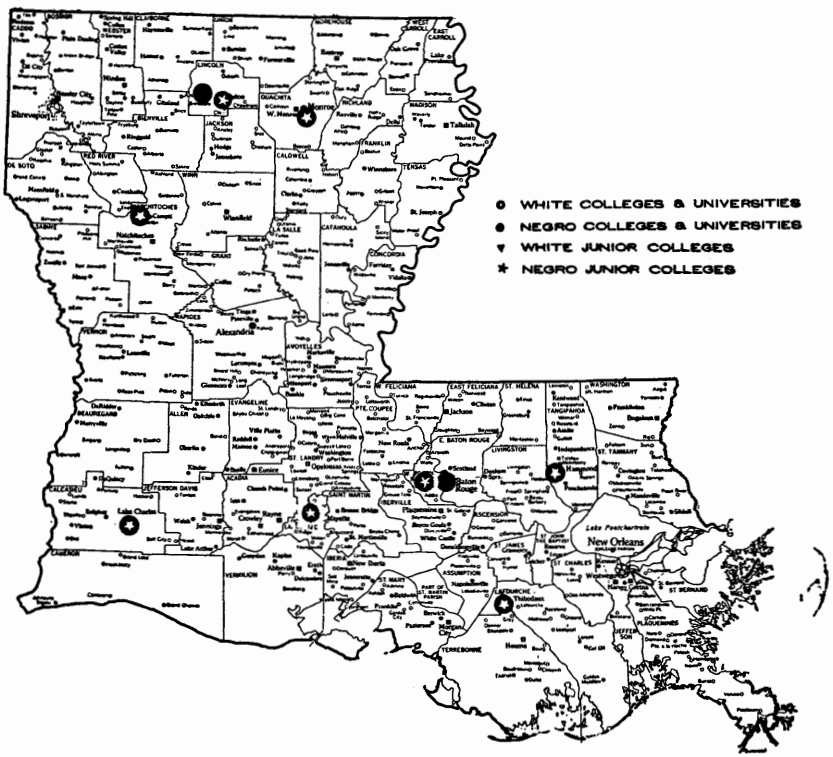

WHITE COLLEGES & UNIVERSITIES
NEGRO COLLEGES & UNIVERSITIES
WHITE JUNIOR COLLEGES
NEGRO JUNIOR COLLEGES
Alexandria
Lake Charles
New Orleans
Lake Pontchartrain

TABLE 4.—*Comparison of white and Negro public colleges and universities. Louisiana*

	White	Negro
List of Senior Colleges and Universities:[1]		
Number	7	2
Accreditation status:		
Members of Southern Association	7	1
Approved		1
Highest degree offered:		
Ph. D. or equivalent	1	
Master's and/or 1st professional	3	2
Bachelor's and/or 1st professional	3	
Type of program:		
Liberal arts and general with—		
3 or more professional schools	4	
1 or 2 professional schools	1	1
Terminal occupation, teacher preparatory	1	
Teacher preparatory only	1	1
State and/or local income or appropriation, 1957–58: [2]	$29, 704, 951	$4, 992, 531
College enrollment [3]	26, 438	7, 038
Funds per student enrolled [2]	$1, 123. 57	$709. 37
Population [3]	2, 105, 623	1, 017, 284
Funds per resident [3]	$14. 11	$4. 91

[1] See app. G, table 4.
[2] See app. E, table 4.
[3] See app. F, table 4.

State and local financial support

The State of Louisiana expended $1,123.57 for each student enrolled in the seven colleges traditionally maintained for white students as comparedwith $709.37 for each student enrolled in its Negro colleges in the year 1957–58. In other words, the State of Louisiana spent 58.4 percent more per student in its traditionally white colleges than in its Negro colleges.

This gross disparity is not new as the graphic representation on the following page clearly shows. Within the last decade it has exceeded 100 percent.

In support of higher education for the State as a whole, Louisiana spent $14.11 for higher education per white citizen as compared with $4.91 per Negro citizen, or proportionately 187 percent more for its white citizens as a group than it spent for its Negro citizens.

Although in number and accessibility, variety of educational programs offered, and the lack of degree offerings, the Negro colleges of Louisiana suffer in comparison with the traditionally white colleges of the State, the degree of the deprivation of educational opportunity of the Negroes of the State is difficult to measure because of the substantial breakthroughs in the high wall of segregation won by them in the Federal courts. The substantial number of Negroes reportedly now enrolled in three of the formerly all-white colleges in the State, although admittedly as the result of court order, is evidence of the faithfulness of the educational authorities in carrying out court orders without evasion. Financially, the Negro college enjoys substantially less support than the white colleges of the State.

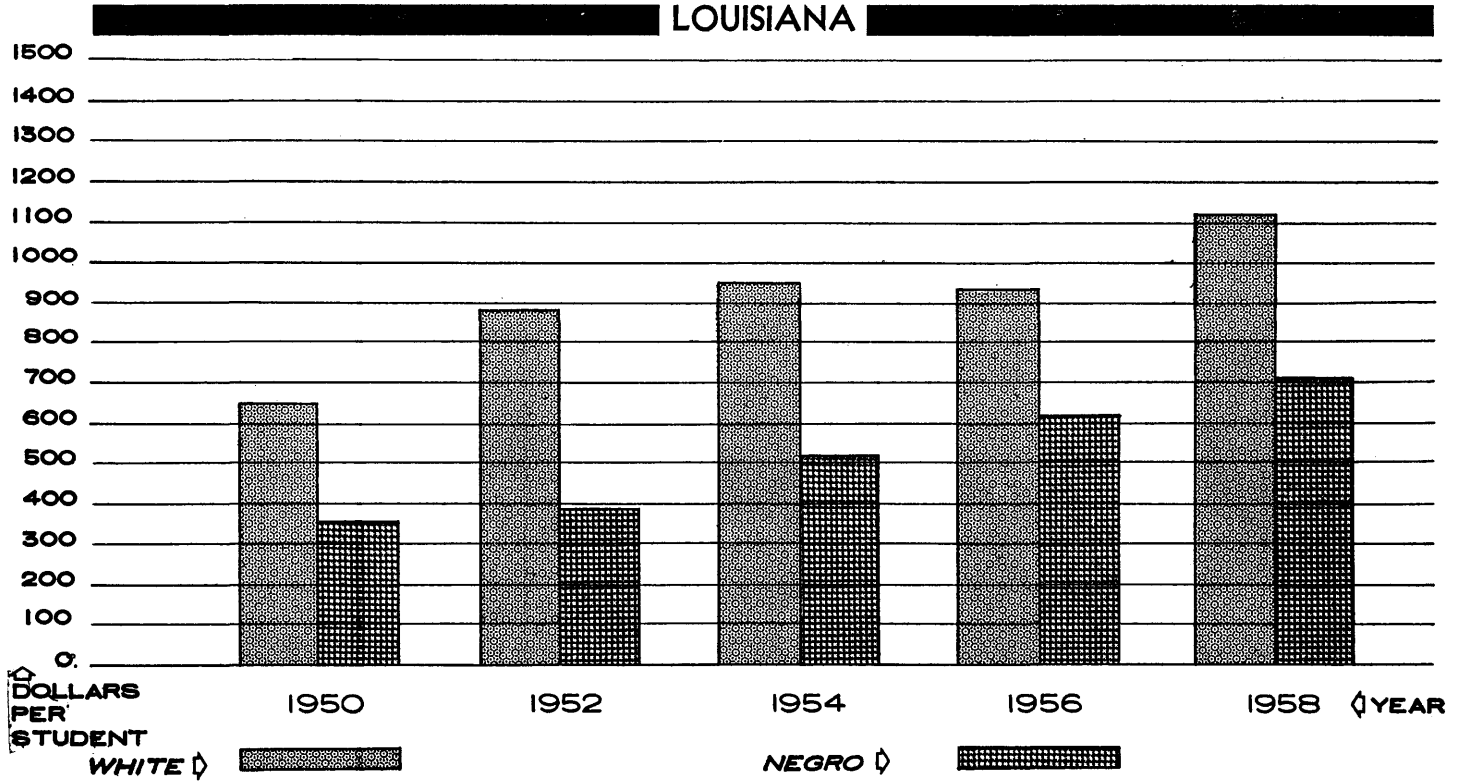


Chart 11—State and Local Funds for Public Colleges

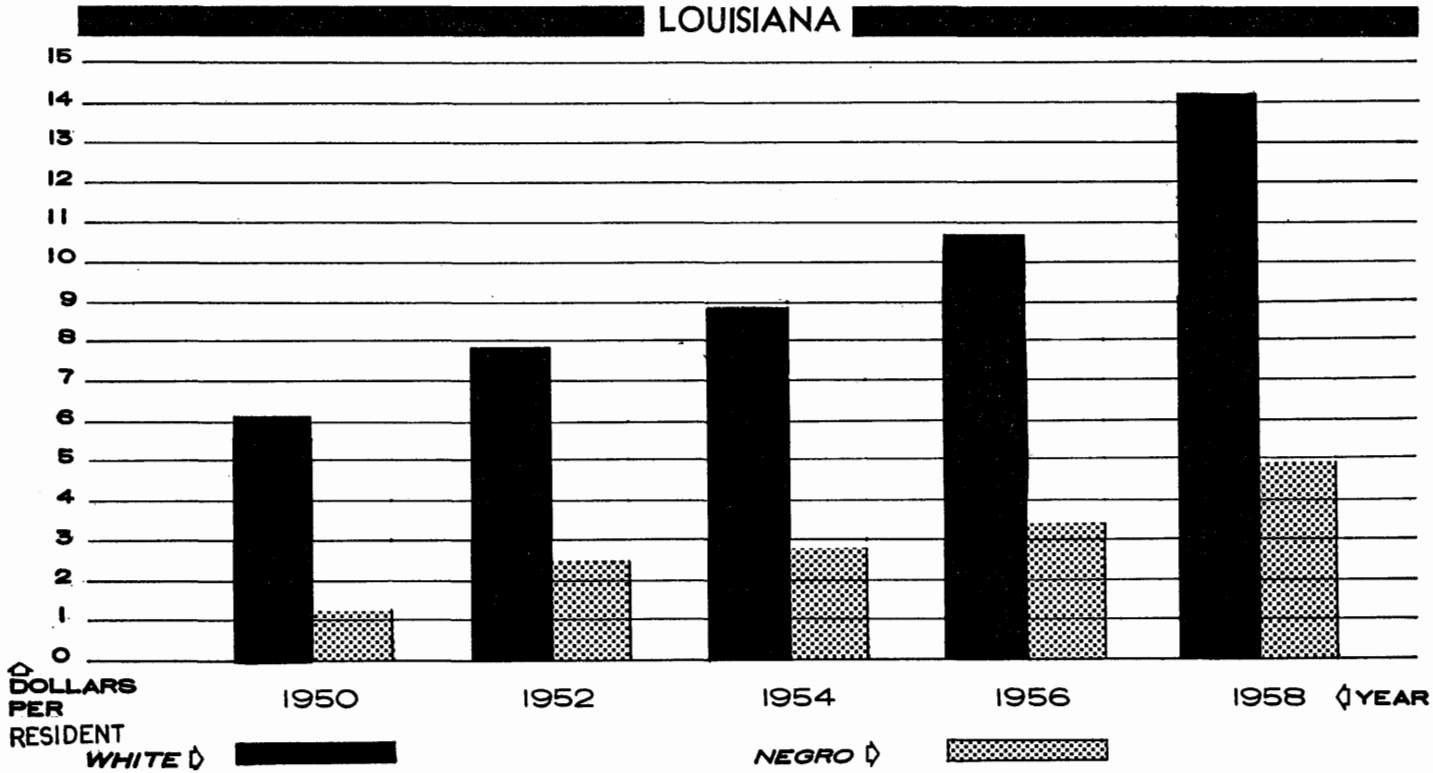


Chart 12—State and Local Funds for Public Colleges

In preparation for college, Negro students of the State, because of the much larger proportion of unapproved Negro high schools, appear to be deprived to such a degree that they are ill-prepared to compete with their white counterparts at the college level. In spite of this fact, a considerable number of Negro students have qualified for, and are attending, formerly white colleges in the southern part of the State. They are surmounting their deprivations.

MISSISSIPPI

Number and location of white and Negro colleges and universities

There are five standard colleges and universities for white students in the State of Mississippi, and three for Negroes.[69] Additionally, there are 14 public junior colleges for white students widely scattered throughout the State and 3 public junior colleges for Negroes, as appears on the accompanying map.[70]

The map shows clearly that Negroes living in the northern part of the State lack access to a college near their homes. Seven colleges for white students—four standard colleges and universities and three junior colleges—dot this area. Negroes living in the extreme southern section of the State bordering on the Gulf of Mexico are equally disadvantaged. In this area there are six junior colleges and one standard college for white students.

Accreditation status

As is shown by table 5, four of the five standard white colleges and universities are members of the Southern Association, thereby having full accreditation. None of the Negro colleges is a member of the association, but two have the qualified approval of that organization in that they fail to meet one or more standards. The 14 junior colleges for white students all have the accreditation derived from membership in the Southern Association, but the Negro junior colleges are not only not members but lack approval of that organization.

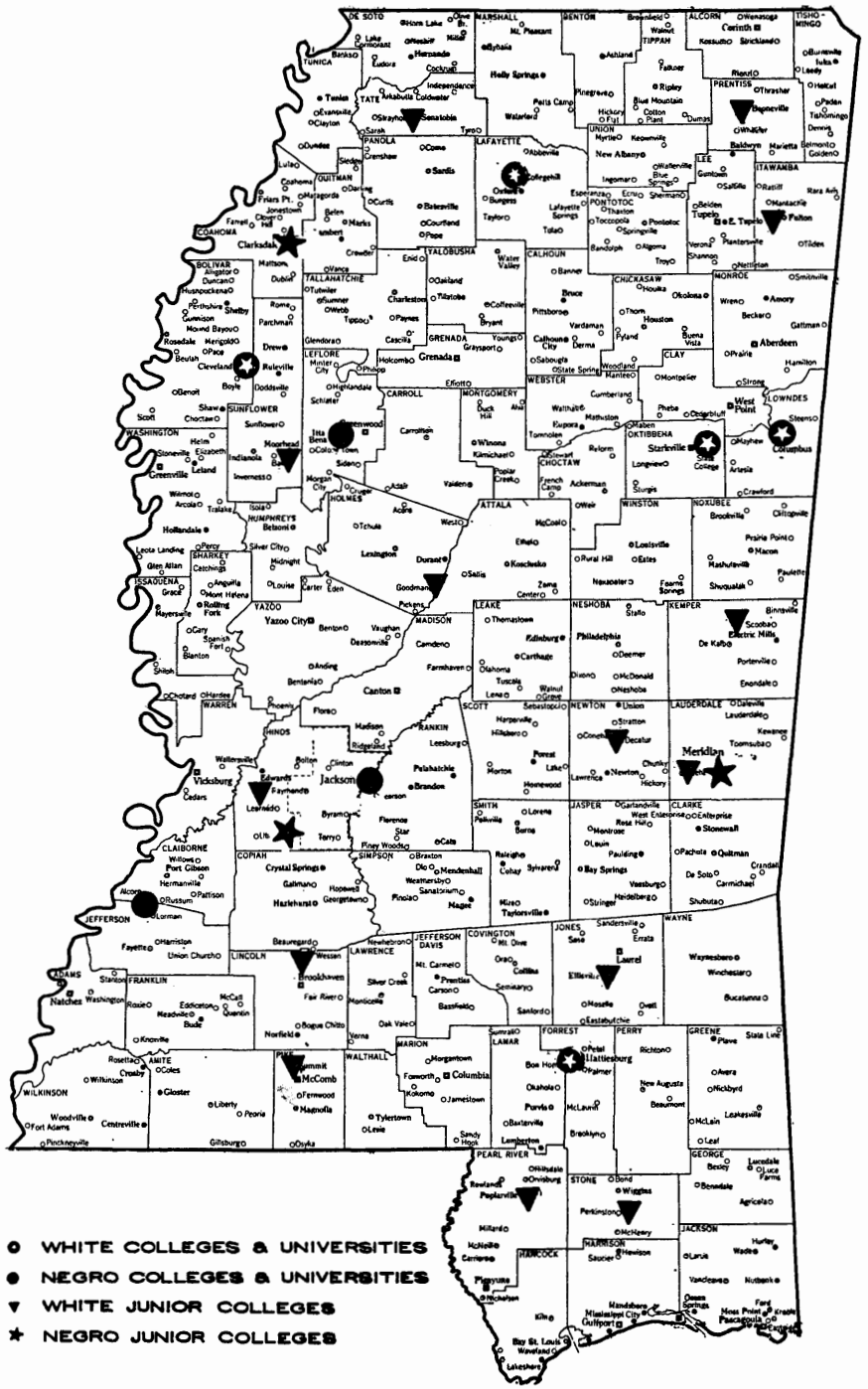
In preparation for college in the public high schools of the State, the Negro suffers a shocking disadvantage. Whereas 95 out of 181 high schools for white students are fully accredited as members of the Southern Association, or 52.4 percent of the total number, only 7 out of 261 Negro high schools in the State, or 2.6 percent, are approved by that association. Proportionately, there are 20 accredited white high schools to every approved Negro high school.

Degree offerings and type of program

Two white universities grant a Ph. D. degree or its equivalent. One of these has a liberal arts and general program with three or more

[69] See table 5.
[70] *Ibid.*

MISSISSIPPI



professional schools. In the other, the program is professional, technical, and teacher preparatory. One white college, having a liberal arts and general program with one or two professional schools, grants a master's and/or first professional degree. The highest degree granted by any of the three Negro colleges is a bachelor's and/or first professional degree. One of the Negro schools offers only liberal arts, general, and teacher-preparatory courses, and the other two have, additionally, terminal-occupational programs of a vocational nature. The two white colleges that grant only a bachelor's and/or first professional degree are also primarily teachers colleges.

TABLE 5.—*Comparison of white and Negro public colleges and universities: Mississippi*

	White	Negro
List of senior colleges and universities: [1]		
Number	5	3
Accreditation status:		
Members of Southern Association	4	----
Not meeting 1 or more standards	----	2
Highest degree offered:		
Ph. D. or equivalent	2	----
Master's and/or 1st professional	1	----
Bachelor's and/or 1st professional	2	3
Type of program:		
Liberal arts, general with—		
3 or more professional schools	1	----
1 or 2 professional schools	1	----
Terminal occupation and teacher preparatory	----	2
Terminal occupation	2	1
Professional or technical and teacher preparatory	1	----
List of junior colleges: [1]		
Number	14	3
Accreditation status: Members of Southern Association	14	----
Years offered: 2 but less than 4 beyond 12th grade	14	3
Type of program:		
Liberal arts or general with—		
Terminal occupation, teacher preparatory	3	----
Terminal occupation	11	2
Professional, technical and teacher preparatory	----	1
State and/or local income or appropriation for 1957–58: [2]		
Senior colleges	$8,382,034	$1,170,313
Junior colleges	2,888,969	113,873
Total	11,271,003	1,284,186
Enrollment: [2]		
Senior colleges	13,984	2,555
Junior colleges	5,587	213
Funds per student enrolled: [2]		
Senior colleges	599.40	458.05
Junior colleges	517.09	534.62
Population [3]	1,242,576	942,502
Funds for all colleges, per resident [3]	$9.08	$1.36

[1] See app. G, table 5.
[2] See app. E, table 5.
[3] See app. F, table 5.

It should be noted that no provision is made for any graduate programs for Negroes in the State of Mississippi. This fact was noted in the biennial report, 1957–59, of the State superintendent of public education, to the Legislature of Mississippi. The superintendent said:[71]

> The most important immediate needs in regard to Negro education are as follows:
>
> * * * * * *
>
> *Graduate training for teachers.*—The principals' training program at Jackson State College is the only graduate work available to Negro school people in Mississippi, and this program is limited to a small number of principals and supervisors. In order for Negro teachers to further their education beyond the bachelor's degree, it is necessary for them to leave State.
>
> Since there is such a great demand on the part of Negro teachers for advanced college work, it seems particularly desirable that graduate training for principals, elementary and high school teachers be provided by Mississippi Negro institutions. Considering the large number of Negro teachers desiring graduate training and the wholesome influence of such training on the schools of Mississippi, it is highly probable that this training could be provided on a more economic basis than adequate out-of-State tuition. Certainly, the quality and type of training provided by our own State institutions would more nearly meet the needs of Mississippi schools. Of course, out-of-State tuition will continue to be necessary for those students desiring to study in fields other than the teaching profession.
>
> * * * * * *

Eleven of the white junior colleges offer a liberal arts or general program and terminal occupational courses, as do two of the three Negro junior colleges. The white junior colleges offer teacher-preparatory courses additionally. One Negro junior college is listed as professional, technical, and teacher preparatory.

State and local financial support

The State and local governments expended $599.40 for each student enrolled in its five white standard colleges and universities in the fiscal year 1957–58 as compared with $458.05 for each student enrolled in the three Negro colleges in the same year. The expenditure for each white student in the standard colleges is, therefore, 30.8 percent more than was provided for a Negro college student. The gap between financial support for the white and the Negro 4-year college is considerably less than it has been in the last decade, as appears from the chart immediately following.

At the junior college level, $519.46 per student enrolled was provided by State and local governments for about 5,600 white students as compared with $534.62 per student for similar education of about 200 Negroes.

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[71] Biennial Report 1957–59 of the State Superintendent of Public Education to the Legislature of Mississippi, p. 40.

The sum shown for Negro junior college students, however, includes only the one college offering a professional, technical, and teacher-preparatory program. If data were available for the two colleges offering liberal arts and general with terminal courses, it seems probable that the average cost per Negro student would be less.

If the public higher education provided, respectively, for white and Negro residents is viewed on a statewide basis, the disparity is even greater. In the last fiscal year for which figures are available, 1957–58, $9.08 of public funds was spent for higher education per white resident as compared with $1.36 per Negro resident of the State. This means that, proportionately, about 600 percent more tax money was spent for the higher education of white citizens as a group than on Negro citizens as a group. A comparison of such expenditures in even calendar years 1950–58 is shown in the chart immediately following.

Without regard to the inequities of segregation itself, the disparity in higher education opportunity of the Negro of Mississippi as compared with that offered white students is great by every test used. There are 19 white junior and senior colleges and universities in the State as compared with 6 for Negroes who made up 42 percent of the population at the time of the 1960 census. Among the white colleges 80 percent of the senior and all of the junior colleges have full accreditation. One standard Negro college has no regional rating and the other two have limited approval because of failure to meet one or more standards. The three Negro junior colleges have no regional rating. White students are provided a wide variety of programs, both undergraduate and graduate. The Negro colleges are confined to vocational training and teacher-preparatory courses. There is no graduate program for Negroes in any public college in the State. In preparation for college, the Negro student is the victim of inferior, unapproved high schools except in seven locations in the entire State. Whether compared on the basis of financial support per student enrolled in college or provision for education beyond high school of almost one-half of the State's population, the Negro student of Mississippi is treated most inequitably.

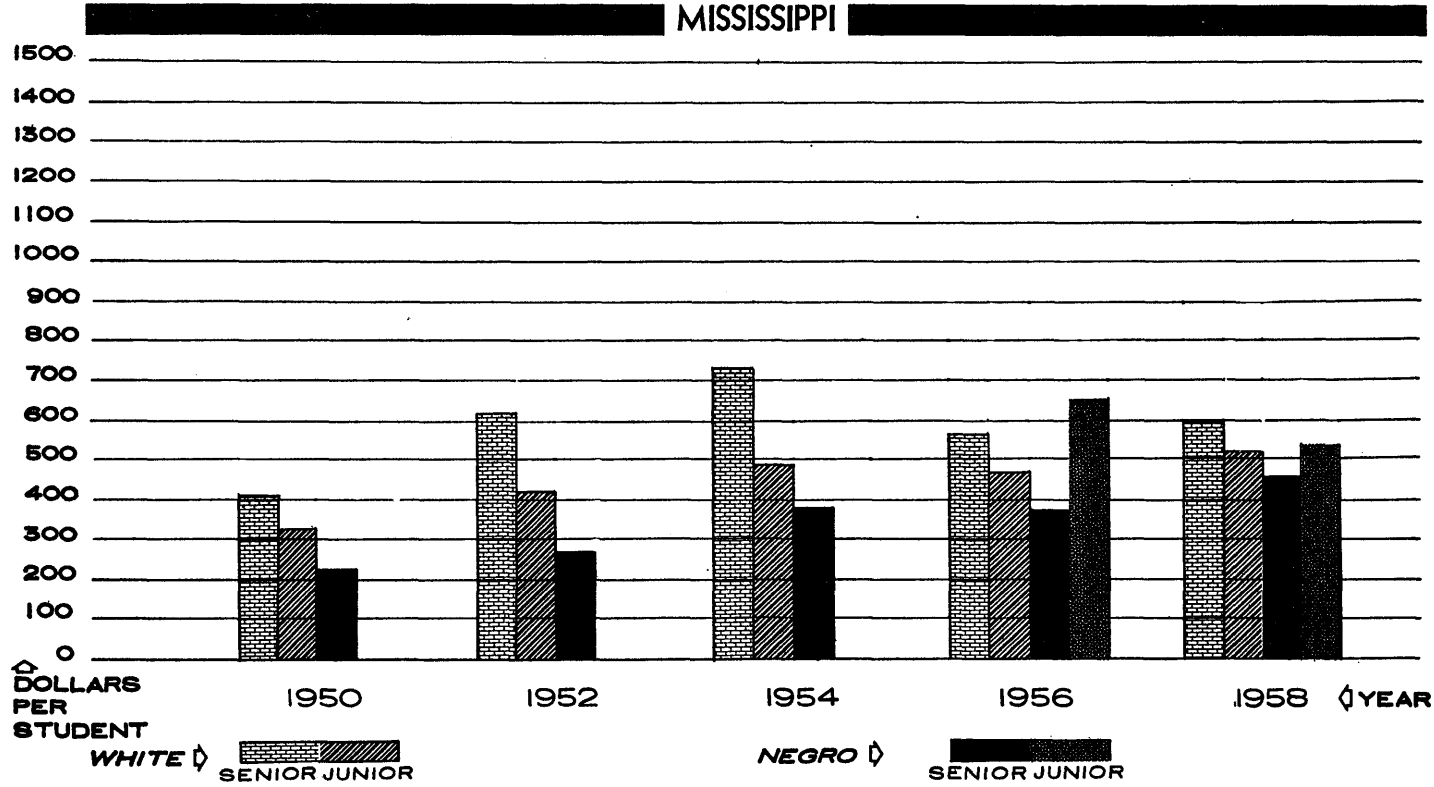


Chart 14—State and Local Funds for Public Colleges

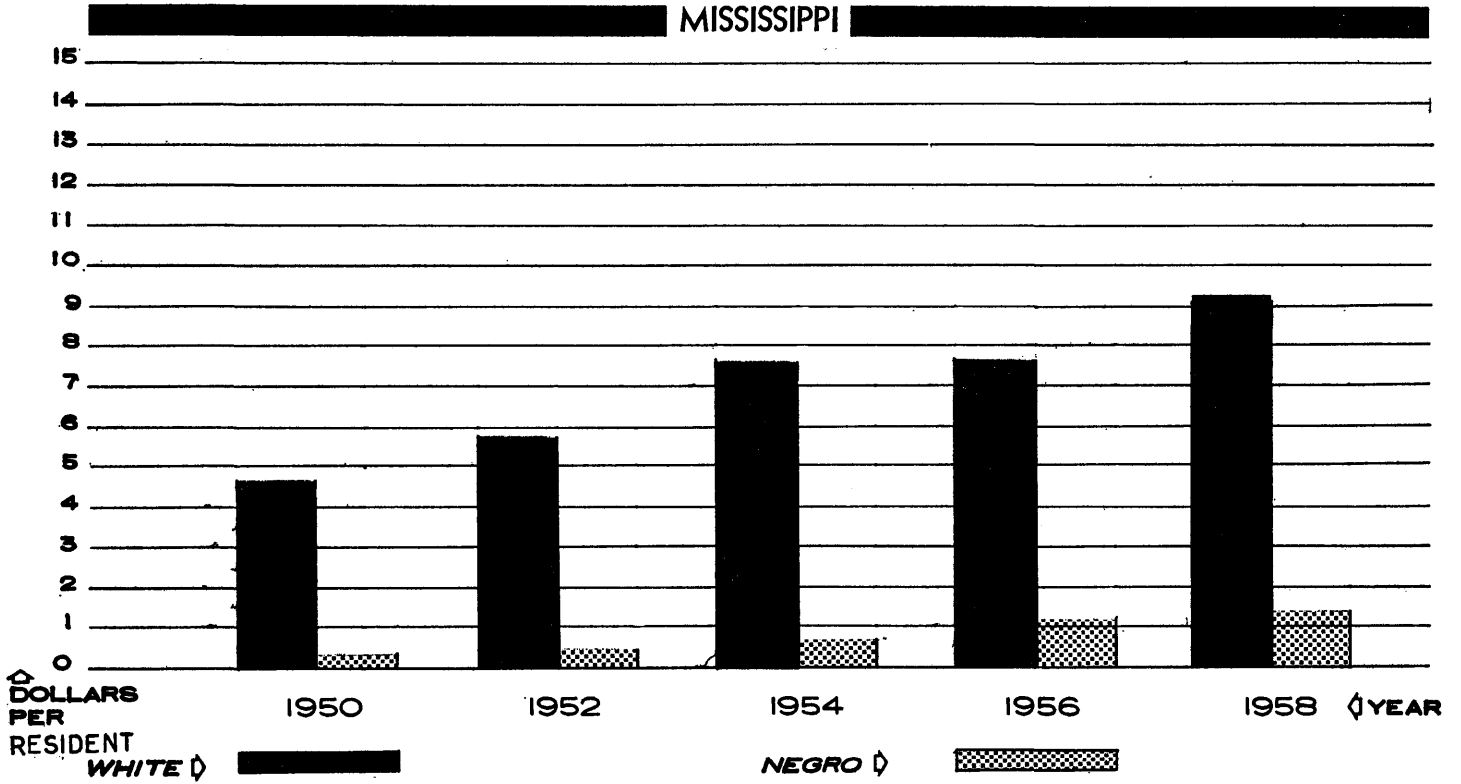


Chart 15—State and Local Funds for Public Colleges

Number and location of white and Negro colleges and universities

South Carolina maintains five standard 4-year colleges for white students and one for Negroes.[72] However, two white institutions, the Citadel and the Medical College of South Carolina, are located in the same city. Since these are specialized colleges, offering training not provided for Negro residents within the State, the advantage to white students of accessibility by number of institutions and convenience of location is only 3 to 1, as appears from the accompanying map.

Accreditation status

As table 6 shows, all of the white colleges or universities are accredited as members of the Southern Association or, in the case of the Medical College of South Carolina, by the appropriate recognized national accrediting societies. The only State college for Negroes is not a member of the Southern Association, but is fully approved by it.

TABLE 6.—*Comparison of white and Negro public colleges and universities: South Carolina*

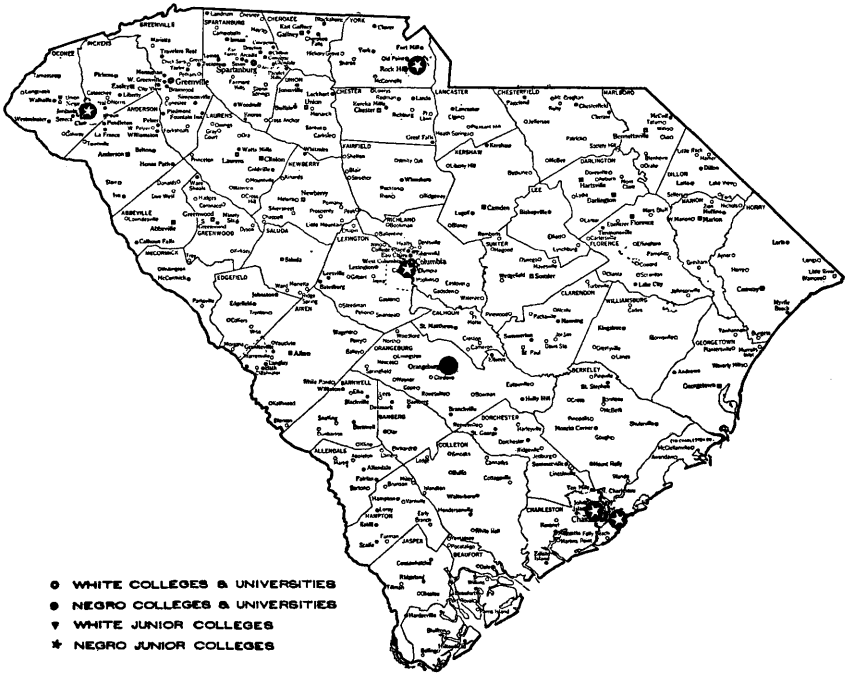
	White	Negro
List of senior colleges and universities: [1]		
Number	5	1
Accreditation status:		
Members of Southern Association	4	----
Approved	----	1
Accredited by 3 medical professional	1	----
Highest degree offered:		
Ph. D. or equivalent	3	----
Master's and/or 1st professional	1	1
Bachelor's and/or 1st professional	1	----
Type of program:		
Liberal arts and general with—		
3 or more professional schools	2	1
Teacher preparatory	2	----
Professional and technical	1	----
State and/or local income or appropriation, 1957–58: [2]	$12, 575, 297	$1, 132. 000
College enrollment [2]	13, 886	1, 581
Funds per student enrolled [2]	905. 61	726. 00
Population [3]	1, 473, 265	837, 213
Funds for colleges, per resident	$8. 54	$1. 40

[1] See app. G, table 6.
[2] See app. E, table 6.
[3] See app. F, table 6.

In public high school training in preparation for college some of the Negro students suffer a severe handicap. Whereas 92 white high schools out of a total of 237, or 38.8 percent, are fully accredited members of the Southern Association, only 19 Negro high schools out of 137 in the State, or 13.8 percent, are approved by that organi-

[72] See table 6.

SOUTH CAROLINA



zation.[73] Proportionately, 28 white high schools are accredited for every 10 Negro high schools approved by the Southern Association. Only in 19 locations can a Negro student expect to receive adequate preparation for college.

Degree offerings and type of program

Two white institutions grant a Ph. D. or equivalent degree and have three or more professional schools as well as a liberal arts and general program. The Medical School also grants an equivalent higher degree in medicine and, additionally, has technological courses for medical technicians and pharmacologists. The only Negro college does not have a program leading to a doctorate, but although it only offers a master's and/or second professional degree it also has three or more professional schools to supplement a liberal arts and general program. One white college also grants a master's and/or second professional degree, but its program is limited to liberal arts general and teacher-preparatory courses. The Citadel grants only a bachelor's degree.

State and local financial support

The State of South Carolina expended $905.61 for each student enrolled in its white public colleges in the fiscal year ending June 30, 1958, as compared with $726 for each student enrolled in its Negro college. In other words, the expenditure for each white student enrolled exceeded the expenditure for each Negro student enrolled by almost 25 percent. This disparity in financial support of the Negro college has been fairly constant through the years examined, as appears from the chart on the following page.

On a statewide basis, the total State support for education beyond high school for each white citizen was $8.54 as compared with $1.40 for each Negro citizen in the year 1957–58. This means that, proportionately, the State spent about 500 percent more for the higher education of its white citizens than for its Negro citizens in that year. The chart on the following page compares the financial support for the higher education of white and Negro residents for the even fiscal years 1950–58.

Without regard to the inherent inequality of segregation, it is clear that the Negro student of South Carolina as compared with the white student suffers educational handicaps as a result of State policy. In number and accessibility of colleges, degree offerings, and variety of programs, the white student has a distinct advantage. The inadequate high school preparation of what must be a large majority of Negro students is particularly shocking. The disparity between the State financial support of higher education for a Negro college student as compared with a white college student is marked. Overall, the gap between educational opportunity for white residents as compared with that of the large Negro population is wide.

[73] See app. H.

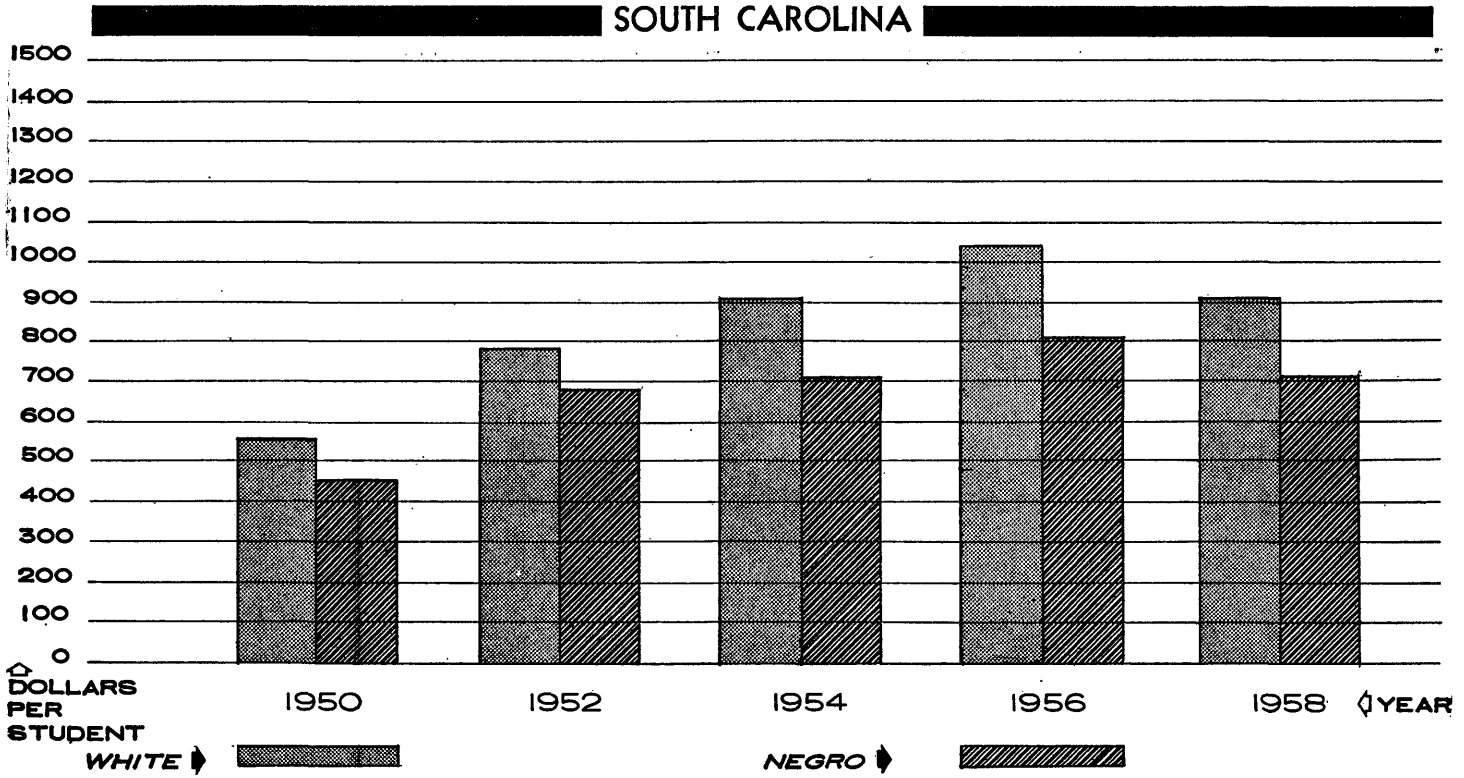


Chart 17—State and Local Funds for Public Colleges

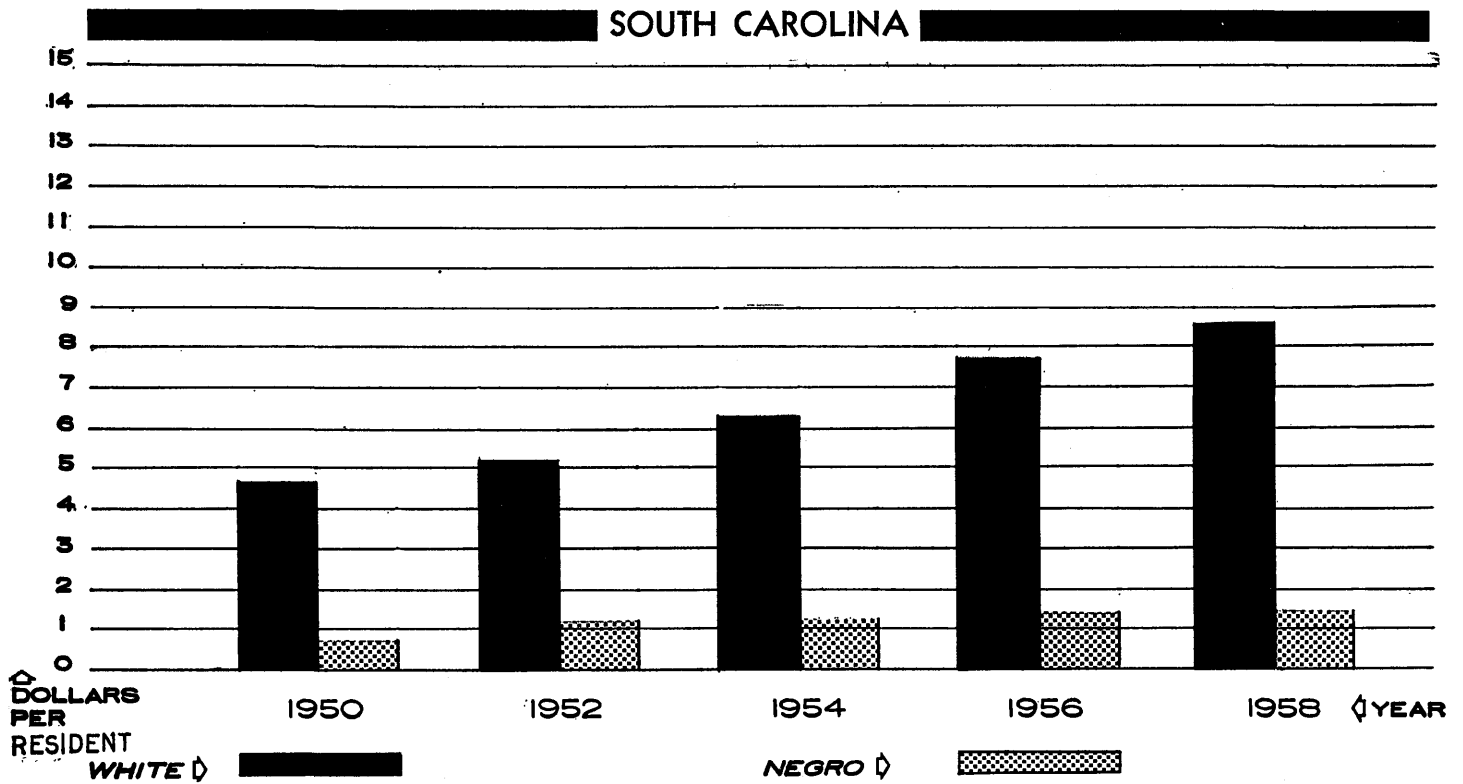


Chart 18—State and Local Funds for Public Colleges

It is apparent that there is no entirely consistent pattern among the six States in which the higher educational opportunities of white and Negro residents have been compared.

The State of Florida has come the closest to providing equal opportunity for its Negro students under the constitutionally unacceptable conditions of racial segregation. Yet, by every measure used, the Negro college fails to measure up completely to the white colleges of the State.

Alabama and Georgia appear to have made a belated start to equalize Negro education at the college level by providing increased financial support for the Negro colleges. Nevertheless, the Negro is definitely disadvantaged educationally by the small number of colleges provided for Negroes as compared with whites, the more limited program and lower degree offerings in the colleges, a smaller proportion of fully accredited colleges, and, not the least important, the poor preparation of large numbers of Negroes for college in the unapproved public high schools of the State.

Except for the persistence of Negro citizens of Louisiana in asserting and securing their constitutional rights in the Federal courts, as a result of which four formerly all-white colleges and universities have been opened to qualified Negro students in some degree, Louisiana would rank low in the educational opportunities available to its Negro population. By every measure used, the white college is favored to a marked degree. Yet, in spite of the proportionately much larger number of unapproved Negro high schools in the State, Negro students are qualifying for admission to formerly white colleges in the southern part of the State in substantial numbers.

For many years prominent white leaders in South Carolina have urged increased support for public schools for Negroes and the Negro college as the only way to preserve the tradition of racial segregation in the State. But, after 10 years of effort to achieve equality, the single public Negro college still falls far short of the white institutions in degrees granted, programs offered, and financial support. The small number of Negro high schools in the State approved by the Southern Association suggests the poor preparation for college of the majority of its Negro students.

The Mississippi Negro who aspires to improve his lot by academic training has a great many obstacles to surmount. In only 7 out of 261 Negro high schools in the State can he hope to secure an adequate foundation for college. There are only 6 Negro junior and senior colleges in the State. One of the 4-year Negro colleges is a vocational school. In contrast, there are 19 junior and senior colleges for white students. Both of the standard Negro colleges have limited accreditation. Mississippi appears to offer only vocational training and

teacher education to its Negro citizens and no graduate training of any kind. Public financial support of higher education for Negroes is markedly less than that provided for white students.

In the light of these facts, it appears that the constitutionally rejected doctrine of "separate but equal" contained a standard that these States have never met and are still far from achieving 64 years after *Plessy* v. *Ferguson.*

It has been the purpose of the Commission in this chapter to show that "separate but equal" education for the two races has never existed in the resistant States. In reality, their systems have been separate but unequal. The highest court of the land has announced that State-enforced separateness alone denies equality. To achieve the equality of educational opportunity to which all young Americans are entitled, separation itself must be eliminated.

PART IV

LAWS AND POLICIES IN NORTHERN AND WESTERN STATES

The background against which possible denials of equal protection of the laws must be examined in the Northern and Western States differs markedly from that of the Southern States. Neither the history of slavery, defeat in Civil War, Reconstruction, nor the presence of a great proportion of Negroes in the population have shaped the policies of these States with regard to publicly controlled education.

Such racial segregation as has arisen in public schools in these States since the Civil War has been de facto, resulting from the increase in the concentration of Negroes in particular areas in northern cities, without legal sanction. At the higher education level, no general pattern of racial segregation ever existed in any of these States, although two private colleges for the education of Negroes, founded in Ohio and Pennsylvania in the pre-Civil War period, are still in existence.[1] In each of these States publicly controlled colleges for Negroes were also established—Central State College in Wilberforce, Ohio, and State Teachers College at Cheyney, Pa.—the only publicly controlled colleges for Negroes known to have existed outside of the South. However, although even today predominantly Negro in enrollment, they have never been segregated by compulsion of State law, but entirely by custom.[2]

When the second Morrill Act was adopted in 1890,[3] giving each State the option of establishing 1 land-grant college prohibited from discriminating in its admission policy by reason of race or color, or separate land-grant colleges, for white and Negro students, only the 17 Southern States chose the second alternative. Thus, although the second Morrill Act contributed to the creation of the pattern of racially segregated colleges in the South,[4] perhaps it can also be said that it helped to establish nondiscrimination in public higher education in the rest of the country.

[1] Lincoln University in Pennsylvania and Wilberforce University in Ohio.
[2] Information received from present presidents of the colleges.
[3] 26 Stat. 417 (1890), 7 U.S.C. sec. 323 (1958). See p. 8, *supra*.
[4] See pp. 10–12, *supra*.

In none of the Northern and Western States, then, has discrimination been a declared policy or an open and general practice. Such discrimination as occurs is of a subtler kind than appears in some of the Southern States, manifesting itself in individual cases rather than in sweeping patterns. Moreover, when it occurs, it is generally against the background of an explicit policy, declared by State law or by the institution itself, prohibiting or disclaiming any discrimination on grounds of race, religion, or national origin.

STATE LAWS PROHIBITING DISCRIMINATION IN COLLEGE ADMISSION

An examination of the constitutions and statutes now in effect in each of the Northern and Western States, including the new outlying States, shows that 22 of the 33 States have an official policy prohibiting discrimination in some or all programs of higher education. Eight States expressly prohibit discrimination by reason of race, color, religion, or national ancestry,[5] two forbid discrimination by reason of sex, color, or nationality,[6] and one by reason of sex, race, or color.[7] Three States declare that all educational institutions, or specified ones, shall be open to the children of all residents,[8] and four States provide that there shall be no racial distinctions in public education.[9] There are four States having no general antidiscrimination rule that prohibit discrimination in certain educational programs.[10] The remaining 11 States have no constitutional or statutory provision dealing with discrimination at the higher education level.[11]

ADMISSION POLICIES AND ENROLLMENT OF PUBLIC COLLEGES AND UNIVERSITIES

The Commission mailed questionnaires to the 435 public junior and standard 4-year colleges and universities in the 33 Northern and Western States in an attempt to secure information both as to the racial

[5] Ind. Ann. Stat. sec. 28–5156 (Supp. 1960); Kan. Gen. Stat. Ann. sec. 21–2424 (1949); Mass. Gen. Laws Ann. ch. 151C, sec. 2 (1958); N.J. Stat. Ann. sec. 18:25–4 (Supp. 1960); N.Y. Educ. Law sec. 313; Ore. Rev. Stat. sec. 313.240 (Supp. 1959) (sec. 313.240(2) is limited to vocational, professional or trade schools); Wash. Rev. Code sec. 49.60.020 (Supp. 1958); Wisc. Stat. Ann. sec. 111.31 (1957).

