

To: Mr. Justice Clark
From: The Chief Justice _____
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SEGREGATION RESEARCH REPORT

INTRODUCTION

The purpose of this report is to provide in readily available form certain background information which may be useful in framing the decrees in the segregation cases. We have not attempted to duplicate material already easily accessible. Thus, the Ashmore Report, *The Negro and The Schools*, contains much valuable material concerning the status of Southern schools at the time of the decision which is not reported here. This report, then, is limited to factual material not conveniently collected elsewhere, and to certain conclusions based on the individual sections included.

It may be helpful at the outset to outline the contents and organization of this report.

Section I is a survey of "normal" practices of school administrators, particularly with reference to determining what students shall attend a given school. It is intended as a frame of reference, with regard to terminology and practice, for assessing current desegregation programs and potential avoidance schemes.

Section II is a state-by-state summary of Southern reactions to the decision. Further details as to certain avoidance plans are included in subsequent appropriate Sections.

Section III is a summary of the experiences in the more important areas—primarily in border states—which sought to execute desegregation plans in the years immediately preceding the segregation decision.

Section IV considers some of the plans to abolish public schools which have been proposed in a few states. The Section also collects the somewhat analogous experiences in certain Northern areas.

Section V is a discussion of the difficulties of judicial supervision of attendance area districting. The original

purpose of this Section was to collect examples of judicial experience which might approximate the potential problem of court supervision of school districting. It was thought that appeals to the courts with respect to gerrymandering in political districting might furnish a useful analogy. However, the results of this part of the study are important primarily in a negative sense, in showing the limited experience of courts in this field.

Section VI is being separately circulated since it consists largely of maps, of which only one copy was available. Certain of these maps seem useful in indicating the magnitude of the problems which desegregation will involve; this is particularly true of the large map of Spartanburg, South Carolina, showing distribution of Negro and white students and school attendance areas. Other maps are included to show attendance area districting practices in several communities. These are particularly relevant to the discussion of "normal" districting practices, Sec. I of this report, and of gerrymandering problems, Sec. V.

A discussion of these maps is included in Sec. VI, and will be circulated with the maps.

A bibliography of the most useful sources is included at the end of this report.

SEC. I.—BASIC DEFINITIONS AND “NORMAL”
DISTRICTING PRACTICES

Public education in the United States is essentially a local function. Though the Federal Government may exercise limited coordinating powers and the state governments may exert general supervision and supply financial aid, the local school district remains the basic administrative unit.

I. *Definitions.*

A school district may be defined as an administrative unit, governed by a school board, which provides educational facilities for a specified geographic area. It may or may not be a part of the local or county government, and its boundaries may or may not coincide with political boundaries. There may be different and overlapping districts for elementary schools, junior high schools, high schools and junior colleges.

“School district” is to be distinguished from “attendance area.” An attendance area (also known as “attendance unit,” “zone,” and more confusingly, as “attendance district”) is the area from which a particular school within a district draws its pupils.

If a district is small, it may have but one school. If, on the other hand, the district is large, it will be subdivided administratively into a number of attendance areas. If people who live outside a district want their children to go to school within the district, they may be incorporated into the district by mutual consent, or the children may be admitted on payment of fees by the parents or by the adjacent school district in which they live, if it cannot support a school of its own.

II. *School Districts.*

Local school districts in seven states number in the thousands, yet six other states have less than 100 districts.

The number of districts in a given state, however, does not depend upon the region of the country involved.

Altogether, there were in 1948, 103,000 local units of school administration, ranging from 15 in Delaware to 10,000 plus in Illinois, varying in size from five to 5,000 square miles and in number of pupils from zero into the hundreds of thousands. Twenty-seven states have the so-called "common school district" form of organization (a district not necessarily dependent on local government boundaries and frequently runnings but one school); nine states have town or township districts; and 12 states have predominantly county districts.

Educators during the past 30 years have been hammering away at the theme that school districts should consolidate; that the tiny, one-room, one-teacher school district is an unfortunate carryover from a simpler and more parochial civilization; and that only by forming larger units with bigger schools and staffs can the children of today be offered an adequate educational program and related services at a reasonable cost per pupil.