[6] Alaska Comp. Ann. sec. 37–10–24 (1949); Hawaii Rev. Laws sec. 44–1 (1955).

[7] Nev. Rev. Stat. sec. 396–530 (1955).

[8] N.M. Stat. 73–25–10 (1953); Pa. Stat. Ann. tit. 18, sec. 4654 (1945); Utah Const. art. X, sec. 1.

[9] Colo. Const. Art. IX, sec. 8; Conn. Gen. Stat. Rev. sec. 10–15 (1958); Idaho Const. art. 9, sec. 6; Wyo. Const. art. 7, sec. 16.

[10] No discrimination by race in awarding of State scholarships: Cal. Educ. Code sec. 31202; Ill. Ann. Stat. ch. 122, sec. 37–6 (Smith-Hurd 1959). No discrimination by race in admission to the State School of Mines: Mont. Rev. Codes Ann. sec. 75–603 (1949). No licensing of engineers, architects, pharmacists, dental surgeons, chiropodists, optometrists, veterinarians, nurses graduating from a college that discriminates by race: Ill. Ann. Stat. ch. 48½, sec. 36(3), ch. 10½, sec. 4(a), ch. 91, secs. 55.7, 58(a), 73(a), 105.6, 115(a), and ch. 111½, sec. 35(1) 1 (Smith-Hurd 1959). No discrimination in admission to State University and Normal Schools; Nebr. Rev. Stat. sec. 85–116 (1958).

[11] Arizona, Iowa, Maine, Michigan, Minnesota, New Hampshire, North Dakota, Ohio, Rhode Island, South Dakota, and Vermont.

composition of their enrollment and as to their admission policies and requirements which might be pertinent to discrimination.[12]

Although 365, or 83.9 percent, replied, only 304 made any definite statements with regard to the race of their students. Many replied that no record of the race of students was kept by the college as a matter of policy; some, that it was forbidden by law. So many refused to estimate the number of students in the various racial groups, either by number or percentage, and so many of these were large colleges and universities, that any overall estimate of nonwhite enrollment on the basis of the replies would be misleading. However, it can be said that 258, or 59.3 percent, of all public colleges in the North and West claimed a biracial or multiracial enrollment; 46, or 10.6 percent, claimed a racially nondiscriminatory admission policy, but said their 1959–60 enrollment was entirely of white students; and 131, or 30.1 percent, failed either to return the questionnaire or to make any reply to the question.[13]

The replies were even more unsatisfactory as to scholastic requirements for admission, other than a requirement of personal interview.[14] Only in a few cases was it possible to determine whether the requirements indicated were alternative or cumulative. As a result, no report on scholastic requirements for admission can be made.

As to admission policies, so few institutions replied with any precision that only general conclusions can be drawn. No institution reported that it had a limit on the total number of nonresident students, but a few suggested they might have to adopt such a policy as a result of increasing enrollment. Some officials noted that they relied on other controls to limit nonresident enrollment, such as a requirement of higher scholastic average for nonresidents than for residents, and higher tuition fees. The same devices are sometimes found at the junior college level to limit enrollment of students who, though residents of the State, are nonresidents of the geographic district served by the college.

No institution admitted to limiting the number of nonresidents by geographic areas except in the case of foreign students. Public colleges and universities do not, therefore, appear to participate in the practice of securing a "national" enrollment by way of setting State quotas, as is reportedly done by private institutions.[14a]

While a preference for residents of the State is general policy among public colleges and universities, a preference for relatives of alumni is very limited. In this respect, also, the policy of the public college appears to differ from that often found in private institutions.

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[12] For copy of questionnaire, see app. I. The responses to a similar questionnaire by institutions in the Southern States are discussed in pt. III, ch. 3, *supra*.

[13] For details, see app. J.

[14] The requirement of an interview is discussed in pt. V, ch. 1; see also app. L, table 2.

[14a] But see pp. 160, 163 and 165, *infra*.

Most public institutions of higher education, except some at the junior college level, require health examinations of students but exclude only for contagious diseases. Character and personality are considered by many institutions in choosing their students, but rejection on these grounds is rare except in extreme cases such as where the applicant has a psychotic personality, or where his record shows dishonorable discharge from the Armed Forces or conviction of serious crime. Graduation from high school and/or recommendation of the high school principal are considered by many as sufficient character recommendations.

It may be said that the public colleges and universities of the Northern and Western States appear, from their declarations, to follow entirely nondiscriminatory admission policies. Many, indeed, carry the policy so far that they keep no racial records and profess not even to know how many Negro students they have enrolled. On the whole, although their admission policies may not turn entirely on objective academic criteria, neither do they lead directly to discrimination, as by giving preference to relatives of alumni. However, the priority given to State residents inevitably lessens the opportunities for Negroes from other States, where they may be more numerous to gain admission.

PART V

DISCRIMINATORY ADMISSION PRACTICES THROUGHOUT THE NATION

Some of the Nation's top educators, in a report released in June 1960, labeled the tests and procedures now used by American colleges to select their students undemocratic and discriminatory.[1] One of the major conclusions of the conference upon which the report is based was that able students are being deprived of higher educational opportunities because of their color or economic position. Colleges were also condemned for partiality toward students from the "right" schools and the right side of the tracks.[2] All of these factors combine to limit the educational opportunity of the Negro in both the Southern and the Northern States.

Ten years ago, at a conference sponsored by the Midwest Committee on Discriminations in Higher Education and the Committee on Discriminations in Higher Education of the American Council on Education, it was said that:[3]

> The fair application blank is the first step, however modest, toward the achievement of one of the most vital objectives of our democratic undertaking in education, and that is free access to educational opportunity for every young American with no limitation but that of his own personal capacity.

A "fair" application blank might be defined as one that secures all of the information legitimately required by the college to determine eligibility for admission, but nothing more. The legitimacy of requirements for admission used by a public college must be examined in the light of the constitutional mandate that a State may not maintain an educational institution exclusively for members of one race or national origin, or for the adherents of a particular religious faith. Likewise, a State institution may not impose such requirements on its applicants for admission. Hence, questions in an application blank that require information that does not serve a proper educational or governmental objective, and indeed would be uncon-

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[1] N.Y. Times, June 26, 1960, pp. 1, 58.

[2] *Ibid.*

[3] White, "Application Blanks," *Discriminations in Higher Education* 35, American Council on Education Studies, Series I—Reports of Committees and Conferences—No. 50, vol. XV, Aug. 1951.

stitutional if imposed as a requirement for admission, might be termed "unfair." A suspicion of unlawful discrimination in admissions inevitably arises from their use.

Questions as to the applicant's race or color are clearly irrelevant and improper. They serve no legitimate purpose in helping the college to select its students, and they are obviously susceptible to discriminatory use.

Questions as to religious affiliations are also improper for a public college to ask of its applicants. Such questions provide a basis for discrimination, and serve no legitimate purpose that could not be achieved in other, less suspect ways. For instance, some institutions contend that they ask this information merely for the benefit of the college chaplains, not for admission purposes.[4] But this information can easily be secured at registration time, after the college has made its selection of students.

Questions disclosing or suggesting the national origin of a citizen similarly have no bearing on scholastic aptitude or achievement. Such questions include inquiries as to the birthplace of the applicant or of his parents. This information does not necessarily disclose national origin, but may often do so. Most persons born in Tokyo are of Japanese ancestry, just as most persons born in Chicago are United States citizens. And if the parents of a person born in Chicago were born in Tokyo, it is probable that the parents were Japanese and the child, although an American citizen, is of Japanese ancestry. The only legitimate purpose to which such information might be directed is determining whether the applicant is a citizen or an alien, since citizenship may properly be a requirement for admission to a public institution, and, if the institution does accept alien students, it has to report their admission to the United States Immigration and Naturalization Service.[5] However, while a question as to citizenship would thus be proper, questions as to birthplace, whether of the applicant or of his parents, do not effectively provide this information, for birthplace is not necessarily determinative of citizenship.[6] The only thing such questions do is provide a basis for possible discrimination.

If the solicitation of information indicating the race, the religion, or the national origin of an applicant by a public institution of higher education is improper, then this is so whether the information is obtained by direct question or otherwise. Thus, for instance, the requirement of a photograph may as effectively identify the race or national origin of a student as a question on the application form. Moreover, no legitimate purpose of a public institution of higher edu-

[4] Replies to Commission questionnaires to public institutions of higher education. See apps. D, I.

[5] Immigration and Nationality Act. 8 U.S.C. sec. 1101(a)(15)(F) (1958).

[6] The Commission's questionnaires indicated that institutions that ask about citizenship generally do not ask about the applicant's birthplace, and vice versa.

cation would appear to be served by the requirement of a photograph from applicants—although, for identification purposes, photographs of students after they are actually admitted might properly be required.

Another possible means of securing information which could be used for discriminatory admission purposes is through an interview with the applicant, which will obviously disclose his race and may also reveal religion and national origin. Clearly, the use of interviews for this purpose is improper, for the Constitution equally forbids discrimination whether committed "ingeniously or ingenuously." [7] However, it can be cogently argued that the interview is also a useful—or, indeed, even invaluable—device for achieving entirely legitimate ends in choosing students, even for a public college. For instance, some contend that an interview is a more effective way of determining a student's real academic potential than is an examination or aptitude test or even scholastic records, and others feel that an interview is at least a useful supplement to such data.

As to whether the use of interviews by public colleges is, in itself, justified by such legitimate uses, the Commission takes no position. It does, however, condemn their use as a means of obtaining information for discriminatory purposes.

As part of this study of denials of equal protection of the laws in public institutions of higher education, the Commission undertook to examine the admission forms and requirements of all such institutions throughout the Nation, to determine the extent and manner in which information regarding race, religion, and national origin is in fact solicited by such institutions in their application procedures. The results of this examination are discussed in the chapter that follows.

In addition, the Commission undertook to ascertain whether discrimination was in fact practiced by such institutions, by sending questionnaires to students of various minority groups who might have applied to such institutions. The results of this inquiry are discussed in chapter 2.

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[7] Smith v. Texas, 311 U.S. 128, 132 (1940). One respondent to the Commission questionnaire explained the requirement of an interview by saying: "All Negro students are required to have a personal interview with the president prior to their first registration."

CHAPTER 1

SOLICITATION OF INFORMATION FROM APPLICANTS SUSCEPTIBLE TO DISCRIMINATORY USE

The Commission requested all public institutions of higher education in the Nation [1] to supply it with copies of the form that applicants for admission were required to complete in seeking admission in the 1959–60 school year. Of a total of 690 publicly controlled institutions, 627, or 90.8 percent, complied with the Commission's request.

In spite of the agitation for many years against their use, a large proportion of the application forms contained inquiries or requirements that directly or indirectly ask the applicant's color, race, religion, or national origin. The principal items are:

1. Race of applicant;
2. Religious preference or church membership;
3. Applicant's birthplace;
4. Birthplace of one or both parents; and
5. Photograph of applicant.

Questionnaires were also sent to all institutions in States other than the four hard-core resistant States of the South (South Carolina, Georgia, Alabama, and Mississippi), asking, among other things, whether they required interviews of applicants for admission.[2] The replies to this question are analyzed below, with the requirements in admission forms of information regarding race, religion, and national origin.

It is useful for comparative purposes to discuss the result of these inquiries separately for institutions in the Southern States and those in Northern and Western States.[3]

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[1] All institutions listed in the Education Directory, 1959–60, part 3, Higher Education (Department of Health, Education, and Welfare, Office of Education) as under State, district, or municipal control were included in the survey.

[2] The questionnaire sent to southern institutions is reproduced in app. D, and is discussed in pt. III, ch. 3, *supra*. The one sent to Northern and Western institutions is reproduced in app. I, and is discussed in pt. IV, ch. 2. The importance of the question as to whether or not a personal interview was required before admission was not fully realized at the time questionnaires were distributed. Therefore, they were not sent to institutions in the four States where it is common knowledge that no application by a Negro for admission has ever been accepted.

[3] A complete tabulation of the responses is to be found in apps. K (Southern States) and L (Northern States).

Questions or requirements disclosing race: Race and/or photograph

In the six Southern States classified as complying with constitutional requirements,[4] where 92.4 percent of all white public institutions supplied admission forms, it was found that 50.8 percent inquire as to race or require a photograph.[5] In the five token and limited compliance States,[6] where 85.5 percent of the public institutions supplied admission forms, 67.7 percent inquire as to race or request a photograph.[7] In the six resistant States,[8] 76.8 percent supplied admission forms, and 90.5 percent of these inquire as to race or request a photograph.[9]

In the Southern States, and particularly those of the Deep South, the elimination of questions as to race or the requirement of a photograph on admission forms would by no means eliminate the possibility of discrimination on that ground. All of the token compliance and resistant States list their high schools by race in their current school directories. Therefore, except in the case of the very few Negro high school graduates of formerly white schools in the token compliance States, whose names have been publicized from coast to coast, a college admissions officer has merely to consult the State directory to determine the race of the applicant from the name of the high school attended. In fact, so many Negro high schools are named "Booker T. Washington," "George Washington Carver," "Abraham Lincoln," "Paul Dunbar," and more recently, "Ralph Bunche," that it is not often necessary to consult a directory. But, as desegregation of public high schools proceeds, more and more Negro students applying for college admission will not be readily identifiable by this means.

In the complying States, where desegregation of schools has progressed the furthest, the number of institutions still asking questions or making requirements from which race could be ascertained is surprisingly large. Calling attention to the fact may bring about its elimination in these States, which may have retained these practices solely because of tradition.

It is of interest to compare the practices of predominantly Negro public institutions in the South with those of white institutions.

[4] Delaware, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia. See pt. III, ch. 1, *supra*.

[5] See app. K, table 1.

[6] Arkansas, North Carolina, Tennessee, Texas, and Virginia. See pt. III, ch. 1, *supra*.

[7] See app. K, table 1. The percentage in this group is lower than it would otherwise be because of the inclusion of Texas in this category. Approximately 50 percent of the Texas institutions supplying forms do not inquire as to race or request a photograph. Since over 50 percent of all institutions in this group replying are located in Texas, the average of the group as a whole is substantially lower than it would be without Texas.

[8] Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina. See pt. III, ch. 2, *supra*.

[9] See app. K, table 1.

Thirty-seven of the 43 Negro institutions, or 86 percent, supplied the Commission with their admission forms. Of these, 19, or 51.3 percent require either identification of the applicant's race or a photograph.[10]

Questions or requirements disclosing race: Requirements of an interview

It has been pointed out that a requirement of a personal interview of an applicant by a college admission officer may be substituted for an inquiry as to race or the request for a photograph as a means of determining race before admission. The interview is of less importance in southern institutions, which are not subject to State anti-discrimination laws and therefore can ask directly about race or request a photograph.

The Commission's information on this subject comes from questionnaires distributed to all public colleges and universities in the Nation except those located in the four resistant States of Alabama, Georgia, Mississippi, and South Carolina.[11] Although the Commission sent questionnaires to all institutions in the two other States classified as resistant, Florida and Louisiana, replies were received from 7 of a total of 20 public predominantly white institutions in these States. None of the seven replying required a personal interview. Consequently, information about the requirement of a personal interview is relatively complete only as to 13 of the Southern States.

In the complying and token compliance States, the requirement of a personal interview was found in 11 white institutions in Maryland, Oklahoma, and West Virginia (complying States), and 11 in Arkansas, North Carolina, Texas and Virginia (token compliance States).[12] If the interview is considered a means of obtaining information as to race, the total number of white institutions providing themselves with the means of ascertaining an applicant's race increases from 75 asking race and/or requiring a photograph to 86 asking race, requiring a photograph, and/or an interview.[13]

For the South as a whole, replies from 173 out of 211 white public institutions show that 134, or 77.4 percent, provide themselves in some fashion with information showing race.[14]

As to Negro public institutions in the South, only 20 of the 43 responded to the Commission's inquiry on this subject. Of these, only two required an interview.[15] The number known to obtain information as to race by question, photograph, or interview is 21, or 72.4 percent of the institutions responding to both inquiries.[16]

[10] See app. K, table 4.
[11] See note 2, p. 150, *supra*.
[12] See app. K, table 2.
[13] See app. K, tables 1 and 3.
[14] See app. K, table 3.
[15] See app. K, table 4.
[16] *Ibid.*

Questions concerning religion of applicant

In the examination of admission forms for questions as to the religion of the applicant, the public Negro and predominantly Negro college may be treated together with the traditionally white colleges and universities. Forms were received from 216 out of a total of 255 such institutions in the 17 States. Of these, 109, or one more than 50 percent, requested the applicant to state his religion.[17] Those asking the question are found in the complying as well as the resistant States.

Questions indicating national origin of applicant

As in the case of questions concerning religion, the admission forms of both the traditionally white and Negro institutions were reviewed together for questions concerning national origin. Again, 216 out of a total of 255 were received. Of these, 164, or 75.9 percent, ask the birthplace of the applicant. However, only 31, or 14.4 percent, inquire as to the birthplace of the applicant's parents.[18]

Other requirements for admission

An additional requirement for admission, and one that was held to be unconstitutional under the 14th amendment by a Federal district court in January 1959,[19] was found on the forms submitted to the Commission by 15 out of the 16 public colleges in Georgia responding to the Commission's request.

The requirement is a certificate of good moral character, reputation, and suitability for admission to the college from two alumni of the institution to which application is made. The certificate was held to be a denial of equal protection of the laws as applied to Negro applicants for admission to an institution having no Negro alumni. The court's order enjoined the imposition of this requirement only as to Negro applicants. The institution involved in that case, Georgia School of Business Administration, as well as other State institutions, are free to continue the requirement as to white students. This practice, however, has the effect of requiring a Negro who wishes to be exempted from the requirement to identify his race. In these circumstances, the continued use of a form including this requirement seems indefensible.

Two of the seven public colleges and universities in the State of Louisiana supplying the Commission with admission forms were also found to be continuing to require a certificate of moral character, signed by the principal of the applicant's high school and the superintendent of the county or district where the high school is located.

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[17] See app. K, table 7. The returns from white and Negro institutions are presented separately in tables 5 and 6.

[18] See app. K, table 8. The returns from white and Negro institutions are presented separately in tables 5 and 6.

[19] Hunt v. Arnold, 172 F. Supp. 847 (N.D Ga. 1959). See pp. 93–94, *supra*.

This requirement also has been held to be a denial of equal protection of the laws under the 14th amendment as applied to a Negro applicant.[20] These institutions are among those in the State that have successfully held the color line in their admission policies.

NORTHERN AND WESTERN STATES

Four hundred and ten of the 435 public institutions of higher education in the North and West, or 94.3 percent, supplied the Commission with their admission forms used in the 1959–60 school year. The response was particularly good from the States innocent of solicitation of information susceptible to discriminatory use.

Questions or requirements disclosing race: Race and/or photograph

Thirty-seven institutions, or 9 percent of the institutions supplying admission forms, inquired as to the race of the applicant.[21] Fifty-seven, or 12.9 percent, requested the applicant's photograph.[22] When this question and requirement were considered together as alternative means of ascertaining race, it was found that 82, or 20 percent of the responding public colleges and universities in the Northern and Western States, secure information as to the race of applicants in one or both of these ways.[23]

Particular mention should be made of the States in which *no* public institution either asks an applicant his or her race or requires a photograph attached to the application for admission. Since 100 percent of the institutions in these States supplied the Commission with application forms, it can be said categorically that none of the application blanks used by the 105 public colleges or universities in the following States either ask race or require a photograph: Arizona, Colorado, Connecticut, Hawaii, Massachusetts, Minnesota, New Jersey, Oregon, Pennsylvania, and Washington. New York, the first State to adopt a fair educational practices act governing all private as well as public higher educational institutions in the State, is not on this list because four public institutions in that State require a photograph attached to the application form.[24] Other States that by law prohibit discrimination by race in public education, but do not have a State commission charged with the responsibility of enforcing the law, also have individual institutions within the

[20] Ludley v. Board of Supervisors, 150 F. Supp. 900 (E.D. La. 1957), *aff'd*, 252 F. 2d 372 (5th Cir. 1958), *cert. denied*, 358 U.S. 819 (1958). See p. 73, *supra*.

[21] For details by States, see app. L, table 1. Ohio State University announced on Sept. 14, 1960, that all questions relating to race, color, or religion will be eliminated from its application form and also the request for a photograph. Washington Post, Sept. 15, 1960, p. 3.

[22] See app. L, table 1.

[23] *Ibid.*

[24] *Ibid.*

State that ask about race on the application form or require that a photograph be attached.[25]

Questions or requirements disclosing race: Requirement of an interview

Three hundred sixty-five institutions, or 83.9 percent, replied to the Commission's inquiry as to whether or not a personal interview was required of an applicant for admission. Of these, 121, or 33.2 percent, replied in the affirmative.[26] Among the States mentioned above as having a perfect record in neither asking about race nor requesting a photograph, only Hawaii, Oregon, and Washington do not require a personal interview.[27]

The high percentage of institutions in some of the fair-educational-practice-law States requiring a personal interview of all applicants is particularly surprising—77.9 percent in Massachusetts, 66.7 percent in New Jersey, and 76 percent in New York.[28] Obviously, the legislatures of these States did not agree, or failed to consider the possibility, that a personal interview is a very good substitute for a photograph for purposes of excluding, or limiting the number of members of minority groups.

It was noted above that some institutions in States expressly prohibiting public colleges and universities from discriminating in admission policies on racial grounds in fact ask about race or request a photograph. In two of these States, the number of institutions soliciting information about race is increased when the indirect method of securing such information, a personal interview, is considered.[29]

Questions concerning religion of applicant

Of the 410 public institutions in the Northern and Western States which supplied the Commission with their application forms, only 80, of 19.5 percent, inquired as to the religion of the applicant.[30] There were 12 States having 132 public colleges and universities that required no disclosure of religious faith. They are Colorado, Connecticut, Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Vermont.[31] This number represents all of the public institutions in these States except for one New York institution which failed to supply the Commission with an admission form.

Questions indicating national origin of applicant

Approximately the same number of institutions in the Northern and Western States inquire as to the birthplace of parents or ask the

[25] Idaho, Indiana, Kansas, and Wisconsin. *Ibid.* See p. 144, *supra.*
[26] For details by State, see app. L, table 2.
[27] See app. L, table 3.
[28] *Ibid.*
[29] Indiana, Kansas, and Wisconsin. *Ibid.*
[30] For details by States, see app. L, table 4.
[31] *Ibid.*

religion of the applicant—83, or 20.2 percent.[32] The honor roll of States in which no institution makes such an inquiry is, however, quite different. In this case it is: Alaska, Connecticut, Hawaii, Idaho, Massachusetts, Nevada, New Hampshire, Oregon, Pennsylvania, South Dakota, Utah, and Vermont.[33] Two of the fair-educational-practice States, New Jersey and New York, are not included. One out of nine public colleges and universities in New Jersey ask the birthplace of the applicant's parents, as do 8 out of the 45 New York institutions replying.[34]

A great many more institutions inquire as to the birthplace of the applicant himself—338 out of the 410 that supplied application forms, or 82.4 percent.[35] If the two questions, birthplace of parents and birthplace of applicant, are considered together, only 70 out of the 410 public colleges and universities in the North and West supplying the Commission with application forms are innocent of soliciting information that might reveal national origin.[36] There is no State in which all public institutions abstain from the inquiry.

The Commission believes the question as to the birthplace of the applicant to be unnecessary and disadvantageous to the naturalized citizen and the native-born citizen born on foreign soil, but admits that its use is customary and probably not asked for discriminatory purposes. If this question is disregarded, still, there are only 133 public colleges and universities in the Northern and Western States, or 37.1 percent of the total replying to both inquiries, that do not solicit information or make a requirement of an applicant for admission that could be used to discriminate on the basis of color, race, religion, or national origin. It should be noted that only in the case of two States, Hawaii and Oregon, can it be said that *all* of the State's public institutions are free from suspicion in these respects.

REGIONAL COMPARISON

As would be expected, a comparison of public institutions in the Southern States with those in Northern and Western States shows some definite contrasts as to the frequency with which these types of information are solicited from applicants.[37] Far more public institutions in the South require identification of race or a photograph (68.7 percent of those replying) than in the North (20 percent).[38] On the other hand, more northern (33.2 percent) than southern institutions require an interview (17.1 percent).[39] The aggregate of insti-

[32] For details by States, see app. L, table 5.
[33] *Ibid.*
[34] *Ibid.*
[35] *Ibid.*
[36] *Ibid.*
[37] For details see app. M, tables 1–3.
[38] See app. M, table 1.
[39] *Ibid.*

tutions providing themselves with information as to race by one or more of these means is 77.4 percent in the South and 52.5 percent in the North.[40]

Questions regarding the religion of applicants are also more frequently used by southern public institutions—50.5 percent of those replying, as against 19.5 percent in Northern and Western States.[41]

As to questions that might indicate national origin, however, the situation is reversed: Only 17.1 percent of Northern and Western institutions replying do *not* ask such questions as opposed to 23.6 percent of those in the Southern States.[42]

Of all the public institutions responding to the Commission in the country as a whole, only 10.5 percent make no inquiry or requirement of the sort that has been discussed.[43] If the question regarding the birthplace of applicant is disregarded, then there are 169 institutions, or 30.0 percent of those whose practices are known to the Commission, which solicit no information susceptible of use for discriminatory purposes.[44]

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[40] *Ibid.*
[41] See app. M, table 2.
[42] *Ibid.*
[43] See app. M, table 3.
[44] *Ibid.*

CHAPTER 2

INSTANCES OF DISCRIMINATION

To cover the possibility that institutions claiming a nondiscriminatory policy do in fact exclude applicants on racial grounds, two questionnaires were sent to young people who might have been denied admission by public colleges on racial or other arbitrary grounds, one to college freshmen and the other to high school seniors.

QUESTIONNAIRES TO FRESHMEN IN NEGRO COLLEGES: REJECTION BY WHITE INSTITUTIONS

The segregated Negro and predominantly Negro colleges, both private and public, seemed a logical place to find Negro students who had been rejected by predominantly white institutions. Therefore, one questionnaire was directed to freshmen enrolled in such colleges. Twenty-three institutions in 19 States agreed to distribute approximately 50 questionnaries to students enrolled in a class required of all freshmen. The latter specification was, of course, to assure a random selection among students enrolled in the institution. This anonymous questionnaire sought factual data as to the age and sex of the respondent, the State of his permanent residence, high school attended and grades received, applications made to other colleges, and whether or not such applications were accepted or rejected, and, if rejected, the reason given therefor, and the respondent's reason or reasons for selecting the college he was attending. Among 10 reasons enumerated for a check, if applicable, was "rejection of application by a white college." [1]

It is significant that, out of a total of 1,121 Negro students replying to the questionnaire, only 19 checked this reason as affecting their decision to attend a Negro college, and an additional 38 stated that they had been rejected by white institutions but did not give this as a reason for their attendance at a predominantly Negro college. From these facts it may be inferred that actual rejection by white colleges does not play a major part in the decisions of most Negro students who choose to attend predominantly Negro colleges.

[1] The questionnaire is reproduced in app. N. A discussion of other aspects of the questionnaire appears in pt. VI ch. 2, *infra*.

The cases where Negro college freshmen indicated that they had been rejected by a white college were analyzed to determine whether any of such rejections were on discriminatory grounds. As a detailed description of these cases will show, some, although not many, instances of apparent racial discrimination in admission policies of public institutions of higher education were uncovered by the Commission's study.

Of the 19 Negro freshmen who gave "rejection by a white institution" as a reason for attending a Negro college, 7 either failed to give sufficient details as to their rejection or claimed rejection by private white institutions (which are beyond the scope of this study), so that their replies had to be disregarded. Of the remaining 12 Negro freshmen, 3 appeared to have been denied admission to white public colleges in their States on discriminatory grounds.

These three students were residents of Georgia, Louisiana, and North Carolina, and graduates of public high schools for Negroes in their respective States, all approved by the Southern Association of Colleges and Secondary Schools. Each was rejected by a white or predominantly white public institution in his State. The Georgia student reported his grades in high school to have been 45 percent A's, 50 percent B's, and 5 percent C's. He reported that his rejection was stated to have been based on lack of room at the white institution for him. The Louisiana student's high school grades had been 30 percent A's, 50 percent B's, and 20 percent C's, and no reason was given for his rejection. The North Carolina student reported 98 percent A's and 2 percent B's as her high school grades and reported that the ground for rejection specifically given her by the white public institution was that since she did not live in the community where the university was located she could not enroll at the public institution until her junior year.

The application forms of each of the white institutions that rejected these students asked both the applicant's race and, as is usual, the name of the high school attended, which effectively identifies race in all three States.

The inference is strong that in all three of these cases the rejection was based on race—especially in the case of Georgia, where official policy forbids admission of Negroes to white public colleges. In the case of the North Carolina public college it is interesting to note that the instructions mailed to the students together with the application blank by the director of admission states: "* * * the University requires its undergraduate women students to live in the women's residence halls." It appears, therefore, that the exclusion of this student may well have been based on the unwillingness of the institution to make dormitory space available to her.

Two of these Negro freshmen were attending segregated Negro colleges in the South in the fall of 1959, and the third a predominantly Negro college in a border State that enrolls a substantial number of white students.

Of the nine remaining Negro freshmen reporting rejection by a predominantly white State institution as a reason for attending a predominantly Negro institution, there was one whose rejection could have been on discriminatory grounds,[2] and three where rejection could have been on such grounds but probably was not.[3] The remaining five were rejected by public institutions—in New Jersey, Pennsylvania, and Michigan—that obtain no information about the race of their applicants and, therefore, may be said to be free of suspicion of racial discrimination.

Two of the cases that do not appear to involve discrimination are nonetheless of special interest. One involved a Negro student from Virginia, a graduate of a segregated public high school in that State approved by the Southern Association, who reported his grades to have been 60 percent A's, and 40 percent B's and C's. He was rejected by a Pennsylvania public college because "the quota for out-of-State students was filled." He is now attending a predominantly Negro private college in the East. While no question as to race is contained in the application blank of the Pennsylvania institution, the name of the student's high school in Virginia was easily identifiable as a southern Negro school. It is not possible to say, however, that racial discrimination was present in this case. Rather, the case illustrates the effect of out-of-State quotas by public institutions as a limitation on the opportunities of Negroes from Southern States.

The other case is that of a student from Alabama who was a graduate of a nonapproved Alabama "training school" where his marks had been 20 percent A's, 70 percent B's, and 10 percent C's. He was rejected by a Michigan public college because of his lack of adequate preparation. No question as to race is contained in the application blank of this college, and the ground of rejection given is plausible. He is now attending a private Negro college in the Deep South. This case may illustrate the limiting effect of poor elementary and secondary school training in some segregated States on the higher educational opportunities of their Negro students.

[2] A graduate of a desegregated nonaccredited high school in Maryland, whose grades had been 5 percent A's, 25 percent B's and 50 percent C's, was rejected by a public junior college in that State which requires a photograph from all applicants. A low grade on a placement test was given as the reason for the rejection.

[3] A student from Maryland was rejected by a public Maryland college requiring a photograph; one from Illinois was rejected by an institution in Indiana which also requires the filing of a photograph with the application; and one from New Jersey was rejected by an Ohio institution inquiring as to the applicant's race. All three students, however, had poor scholastic records and their rejection on academic grounds seems justified.

Of the 38 other students who reported rejection by white colleges but did not give this as a reason for attending a Negro college, the replies of 23 were disregarded either because the student failed to give sufficient details as to the rejecting college and the ground for rejection, or because the white institution in question was a private one. Of the remaining 15, 12 were rejected by public white institutions in their State of residence and 3 by out-of-State predominantly white public collegs.

Three Negro freshmen in the first group were residents of Georgia, Texas, and Arkansas. The Georgia student, who had graduated from a Georgia segregated public high school approved by the Southern Association for Colleges and Secondary Schools, with a record of 95 percent A's and 5 percent B's in high school, was rejected by a white public college in his State on the ground of lack of dormitory space. He enrolled instead in a private all-Negro college in Georgia.

The Texas student, whose grades in the nonapproved segregated public high school she attended in east Texas were reported to have been 60 percent A's, 29 percent B's, and 11 percent C's and D's, was rejected for admission by a State institution in Texas on the ground that no Negroes were admitted to the undergraduate school of that university. She then enrolled at an all-Negro public college in a neighboring State.

The third Negro freshman, a graduate of a segregated Arkansas high school which is accredited by the North Central Association of Colleges and Secondary Schools, reported that he had had 95 percent A's and 5 percent B's in high school. He was rejected by a white State institution in Arkansas without any expressed reason. The institution is known, however, to exclude Negroes from its undergraduate courses when such courses are available at the Negro State College. He is now attending a private Negro college in the South.

One of the remaining 12 cases of rejection by a white institution shows a possibility of discrimination,[4] and one was an instance where discrimination, while possible, was distinctly unlikely.[5] The other 10 cases involve rejections by public colleges in Pennsylvania, Michigan, Ohio, New York, Kentucky, California, and Wisconsin

[4] A Negro freshman from Oklahoma, a graduate of a nonaccredited desegregated public high school whose high school grades had been 20 percent A's, 30 percent B's, 45 percent C's, and 5 percent D's, was rejected by a white Oklahoma State institution allegedly for late enrollment. The institution claims a nondiscriminatory admission policy, but inquires about race in its application blank. The student is attending an all-Negro institution at a much greater distance from his home than the white institution that rejected him.

[5] A Negro student from Ohio who had attended a nonsegregated unaccredited public high school where he claimed his grades had been 1 percent B's, 70 percent C's, 29 percent D's was rejected by a public college in his home State for low grades. This appears to be a valid reason. The college does not ask the applicant's race on the admission blank, although it requires a photograph for admission to all schools of the college except the art and science department. The student is now a freshman at a predominantly Negro private college in the Midwest.

which do not require information as to race and therefore cannot be accused of discriminating on this ground.[6]

Again, two in the latter group seem to illustrate the difficulties that students from poor-quality segregated schools may face in seeking higher education. One involved an Alabama student who graduated from a nonapproved segregated public high school in that State where he said his grades had been 40 percent A's, 50 percent B's and 10 percent C's. He reported that he had been rejected by a public college in Wisconsin because of insufficient courses in mathematics. He is now attending a private Negro college in his home State. The other student was a graduate of an approved private Negro secondary school in Alabama where he said his grades were 25 percent A's, 35 percent B's, 25 percent C's and D's. He was rejected for lack of points in a foreign language by a California public college and is attending a segregated Negro college in the Deep South.

Neither of the white colleges involved in these cases required disclosure of race on application forms, and only the fact of attendance at a segregated southern high school could have identified the students as Negroes on their application forms. Rejection of these applicants on scholastic grounds cannot be criticized. The civil rights problem in these cases arises from the inferior, segregated high schools provided for Negroes in parts of the Deep South.

QUESTIONNAIRES TO HIGH SCHOOL SENIORS: REJECTION BY COLLEGES

The other Commission questionnaire was directed to high school seniors throughout the country, both white and Negro, since the Commission's interest in denial of equal protection of the laws by reason of race, religion, or national origin is conterminous with the boundaries of the Nation.[7] School superintendents cooperating in the distribution of this anonymous questionnaire were asked to select two schools, whose identity would not be disclosed by the Commission, one predominantly white with a substantial enrollment of any religious or national origin group, if possible, and one with a large Negro enrollment, and to distribute approximately 25 questionnaires in each school to senior students enrolled in a class required of all seniors (to assure a random and representative group). Superintendents in 33 cities located in 22 States in the North, West, Border and even Deep South States, and the District of Columbia cooperated.

This questionnaire was very similar to the college freshmen questionnaire but, to identify replies from religious and national origin group members, respondents were asked about their religion and the

[6] One of the Pennsylvania institutions requires an interview, but since the Negro student who applied to that institution was rejected for late application, he presumably was not interviewed.

[7] The questionnaire is reproduced in App. O. Other information obtained by the questionnaire is discussed in pt. VI, ch. 2, *infra*.

birthplace of their parents, as well as their race. All of the high schools where the questionnaires were distributed are members of or approved by the appropriate regional accrediting agency, so that a graduate therefrom with good grades in high school would be expected to qualify for a public college in the State of residence.

Of the total of 1,617 high school seniors replying to this questionnaire, of whom 1,038 applied to college, 164 reported rejection by one or more colleges. Eighteen of these were identified as Negroes, 2 as other non-Caucasians, 18 as Catholics, 48 as Jews, 10 as students (other than Jews) with one or both parents foreign-born, and 68 as other native whites.

Among the Negroes, there were 9 rejections by white public colleges out of a total of 407 applications made to all colleges. One of these rejections seems to have been on discriminatory grounds, and five could well have been.[8] The case of apparent discrimination involved a B student from a nonsegregated high school in Michigan who applied to two public institutions in that State. He was accepted by one institution which solicits no information as to race, and rejected by the other, which requires a photograph. The latter institution gave his academic record as the reason for his rejection.

Another case of interest involved a Negro student from Missouri, with a B average in high school, who applied to the same two Michigan institutions, and was accepted and rejected by the same two institutions, respectively. In this case the ground for rejection was that there was no further room for out-of-State students. This may be another illustration of the effect, already mentioned, of out-of-State quotas; it could also, of course, be an instance of discrimination.[9]

Among non-Caucasian students other than Negroes participating in the Commission's survey of high school seniors, five identified themselves as of Chinese ancestry, five of Japanese and one as Filipino. None of this group had been rejected by a public college.

Among Catholics (other than Negroes and other non-Caucasians), there were 10 rejections by public colleges reported out of a total of 166 applications made to all colleges. None of the rejections, however, was by an institution which requested information as to the religion of the applicant.

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[8] (1) One student, a graduate of a segregated high school in North Carolina, reported his grades to have been 95 percent B's and 5 percent C's. He was rejected by a public institution in that State which requires a photograph. (2) A New Jersey student who reported straight B's in high school was rejected, supposedly for late application, by an institution in that State which requires an interview. (3) A New Jersey student who reported straight C's was rejected by an Ohio institution which inquires about race and requires a photograph. (4) and (5) Two other New Jersey students, one whose grades were half A's and half B's, the other half B's and half C's, were rejected by two public colleges in that State, both of which require a personal interview.

[9] Although this study does not cover private institutions, it is of interest to note that a Negro student from a North Carolina high school reported being rejected by a private institution in that State because of the institution's segregation policy.

Among Jewish students, there were 48 rejections by public colleges out of a total of 293 applications made to all colleges. Six of these rejections, under circumstances more or less suggestive of discrimination, were by public colleges in Virginia,[10] Georgia,[11] Alabama,[12] Ohio,[13] Maryland,[14] and Indiana,[15] which ask about the religion of applicants. Three of these students also ran into rejections on the ground of small out-of-State quotas.

Students other than Jews or orientals, one or both of whose parents were foreign born, reported 6 rejections by public colleges out of a total of 99 applications made to all colleges. Only one of these was by an institution that asked for the birthplace of the applicant's parents, although at least five of the six asked about the applicant's own birthplace.[16] In this case, involving a New Jersey student whose father was born in Russia, no reason was given for the rejection by a public institution in that State. His grades were reported to be 5 percent A's, 80 percent B's, 10 percent C's, and 5 percent D's. He was accepted by two other institutions in the same State.

SUMMARY

The foregoing information collected by the Commission as to rejection by public institutions of higher education of applicants belonging to identifiable racial, religious, and national origin minority groups is consistent with the information received by the Commission from the institutions themselves.

The replies of Negro freshmen and high school seniors confirm, if confirmation be needed, the fact that in some Southern States there is a policy, more or less overt, of denying admission to any Negro student to any white public institution of higher education. No doubt the clarity of this policy in some States accounts for the fact that none of the Commission's respondents in those States had even applied to a white institution, and therefore reported no rejections.

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[10] A Virginia student reported high school grades of 22 percent A's, 55 percent B's, and 33 percent C's. Reasons given for rejection were low grades and a surplus of applicants. He was also rejected by a public college in North Carolina, which does not ask about religion, on grounds of late application. He was accepted by a private college in Virginia.

[11] A Georgia student reported high school grades of 5 percent B's, 75 percent C's, and 20 percent D's was rejected by both a State institution of Georgia and Alabama on the ground of college-board scores, but accepted by a Florida public institution.

[12] See note 11.

[13] A Pennsylvania student reported a C average in high school. He was rejected on the ground of college board scores, but accepted by a Pennsylvania State institution.

[14] A student from Washington, D.C., who reported a C average in high school, was rejected on the ground of a poor academic record. He was accepted by a private college in the District of Columbia.

[15] Another student from the District of Columbia, whose high school grades were 3 percent A's, 10 percent B's, and 87 percent C's, was rejected on the ground of grades. He was, however, accepted by public institutions in Florida, Maryland, and Michigan.

[16] The father of the Jewish student discussed in note 14 *supra* was born in Russia. The Maryland institution which rejected him asks not only about religion, but also parents' birthplace.

Moreover, the Commission's survey of Negro students tends strongly to suggest that racial discrimination, albeit relatively covert, still persists in the public institutions of some of the States which have taken official steps to comply with the Supreme Court's decision on this subject. In each instance of this sort discovered by the Commission's survey the institution in question was amply apprised of the applicant's race by virtue of its admission forms or other requirements.

On the other hand, the Commission's survey revealed no examples of apparent discrimination among the 30-odd percent of the Nation's public colleges and institutions that make no inquiry and have no requirement that will reveal race, religion, or national origin.

Between these two extremes lie the majority of public colleges and universities which, despite declared adherence to a nondiscriminatory admission policy, still provide themselves in one way or another with information concerning the race, religion, or national origin of applicants and thus at least possess the means by which discrimination could be carried out. The questionnaires to college freshmen and high school seniors could not, in the nature of things, provide clear-cut proof that institutions in this group, despite their protestations to the contrary, in fact engage in discriminatory practices. The questionnaires do, however, reveal a sufficient number of doubtful incidents, where an applicant clearly *might* have been rejected on discriminatory grounds, to cast doubt on the propriety of admission requirements that secure such information.

As has been pointed out, the questionnaires also revealed several examples of the difficulties faced by graduates of inferior segregated schools when they seek a college education. They indicate also, in several instances, that the limitation on the number of out-of-State students by many public institutions, not in itself improper, may tend to reduce the educational opportunities of minority-group students who are subject to discrimination in their own States.

PART VI

NEGRO STUDENTS IN SEGREGATED AND NONSEGREGATED INSTITUTIONS

Two further problems of the Negro student, who is clearly the principal victim of discriminatory admission policies in public institutions of higher education, appeared to warrant examination by the Commission. One involves the question whether Negro students who have been admitted to predominantly white public institutions of higher education are the objects of discrimination after admission. To obtain information on this point, the Commission arranged to have Negro students in such institutions interviewed. The results of these interviews are reported in chapter 1 of this part.

The other problem requiring examination is, in effect, the reverse side of the problems of discrimination and compulsory segregation, for it concerns the Negro students who attend predominantly Negro colleges and universities. Here the Commission sought to determine whether the fact that substantial numbers of Negro students attend predominantly or wholly Negro institutions is attributable, directly or indirectly, to segregation, or whether other factors, including purely voluntary self-segregation, are at work. The Commission's questionnaires to Negro freshmen in predominantly Negro institutions and to both Negro and white high school seniors, which were discussed in part V, chapter 2, above, shed considerable, if not definitive, light on this and related questions. They are discussed in chapter 2 below.

CHAPTER 1

DISCRIMINATION AGAINST NEGRO STUDENTS AT PREDOMINANTLY WHITE INSTITUTIONS

In order to determine whether Negro students who have been admitted to predominantly white institutions encounter discrimination within such institutions, the Commission arranged to have 5 undergraduate Negro students in each of 25 predominantly white institutions throughout the Nation personally interviewed.[1] A total of 110 students in 23 institutions were actually interviewed. Institutions in the six resistant Southern States were necessarily eliminated. In the limited- and token-compliance States all but two institutions[2] were eliminated for insufficient Negro enrollment. An attempt was made to secure interviews of Negro students attending the State university in all six complying States, but they were actually held in only five of these institutions.[3] Thus, a total of seven formerly segregated institutions were represented. The other 16 institutions, located in 15 Northern and Western States, were selected because they were known to have a large Negro enrollment.[4] In some Northern and Western States the Negro enrollment in the largest State institution was reported to be so small that these States were, like the token- and limited-compliance States, omitted. The Negro population in these Northern and Western States, however, is also small.

While the information collected in the interviews was by its nature unsuitable for statistical handling, some significant facts were brought out.

Twenty years ago housing was a primary problem to the Negro student at many institutions because of their limited access to, or com-

[1] The American Political Science Association was selected to secure interviewers on each campus. The form used for the interview is reproduced in app. P.

[2] The Universities of Texas and North Carolina. The University of Tennessee, originally selected, was dropped when it reported having no Negro undergraduate students formally enrolled. However, the American Political Science Association suggested that some Negro students from Knoxville College do attend classes at the University of Tennessee for credit at the former institution.

[3] The Universities of Delaware, Missouri, Oklahoma, Kentucky, and West Virginia. A requirement of administrative clearance at the University of Maryland precluded the Commission's securing timely interviews with Negro students at that university.

[4] College of the City of New York; Ohio State University; Pennsylvania State University; Rutgers University (New Jersey); and Universities of California at Berkeley and at Los Angeles, Colorado, Illinois, Indiana, Iowa, Massachusetts, Michigan, Minnesota, Oregon, Washington, and Wisconsin.

plete denial of, facilities in college dormitories. With few exceptions they lived at home or rented rooms from private families.[5] The Commission's interviews indicated a marked decline in this particular problem, although on one recently desegregated campus the Negro women students reported that they were restricted to a special section of the dormitory, which they said gave them a feeling of isolation.[6] The matter of off-campus housing for Negro students remains, however, a special problem to those who are unable to live in dormitories or who prefer to live in the community. Sixteen of the 22 students living off campus felt that as Negroes they had more difficulty securing adequate private housing near the institution than did white students similarly situated.[7]

Even in the past there were few, if any, restrictions on Negro students at most institutions relative to participation in strictly academic activities,[8] such as the use of the library and membership in academic interest groups. The present study shows that even these few restrictions have disappeared. The Negro students who reported membership in predominantly white academic groups and societies (51 of the 110 so reported) participated fully in the programs of the group. Not only did they attend the formal meetings, lectures, and special events, but they reported that they also took an active part in informal and social affairs. However, although all of the institutions surveyed permitted Negro students to attend the athletic activities as spectators, one recently desegregated institution was reported to bar Negroes from participation on varsity teams.[9]

Public accommodation in many instances was a special problem to Negro students. Several complaints were made that Negroes were not served by local businesses, such as hotels, motels, restaurants, and barbershops. Most of these complaints were from students who were attending institutions which have recently desegregated;[10] however, a few involved institutions that have never officially practiced racial segregation.[11]

As to problems of overt discrimination, therefore, the interviews indicated that progress has been made toward solving some of the problems facing Negro students in predominantly white institutions. However, the matters of securing off-campus housing and acceptance

[5] U.S. Office of Education, Federal Security Agency, "General Studies of Colleges for Negroes," Misc. No. 6, 2 *National Survey of the Education of Negroes* 88 (1942).

[6] University of Texas.

[7] Three each of the Universities of Michigan and West Virginia; two each at the University of Iowa and Penn State University; one each at the University of California at Berkeley and at Los Angeles; and the Universities of Colorado, Illinois, Missouri, and Wisconsin.

[8] *National Survey of the Higher Education of Negroes, supra* note 5, at 88–89.

[9] University of Texas.

[10] Universities of Delaware, Kentucky, Missouri, North Carolina, Oklahoma, Texas, and West Virginia.

[11] Universities of Illinois, Iowa, California at Los Angeles, Wisconsin, Colorado, and Ohio and Penn State University.

by business people in the community remain as special problems to the Negro student in several parts of the country. Moreover, in at least one desegregated institution the Negro students not only were faced with these problems, but in addition were segregated in dormitories and barred from participating in the institution's varsity athletic program.[12]

As to more subtle matters, the Negro students interviewed in most instances believed that they were not accepted on their individual merit either by the administration or the general student body. The reports of many of the students on the classroom attitude of the instructors and the majority-group students indicates that the Negro student at a predominantly white college continues to feel that he is thought of as different, or as an outsider.

There is some incidental interest in the fact that the overwhelming majority of the Negro students interviewed (85 percent) were attending institutions located within the State of their permanent residence. This suggests that cost is an important factor in the Negro student's choice of colleges. These students were paying the smaller tuition fee charged resident students and avoided the other costs of attending college farther from home. Moreover, 38 of the students held scholarships. Of these, eight were institutional athletic scholarships covering all expenses, while all of the academic scholarships both from the institution and private grants were only partial scholarships. This fact tends to support the charge made by educators that colleges make a greater effort to seek out the athletically talented than the scholastically talented minority-group student.[13]

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[12] It is not surprising that the phenomenon of desegregation in reverse brings about the same situation for white students as members of a minority as desegregation does for Negro students in predominantly white colleges, particularly those recently desegregated. The questionnaire to freshmen in predominantly Negro colleges included two public colleges in border States in which the white enrollment had reached from 50 to 70 percent of the student body. White freshmen from both institutions stated in their answers that one of the handicaps of attending a formerly Negro college was "no white social life." The Negro president of one of these colleges in a statement published in October 1960 in the student newspaper reminded students that racial integration is a two-way street and that "there are indications that students right here on this campus are as prejudiced as the meanest demogogue in the south. * * * There are Negro students bent on excluding white students from student governmental positions and social honors." Baltimore Sun, Oct. 11, 1960, p. 12.

[13] See N.Y. Times, June 26, 1960, pp. 1, 58.

CHAPTER 2

THE CHOICE OF PREDOMINANTLY NEGRO INSTITUTIONS BY NEGRO STUDENTS

It has been estimated that there are today about 120,000 Negro students attending public and private colleges and universities in the United States, of whom 90,000 are in institutions in the Southern States and the District of Columbia,[1] and the remainder in the Northern and Western States.[2] Of those in southern institutions, about 85,000 are estimated to be attending wholly or predominantly Negro colleges, and (as of 1958) 5,000 predominantly white, desegregated colleges.[3]

These figures represent a substantial change in the past two decades. In 1940 there were an estimated 21,700 Negro students enrolled in 36 leading Negro institutions [4] and 1,250 Negro students enrolled in 8 nationally known predominantly white institutions located in Northern States with a relatively heavy Negro population.[5] Thus, the last 20 years have seen an enormous expansion of higher educational opportunities for Negroes in the North and West and, as the process of desegregation has progressed, in the States of the border and upper South as well as in the predominantly Negro colleges.

However, more than two-thirds of Negro college students are still attending wholly or predominantly Negro institutions, whether private or public, and many of the latter institutions, as has been seen, remain well below the national or even regional standards in the quality of the education they offer. The Commission has therefore tried to determine whether the choice of predominantly Negro, and often (although not always) inferior, institutions by substantial numbers of Negro students is attributable to discrimination and segrega-

[1] U.S. Office of Education, Department of Health, Education, and Welfare, Cir. No. 606, *Opening (Fall) Enrollment in Higher Education, 1959.*

[2] The National Scholarship Service and Fund for Negro Students estimates that Negro Americans "compose only about 1 percent of our interracial college population." Exclusive of the enrollment in Negro colleges (85,000) and the estimated enrollment in desegregated white institutions of the South (5,000), this would mean about 30,000 in Northern and Western States.

[3] Johnson, "Quiet Revolution in the South," 52 *J. Am. Assn. Univ. Women* 133, 135 (1959).

[4] U.S. Office of Education, Federal Security Agency, "General Studies of Colleges for Negroes," Misc. No. 6, 2 *National Survey of the Education of Negroes* 48 (1942).

[5] *Id.* at 79.

tion or is the result of other factors having no relation to discrimination. The Commission's questionnaires to Negro college freshmen and to high school seniors [6] shed considerable light on this question.

In the nature of things, the Commission's inquiries could not result in a concrete, unassailable measure of the exact extent to which discrimination against Negro students by white institutions is the direct cause of attendance at predominantly Negro institutions. As reported in an earlier chapter,[7] the Commission's questionnaires to college freshmen did reveal three fairly clear-cut cases where a Negro student who would have preferred to attend a predominantly white institution was rejected by that institution for racially discriminatory reasons, and was therefore compelled to attend instead a predominantly Negro institution. Three cases were also discovered where Negro freshmen who had applied to white public institutions were rejected under apparently discriminatory circumstances, but these students did not cite rejection by a white college as a reason for attending a Negro institution.

No complete collection of such cases could be made, however, nor would it provide an accurate measure of the role of discrimination in this matter. It seems a fair assumption that some of the freshmen responding to the questionnaire may have been reluctant to state that they would have preferred to attend another institution. And, more important, it must be assumed that a substantial number of Negro students who might otherwise apply to white public institutions do not bother to do so when it is perfectly clear that the result will be rejection. Such students, if they choose to attend the Negro institution which is available to them, are nonetheless making their choice at least in part as a result of the discrimination or compulsory segregation imposed upon them.

Even though outright discrimination cannot be expected to be readily apparent as a reason for Negroes choosing to attend predominantly Negro institutions, the effects of discrimination and segregation may be perceptible in subtler ways in the decisions of Negro students. The Commission therefore undertook to see whether such students appear to have a preference for attending Negro institutions *because* they are Negro institutions, or to be influenced by factors that are related, directly or indirectly, to discrimination or segregation.

The relative preferences of Negro students for predominantly white or predominantly Negro institutions provide a useful framework for this inquiry. As has been pointed out above, about two-thirds of the Negro college students now attend Negro institutions, while only 20 years ago more than 90 percent did.[8] Moreover, in 1942 it was esti-

[6] See app. N for questionnaire sent to college freshmen, and app. O for that sent to high school seniors.

[7] See pp. 159–162, *supra*.

[8] See p. 171, *supra*.

mated that slightly less than half of the students in Negro institutions came from Northern and Western States, and 75 percent of this number attended Negro colleges in Southern States.[9] By contrast, of the Negro freshmen in Negro and predominantly Negro southern colleges in the fall of 1959 responding to the Commission's questionnaires, only 8.6 percent were from Northern and Western States.[10] The inference is therefore strong that, on the whole, Negro students who are accustomed to desegregated education and to whom the opportunity of higher education in a desegregated institution is not foreclosed or limited do not now choose voluntarily to go to predominantly Negro institutions in substantial numbers.

This inference is reinforced by the results of the Commission's questionnaires to Negro high school seniors throughout the country, which inquired, among other things, as to the college preferences of those students who had applied to college. Table 7 shows the answers to this question, presented in terms of the region from which the students came, and also the racial composition of the high schools they attended.

It will be seen from table 7 that, of all the Negro high school seniors surveyed who had applied to college, only slightly over half—52.6 percent—preferred a predominantly Negro college. Moreover, of Negro students in Northern and Western States, 68.1 percent named a predominantly white institution as their first choice, while only 28.3 percent expressed a preference for a Negro institution. By contrast, in the desegregating States of the border and upper South, slightly over half of the students preferred a predominantly Negro institution, while in the resistant South there was an overwhelming preference for predominantly Negro institutions. Thus, it is clear that the nature of the institutions which are readily available to them is reflected in the preferences of Negro students.

That the nature of their secondary and elementary school experience also affects their choices is clear from an analysis of the college preferences of Negro high school students in relation to the type of high school they attended—whether all Negro or biracial. It will be seen from table 7 that the students who attended all-Negro schools overwhelmingly gave first choice to a predominantly Negro college—particularly so in the case of students in southern segregated schools. On the other hand, those whose secondary school experience had been in a nonsegregated or desegregated situation, even in the South, preferred even more overwhelmingly to continue to attend nonsegregated institutions for their advanced education. Thus, it may be inferred that the choice of college by Negro students is to a substantial degree influenced by the nature of their earlier school experiences.

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[9] *National Survey of the Higher Education of Negroes, supra* note 4, at 90.

[10] See app. Q, table 1 for number of freshmen from Northern and Western States.

TABLE 7.—*College preferences of Negro high school seniors*

Geographical area	Racial classification of high school attended	Number of schools	Number of students applying to college	Students preferring Negro college		Students preferring white college		Students not specifying preference	
				Number	Percent	Number	Percent	Number	Percent
Northern and Western States	All Negro	5	68	25	36.8	38	55.9	5	7.3
	Biracial	12	70	14	20.0	56	80.0	0	----
Total		17	138	39	28.3	94	68.1	5	3.6
Desegregated complying States [1]	All Negro	8	135	75	55.6	58	43.0	2	1.5
	Biracial	6	32	11	34.4	21	65.6	0	----
Total		14	167	86	51.5	79	47.3	2	1.2
Segregated—Token and resistant States [2]	All Negro	8	102	89	87.3	13	12.7	0	----
	Biracial	0	0	0	----	0	----	0	----
Total		8	102	89	87.3	13	12.7	0	----
Total, all Negro schools		21	305	189	62.0	109	35.7	7	2.3
Total, biracial high schools		18	102	25	24.5	77	75.5	0	----
Grand total		39	407	214	52.6	186	45.7	7	1.7

[1] Delaware, Kentucky, Maryland, Missouri, Oklahoma, Washington, D.C., West Virginia.

[2] Alabama, Arkansas, Florida, Georgia, North Carolina, Tennessee, Virginia.

In its questionnaires to high school seniors applying to colleges, the Commission also asked the students to check the reasons that influenced their choice of the college they preferred. It is significant that the reasons checked by the Negro students preferring a Negro college were closely similar to those checked by Negro students preferring a white college. In both groups the reasons given, in declining order of frequency, were:[11]

1. Offers specialized training I want.
2. Offers a variety of courses in my field.
3. Is near my home.
4. Costs less.
5. Offers me opportunities for leadership and status.
6. Is attended by my friends or relatives.
7. Offered me a scholarship.
8. Offers me more social life than other colleges.

Moreover, the responses of white high school seniors to the same questions showed the same relative frequency for each of these reasons except the last two—social life being mentioned slightly more often by white students than scholarships.[12]

Such differences as there were between the reasons given by Negro seniors preferring Negro colleges and those preferring white colleges were minor but perhaps significant: scholarships were more frequently mentioned (in 24.8 percent of the cases) by students preferring Negro colleges than by those preferring white colleges (15.1 percent), and attendance by friends and relatives, leadership opportunities, and social life were somewhat more emphasized by those choosing Negro colleges.[13]

The Commission's questionnaire to Negro freshmen in predominantly Negro institutions also inquired as to the factors that influenced their selection of the colleges they were attending. The factors mentioned by them, in order of declining frequency, were:[14]

1. Proximity to home.
2. Lower cost.
3. Attended by friends and relatives.
4. Variety of courses offered.
5. Opportunities for leadership and status.
6. Specialized training offered.
7. Social life.
8. Scholarship offered.
9. Limitations placed on Negroes in predominantly white colleges.
10. Rejection of application by predominantly white college or colleges.

It will be seen that there are differences between the relative frequency of these responses and those of Negro high school seniors

[11] See app. Q, tables 2a–2c, for Negro high school seniors' reasons for selecting a college.
[12] See app. Q, table 3, for white high school seniors' reasons for selecting a college.
[13] See app. Q, table 2c.
[14] See app. Q, table 4, for Negro college freshmen's reasons for college selection.

expressing a preference for Negro colleges.[15] For one thing, the college freshmen tended to emphasize proximity to home and lower cost more than the variety of courses and specialized training offered, which were most frequently mentioned by high school seniors. However, the shift of emphasis suggested here, from scholastic to practical considerations, may well also be found among white students as they pass from high school prospects to collegiate realities. Another shift of emphasis, or increase in candor, is found in the Negro freshmen's relatively greater mention of attendance by friends and relatives and opportunities for leadership as influencing their choice of colleges.

While the significance of these differences cannot be definitively stated, it is clear that the reasons most often given by both Negro college freshmen and Negro high school seniors for choosing predominantly Negro colleges give much more emphasis to both practical and academic considerations than to reasons suggesting a preference for Negro colleges *because* they are Negro colleges (*e.g.*, attendance by friends and relatives, opportunities for leadership, social life).

Certain other data gathered by the questionnaires to Negro freshmen in predominantly Negro colleges may throw a little more light on the question. The freshmen were asked what they considered to be the benefits and the handicaps of attending Negro colleges. The principal benefits mentioned all turned on factors relating to race, such as full participation in college life and easier adjustment and acceptance. The type of training offered came in a poor sixth, mentioned by only 11 percent of those replying.[16] The handicaps mentioned are even more revealing:[17]

1. Inadequate facilities and resources (mentioned by 41.3 percent).
2. Inadequate academic standards, courses or instructors (34.1 percent).
3. Lack of interracial contacts (33.2 percent).
4. Prejudice and uniformity in campus life (15.2 percent).
5. Limitation in postgraduate employment opportunities (14.9 percent).
6. Rating unequal to white colleges (13.6 percent).
7. Lack of competition (10.1 percent).

From these answers, and from what is known about the limited program and poor quality of many—though not all—predominantly Negro public colleges and universities, it is clear that students who attend such institutions, whether by free choice or for lack of choice, in many cases suffer thereby, and realize it. Of course, there are advantages, too, for many of the students—particularly, it may be said, for those whose previous limited contacts with their white contempo-

[15] See p. 175, *supra*.

[16] See app. Q, table 5, for benefits of attending predominantly Negro colleges as reported by Negro freshmen enrolled therein.

[17] See app. Q, table 6, for handicaps of attending predominantly Negro colleges as reported by Negro freshmen enrolled therein.

raries due to segregation in schools have not prepared them for the necessary adjustment to a desegregated situation. For such students the experience of attending a predominantly white institution would be a difficult one. The Negro college also provides a haven for those Negroes whose academic preparation is so poor that they would not be admitted to colleges of higher academic standards.[18] In both of these cases, of course, the benefits to the individual student do not obscure the fact that the handicaps produced by a segregated and inferior preparation in secondary school are perpetuated and magnified by attending a segregated and inferior college.

It must be concluded, as to the reasons why Negro students choose in substantial though diminishing numbers to attend predominantly Negro institutions, that many are influenced by the advantages that flow from the fact that they are Negro institutions. But a much more important group of factors may be summed up in the word *accessibility*. Accessibility in the sense of proximity to home and lesser cost is the most important reason given by the students actually attending the colleges, most of whom lived in the States where the colleges were located, and almost all of whom were from the Southern States.[19] Accessibility also includes the availability of scholarships, which is an important factor for Negro students, and scholarships appear to be more readily available to them in predominantly Negro colleges. Additionally, the lower academic standards of some Negro colleges certainly make them more accessible, in the sense of "attainable," to Negro students from inferior secondary schools. Finally, accessibility of the Negro college is the critical factor to the Negro students in those States where the white institutions are completely closed to them.

All of these aspects of the accessibility of Negro colleges are related, directly or indirectly, to discrimination, whether the result of overt and continuing discrimination, as in the States where complete racial segregation is still maintained, or the heritage of a long history of separate but unequal schools and colleges, not yet wiped away by the process of compliance with the commands of the equal protection clause, or the result of inadequate schools, segregated in fact even if not by law.

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[18] See p. 162, *supra*.

[19] See app. Q, table 1, for residence of Negro freshmen attending predominantly Negro colleges in Southern States, and table 4, for reasons for college selection given by Negro freshmen in predominantly Negro colleges.

PART VII

AVAILABILITY OF BENEFITS OF FEDERALLY-FINANCED EDUCATION PROGRAMS TO ALL CITIZENS

The Commission was directed by the Congress to "appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution."[1] In the field of education, this is a large order. In its direct activities in education, the Federal Government through various agencies operates schools, colleges, and special educational programs for employees, military personnel and their dependent children, Indians, inmates of Federal institutions, foreign nationals, and employees of State and local governments. With these the Commission is not concerned for the purposes of this report.

Indirectly, however, by means of financial support of institutions operated by others and by financial aid to educational programs and research conducted in such institutions, the Federal Government is also deeply involved in the education of its citizens. The Assistant Commissioner and Director, Division of Higher Education, Office of Education, has recently said:[2]

> Though no one can tell you precisely how much Federal money flows each year to or through American colleges and universities, I am willing to venture an estimate of $1.5 to $2 billion. It stems unevenly from a multitude of Federal agencies, and it pours unevenly into the Nation's institutions of higher education.

This Commission's present interest is in these programs of the Federal Government by which Federal funds flow to or through American colleges and universities. Because the 14th amendment applies only to the actions of States and agencies thereof, the Commission has directed its study to those institutions which are controlled by States or political subdivisions thereof.

If the publicly controlled institutions financially assisted by the Federal Government unlawfully deny admission to residents of their

[1] Civil Rights Act of 1957, 71 Stat. 635, 42 U.S.C. sec. 1975c(a)(3) (1958).

[2] U.S. Department of Health, Education, and Welfare, *Higher Education*, vol. XVII, No. 1, p. 4 (Sept. 1960).

States by reason of color, race, religion, or natural origin, what is the responsibility of the Federal Government as a silent partner in the enterprise? Is the Federal Government itself guilty of unlawful discrimination as a result of subsidizing discrimination by a State or its agent? The Supreme Court has held that the Federal Government has no less an obligation under the 5th amendment than the States do under the 14th.[3] On the other hand, no Federal court has held that the Constitution forbids the Federal Government to give financial assistance to a State agency which is violating the Constitution. However, even if such action on the part of the Federal Government is not unconstitutional, what are the results of its subsidy of unconstitutional operations on the educational opportunity of some of its citizens? Is it sound Federal policy to subsidize unconstitutional operations of others, particularly if the result is to accentuate the denial of equal opportunity to some citizens?

If the policy is not sound, then two further questions arise. One is how the Federal Government should change its policies so as to avoid support of discriminatory policies and the inequalities of opportunity that result therefrom. In this connection, it must be kept in mind that the solution of this problem of inequality no longer lies in the direction of bringing the separate schools and colleges for Negroes up to the level of those for whites. The Supreme Court has held that the Constitution forbids the maintenance of enforced racial separation in public schools. Therefore, the solution must lie in assuring that educational facilities provided by the States which receive support from the Federal Government are available to all citizens without regard to race. The other question is whether legislative action is necessary to change the Federal policies in question, or whether the necessary changes can be accomplished within the executive department.

The Commission's study has shown that, on a nationwide basis, only 169 of the 563 public colleges and universities replying to the Commission make no inquiry or requirement of an applicant for admission that discloses information susceptible to use for discrimination on the grounds of race, religion, and/or national origin.[5] Stated affirmatively, 394 institutions, or 70 percent, provide themselves with such information. Most of these institutions claim a nondiscriminatory policy, and the Commission cannot prove and does not assert that they do in fact discriminate except in those Southern States where a policy of exclusion of Negroes is frankly admitted, either publicly or in reply to the Commission's questionnaire. Some institutions in the North and West that enroll racial, religious, and national minorities in small numbers may in fact have unannounced quotas for each. The Com-

[3] Bolling v. Sharpe, 347 U.S. 497 (1954).
[5] See app. M, table 1.

mission does not know, nor could it ascertain the truth without a detailed study of each of the institutions concerned. It does know, however, that many of these institutions at least provide themselves with the means by which they could carry on such discrimination.

The Commission's study has revealed more than this, however. It shows that at least some institutions use these means of potential discrimination to effect such discrimination. Some public colleges in the token-compliance States, for instance, are known to enroll Negro students only at the graduate level or for courses not offered at the public college for Negroes; [6] others admit to excluding Negroes.[7] Moreover, in the six States classified as resistant [8]—Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina—and also in Texas,[9] the practices of almost all public institutions are known to the Commission. These seven States have therefore been selected for examination with respect to each of the Federal programs of financial aid to higher education studied, to provide a basis for judging the practical effects of Federal subsidy of institutions of higher education which discriminate unconstitutionally in their admission policies.

For the purposes of this study the Commission has selected a representative group of educational programs of the Federal Government that involve a substantial investment by the taxpayers of the Nation. These programs will be grouped into five categories, according to the purpose of the programs and the nature of the recipients. These categories, dealt with in the five succeeding chapters, are as follows:

(1) Federal aid to institutions of higher education for general purposes;

(2) Federal aid to institutions and individuals to improve the quality of education;

(3) Federal aid to institutions for the promotion of particular studies;

(4) Federal aid to students or scholars on the basis of particular competence, ability, or merit; and

(5) Federal aid to students on the basis of financial need or obligation on the part of the Federal Government by reason of military service.

[6] See pt. III, ch. 1, *supra.*
[7] See pt. III, ch. 1, *supra.*
[8] See pt. III, ch. 2, *supra.*
[9] See pp. 64–68, *supra.*

CHAPTER 1

FEDERAL AID TO HIGHER EDUCATIONAL INSTITUTIONS FOR GENERAL PURPOSES

COLLEGE HOUSING PROGRAM

The college housing program is an example of a major program of Federal assistance to institutions of higher education, designed to assist the institutions generally rather than to promote any particular research or educational program. This program, administered by the Community Facilities Administration (CFA), a constituent agency of the Housing and Home Finance Agency (HHFA), provides long-term, low-interest loans for the construction of college dormitories and related facilities.

Purpose and nature of the program

The purpose of the college housing program, as stated in the Housing Act of 1950, is "to assist educational institutions in providing housing and other educational facilities for students and faculties * * *."[1] Loans for this purpose are authorized to be made to public or private nonprofit educational institutions offering at least a 2-year program of academic studies acceptable for full credit toward a baccalaureate degree; to certain types of agencies whose purpose is to provide housing or educational facilities at such institutions; and to certain public or private nonprofit hospitals with nurses' training or internship programs.[2] Loans are made under the program for the construction, rehabilitation, alteration, conversion, or improvement of three types of buildings. The most important of these is college and university dormitories. The second category is "other educational facilities" at colleges and universities, including such structures as dining halls, student union buildings, and infirmaries. The third is similar buildings in connection with hospitals—that is, dormitories, cafeterias, student centers, and infirmaries for use by nurses and doctors.[3]

CFA actually makes the loans by way of purchasing the bonds of the borrowing institutions. It in turn obtains the funds by which

[1] 64 Stat. 77 (1950), as amended, 12 U.S.C. sec. 1749(a) (1958).
[2] 12 U.S.C. sec. 1749c(b) (1958).
[3] 12 U.S.C. sec. 1749c (a) and (h) (1958).

it makes the college housing loans by selling notes and other obligations to the Secretary of the Treasury.[4]

Successive congressional enactments since the Housing Act of 1950 have increased the size of the program to the point where the HHFA Administrator is authorized to sell $1,675 million worth of notes and obligations.[5] In effect, therefore, the college housing program has an appropriation of $1,675 million. However, there is a statutory limit of $100 million for loans for housing, cafeterias, student centers, or infirmaries in connection with hospitals, so that the total lending authorization is $1,575 million for all facilities at colleges and universities,[6] of which $1,074,416,000 had been loaned as of August 31, 1960.[7]

The principal conditions laid down by statute or by regulation for the granting of loans under the program are: (1) That the project for which the loan is desired be one of the types specified, and be economically designed; (2) that the applicant institution, if a college or university, be accredited or give courses that are acceptable for credit by three accredited institutions; (3) that the institution show that it needs the facility in question; and, most important, (4) that the institution show that it cannot obtain the needed funds from "other sources upon terms and conditions equally as favorable as the terms and conditions" offered by CFA.[8]

The terms offered by CFA are in fact favorable ones. Since 1955 the rate has been limited to the higher of (*a*) 2¾ percent per year, or (*b*) ¼ percent added to the interest rate paid by the HHFA Administrator to the Treasury on funds borrowed from it.[9] For fiscal year 1960, CFA charged 3⅛ percent interest on all new loans. During fiscal year 1961, the interest rate will be 3.5 percent.[10] This is a particularly advantageous rate of interest, as is shown by table 8 following.[11]

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[4] 12 U.S.C. sec. 1749(d) (1958).

[5] Housing Act of 1960, 74 Stat. 1027.

[6] $75 million is the statutory ceiling for loans for cafeterias, student centers, and infirmaries at colleges and universities. Therefore, $1,400 million is available for dormitories at colleges and universities. *Ibid.*

[7] Letter to U.S. Commission on Civil Rights from U.S. Housing and Home Finance Agency, September 26, 1960.

[8] 12 U.S.C. sec. 1749(a) (1958); *Policies and Procedures,* vol. VI, book 1, pt. 2, ch. 1, sec. 2 and ch. 2, sec. 2.

[9] 12 U.S.C. sec. 1749(c) (1958).

[10] Letter, *supra* note 7.

[11] President Thomas H. Hamilton of the State University of New York in his testimony on May 18, 1960, before a U.S. Senate Subcommittee stated:

"* * * the New York State Dormitory Authority has applied * * * to the Housing and Home Finance Agency for a loan of $10 million at 3⅛ percent interest. * * *

"The Agency has been unable to honor this application. Due to a lack of sufficient Federal appropriations. * * * $7 of the requested $10 million bond issue will have to be sold in the private market, at an interest rate of 4¾ percent."

Hearings on Housing Legislation of 1960 Before a Subcommittee of the Committee on Banking and Currency, United States Senate, 86th Cong., 2d Sess., 433 (1960).

TABLE 8.—*Representative bond offerings current during months of September–October 1960*

Issuer	Amount of issue	Interest rate	Term
		Percent	*Years*
California City Community Service District	$400,000	5.0702	20
Commonwealth of Australia	25,000,000	5¼	20
Eastern Kentucky State College	1,280,000	4	30
Central Delaware County Authority	605,000	3⅞	40
Pen Argyl Area Joint School System Authority	975,000	4.15	40

CFA control over execution and use of loans

The administrator of the college housing program is given by statute, and in fact exercises, broad powers to control the manner in which the program is carried out. Among other things, he is authorized to: [12]

> (1) prescribe such rules and regulations as may be necessary to carry out the purposes of this subchapter;
>
> * * * * * * *
>
> (4) commence any action to protect or enforce any right conferred upon him by any law, * * *
>
> * * * * * * *
>
> (9) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions as he may deem necessary to assure that the purposes of this title will be achieved.

The act does not require CFA to obtain the approval of any other Federal agency before exercising any or all of these powers.

CFA exercises these powers to keep close control over the manner in which the proceeds of its loans are used, as a brief outline of the process by which a loan is executed will show. Applications are made in two phases, a preliminary and a full application, each subject to approval by CFA.[13] The detailed information required in connection with the full application includes not only information as to the building and building sites in question and financial data regarding the applicant institution, but also legal information, including the laws under which the college was created and exists, the authority of the college to construct and finance the proposed project, any legal actions necessary before it can do this, and any limitations upon the college in the construction or financing of the construction of the project.[14]

When the full application has been approved, a loan agreement is entered into between the United States and the applicant institution,

[12] 12 U.S.C. sec. 1749a(c) (1958).

[13] U.S. Housing and Home Finance Agency, *Policies and Procedure for Community Facilities, Field Service,* vol. VI, book 1, pt. 2, ch. 2, secs. 2 and 3 (hereinafter cited as *HHFA Policies and Procedure*).

[14] *Id.,* sec. 3.

containing, among other terms and conditions, a requirement that signs be erected at the project site indicating that the Government is participating in the project; [15] a requirement that the borrower submit to the Government such "data relating to the operation of the project as the Government may require"; [16] a prohibition of discrimination on grounds of race, religion, color, or national origin in employment on the construction of the project; [17] a requirement that the borrower maintain, so long as any portion of the loan is outstanding, such "parietal" rules governing occupancy of the project facilities as may be necessary to assure maximum occupancy; [18] and a requirement for the furnishing of reports on such matters as the borrower's enrollment, the occupancy of the project, and the rates charged therefor.[19]

After the loan agreement has been signed, CFA reviews the borrower's proposed construction contract documents, including the final plans and specifications and cost estimates, before bids are invited from contractors.[20] It also reviews the contractors' bids actually received before the borrower may sign the construction contracts.[21] As has been pointed out, these contracts are required by CFA to include provisions forbidding discrimination in employment by the contractor on grounds of "race, religion, color or national origin." [22]

At this point construction begins, financed if necessary by an advance from CFA. The loan itself is made after the borrower invites bids on its bonds from the public by advertising them in one issue of a financial newspaper of national circulation.[23] If no bid lower than that made by CFA (now 3½ percent) is received, then CFA buys the bonds. The financing is ordinarily secured by a trust indenture. The standard form for the trust indenture provided by CFA contains a general provision requiring the borrower to abide by all the con-

[15] U.S. Housing and Home Finance Agency, Terms and Conditions, Part of the Loan Agreement, CFA–520 (ex H–951), sec. 31.

[16] *Id.*, sec. 16.

[17] *Id.*, sec. 26. The text of this section reads as follows:

"*Nondiscrimination.* The borrower shall require that there shall be no discrimination against any employee who is employed in carrying out the project, or against any applicant for such employment, because of race, religion, color, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The borrower shall insert the foregoing provision of this section in all of its contracts for project work and will require all of its contractors for such work to insert a similar provision in all subcontracts for project work: *Provided,* That the foregoing provisions of this section shall not apply to contracts or subcontracts for standard commercial supplies or raw materials. The borrower shall post at the project, in conspicuous places available for employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause."

The source of this requirement is to be found in *HHFA Policies and Procedure,* vol. VI, book 1, pt. 2, ch. 6.

[18] *Id.*, sec. 35.

[19] *Id.*, sec. 36.

[20] *HHFA Policies and Procedure,* vol. VI, book II, pt. 20, ch. 1, sec. 2.

[21] *Ibid.*

[22] See note 17 *supra.*

[23] *HHFA Policies and Procedure,* vol. VI, book II, pt. 21, ch. 3, sec. 3.

ditions of the loan agreement, together with "all valid and lawful obligations or regulations now or hereafter imposed on it by contract or prescribed by any law of the United States"; [24] provisions repeating in substance the requirements of the loan agreement as to occupancy rules and the making of reports as to operations of the borrower and of the project; [25] and a provision making the breach of any provision of the indenture an event of default for the loan.[26]

After the loan transaction is thus completed, CFA continues during the life of the loan to review the operating statements, occupancy data, and other financial aspects of the loans.

It is apparent from the foregoing that CFA has more than enough control over each stage of the application for the granting and performance of loans under the program to assure that any policy adopted is carried out in full.

CFA policies pertinent to questions of discrimination

There is no provision in the Housing Act of 1950, nor in any subsequent statute related to the college housing program, dealing with the possibility of discrimination in the construction or use of facilities built under the program, let alone discrimination in the admission policies of the institutions receiving assistance thereunder. CFA is, therefore, not directed by statute to concern itself in any way with the possible relation between the use of Federal funds under this program and discrimination on grounds of race, religion, or national origin. Neither, however, is it prohibited from concerning itself in this manner with the uses of the funds it provides.

At only one point in the process do the policies of CFA in fact deal with questions of discrimination. This is in prohibiting discrimination in employment on the construction of the project. This policy, however, is nowhere mentioned by the laws relating to the college program; rather, its source is the Executive order issued by the President in 1954, requiring a nondiscrimination clause in all Government contracts.[27]

No aspect of the college housing program as it is presently administered is concerned in any respect with the presence or absence of discrimination, either in the use of the facilities after they have been built or in the admission policies of the recipient institution. The Community Facilities Administration has no procedure designed to secure this information, although the full application may reveal the existence of applicable laws requiring discriminatory practices, and as the program is now administered the presence or absence of dis-

[24] U.S. Housing and Home Finance Agency, College Housing Program, Standard Trust Indenture, part II, sec. 6.09.

[25] *Id.*, secs. 6.10, 6.16.

[26] *Id.*, sec. 7.01(e).

[27] Exec. Order No. 10557, 19 *Fed. Reg.* 5655 (1954). Letter to U.S. Commission on Civil Rights from U.S. Housing & Home Finance Agency, October 21, 1960.

crimination plays no part in the determination of whether or not Federal funds are provided. Nor is there any CFA regulation, form, or contract requiring any assurance from the borrowing institutions on this score.

Norman P. Mason, Administrator of the Housing and Home Finance Agency, has explained the absence of such policies as follows.[28]

> It is our belief that the imposition of admission requirements by this Agency would involve unwarranted interference in the educational policies of institutions of higher learning. This principle has become firmly established in legislation dealing with the Federal Government and higher education. The National Defense Education Act, for example, provides in section 102 that "nothing contained in this part shall be construed to authorize any department, agency, officer, or employee of the United States to exercise supervision or control over curriculum, program of instruction, administration or personnel of any educational institution or school system."
>
> This principle, which is usually entitled "Prohibition Against Federal Control" in Federal legislation, would seem to apply with equal weight to interference in the housing policies of these institutions. Many institutions require certain students, such as all freshman girls not living at home, to live in certain dormitories. Others require all nonresident freshman and sophomore student's to live in the institution's housing facilities. These and similar policies are clearly within the prerogatives of the institution.

Several points may be noted with respect to this explanation. One is that whatever the so-called prohibition against Federal control, which was indeed written into the National Defense Education Act of 1958,[29] may mean, no comparable provision appears in any of the legislation governing the college housing program. Another is that the principle of nonintervention in the "administration" of the recipient institutions is not interpreted by CFA to prohibit considerable supervision over the projects built by college housing loans—a supervision which extends to a requirement of nondiscrimination in employment on construction of the projects, and to "interference in the housing policies of these institutions" to the extent of requiring the maintenance of rules that will assure full occupancy of dormitories built under the program. Finally, it must be recognized that a policy forbidding supervision or control by the Federal Government of "educational policies" of the institutions of higher learning to which it extends assistance has another side to it than the avoidance of Federal "interference." This is the possibility that the Federal Government may, by such a policy of abstention, subsidize facilities or institutions whose discriminatory policies or practices deny to certain persons the equal protection of the laws.

In its study of the laws and policies governing this and other Federal programs affecting public higher education, the Commission has

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[28] Letter, *supra*, note 7.

[29] See note 4, p. 193, *infra*.

tried to ascertain to what extent the programs as presently conducted do in fact constitute support of unconstitutional practices.

Subsidization by the Federal Government

There can be no doubt that the college housing program, with $1,074,416,000 in loans to colleges outstanding, is a major point of involvement of the Federal Government in higher education. While the figure quoted does not represent the cost of the program to the Government, since the money is in the form of loans and not grants, still it is a measure of the benefits enjoyed by the recipient institutions. For this is money that could not be obtained as cheaply, and in at least some cases might not be obtained at all, without Government assistance.[30]

Moreover, the program has not been without cost to the Federal Government, even though the loans are made at interest, for expense is incurred in the administration of the program. The differential of one-fourth of 1 percent between the interest paid by CFA to the United States Treasury on money borrowed by it and the interest CFA charges on the money it lends is apparently intended to cover these expenses. In fact, however, it has not yet done so. In the 9 years of the program's operation ending June 30, 1960, the cumulative total of the difference between interest received and interest paid by CFA was $5,460,531, while the administrative expenses allocated by CFA to the program totaled $8,046,565; therefore, the program at that time represented a net deficit of $2,586,034.[31] It is anticipated by HHFA that the deficit will have been entirely repaid by the end of fiscal 1963, and that thereafter revenue from the one-fourth of 1 percent interest differential will cover administrative expenses;[32] meanwhile, however, the program will have cost the Federal Government a substantial sum of money.

Practices of recipient institution

The Commission has not undertaken any survey of the manner in which the dormitories and other facilities constructed under the program have been used.[33] Nor, although some complaints have been

[30] See note 11, *supra.*

[31] Letter, *supra,* note 7.

[32] *Ibid.*

[33] The Commission's interviews of Negro students in predominantly white institutions, discussed in pt. VI, ch. 1, *supra,* uncovered the case of one institution, the University of Texas, where Negro women students were restricted to a particular portion of the dormitories. See note 6, p. 183, *supra.* The University of Texas has received a loan of $4,071,000 under the college housing program for the construction of women's dormitories, 106 *Cong. Rec.* 12010 (daily ed. June 16, 1960). Questionnaires to high school seniors also revealed probable discrimination by the University of North Carolina in the denial of admission to a Negro woman because of unwillingness to make dormitory space available to her. See p. 159, *supra.* The University of North Carolina has had loans totaling $4 million under the college housing program for construction of dormitories, including facilities for women students. 106 *Cong. Rec.* 12008 (daily ed. June 16, 1960).

made,[34] does the Community Facilities Administration concern itself with whether these facilities are segregated, or denied entirely to members of any racial group, or only made available to members of such groups on a restricted basis.

However, the Commission has made a survey of the admission practices of publicly supported colleges and institutions throughout the Nation. Any facilities in an institution which discriminatorily excludes all members of a certan group are, of course, necessarily used in a discriminatory fashion as regards that group, and any Federal funds used to build such facilities, therefore, directly support such discriminatory uses.

Some measure of the extent to which Federal funds under the college housing program have in fact supported discriminatory practices is shown by the accompanying table 9. This table shows the total amounts of loans that have been approved (and loan applications pending) for publicly controlled institutions of higher education in seven States where many or, in some of these States, all of the public institutions of higher education are still compulsorily segregated. It will be seen from this table that, a total of $68,059,000 in loans has been granted to institutions in these States, whether white or Negro, which overtly discriminate in their admissions policies on ground of race. In the light of the Commission's findings as to the admission practices of public colleges and universities throughout the country, reported in earlier chapters,[35] it may be assumed safely that substantial amounts of Federal funds under the college housing program have also been granted to institutions in other States which engage, perhaps in subtler ways, in similar discriminatory practices.

Table 9 also presents some measure of the impact of Federal support of institutions which discriminate on racial grounds in States where restrictive admission practices are freely admitted. Of the total loans authorized, $58,964,000 has gone to exclusively white institutions and $41,186,000 to all-Negro or desegregated institutions. Therefore, only 40.8 percent of the total Federal assistance to public higher education under this program could possibly have been of any benefit to the Negro population of these States. In fact, the benefit to the Negro population is much closer to 9 percent of the total shown as expended in Negro institutions because of the limited degree of desegregation existing in most of the desegregated institutions of these States.

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[34] CFA has received two complaints in reference to its college housing program. The first was in September of 1957. It came from Francis Pohlhaus, counsel, Washington Bureau of NAACP. The complaint questioned the constitutionality of CFA's approving a $3,500,000 loan to the University of Florida. The second complaint, made in November 1958, was from the Charleston (W. Va.) Branch, NAACP. This complaint questioned the policy of CFA in making a loan to Morris Harvey College of Charleston.

[35] See pt. V, *supra*.

TABLE 9.—*College Housing Program: approved Federal loans in public colleges and universities in 7 Southern States, as of Sept. 1, 1960*

Racial classification of institutions receiving loans	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total
White:								
Number of institutions	5	1	6	3	4	1	9	29
Total amount of loans	$7,060,000	$4,225,000	$6,172,000	$5,207,000	$11,880,000	$1,000,000	$23,420,000	$58,964,000
Percent of State total	96.6%	25.6%	100%	34.1%	94.2%	100%	55.8%	58.5%
Negro:								
Number of institutions	1	1	0	2	2	0	0	6
Total amount of loans	$250,000	$810,000	0	$7,300,000	$735,000	0	0	$9,095,000
Percent of State total	3.4%	4.9%	0	47.8%	5.8%	0	0	9%
Desegregated:								
Number of institutions	0	1	0	2	0	0	13	16
Total amount of loans	0	$11,480,000	0	$2,760,000	0	0	$17,851,000	$32,091,000
Percent of State total	0	69.5%	0	18.1%	0	0	42.5%	31.8%
Racial classification unknown:								
Number of institutions	0	0	0	0	0	0	3	3
Total amount of loans	0	0	0	0	0	0	$728,000	$728,000
Percent of State total	0	0	0	0	0	0	1.7%	0.7%
All public institutions:								
Number receiving loans	6	3	6	7	6	1	25	54
Total funds received	$7,310,000	$16,515,000	$6,172,000	$15,267,000	$12,615,000	$1,000,000	$41,999,000	$100,878,000

Source of data: U.S. Housing and Home Finance Agency.

It is not suggested that this discrepancy is due to a discriminatory policy on the part of CFA in granting or withholding loans. Nonetheless, CFA's policies, by reason of their failure to take into any account the admission policies of applicant institutions, do allow Federal funds to be used to support discrimination in higher education on the State level.

CHAPTER 2

FEDERAL AID TO HIGHER EDUCATIONAL INSTITUTIONS AND INDIVIDUALS TO IMPROVE THE QUALITY OF EDUCATION

A number of programs of Federal aid in the field of higher education have as their purpose the improvement of the quality of education and scholarship by providing training for college or high school teachers, or the encouragement of research in teaching techniques. The Commission has looked into two groups of such programs, the first specifically authorized by the National Defense Education Act of 1958 [1] and administered by the United States Commissioner of Education, Department of Health, Education, and Welfare; and the second administered by the National Science Foundation under its general authority to promote education in the sciences.[2] All of these programs involve grants both to individual participants and to institutions of higher education where their studies are conducted. The effect of these programs to improve the quality of education from the standpoint of equal protection of the laws is the subject of this chapter.

NATIONAL DEFENSE EDUCATION ACT PROGRAMS

Four National Defense Education Act programs will be considered: national defense fellowships, counseling and guidance training institutes, foreign language institutes, and research in new educational media. All of these programs fall within the purpose stated in the act,[3] of correcting the existing imbalances in our educational programs which have led to an insufficient proportion of our population educated in science, mathematics, and modern foreign languages. All, moreover, are subject to the following provision: [4]

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[1] National Defense Education Act of 1958, 72 Stat. 1581, 20 U.S.C. secs. 401–589, 42 U.S.C. secs. 1876–79 (1958).

[2] National Science Foundation Act of 1950, 64 Stat. 149, as amended, 42 U.S.C. secs. 1861–75 (1958).

[3] 20 U.S.C. sec. 401 (1958).

[4] 20 U.S.C. sec. 402 (1958). The meaning of this provision has not been made clear, either by court decision or by legislative history. The most pertinent question for present purposes is whether it prohibits a policy of only approving institutions which do not unconstitutionally discriminate on grounds of race, religion, or national origin. The key words in the statute are "direction, supervision, or control" which would not be exercised in making a factual determination of an institution's admission policies. Nor would the

Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

All educational institutions in the United States and its territories are eligible to qualify under all of the National Defense Education Act programs if they can meet the following requirements: [5]

1. Only high school graduates or those holding a recognized equivalent certificate are admitted as regular students;
2. The institution must be legally authorized within the State to provide education beyond high school;
3. The institution must have an educational program for which it awards a bachelor's degree or provide not less than a 2-year program acceptable for full credit toward such a degree;
4. The institution must be a public or nonprofit organization; and
5. It must be accredited by an accrediting agency on the list of such agencies recognized by the Commissioner of Education, or, if not so accredited, its credits must be acceptable on transfer by at least three institutions that have such accreditation.

National defense fellowships

The objective of the national defense fellowships is to increase the facilities available in the Nation for the training of college teachers, and to promote a wider geographic distribution of such facilities throughout the Nation.[6] The Commissioner of Education is granted authority to approve new or expanded programs of graduate studies undertaken by particular institutions for this purpose, and awards 3-year fellowships to individuals accepted by the institution for study in such programs.[7] One thousand new 3-year fellowships were authorized for fiscal year 1959 and 1,500 for each of the fiscal years 1960 through 1962.[8]

Both the fellow and the institution are entitled to compensation under the program.[9] The fellow receives $2,000 the first year, $2,200 the second year, and $2,400 for the third year, plus $400 a year for each dependent.[10] The institution at which the fellow is studying receives the amount, not exceeding $2,500 per academic year, determined

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Commissioner seem to be exercising "direction, supervision, or control" of an institution in refusing to approve it as a suitable place for one of the programs authorized by the statute. Nothing would be changed in the institution's policies or practices which "direction, supervision, or control" requires. In the absence of authoritative indication from the Congress, it seems unlikely that the courts would read the clause other than as suggested for a different reading would raise difficult constitutional questions.

[5] 20 U.S.C. sec. 403 (a)–(b) (1958).
[6] 20 U.S.C. sec. 463(a)(2) (1958).
[7] 20 U.S.C. sec. 462–63(a) (1958).
[8] 20 U.S.C. sec. 462 (1958).
[9] 20 U.S.C. sec. 464 (1958).
[10] 20 U.S.C. sec. 464(a) (1958).

by the Commissioner to constitute the portion of the cost of the new program reasonably attributable to him.[11]

The fellowship is contingent upon the recipient's maintaining satisfactory proficiency in and devoting full time to study or research in the field selected, except part-time employment by the institution in which he is enrolled as a student, in teaching, research, or similar activities, which must be approved by the Commissioner.[12] In the case of this particular program, since awards are only made for study after the baccalaureate degree, no institution, as a practical matter, is eligible unless it has, or proposes to develop, a graduate program. In fact, a 3-year course of specialized study after a baccalaureate degree would seem to have to be pursued in an institution offering a doctor's degree.[13]

A total of $12,569,500 was expended on this program in fiscal 1960,[14] of which $1,396,600 went to 14 public institutions in the 7 States where all or most of the public institutions of higher education are compulsorily segregated.[15] As is shown by table 10, 64.6 percent of this amount went to 10 segregated white institutions, 9.2 percent to 1 segregated Negro institution, and 26.2 percent to 3 institutions which are desegregated in some degree.

Thus, 73.8 percent of the Federal funds expended in these States for national defense fellowships went to institutions (or to students within such institutions), white and Negro, that discriminate on racial grounds in violation of the Constitution. Moreover, 64.6 percent of the funds go to institutions where there appears to be no chance at all of a qualified Negro being selected as a fellow, both because of the exclusionary admission policy of the institution and because the institution not the Federal Government, selects the fellows. In this respect it differs materially from a civil rights point of view from the National Science Foundation fellows discussed in a later chapter.[16]

In the States of Georgia, Mississippi, and South Carolina, the segregation policies of the State bar Negro students from any possibility of benefiting from the program since it is offered only at segregated white institutions.[17] To a lesser degree the same situation exists in Florida, although the recipient institution there has admitted a few Negroes to the graduate division.[18]

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[11] 20 U.S.C. sec. 464(b) (1958).
[12] 20 U.S.C. sec. 465 (1958).
[13] 20 U.S.C. sec. 464(a) (1958).
[14] Letter to U.S. Commission on Civil Rights from U.S. Department of Health, Education, and Welfare, July 28, 1960.
[15] *Ibid.*
[16] See pt. VII, ch. 4, *infra.*
[17] Letter, *supra,* note 14; Ga. Inst. of Technology and Univ. of Ga.; Miss. State Univ. and Univ. of Miss.; Clemson Agricultural College (S.C.) and Univ. of S.C.
[18] See p. 80, *supra.*

TABLE 10.—*National Defense Fellowships in public colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institutions attended	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total, 7 States
White public institutions:								
Number in which fellows enrolled	1	1	2	0	2	2	2	10
Total funds received	$97,400	$161,000	$153,900	----------	$206,900	$113,000	$169,500	$901,700
Percent of State total	43.2%	66.5%	100%	----------	100%	100%	56%	64.6%
Negro public institutions:								
Number in which fellows enrolled	1	0	0	0	0	0	0	1
Total funds received	$128,300	----------	----------	----------	----------	----------	----------	$128,300
Percent of State total	56.8%	----------	----------	----------	----------	----------	----------	9.2%
Desegregated public institutions:								
Number in which fellows enrolled	0	1	0	1	0	0	1	3
Total funds received	----------	$81,200*	----------	$152,400*	----------	----------	$133,000	$366,600
Percent of State total	----------	33.5%	----------	100%	----------	----------	44%	26.2%
All public institutions:								
Number in which fellows enrolled	2	2	2	1	2	2	3	14
Total funds received	$225,700	$242,200	$153,900	$152,400	$206,900	$113,000	$302,500	$1,396,600

*Negroes admitted only to graduate division.

Source of data: U.S. Department of Health, Education, and Welfare.

The Commission asked the Department of Health, Education, and Welfare whether in the administration of this, and other programs under the National Defense Education Act, the Commissioner of Education takes into consideration the presence or absence of discrimination on the grounds of race, religion, or national origin in the admission policies and practices of the institution concerned. Further, if he did not, the reason, if any, for ignoring possible discrimination on the part of a recipient of Federal funds.[19] At the date of writing no reply has been received.

Guidance and counseling

The Commissioner of Education is authorized by the National Defense Act to enter into contracts with higher educational institutions to conduct short-term or regular-session institutes in counseling and guidance of students in secondary schools for teachers preparing for such work.[20] The underlying purpose, of course, is to train school personnel to identify the sometimes only latent talent of the youth of the Nation so that they may be guided into opportunities for advanced education and into careers that will be satisfying to them and of value to the Nation. A total of $7,250,000 was authorized for each of the fiscal years 1960 through 1962, and a lesser sum for fiscal 1959.[21] In fact, $5,479,019 was disbursed for this program in fiscal 1960.[22]

An institution selected by the Commissioner to conduct one of these institutes is subject to the same limitations as in the case of the national defense fellowship program.[23] except that it does not have to have a graduate school. It is sufficient in this case, and in the other National Defense Education Act programs discussed immediately hereinafter, that the institution provide an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree.[24]

Persons engaged or preparing to engage in guidance work in a public school who are accepted by an institute are entitled to receive a stipend of $75 per week for the period of attendance at an institute and an additional $15 per week for each dependent.[25] Again, the institution in which the institute is held, not the Federal Government, handles applications for admission.

In the 7 States being examined, 11 counseling and guidance institutes were held in the fiscal year 1960.[26] As appears in table 11, seven

[19] Letter from the U.S. Commission on Civil Rights, Oct. 12, 1960.
[20] 20 U.S.C. sec. 491 (1958).
[21] *Ibid.*
[22] Letter, *supra* note 14.
[23] 20 U.S.C. sec. 403(b) (1958), see p. 193, *supra.*
[24] *Ibid.*
[25] 20 U.S.C. sec. 491 (1958).
[26] Letter, *supra* note 14.

TABLE 11.—*Counseling and Guidance Institutes in public colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institutions in which institutes held	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total, 7 States
White public institutions:								
Number in which institutes held	1	1	1	----	1	1	2	7
Total funds received	$40,073	$37,980	$105,392	----	$42,960	$33,907	$51,532	$311,844
Fraction of State total	100%	13.5%	100%	----	100%	100%	23.9%	40%
Negro public institutions:								
Number in which institutes held	0	0	0	0	0	0	0	0
Total funds received	----	----	----	----	----	----	----	----
Fraction of State total	----	----	----	----	----	----	----	----
Desegregated public institutions:								
Number in which institutes held	0	1	0	1	0	0	2	4
Total funds received	----	[1] $244,297	----	[1] $60,005	----	----	$164,288	$468,590
Fraction of State total	----	86.5%	----	100%	----	----	76.1%	60%
All public institutions:								
Number in which institutes held	1	2	1	1	1	1	4	11
Total funds received	$40,073	$282,277	$105,392	$60,005	$42,960	$33,907	$215,820	$780,434

[1] Negroes admitted only to graduate division.

Source of data: U.S. Department of Health, Education, and Welfare.

of these, located in five States, were in institutions to which only white persons are admitted under State or institutional policy, and four were in desegregated universities in three States. Two of the latter accept Negro students only at the graduate level and, as pointed out above, this program is not necessarily so classified.

Thus, in four, and possibly six of the seven States, none of the funds dispensed under the program were in any way available to Negro teachers since they went to institutions that deny admission to Negroes. Since Negro teachers only are employed in all-Negro schools in these States, it is pertinent to compare the ratio of the white and Negro population in these States with the percent of Federal funds expended in the State to train white and Negro teachers for counseling and guidance at Federal expense.

TABLE 12.—*Percentage of Federal funds for guidance and counseling by racial classification of institution receiving funds compared with racial composition of population, fiscal year 1960*

[Percent of funds received]

State	White	Negro	Desegregated	State Population [1]	
				White	Negro
Alabama	100	0	0	68.8	31.2
Florida	13.5	0	[2] 86.5	81.9	17.9
Georgia	100	0	0	70.9	29.1
Louisiana	0	0	[2] 100	67.5	32.5
Mississippi	100	0	0	58.0	42.0
South Carolina	100	0	0	64.4	35.6
Texas	23.9	0	76.1	87.6	12.4

[1] 1960 census (preliminary figures).
[2] Desegregated in graduate division only.

It is difficult to conclude that there is no talent of use to the Nation to be identified and developed among a group constituting 31 percent of the people of Alabama, 18 percent of the people of Florida, 29 percent of the people of Georgia, 42 percent of the people of Mississippi, and 36 percent of the people of South Carolina.

Language institutes

The United States Commissioner of Education is given similar authority by the National Defense Education Act to enter into contracts with higher educational institutions for the operation of short-term or regular-session institutes for advanced training for the teaching, supervising, or training of teachers of any modern foreign language in elementary and secondary schools.[27] The purpose of the program is to improve the quality of teaching of modern foreign languages in the elementary and secondary schools of the Nation to the end that the needs of business, industry and government for em-

[27] 20 U.S.C. sec. 521 (1958).

TABLE 13.—*Language Institutes in public colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institutions in which institutes held	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total, 7 States
White public institutions:								
Number in which institutes held	1	0	1		0	0	0	2
Total funds received	$67,248		$81,421					$148,669
Percent of State total	100%		100%					45.7%
Negro public institutions:								
Number in which institutes held	0	0	0	0	0	0	0	0
Total funds received								
Percent of State total								
Desegregated public institutions:								
Number in which institutes held	0	0	0	1	0	0	1	2
Total funds received				[1] $82,458			$94,369	$176,827
Percent of State total				100%			100%	54.3%
All public institutions:								
Number in which institutes held	1	0	1	1	0	0	1	4
Total funds received	$67,248		$81,421	$82,458			$94,369	$325,496

[1] Negroes admitted only to graduate division.

Source of data: U.S. Department of Health, Education, and Welfare.

ployees able to speak, read, and write in the language of other nations may be fulfilled.

The institutions selected by the Commissioner must meet the same requirements as in the case of guidance and counseling institutes.[28] Again, each individual engaged or preparing to engage in such occupation in a public school is eligible to apply for and receive a stipend of $75 per week during attendance at the institute for himself, and $15 per week for each dependent.[29] Admission to an institute in this case also is handled by the institution in which it is held.

A total of $7,250,000 was authorized for each of the fiscal years 1959–62,[30] but in fact only $3,319,746 was expended in fiscal 1960.[31]

Only four language institutes were held in the seven States in the fiscal year 1960, two in segregated universities admitting only white persons and two in desegregated institutions. In dollars, a total of $325,496 of Federal funds were expended, of which $148,669 went to support the segregated white institutes and $176,827 to the institutes held in the desegrated universities. (See table 13.) One of the latter, receiving $82,458, accepts Negro students only at the graduate level and this program is not necessarily so classified. At least 45.7 percent of the Federal funds, and more probably 71.1 percent, were expended for this program in these States in institutions excluding Negro teachers.

Educational media

The National Defense Education Act also authorizes the Commissioner of Education to encourage research and experimentation in the development and evaluation of projects involving the use of television, radio, motion pictures, and related media in education at all levels.[32] The Commissioner may make grants-in-aid or enter into contracts with public or nonprofit agencies, organizations, and individuals for such research with the approval of an advisory committee set up for that purpose.[33] The Advisory Committee is composed of the Commissioner of Education as Chairman, a representative of the National Science Foundation, and 12 persons appointed by the Commissioner with the approval of the Secretary of the Department of Health, Education, and Welfare.[34]

The purpose of the program is clarified by the statutory provision with regard to the selection of the Advisory Committee. Three are required to be individuals identified with the sciences, liberal arts, or modern foreign languages in institutions of higher education; three must be engaged in teaching or supervising teaching in elementary or

[28] 20 U.S.C. sec. 403(b) (1958); see p. 193, *supra*.
[29] 20 U.S.C. sec. 521 (1958).
[30] *Ibid.*
[31] Letter, *supra*, note 14.
[32] 20 U.S.C sec 541 (1958).
[33] 20 U.S.C. sec. 542 (1958).
[34] 20 U.S.C. sec. 561 (1958).

secondary schools; and three are to be persons of ability in the use or adaption of television, radio, motion pictures, or related media of communication for educational purposes.[35]

Colleges and universities with which contracts are made under this program or to which grants-in-aid ar awarded must satisfy the same requirements as those in which other institutes under the National Defense Education Act may be held.[36]

A total of $5 million for the fiscal years 1960 through 1962 was authorized for this program, and a lesser sum for fiscal 1959,[37] but this sum includes the expense to the Office of Education in carrying out its functions under the program, which include dissemination of information on new educational media.[38] In the fiscal year 1960, $3,099,999 went to colleges and universities for research and experimentation, either by contract or by grant.[39]

In the seven States, nine public colleges and universities received Federal support for such projects in the fiscal year 1960. As is shown in table 14, following, five were undertaken by segregated white institutions in five States, two in segregated Negro colleges in two States, and two in desegregated institutions in two States.[40] There was none in the State of South Carolina. In dollars, the Federal Government spent $240,994 on this program in public colleges and universities in six of the States being considered. Of this total sum, $160,133 went to segregated white institutions, $23,685 to segregated Negro schools, and $57,176 to desegregated institutions.

At its Second Annual Conference on Problems of Schools in Transition From the Educator's Viewpoint, held in Gatlinburg, Tenn., in March 1960, the Commission learned something of the utility of television in a public school system to bring specialized talents into the classroom, to provide remedial programs where needed and to offer courses for small numbers of able learners in scattered schools for whom classes could not otherwise be offered.[41] These problems are probably even more acute in the segregated Negro schools of these States than in the segregated white schools as the relative accreditation status of their white and Negro high schools attests.[42] Exclusion of future Negro teachers from institutions working on the solution of problems of the use of television in education seems to compound the deficiencies of the segregated Negro public schools.

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[35] *Ibid.*

[36] 20 U.S.C. sec. 403(b) (1958), see p. 193, *supra.*

[37] 20 U.S.C. sec. 563 (1958).

[38] *Ibid.*

[39] Letter, *supra,* note 14.

[40] *Ibid.*

[41] Conference Before the U.S. Commission on Civil Rights, "Second Annual Conference on Problems of Schools in Transition from the Educator's Viewpoint," 208–09, 212–15 (1960).

[42] See app. H.

TABLE 14.—*Educational media programs in public colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institution receiving grant	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total, 7 States
White public institutions:								
Number having program	1	1	1	0	1	0	1	5
Total funds received	$74,513	$39,653	$13,200	----	$30,267	----	$2,500	$160,133
Percent of State total	100%	60.7%	100%	----	100%	----	5.4%	66.5%
Negro public institutions:								
Number having program	0	1	0	1	0	0	0	2
Total funds received	----	$12,134	----	$11,551	----	----	----	$23,685
Percent of State total	----	18.6%	----	100%	----	----	----	9.8%
Desegregated public institutions:								
Number having program	0	1	0	0	0	0	1	2
Total funds received	----	$13,500	----	----	----	----	$43,676	$57,176
Percent of State total	----	[1] 20.7%	----	----	----	----	94.6%	23.7%
All public institutions:								
Number having program	1	3	1	1	1	0	2	9
Total funds received	$74,513	$65,287	$13,200	$11,551	$30,267	----	$46,176	$240,994

[1] Negroes only admitted to graduate division.

Source of data: Department of Health, Education, and Welfare.

In the case of this program for research and experimentation in new educational media, the Federal Government is subsidizing segregated institutions as compared with desegregated institutions in the ratio of 3 to 1.

NATIONAL SCIENCE FOUNDATION INSTITUTES

Another Federal program to improve the quality of teaching is found in the institutes program of the National Science Foundation, created in recognition of the important role of high school and college teachers in developing the scientific manpower potential of the Nation.

The National Science Foundation (NSF) is an independent agency within the executive branch of the Federal Government, established by Congress in 1950 to develop and encourage a national policy for the promotion of basic research and education in the sciences.[43] It is governed by a board of 24 members appointed by the President with the advice and consent of the Senate. The Director is similarly appointed.[44] Congress expressly authorized the Foundation to support basic scientific research by making contracts or through other arrangements, including grants,[45] and to award scholarships and graduate fellowships.[46] In carrying out its duties, the Foundation is admonished by the Congress "to strengthen basic research and education in the sciences * * * throughout the United States * * * and to avoid undue concentration of such research and education." [47] Its institutes program, however, appears to have been undertaken under NSF's general statutory authority "to develop and encourage the pursuit of a national policy for the promotion of basic research and education in the sciences." [48]

No legislative prescriptions limit NSF in its execution of this directive except this general instruction to promote education in the sciences.

The institutes are designed to strengthen the subject matter competence of science, mathematics, and engineering teachers. The program includes the following types of institutes, all of which are conducted by higher educational institutions under grants-in-aid from the National Science Foundation.[49]

1. Academic year institutes primarily for high school teachers;
2. Inservice institutes for both secondary and college teachers;
3. Inservice institutes for elementary school teachers;
4. Summer institutes for elementary school teachers; and
5. Summer conferences for high school teachers.

[43] 42 U.S.C. sec. 1861–62 (1958).
[44] 42 U.S.C. sec. 1863 (1958).
[45] 42 U.S.C. sec. 1862(a)(3) (1958).
[46] 42 U.S.C. sec. 1862(a)(4) (1958).
[47] 42 U.S.C. sec. 1862(b) (1958).
[48] 42 U.S.C. sec. 1862(a)(1) (1958).
[49] Letter to U.S. Commission on Civil Rights from the National Science Foundation, Sept. 2, 1960.

The Foundation grant for each institute covers the cost of tuition, fees, stipends, and allowances. The institution holding an institute selects the teacher participants and determines the amount of the stipends and allowances. For the summer institutes the maximum stipend is $75 per week plus $15 for each dependent up to four; the maximum travel allowance is $80, calculated at 4 cents per mile for one round trip between the participant's home and the institute. The Foundation permits institutes to offer smaller sums in order to accommodate more teachers.[50] The academic-year institutes are handled in a similar manner, but in this case the stipend to the individual participating is $3,000 per year plus $450 for each dependent up to four.[51] The inservice training institutes carry no stipend, but cover the expense of attendance.[52]

Although not required by law to do so, the Foundation has established advisory panels composed of distinguished scientists and scholars which make recommendations to the Foundation with respect to requests for support. These panels review the proposals submitted and evaluate them solely on the basis of merit. Further review is given by the Foundation staff before a decision is made as to whether or not support will be granted. Each grant is usually accompanied by a letter of understanding setting forth certain conditions with respect to the use of the funds.[53] It is pertinent with relation to equal protection of the laws that a standard provision of such agreements is that teacher participants not be limited to residents of the State,[54] but the maximum travel allowance of $80 calculated at 4 cents a mile would have the effect of imposing a limitation to those living within a radius of 1,000 miles.

There were 648 institutes held throughout the United States in fiscal year 1960, and 31,137 high school and college teachers of science, mathematics, and engineering received financial assistance to attend these institutes at a total cost to the Federal Government of $90,395,-305.[55] Sixty-nine of these institutes, attended by approximately 3,400 teachers and costing $3,980,020, were held in the 7 Southern States.[56]

Of the 69 institutes conducted by 33 public colleges and universities in the 7 States under consideration, 42 were conducted by 21 institutions limiting enrollment to white tachers; 12 were in 6 institutions admitting only Negroes; and 15 were in 6 desegregated institutions. The average size of an institute under this program is 50 teachers.[57]

[50] National Science Foundation, *8th Annual Report, 1958* at 55 (1959).
[51] National Science Foundation, "Academic Year Institutes for Science and Mathematics Teachers," Announcement for 1960.
[52] National Science Foundation "1960–61 In Service Institutes for Teachers of Science and Mathematics," Announcement for 1960.
[53] Letter to U.S. Commission on Civil Rights from the National Science Foundation, Oct. 5, 1960.
[54] *Ibid.*
[55] *Ibid.*
[56] Letter, note 49, *supra.*
[57] National Science Foundation, *8th Annual Report, 1958* at 55 (1959).

This means, therefore, that approximately 2,000 white teachers had the benefit of retraining in the subject they teach; 600 Negro teachers were similarly retrained; and institutes accommodating about 750 teachers were held in institutions to which applicants were admitted without regard to race. In dollars, as appears from table 15 following, $2,251,080 of Federal funds was granted to segregated white institutions, $462,050 to segregated Negro institutions, and $1,266,089 to desegregated institutions. This means that all but 31.8 percent of the Federal funds for this program in these States subsidized segregation. The extent of actual desegregation in two institutions receiving a total of $599,130 for eight institutes, listed as desegregated, is limited to graduate programs. Whether the institutions conducting institutes consider them to be graduate programs is not known. Since they are essentially refresher courses in subjects taught in the undergraduate division it seems probable that they are so classified.

As in the case of the National Defense Education Act language institutes discussed earlier,[58] the principal purpose of the NSF institutes program is to improve the competence of the teacher in the public high schools and colleges of the Nation. In the seven States, elementary and secondary schools are completely segregated by race except in the States of Florida and Texas. In Florida, very limited desegregation has occurred at the elementary school level in one county school district.[59] In Texas, approximately 124 school districts, with a very low percentage of Negro pupils, out of a total of 722 school districts in the fall of 1959 were desegregated prior to the passage of a State law requiring a favorable vote of the people of the school district before any further desegregation plans could be put into effect.[60] This effectively halted the desegregation progress in Texas until September 1960. In all of these States, including Florida and Texas, only white teachers are assigned to white or predominantly white schools, and Negro teachers to schools attended only or largely by Negroes.

The NSF institutes program for the fiscal year 1960 will be examined State by State to determine its effectiveness in this area of the country in its purpose of improving the subject-matter competence of all teachers of all the children of the State.

Alabama

Three institutes, retraining approximately 150 white teachers, were held. There are about 8,200 Negro public school teachers in the State as compared with 16,500 white teachers.[61] The program, therefore,

[58] See pp. 198–200, *supra*.

[59] Southern Education Reporting Service, "Status of School Segregation-Desegregation in the Southern and Border States" 7 (1960).

[60] See *1959 Report* at 204, 296.

[61] Southern Education Reporting Service, "Southern Schools: Progress and Problems" 128 (1959).

TABLE 15.—*National Science Foundation—All types of institutes[1] in public colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institutions in which held	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total, 7 States
White:								
Number of institutions	3	1	1	4	3	2	7	21
Total funds	$331,710	$162,940	$393,550	$598,700	$398,160	$233,810	$530,710	$2,649,580
Percent	100%	44.8%	89.5%	66.2%	100%	67.9%	44.3%	66.6%
Negro:								
Number of institutions	0	0	1	2	0	1	2	6
Total funds			46,200	145,040		110,570	160,240	462,050
Percent			10.5%	16%		32.1%	13.4%	11.6%
Desegregated:								
Number of institutions	0	1	0	1	0	0	4	6
Total funds		200,630		160,590			507,170	868,390
Percent		55.2%		17.8%			42.3%	21.8%
All State institutions:								
Number of institutions	3	2	2	7	3	3	13	33
Total funds	$331,710	$363,570	$439,750	$904,330	$398,160	$344,380	$1,198,120	$3,980,020

[1] The NSF supports the following types of institutes: Academic year (primarily for high school teachers); inservice, both for secondary and college teachers and also for elementary school teachers; summer, for same groups as inservice; summer conference, for high school teachers.

Source of data: National Science Foundation (NSF).

completely excluded about one-third of the public school teachers of the State from any possibility of participating in the program.

Florida

Two institutes were held at Florida's 2 white universities in fiscal 1960, improving the competence of about 100 white teachers. There are about 6,100 Negro teachers in Florida as compared with some 21,200 white teachers.[62] Since one of these institutions is completely segregated and the other, credited with desegregation, has admitted a few Negroes, but to its graduate division only, over one-fourth of the public school teachers in the State seemingly were excluded from any real chance of participation in the institutes held in 1960.

Georgia

Two institutions in Georgia held institutes in fiscal 1960; one segregated white institution held four institutes, and one segregated Negro institution held one institute. Although the average size of an institute on a national basis is 50 persons, since the white institution received grants from the Foundation totaling over 8 times the size of the grant to the Negro institution it seems doubtful that the average applies in this case. It seems more probable that eight times more white teachers than Negro teachers were retrained.

In Georgia there are about 9,000 Negro teachers and some 20,700 white teachers.[63] If, without regard to segregation, the schoolchildren of Georgia of both races were to receive equal benefit from this Federal program, 9 Negro teachers should have had the opportunity to attend an institute for every 20 white teachers, instead of 1 Negro teacher for every 8 white teachers.

Louisiana

Seven institutions in Louisiana held 16 institutes. Three segregated white institutions held 4 institutes; 2 segregated Negro institutions also held 4 institutes; and 3 desegregated institutions conducted a total of 8 institutes. One desegregated institution holding 4 institutes admits Negroes only to graduate programs. Whether or not these institutes were so considered by this university is not known. It was suggested above that, in general, they probably are not. If, however, they were, it may be said that, as a result of desegregation and the number of segregated institutes provided for, teachers of both races had opportunities to attend institutes in Louisiana financed with Federal funds. The ratio of white to Negro teachers in the State is two white to one Negro.[64]

[62] *Ibid.*
[63] *Ibid.*
[64] *Ibid.*

Mississippi

Three segregated white colleges in Mississippi conducted four institutes accommodating approximately 200 white teachers. The high density of the Negro population is reflected in the teaching personnel of the schools. There are approximately 6,900 Negro teachers, compared with 9,800 white teachers.[65] No Negro teacher, however, secured any benefit from this program in Mississippi.

South Carolina

Five institutes were held in two segregated white colleges in South Carolina, and two in the only public college for Negroes in the State. This means that approximately 250 white teachers received additional training in the subjects they teach, while only 100 Negro teachers had this opportunity. Since there are about 11,700 white teachers and 7,400 Negro teachers in the State,[66] it is clear that too few Negro teachers were accommodated.

Texas

There were a total of 23 institutes held in 13 institutions in Texas in fiscal year 1960; 11 in 7 segregated white colleges, 5 in 2 segregated Negro colleges, and 7 in desegregated institutions. This means that about 550 white teachers and 250 Negro teachers attended segregated white and Negro institutes, respectively, and 350 teachers of both races were able to attend institutes held in desegregated colleges.

The low ratio of the Negro to white population in large parts of the State is reflected in the number of white and Negro teachers—60,500 to 8,900, respectively.[67] On the basis of these figures, it is clear the racial minority was not deprived of the benefit of the Federal program in this case.

Although, as a result of the racial segregation policies of the States, all Negro teachers were excluded from the benefit of the institutes program in the States of Alabama, Mississippi, and possibly also Florida, and proportionately fewer Negro teachers had an opportunity to attend institutes held in the States of Georgia and South Carolina, the possibility of attending an institute held outside of the State conducted by an institution not practicing racial exclusion may have been a mitigating circumstance. It is to be hoped that it was. If it was not, however, not only was 68.2 percent of the total cost of the program to the Federal Government in fiscal 1960 used to support segregation, but, in Alabama, Florida, Georgia, Mississippi, and South Carolina, the existing disparity between the public schools for white children and the public schools for Negro children was magnified by

[65] *Ibid.*
[66] *Ibid.*
[67] *Ibid.*

providing special training for proportionately more white teachers than Negro.

The Commission asked the National Science Foundation whether it has any policy with regard to possible discrimination on the grounds of race, religion, or national origin in institutions in which its institutes are held or to which research funds are granted. The Commission also inquired, in event NSF has no policy in this respect, the reason, if any, for the absence of such a policy. In reply, the National Science Foundation informed the Commission: [68]

> Foundation support for institutes for teachers in elementary schools, secondary schools and colleges is accomplished through grants to educational institutions on the basis of proposals submitted outlining the work to be offered. Institutions receiving grants are responsible for the administration of the institute program, including selection of courses, seminar, activities, etc. These programs are part of the Foundation's effort to strengthen scientific research potential in the various sciences and are also subject to the requirements set forth in Section 3(b) of the Foundation Act quoted above. [Sec. 3(b) of the National Science Foundation Act of 1950 directed the Foundation to avoid undue geographic concentration of research and education in the sciences in carrying out its duties.]
>
> The Foundation's letter of understanding accompanying its institute grants states that the primary criterion for selection of participants should be the capacity of the applicant to develop as a teacher and to profit from the program.
>
> In general, awards are made in support of those programs judged to be most meritorious. However, in cases of substantially equal merit, factors such as geographic and subject matter balance in the program are considered, and institutions which do not practice discrimination are given preference over those in which discrimination is believed to exist. As in the case of Foundation-supported research, unilateral action by the Foundation could result in a substantial geographic gap with respect to the strengthening of education in the sciences throughout the Nation.

The Foundation's policy in selecting institutions in which institutes are placed of giving preference to institutions which do not discriminate over those in which desegregation is believed to exist is commendable, but not a complete answer to the problem. Do the institutions selected because they are believed not to discriminate know they were preferred for this reason? The extension of constitutional practice would certainly be strengthened by knowledge of the fact.

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[68] Letter to U.S. Commission on Civil Rights, from the National Science Foundation, Nov. 21, 1960.

CHAPTER 3

FEDERAL AID TO HIGHER EDUCATIONAL INSTITUTIONS FOR THE PROMOTION OF PARTICULAR STUDIES

Federal aid to higher educational institutions to promote particular studies began almost 100 years ago with grants for sponsorship of agricultural and mechanical science. Congressional interest in this field has never waned. In more recent years, research in public health and medicine, the basic physical, biological, nuclear, and space sciences have been added.

The Assistant Commissioner and Director of the Division of Higher Education, U.S. Office of Education recently said: [1]

> Five Federal agencies conduct major research programs, using U.S. universities as the principal resource. This year they will spend at least $750 million for such research, $450 million directly in universities and the remaining $300 million in research centers associated with universities. As a result, more than 70 percent of all research conducted by our universities is federally financed: 86 percent of all university research in the physical sciences and 25 percent in the social sciences.

To appraise the impact of Federal programs for the promotion of particular studies on equal educational opportunity of the residents of the seven States, the Commission has selected two groups of programs: (1) those centered in the land-grant colleges and (2) three basic research programs in fields other than agriculture.

LAND-GRANT COLLEGE PROGRAMS

By far the oldest and most numerous group of programs in support of particular studies are those designed to aid higher education in agricultural and mechanical science and military tactics in the land-grant colleges and universities. Land-grant colleges were originally set up in the various States to take advantage of funds for the permanent endowment of such colleges offered by the Federal Government in the first Morrill Act of 1862.[2] In 1887, the Hatch Act [3] authorized Federal subsidies for agricultural research stations at the land-grant colleges. In 1890, additional funds for the more complete endowment and support of the land-grant colleges were authorized by

[1] U.S. Department of Health, Education, and Welfare, *Higher Education,* vol. XVII, No. 1, p. 4 (Sept. 1960).

[2] Act of July 2, 1862, 12 Stat. 503, as amended, 7 U.S.C. secs. 301–08 (1958).

[3] Hatch Act of 1887, 24 Stat. 440, as amended, 7 U.S.C. secs. 361a–3611 (1958).

the second Morrill Act.[4] In 1914, Congress first provided for agricultural extension work conducted by the land-grant colleges in cooperation with the Department of Agriculture.[5] The Bankhead-Jones Act of 1935 [6] expanded the agricultural research program first authorized in 1887. Agricultural marketing research became the subject of congressional concern in 1946, and the facilities of the State agricultural experiment stations and State extension services were selected to carry it out.[7]

This long series of laws resulted in three types of programs centered in land-grant colleges: direct support for the institutions as such, support of agricultural research experiment stations at such institutions, and support of agricultural extension work by the institutions. All of these programs still exist and are carried out in the 50 States with Federal financial assistance. Some, originally administered by the Department of the Interior, are now the responsibility of the Secretary of Health, Education, and Welfare.[8] Others from their beginning have been within the Department of Agriculture.

Unique equal protection problems exist with relation to these programs as a result of the combination of four factors: (1) the original Federal sanction of separate land-grant colleges for Negroes, which was taken advantage of by the 17 States; (2) the grant of authority by Congress to State legislatures to select, where there was more than 1 land-grant college, the one which would execute the agricultural research and extension work; (3) the designation by all the State legislatures of the white land-grant college to carry out the programs; and (4) the maintenance of continued compulsory racial segregation in the land-grant colleges of some of the 17 States 4 years after the last lingering hope that the principles enunciated by the Supreme Court did not apply to higher educational institutions was shattered by that Court's decisions in the *Frazier* [9] and *Hawkins* [10] cases.

In financial aid to these programs in or connected with the land-grant colleges and universities of the Nation, the Federal Government expended the following in fiscal 1960:[11]

Morrill-Nelson and Bankhead-Jones Acts	$5, 051, 500
Hatch Act, as amended	24, 445, 708
Regional Research Funds	5, 894, 500
Agricultural Marketing Act	1, 993, 131
Smith-Lever Act of 1914, as amended	52, 043, 684
Total	$89, 428, 523

[4] Act of Aug. 30, 1890, 26 Stat. 417, 7 U.S.C. secs. 321–26, 328 (1958).
[5] 38 Stat. 372 (1914), 7 U.S.C. sec. 341 (1958).
[6] 49 Stat. 438, 7 U.S.C. sec. 343c (1958).
[7] 60 Stat. 1082 (1946), 7 U.S.C. sec. 427 (1958).
[8] Exec. Order No. 9069, 12 *Fed. Reg.* 4534 (1947).
[9] See pp. 43–45, *supra.*
[10] See pp. 45–46, *supra.*
[11] Letter to U.S. Commission on Civil Rights from U.S. Department of Agriculture, July 28, 1960.

In the seven States that have been used in this part to illustrate the effect of Federal laws and policies on the educational opportunity of their respective white and Negro residents, a total of $18,534,695 was allotted to support land-grant institutions generally and the specific programs listed above.[12] Of this sum, all but $629,086, representing Morrill-Nelson Act and Bankhead-Jones Act funds, went exclusively to the land-grant colleges for white students which are strictly segregated in each case. The excepted funds, which are about 3 percent of the total, are divided equitably between the white and Negro institutions as required by Federal law.

Funds for support of land-grant institutions as such

The origin and development of separate land-grant colleges for white and Negro students was traced in an earlier chapter.[13] The provision for separate colleges for whites and Negroes appeared in the second Morrill Act of 1890,[14] which authorized an appropriation of $50,000 annually to each State for the more complete endowment and maintenance of the land-grant colleges originally sponsored in 1862. This law contains the express provision that no money should be paid to any State or Territory "for the support or maintenance of a college where a distinction of race or color is made in the admission of students." [15]

It was further provided, however, that "the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of said section if the funds received by such State or Territory be equitably divided as hereinafter set forth * * *." [16] The legislature of each State maintaining separate colleges for whites and Negroes is authorized to propose a just and equitable division of the fund for the State "which shall be divided into two parts and paid accordingly * * *." [17]

In the event any of the funds received under the act "for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students * * * shall * * * be diminished or lost, or be misapplied," no subsequent appropriation shall be paid to the State until it has been replaced.[18] Use of funds for the purchase, erection, preservation, or repair of buildings is expressly prohibited.[19] The Secretary of Health, Education, and Welfare is required to certify to the Secretary of the Treasury each year

[12] *Ibid.*
[13] See pt. I, ch. 1, *supra.*
[14] 7 U.S.C. sec. 323 (1958).
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] 7 U.S.C. sec. 325 (1958).
[19] *Ibid.*

whether a State is entitled to receive funds and the amount each is entitled to receive.[20]

If the Secretary of Health, Education, and Welfare withholds certification of any State, he is required to report the facts and reasons therefor to the President and the amount involved must be kept separate in the Treasury until the close of the next Congress to permit the State to appeal to Congress. If the next Congress does not direct "such sum to be paid [to the State] it shall be covered into the Treasury." [21]

By subsequent amendments, additional appropriations were provided for the land-grant colleges, so that, since 1952, $1 million has been payable to the several States, including Alaska and Hawaii, then Territories, in equal shares, and $1,501,500 to be allotted and paid in the proportion which the total population of each State bears to the total population of all States as shown in the last preceding census.[22]

This additional authorization of grants-in-aid is in supplementation of the second Morrill Act appropriations and subject to the provisions of that law as to the use and payment of funds.[23]

The total sum granted to all land-grant colleges under the above laws in fiscal 1959 was $5,051,500.[24] The total appropriation for fiscal 1960 was the same. The total amount received by the seven States under study was $629,086.[25] Five of the seven States being considered [26] (and the nine other Southern States maintaining separate Negro or predominantly Negro colleges) [27] have made an equitable division of the funds provided between the white and Negro colleges as required by law by allocating it in the same proportion as the two races bear to each other in the general population; the other two States [28] have made an even more generous allocation by dividing the funds equally between white and Negro colleges.

It may be noted that the United States Office of Education in the Department of Health, Education, and Welfare, which administers the program, has no discretion in the allocation of funds among the States, nor within States with more than one land-grant institution. The first division is governed by statutory formula; the second is left to the State legislatures. If the Commissioner of Education were to find that the allocation made by a particular State failed to meet the

[20] 7 U.S.C. sec. 326 (1958); Exec. Order No. 9069, 12 *Fed. Reg.* 4534 (1947).
[21] *Ibid.*
[22] U.S. Department of Health, Education, and Welfare, "Federal Funds for Education 1956–57 and 1957–58" at 37 (1959).
[23] 7 U.S.C. sec. 329(b) (1958).
[24] Letter to U.S. Commission on Civil Rights from U.S. Department of Health, Education, and Welfare, July 28, 1960.
[25] *Ibid.*
[26] Letter, *supra*, note 24, designating Alabama, Georgia, Louisiana, Mississippi, and Texas.
[27] Arkansas, Delaware, Kentucky, Maryland, Missouri, North Carolina, Tennessee, and Virginia.
[28] Letter, *supra*, note 24, designating Florida and South Carolina.

"equitable" standard, he might withhold that State's funds, and leave it to the State to appeal to Congress. However, as has been pointed out, the allocations actually made are, in fact, equitable.

While simple equity is thus satisfied by the program, such equity is no longer sufficient to meet the requirements of the Constitution, and probably not the terms of the second Morrill Act, upon which the maintenance of separate Negro and white land-grant colleges depends. That act, it will be remembered, prohibits the use of funds "for the support or maintenance of a college where a distinction of race or color is made in the admission of students," but, in accordance with the interpretation of the equal-protection clause prevailing in 1890, allows the maintenance of separate colleges for the two races to satisfy this prohibition. It does not today. Since the proviso appears ineffective in the light of the Supreme Court's decisions, it can be argued that Federal funds must be withheld in event of compulsory segregation in view of the statutory requirement that there be no distinction of race or color in the admission of students. Read in terms of modern concepts of the Constitution, the second Morrill Act appears to prohibit the use of Federal funds to maintain racially separate land-grant colleges where the separation of students by race is compulsory.

Funds for research: Agricultural research experiment stations

Three years before the passage of the second Morrill Act, Federal funds for the establishment of agricultural research stations in each State were authorized by the Hatch Act of 1887.[29] The land-grant colleges were selected to carry out the new function and, in any State in which more than one such college had been established, the Federal funds were to be divided between such institutions as the legislature of the State directed.[30]

At the time of the adoption of this law, three Southern States had established separate land-grant colleges for Negroes under the first Morrill Act and allocated to them a portion of the income from the endowment received thereunder.[31] Under the Hatch Act, however, the legislatures of each of these States designated the white land-grant college as the agricultural research station for the State.[32] In the other 14 Southern States where land-grant colleges for Negroes had not yet been established, the white institution automatically became the beneficiary.

When the Negro land-grant colleges were created in the other States after the adoption of the second Morrill Act, in no case was any change made in the designation of the white land-grant college as the

[29] *Supra*, note 3.
[30] 7 U.S.C. sec. 361h (1958).
[31] Mississippi, South Carolina and Virginia. See pp. 7–8, *supra*.
[32] Miss. Code sec. 6698 (1942); S.C. Code sec. 3–25 (1952); Va. Code sec. 3–39 (1950).

only agricultural experiment station in the State, nor did any Federal law then or since require such action. If even the provision of the second Morrill Act requiring equitable division of funds to separate white and Negro institutions had been applied to the special Federal agricultural programs connected with land-grant colleges, the growth and development of the Negro land-grant college would be a different story. But in all legislation since 1890 the Congress has abdicated its authority to the State legislature as it did in the Hatch Act, instead of requiring a just and equitable division of the funds, as it did in the second Morrill Act. The result has been that only the segregated white colleges have had any benefit from the Federal programs supporting agricultural research.

The present statutory provision governing agricultural research stations is a codification of the Hatch Act and five later acts expanding the research programs originally authorized.[33]

The policy of Congress with regard thereto is declared to be to promote "the efficient production and utilization of products of the soil" as indispensable to national prosperity and maximum employment.[34] Congress also expressed its intention "to assure agriculture a position in research equal to that of industry." [35] The object and duty of the State experiment stations is "to conduct original and other researches, investigations and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agricultural industry in the United States." [36] Under the law in effect since 1955, a State is entitled to receive for agricultural research the amount received in fiscal year 1955 plus additional amounts specified by a formula. The formula provides for 20 percent of the total appropriation to be distributed to each State (including Alaska, Hawaii, and Puerto Rico) equally, 26 percent on the basis of relative rural and 26 perecnt on the basis of relative farm population. These sums must be matched by the States on a 50–50 basis.[37]

Twenty-five percent of any appropriation in addition to the funds available in 1955 is to be used for cooperative research by groups of States, such funds to be designated as "regional research fund," and not less than 20 percent for marketing research, in both cases for projects approved by the Secretary of Agriculture.[38] Three percent is made available to the Secretary of Agriculture for administration.[39]

The Secretary of Agriculture is charged with the duty of carrying out the provisions of the law and prescribing necessary rules and

[33] 69 Stat. 671 (1955), as amended, 7 U.S.C. secs. 361a–361i (1958).
[34] U.S.C. sec. 361b (1958).
[35] *Ibid.*
[36] 7 U.S.C. sec. 361b (1958).
[37] 7 U.S.C. sec. 361c(c) (1958).
[38] 7 U.S.C. sec. 361c(c)–(3) (1958).
[39] 7 U.S.C. sec. 361c(c)–(5) (1958).

regulations to that end.[40] The same procedure for certifying entitlement, withholding payments, reporting to the President, and appealing to Congress is specified as in the second Morrill Act.[41] Provision is made for dividing the funds between two or more land-grant colleges in any State (or previously established agricultural stations) as the State legislature shall direct.[42]

The Agricultural Marketing Act of 1946[43] provided additional funds that may be, and in fact are, allotted in part to agricultural research stations. Under this law the Secretary of Agriculture is authorized to make available from funds appropriated by Congress such sums as he deems appropriate for allotment to State departments of agriculture, State bureaus and departments of markets, State agricultural experiment stations, and other appropriate State agencies for cooperative projects in marketing service and marketing research.[44] The agency selected is required to provide an equal sum for such research.[45] The Secretary is directed to make allotments to the agency or agencies best equipped and qualified to conduct the project undertaken and to avoid duplication or overlapping of work within a State.[46] In the event duplication or overlapping occurs after approval of a project and an allotment, the Secretary is instructed to withhold the unexpended balance.[47]

The purpose of this program is to promote, through research, study, experimentation and through the cooperation of Federal and State agencies, farm organizations, and private industry, a scientific approach to the problems of marketing, transportation, and distribution of agricultural products.[48] The subjects to be studied are enumerated in detail.[49]

The Secretary is instructed to make maximum use of existing research facilities owned or controlled by the Federal Government or by State agricultural experiment stations and of the facilities of the Federal and State Extension Services in carrying out the purposes of the act.[50]

It should be noted that in the case of the research funds under this act, as in the case of the regional research fund, the Secretary of Agriculture is given discretion in making allocations to the various States.

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[40] 7 U.S.C. sec. 361g (1958).
[41] *Ibid.*
[42] 7 U.S.C. sec. 361h (1958).
[43] Agricultural Marketing Act of 1946, 60 Stat. 1087, as amended, 7 U.S.C. secs. 1621–27 (1958).
[44] 7 U.S.C. sec. 1623(b) (1958).
[45] *Ibid.*
[46] *Ibid.*
[47] *Ibid.*
[48] 7 U.S.C. sec. 1621 (1958).
[49] *Ibid.*
[50] *Ibid.*

In the fiscal year 1960 the total funds allocated for agricultural research service were: [51]

Hatch Act, as amended	$24,445,708
Regional Research Fund	5,894,500
Agricultural Marketing Act	500,000
Total	$30,840,208

Of these sums, the seven States under consideration received: [52]

Hatch Act, as amended	$4,607,618
Regional Research Fund	821,955
Agricultural Marketing Act	51,400
Total	$5,480,973

In each case the entire State allotment went to the white land-grant college.[53] (See table 16, p. 221.) In each of the seven States this institution still excluded Negro students as a matter of state or institutional policy in the academic year 1959–60.

The importance of agricultural research in the land-grant colleges has been recognized by Congress since 1887, but by its own policies it has made possible the complete denial of all Federal funds to support that research to the separate land-grant colleges for Negroes which it authorized. Research in an educational institution is more than an end product; it is the lifeblood of the institution itself. Funds for research enable an institution to attract outstanding scholars as faculty members and thus improve the educational program. The reputation of faculty members is one of those factors determining the greatness or lesser standing of a college or university. Graduate programs, woefully lacking in the Negro land-grant colleges, might have been developed had they had research funds through the years.

The existence or absence of research projects in an institution also affects employment possibilities for students, since students are customarily employed on a part-time basis as assistants. On the whole, Negro students as part of an economically deprived group probably are in greater need of part-time work during their college years than are white students.

A report of the U.S. Department of Health, Education, and Welfare released in September 1960 [54] shows the results of the Federal policies on the Negro land-grant colleges. There are today 68 land-grant institutions: at least 1 in each State and Puerto Rico and 2 in each of 17 States (Massachusetts and 16 Southern States). Nine land-grant universities have a total income of over $30 million, of which 36.8 percent comes from the Federal Government, 39.0 percent from State Government, and the balance from other sources; 9 fall in the $20 to

[51] Letter, *supra*, note 11.
[52] *Ibid.*
[53] *Ibid.*
[54] U.S. Department of Health, Education, and Welfare, "Statistics of Land-Grant Colleges and Universities," year ending June 30, 1958, at 1, 14–15 (1960).

$29 million group, including 3 in the 7 States; 15 have an income between $10 and $19 million, including the other 4 of the 7 States; 15 are in the $5 to $9 million class. Only 20 are in the "under $5 million" group. "All of the 16 land-grant institutions attended predominantly by Negro students are included. The outstanding characteristic of the group is the high percentage of income from State governments (71.1 percent)." The State support of the Negro land-grant college is relatively high because of the lack of Federal support in research programs.

Funds for agricultural extension work

Land-grant colleges were selected by Congress in 1914 for the development of a program in cooperation with the Department of Agriculture to aid in diffusing among the people useful and practical information on subjects relating to agriculture and home economics.[55] This cooperative extension work by the colleges was to consist in the giving of instruction and practical demonstrations in agriculture, home economics, and related subjects to noncollege students living in the communities around the several colleges.[56] The law provides that in any State having two or more land-grant colleges the State legislature should designate the college or colleges which were to administer the program.[57]

The provisions for allotment of the funds appropriated for this program to the States are rather involved. For present purposes, it is sufficient to know that under the present law each State, including Puerto Rico as well as the new States of Alaska and Hawaii, is entitled to receive annually a sum equal to that received in fiscal 1953 on a 50–50 matching basis,[58] and additional amounts made available by Congress apportioned by a formula that takes into consideration both rural and farm population as compared with the total rural and farm population of the Nation.[59] A small portion, 4 percent, of the amount in excess of the 1953 appropriation is to be allotted by the Secretary of Agriculture on the basis of special need.[60] The allotment of the sum equal to the total appropriation for 1953 is directed to be made on the basis of the then most recent census.[61]

A separate program for disadvantaged agricultural areas is authorized in addition to those described above. Appropriations therefor are additional to the above and shall not exceed 10 percent of

[55] 38 Stat. 373 (1914), as amended, 7 U.S.C. secs. 341–43, 344–48 (1958).
[56] 7 U.S.C. sec. 342 (1958).
[57] 7 U.S.C. sec. 341 (1958).
[58] 7 U.S.C. sec. 343(b)–(c–2) 1958).
[59] 7 U.S.C. sec. 343(c)–(2) 1958).
[60] 7 U.S.C. sec. 343(c)–(1) (1958).
[61] 7 U.S.C. sec. 343(c)–(2) (1958).

the sums otherwise appropriated under the act.[62] The Secretary has the responsibility of determining the areas in special need.[63] No more than 10 percent of the funds made available by the Congress for disadvantaged areas may be allotted to any one State.[64]

Before the funds provided under this act may be made available to any college for a given fiscal year, the college must submit plans for the work to be carried out to the Secretary of Agriculture for approval.[65] Use of funds for the purchase, erection, preservation, or repair of buildings, purchase or rental of lands, college-course teaching or lectures in college is expressly prohibited.[66]

The Secretary is required to ascertain annually whether each State is entitled to receive its share [67] and, if not, to report the facts and reasons therefor to the President.[68] The same provision is made for the withholding of funds as under the second Morrill Act, and the same right of appeal to the Congress is provided for.[69]

A total of $52,043,684 was appropriated for these agricultural extension programs in all land-grant colleges and universities in the country in fiscal year 1960.[70] Additionally, $1,493,131 [71] was allotted under the Agricultural Marketing Act, discussed above, for extension work. In the seven Southern States being considered the allocations were $12,229,348 [72] and $195,288,[73] respectively. (See table 16, p. 221.)

In none of the seven States under consideration was any part of the State allotment for extension work given to the Negro land-grant college, the State having designated the white college to serve the function within the State. The nature of agricultural extension work, consisting of instruction to the people of the community, not college students, in agriculture and home economics, and the high proportion of Negro residents in most of these States, as well as the high proportion of the rural and farm population among the Negro population, and the high percentage of illiteracy among Negroes, particularly rural Negroes in these States, underscore the harmful results arising from the failure of Congress to require and the States to designate the Negro land-grant colleges as partners in the undertaking to help the agricultural worker and his wife improve their lot. The phrase "to help people help themselves" has always had an American ring,

[62] 7 U.S.C. sec. 347a(e) (1958).
[63] 7 U.S.C. sec. 347a(c) (1958).
[64] 7 U.S.C. sec. 347a(d) (1958).
[65] 7 U.S.C. secs. 345, 346 (1958).
[66] 7 U.S.C. sec. 345 (1958).
[67] 7 U.S.C. sec. 346 (1958).
[68] *Ibid.*
[69] *Ibid.*
[70] Letter to U.S. Commission on Civil Rights from U.S. Department of Agriculture, July 28, 1960.
[71] *Ibid.*
[72] *Ibid.*
[73] *Ibid.*

but the Negro land-grant college was not permitted to help the Negro of the South.

In the Extension Service, Negro workers have been employed by the white land-grant colleges to work with the Negro population. How equitable the proportion may be today the Commission does not know. The only study of the proportion of white and Negro extension workers that the Commission knows of was published in 1934.[74] This study showed the number of the white and Negro extension workers in the 17 Southern States then maintaining separate land-grant colleges for Negroes as compared with the percentage of Negroes in the rural population.[75] On this basis, an estimate was made of the shortage of Negro workers. In the States under consideration it shows the following:[76]

State	Total number of all workers	Total number of Negro workers	Estimated shortage of Negro workers
Alabama	181	38	26
Florida	101	17	14
Georgia	282	37	68
Louisiana	155	17	45
Mississippi	206	47	60
South Carolina	155	23	51
Texas	390	50	9

These figures did not take into account the relative need of the Negro population for this particular service as compared with the white population. If this factor were included the shortage would certainly have been much worse.

Current figures showing the proportion of agricultural extension personnel working with the Negro population do not appear to be available. It is to be hoped that the disproportion found in 1934 no longer exists.

The Commission inquired of the Department of Agriculture as to its policy in certifying entitlement to disbursement under the various programs for agricultural research and extension administered by it. Specifically, it asked if the Secretary of Agriculture takes into consideration the presence or absence of discrimination on the grounds of race, religion, or national origin in the admission policies and practices of the institution to which the funds are disbursed. It further asked, in event the Department had no policy in this respect, the reason, if any, for the absence of such a policy. The reply of the Department refers only to the language of the authorizing statutes discussed above.[77]

[74] Davis, "Land-Grant Colleges for Negroes," W. Va. State College Bulletin, ser. 21, No. 5 at 30 (1934).

[75] *Ibid.*

[76] *Ibid.*

[77] Letter to U.S. Commission on Civil Rights from the Department of Agriculture, Dec. 6, 1960.

TABLE 16.—*U.S. Department of Agriculture programs—Allotments to white and Negro land-grant colleges and universities in 7 Southern States, fiscal year 1960*

Racial classification of institutions receiving funds	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total 7 States
White:								
Agricultural Research Service:								
Hatch Act, as amended [1]	$701,993	$395,364	$730,367	$519,667	$710,856	$574,079	$975,292	$4,607,618
Regional Research Fund [2]	119,693	60,812	165,406	84,304	128,714	95,073	167,953	821,955
Agricultural Marketing Act	0	15,250	13,450	7,700	5,000	0	10,000	51,400
Cooperative agricultural extension:								
Smith-Lever Act, as amended	1,876,356	622,207	2,010,289	1,260,599	1,975,247	1,384,188	3,100,462	12,229,348
Agricultural Marketing Act	18,516	8,440	94,732	47,393	30,016	7,500	33,691	240,288
Negro:								
Agricultural Research Service:								
Hatch Act, as amended	0	0	0	0	0	0	0	0
Regional Research Fund	0	0	0	0	0	0	0	0
Agricultural Marketing Act	0	0	0	0	0	0	0	0
Cooperative agricultural extension:								
Smith-Lever Act, as amended	0	0	0	0	0	0	0	0
Agricultural Marketing Act	0	0	0	0	0	0	0	0
Total	$2,716,558	$1,102,073	$2,969,244	$1,919,663	$2,849,833	$2,060,840	$4,287,398	$17,905,609

[1] Excludes $708,000 provided for administrative costs and $250,000 provided to meet penalty mail costs.

[2] Excludes $5,500 for travel of Regional Research Advisory Committee.

Source of data: U.S. Department of Agriculture.

ROTC programs

As has been mentioned earlier,[78] land-grant colleges were given a particular responsibility for training the youth of the land in military tactics in the first Morrill Act of 1862. Following World War I, under authority from the Congress all of the present land-grant colleges for white students except one were given an ROTC program by the Army.[79] The other white land-grant college was given an Air Force ROTC program in 1946, and at the same time its Negro counterpart got the same program.[80]

Before World War II, no Negro students were admitted to undergraduate programs in any of the separate land-grant colleges for whites in the Southern States. The first Negro land-grant college to be granted an ROTC program among the seven States here considered was Prairie View A. & M. College of Texas in 1942.[81] North Carolina A. & T. College was granted the program in the same year. In the meantime, during World War II Negroes in the 17 Southern States were drafted for military duty under the Selective Training and Service Act [82] and, having had no military training of any kind, were drafted at the lowest grade.

Following World War II, other Negro land-grant colleges tried to get ROTC programs [83] so that their students, deferred from military duty while attending college, might qualify as officers upon the completion of their college course rather than be subject to duty as privates as they had been in World War II for lack of prior training.

Between the years 1945 and 1950 seven additional Negro land-grant colleges were given ROTC programs by the Army or Air Force.[84] The other seven who applied somewhat later were denied the program.[85]

Among the seven States selected to measure the effect of Federal laws and policies, only the land-grant colleges of Florida, Louisiana, South Carolina, and Texas were successful in attaining ROTC programs. The land-grant colleges of Alabama, Georgia, and Mississippi applied unsuccessfully for the program.[86] Negro men in these States, like all other male citizens, are subject to military duty. In all of these States the policy of racial segregation at the college level is absolute. Nevertheless, male Negro college students attending the land-grant

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[78] See p. 7, *supra.*

[79] Letter to U.S. Commission on Civil Rights from Office of the Assistant Secretary of Defense, Sept. 16, 1960.

[80] *Ibid,* designating Univ. of Maryland and Maryland State College.

[81] Letter, *supra,* note 79.

[82] Selective Training and Service Act of 1940, 54 Stat. 885.

[83] Letter, *supra,* note 78.

[84] *Ibid,* designating Fla. A & M. Univ., Lincoln Univ. (Mo.), Md. State College, S.C. State A. & M. College, Southern Univ. (La.), Tenn. A. & I. Univ., Va. State College.

[85] *Ibid.*

[86] *Ibid.*

college are subject to military duty just as all other young American men are upon completion of their college studies.

In view of the State policy of segregation in these States, the Federal program, by denying the opportunity for ROTC training in the segregated Negro college, inevitably results in individual hardship. Satisfactory completion of the advanced ROTC training leads to an officer's commission, which brings both personal and monetary rewards to the individual. The history of ROTC programs in land-grant colleges parallels the civil rights advancement of the Negro in our society: no recognition prior to World War II; limited recognition thereafter.

The various branches of the armed services have stopped expanding ROTC because of excessive cost per officer trained.[87] This is a policy decision the Commission cannot dispute. Nevertheless, in view of the Federal policy, and as a result of the racial segregation policy in Alabama, Georgia, and Mississippi, the Negro college student attending the State public college in these States is seriously disadvantaged.

The Commission, by letter dated October 12, 1960, asked the Department of Defense whether, in the original approval of colleges or universities for ROTC programs or the continuance of existing ROTC programs, the Department, or the particular service involved, takes into consideration possible discrimination on the grounds of race, religion, or national origin in the admission policies or practices of the college or university having the program. It also asked, in event the Department had no policy in this respect, the reason, if any, for the absence of such a policy.

In reply to this inquiry the Department of Defense informed the Commission that:[88]

> The criteria used by the military departments as regards establishing and maintaining ROTC programs do not include racial considerations. Under American laws and customs college and university admission policies and practices are beyond the purview of the Department of Defense. Accordingly, any questions regarding race, religion or national origin in these policies would have to be approached through either local, State, or other Federal agencies having concern and authority in the field of education.

BASIC RESEARCH PROGRAMS (OTHER THAN AGRICULTURE)

Three basic research programs for the promotion of knowledge in certain areas other than the agricultural programs in the land-grant colleges have been selected for examination. All of these are comparatively new. The three selected are administered by the National Institutes of Health, which is under the Department of Health, Education, and Welfare, and the National Science Foundation and Atomic Energy Commission, both independent agencies.

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[87] *Ibid.*

[88] Letter to the U.S. Commission on Civil Rights from Office of the Assistant Secretary of Defense, Oct. 24, 1960.

The National Institutes of Health, as part of the Nation's Public Health Service, undertook an expanded program of grants to support research in the areas of health, medicine, and allied fields 15 years ago.[89] Their programs are in the interest of the health of all citizens. A few years later, in 1950, the National Science Foundation was created by Congress [90] to develop a national policy for the promotion of basic research and education in the sciences. It was specifically authorized to give financial assistance to basic scientific research in the interest of the general welfare. The Atomic Energy Commission had come into being a few years earlier.[91] It was given broad responsibility for the development of nuclear science, both theoretically and practically, and empowered to achieve these purposes in various ways, including contracts, agreements, and loans to others.

In all of these very specialized programs, the health and security of the Nation are the objectives. In each case, as will appear, the agency is given ultimate discretion in placing the public funds entrusted to it in the national interest. It is in this context that the Commission must "appraise the Federal laws and policies" of each concerning equal protection of the laws.

National Institutes of Health research program

The National Institutes of Health (NIH) have authority to make grants-in-aid to a university, hospital, laboratory, or other institution, public or private, or to an individual for a research project showing "promise of making a valuable contribution to human knowledge" of the cause, prevention, diagnosis, or cure of specified diseases.[92] NIH is a part of the Public Health Service, now under the jurisdiction of the Department of Health, Education, and Welfare.[93]

The governing statute requires the creation of advisory councils for the various component institutes of NIH to review research projects submitted to it, whether conducted by the Institute itself or by an independent agency or person.[94] The Surgeon General of the Public Health Service is authorized to make grants-in-aid only upon the approval of the appropriate advisory council.[95] An advisory council consists of the Surgeon General as chairman, the chief medical officer of the Veterans' Administration or his representative, and a medical officer designated by the Secertary of Defense as ex officio members, and 12 members appointed by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare.[96]

[89] 60 Stat. 425 (1946), as amended, 42 U.S.C. sec. 232 (1958).
[90] National Science Foundation Act of 1950, 64 Stat. 149, as amended, 42 U.S.C. sec. 1861–79 (1958).
[91] 68 Stat. 924 (1946), as amended, 42 U.S.C. sec. 2031 (1958).
[92] E.g., 42 U.S.C. sec. 287c(c) (1958).
[93] 1953 Reorg. Plan No. 1, secs. 5, 8 eff. Apr. 11, 1953, 18 *Fed. Reg.* 2053, 67 Stat. 631.
[94] 42 U.S.C. sec. 289c(b) (1958).
[95] 42 U.S.C. sec. 289c(a) (1958).
[96] 42 U.S.C. sec. 289b(a) (1958).

The 12 appointed members shall be leaders in the field of fundamental sciences, medical sciences, education, or public affairs, and 6 of such 12 shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of the disease or diseases to which the activities of the institute are directed.[97]

In the fiscal year 1959, NIH made grants and contracts for research to colleges and universities, both public and private, in the Nation in the total amount of $120,276,979.[98] Of this sum, $5,354,490 went to 20 public colleges and universities in the 7 Southern States.[99] Table 17, following, shows the breakdown of this total sum by States and by racial classification of recipient institution within each State.

Table 17 shows that, in the States of Alabama, Georgia, Mississippi, and South Carolina, Federal funds supported research in 10 segregated white institutions that excluded Negro students on the basis of race. In Florida one segregated and one desegregated institution received funds, the latter receiving a much larger amount. This institution has admitted a Negro student to its medical school, so that nominally, at least, the Negro students in this State are not cut off from the benefits accruing to the institution from the large research projects financed with Federal funds. In Louisiana, again, the major part of the Federal money went to a university that is desegregated at the graduate level where most medical research would be done. A Negro institution in Louisiana also received a very small grant. In Texas, again, the major part of the Federal support of medical research went to a desegregated institution.

Taking the 7 States as a unit, 43.3 percent of the Federal funds went to support research in 16 public institutions located in the 7 States that deny admission to otherwise qualified students solely on the basis of race. In four States there are no desegregated institutions, and all of the Federal funds in question went to segregated white institutions; in three, the major part of the funds supported research in four institutions where some desegregation has taken place.

The Commission addressed an inquiry to the Department of Health, Education, and Welfare [1] with regard to the policy of the National Institutes of Health in making grants or disbursements under contract for research. Specifically, the Commission asked if the advisory councils certifying research projects to the Surgeon General of the Public Health Service have any policy with regard to the presence or absence of discrimination by race, religion, or national origin in the admission policies and practices of the institutions to

[97] *Ibid.*

[98] Letter to U.S. Commission on Civil Rights from U.S. Department of Health, Education, and Welfare, July 28, 1960.

[99] *Ibid.*

[1] Letter from U.S. Commission on Civil Rights to Department of Health, Education, and Welfare, Oct. 12, 1960.

TABLE 17.—*National Institutes of Health—Grants under contract to public colleges and universities in 7 Southern States, fiscal 1959*

Racial classification of institutions receiving grants	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total 7 States
White:								
Number of institutions	2	1	4	2	1	3	3	16
Total grants	$798,908	$178,792	$460,785	$11,697	$345,082	$347,212	[1] $174,905	$2,317,381
Percent of State total	100%	17.4%	100%	----------	100%	100%	9%	43.3%
Negro:								
Number of institutions	0	0	0	1	0	0	0	1
Total grants	----------	----------	----------	$797	----------	----------	----------	$797
Percent of State total	----------	----------	----------	0.2%	----------	----------	----------	0.01%
Desegregated:								
Number of institutions	0	1	0	0	0	0	2	3
Total grants	----------	$850,045	----------	$417,089	----------	----------	1,769,178	$3,036,312
Percent of State total	----------	82.6%	----------	----------	----------	----------	91%	56.7%
Total	$798,908	$1,028,837	$460,785	$429,583	$345,082	$347,212	$1,944,083	$5,354,490

[1] Includes 1 grant of $29,314 to an institution not definitely known to be segregated in 1959–60.

Source of data: U.S. Department of Health, Education and Welfare.

which grants are made. It further asked, in event they have no policy in this respect, their reason, if any, for ignoring discrimination on the part of the grantee of Federal funds. At the date of writing, no reply had been received.

National Science Foundation research program

The general authorization and organization of the NSF are discussed in the preceding chapter.[2] With regard to research the Foundation is specifically authorized and directed:[3]

> (2) to initiate and support basic scientific research in the mathematical, physical, medical, biological, engineering, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such basic scientific research and to appraise the impact of research upon industrial development and upon the general welfare.

In exercising this function the Foundation is instructed by Congress:[4]

> to strengthen basic research and education in the sciences, including independent research by individuals, throughout the United States, including its Territories and possessions, and to avoid undue concentration of such research and education.

NSF programs in support of basic research fall into three groups: (1) biological and medical sciences; (2) mathematical, physical, and engineering sciences; and (3) social sciences. The primary purpose of the research grants program is the discovery of new scientific knowledge, but an element of training is also involved in that the conduct of the research requires the employment of a considerable number of research assistants. NSF has estimated that 67.1 percent of all research grants is for salaries and that 58.4 percent of this is for salaries of research associates and assistants, which includes graduate assistants enrolled at the grantee institution and working toward as master's degree or a doctorate.[5] (Undoubtedly, this is also true of NIH and AEC grants, although not specifically reported by the administrator.) In addition to grants for the execution of research programs, grants are also made for facilities needed for such programs, but by policy such support has been limited to specialized research facilities where the need was deemed urgent and clearly in the national interest, and where funds were not available from other sources.[6] In general, research grants are awarded to highly experienced investigators whose programs of research show promise of extending the frontiers of knowledge.

As in the case of its institutes program, the board appointed by the President with the approval of the Senate has set up an advisory com-

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[2] See p. 203, *supra*.
[3] 42 U.S.C. sec. 1862(a)(2) (1958).
[4] 42 U.S.C. sec. 1862(b) (1958).
[5] National Science Foundation, "8th Annual Report, 1958" at 48 (1959).
[6] *Id.* at 27.

mittee to review and recommend research projects to it, but the grants made are the responsibility of the board itself under the law. In the fiscal year 1960, NSF made total grants of $53,009,111 for research [7] and $8,333,868 for facilities.[8] Of this total sum, $3,131,294 for research and $25,500 for facilities went to public colleges and universities in the seven Southern States.[9] A breakdown by States and by the racial classification of the colleges receiving grants is shown in table 18.

Table 18 shows that $1,520,250, or 48.1 percent of the funds disbursed under this program in the seven States, was granted to white institutions denying admission to Negro students on racial grounds, and $1,636,544, or 51.9 percent, went to desegregated institutions. In no case did a Negro institution receive any research funds.

If NSF was to carry out the congressional mandate to strengthen basic research throughout the United States, it had no choice in the States of Alabama, Georgia, Mississippi, and South Carolina but to make grants to segregated institutions, since all colleges and universities in these States are segregated. It is certainly not surprising that the Negro colleges in these States received no funds for research of this character. Of the eight Negro colleges in these States, five have no graduate division; two, granting a master's degree, have a liberal arts and general courses with a teacher preparatory program; and one, granting a master's degree, has three or more professional schools.[10] Furthermore, one had no accreditation, two were approved but on probation in 1959, and one had approval but failed to meet one or more standards of the Southern Association.[11] These are not institutions of the type or caliber to undertake research of the type sponsored by NSF.

Nevertheless, the discriminatory admission policies of the public institutions in the State foreclose any opportunity to Negro graduate students to finance their own training by serving as research assistants on projects financed by Federal funds. Segregated white public institutions in these States received a total of $942,740 in NSF research grants. On the basis of NSF estimates, about $223,000 of this went to graduate students serving as research assistants while working for higher degrees.

In the other three States grants went both to segregated white institutions and to institutions that have adopted a desegregation policy, at least at the graduate level.

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[7] Letter, *supra*, note 49 at p. 203.
[8] *Ibid.*
[9] *Ibid.*
[10] See tables 1, 3, 5, and 6, pp. 107, 119, 131, 136, *supra*.
[11] *Ibid.*

TABLE 18.—*National Science Foundation—Grants in support of basic research to public colleges and universities in 7 Southern States during the fiscal year 1960*

Racial classification of institutions receiving grants	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total 7 States
White:								
Number of institutions	2	1	3	1	2	2	3	14
Total grants	$108,800	[1] $244,200	$667,800	$4,300	$74,200	$91,940	$329,100	$1,520,250
Percent of State total	100%	37.7%	100%	1.4%	100%	100%	26.2%	48.1%
Negro:								
Number of institutions	0	0	0	0	0	0	0	
Total grants	0	0	0	0	0	0	0	
Percent of State total								
Desegregated:								
Number of institutions		1		2			1	4
Total grants		$404,015		[2] $306,060			$926,469	$1,636,544
Percent of State total		62.3%		98.6%			73.8%	51.9%
All State institutions:								
Number	2	2	3	3	2	2	4	18
Total grants	$108,800	$648,215	$667,800	$310,360	$74,200	$91,940	$1,255,479	$3,156,794

[1] Includes $3,000 for facilities.

[2] Includes $22,500 for facilities.

Source of data: National Science Foundation.

In the aggregate in all seven States almost one-half of the total NSF research funds to public colleges and universities was granted to segregated white institutions and served to enhance the reputation and standing of institutions denying admission to residents on the basis of race in violation of the Constitution.

The Commission directed an inquiry to the National Science Foundation as to its policy with regard to possible discrimination on the grounds of race, religion, or national origin in the institutions granted research funds. The Commission also asked, in event it had no policy in this respect, the reason, if any for the absence of such a policy. In reply the Foundation informed the Commission: [12]

In the Foundation's basic research programs, grants are usually made to nonprofit, educational institutions generally for support of particular research. In the majority of cases, support is provided on the basis of a proposal submitted by the institution for the work of a particular individual or group of individuals, although the Foundation also awards institutional grants, which are a percentage of Foundation research support previously provided to the institution for particular projects, as well as grants for the support of construction of major research facilities. In evaluating requests for research support, the Foundation considers primarily the competence of the scientist originating the project and whether or not the research proposed can make a substantial contribution to scientific knowledge. Each request for support is considered by highly qualified individuals acquainted with the scientific field involved and is judged on its scientific merit. It is true that where an institution practices racial discrimination this could affect the choice of those recruited to assist in the research supported. However, the primary concern here is the support of high-quality research, and the National Science Foundation believes it would not be appropriate for the Foundation to consider, in judging the merit of proposals for support of research, the institution's policy in this regard. Any effort on the part of the Foundation, as a single agency, to entertain such considerations could have damaging effect on the Foundation's efforts to strengthen scientific research throughout the Nation.

Atomic Energy Commission research programs

The Atomic Energy Commission (AEC) is an independent agency governed by five citizens appointed by the President with the advice and consent of the Senate.[13] AEC is directed to exercise its powers in such a manner as to insure continued research development and training in specified aspects of nuclear science by private or public institutions or persons and to assist in the acquisition of an ever-expanding fund of theoretical and practical knowledge in such fields. To accomplish this, it is authorized to make arrangements including contracts, agreements, and loans.[14]

The fields specified are: [15]

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[12] Letter to the U.S. Commission on Civil Rights to the National Science Foundation, Nov. 21, 1960.

[13] 42 U.S.C. secs. 2031, 2032 (1958).

[14] 42 U.S.C. sec. 2051 (1958).

[15] *Ibid.*

(1) Nuclear processes; (2) the theory and production of atomic energy, including processes, materials, and devices related to such production; (3) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes; (4) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial uses, the generation of usable energy, and the demonstration of the practical value of utilization of production facilities for industrial or commercial purposes; and (5) the protection of health and the promotion of safety during research and production activities.

In furtherance of these purposes, the Atomic Energy Commission made total grants and disbursements to public and private colleges in the United States in the fiscal year 1959 of $30,918,531 for research, $170,016 for fellowships, and $4,726,457 for other training in nuclear science, exclusive of disbursements to colleges and universities for the operation of AEC-owned major research centers, such as Los Alamos Scientific Laboratory and Argonne National Laboratory, operated by the Universities of California and Chicago, respectively.[16]

The AEC contract research includes research both in the physical sciences and in biology and medicine. Generally, its contracts are for two types of research: (1) Specific problems, such as one dealing with an isotope separation process, and (2) general, to add to the fund of knowledge applicable to atomic energy development.

The way in which grants are made, and the standards applied, have been described by Health, Education, and Welfare as follows:[17]

Universities and colleges having capable scientists who are willing and interested in expanding and continuing research programs in atomic energy submit proposals for basic research to the AEC. Members of the Commission's scientific staff consider many factors before the decision is made that a project should be supported by Commission funds. These factors include the following:

(1) Importance of proposed project to atomic energy development;

(2) general need of the AEC for more persons trained in the particular field of study;

(3) scientific achievements already made by the institution concerned;

(4) probability of continued research performance; and

(5) extent of participation of the institution in the work to be undertaken.

The broad fellowship program initiated by NSF, beginning in 1951–52, has caused AEC to curtail its fellowship awards, which totaled $3,500,000 in 1951–52,[18] to a limited number in specialized fields of radiological physics, industrial medicine, industrial hygiene, and nuclear technology in the amount of $170,016 in fiscal 1959.[19] The fellowship program is administered by Oak Ridge Institute of Nuclear Studies and the atomic energy project of the University of

[16] Letter to U.S. Commission on Civil Rights from Atomic Energy Commission, July 22, 1960.

[17] U.S. Department of Health, Education, and Welfare, "Federal Funds for Education 1956–57 and 1957–58" at 175 (1959).

[18] *Ibid.*

[19] Letter, *supra*, note 16 at p. —.

Rochester, which are reimbursed by AEC for payments made to educational institutions.

In the seven States under consideration, $1,289,783 was expended by AEC in public colleges and universities for research, fellowships, and other training. The breakdown of this sum by States and within each State by the racial classification of the recipient institution is shown in table 19 following.

Table 19 shows that in the States of Alabama, Georgia, Mississippi, and South Carolina only segregated white institutions participated in AEC programs. In these States no Negro college student could obtain any benefit therefrom, either directly as a research assistant or indirectly as a student in an institution. In Louisiana all AEC grants went to a university that is desegregated at the graduate level, so that a Negro student who had been able to secure undergraduate training in nuclear physics elsewhere might benefit therefrom.

In Florida, 42.4 percent of the funds granted by AEC to public universities went to an institution that has admitted a few Negro students to its medical school and its graduate division. Only in Texas is a substantial part (79.9 percent) of the funds to public institutions in that State placed in desegregated institutions. In fact, the AEC program in desegregated institutions in Texas is so large that in the group of seven States 58.6 percent of the total AEC money in public institutions is in desegregated colleges and universities. This figure fails to take into account, however, the limitations on the desegregation in the Florida and Louisiana universities. Viewed realistically, only in Texas has a Negro resident of the State any substantial chance of benefiting from this Federal expenditure.

The Commission addressed an inquiry to the Atomic Energy Commission on October 12, 1960, with regard to its policy in placing grants. Specifically, the Commission asked if AEC had any policy with regard to the possibility that an institution to which a grant is made has admission policies and practices which discriminate on the ground of race, religion, or national origin. Further, in event AEC had no policy in this respect, the reason, if any, for the absence of such a policy. In reply, AEC informed the Commission: [20]

> When offering grants to educational institutions, the AEC does not ascertain whether the schools have admissions policies or practices which discriminate on grounds of race, religion, or national origin. We know of no established overall Federal policy that agencies consider admission practices in making grants to educational institutions, and we do not consider that the Atomic Energy Act of 1954, as amended, or any other law now applicable to AEC operations, provides a basis for establishing such a policy with respect to AEC grants.

[20] Letter to the U.S. Commission on Civil Rights from the U.S. Atomic Energy Commission, Nov. 2, 1960.

TABLE 19.—*Atomic Energy Commission—Grants or disbursements to public colleges and universities in 7 Southern States, fiscal year 1959* [1]

Racial classification of institutions receiving funds	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total 7 States
White:								
Number of institutions	2	1	4		2	1	3	13
Total grants	$62,397	$138,401	$148,131		$24,516	$20,062	$139,706	$533,213
Percent of State total	100%	57.6%	100%		100%	100%	20.1%	41.3%
Negro:								
Number of institutions	0	0	0	0	0	0	0	0
Total grants	0	0	0	0	0	0	0	0
Percent of State total								
Desegregated:								
Number of institutions	0	1	0	1	0	0	3	5
Total grants		$101,723		$99,382			$555,465	$756,570
Percent of State total		42.4%		100%			79.9%	58.7%
Total	$62,397	$240,124	$148,131	$99,382	$24,516	$20,062	$695,171	$1,289,783

[1] Includes research, disbursements of $953 each to 2 fellows for tuition and fees and payments for "other training."
Source of data: U.S. Department of Health, Education and Welfare.

Although AEC now states that the laws governing its operations do not provide a basis for establishing a policy with regard to the admission policies and practices of the educational institutions to which it makes grants, it apparently had such a policy in 1957. In August 1957 Clemson College (S.C.) was reported to have renounced a Federal grant from AEC and to have returned funds already received rather than comply with the terms of its agreement with AEC which stipulated that "the grantee agrees that no person shall be barred from participation in the educational and training program involved or be the subject of unfavorable discrimination on the basis of race, creed, color or religion." [21]

[21] See *supra*, pp. 83–84.

CHAPTER 4

FEDERAL AID TO STUDENTS OR SCHOLARS ON THE BASIS OF MERIT

NATIONAL SCIENCE FOUNDATION FELLOWSHIPS

To illustrate the civil rights implications of a Federal grant-in-aid program based upon individual merit, the Commission has selected the fellowship program of the National Science Foundation. The organization of that independent agency was described in an earlier chapter.[1]

The National Science Foundation fellowship program, unlike the National Defense fellowship program, is both highly selective and highly competitive. This is a reflection of the differences in their basic purpose. Whereas National Defense fellowships were authorized to help institutions create or expand graduate programs both to increase the number and competence of college teachers, the fundamental purpose of NSF fellowships is to produce a reservoir of highly trained and able scientists in the interests of national security. The first is to promote institutional growth at a graduate level; the latter, individual competence in a particular subject area.

The act creating the National Science Foundation specifically authorizes it to award, within the limits of funds made available to it by the Congress for that purpose, "scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, and other sciences at accredited nonprofit American or nonprofit foreign institutions of higher education, selected by the recipient of such aid, for stated periods of time."[2]

The selection of the institution by the recipient of the award also distinguishes NSF fellowships from National Defense Education Act fellowships, where the institution having a new or expanded program approved by the Commissioner of Education selects the fellows.

In the case of NSF awards, Congress has specified that the recipient be a citizen of the United States selected "solely on the basis of ability."[3] However, Congress did provide that "in any case in which two or more applicants for scholarships or fellowships, * * * are

[1] See p. 203, *supra.*
[2] 42 U.S.C. sec. 1869 (1958).
[3] *Ibid.*

deemed * * * to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships * * * available to grant one to each of such applicants, the available scholarship or scholarships or fellowship or fellowships shall be awarded to the applicants in such a manner as will tend to result in a wide distribution of scholarships and fellowships among the States, territories, possessions, and the District of Columbia." [4] This requirement of a wide distribution appears to mean that the selection shall be among the citizens of the various States by residence rather than to refer to the location of the institution selected as the place of study by the recipient of the award. This requirement follows the general policy of the Congress for all NSF programs, which is to strengthen research and education throughout the United States without undue concentration.[5]

NSF has established graduate, cooperative graduate, graduate teaching assistant, postdoctoral, senior postdoctoral, science faculty, and summer fellowships for secondary school teacher fellowship programs.[6]

The National Academy of Sciences screens the applications for all types of fellowships for NSF on the basis of ability as required by law.[7]

In fiscal year 1960 a total of 3,660 fellowships were awarded to attend colleges or universities in the United States and abroad at a total cost of $13,391,316.[8] In the 7 States under consideration 173 fellowships were awarded to students to attend 21 different public colleges and universities.[9] The total cost of these fellowships to NSF was $7,679,993.67.[10] Table 20 following gives a breakdown of these figure by States and by the racial classification of the institution attended.

Table 20 shows that in the States of Alabama, Georgia, Mississippi, and South Carolina all fellows, presumably Caucasians, selected segregated white institutions. Two segregated Negro institutions, one in Louisiana and one in Texas, have one fellow each. In Florida, Louisiana, and Texas both segregated white and desegregated institutions have fellows, but there are more in the latter group.

Since NSF fellowships are awarded solely on the basis of ability of applicants, and the applicant accepted selects the institution he wishes to attend, there would appear to be no basis to charge discrimination in the administration of the program. Negro college students of these States are eligible to apply for fellowships and, if

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[4] *Ibid.*

[5] 42 U.S.C. sec. 1862(b) (1958).

[6] National Science Foundation, "8th Annual Report, 1958," at 51–56 (1959).

[7] U.S. Department of Health, Education, and Welfare, "Federal Funds for Education 1956–57 and 1957–58" at 192 (1959).

[8] Letter to U.S. Commission on Civil Rights from National Science Foundation, Sept. 2, 1960.

[9] *Ibid.*

[10] *Ibid.*

TABLE 20.—*National Science Foundation fellowships in public colleges and universities in 7 Southern States for fiscal year 1960* [1]

Racial classification of institutions enrolling fellows	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total
White:								
Number of institutions	2	1	2	2	3	2	2	14
Number of fellows	13	13	18	2	12	12	13	83
Total funds received:								
By institutions [2]	$9,690	$10,967	$20,072	$620	$13,430	$12,323	$6,822.67	$73,924.67
Percent of total	30.1%	9.9%	32.1%	0.8%	35.7%	36.7%	3.3%	13.1%
By fellows [3]	$22,540	$33,292	$42,526	$3,075	$24,165	$21,277	$38,459	$185,334.00
Percent of total	69.9%	30.2%	67.9%	4%	64.3%	63.3%	18.4%	33%
Negro:								
Number of institutions	0	0	0	1	0	0	1	2
Number of fellows				1			1	2
Total funds received:								
By institution				$310			$310	$620.00
Percent of total				0.4%			0.1%	0.1%
By fellows				$3,900			$3,360	$7,260.00
Percent of total				5.1%			1.6%	1.3%
Desegregated:								
Number of institutions	0	1	0	2	0	0	2	5
Number of fellows		20		24			44	88
Total funds received:								
By institution		$12,829		$18,367			$29,970.50	$61,166.50
Percent of total		11.6%		23.9%			14.3%	10.9%
By fellows		$53,387		$50,671			$130,151.50	$234,209.50
Percent of total		48.3%		65.8%			62.3%	41.6%
Total funds received by State	$32,230	$110,475	$62,598	$76,943	$37,595	$33,600	$209,073.67	$562,514.67

[1] Includes graduate, cooperative graduate, graduate teaching assistant, postdoctoral, senior postdoctoral, science faculty, and summer fellowship for secondary teacher programs.

[2] Figures given are cost of education allowance to institution in lieu of tuition and fees and/or average tuition for type of program. NSF pays actual tuition and fees upon receipt of billing. Averages used by type of fellowship are graduate, $907; science faculty, $450; and secondary school teacher, $310.

[3] Includes stipend and various allowances according to program.

Source of Data: National Science Foundation.

qualified by ability, would receive awards. In fact, 2 fellows out of the total of 173 attending public institutions in the 7 States can be identified as Negro since they are attending segregated Negro colleges. There may, in fact, be Negroes among the 88 enrolled in desegregated universities; there is no way to identify the race of the fellow in this case. Of necessity, a Negro student from Alabama, Georgia, Mississippi, and South Carolina would select a Negro college in his State or a desegregated out-of-State institution because of the exclusionary policies of the white public colleges within the State. It seems very improbable that many Negroes educated in the inferior public Negro colleges of these seven States, and other Southern States, could successfully compete against their white counterparts who had had superior training in the white public colleges. But this results, if true, from the State policy of racial segregation, not from the Federal law that specifies awards on ability only, nor from the administration thereof on an impartial, competitive basis.

CHAPTER 5

FEDERAL AID TO STUDENTS ON THE BASIS OF FINANCIAL NEED OR OBLIGATION OF THE FEDERAL GOVERNMENT

Three Federal educational programs that are predicated upon the need of financial aid of the individual student or the obligation of the Federal Government to the individual or his orphan by reason of military service have been selected to show the result thereof from the standpoint of civil rights. These are the program for loans to students in higher educational institutions, under the National Defense Education Act of 1958, administered by the Office of Education, Department of Health, Education, and Welfare; the program for educational assistance to veterans of the Korean conflict, under the Veteran's Readjustment Assistance Act of 1952; and the educational assistance to children of deceased veterans under the War Orphan's Educational Assistance Act of 1956. Both of the latter are administered by the Veterans Administration. All of these are for the benefit of the individual, not any educational institution, although, as will appear, the law in each case sets standards for an institution in which the benefits granted may be used.

The student loan program will be considered separately and the Korean and war orphans programs together.

FEDERAL STUDENT LOAN PROGRAM

The program of loans to students in institutions of higher education is predicated upon the congressional finding that "the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and young women." [1] Its declared purpose is to assure that "no student of ability will be denied an opportunity for higher education because of financial need." [2]

As in the other National Defense Education Act programs, those administering the program for the Federal Government are forbidden "to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution." [3]

[1] National Defense Education Act of 1958, 72 Stat. 1581, 20 U.S.C. sec. 401 (1958).
[2] *Ibid.*
[3] 20 U.S.C. sec. 402 (1958).

The standards set for an institution in which a student loan program may be established are also the same as for the other National Defense Education Act programs.[4] From the standpoint of equal protection of the laws, the provision requiring that the institution be accredited by a nationally recognized accrediting agency or, if not so accredited, be an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, on the same basis as if transferred by an accredited institution,[5] requires special mention and will be considered hereinafter.

To establish the program, Congress authorized an appropriation of $47,500,000 for fiscal 1959, $75 million for fiscal 1960, $82,500,000 for fiscal 1961, $90 million for fiscal 1962, and such sums for the next 4 fiscal years, 1963–66, as may be necessary to enable students who have received a loan for any fiscal year ending prior to July 1, 1962, to continue or complete their education.[6]

The Commissioner of Education, who administers the program, is directed to allot the sum appropriated to each State in the same proportion as the number of full-time college students in the State bears to the full-time college students in the United States.[7]

Provision is made in the law for equalizing requests for allotments from institutions within any one State. If the total requests from eligible institutions, public and private, within a single State exceed the State allotment, they shall be reduced proportionately. Likewise, they may be increased if the total is less than the State allotment. No single institution may receive more than $250,000 of Federal funds in any one year.[8]

To be entitled to receive Federal funds to establish a student loan fund an institution must contribute a sum equal to one-ninth of the Federal contribution [9] (although provision is made for the institution to borrow this sum from the Federal Government [10]) and agree to abide by the loan provisions.

A student may not borrow an amount in excess of $1,000 a year or $5,000 in total.[11] In the selection of students, institutions are directed to give preference to those of superior academic background who are interested in teaching in public schools and those whose background indicates superior capacity or preparation in science, mathematics, engineering, or modern foreign language.[12]

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[4] See 20 U.S.C. sec. 403(b) (1958).
[5] 20 U.S.C. sec. 403(b)(5) (1958).
[6] 20 U.S.C. sec. 421 (1958).
[7] 20 U.S.C. sec. 422 (1958).
[8] 20 U.S.C. sec. 423(b) (1958).
[9] 20 U.S.C. sec. 424(2)(B) (1958).
[10] 20 U.S.C. sec. 427(a) (1958).
[11] 20 U.S.C. sec. 425(a) (1958).
[12] 20 U.S.C. sec. 424(4) (1958).

TABLE 21.—*Student Loans under National Defense Education Act in public colleges and universities in 7 Southern States, fiscal year 1960*

	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina	Texas	Total
White public institutions:								
Number receiving funds	7	3	9	3	20	4	[1] 7	53
Total funds received	$632,395	$167,466	$327,277	$83.369	$317,894	$100,451	[1] $348,292	$1,977,144
Percent of total	91.6%	34.9%	86.5%	14.3%	73.7%	82.6%	40.5%	55.8%
Negro public institutions:								
Number receiving funds	2	3	3	2	3	1	1	15
Total funds received	$57,796	$62,843	$51,248	$166,957	$113,571	$21,123	$26,433	$499,971
Percent of total	8.4%	13.1%	13.5%	28.6%	26.3%	17.4%	3.1%	14.1%
Desegregated public institutions:								
Number receiving funds	0	1	0	3	0	0	16	20
Total funds received		$250,000		$333,843			$485,260	$1,069,103
Percent of total		52.0%		57.1%			56.4%	30.1%
All public institutions:								
Number receiving funds	9	7	12	8	23	5	24	88
Total funds received	$690,191	$480,309	$378,525	$584,169	$431,465	$121,574	$859,985	$3,546,219

[1] The present racial policy of 2 institutions receiving $81,574.00 not definitely known.

Source of data: U.S. Department of Health, Education, and Welfare.

The terms of the loan are very generous—3 percent interest beginning 1 year after completion of college, or after not more than 3 years of military duty; 10 years to repay the principal debt, 50 percent thereof being subject to cancellation at the rate of 10 percent a year for service as a full-time public school teacher.[13] The loan is also subject to cancellation upon the death or permanent disability of the borrower.[14] In the fiscal year 1960, institutions throughout the United States were allotted $40,334,110 for student loans.[15] The seven Southern States being considered received a total of $3,546,219.[16]

In spite of the provisions of the law requiring accreditation of institutions, Negro colleges approved by the Southern Association of Colleges and Secondary Schools, the accrediting agency certified by the Commissioner of Education,[17] as required by law,[18] have received funds under this program, even though not accredited but only approved because not members of that association, and even if they are approved but on probation, or approved with limitations because the institution fails to meet one or more standards.

Table 21 following shows the allocations of Federal funds to public higher educational institutions in the seven States for student loans, by States, and by the racial classification of the public colleges therein. The table clearly shows that the Negro colleges have shared with the white and desegregated institutions. The individual Negro student has been able to benefit by this Federal program even in those States where by State law or practice he has been confined to an inferior, segregated institution for Negroes.

KOREAN VETERANS AND WAR ORPHANS EDUCATIONAL ASSISTANCE

The two programs for Federal grants to veterans of the Korean conflict and children of members of the Armed Forces of World Wars I and II and Korea who died of service-connected disability are very similar so far as their civil rights implications are concerned. The aid in both cases is to individuals who qualify under the respective statutes.[19] The individual selects the institution he wishes to attend and, if it meets the statutory requirements, he is entitled to receive the benefits offered.[20]

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[13] 20 U.S.C. sec. 425(b)(2–3) (1958).
[14] 20 U.S.C. sec. 425(b)(6) (1958).
[15] Letter to U.S. Commission on Civil Rights from the Department of Health, Education, and Welfare, July 28, 1960.
[16] *Ibid.*
[17] List published by Federal Security Agency in 17 Fed. Reg. 8929–30 (1952).
[18] 20 U.S.C. sec. 403(b)–(5) (1958).
[19] Veterans' Readjustment Assistance Act, 72 Stat. 1174, 38 USC 1601–1669; War Orphans' Educational Assistance Act of 1956, 72 Stat. 1193, 38 U.S.C. secs. 1701–68 (1958).
[20] 38 U.S.C. secs. 1653, 1710–14 (1958).

As in the case of the student loan program, segregated Negro colleges have been found to meet the statutory requirements for institutions where the benefits may be used. The only racial restrictions that arise in connection with this program are the result of discrimination at the State level, barring Negroes from using the benefits offered by the Federal programs in particular public colleges or universities in the State.

PART VIII

SUMMARY OF EQUAL PROTECTION PROBLEMS IN PUBLIC HIGHER EDUCATION IN 1960

Great progress has been made in the past 20 years in eliminating denials of equal protection of the laws in public higher education throughout the Nation.

Discriminatory exclusion of students because of their religion or national origin appears to be at present no more than a minor problem. Nevertheless, many public colleges and universities continue to provide themselves with information which could provide a basis for discrimination on these grounds. Thus, 50.5 percent of the public institutions in the Southern States supplying the Commission with copies of their admission forms in use in 1959–60, and 19.5 percent of those in the Northern and Western States, asked the religious preference or church membership of the applicant.[1] Likewise, 14.4 percent of the public colleges in the South and 20.2 percent of those in the North and West ask the birthplace of the applicant's parents.[2] The elimination of such inquiries by those still using them would do much to eradicate the remaining suspicion of discrimination on these grounds.

Discrimination in higher education, as at the public school level, centers today on the American Negro who represents more than a tenth of the total population. The relatively few members of other non-Caucasian races in the population seeking public higher education do not appear to be the object of discriminatory admission practices at this time.[3]

The public colleges of the Northern and Western States are not free from suspicion of discrimination against Negroes. Some 20 percent of the public institutions in those States inquire as to the race of an applicant or ask for a photograph, or both, and, if the requirement of a personal interview is counted as another possible method of determining the race of an applicant, the proportion providing

[1] See app. K, table 6; app. L, table 4; app. M, table 2.
[2] See app. K, table 7; app. L, table 5; app. M, table 2.
[3] See p. 163, *supra*.

themselves with this information increases to 33.2 percent. Moreover, it appears that at least some of these institutions, in fact, use this information for discriminatory purposes.[4]

Still, the heart of the problem of discrimination against the Negro today lies in the Southern States. Here, a pattern of racially segregated colleges developed in the last quarter of the 19th century, and complete separation—although not equality—of the races in public education was the rule until 1936, when Donald Murray was admitted to the University of Maryland Law School upon an order of the Maryland Court of Appeals.[5] In the years since then, the walls of segregation have been breached repeatedly, first by lawsuit and then in some cases by voluntary action, until, in the academic year 1959–60, 118 of the 162 public institutions formerly for white students only in 13 of the 17 Southern States had admitted Negro students at the graduate or undergraduate level or claimed to have adopted a nondiscriminatory admission policy.[6] The District of Columbia merged its white and Negro public teachers colleges in 1954 and 1955, thus eliminating segregation in public higher education in the District of Columbia.[7] The 118 desegregated institutions in 13 States include all of the public colleges and universities in Delaware, Kentucky, Maryland, Missouri, Oklahoma, and West Virginia; 47 of the 76 in the States of Arkansas, North Carolina, Tennessee, Texas, and Virginia; and 5 of the 20 in Florida and Louisiana. All 49 of the public higher educational institutions for white students in Alabama, Georgia, Mississippi, and South Carolina, however, maintain strict exclusion policies, as do 37 institutions in Arkansas, Florida, Louisiana, North Carolina, Texas, and Virginia. The status of segregation or desegregation in only 7 of the 211 formerly white public institutions in the 17 Southern States is unknown to the Commission.[8]

Compliance in some degree with the requirements of the equal-protection clause in 55.9 percent of the formerly segregated public white colleges and universities of the South is progress indeed, but, unfortunately, in many of these institutions compliance is not complete. In some, Negroes are admitted only to the graduate division; in others, they are admitted to the undergraduate division, but only if they wish to enroll in a course of study not offered in the college for Negroes maintained by the State.[9] Such limitations are clearly in violation of the 14th amendment.

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[4] See part V, ch. 2, *supra*.

[5] See pp. 17–18 *supra*.

[6] See app. C, tables 1 and 2. In Florida and Louisiana respectively 1 out of 12 and 4 out of 8 public colleges for whites had a biracial enrollment in 1959–60.

[7] See p. 51 *supra*.

[8] See app. C, tables 1 and 2.

[9] See pp. 55–60 *supra*.

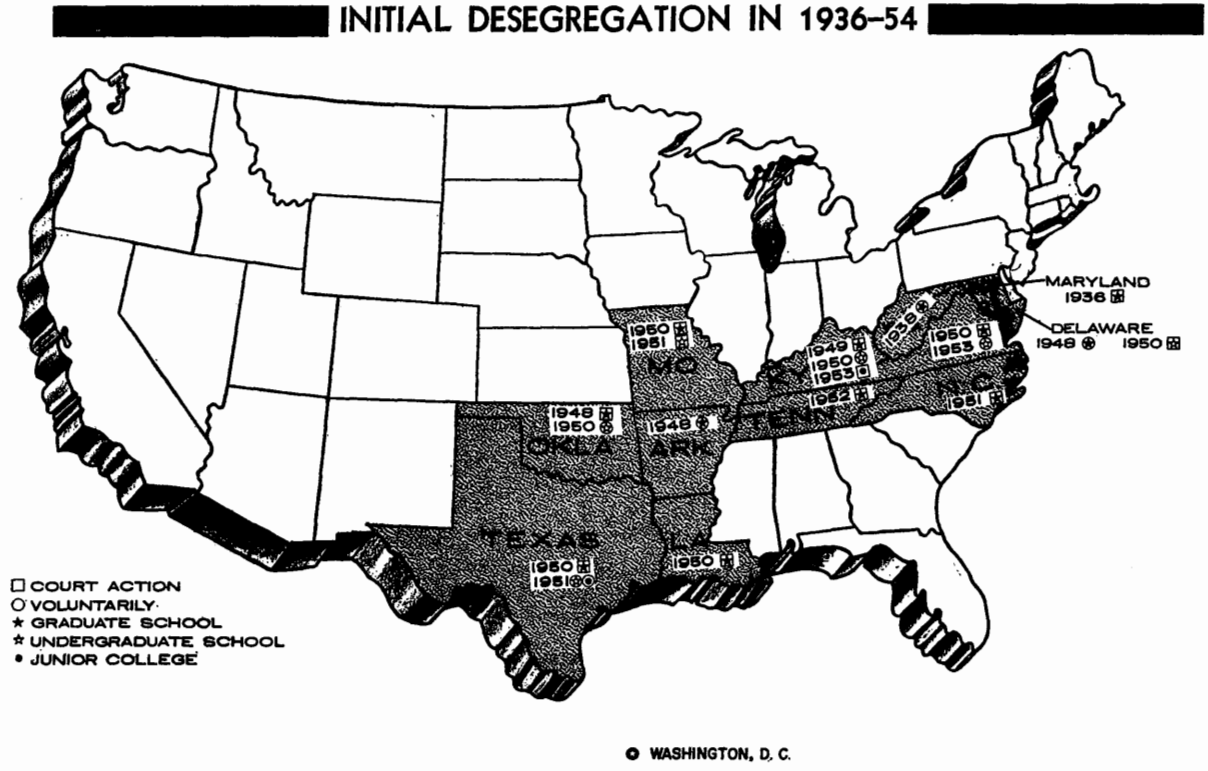

Chart 19—Public Colleges and Universities in Southern States

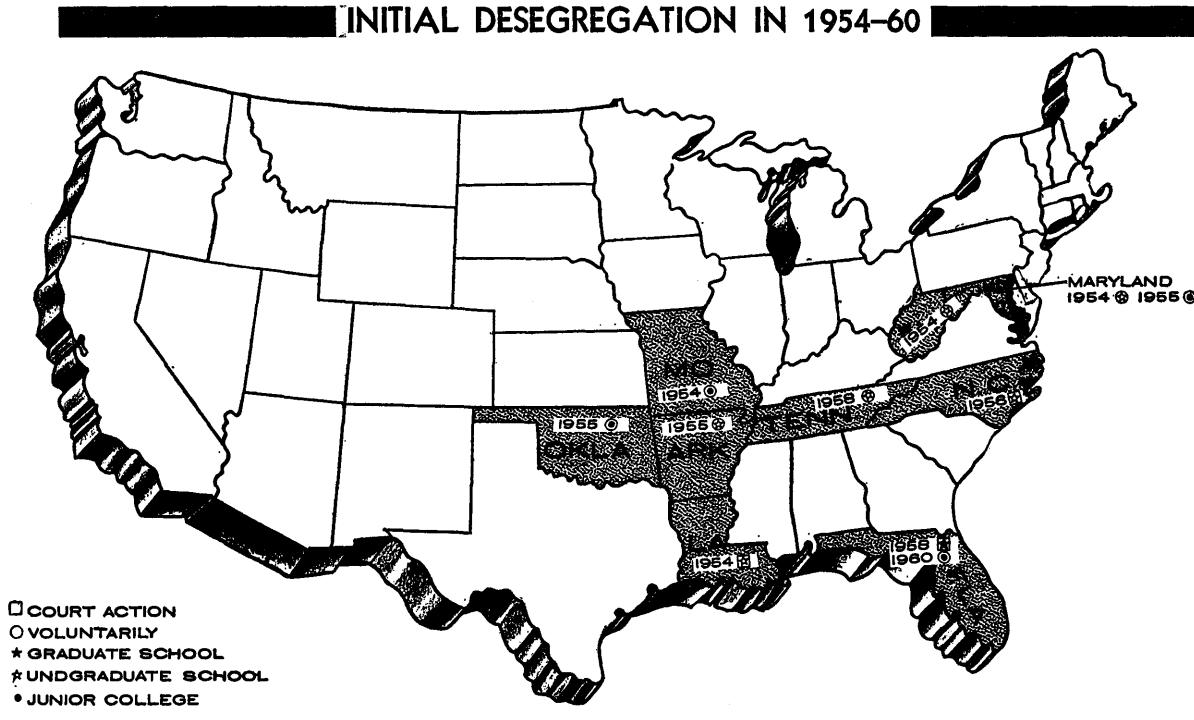

Chart 19—Public Colleges and Universities in Southern States
(*Continued*)

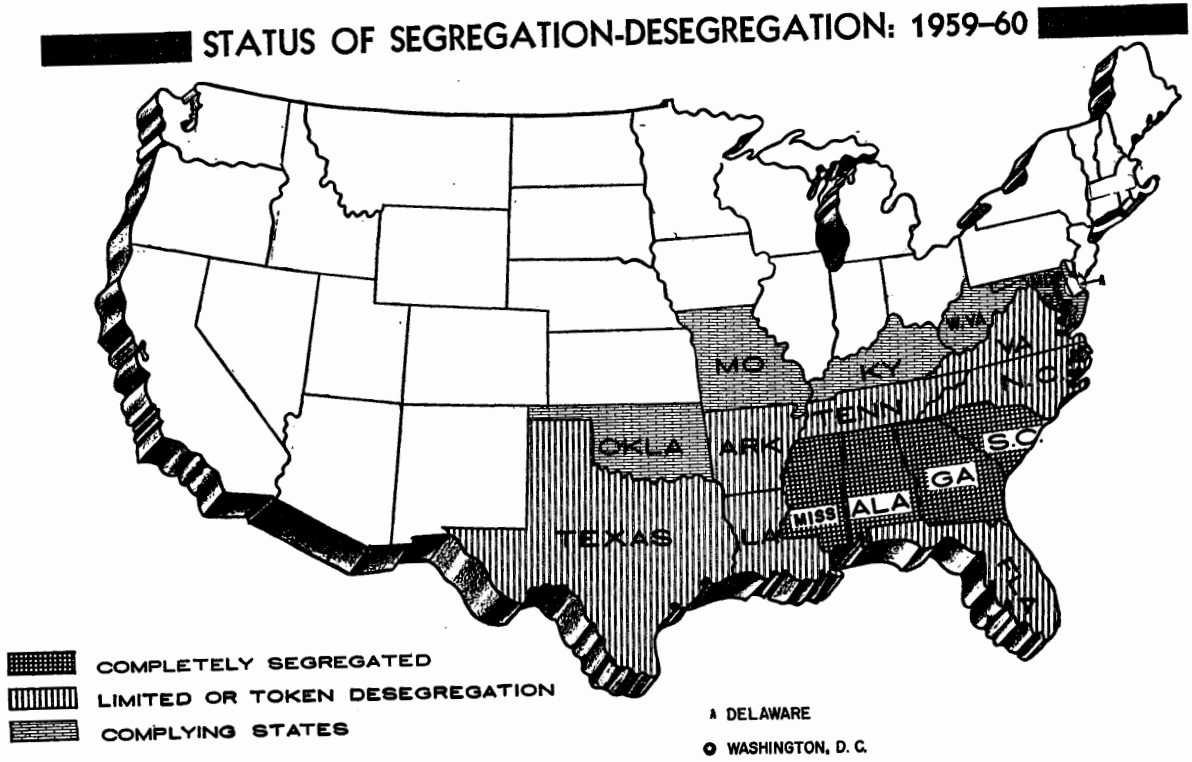

Chart 20—Public Colleges and Universities in Southern States

The extent to which discrimination may continue, even when compulsory segregation has been officially disavowed, is indicated by the number of public institutions in the Southern States that supply themselves with information regarding the race of those who apply for admission. Sixty-nine percent of southern public institutions ask the race of applicants or require a photograph, or both, as compared with 20 percent of those in the Northern and Western States.[10] If the requirement of a personal interview is included as a means of learning the race of an applicant, the percentage in the South supplying themselves with information as to the race of applicants increases to 77 percent as compared with 53 percent in the North and West.[11] The Commission's studies revealed several cases where it was fairly clear that the applicant's race was, in fact, the basis of rejection by public institutions in the South.

The most serious equal-protection problem in public higher education, however, does not arise from the occasional instances of discrimination that occur, but from overt official resistance to any desegregation at all. In almost all the Southern States, such resistance had initially to be overcome by means of lawsuits brought by individual Negroes seeking admission to particular institutions, but, once a start was so compelled, some of the States proceeded voluntarily to open other formerly white public colleges to Negroes.[12] In other States, however, there has been no desegregation except as a result of litigation,[13] and in still others none can be foreseen before some hardy and tenacious Negro has obtained from the courts a declaration of his rights.[14]

Examination of the individual lawsuits upon which progress in desegregation has so largely depended and will continue to depend shows that they are often long and burdensome affairs. The time that has elapsed in such cases between the date when the Negro plaintiff first sought admission to a white institution and the date when he obtained a court order finally upholding or denying his right to be admitted has been as long as 9 years.[15] Table 22 following gives this information with respect to all such cases finally determined since May 24, 1954, when the applicability of the rule of the *School Segregation Cases* to higher education was first announced by the Supreme Court.[16] The elapsed time shown for these cases should be considered in the light of the fact that the Negro who seeks to enforce in court his right to the same education as is offered to white residents of his State may have to forgo any education at all during these months or years of motion and countermotion, hearing and rehearing, appeal and remand.[17]

[10] See app. M, table 1.
[11] *Ibid.*
[12] See pp. 57, 61, 64–68, *supra.*
[13] See pp. 69–80, *supra.*
[14] See pp. 80–96, *supra.*
[15] Hawkins v. Board of Control of the University of Florida, see pp. 75–80, *supra.*
[16] See pp. 43–44, *supra.*
[17] See Ward v. Board of Regents, p. 92, *supra.*

TABLE 22.—*Legal actions by Negroes to obtain admission to public colleges for white students in which final order entered after May 24, 1954*

Name of case *	Institution involved	Court in which suit was filed	Date of filing suit	Date of final order	Time elapsed	Was plaintiff admitted?	Was temporary injunction granted?
Alabama:							
Lucy v. Adams (1)	University of Alabama	Northern district of Alabama.	July 1953 (September 1952).[a]	January 1957	3½ yr	No	No.
Florida:							
Hawkins v. Board of Control (2).	University of Florida	Supreme Court of Florida.	May 1949 (April 1949)[1]	June 1958	Ca. 9 yr	No [b]	No.
Georgia:							
Ward v. Regents of University System (3).	University of Georgia	Northern district of Georgia.	June 1952 (June 1951)[1]	March 1957	Ca. 5 yr	No	No.
Hunt v. Arnold (4)	Georgia State College of Business Administration.	do	June 1956	January 1959	2½ yr	No	No.
Louisiana:							
Constantine v. Southwestern Louisiana Institute (5).	Southwestern Louisiana Institute.	Eastern District of Louisiana.	September 1953	July 1954	10 mo	Yes	No.
Combre v. Frazer (6)	McNeese State College	do	June 1954	December 1954	6 mo	Yes	No.
Wells v. Dyson (7)	Southwestern Louisiana College.	do	September 1954	April 1955	7 mo	Yes	No.
Tureaud v. Board of Supervisors (8).	Louisiana State University (undergraduate).	do	September 1953 (August 1953).[a]	May 1956	2½ yr	No	Yes.
Ludley v. Board of Supervisors (9).	Louisiana State University.	do	January 1957	October 1958	1 yr. 10 mo	Yes	Yes.
Bailey v. Board of Supervisors (9).	McNeese State University	do	do	do	do	Yes	Yes.
Lark v. Board of Supervisors (9).	Southeastern College	do	do	do	do	Yes	Yes.
Henley v. Board of Supervisors (10).	LSU at New Orleans	do	July 1958 (April 1958)[a]	April 1959	9 mo	Yes	Yes.

TABLE 22.—*Legal actions by Negroes to obtain admission to public colleges for white students in which final order entered after May 24, 1954*—Continued

Name of case *	Institution involved	Court in which suit was filed	Date of filing suit	Date of final order	Time elapsed	Was plaintiff admitted?	Was temporary injunction granted?
North Carolina:							
Frasier v. Board of Trustees University of North Carolina (11).	University of North Carolina (undergraduate).	Middle district of North Carolina..	July 1955 (April 1955) [a]	March 1956	8 mo	Yes	No.
Oklahoma:							
Grant v. Taylor (12)	El Reno Junior College	Western district of Oklahoma.	September 1954	August 1955	11 mo	Yes	No.
Troullier v. Proctor (13)	Oklahoma College for Women.	Eastern district of Oklahoma.	do	July 1955	10 mo	Yes	No.
Tennessee:							
Booker v. Tennessee Board of Education (14).	Memphis State University.	Western district of Tennessee.	October 1955 (September 1954).[a]	May 1957	1 yr. 9 mo	No	No.
Prater v. Tennessee Board of Education (15).	do	do	August 1958	August 1959	1 yr	Yes	No.
Texas:							
Bruce v. Stilwell (16)	Texarkana Junior College	Eastern district Texas	1949	November 1955	6 yr	No	No.
Whitmore v. Stilwell (17)	do	do	1949	do	do	No	No.
Allan v. Masters (18)	Kilgore Junior College	do	1952	July 1955	3 yr	Yes	No.
White v. Smith (19)	Texas Western College	Western district Texas	April 1955	August 1955	4 mo	No [b]	No.
Atkins v. North Texas State College. (20)	North Texas State College	Eastern district Texas	August 1955	December 1955	do	No [b]	No.
Jackson v. McDonald (21).	Lamar State College of Technology.	do	March 1956	August 1956	5 mo	Yes	No.
Shipp v. White (22)	West Texas State College	Northern district Texas	September 1959	February 1960	do	Yes	No.

*For citations to cases, see app. S.

[a] Date of rejection of application for admission by university officials.

[b] Other Negro students, not the plaintiff, were admitted.

The civil right not to be denied admission to a public college or university on arbitrary grounds, such as race, is a personal and immediate constitutional right which loses its value if it cannot be enforced promptly. The Commission has found that in the few cases where the question has arisen the rule of "all deliberate speed" has not been applied at the higher education level,[18] and, further, that the rationale of the rule is not pertinent there except perhaps to junior colleges in certain circumstances.[19] Yet it appears from table 22 that the realization of this right through judicial processes is characterized by much deliberation and little speed.

It has been said that the present discrimination problem in higher education centers on the Negro American and that the heart of the problem lies in the Southern States. Although there is substantial discrimination in some public institutions of Arkansas, North Carolina, Tennessee, Texas, and Virginia,[20] the hard-core States are Alabama, Georgia, Mississippi, and South Carolina. It is also true that, as of the college year 1959–60, Negro residents had been able to secure entrance to public colleges in Florida and Louisiana only by court order, to one and four, institutions respectively.[21] The Commission has called these six States collectively the resistant States.

Examining the means used by these States in their official resistance to desegregation, the Commission has found not only exhaustive litigation in the courts, but also a variety of legislative and administrative measures designed to impede or prevent any Negro from entering a public institution maintained for white students.[22] These measures range from laws providing for the closing of desegregated colleges or cutting off their financial support,[23] through the establishment of new admission requirements designed to exclude Negroes,[24] to intimidation of teachers and students.[25]

The Commission also examined the separate colleges maintained in the resistant States to compare the quality of the public higher education offered to the two races. This examination shows that educational opportunity for Negroes is not equal to that provided white residents, when measured by such tangible criteria as number and location of colleges, financial support, type of program offered, degrees granted, or accreditation status of the public colleges for the two races.[26] In some States the deprivation to the Negro students is much greater than in other States, but in all of the resistant States,

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[18] See pp. 43–47, *supra.*
[19] See p. 47, *supra.*
[20] See app. C, table 2, and pp. 56–57, 58–59, 60–64, 64–68, 57–58, *supra.*
[21] See pp. 75–80 and 68–75, *supra.*
[22] See pp. 80–96, *supra.*
[23] See pp. 83, 89, 94, *supra.*
[24] See pp. 79, 90, *supra.*
[25] See pp. 81, 83 and 88–89, *supra.*
[26] See pp. 104–141, *supra.*

as a result of compulsory segregation, education for Negroes is inferior to that provided by the State for white students.

The Commission has found that in the six resistant States education for the Negro is indeed separate and unequal, not only at the college level but in preparation for college. The public high schools of these States, which are still entirely segregated by race, present a picture of deprivation varying in degree from a low of 2.6 percent Negro high schools approved by the Southern Association of Colleges and Secondary Schools as compared with 52.4 percent white in Mississippi, to a high of 53.9 percent Negro and 84.1 percent white high schools so approved in Florida.[27]

This inferior preparation of the Negro high school student in the segregated high school of the South helps perpetuate the problem of segregation and discrimination at the college level. Proportionately fewer academically talented Negroes have the educational foundation required for success in a first-rate college. The graduates of segregated and inferior high schools tend, therefore, in overwhelming numbers to attend segregated and generally inferior colleges.[28] So deprivation at one level leads to deprivation at another, and since the teachers for segregated Negro schools are, for the most part, trained in segregated colleges, these deprivations are self-perpetuating from generation to generation.

The Commission has received evidence that educational deprivation of Negroes is similarly transmitted from the educationally, economically, and culturally deprived parent to the child. The Commission heard at its Second Annual Conference on Problems of Schools in Transition from the Educator's Viewpoint of the educational handicap of the child whose parents lacked educational opportunity; the lower goals and aspirations transmitted from one deprived generation to the next.[29] It also heard how this is being overcome in one public school system by a program designed to help the academically talented raise their sights and develop their potential.[30]

The Commission has examined the role of the Federal Government in this picture of continued denial of equal protection of the laws in public higher education. It has found that the Federal Government has been a silent partner in the creation and perpetuation of separate colleges for Negroes. As to land-grant colleges particularly, the Federal Government has been heavily involved, not only because of its sponsorship of separate colleges in the second Morrill Act of 1890 and its financial support to such colleges ever since the first Morrill Act of 1862, but because it has allowed southern legislatures

[27] See app. H.
[28] See pp. 173–74, *supra*.
[29] Conference Before the U.S. Commission on Civil Rights 218–22, 231–38 (1960).
[30] *Ibid.*

to channel almost all Federal funds for specific programs in such institutions to the separate white colleges.[31] The Federal Government bears a heavy responsibility for the resulting discrimination against past and present generations of Negroes.

Other current programs of Federal aid to higher education have had a similar tendency to support discrimination and to maintain the disparity in educational opportunities offered by some States to their citizens. Five types of Federal programs were analyzed by the Commission as to their civil rights impact. In none of these programs is any consideration given by the Federal Government to the presence or absence of discrimination by the recipient institution. (1) The college housing program was examined as an example of general support to higher education, and found to underwrite segregation.[32] (2) The programs of institutes to improve the quality of education at the secondary and college level, both those administered by the Department of Health, Education, and Welfare under the National Defense Education Act and those of the National Science Foundation, were found to have the effect of improving education for the white student while doing comparatively little for the segregated Negro in the resistant States.[33] (3) Similarly, it appears that in the basic research programs financed by the Federal Government in colleges and universities for the benefit of the health and safety of the Nation as a whole, Negro students in the resistant States have no opportunity to participate except in two States where there have been limited breakthroughs of desegregation.[34] (4) On the other hand, fellowships for advanced study under Federal sponsorship granted on individual merit, and (5) individual aid based on need (student loans) and Federal obligation (VA and war orphans' assistance), have all been found to be nondiscriminatory at the Federal level.[35]

The total impact of Federal aid to public higher education in these States has been to increase the discrepancy between the amounts spent by the States themselves for white institutions as compared with Negro institutions. Table 23 following shows the amount of all allocations, grants, and payments to public institutions of higher education (except individual grants under the Veterans' Readjustment Act), in relation both to the numbers of students of each race enrolled in such institutions and to the numbers of each race in the States' population as a whole.

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[31] See pp. 214–18, *supra*.
[32] See pp. 182–91, *supra*.
[33] See pp. 192–209, *supra*.
[34] See pp. 223–34, *supra*.
[35] See pp. 235–43, *supra*.

TABLE 23.—*Federal funds in support of public higher education in 6 Southern States*

ALABAMA

Year	Per student		Per resident	
	White	Negro	White	Negro
1950	$87.98	$16.41	$0.87	$0.04
1952	114.03	10.51	.84	.04
1954	123.63	10.51	1.00	.03
1956	122.73	8.32	1.44	.03
1958	144.10	13.11	1.82	.04
Total	592.47	58.86	5.97	.18
Average	118.49	11.77	1.19	.04

FLORIDA [1]

1950	$21.29	$25.30	$0.31	$0.08
1952	84.02	23.55	.47	.07
1954	29.93	23.71	.66	.07
1956	134.75	18.46	.76	.06
1958	156.60	15.30	1.01	.05
Total	426.59	106.32	3.21	.33
Average	85.34	21.66	.64	.06

GEORGIA [1]

1950	$99.18	$27.01	$0.62	$0.06
1952	367.38	21.47	1.54	.05
1954	183.85	15.28	1.32	.03
1956	191.94	13.62	1.73	.05
1958	185.70	14.37	1.79	.03
Total	1,028.05	91.75	7.00	.22
Average	205.61	18.35	1.40	.04

LOUISIANA

1950	$81.67	$11.95	$0.77	$0.04
1952	138.77	12.36	1.09	.05
1954	86.31	12.18	.80	.07
1956	26.43	8.20	.30	.04
1958	110.97	5.83	1.39	.04
Total	444.15	50.52	4.35	.24
Average	88.83	10.10	.87	.05

[1] White junior colleges omitted because there is no Federal aid.

TABLE 23.—*Federal funds in support of public higher education in 6 Southern States*—Continued

MISSISSIPPI[1]

Year	Per student		Per resident	
	White	Negro	White	Negro
1950	$161.64	$42.26	$1.43	$0.05
1952	208.60	32.97	1.40	.05
1954	200.74	29.72	1.56	.05
1956	222.89	22.58	2.15	.06
1958	250.41	19.22	2.75	.05
Total	1,044.28	146.75	8.29	.26
Average	208.85	29.35	1.66	.05

SOUTH CAROLINA

1950	$112.81	$48.33	$0.85	$0.08
1952	168.15	37.90	1.10	.07
1954	145.48	31.77	1.01	.06
1956	192.23	33.09	1.42	.05
1958	169.71	28.82	1.60	.05
Total	788.38	178.91	5.98	.31
Average	157.67	35.78	1.19	.06

[1] White junior colleges omitted because there is no Federal aid.
Source of data: See apps. E, F, T, U.

It is apparent that Federal funds allocated, granted, or disbursed under contract to higher educational institutions without regard to the discriminatory policy of the recipient institution accentuate the disparity of educational opportunity for the American Negro in the six States studied, whether such funds are measured as support per student or by resident of the State.

The effect of Federal Funds on the already unequal support of white and Negro public colleges by state and local governments is shown on the charts following.

Great progress has been made in the past 20 years in bringing about the American goal of equal opportunity for all without regard to race, creed, or national origin, but the goal is not yet achieved. If it is to be realized as a shining example to the world, all Americans of good will who believe in their national heritage and the creed of freedom must support the measures needed to make it true, now, before it is too late.

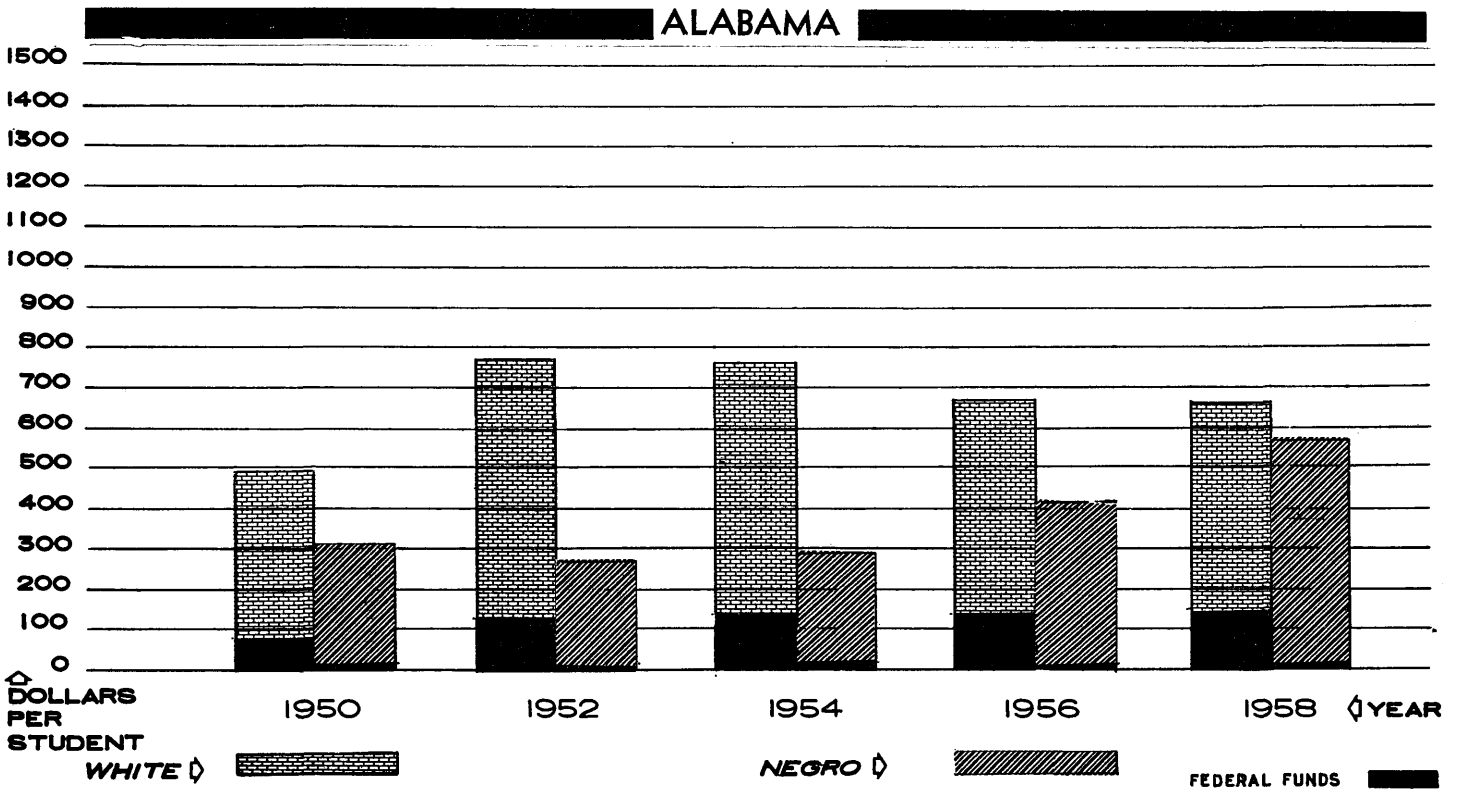

Chart 21—Federal, State and Local Funds for Public Colleges

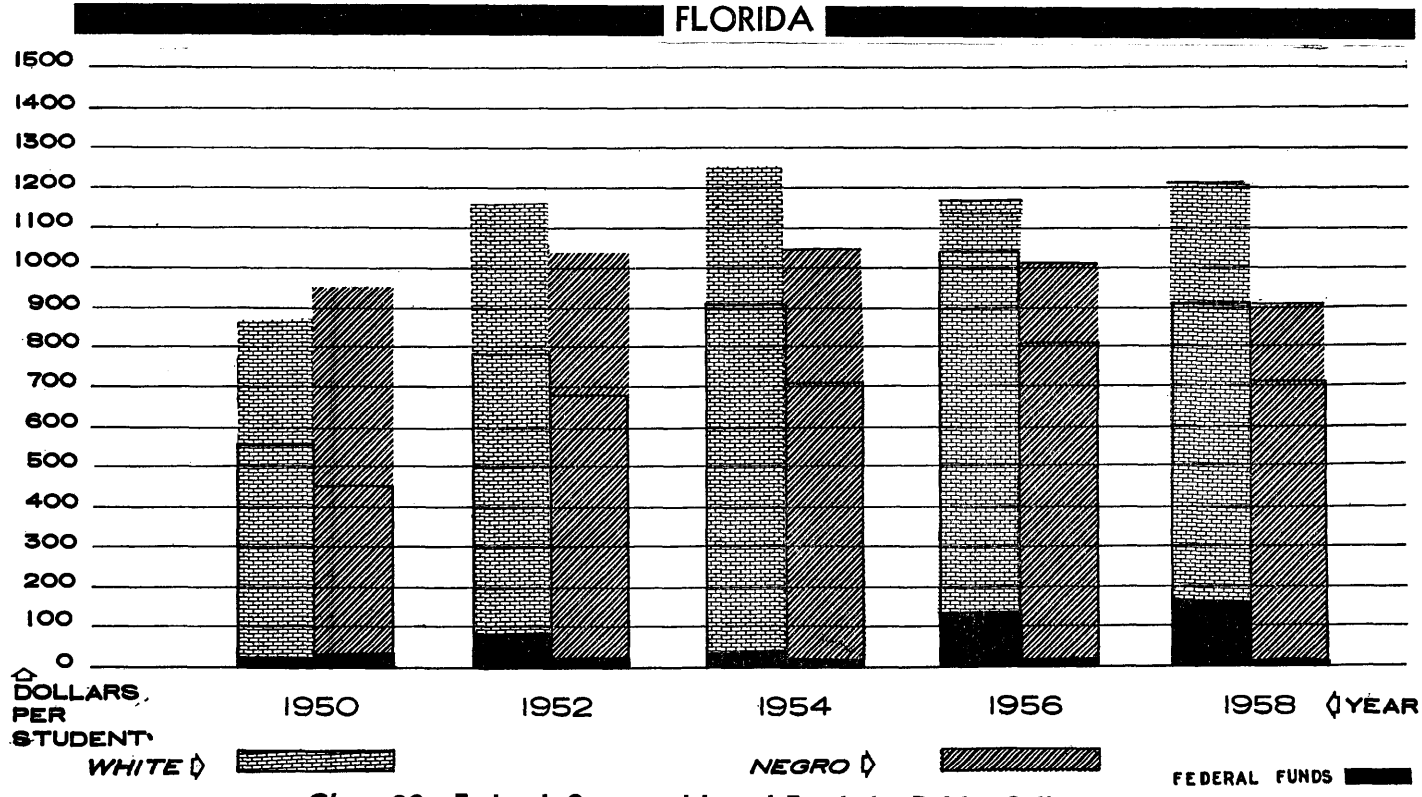

Chart 22—Federal, State and Local Funds for Public Colleges

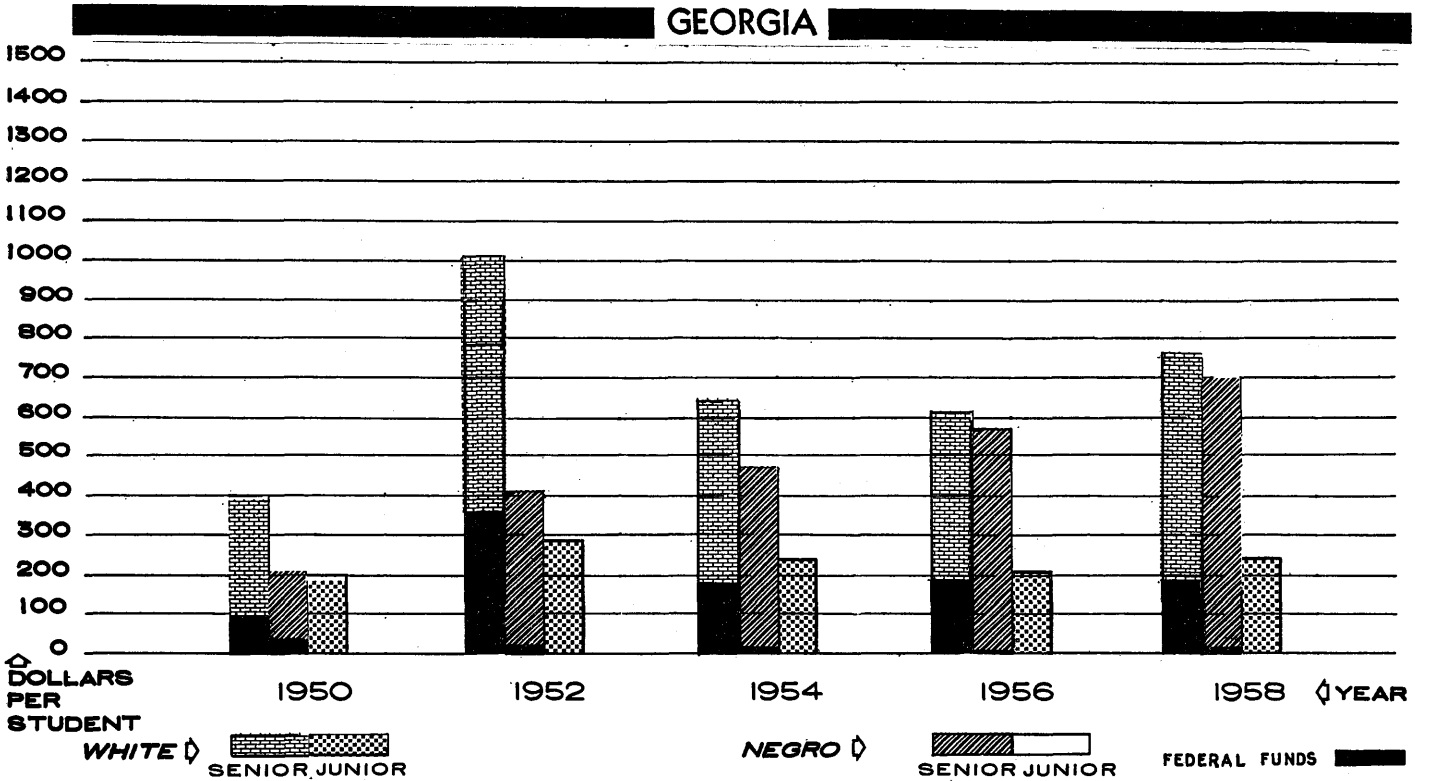

Chart 23—Federal, State and Local Funds for Public Colleges

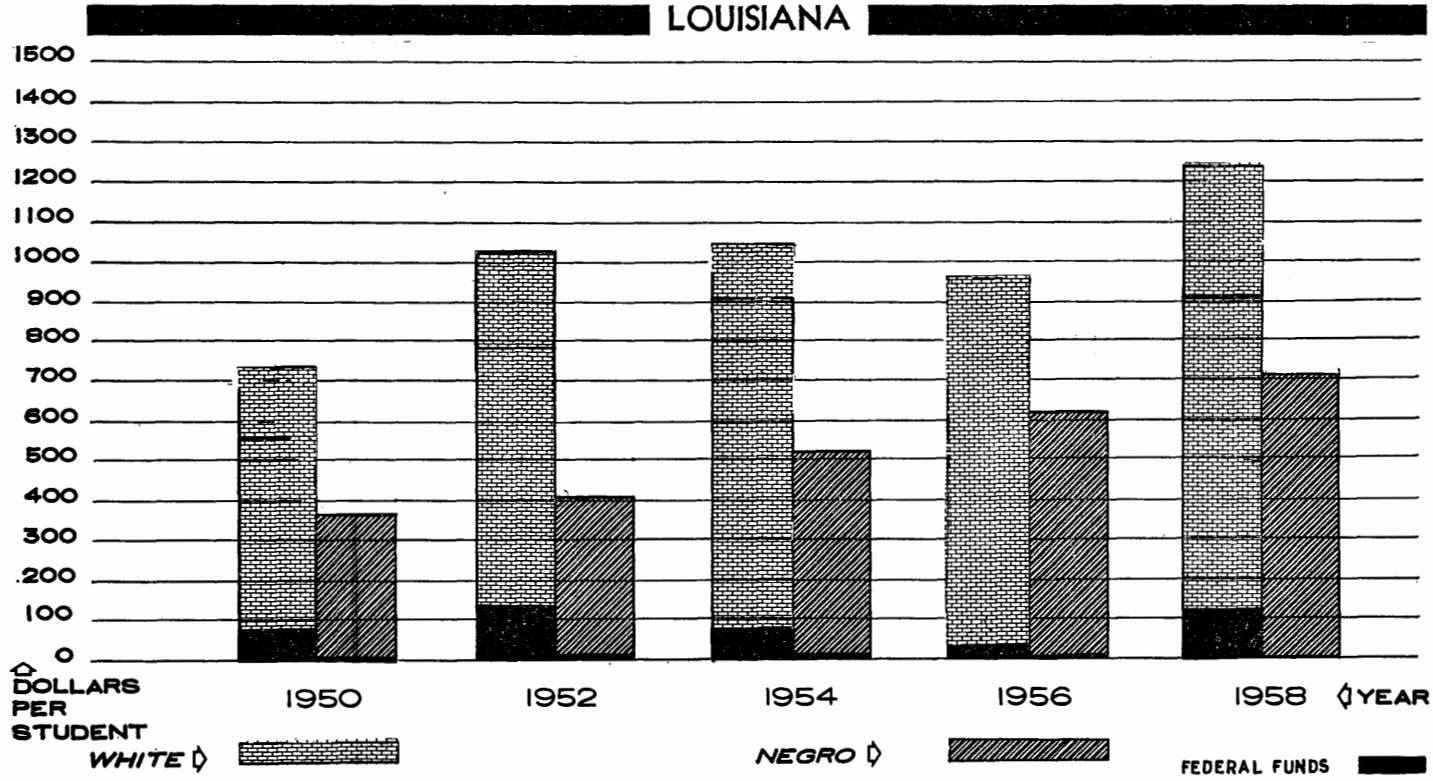

Chart 24—Federal, State and Local Funds for Public Colleges

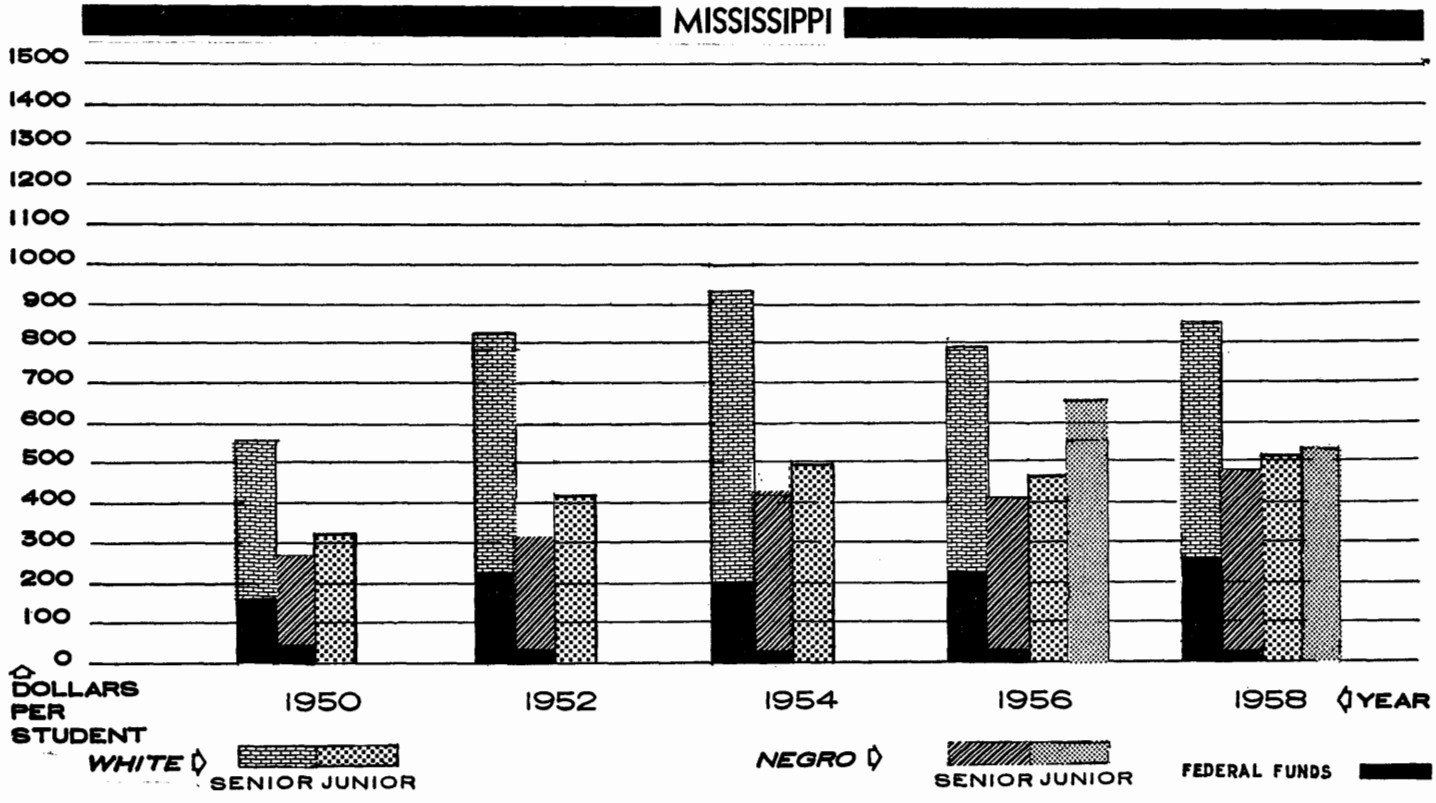

Chart 25—Federal, State and Local Funds for Public Colleges

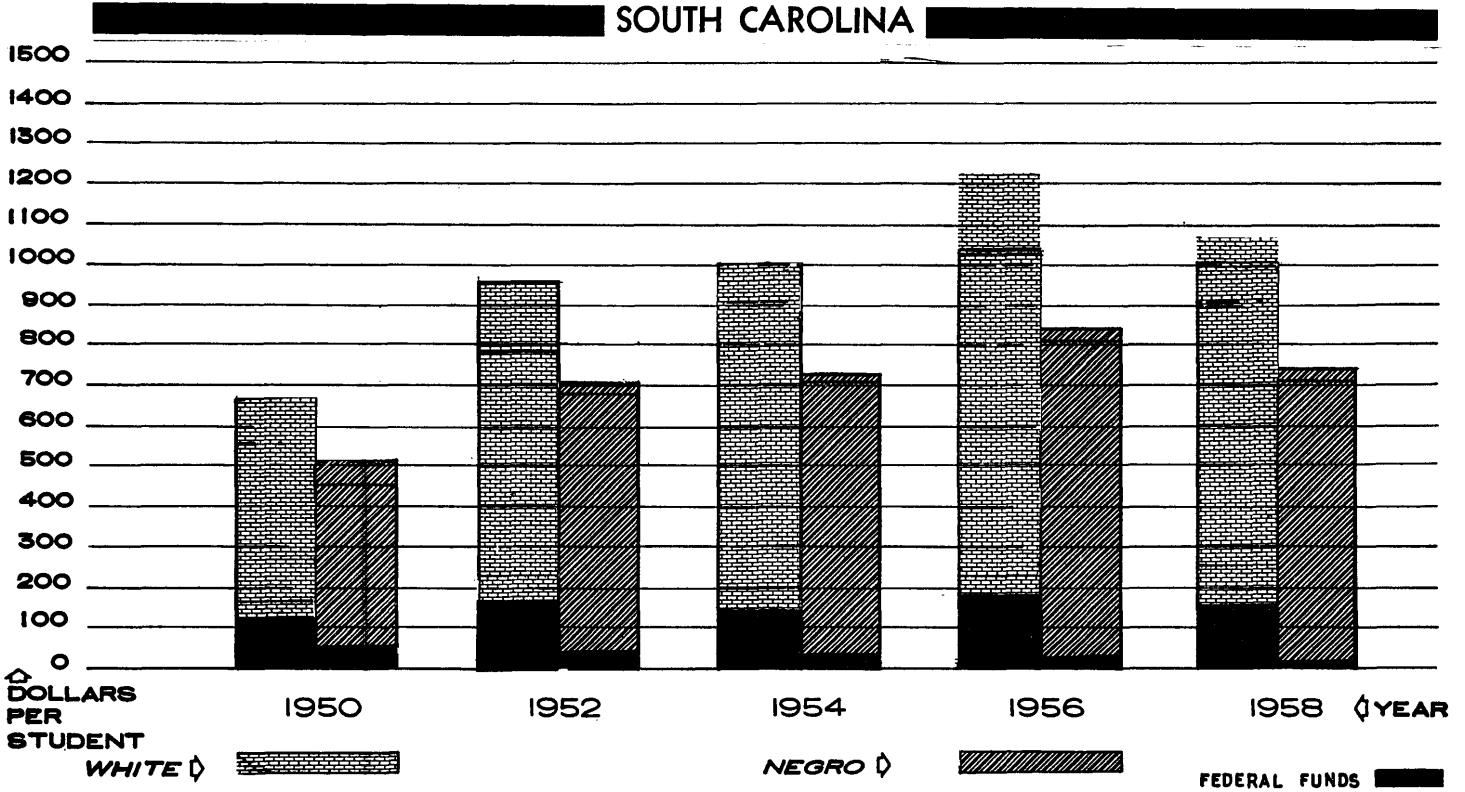

Chart 26—Federal, State and Local Funds for Public Colleges

PART IX

FINDINGS AND RECOMMENDATIONS

GENERAL FINDINGS

1. The Commission's statutory directives to "study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution" and to "appraise the laws and policies of the Federal Government with respect to equal protection of the laws under the Constitution" have limited the Commission's study in the field of higher education to colleges and universities which are controlled by States or political subdivisions thereof. Discrimination by such colleges on grounds of race, religion, or national origin is a denial of equal protection of the laws.

2. Such unconstitutional discrimination by public colleges and universities, while it has diminished substantially in the past generation, remains a serious national problem. Seventy percent of the public institutions of higher education in the United States, by means of inquiries on their admission forms or other requirements connected therewith, provide themselves with information susceptible to use for discrimination in admission on the grounds of race, religion, or national origin. Some institutions, both North and South, in fact, use the information so acquired to effect such discrimination.

In addition, in the academic year 1959–60, 6 years after the United States Supreme Court held that racial segregation in public education is of itself a denial of equal protection of the laws under the Constitution, at least 86 of the 211 public higher educational institutions formerly for white students only in the 17 Southern States continued to exclude Negro applicants on the ground of race in violation of the law of the land.

3. Unlawful discrimination today in the admission policies and practices of public colleges and universities is principally directed against the American Negro, who comprises more than 10 percent of the total population of the Nation; the proportion is much higher in the region of the country where such discrimination is most prevalent.

4. The responsibility for conforming their admission policies and practices to constitutional requirements rests initially with the pub-

licly controlled institutions of higher education themselves, and with the States which support them. Insofar as these continue to fail to recognize their constitutional duties, however, the Federal Government has an obligation to take appropriate measures to prevent discrimination. The types of action which the Federal Government can and should take in this regard include measures to assure that no action or policy of the Federal Government increases the effect of the unconstitutional acts of others; to help those deprived realize their constitutional rights promptly, without undue individual burden or delay; and to assist in overcoming the cumulative effects of past deprivations.

FEDERAL FUNDS IN SUPPORT OF HIGHER EDUCATION

Findings

1. The Federal Government is deeply involved financially in the higher education of its citizens. Its expenditure for general support of colleges and universities; for aid to students, teachers, and institutions for specific educational programs; and for research in or by colleges and universities is estimated to be $1.5 to $2 billion a year.

2. Insofar as applicants to publicly controlled colleges and universities are denied admission on such arbitrary grounds as their race, religion, or national origin, they not only are denied equal protection of the laws under the Constitution, but also are denied the opportunity to participate, directly or indirectly, in the benefits resulting from the use by such institutions of Federal funds.

3. Insofar as the Federal Government, whether by allotment, grant, or contract, disburses funds to publicly controlled colleges and universities practicing racial exclusion, whether of Negro students or white, it is supporting operations in violation of the Constitution.

4. The Supreme Court has held that the Federal Government is prohibited by the Constitution from maintaining racially segregated educational institutions. It is not sound policy for the Federal Government to subsidize the unconstitutional operations of others; to do indirectly what it is not permitted to do directly.

5. It is not a sound policy for the Federal Government to disburse public funds in such a manner that it increases the adverse effects on some citizens of denials of equal protection of the laws by States and political subdivisions thereof.

6. In its study of Federal programs of aid to higher education, the Commission has found that programs of direct assistance to individual students on the basis of merit (NSF fellowships), need (National Defense Education Act students' loans), and Federal obligation (VA and War Orphans assistance) are not administered so as to be discriminatory on grounds of race, religion, or national origin.

7. Other Federal programs in support of higher education, however, by reason of the failure of the Federal Government to give any consideration to the presence or absence of discriminatory practices by the recipient institution, have the effect of supporting racial segregation, and continue the educational deprivation of those excluded from such institutions. In five of the programs studied by the Commission, college housing, national defense fellowships, national defense education act, educational media, NSF institutes, and agricultural research and extension, 62 percent or more of the funds expended in seven selected Southern States went to institutions which exclude applicants solely on the basis of race. In five other such programs, National Defense Education Act counseling and guidance institutes, National Defense Education Act language institutes, NIH grants under contract, NSF grants in support of basic research, AEC grants for research fellowships and other training, 40 to 50 percent of the funds expended in the seven States were received by such institutions.

8. The disbursement of Federal funds under these and other programs to segregated white institutions in the four States maintaining complete segregation at the higher education level increases the disparity between the public financial support of colleges for white students and colleges for Negroes. In fiscal year 1958, for instance, the amount of Federal funds expended in support of public white institutions, per student enrolled, exceeded the amount expended for public Negro institutions by $130.99 in Alabama, $171.33 in Georgia, $179.50 in Mississippi, and $141.89 in South Carolina. The effect of this discrepancy is to contribute to the continuation of inferior segregated institutions and to magnify the disparity between the quality of the public higher education offered to white students and that offered to Negro students in such States. The same situation exists in other States, but, owing to desegregation in some degree of one or more public colleges or universities, the effect on a Statewide basis is not so great.

Recommendation No. 1

1. Therefore, the Commission recommends that the Federal Government, either by executive or, if necessary, by congressional action, take such measures as may be required to assure that funds under the various programs of Federal assistance to higher education are disbursed only to such publicly controlled institutions of higher education as do not discriminate on grounds of race, color, religion, or national origin.

The Commission agrees that in any such Federal action taken it should be stipulated that no Federal agency or official shall be given power to direct, supervise or control the administration, curricula or personnel of an institution operated and maintained by a State or a political subdivision thereof.

CONCURRING STATEMENTS

Vice Chairman Storey: This recommendation seems to assume that executive or administrative action to withhold such funds might be proper under some existing laws because broad powers are conferred upon some agencies or officials without legislative prohibition of such administrative action. Strong arguments can be made for the opposite point of view, namely, that had Congress intended to curtail the distribution of federal funds to institutions which discriminate in admission policies, it would have delegated such powers expressly and would have set forth specifically the conditions under which such funds should be withheld. It is reasonable to conclude that not having delegated such power Congress did not intend it to be assumed or exercised.

Commissioner Rankin: I sincerely support the orderly and gradual achievement of equal protection of the laws for all citizens, and I recognize that the Federal Government has a responsibility to assure that the funds it disburses for any general welfare purpose are available on equal terms to all without regard to race, religion or national origin. However, I must express my concern that this recommendation, if put into effect in an immediate and drastic fashion, would be interpreted by many citizens as a punitive measure rather than one in support of proper constitutional objectives. I am interested in promoting sound public education; I seek compliance with the Constitution, not the imposition of penalties. Additionally, if the conditioning of Federal funds were to result in widespread refusal to accept Federal assistance, those who would suffer would not be those who made the decision but the students who directly or indirectly benefit from Federal grants-in-aid to education.

I, therefore, concur in this recommendation in principle but could not support certain procedures that would, in my mind, be unwise means of implementation.

DISSENTING STATEMENT

Commissioner Doyle E. Carlton: I join the Commission in commending the Staff on the detailed and well-documented study of the legal developments in connection with the matter of denial of rights in public higher education. The report reflects great progress made in this area over the last twenty years. However, much remains to be done. Our real question is how best to obtain our objective.

As to recommendation 1, it is my opinion that this objective will not be attained by any action which has the effect of withholding public funds from institutions that do not conform to a Federal pattern. The withholding of such funds is to me unsound from a political, governmental and moral standpoint. I cannot approve the withholding of money, coming as it does to the Federal Government from the

taxpayers of the several States, as a club to forge any fixed pattern set forth by a Federal agency. Such action would impede rather than advance public higher education. It would also create resentment and ill will to the injury of both races. Progress can be made on the basis of good will without such arbitrary action.

ENFORCEMENT OF CONSTITUTIONAL RIGHTS

Findings

1. The long process of eliminating segregation in the public colleges and universities of the 17 Southern States began at the graduate and professional school level in 1936. In the following 18 years the State universities in three States opened their graduate divisions voluntarily to all qualified students without regard to race. The graduate divisions, or specific schools therein, were similarly opened in certain public institutions in eight additional States by court action. Likewise, the undergraduate division of some 4-year colleges and junior colleges, formerly for white students only, in four States were voluntarily opened on a nondiscriminatory basis before the Supreme Court's decision in the *School Segregation Cases* in 1954. Undergraduate students were also admitted by Federal court order to certain public colleges in four States prior to 1954.

2. In 1954 and 1955, following the Supreme Court's decision in the *School Segregation Cases*, six States and the District of Columbia officially and voluntarily abolished all racial designations for their State colleges and universities and declared them open to all qualified students. Vountary desegregation since 1955 has been limited to such action by individual colleges and universities after a court order had required desegregation of another public institution in the same State. However, in the academic year 1959–60 racial segregation was still maintained in at least 86 public colleges and universities in Southern States. Further extension of voluntary compliance with constitutional requirements does not now seem probable; future gains will depend increasingly upon individual court suits to compel the dropping of racial barriers.

3. At present, action to secure admission to a public college or university by court action is a long, arduous, and costly affair. The average length of such suits in Federal district courts (excluding the few cases in which the defendant did not file an appeal from an order admitting the plaintiff) in all cases finally determined since May 1954 is slightly more than 2½ years.

4. An individual should not be subjected to such delay in securing a judicial determination of his constitutional rights. In the case of a college applicant, the delay causes irreparable harm to the individual and also to the Nation that needs to realize the highest potential of its manpower.

5. The application of a State law, custom, or practice in such a way as to deny constitutional rights involves a question of State-Federal relationship of delicacy and importance comparable to that involved in a challenge to the constitutionality of a State statute. In the latter case the Congress, in order to assure an adequate hearing and full deliberation of the issue, has provided for an expeditious hearing by a court composed of three judges, and a direct appeal to the United States Supreme Court. Such a procedure, long established and familiar to judges and lawyers alike, could be extended to include cases presenting a factual issue of denial of equal protection of the laws and would promote the speedy and correct determination of such cases.

Recommendation No. 2

Therefore, the Commission recommends that Congress consider the advisability of authorizing the use of three-judge courts under section 2284 of the United States Judicial Code (U.S.C., title 28) to cases presenting a substantial factual issue as to whether persons are being denied equal protection of the laws with respect to public education.*

DISSENTING STATEMENTS

Vice Chairman Storey: This recommendation affects jurisdiction of the Federal courts which should not be disturbed. Delays in litigation are often due to causes other than jurisdiction. In vesting a fact-finding function in the three-judge Federal court for all public education cases it is, in effect, recommending the transferal of the duties of the United States District Courts to other Federal courts.

Commissioner Carlton: I see no reason for this recommendation. Our courts are ample and are proving repeatedly that the problem is being handled efficiently.

AFFIRMATIVE FEDERAL ACTION TO ALLEVIATE ACADEMIC HANDICAPS

Findings

1. The overall effect of segregation in public education, at both the college and the public school levels, has been to give a substantial portion of the population the opportunity to obtain only an inferior

*The Commissioners understand that under usual circumstances the judges appointed to a three-judge court are selected from among the federal district courts and court of appeal of the circuit in which the case arises. They believe this to be sound practice and in cases involving factual questions of denial of equal protection of the laws would be of great importance. The delicate questions of Federal-State relationships in this type of case can best be resolved by those having an understanding of local attitudes and problems as well as a knowledge of governing constitutional principles.

education. Moreover, the effects of such deprivations are self-perpetuating; that is, students from inferior schools can attend only inferior colleges, where they are often trained as inferior teachers, and from which they return to teach in the same inferior schools.

2. It is the national interest in this time of world crisis to educate and train all citizens to the utmost of their abilities and talents.

3. The Federal Government sponsors various programs having as their general objective improvement of the quality of education and other programs which are designed to identify and assist talented students. These have been of little value to Negroes in some Southern States because of the discriminatory admission policies of the institutions in which they were sponsored. Recommendation 1 above, if implemented effectively, should eliminate discrimination in such programs in the future, but it would not wipe out the cumulative effects of years of educational deprivation. Affirmative attack against inferior educational opportunities is needed to break the vicious circle of self-perpetuating inferiority.

4. Programs could be designed that aim at raising the quality of education throughout the Nation by giving assistance to persons, both teachers and students, who have potential talent but are academically handicapped as a result of the inferior educational opportunities that have been available to them. Such programs might include, among others: (1) Institutes to improve the competence of public school teachers in English, history, and social sciences, similar to those now sponsored in science, mathematics, and foreign languages; (2) summer institutes conducted by public colleges for incoming students of potential ability whose academic preparation is inadequate for college-level work; (3) special academic-year institutes conducted by colleges and universities or by outstanding secondary schools for talented but academically deficient high school graduates to prepare them for college.

Recommendation No. 3

Therefore, the Commission recommends that the Federal Government sponsor in the several States, upon request from the several States, educational programs designed to assist public school teachers and students of native talent and ability who are handicapped professionally or scholastically as a result of inferior educational opportunity and training.*

*The Commission believes that local authorities can best plan and develop educational programs appropriate to their needs without Federal interference, and agrees that this recommendation can and should be implemented without direction, supervision, or control by any Federal agency or official of the personnel, curricula or administration of any education institution not operated and maintained by the Federal Government.

ADDITIONAL PROPOSALS OF CHAIRMAN HANNAH AND COMMISSIONERS HESBURGH AND JOHNSON

I.

FEDERAL FUNDS TO PRIVATE COLLEGES

The Commission has recommended that the Federal Government, either by executive or, if necessary, by congressional action, take such measures as may be required to assure that funds under the various programs of Federal assistance to higher education are disbursed only to such publicly controlled institutions of higher education as do not discriminate on grounds of race, color, religion, or national origin. This recommendation has our complete endorsement, but we believe it does not go far enough.

Private colleges and universities that may discriminate in their admission policies on the grounds of race, religion, or national origin also receive Federal aid in building dormitories and facilities for research, and for the conduct of special educational programs, institutes, and research.

Our colleagues contend that recommendations concerning private institutions that are not subject to the requirements of the 14th amendment are beyond the jurisdiction of the Commission, although they agree that Congress may constitutionally condition any grant of public funds to either a public or private university upon a stipulation that the recipient does not discriminate among applicants for admission on the ground of color, race, religion, or national origin.

The effects of exclusion on the grounds of race, religion, or national origin by a private college that receives Federal funds, although such exclusion is not unconstitutional, are exactly the same as exclusion on such grounds by a public institution. The individual arbitrarily excluded is deprived of the benefits flowing from public funds that those not so excluded receive. It should not be possible for public funds, collected from all of the taxpayers of the Nation to promote the general welfare of *all* citizens, to be so disbursed that any group or groups of the population may be precluded arbitrarily from any possibility of benefiting therefrom. The imposition of such a condition upon the recipient of public funds in no way constitutes Federal supervision or control of the recipient institution; those that cannot or will not conform to the national policy of nondiscrimination merely forego the benefit of Federal funds.

The problem of the proper use of public funds by private colleges and universities is too closely tied to such use by public institutions to direct a recommendation only to the latter on the sole ground that there is not yet a court decision holding that the mere receipt of substantial public funds by a private institution brings it within the purview of the 14th amendment.

Therefore, we propose that the Federal Government, either by executive or, if necessary, by congressional action, take such measures as may be required to assure that funds under the various programs of Federal assistance to higher education are not disbursed to any public or private institution of higher education which discriminates on grounds of race, religion, or national origin.

ENFORCEMENT OF CONSTITUTIONAL RIGHTS

II.

ADDITIONAL POWERS FOR THE ATTORNEY GENERAL

The individual enjoyment of constitutional rights is a matter of public interest: The burden of vindicating such rights should not rest solely on the individual deprived nor on private organizations. The Federal Government should assume an active role in the prosecution of legal action to achieve such rights as well as enact legislation to expedite the judicial process. The President has in the past unsuccessfully requested the Congress to give the Attorney General general authority to institute civil action to enforce constitutional rights of individual persons. Such requested authority would not have been limited to the power to protect the rights of persons not to be denied the equal protection of the laws with respect to public education. Since the Commission's present study has been concerned only with this constitutional right, our proposal is limited thereto.

Therefore, we propose that the Congress consider the advisability of granting the Attorney General statutory authority to institute, or intervene in civil actions to enforce the constitutional rights of individual persons not to be denied equal protection of the laws with respect to public higher education.

SEPARATE STATEMENTS OF VICE CHAIRMAN STOREY AND COMMISSIONERS CARLTON AND RANKIN WITH REGARD TO GRANTING ADDITIONAL POWERS TO THE ATTORNEY GENERAL

Vice Chairman Storey: This proposal differs little from some previously considered and rejected by the Congress. Additional specific powers were given the Attorney General by the Civil Rights Act of 1960. No additional powers should be considered until these are fully tested.

Commissioner Carlton: I also am opposed to arming the Attorney General with any additional authority to institute civil suits. We have ample laws to meet this situation, as is being proven day after day.

Commissioner Rankin: I know that existing procedures place a great burden both financially and personally upon the individuals seeking to realize their constitutional rights. But I cannot support the proposal because it would vest unlimited power in the Attorney General to bring legal action in the name of the United States to enforce the rights of individuals whenever and wherever he might decide such action was appropriate. Without some express limitation this would grant excessive power to a single member of one branch of the Federal Government.

APPENDICES

List of Appendices

APPENDIX A

Organization of Negro land-grant colleges under 1st and 2d Morrill Acts and dates of their establishment

Name and location of Negro land-grant colleges	Dates when Negro land-grant colleges received funds under first Morrill Act of 1862	Dates when States accepted terms for Negro land-grant colleges under second Morrill Act of 1890	Dates when present institutions were established [1]
State Agricultural and Mechanical Institute, Normal, Ala		1891	1875
Agricultural, Mechanical and Normal College, Pine Bluff, Ark		1891	1872
State College for Colored Students, Dover, Del		1891	1891
Florida Agricultural and Mechanical College, Tallahassee, Fla		1893	1887
Georgia State Industrial College, Industrial College, Ga		1890	1890
Kentucky State Industrial College, Frankfort, Ky	1897	1893	1886
Southern University Agricultural and Mechanical College, Baton Rouge, La		1890	1880
Princess Anne Academy; Eastern Branch, University of Maryland, Princess Anne, Md		1892	1886
Alcorn Agricultural and Mechanical College, Alcorn, Miss	[2] 1871	1890	1871
Lincoln University, Jefferson City, Mo		1891	1866
Agricultural and Technical College, North Carolina, Greensboro, N.C		1891	1891
Colored Agricultural and Normal University, Langston, Okla		1899	1897
State Agricultural and Mechanical College, Orangeburg, S.C	[3] 1872	1896	1896
Tennessee Agricultural and Industrial State Teachers College, Nashville, Tenn		1891	1912
Prairie View State Normal and Industrial College, Prairie View, Tex		1891	1891
Virginia State College for Negroes, Ettrick, Va	[4] 1872	1891	1920
West Virginia State College, Institute, West Va		1890	1890

[1] A number of these institutions were established under other names which were changed when they became Negro land-grant colleges.
[2] Alcorn University.
[3] Claflin University.
[4] Hampton Normal & Agricultural Institute.

Source: Klein, *Survey of Land-Grant Colleges and Universities* 841 (U.S. Department of Interior, Office of Education, Bull. No. 9, vol. II, 1930).

APPENDIX B

TABLE 1.—*College students enrolled in Negro land-grant colleges in 1928*

Institution	1st year		2d year		3d year		4th year		Total (including special students)		Grand total
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	
State Agricultural and Mechanical Institute of Alabama	12	4	7	3	-----	-----	-----	-----	19	7	26
Agricultural, Mechanical and Normal College of Arkansas	12	10	4	8	-----	-----	-----	-----	16	20	36
State College for Colored Students of Delaware	1	4	-----	-----	-----	-----	-----	-----	3	18	21
Florida Agricultural and Mechanical College	23	26	13	21	4	4	14	3	54	54	118
Georgia State Industrial College	21	13	7	3	4	2	3	-----	70	36	106
Kentucky State Industrial College	33	87	14	20	3	2	-----	1	53	110	163
Southern University and Agricultural & Mechanical College of Louisiana	17	33	14	27	2	8	5	4	38	72	110
Princess Anne Academy of Maryland	10	2	1	4	-----	-----	-----	-----	11	6	17
Alcorn Agricultural and Mechanical College of Mississippi	33	22	16	4	12	8	16	3	76	37	113
Lincoln University of Missouri	35	56	20	37	11	11	11	5	77	109	186
Agricultural and Technical College of North Carolina	82	-----	30	-----	24	-----	14	-----	157	-----	157
Colored Agricultural and Normal University of Oklahoma	31	88	21	68	7	10	11	2	70	168	238
State Agricultural and Mechanical College of South Carolina	31	57	30	48	27	4	25	6	113	115	228
Tennessee Agricultural and Industrial State Teachers College	82	236	37	81	29	43	29	32	177	393	570
Prairie View State Normal and Industrial College of Texas	90	282	38	100	40	38	31	52	235	503	738
Virginia State College for Negroes	50	106	30	108	23	34	4	20	109	275	384
West Virginia State College	97	143	66	127	44	83	18	36	218	272	490
Total	660	1,169	348	659	230	247	181	164	1,496	2,195	3,691

Source: Klein, *Survey of Land-Grant Colleges and Universities* 896 (U.S. Department of the Interior, Office of Education, Bull. No. 9, vol. II, 1930).

TABLE 2.—*Subcollegiate students enrolled in Negro land-grant colleges in 1928*

Institution	Secondary grades			Elementary grades			Grand total
	Men	Women	Total	Men	Women	Total	
State Agricultural and Mechanical Institute of Alabama	65	67	132	110	111	221	353
Agricultural, Mechanical, and Normal College of Arkansas	120	146	266	31	41	72	338
State College for Colored Students of Delaware	54	90	144				144
Florida Agricultural and Mechanical College	97	151	248	85	120	205	453
Georgia State Industrial College	126	90	216	91	59	150	366
Kentucky State Industrial College	53	59	112	28	32	60	172
Southern University & Agricultural and Mechanical College of Louisiana	96	126	222	51	65	116	338
Princess Anne Academy of Maryland	51	59	110	12	13	25	135
Alcorn Agricultural and Mechanical College of Mississippi	257	162	419	119	81	200	619
Lincoln University of Missouri	75	90	165	36	50	86	251
Agricultural and Technical College of North Carolina	208		208				208
Colored Agricultural and Normal University of Oklahoma	57	134	191	15	10	25	216
State Agricultural and Mechanical College of South Carolina	182	216	398	59	58	117	515
Tennessee Agricultural and Industrial State Teachers College	102	211	313	9	12	21	334
Prairie View State Normal and Industrial College of Texas	75	217	292				292
Virginia State College for Negroes	153	337	490	328	306	634	1,124
West Virginia State College	87	111	198	41	35	76	274
Total	1,858	2,266	4,124	1,015	993	2,008	6,132

Source: Klein, *Survey of Land-Grant Colleges and Universities* 897 (U.S. Department of the Interior, Office of Education, Bull. No. 9, Vol. II, 1930).

APPENDIX C

TABLE 1.—*Southern public colleges and universities established for white students: Complying states—Character of enrollment, by race, 1959–60*

State	Total public institutions	Includes Negroes	Enrollment—No Negroes	Unknown
Delaware:				
Colleges and universities	1	1	0	0
Junior colleges				
Kentucky:				
Colleges and universities	7	7	0	0
Junior colleges				
Maryland:				
Colleges and universities	4	3	1	0
Junior colleges	10	8	2	0
Missouri:				
Colleges and universities	7	7	0	0
Junior colleges	6	3	1	2
Oklahoma:				
Colleges and universities	16	15	1	0
Junior colleges	6	5	1	0
West Virginia:				
Colleges and universities	9	8	1	0
Junior colleges				
Total	66	57	7	2
Percent		86.4	10.6	3

Source of data: Commission questionnaires.

TABLE 2.—*Southern public colleges and universities established for white students: Token-compliance states—Status of segregation-desegregation, 1959–60*

State	Total public institutions	Status by policy			Status by actual enrollment		
		Segregated	Desegregated	Unknown	White	Biracial	Unknown
Arkansas:							
Colleges and universities [1]	7	1	6	0	1	3	3
Junior colleges							
North Carolina:							
Colleges and universities [2]	6	2	4	0	2	3	1
Junior colleges [3]	3	2	1	0	3	0	0
Tennessee:							
Colleges and universities [1]	6	0	6	0	1	4	1
Junior colleges							
Texas:							
Colleges and universities [4]	18	10	8	0	9	7	2
Junior colleges [5]	29	4	18	7	10	12	7
Virginia:							
Colleges and universities [1 6]	7	3	4	0	3	4	0
Junior colleges							
Total	76	22	47	7	29	33	14
Percent		28.9	61.8	9.2	38.1	43.4	18.4

[1] State university listed as desegregated admits Negro applicants only for courses not offered at public Negro college.
[2] Negroes excluded by "policy of state" at one college but orientals enrolled.
[3] 1 junior college listed as segregated maintains a Negro branch.
[4] 7 colleges reporting exclusion of Negroes show enrollment of American Indians and/or orientals.
[5] 2 colleges reporting exclusion of Negroes show enrollment of orientals.
[6] 1 college reporting exclusion of Negroes shows enrollment of orientals.

Source of data: Commission questionnaries, So. School News, public press.

APPENDIX D

Questionnaire to southern public colleges and universities

State of _____
Name of institution _____
Location _____
This institution has no branches. ☐
This reply includes the following branch institution located at:
_____ _____
Information supplied by _____ _____ _____
Name Title Date

1. Under the policies or practices of this institution is admission *presently* denied to otherwise qualified students because of race?
   Yes _____ No _____
2. If the answer to (1) is "Yes," specify the race or races denied admission.
   _____ _____
3. If there is no longer a denial of admission to otherwise qualified students by virtue of their race, when did this policy or practice first become effective?
   Date
   a. Undergraduate schools _____
   b. Graduate schools _____

4. In what year were applicants previously excluded by reason of race first actually admitted as students pursuant to the change in policy?

Date

a. Undergraduate schools _____
b. Graduate schools _____
c. If there have been no applicants otherwise qualified from the previously excluded group or groups, place a check mark below:
Undergraduate ☐
Graduate ☐

5. What races are or were represented in the student body? (Please record the number of each or estimate by number or percentage)

a. Regular session fall, 1959	*No.*
Total	_____
White	_____
Negro	_____
American Indian	_____
Asiatic	_____
Other nonwhite	_____

b. Summer session, 1959	*No.*
Total	_____
White	_____
Negro	_____
American Indian	_____
Asiatic	_____
Other nonwhite	_____

6. Requirements for admission as regular students:

For Residents of the State

(If requirements can be met alternatively by any of the following, singly or in combination with other items, indicate each that will fulfill admission requirements by symbol "1" for one, "2" for another, etc., e.g., *a* and *d* – 1; *b* and *e* – 2; etc.)

a. Graduation from accredited or approved school _____
b. Requirement "a" with specified pattern of high school courses _____
c. Specified minimum scholastic average _____
d. Recommendation of—
(1) Principal of high school _____
(2) Alumni _____
e. Examination—Specify type _____
f. Personal interview _____

7. Does your admission policy—	*Yes*	*No*
a. Limit total number of nonresidents	_____	_____
b. Limit number of nonresidents by geographic areas	_____	_____
c. Grant preference to residents	_____	_____
d. Grant preference to relatives of alumni	_____	_____
e. Permit rejection on ground of—		
(1) Personality	_____	_____
(2) Character	_____	_____
(3) Health	_____	_____

APPENDIX E

TABLE 1.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of Alabama*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$8,347,883	20,403	$409.15
Negro	631,415	2,180	289.65
Senior, 1952:			
White	10,099,497	15,373	656.96
Negro	881,784	3,343	263.77
Senior, 1954:			
White	11,194,650	17,351	645.19
Negro	939,747	3,341	281.28
Senior, 1956:			
White	13,982,858	25,435	549.75
Negro	1,468,773	3,731	393.67
Senior, 1958:			
White	14,514,078	27,782	522.43
Negro	1,504,412	2,667	564.08

[1] The institutions covered for each year are all senior institutions and are: (*a*) White: Alabama College, Alabama Polytechnic Institute, University of Alabama, and the State Teachers Colleges at Florence, Jacksonville, Livingston, and Troy; (*b*) Negro: Alabama State College and Alabama Agricultural and Mechanical College.

[2] Source: U.S. Office of Education, Federal Security Agency, *Financial Statistics of Institutions of Higher Education*, for fiscal years ending June 1950, 1952, 1954, 1956, and 1958. (Hereinafter cited as *Financial Statistics*—).

[3] Source: U.S. Office of Education, Federal Security Agency, Cir. 264, *Fall Enrollment 1949 in Higher Educational Institutions* (1949), and successive circulars for 1951 (Cir. No. 328), and 1953 (Cir. No. 382). (Hereinafter cited as *Fall Enrollment*—.); U.S. Office of Education, Department of Health, Education, and Welfare, Cir. No. 460, *Opening (Fall) Enrollment in Higher Educational Institutions 1955*, and successive circular for 1957 (Cir. No. 518). (Hereinafter cited as *Opening (Fall) Enrollment*—.)

TABLE 2.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of Florida*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$13,501,656	15,961	$845.92
Negro	1,671,222	1,811	922.82
Senior, 1952:			
White	15,299,195	14,451	1,058.69
Negro	2,103,185	2,073	1,014.56
Senior, 1954:			
White	17,034,851	14,923	1,141.52
Negro	2,144,794	2,120	1,011.70
Senior, 1956:			
White	18,985,519	18,375	1,033.23
Negro	2,667,317	2,649	1,006.91
Senior, 1958:			
White	25,242,503	23,386	1,079.39
Negro	2,876,541	3,192	901.17

[1] The institutions covered for each year are all senior institutions and are: (*a*) White: Florida State University and University of Florida; (*b*) Negro: Florida Agricultural and Mechanical University. 10 white junior colleges and 6 Negro junior colleges are excluded because no State appropriation was found therefor.

[2] Source: *Financial Statistics, 1950, 1952, 1954, 1956, 1958.*

[3] Source: *Fall Enrollment, 1949, 1951, 1953; Opening (Fall) Enrollment, 1955,* 1957.

TABLE 3.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of Georgia*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$4,330,218	14,690	$294.77
Negro	449,282	2,322	193.49
Junior, 1950:			
White	503,617	2,586	194.75
Negro			
Senior, 1952:			
White	7,339,024	10,933	671.27
Negro	939,438	2,417	388.68
Junior, 1952:			
White	551,808	1,963	281.10
Negro			
Senior, 1954:			
White	8,140,603	18,018	451.80
Negro	970,049	2,156	449.93
Junior, 1954:			
White	563,120	2,336	241.06
Negro			
Senior, 1956:			
White	9,781,269	23,276	420.23
Negro	1,322,345	2,368	558.42
Junior, 1956:			
White	613,039	3,070	199.69
Negro			
Senior, 1958:			
White	14,585,007	25,831	564.63
Negro	1,539,972	2,247	685.35
Junior, 1958:			
White	745,202	3,109	239.69
Negro			

[1] The senior institutions covered each year are: (*a*) White: Georgia Institute of Technology, Georgia State College for Women, Georgia Teacher's College, Medical College of Georgia, North Georgia College, University of Georgia, Valdosta State College (formerly Georgia State College for Women at Valdosta), West Georgia College. Georgia College of Business Administration was accounted for only in 1958 when its first appropriation was found. (*b*) Negro: Albany, Fort Valley and Savannah State Colleges, for each year. (*c*) White junior colleges: Abraham Baldwin Agricultural College, Armstrong College, Georgia Southwestern College, Georgia Military College, Middle Georgia College, and South Georgia College. Augusta Junior College and Gordon Military College are excluded for fiscal 1958 because no State or local appropriations could be found therefor. Georgia has no junior colleges for Negroes.

[2] Source: *Financial Statistics 1950, 1952, 1954, 1956, 1958.*

[3] Source: *Fall Enrollment 1949, 1951, 1953; Opening (Fall) Enrollment 1955, 1957.*

TABLE 4.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of Louisiana*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$10,963,273.00	16,911	$648.29
Negro	1,017,929.00	2,925	348.01
Senior, 1952:			
White	13,079,451.31	14,710	889.15
Negro	1,369,339.00	3,469	394.74
Senior, 1954:			
White	17,231,932.00	18,020	956.27
Negro	2,521,343.00	4,937	510.70
Senior, 1956:			
White	21,843,213.56	23,256	939.25
Negro	3,310,428.00	5,393	613.84
Senior, 1958:			
White	29,704,951.00	26,438	1,123.57
Negro	4,992,531.00	7,038	709.37

[1] The institutions covered are all senior for each year and are: (*a*) White: Louisiana Polytechnic Institute, Louisiana State University and Agriculture and Mechanical College, McNeese College, Northwestern Louisiana College, Southeastern State College and Southwestern Louisiana Institute. Northeast Louisiana College is included for years 1952 through 1958, prior to this time it was classified as a junior college and no appropriations could be found. Francis T. Nicholls College is included only for the year 1958, prior to this time it was classified as a junior college and no appropriations could be found. (*b*) Negro: Grambling College and Southern University and Agriculture and Mechanical College.

[2] Source: La. Acts 1948, Act No. 350, p. 839, Schs. 73-78, 114; La. Acts 1950, Act No. 452, p. 775, Schs. 63-68, 101 (12) and (15), 108-108B; La. Acts 1952, Act No. 271, p. 663, Schs. 81, 88-95; La. Acts 1954, Act No. 231, p. 432, Schs. 11 and 72; La. Acts 1957, Act No. 2, p. 2, Schs. 3 and 19.

[3] Source: *Fall Enrollment 1949, 1951, 1953; Opening (Fall) Enrollment 1955, 1957.*

TABLE 5.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of Mississippi*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$4,224,505	10,489	$402.76
Negro	291,325	1,261	231.03
Junior, 1950:			
White	1,306,727	4,026	324.57
Negro			
Senior, 1952:			
White	4,970,545	8,071	615.85
Negro	424,993	1,546	274.90
Junior, 1952:			
White	1,969,965	4,741	415.52
Negro			
Senior, 1954:			
White	6,882,761	9,396	732.52
Negro	667,092	1,740	383.39
Junior, 1954:			
White	2,349,091	4,785	490.93
Negro			
Senior, 1956:			
White	6,647,385	11,794	563.62
Negro	886,363	2,323	381.56
Junior, 1956:			
White	2,700,515	5,839	462.50
Negro	146,663	225	651.84
Senior, 1958:			
White	8,382,034	13,984	599.40
Negro	1,170,313	2,555	458.05
Junior, 1958:			
White	2,888,969	5,587	517.09
Negro	113,873	213	534.62

[1] The senior institutions covered each year are: (*a*) White: Delta State College, Mississippi Southern College, Mississippi State University, Mississippi Women's College, and University of Mississippi. (*b*) Negro: Alcorn Agricultural and Mechanical College, and Jackson State College. Mississippi Vocational College (Negro) is included beginning with the year 1954. prior to this time no appropriation could be found. (*c*) White junior colleges covered each year are East Central, East Mississippi, Hinds, Holmes, Jones County, Meridian Municipal, Northeast Mississippi, Pearl River, Perkinston, Southwest Mississippi, and Sunflower. Itawamba and Northeast Mississippi Junior Colleges are included beginning with the year 1954, and Copiah-Lincoln Junior College is included beginning with the year 1956; prior to these years no appropriations could be found for these three schools. Mississippi has three junior colleges for Negroes, however appropriations could be found for Coahoma only beginning with the year 1956. None were found for the other two.

[2] Source: *Financial Statistics 1950, 1952, 1954, 1956, 1958.*

[3] Source: *Fall Enrollment 1949, 1951, 1953; Opening (Fall) Enrollment 1955, 1957.*

TABLE 6.—*Comparison of State and local financial support for white and Negro higher education, by student enrolled—State of South Carolina*

Type of college and year [1]	State and local funds for fiscal year ending June 30 [2]	Public college enrollment [3]	State and local funds per student enrolled
Senior, 1950:			
White	$5,878,667.00	10,577	$555.80
Negro	576,272.00	1,270	453.76
Senior, 1952:			
White	6,929,700.00	8,745	792.42
Negro	800,000.00	1,202	665.38
Senior, 1954:			
White	8,711,019.79	9,658	901.95
Negro	981,390.00	1,434	684.38
Senior, 1956:			
White	11,025,282.00	10,558	1,044.26
Negro	1,115,000.00	1,377	809.74
Senior, 1958:			
White	12,575,297.00	13,886	905.61
Negro	1,132,000.00	1,581	716.00

[1] The institutions covered each year are all senior and are: (*a*) White: The Citadel, Clemson Agricultural College, Medical College of South Carolina, University of South Carolina, and Winthrop College. (*b*) Negro: South Carolina State College. All appropriations to South Carolina State College are subject to the payment of out-of-State aid to Negro students. Therefore, the amount specified, $10,000 in 1950, $25,000 in 1952 and 1954, and $40,000 in 1956 and 1958, has been subtracted since it is not for support of students enrolled in the college.

[2] S.C. Laws and J.R. 1948, Act No. 339, p. 645, secs. 13–18, 53; S.C. Laws and J.R. 1951, Act No. 379, p. 546, secs, 13–18, 55 (the sum for white institutions does not include $401,000 appropriated to the Medical College for purchase of land and construction); S.C. Laws and J.R. 1953, Act No. 239. p. 368, secs. 13–18, 58 (the sum for white institutions does not include $11,637 appropriated to The Citadel for debt service on stadium bonds); S.C. Laws and J. R. 1955, Act No. 239, p. 329, secs. 12–17, 56 (the sum for white institutions does not include $35,000 appropriated to the University of South Carolina for replacement of fixtures; and $11,637 appropriated to The Citadel for debt service on stadium bonds); S.C. Laws and J.R. 1957, Act No. 347, p. 404, secs. 12–17, 55 (the sum for white institutions does not include $15,075 appropriated to The Citadel for debt service on stadium bonds).

[3] Source: *Fall Enrollment 1949, 1951, 1953; Opening (Fall) Enrollment 1955, 1957.*

APPENDIX F

TABLE 1.—*Comparison of State and local financial support for white and Negro higher education, by population—State of Alabama*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$8,347,883	2,079,591	$4.01
Negro	631,415	979,617	.64
1952:			
White	10,099,497	2,110,034	4.78
Negro	881,784	986,493	.89
1954:			
White	11,194,650	2,140,477	5.23
Negro	939,747	993,369	.95
1956:			
White	13,982,858	2,170,920	6.44
Negro	1,468,773	1,000,245	1.47
1958:			
White	14,514,078	2,201,363	6.59
Negro	1,504,412	1,007,121	1.49

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 1.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

TABLE 2.—*Comparison of State and local financial support for white and Negro higher education, by population—State of Florida*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$13,501,656	2,166,051	$6.23
Negro	1,671,222	603,101	2.77
1952:			
White	15,299,195	2,535,044	6.04
Negro	2,103,185	657,480	3.20
1954:			
White	17,034,851	2,904,037	5.87
Negro	2,144,794	711,859	3.01
1956:			
White	18,985,519	3,273,030	5.80
Negro	2,667,317	766,238	3.48
1958:			
White	25,242,503	3,642,023	6.93
Negro	2,876,541	820,617	3.51

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 2.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

TABLE 3.—*Comparison of State and local financial support for white and Negro higher education, by population—State of Georgia*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$4,796,945	2,380,577	$2.02
Negro	449,282	1,062,762	.42
1952:			
White	7,867,557	2,459,025	3.20
Negro	939,438	1,077,809	.87
1954:			
White	8,684,480	2,537,473	3.42
Negro	970,049	1,092,856	.89
1956:			
White	10,359,319	2,615,921	3.96
Negro	1,298,712	1,107,903	1.17
1958:			
White	15,330,209	2,694,369	5.69
Negro	1,539,972	1,122,950	1.37

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 3.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

TABLE 4.—*Comparison of State and local financial support for white and Negro higher education, by population—State of Louisiana*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$10,963,273.00	1,796,683	$6.10
Negro	1,017,929.00	882,428	1.15
1952:			
White	13,079,451.31	1,873,918	6.98
Negro	1,369,339.00	916,142	1.49
1954:			
White	17,231,932.00	1,951,153	8.83
Negro	2,521,343.00	949,856	2.65
1956:			
White	21,843,213.56	2,028,388	10.77
Negro	3,310,428.00	983,570	3.37
1958:			
White	29,704,951.00	2,105,623	14.11
Negro	4,992,531.00	1,017,284	4.91

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 4.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

TABLE 5.—*Comparison of State and local financial support for white and Negro higher education, by population—State of Mississippi*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$5,531,232	1,188,632	$4.65
Negro	291,325	986,494	.30
1952:			
White	6,940,510	1,202,118	5.77
Negro	424,993	970,996	.44
1954:			
White	9,231,852	1,215,604	7.59
Negro	667,092	955,498	.70
1956:			
White	9,347,900	1,229,090	7.61
Negro	1,033,026	940,000	1.10
1958:			
White	11,281,003	1,242,576	9.08
Negro	1,284,186	942,502	1.36

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 5.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

TABLE 6.—*Comparison of State and local financial support for white and Negro higher education, by population—State of South Carolina*

Year and racial designation of colleges [1]	State and local funds for fiscal year ending June 30 [2]	Population [3]	State and local funds per resident
1950:			
White	$5,878,667.00	1,293,405	$4.62
Negro	586,272.00	822,077	.71
1952:			
White	6,929,700.00	1,338,370	5.18
Negro	960,000.00	825,861	1.16
1954:			
White	8,711,019.79	1,383,335	6.30
Negro	1,006,390.00	829,645	1.21
1956:			
White	11,025,282.00	1,428,300	7.72
Negro	1,155,000.00	833,429	1.39
1958:			
White	12,575,297.00	1,473,265	8.54
Negro	1,172,000.00	837,213	1.40

[1] Includes both senior and, where applicable, junior colleges.

[2] See app. E, table 6.

[3] Source: 1950 census, 1960 census preliminary figures and, for intervening years, interpolated figures calculated from these 2 sources.

APPENDIX G

TABLE 1.—*List of public colleges and universities—State of Alabama*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Alabama A. & M. College (L)	Normal	N	II	f	A(p)	1946
Alabama College	Montevallo	W	III	j	M	1925
Alabama Polytechnic Institute (L)	Auburn	W	IV	k	M	1942
Alabama State College	Montgomery	N	III	e	A(p)	1946
Florence State College	Florence	W	III	f	M	1934
Jacksonville State College	Jacksonville	W	III	e	M	1935
Livingston State College	Livingston	W	III	e	M	1938
Troy State College	Troy	W	III	d	M	1934
University of Alabama	University	W	IV	k	M	1897

KEY

(L)—Land-Grant College.
N—Negro.
W—White.
II—Only the bachelor's and/or 1st professional degree.
III—Master's and/or 2d professional degree.
IV—Doctor of philosophy and equivalent degree.
f—Liberal arts and general, terminal-occupational, and teacher-preparatory.
j—Liberal arts and general with 1 or 2 professional schools.
k—Liberal arts and general with 3 or more professional schools.
e—Both liberal arts and general and teacher-preparatory.
d—Primarily teacher-preparatory.
A(p)—Approved by regional accrediting association but on probation 1959.
M—Member of regional accrediting association.

TABLE 2.—*List of public colleges and universities—State of Florida*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Central Florida Junior College	Ocala	W	I	f		
Chipola Junior College	Marianna	W	I	c	M	1957
Daytona Beach Junior College	Daytona Beach	W	I	f		
Florida A. & M. University (L)	Tallahassee	N	III	k	M	1957
Florida State University	do	W	IV	k	M	1915
Gibbs Junior College	St. Petersburg	N	I	c		
Gulf Coast Junior College	Panama City	W	I	c		
Hampton Junior College	Ocala	N	I	f		
Manatee Junior College	Bradenton	W	I	f		
North Florida Junior College	Madison	W	I	f		
Palm Beach Junior College	Lake Worth	W	I	f	M	1942
Pensacola Junior College	Pensacola	W	I	f	M	1956
Roosevelt Junior College	West Palm Beach	N	I	f		
Rosenwald Junior College	Panama City	N	I	f		
St. Johns River Junior College	Palatka	W	I	f		
St. Petersburg Junior College	St. Petersburg	W	I	c	M	1931
University of Florida (L)	Gainesville	W	IV	k	M	1913
Volusia County Community College	Daytona Beach	N	I	c		
Washington Junior College	Pensacola	N	I	c		

KEY

(L)—Land-grant college.
W—White.
N—Negro.
I—2 but less than 4 years of work beyond the 12th grade.
III—Master's and/or 2d professional degree.
IV—Doctor of philosophy and equivalent degree.
f—Liberal arts and general, terminal-occupational, and teacher-preparatory.
c—Liberal arts and general, and terminal-occupational.
k—Liberal arts and general with 3 or more professional schools.
M—Member of regional accrediting association.

TABLE 3.—*List of public colleges and universities—State of Georgia*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Abraham Baldwin Agricultural College	Tifton	W	I	c	M	1957
Albany State College	Albany	N	II	f	M	1957
Armstrong College	Savannah	W	I	c	M	1940
Augusta Junior College	Augusta	W	I	f	M	1926
Columbus College	Columbus	W	I	f		
Fort Valley State College (L)	Fort Valley	N	III	e	M	1957
Georgia Institute of Technology	Atlanta	W	IV	i	M	1923
Georgia Military Institute	Milledgeville	W	I	c	M	1940
Georgia Southwestern College	Americus	W	I	c	M	1932
Georgia State College of Business Administration.	Atlanta	W	III	j	M	1952
Georgia State College for Women	Milledgeville	W	III	e	M	1925
Georgia Teachers College	Statesboro	W	III	e		
Gordon Military College	Barnesville	W	I	c	M	1941
Medical College of Georgia	Augusta	W	III	h	(i)	
Middle Georgia College	Cochran	W	I	c	M	1933
North Georgia College	Dahlonega	W	II	e	M	1948
Savannah State College	Savannah	N	II	e	A*	1951
South Georgia College	Douglas	W	I	c	M	1934
University of Georgia (L)	Athens	W	IV	k	M	1909
Valdosta State College	Valdosta	W	II	e	M	1929
West Georgia College	Carrollton	W	II	f	M	1936

KEY

(L)—Land-grant college.
W—White.
N—Negro.
I—2 but less than 4 years of work beyond the 12th grade.
II—Only the bachelor's and/or 1st professional degree.
III—Master's and/or 2d professional degree.
IV—Doctor of philosophy and equivalent degree.
c—Liberal arts and general, and terminal-occupational.
f—Liberal arts and general, terminal-occupational, and teacher-preparatory.
e—Both liberal arts and general and teacher-preparatory.
i—Professional or technical and terminal-occupational.
j—Liberal arts and general with 1 or 2 professional schools.
h—Professional or technical and teacher-preparatory.
k—Liberal arts and general with 3 or more professional schools.
(i)—Accredited by 3 medical associations.
M—Member of regional accrediting association.
A*—Not meeting one or more standards of Southern Association.

TABLE 4.—*List of public colleges and universities—State of Louisiana*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Francis T. Nicholls State College	Thibodaux	W	II	f		
Grambling College	Grambling	N	III	d	A	1949
Louisiana Polytechnic Institute	Ruston	W	III	k	M	1927
Louisiana State University A. & M. College (L).	Baton Rouge	W	IV	k	M	1913
McNeese State College	Lake Charles	W	II	e	M	1954
Northeast Louisiana State College	Monroe	W	II	j	M	1954
Northwestern State College of Louisiana.	Natchitoches	W	III	k	M	1941
Southeastern Louisiana College	Hammond	W	II	f	M	1946
Southern University A. & M. College (L).	Baton Rouge	N	III	j	M	1958
Southwestern Louisiana Institute	Lafayette	W	III	k	M	1925

KEY

(L)—Land-grant college.
W—White.
N—Negro.
II—Only the bachelor's and/or 1st professional degree.
III—Master's and/or 2d professional degree.
IV—Doctor of philosophy and equivalent degree.
d—Primarily teacher-preparatory.
k—Liberal arts and general with 3 or more professional schools.
e—Both liberal arts and general and teacher-preparatory.
j—Liberal arts and general with 1 or 2 professional schools.
f—Liberal arts and general, terminal-occupational, and teacher-preparatory.
A—Approved by Southern Association.
M—Member of regional accrediting association.

TABLE 5. —*List of public colleges and universities—State of Mississippi*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Alcorn A. & M. College (L)	Lorman	N	II	f	A*	1948
Coahoma Junior College	Clarksdale	N	I	h		
Copiah-Lincoln Junior College	Wesson	W	I	c	M	1936
Delta State College	Cleveland	W	II	e	M	1930
East Central Junior College	Decatur	W	I	c	M	1939
East Mississippi Junior College	Scooba	W	I	c	M	1949
Hinds Junior College	Raymond	W	I	c	M	1928
Holmes Junior College	Goodman	W	I	c	M	1934
Itawamba Junior College	Fulton	W	I	c	M	1955
Jackson State College	Jackson	N	II	e	A*	1948
Jones County Junior College	Ellisville	W	I	c	M	1940
Meridian Municipal Junior College	Meridian	W	I	c	M	1942
Mississippi Southern College	Hattiesburg	W	III	j	M	1929
Mississippi State College for Women	Columbus	W	II	e	M	1921
Mississippi State University (L)	State College	W	IV	h	M	1926
Mississippi Vocational College	Itta Bena	N	II	f		
Northeast Mississippi Junior College	Booneville	W	I	c	M	1956
Northwest Mississippi Junior College	Senatobia	W	I	f	M	1953
Pearl River Junior College	Poplarville	W	I	f	M	1929
Perkinston Junior College	Perkinston	W	I	f	M	1929
Southwest Mississippi Junior College	Summit	W	I	c	M	1958
Sunflower Junior College	Moorhead	W	I	c	M	1930
T. J. Harris Junior College	Meridian	N	I	c		
University of Mississippi	University	W	IV	k	M	1895
Utica Junior College	Utica	N	I	c		

KEY

(L)—Land-grant college.
N—Negro.
W—White.
II—Only the bachelor's and/or 1st professional degree.
I—2 but less than 4 years of work beyond the 12th grade.
III—Master's and/or 2d professional degree.
IV—Doctor of philosophy and equivalent degree.
f—Liberal arts and general, terminal-occupational, and teacher-preparatory.
h—Professional or technical and teacher-preparatory.
c—Liberal arts and general, and terminal-occupational.
e—Both liberal arts and general and teacher-preparatory.
j—Liberal arts and general with 1 or 2 professional schools.
k—Liberal arts and general with 3 or more professional schools.
A*—Not meeting one or more standards of Southern Association.
M—Member of regional accrediting association.

TABLE 6.—*List of public colleges and universities—State of South Carolina*

Institution	Location	Racial classification	Highest level offering	Type of program	Accreditation status	Date present status first acquired
Citadel Military College	Charleston	W	II	e	M	1924
Clemson Agricultural College (L)	Clemson	W	IV	k	M	1927
Medical College of South Carolina	Charleston	W	IV	g	(1)	
South Carolina State College (L)	Orangeburg	N	III	k	A	1941
University of South Carolina	Columbia	W	IV	k	M	1917
Winthrop College	Rock Hill	W	III	e	M	1923

KEY

(L)—Land-grant college.
W—White.
N—Negro.
II—Only the bachelor's and/or 1st professional degree.
IV—Doctor of philosophy and equivalent degree.
III—Master's and/or 2d professional degree.
e—Both liberal arts and general and teacher-preparatory.
k—Liberal arts and general with 3 or more professional schools.
g—Professional or technical only (not including teacher-preparatory).
M—Member of regional accrediting association.
(1)—Accredited by 3 medical associations.
A—Approved by Southern Association.

APPENDIX H

Comparison of accreditation status of white and Negro high schools in resistant States

	Alabama	Florida	Georgia	Louisiana	Mississippi	South Carolina
Total number	537	349	527	507	442	374
Number white	338	234	346	349	181	237
Accredited white	126	197	219	270	95	92
Percent white accredited	36.9	84.1	63.5	77.3	52.4	38.8
Number Negro	199	115	181	158	261	137
Approved Negro	34	62	52	36	7	19
Percent Negro approved	17.0	53.9	28.7	22.7	2.6	13.8
Proportion accredited—Negro to white	2.0:1	1.5:1	2.2:1	3.4:1	20.0:1	2.8:1

Source: Number of schools, white and Negro—current directory of respective State. Accredited and approved status of schools, Southern Association of Colleges and Secondary Schools, "List of Member Secondary Schools, December 3, 1959."

APPENDIX I

Questionnaire to northern and western public colleges and universities

State of _____

Name of Institution_____

Location _____

This institution has no branches. ☐

This reply includes the following branch institution located at:

_____

Information supplied by _____ _____ _____

Name Title Date

1. What races were represented in the student body. (Please record the number of each or estimate by number or percentage).

a. Regular session Fall, 1959	*No.*
Total	_____
White	_____
Negro	_____
American Indian	_____
Asiatic races	_____
Other nonwhite	_____

b. Summer session, 1959	*No.*
Total	_____
White	_____
Negro	_____
American Indian	_____
Asiatic races	_____
Other nonwhite	_____

2. Requirements for admission as regular students:

For Residents of the State

(If requirements can be met alternatively by any of the following, singly or in combination with other items, indicate each group that will fulfill admission requirements by symbol "1" for one, "2" for another, etc. *E.g. a* and *d*–1; *b* and *e*–2; etc.)

a. Graduation from accredited or approved school _____

b. Requirement "a" with specified pattern of high school courses _____

c. Specified minimum scholastic average _____

d. Recommendation of:

(1) Principal of high school _____

(2) Alumni _____

e. Examination—Specify type _____

f. Personal interview _____

3. Does your admission policy—	*Yes*	*No*
a. Limit total number of nonresidents	_____	_____
b. Limit number of nonresidents by geographic areas	_____	_____
c. Grant preference to residents	_____	_____
d. Grant preference to relatives of alumni	_____	_____
e. Permit rejection on ground of		
(1) Personality	_____	_____
(2) Character	_____	_____
(3) Health	_____	_____

APPENDIX J

Northern and western public colleges and universities—Character of enrollment, by race, 1959–60

State	Total public institutions	Multiracial	Enrollment—White	Unknown
Alaska	1			1
Arizona	5	4	1	0
California	75	41	4	30
Colorado	13	12	0	1
Connecticut	6	2	0	4
Hawaii	1	0	0	1
Idaho	4	4	0	0
Illinois	20	14	1	5
Indiana	6	5	0	1
Iowa	19	6	7	6
Kansas	21	17	1	3
Maine	7	4	0	3
Massachusetts	17	10	2	5
Michigan	24	18	1	5
Minnesota	15	8	5	2
Montana	8	6	0	2
Nebraska	10	7	2	1
Nevada	1	0	0	1
New Hampshire	5	4	1	0
New Jersey	9	9	0	0
New Mexico	7	5	0	2
New York	46	21	1	24
North Dakota	11	10	1	0
Ohio	9	7	0	2
Oregon	8	0	0	8
Pennsylvania	16	12	0	4
Rhode Island	2	1	0	1
South Dakota	7	7	0	0
Utah	5	3	0	2
Vermont	4	3	1	0
Washington	15	3	0	12
Wisconsin	33	12	17	4
Wyoming	5	3	1	1
Total	435	258	46	131
Percent		59.3	10.6	30.1

Source: Commission questionnaires.

APPENDIX K

TABLE 1.—*Southern public colleges and universities (white or predominantly white)—Solicitation of information indicating race: Admission application form*

State	Total public institutions	Number replying to inquiry	Percent return	Number inquiring as to race	Number requiring photograph	Number requiring race and or photograph
Alabama	7	5	71.4	5	1	5
Arkansas	7	7	100.0	4	1	5
Delaware	1	1	100.0	1	0	1
Florida	12	11	91.7	10	2	10
Georgia	18	16	88.9	13	5	15
Kentucky	7	5	71.4	3	0	3
Louisiana	8	5	62.5	4	1	4
Maryland	14	14	100.0	2	8	8
Mississippi	19	12	62.1	9	6	10
Missouri	13	11	84.6	3	3	5
North Carolina	9	9	100.0	8	4	8
Oklahoma	22	21	95.5	8	1	8
South Carolina	5	4	80.0	4	2	4
Tennessee	6	6	100.0	6	0	6
Texas	47	37	78.7	19	1	19
Virginia	7	6	85.7	4	6	6
West Virginia	9	9	100.0	6	3	6
Total	211	179	84.8	105	44	123

TABLE 2.—*Southern public colleges and universities (white or predominantly white)—Solicitation of information indicating race: Requirement of interview for admission*

State	Total public institutions	Number replying to inquiry	Percent return	Number requiring interview
Alabama	7	0	0	----------
Arkansas	7	4	57.1	2
Delaware	1	1	100.0	0
Florida	12	5	41.6	0
Georgia	18	0	0	----------
Kentucky	7	7	100.0	0
Louisiana	8	2	25.0	0
Maryland	14	14	100.0	7
Mississippi	19	0	0	----------
Missouri	13	12	92.3	1
North Carolina	9	8	88.8	2
Oklahoma	22	22	100.0	2
South Carolina	5	0	0	----------
Tennessee	6	3	50.0	0
Texas	47	39	83.0	6
Virginia	7	3	42.9	1
West Virginia	9	9	100.0	1
Total	211	129	61.1	22

TABLE 3.—*Southern public colleges and universities (white or predominantly white)—Solicitation of information indicating race—Consolidation: Application forms and interview*

State	Total public institutions	Number of replies [1]	Percent return	Number requiring race photograph and/or interview	Number requiring none of these
Alabama	7	5	71.4	5	0
Arkansas	7	7	100.0	5	2
Delaware	1	1	100.0	1	0
Florida	12	10	83.3	10	0
Georgia	18	15	83.3	15	0
Kentucky	7	5	71.4	3	2
Louisiana	8	5	62.5	4	1
Maryland	14	14	100.0	12	2
Mississippi	19	10	52.6	10	0
Missouri	13	11	84.6	5	6
North Carolina	9	9	100.0	9	0
Oklahoma	22	22	100.0	10	12
South Carolina	5	4	80.0	4	0
Tennessee	6	6	100.0	6	0
Texas	47	34	72.3	23	11
Virginia	7	6	85.7	6	0
West Virginia	9	9	100.0	6	3
Total	211	173	81.9	134	39

[1] An affirmative reply on an inquiry has been counted as a reply. A negative reply has not been counted unless all questions have been answered.

TABLE 4.—*Southern public colleges and universities (Negro and predominantly Negro)—Solicitation of information indicating race—Application forms and Interview* [1]

Total public institutions	43
Number supplying admission forms	37
Percent return	86.0
Number inquiring as to race	5
Number requiring photograph	16
Number requiring race and/or photograph	19
Number replying to questionnaire	20
Percent return	46.5
Number requiring interview	2
Percent return	67.4
Number requiring race, photograph, and/or interview [2]	21
Number requiring none of these	18

[1] State identification omitted to preserve pledge of anonymity to respondents in 8 States having only 1 Negro college.

[2] Negative reply not counted unless both application form and completed questionnaire supplied.

TABLE 5.—*Southern public colleges and universities (white and predominantly white)*[1]*—Solicitation of information indicating religion and national origin of applicant—Application forms*

Total public institutions	211
Number of replies	179
Percent return	84.8
Number inquiring as to religion	83
Number inquiring as to birthplace of parents	26
Number inquiring as to applicant's birthplace	131
Number inquiring as to parents' and/or applicant's birthplace	131

[1] Does not include 1 southern college for Indians.

TABLE 6.—*Southern public colleges and universities (Negro and predominantly Negro)—Solicitation of information indicating religion and national origin of applicant—Application forms*

Total public institutions	43
Number of replies	37
Percent return	86
Number inquiring as to religion	25
Number inquiring as to birthplace of parents	4
Number inquiring as to applicant's birthplace	32
Number inquiring as to parents' and/or applicant's birthplace	33

TABLE 7.—*Southern public colleges and universities*[1]*—Solicitation of information indicating religion of applicant*

State	Total public institutions	Number of replies	Percent return	Number not requiring disclosure of religion	Number requiring disclosure of national origin
Alabama	9	6	66.7	3	3
Arkansas	8	8	100.0	4	4
Delaware	2	2	100.0	1	1
Florida	19	13	68.4	2	11
Georgia	21	18	85.7	4	14
Kentucky	8	6	75.0	3	3
Louisiana	10	7	70.0	5	2
Maryland	18	18	100.0	13	5
Mississippi	25	18	72.0	11	7
Missouri	14	12	85.7	8	4
North Carolina	16	16	100.0	9	7
Oklahoma	23	22	95.7	12	10
South Carolina	6	5	83.3	0	5
Tennessee	7	7	100.0	1	6
Texas	50	40	80.0	23	17
Virginia	8	7	87.5	3	4
West Virginia	11	11	100.0	5	6
Total	255	216	84.7	107	109

[1] Includes Negro and predominantly Negro as well as white colleges and 1 college for Indians.

TABLE 8.—*Southern public colleges and universities*[1]*—Solicitation of information indicating national origin of applicant*

State	Total public institutions	Number of replies	Percent return	Number inquiring as to birthplace of parents	Number inquiring as to birthplace of applicant	Number requiring disclosure of national origin
Alabama	9	6	66.7	2	4	2
Arkansas	8	8	100.0	0	8	0
Delaware	2	2	100.0	0	2	0
Florida	19	13	68.4	7	13	0
Georgia	21	18	85.7	4	16	2
Kentucky	8	6	75.0	0	5	1
Louisiana	10	7	70.0	0	6	1
Maryland	18	18	100.0	2	18	0
Mississippi	25	18	72.0	1	7	11
Missouri	14	12	85.7	2	7	5
North Carolina	16	16	100.0	1	16	0
Oklahoma	23	22	95.7	1	15	7
South Carolina	6	5	83.3	2	4	1
Tennessee	7	7	100.0	0	6	1
Texas	50	40	80.0	2	23	17
Virginia	8	7	87.5	3	7	0
West Virginia	11	11	100.0	4	7	3
Total	255	216	84.7	31	164	51

[1] Includes Negro and predominantly Negro as well as white colleges.

APPENDIX L

TABLE 1.—*Northern and western public colleges and universities—Solicitation of information indicating race—Admission application form*

State	Total public institutions	Replying to inquiry	Percent reply	Number inquiring as to race	Number requiring photograph	Number requiring race and/or photograph
Alaska	1	1	100.0	1	0	1
Arizona	5	5	100.0	0	0	0
California	75	68	90.7	2	6	7
Colorado	13	13	100.0	0	0	0
Connecticut	6	6	100.0	0	0	0
Hawaii	1	1	100.0	0	0	0
Idaho	4	4	100.0	2	0	2
Illinois	20	19	95.0	1	1	2
Indiana	6	6	100.0	0	4	4
Iowa	19	16	84.2	2	3	5
Kansas	21	19	90.5	5	0	5
Maine	7	7	100.0	0	2	2
Massachusetts	17	17	100.0	0	0	0
Michigan	24	24	100.0	1	8	8
Minnesota	15	15	100.0	0	0	0
Montana	8	7	87.5	0	5	5
Nebraska	10	10	100.0	3	2	3
Nevada	1	1	100.0	1	0	1
New Hampshire	5	5	100.0	0	2	2
New Jersey	9	9	100.0	0	0	0
New Mexico	7	7	100.0	3	3	5
New York	46	45	97.8	0	4	4
North Dakota	11	11	100.0	7	1	7
Ohio	9	8	88.9	5	3	6
Oregon	8	8	100.0	0	0	0
Pennsylvania	16	16	100.0	0	0	0
Rhode Island	2	2	100.0	0	1	1
South Dakota	7	7	100.0	1	0	1
Utah	5	4	80.0	0	1	1
Vermont	4	4	100.0	0	2	2
Washington	15	15	100.0	0	0	0
Wisconsin	33	25	75.8	0	5	5
Wyoming	5	5	100.0	3	0	3
Total	435	410	94.3	37	53	82

TABLE 2.—*Northern and western public colleges and universities—Solicitation of information indicating race—Requirement of interview for admission*

State	Total public institutions	Number replying to inquiry	Percent return	Number requiring interview
Alaska	1	0	0	0
Arizona	5	5	100.0	2
California	75	60	80.0	7
Colorado	13	12	92.3	1
Connecticut	6	4	66.7	2
Hawaii	1	1	100.0	0
Idaho	4	4	100.0	1
Illinois	20	17	85.0	4
Indiana	6	6	100.0	2
Iowa	19	15	78.9	0
Kansas	21	13	61.9	2
Maine	7	4	57.1	2
Massachusetts	17	14	82.4	11
Michigan	24	23	95.8	7
Minnesota	15	13	86.7	2
Montana	8	6	75.0	0
Nebraska	10	10	100.0	1
Nevada	1	1	100.0	0
New Hampshire	5	5	100.0	3
New Jersey	9	9	100.0	6
New Mexico	7	6	85.7	0
New York	46	46	100.0	35
North Dakota	11	10	90.9	0
Ohio	9	8	100.0	1
Oregon	8	6	75.0	0
Pennsylvania	16	13	81.3	13
Rhode Island	2	2	100.0	1
South Dakota	7	7	100.0	0
Utah	5	3	60.0	1
Vermont	4	4	100.0	3
Washington	15	5	33.3	0
Wisconsin	33	29	87.9	14
Wyoming	5	4	80.0	0
Total	435	365	83.9	121

TABLE 3.—*Northern and western public colleges and universities—Solicitation of information indicating race—Consolidation: Application forms and interview*

State	Total public institutions	Number of replies [1]	Percent return	Number requiring race photograph and/or interview	Number requiring none of these
Alaska	1	1	100.0	1	0
Arizona	5	5	100.0	2	3
California	75	58	77.3	14	44
Colorado	13	12	92.3	1	11
Connecticut	6	4	66.7	2	2
Hawaii	1	1	100.0	0	1
Idaho	4	4	100.0	2	2
Illinois	20	18	90.0	5	13
Indiana	6	6	100.0	4	2
Iowa	19	13	68.4	5	8
Kansas	21	13	61.9	6	7
Maine	7	4	57.1	4	0
Massachusetts	17	14	82.4	11	3
Michigan	24	23	95.8	14	9
Minnesota	15	13	86.7	2	11
Montana	8	7	87.5	5	2
Nebraska	10	10	100.0	4	6
Nevada	1	1	100.0	1	0
New Hampshire	5	5	100.0	3	2
New Jersey	9	9	100.0	6	3
New Mexico	7	6	85.7	5	1
New York	46	45	97.8	35	10
North Dakota	11	10	90.9	7	3
Ohio	9	8	88.9	6	2
Oregon	8	6	75.0	0	6
Pennsylvania	16	13	81.3	13	0
Rhode Island	2	2	100.0	2	0
South Dakota	7	7	100.0	1	6
Utah	5	3	60.0	2	1
Vermont	4	4	100.0	4	0
Washington	15	5	33.3	0	5
Wisconsin	33	24	72.7	18	6
Wyoming	5	4	80.0	3	1
Total	435	358	82.3	188	170

[1] An affirmative reply on an inquiry has been counted as a reply. A negative reply has not been counted unless all questions have been answered.

TABLE 4.—*Northern and western public colleges and universities—Solicitation of information indicating religion of applicant*

State	Total public institutions	Number of replies	Percent return	Number requiring disclosure of religion	Number not requiring disclosure of religion
Alaska	1	1	100.0	1	0
Arizona	5	5	100.0	1	4
California	75	68	90.7	6	62
Colorado	13	13	100.0	0	13
Connecticut	6	6	100.0	0	6
Hawaii	1	1	100.0	0	1
Idaho	4	4	100.0	2	2
Illinois	20	19	95.0	2	17
Indiana	6	6	100.0	1	5
Iowa	19	16	84.2	7	9
Kansas	21	19	90.5	10	9
Maine	7	7	100.0	0	7
Massachusetts	17	17	100.0	0	17
Michigan	24	24	100.0	3	21
Minnesota	15	15	100.0	1	14
Montana	8	7	87.5	1	6
Nebraska	10	10	100.0	3	7
Nevada	1	1	100.0	1	0
New Hampshire	5	5	100.0	0	5
New Jersey	9	9	100.0	0	9
New Mexico	7	7	100.0	2	5
New York	46	45	97.8	0	45
North Dakota	11	11	100.0	7	4
Ohio	9	8	88.9	5	3
Oregon	8	8	100.0	0	8
Pennsylvania	16	16	100.0	0	16
Rhode Island	2	2	100.0	0	2
South Dakota	7	7	100.0	2	5
Utah	5	4	80.0	1	3
Vermont	4	4	100.0	0	4
Washington	15	15	100.0	15	0
Wisconsin	33	25	75.8	4	21
Wyoming	5	5	100.0	5	0
Total	435	410	94.3	80	330

TABLE 5.—*Northern and western public colleges and universities—Solicitation of information indicating national origin of applicant*

State	Total number of institutions	Number of replies	Percent return	Birthplace of parents	Birthplace of applicant	No disclosure of national origin required
Alaska	1	1	100.0	0	1	0
Arizona	5	5	100.0	1	5	0
California	75	68	90.7	7	58	10
Colorado	13	13	100.0	13	13	0
Connecticut	6	6	100.0	0	5	1
Hawaii	1	1	100.0	0	1	0
Idaho	4	4	100.0	0	4	0
Illinois	20	19	95.0	3	14	5
Indiana	6	6	100.0	1	5	1
Iowa	19	16	84.2	2	9	6
Kansas	21	19	90.5	2	11	8
Maine	7	7	100.0	5	7	0
Massachusetts	17	17	100.0	0	6	11
Michigan	24	24	100.0	5	21	3
Minnesota	15	15	100.0	1	15	0
Montana	8	7	87.5	2	7	0
Nebraska	10	10	100.0	2	5	5
Nevada	1	1	100.0	0	1	0
New Hampshire	5	5	100.0	0	5	0
New Jersey	9	9	100.0	1	8	1
New Mexico	7	7	100.0	2	7	0
New York	46	45	97.8	8	38	7
North Dakota	11	11	100.0	4	7	4
Ohio	9	8	88.9	3	7	0
Oregon	8	8	100.0	0	7	1
Pennsylvania	16	16	100.0	0	14	2
Rhode Island	2	2	100.0	1	2	0
South Dakota	7	7	100.0	0	5	2
Utah	5	4	80.0	0	4	0
Vermont	4	4	100.0	0	4	0
Washington	15	15	100.0	15	15	0
Wisconsin	33	25	75.8	4	22	3
Wyoming	5	5	100.0	1	5	0
Total	435	410	94.3	83	338	70

APPENDIX M

TABLE 1.—*Regional comparison—Solicitation of information from applicants for admission susceptible to use for discrimination on grounds of race*

Question or requirement	Percentage of public colleges or universities making inquiry or requirement	
	Southern States [1]	Northern and Western States [1]
Race of applicant	58.7	9.0
Photograph of applicant	24.6	12.9
Race and/or photograph of applicant	68.7	20.0
Interview of applicant	17.1	33.2
Race, photograph, and/or interview	77.4	52.5
No question or requirement	22.6	47.5

[1] Percentages shown are of total replies to question(s) or requirement.

TABLE 2.—*Regional comparison—Solicitation of information from applicants for admission susceptible to use for discrimination on grounds of religion or national origin*

Question or requirement	Percentage of public colleges or universities making inquiry or requirement	
	Southern States [1]	Northern and Western States [1]
Religion of applicant	50.5	19.5
Birthplace of parents	14.4	20.2
Birthplace of applicant	75.9	82.4
Disclosure of religion not required	49.5	80.5
Disclosure of national origin not required	23.6	17.1

[1] Percentages shown are of total replies to question(s) or requirement.

TABLE 3.—*National summary—Solicitation of information from applicants for admission susceptible to use for discrimination on grounds of race, religion, and/or national origin* [1]

Total public colleges and universities—United States	690
Total supplying admission form and answering questionnaire	563
Percentage return	81.6
Number making no inquiry as to race, religion, birthplace of parents, birthplace of applicant, nor requiring photograph or interview [2]	59
Percentage of total replying	10.5
Number making no such inquiry except as to birthplace of applicant [3]	169
Percentage of total replying	30.0

[1] Includes Negro and predominantly Negro institutions in Southern States.

[2] California, 6; Connecticut, 1; Illinois, 3; Iowa, 3; Kansas, 4; Kentucky, 1; Massachusetts, 2; Michigan, 2; Missouri, 5; Nebraska, 3; New Jersey, 1; New York, 3; North Dakota, 3; Oklahoma, 6; Oregon, 1; South Dakota, 1; Texas, 11; West Virginia, 2; Wisconsin, 1.

[3] Arizona, 3; Arkansas, 2; California, 39; Connecticut, 2; Hawaii, 1; Idaho, 2; Illinois, 11; Indiana, 1; Iowa, 6; Kansas, 4; Kentucky, 2; Louisiana, 1; Maryland, 5; Massachusetts, 2; Michigan, 9; Minnesota, 9; Missouri, 5; Montana, 1; Nebraska, 6; New Hampshire, 2; New Jersey, 2; New Mexico, 1; New York, 5; North Carolina, 2; North Dakota, 3; Ohio, 2; Oklahoma, 10; Oregon, 6; South Dakota, 5; Texas, 12; Utah, 1; West Virginia, 2; Wisconsin, 5.

APPENDIX N

Questionnaire to freshmen in selected Negro or predominantly Negro colleges

Name and location of college you are attending:

_____ _____ _____
Name City State

Personal data concerning respondent:

Age_____ Sex_____ Race_____

Permanent residence:

_____ _____
City or county State

1. What high school did you attend?

_____ _____ _____
Name City or county State

2. Was your high school a segregated school?
   Yes_____ No_____
3. If the answer to question 2 is "No," what was the number of students in your graduating class?
   No._____
   Of that number, approximately how many were Negroes?
   No._____
4. While in high school approximately what percentage of A's, B's, C's and D's did you receive?
   A's____ B's____ C's____ D's____
5. For what occupation or profession are you preparing?

   _____
6. Did you apply for admission to any other college or colleges?
   Yes_____ No_____
7. If the answer to question 6 is "Yes," please supply the following information:
   a. Total number of college applications made. _____
      Number accepted. _____
   b. Number of applications to predominantly white public institutions. _____
      Number accepted. _____
   c. Did any predominantly white institution offer you a scholarship? Yes ____ No ____
   d. If you applied to and were rejected by a predominantly white public college or university, give the name and location of the college and the reason given for your rejection.

_____	_____
Name of college or university	Name of college or university
_____	_____
Location (city and state)	Location (city and state)
_____	_____
Reason for rejection	Reason for rejection

8. Did you or your parents select the college you are attending?
   I did _____ My parents did _____
9. What was the basis of such selection? (Check all that influenced the choice if more than one).
   ____ Proximity to home.
   ____ Lower cost.
   ____ Variety of courses offered.
   ____ Specialized training offered.
   ____ Attended by friends or relatives.
   ____ Opportunities for leadership and status.
   ____ Social life.
   ____ Limitations placed on Negroes in predominantly white colleges.
   ____ Rejection of application by predominantly white college or colleges.
   ____ Other (specify) _____

10. What do you consider to be the benefits and handicaps of attending a formerly Negro college?

Benefits	*Handicaps*
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____

APPENDIX O

Questionnaire to seniors in selected public high schools

Name and location of institution attended:

_____
Name City or county State

Personal data concerning respondent:

Age_____ Sex_____ Race_____ Religion_____

Birthplace of parents:

Father_____ Mother_____

What has been the approximate percentage of your grades in high school?

A's_____ B's_____ C's_____ D's_____

1. For what occupation or profession are you preparing? _____
2. Have you applied for admission to any public college or university?
   Yes____ No____
3. If the answer to question 2 is "Yes," please list all such colleges and universities and indicate whether your application has been accepted or rejected and, if rejected, the reason given therefor:

_____ _____ _____
Name of college Accepted Rejected

_____
Reason for rejection

_____ _____ _____
Name of college Accepted Rejected

_____
Reason for rejection

_____ _____ _____
Name of college Accepted Rejected

_____
Reason for rejection

_____ _____ _____
Name of college Accepted Rejected

_____
Reason for rejection

4. Which college was your first choice, and why?

_____
Name of college

(Check all that influenced your choice, if more than one).

Because it—

_____ Is near my home.
_____ Costs less.
_____ Offers a variety of courses in my field.
_____ Offers the specialized training I want.
_____ Is attended by my friends or relatives.
_____ Offers me opportunities for leadership and status.
_____ Offers me more social life than other colleges.
_____ Offered me a scholarship.
_____ Other (specify).

5. Which of the colleges you applied to were recommended by your high school guidance counselor?

_____
_____
_____

APPENDIX P

Outline for interview of Negro junior students in predominantly white colleges

---

Name of interviewer

Name of institution

1. Personal data concerning student interviewed:

   _____ age _____ sex _____ class

   _____ City and state of permanent residence.

   High school attended (name of city or county school district and state of location) _____.

   Was it a segregated school for Negroes?

   _____ Yes _____ No

   Approximately how many students in graduating class? _____

   Approximate percentage or number of Negroes in graduating class? _____

2. Reason for selection of college:

   Was the college you are attending selected by—

   ____ yourself only; ____ your parents only; ____ you and your parents jointly?

   Was the college recommended by any of the following:

   ____ Relatives ____ High school teacher(s)

   ____ Friends ____ Guidance counsellor

   ____ High school principal ____ Other (specify)

3. Residential status of student:

   Lives on campus:

   ____ in college dormitory ____ in student clubhouse

   Lives off campus:

   ____ at home ____ in private rooming house

   ____ with friends or relatives

   A. Dormitory student:

   Do you have a roommate?

   ____ Yes ____ No

   (If the answer is "Yes") of what race is your roommate?

   ____ white; ____ Negro; ____ American Indian; ____ other nonwhite

   How did you get this particular roommate?

   ____ assigned by college ____ other basis (specify)

   ____ student preference

   Do you have your meals in the dormitory dining hall? ____ Yes ____ No

   (If the answer is "Yes") are students assigned to a particular table or do they sit where they please?

   —— table assigned ____ not assigned

   (If table assigned) are you assigned to a table

   ____ with Negroes only ____ racially mixed

   (If tables not assigned) do you customarily eat

   ____ alone ____ with white friends

   ____ with Negro friends only ____ with anyone

   Do you think white students, or some of them, avoid having to sit with you in the dining room?

   ____ Yes; all do ____ Yes; some do ____ No

   B. Student clubhouse resident:

   What kind of an organization operates the clubhouse?

   ____ Private, local social club ____ other (specify)

   ____ Local chapter national social club

Are all of the resident members Negroes? ____ Yes ____ No

If not, what other races are represented?

____ White ____ American Indian ____ Asiatic races ____ other nonwhite

Do you have your meals at the club? ____ Yes ____No

C. Student who lives at home or with friends:

How far is your home from the college? ____blocks ____miles

How do you get to the campus? ____walk; ____private car; ____street car; ____bus; ____other means (specify)

Where do you have your meals? ____on campus cafeteria; ____off-campus public restaurant; ____at home.

Do you have any difficulty being served in off-campus facilities? ____Yes ____No

D. Student who lives in a private rooming house

Are there other roomers in the house in which you live? ____Yes ____No

(If answer is "Yes") what is the race of the other roomers? (Check all applicable.) ____white; ____Negro; ____other nonwhite (specify)

How far from the campus is the house in which you live? ____blocks ____miles

How do you get to the campus? ____walk; ____private car; ____street car; ____bus; ____other means

As a Negro, do you have difficulty in finding a room near the campus? ____Yes ____No

Why do you live in a private rooming house rather than in a dormitory?

____ Cost

____ Negroes not admitted to dormitory

____ Dormitory full

____ Dormitory unpleasant for Negroes

____ Personal preference

Where do you have your meals?

____On-campus cafeteria (or other college facility)

____Off-campus public restaurant

____At private rooming house

Do you have any difficulty being served in off-campus facilities? ____Yes ____No

4. Objective of education:

What business or profession are you preparing for?

Where do you expect to practice your business or profession?

How good are your grades? Percent ____A's ____B's ____C's ____D's ____F's

How would you rate the opportunities for a Negro with such training under present conditions? ____ Good ____ Fair ____ Poor

(If profession selected is one where practical student training is required such as teaching, medicine, dentistry, social service or nursing) do you do your practical training or take your internship in an institution which is predominantly Negro? ____ Yes ____ No

(If the answer is "No") is it unusual for a Negro taking your course to be so assigned? ____ Yes ____ No

5. Use of educational facilities:

A. Where do you study most of the time?

____ University library

____ Home or dormitory

____ Elsewhere (please state place)

B. Are you able to avail yourself of all the following library facilities without limitations or restrictions?

____ General reading rooms
____ Special reading rooms (reserved rooms)
____ Cubicles
____ Recreation areas

C. Do you engage in study with other persons? ____ Yes ____ No
(If the answer is "Yes") are such persons ____ white students ____ colored students ____ mixed groups

6. Participation in campus activities:

A. Are you admitted to participate in any campus sports? ____ Yes ____ No
(If the answer is "Yes") what sports do you take part in?

Are you a member of the varsity team? ____ Yes ____ No
Do your white teammates treat you as they do other members of the team? ____ all or most do; ____ few do; ____ no
(If not a member of the varsity team) are you admitted to attend college athletic events as a spectator? ____Yes ____No
Do you sit in the bleachers with other students? ____Yes ____No

B. What college organizations do you belong to? (Identify each as social honorary, professional, special interest, class, etc., and as Negro, predominantly Negro, or predominantly white.)

Name of organization	Negro or predominantly Negro	Predominantly white

(If organization is predominantly white) do you attend their meetings, lectures and similar events? ____Yes (all or most); ____Yes (some); ____No
Do you attend their social events (e.g., banquets, receptions, dances)? ____Yes (all or most); ____Yes (some); ____No
If you attend their social events, do you feel you are treated just as other members are treated? ____Yes ____No
(If the answer is "No") in what way are you treated differently?

C. Do you attend college or class dances? ____Yes ____No
Is your date usually a Negro? ____Yes ____No
(If answer is "Yes") do you and your date dance together all of the time or exchange dances with other students? ____All of the time ____Exchange dances
Are the students with whom you exchange dances whites or Negroes? ____Whites ____Negroes ____Both

7. Social life off campus:

Are off campus places of public accommodation or recreation open to Negro students?

____Hotels
____Motels
____Restaurants
____Movie theaters
____Bowling alleys
____Other (specify)

8. Cost of education:

How are you paying for your college education?

Percent	*Source*
_____	Parents
_____	Savings
_____	Current earnings
_____	Scholarship
_____	Federal student loan
_____	Federal veteran's educational funds
_____	State veteran's educational funds

If student has a scholarship, identify source and amount.

_____ source; _____ amount.

If student working during the school year—

What is the nature of your work?

_____

How many hours a week do you work? ____ hours

Is your employer or supervisor white or Negro? _____

Did you get your job through the college employment office? ____Yes; ____No

How well does it pay?

_____

Does it compare favorably with other student's jobs? ____ Yes; ____No

(If answer is "No") why did you take this particular job?

_____

9. General evaluation:

In general, how is a minority-group member treated on your campus?

_____ by faculty;

_____ by students

In general, how is a minority-group member treated in the community?

_____ by churches

_____ places of business

_____ places of recreation for participation (e.g., golf links, swimming pools, etc.)

_____ places of recreation for spectators (e.g., ball games)

Interviewer's notes and remarks

Please indicate whether student interviewed is easily identified as a Negro from appearance.

____ Yes

____ No

APPENDIX Q

TABLE 1.—*Residence of Negro freshmen attending predominantly Negro colleges in Southern States*

Number of colleges represented [1]	19
Number of students replying	971
Number of students from North and West	84
Percent	8.7
Number of students State residents	656
Percent	67.5
Number of students from other Southern States	228
Percent	23.5
Number of students from abroad	3
Percent	0.3

[1] Excludes 2 colleges in the South where desegregation in reverse has reached major proportions, 1 college in the Midwest, and 1 in the East.

TABLE 2a.—*Reasons for college preference given by Negro high school seniors—Students preferring Negro colleges*

	From Northern States		From desegregated complying States [1]		From segregated—token or resistant States [2]		Total	
	Number	Percent [3]	Number	Percent [3]	Number	Percent [3]	Number	Percent [3]
Number of students giving college preference	38		86		89		214	
Reasons given for preference:								
1. Specialized training	21	55.3	57	66.3	47	52.8	125	58.4
2. Variety of courses	20	52.6	55	64.0	40	44.9	115	53.7
3. Proximity to home	8	21.1	44	51.2	47	52.8	99	46.3
4. Lesser cost	16	42.1	30	34.9	52	58.4	98	45.8
5. Leadership and status	14	36.8	36	41.9	25	28.1	75	35.0
6. Friends and relatives	16	42.1	20	23.3	19	21.3	55	25.7
7. Offered scholarship	19	50.0	17	19.8	17	19.1	53	24.8
8. Social life	9	23.7	10	11.6	8	9.0	27	12.6
9. Other	1	2.6	1	1.2	2	2.2	4	1.9
Total reasons given	124		270		257		651	

[1] Delaware, Missouri, Oklahoma, Maryland, Kentucky, West Virginia, Washington, D.C.
[2] Arkansas, Georgia, Virginia, North Carolina, Florida, Tennessee.
[3] Percent exceeds 100 because some students gave more than one reason.

TABLE 2b.—*Reasons for college preference given by Negro high school seniors—Students preferring white colleges*

	From Northern States		From desegregated complying States		From segregated—token or resistant States		Total	
	Number	Percent [3]	Number	Percent [3]	Number	Percent [3]	Number	Percent [3]
Number of students giving college preference	94		79		13		186	
Reasons given for preference:								
1. Specialized training	61	64.9	61	77.2	10	76.9	132	71.0
2. Variety of courses	59	62.8	44	55.7	8	61.5	111	59.7
3. Proximity to Home	58	61.7	40	50.6	2	15.4	100	53.8
4. Lesser cost	37	39.4	31	39.2	1	7.7	69	37.1
5. Leadership and status	33	35.1	16	20.3	6	46.2	55	29.6
6. Friends and relatives	16	17.0	17	21.5	1	7.7	34	18.3
7. Offered scholarship	19	20.2	8	10.1	1	7.7	28	15.1
8. Social life	7	7.4	4	5.1			11	5.9
9. Other	8	8.5	2	2.5	1	7.7	11	5.9
Total reasons given	298		223		30		551	

[3] Percent exceeds 100 because some students gave more than one reason.

TABLE 2c.—*Reasons for college preference given by Negro high school seniors—Consolidation—Comparison of students preferring Negro colleges and those preferring white colleges*

	Students preferring Negro colleges		Students preferring white colleges		Total, all students	
	Number	Percent [2]	Number	Percent [2]	Number	Percent [2]
Number of students giving college preference	214		186		400	
Reasons given for preference:						
1. Specialized training	125	58.4	132	71.0	257	64.3
2. Variety of courses	115	53.7	111	59.7	226	56.5
3. Proximity to home	99	46.3	100	53.8	199	49.8
4. Lesser cost	98	45.8	69	37.1	167	41.8
5. Leadership and status	75	35.0	55	29.6	130	32.5
6. Friends and relatives	55	25.7	24	12.9	79	19.8
7. Offered scholarship	53	24.8	28	15.1	81	20.3
8. Social life	27	12.6	11	5.9	38	9.5
9. Other	4	1.9	11	5.9	15	3.8
Total reasons given	651		541		1,192	

[2] Percent exceeds 100 because some students listed more than one reason.

TABLE 3.—*Reasons for college preference given by white high school seniors*

	Southern States [1]		Northern and Western States		Total	
	Number	Percent [2]	Number	Percent [2]	Number	Percent [2]
Number of students replying	475		442		917	
Number of students applying to college	315		308		623	
Reasons given for college preference:						
1. Specialized training	164	52.1	167	54.2	331	53.1
2. Variety of courses	170	54.0	155	50.3	325	52.2
3. Proximity to home	139	44.1	156	50.6	295	47.4
4. Lesser cost	128	40.6	114	37.0	242	38.8
5. Leadership and status	79	25.1	76	24.7	155	24.9
6. Friends and relatives	84	26.7	70	22.7	154	24.7
7. Social life	37	11.7	55	17.9	92	14.8
8. Scholarship offered	32	10.2	24	7.8	56	9.0
9. Other	38	12.1	33	10.7	71	11.4
Total reasons given	871		850		1,721	

[1] Arkansas, Florida, Georgia, N. Carolina, Tennessee, Virginia, West Virginia, Delaware, Kentucky, Maryland, Missouri, Oklahoma, District of Columbia.

[2] Percent exceeds 100 because some students listed more than one reason.

TABLE 4.—*Reasons for college selection given by Negro freshmen in predominantly Negro colleges*

Number of colleges represented 23
Number of students replying 1,121

Reasons given for college selection	Number of times mentioned	Percent* of students mentioning
1. Proximity to home	562	50.1
2. Lower cost	548	48.9
3. Attended by friends and relatives	510	45.5
4. Variety of courses	508	45.3
5. Opportunity for leadership	476	42.5
6. Specialized training	371	33.1
7. Social life	204	18.2
8. Scholarship offered	114	10.2
9. Limitations on Negro in white colleges	100	8.9
10. Rejection by white college	19	1.7
11. Miscellaneous	111	9.9
Total reasons given	3,523	

*Percent exceeds 100 because some students listed more than one reason.

TABLE 5.—*Benefits of attending predominantly Negro colleges as reported by Negro freshmen enrolled therein*

Number of colleges represented [1] 21
Number of students replying 1,064
Number of students specifying benefits 602

Benefits specified	Number of times mentioned	Percent [3] of students mentioning
1. Full participation in college life	333	55.3
2. Easier adjustment and acceptance	210	34.9
3. Opportunity for leadership	128	21.3
4. Learning more about Negro race	104	17.3
5. Closer and personal teacher-student relationship	103	17.1
6. Specialized training	66	11.0
7. Lower cost	62	10.3
8. Student employment opportunities	25	4.2
9. Opportunity to get a higher education	17	2.8
10. Better counseling and graduate placement	13	2.2
11. Less competition and better grades	7	1.2
12. Scholarships	6	1.0
13. Miscellaneous [2]	18	3.0
Total benefits specified	1,092	

[1] Excludes 2 southern colleges where desegregation in reverse has reached major proportions.

[2] 1 student, a graduate of a segregated North Carolina public high school, stated, "Perhaps your high school did not prepare you for another college."

[3] Percent exceeds 100 because some students listed more than one benefit.

TABLE 6.—*Handicaps of attending predominantly Negro colleges as reported by Negro freshmen enrolled therein*

Number of colleges represented [1] 21
Number of students replying 1,064
Number of students specifying handicaps 545

Handicaps specified	Number of times mentioned	Percent [3] of students mentioning
1. Inadequate facilities and resources	225	41.3
2. Inadequate academic standards, courses, instructors	186	34.1
3. Lack of interracial contacts	181	33.2
4. Prejudice and uniformity in campus life	83	15.2
5. Limitation in postgraduate employment	81	14.9
6. Rating unequal to white colleges	74	13.6
7. Lack of competition	55	10.1
8. Too much social life	9	1.7
9. Too strict rules	8	1.5
10. Miscellaneous [2]	21	3.9
Total reasons given	923	

[1] Excluding 2 southern colleges where desegregation in reverse has reached major proportions.
[2] 1 student from Alabama, attending a Negro college in his home State, listed a very significant handicap, the "lack of access to public library."
[3] Percent exceeds 100 because some students listed more than one handicap.

APPENDIX R

Public school teachers by race in 7 selected Southern States, 1956–57

State	White	Negro	Total
Alabama	16,572	8,219	24,791
Florida	21,230	6,085	27,315
Georgia	20,793	9,122	29,915
Louisiana	14,254	7,249	21,503
Mississippi	9,793	6,862	16,655
South Carolina	11,714	7,386	19,100
Texas	60,507	8,939	69,446
Total	154,863	53,862	208,725
Percent	74.1	25.9	100

Source of data: Southern Schools: Progress and Problems, p. 123 (1959).

APPENDIX S

CITATIONS TO LEGAL ACTIONS BY NEGROES TO OBTAIN ADMISSION TO COLLEGES FOR WHITE STUDENTS IN WHICH FINAL ORDER ENTERED AFTER MAY 24, 1954

(1) *Lucy* v. *Adams*, 134 F. Supp. 235 (N.D. Ala. 1955), *injunction reinstated* 350 U.S. 1 (1955), *aff'd*, 228 F. 2d 619 (5th Cir. 1955), *cert. denied*, 351 U.S. 931 (1956); *readmission ordered*, Civ. No. 652, N.D. Ala. Feb. 29, 1956, 1 *Race Rel. L. Rep.* 323 (1956); *expulsion upheld*, Civ. No. 652, N.D. Ala. Aug. 29, 1956, 1 *Race Rel. L. Rep.* 894 (1956).

(2) *State ex rel. Hawkins* v. *Board of Control*, 47 So. 2d 608, (1950), 53 So. 2d. 116 (1951), *cert. denied*, 342 U.S. 887 (1951), 60 So. 2d. 162 (1952), *vacated*, 347 U.S. 971 (1954), 83 So. 2d. 20 (1955), *cert. denied*, 350 U.S. 413 (1956), *rehearing denied*, 351 U.S. 915 (1956), 93 So. 2d 354 (1957) *cert. denied*, 355 U.S. 839 (1957), 253 F. 2d. 752 (5th Cir. 1957), 162 F. Supp. 851 (N.D. Fla. 1958).

(3) *Ward* v. *Regents of the University System of Georgia*, Civ. No. 4355, N.D. Ga. Feb. 12, 1957, 2 *Race Rel. L. Rep.* 369 (1957) ; March 20, 1957, 2 *Race Rel. L. Rep.* 599 (1957).

(4) *Hunt* v. *Arnold*, 172 F. Supp. 847 (N.D. Ga. 1959).

(5) *Constantine* v. *Southwestern La. Institute* 120 F. Supp. 417 (W.D. La. 1954).

(6) *Combre* v. *Frazer*, Civ. No. 4743, E.D. La. Dec. 17, 1954.

(7) *Wells* v. *Dyson*, Civ. No. 4679, E.D. La., April 2, 1955.

(8) *Tureaud* v. *Board of Supervisors*, 116 F. Supp. 248 (E.D. La. 1953), 207 F. 2d. 807 (5th Cir. 1953), *vacated*, 347 U.S. 971 (1954), 225 F. 2d 434 (5th Cir. 1955), 226 F. 2d 714 (5th Cir. 1955), 228 F. 2d 895 (5th Cir. 1956), *cert. denied*, 351 U.S. 924 (1956).

(9) *Ludley* v. *Board of Supervisors*, Civ. No. 1833, E.D. La. Jan. 17, 1957; *Bailey* v. *Louisiana State Board of Education*, Civ. No. 1836, E.D. La. Jan. 28, 1957; *Lark* v. *Louisiana State Board of Education*, Civ. No. 1837, E.D. La., Jan. 28, 1957; consolidated in *Ludley* v. *Board of Supervisors*, 150 F. Supp. 900 (E.D. La. 1957), *aff'd*, 252 F. 2d. 372 (5th Cir. 1958), *review denied*, 358 U.S. 819 (1958).

(10) *Henley* v. *Louisiana State University Board of Supervisors*, Civ. No. 2105, E.D. La. Sept. 8, 1958, *appeal dismissed sub nom. Board of Supervisors of Louisiana State University* v. *Fleming*, Civ. No. 17556, 5th Cir. Sept. 12, 1958; *aff'd* 265 F. 2d 736 (5th Cir. 1959).

(11) *Frasier* v. *Board of Trustees of the University of North Carolina*, 134 F. Supp. 589 (M.D. N.C. 1955), *aff'd*, 350 U.S. 979 (1956).

(12) *Grant* v. *Taylor*, Civ. No. 6404–C, E.D. Okla., August 24, 1955.

(13) *Troullier* v. *Proctor*, Civ. No. 3842, W.D. Okla., July 26, 1955.

(14) *Booker* v. *Tennessee Board of Education*, Civ. No. 2656, W.D. Tenn. Oct. 17, 1955, 1 *Race Rel. L. Rep.* 118 (1956), *rev'd*, 240 F. 2d 689 (1957), *cert. denied*, 353 U.S. 965 (1957).

(15) *Prater* v. *Tennessee Board of Education*, Civ. No. 3550, W.D. Tenn., *aff'd*, 263 F. 2d. 788 (6th Cir. 1959) ; Civ. No. 3550, W.D. Tenn. Aug. 4, 1959, 4 *Race Rel. L. Rep.* 888 (1959).

(16) *Bruce* v. *Stilwell*, 206 F. 2d. 554 (5th Cir. 1953).

(17) *Whitmore* v. *Stilwell*, 227 F. 2d 187 (5th Cir. 1955).

(18) *Allan* v. *Masters*, Civ. No. 1481 E.D. Texas, Jan. 18, 1955.

(19) *White* v. *Smith*, Civ. No. 1616, W.D. Texas, July 18, 1955, 1 *Race Rel. L. Rep.* 324 (1956).

(20) *Atkins* v. *North Texas State College*, Civ. No. 1104, E.D. Texas, Dec. 8, 1955, 1 *Race Rel. L. Rep.* 323 (1956).

(21) *Jackson* v. *McDonald*, Civ. No. E.D. Texas, August 1956 (unreported).

(22) *Shipp* v. *White*, Civ. No. 2789, N.D. Texas, Feb. 11, 1960.

APPENDIX T

TABLE 1.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of Alabama*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$10,142,910	20,403	$497.13
Negro	667,180	2,180	306.05
Senior, 1952:			
White	11,852,371	15,373	770.99
Negro	916,919	3,343	274.28
Senior, 1954:			
White	13,339,767	17,351	768.82
Negro	974,883	3,341	291.79
Senior, 1956:			
White	17,104,419	25,435	672.48
Negro	1,503,429	3,731	402.96
Senior, 1958:			
White	18,517,532	27,782	666.53
Negro	1,539,364	2,667	577.19

[1] No junior colleges in this State. For colleges included, see app. E, table 1.

[2] See app. E, table 1, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.

[3] See app. E, table 1.

TABLE 2.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of Florida*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$14,160,741	15,961	$887.21
Negro	1,717,050	1,811	948.12
Senior, 1952:			
White	16,513,296	14,451	1,142.71
Negro	2,152,005	2,073	1,038.11
Senior, 1954:			
White	18,973,790	14,923	1,271.45
Negro	2,195,069	2,120	1,035.41
Senior, 1956:			
White	21,461,586	18,375	1,167.98
Negro	2,716,199	2,649	1,025.37
Senior, 1958:			
White	28,904,911	23,386	1,235.99
Negro	2,925,363	3,192	916.47

[1] No figures available for junior colleges in this State. For colleges included, see app. E, table 2.

[2] See app. E, table 2, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.

[3] See app. E, table 2.

TABLE 3.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of Georgia*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$5,787,144	14,690	$393.95
Negro	512,000	2,322	220.50
Junior, 1950:			
White	503,617	2,586	194.75
Negro			
Senior, 1952:			
White	11,355,541	10,933	1,038.65
Negro	991,337	2,417	410.15
Junior, 1952:			
White	551,808	1,963	281.10
Negro			
Senior, 1954:			
White	11,453,199	18,018	635.65
Negro	1,002,983	2,156	465.21
Junior, 1954:			
White	573,184	2,336	245.37
Negro			
Senior, 1956:			
White	14,248,873	23,276	612.17
Negro	1,354,581	2,368	572.04
Junior, 1956:			
White	627,440	3,070	204.38
Negro			
Senior, 1958:			
White	19,381,795	25,831	750.33
Negro	1,574,529	2,247	700.72
Junior, 1958:			
White	760,462	3,109	244.60
Negro			

[1] For colleges included, see app. E, table 3.

[2] See app. E, table 3, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.

[3] See app. E, table 3.

TABLE 4.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of Louisiana*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$12,344,342.00	16,911	$729.96
Negro	1,052,880.00	2,925	359.96
Senior, 1952:			
White	15,120,723.31	14,710	1,027.92
Negro	1,412,213.00	3,469	407.10
Senior, 1954:			
White	18,787,295.00	18,020	1,042.58
Negro	2,581,454.00	4,937	522.88
Senior, 1956:			
White	22,457,923.56	23,256	965.68
Negro	3,354,638.00	5,393	622.04
Senior, 1958:			
White	32,638,831.00	26,438	1,234.54
Negro	5,033,584.00	7,038	715.20

[1] No junior colleges in this State. For colleges included, see app. E, table 4.

[2] See app. E, table 4, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.

[3] See app. E, table 4.

TABLE 5.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of Mississippi*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$5,919,966	10,489	$564.40
Negro	344,620	1,261	273.29
Junior, 1950:			
White	1,306,727	4,026	324.57
Negro			
Senior, 1952:			
White	6,654,156	8,071	824.45
Negro	475,960	1,546	307.87
Junior, 1952:			
White	1,969,965	4,741	415.52
Negro			
Senior, 1954:			
White	8,768,895	9,396	933.26
Negro	718,809	1,740	413.11
Junior, 1954:			
White	2,354,087	4,785	491.97
Negro			
Senior, 1956:			
White	9,276,075	11,794	786.51
Negro	938,819	2,323	404.14
Junior, 1956:			
White	2,708,541	5,839	463.87
Negro	146,663	225	651.84
Senior, 1958:			
White	11,883,807	13,984	849.81
Negro	1,219,431	2,555	477.27
Junior, 1958:			
White	2,808,986	5,587	502.77
Negro	113,873	213	534.62

[1] For colleges included, see app. E, table 5.

[2] See app. E, table 5, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.

[3] See app. E, table 5.

TABLE 6.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by student enrolled: State of South Carolina*

Type of college and year [1]	Total public funds for fiscal year ending June 30 [2]	Public college enrollment [3]	Public funds per student enrolled
Senior, 1950:			
White	$7,071,937.00	10,577	$668.61
Negro	637,648.00	1,270	502.09
Senior, 1952:			
White	8,400,176.00	8,745	960.57
Negro	845,577.00	1,202	703.28
Senior, 1954:			
White	10,116,074.79	9,658	1,047.43
Negro	1,026,949.00	1,434	716.15
Senior, 1956:			
White	13,054,822.00	10,558	1,236.49
Negro	1,160,559.00	1,377	842.83
Senior, 1958:			
White	14,931,878.00	13,886	1,075.32
Negro	1,177,559.00	1,581	744.82

[1] No junior colleges in this State. For colleges included, see app. E, table 6.
[2] See app. E, table 6, for State and local appropriations. Federal allocations, grants, or payments under contract taken from *Financial Statistics* for the corresponding fiscal year.
[3] See app. E, table 6.

APPENDIX U

TABLE 1.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of Alabama*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$10,142,910	2,079,591	$4.88
	Negro	667,180	979,617	.68
1952	White	11,852,371	2,110,034	5.62
	Negro	916,919	986,493	.93
1954	White	13,339,767	2,140,477	6.23
	Negro	974,883	993,369	.98
1956	White	17,104,419	2,170,920	7.88
	Negro	1,503,429	1,000,245	1.50
1958	White	18,517,532	2,201,363	8.41
	Negro	1,539,364	1,007,121	1.53

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 1.
[2] See app. T, table 1.
[3] See app. F, table 1.

TABLE 2.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of Florida*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$14,160,741	2,166,051	$6.54
	Negro	1,717,050	603,101	2.85
1952	White	16,513,296	2,535,044	6.51
	Negro	2,152.005	657,480	3.27
1954	White	18,973,790	2,904,037	6.53
	Negro	2,195,069	711,859	3.08
1956	White	21,461,586	3,273,030	6.56
	Negro	2,716,199	766,238	3.54
1958	White	28,904,911	3,642,023	7.94
	Negro	2,925,363	820,617	3.56

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 2.
[2] See app. T, table 2.
[3] See app. F, table 2.

TABLE 3.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of Georgia*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$6,290,761	2,380,577	$2.64
	Negro	512,000	1,062,762	.48
1952	White	11,907,349	2,459,025	4.84
	Negro	991,337	1,077,809	.92
1954	White	12,026,383	2,537,473	4.74
	Negro	1,002,983	1,092,856	.92
1956	White	14,876,313	2,615,921	5.69
	Negro	1,354,581	1,107,903	1.22
1958	White	20,142,257	2,694,369	7.48
	Negro	1,574,529	1,122,950	1.40

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 3.
[2] See app. T, table 3.
[3] See app. F, table 3.

TABLE 4.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of Louisiana*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$12,344,342.00	1,796,683	$6.87
	Negro	1,052,880.00	882,428	1.19
1952	White	15,120,723.31	1,873,918	8.07
	Negro	1,412.213.00	916,142	1.54
1954	White	18,787,295.00	1,951,153	9.63
	Negro	2,581.454.00	949,856	2.72
1956	White	22,457,923.56	2,028,388	11.07
	Negro	3,354,638.00	983,570	3.41
1958	White	32,638,831.00	2,105,623	15.50
	Negro	5,033,584.00	1,017,284	4.95

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 4.
[2] See app. T, table 4.
[3] See app. F, table 4.

TABLE 5.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of Mississippi*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$7,226,693	1,188,632	$6.08
	Negro	344,620	986,494	.35
1952	White	8,624,121	1,202,118	7.17
	Negro	475,960	970,996	.49
1954	White	11,122,982	1,215,604	9.15
	Negro	718,809	955,498	.75
1956	White	11,984,616	1,229,090	9.75
	Negro	1,085,482	940,000	1.15
1958	White	14,692,793	1,242,576	11.82
	Negro	1,333,304	924,502	1.44

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 5.
[2] See app. T, table 5.
[3] See app. F, table 5.

TABLE 6.—*Comparison of State, local, and Federal financial support for white and Negro higher education, by population: State of South Carolina*

Year	Racial designation of colleges [1]	Total public funds for fiscal year ending June 30 [2]	Population [3]	Public funds per resident
1950	White	$7,071,937.00	1,293,405	$5.47
	Negro	647,648.00	822,077	.79
1952	White	8,400,176.00	1,338,370	6.28
	Negro	870,557.00	825,861	1.05
1954	White	10,116,074.79	1,383,335	7.31
	Negro	1,051,949.00	829,645	1.27
1956	White	13,054,822.00	1,428,300	9.14
	Negro	1,200,559.00	833,429	1.44
1958	White	14,931,878.00	1,473,265	10.14
	Negro	1,217,559.00	837,213	1.45

[1] Includes both senior and, where applicable, junior colleges. For colleges included, see app. E, table 6.
[2] See app. T, table 6.
[3] See app. F, table 6.

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