The formation and operation of school districts is ordinarily provided for in the state school code. A local governmental unit or a group of citizens may, by meeting certain standards of size, taxable property, etc., create a school district. Since this development began when there were few schools, the school district map of any state has emerged as something of a crazy-quilt. Except in states having compulsory county districts or employing one of the recent consolidation statutes which permit state action to reorganize districts, the inhabitants of a district set their own boundaries, either by vote or by school board action.

III. *Attendance Areas.*

Local school boards and/or superintendents of schools usually make the decisions as to who will attend what school, where, and under what material circumstances. The Iowa statute, for example, authorizes local boards to "determine the particular school which each child shall

attend." Rigid boundary lines may be drawn around each school and all pupils residing within the lines required to attend said school. However, contrary to a common misconception, attendance in a given school is by no means always determined by drawing rigid geographical boundaries. Pupils may be given an option as to which of a number of schools they will attend. Or a combination of these two techniques—geographical attendance areas and optional, freedom of choice determination—may be adopted.

(a) *Criteria.*

Assuming that rigid geographical boundaries are to be set, four criteria are most commonly cited in the literature as most important in setting the boundaries of attendance areas:

(1) Nearness to a school. Certain standards have been worked out by educators as to how far children should have to walk to school at certain age levels (or how long they should have to travel by bus). A typical standard is that a child should not have to walk more than one and one half miles or travel more than an hour by bus; shorter distances are considered desirable, but greater distances are often tolerated.

(2) Geographic and man-made boundaries or hazards. These obviously include rivers, railroad lines, traffic arteries, etc., and may in some instances be a device to separate students from "the wrong side of the tracks."

(3) Community. A school should serve as a focal point of a community or neighborhood. The other side of the coin is that new schools should be located if possible in natural community centers. This, of course, may also serve as a mask for segregating the rich from the poor, the newer immigrants from the older stock, and Negroes from whites.

(4) Optimum use of facilities. It is naturally desirable to have maximum utilization of available school space and equipment, and to avoid overcrowding or

under-attendance in any school. Moreover, each school must be of sufficient size to offer an adequate curriculum.

(b) *Gerrymandering.*

Use of such inevitably vague criteria means that the establishment or alteration of attendance areas is a quite discretionary function subject to considerable manipulation. It is conceded, for example, that wherever Negroes live in large concentration in the unsegregated North, attendance area lines often tend to result in at least partially segregated school systems. This is the consequence of segregation in housing. The extent of conscious drawing of boundary lines to encompass racially uniform neighborhoods is impossible to ascertain from official literature. However, assuming that the attendance areas thus drawn are reasonably "compact and contiguous" (rather than a group of isolated pockets patched together) and that one or more of the above criteria can be mobilized in support of the administrative decision, it would be difficult for a court to upset a school board determination. Although school maps show somewhat bizarre configurations, there is usually a supporting reason to rebut the allegation of gerrymandering. [Further discussion of the problems of judicial supervision of gerrymandering is contained in Section V, *infra*. A collection of maps indicating districting practices is included in Section VI, *infra*.]

(c) *Optional Areas.*

Frequently in a marginal area, equidistant between two schools, a school board will create an optional attendance area, from which students may attend either school. Even Washington, D. C., has some optional areas, although it determines attendance primarily by rigid geographical boundaries. In a bi-racial situation, the optional zone would presumably be a locale of mixed housing, and informal community pressure might be exerted to keep the schools racially distinct by having the Negroes choose the school in the all-Negro attendance area and vice versa. In some cities, attendance is determined largely by the optional system, with few rigidly

districted areas. (See, *e. g.*, Baltimore, Md., Sec. II, *infra.*)

The result of gerrymandering or optional areas is that Negro and white children will be mixed in the schools not in proportion to population but rather as the proportion appears in a given neighborhood. At the junior and senior high school levels the homogeneity seen in the elementary schools will ordinarily break down, since most communities have but one (or at most two or three) junior or senior high schools, and many larger cities assign certain teaching functions (*e. g.*, automotive arts) to a single school.

(d) *Transfer.*

To cope with the problems of a population as highly mobile as ours, elaborate provisions for transfer of schools on change of residence appear in state school codes and local school district regulations. While ordinarily granted only for physically changed residence, in some cases "hardship" or the "best interest of the child" is taken into consideration. This, too, is an area where administrative discretion comes into play and discrimination may be practiced. In a situation in which there are 600 Negro children and six white children in an attendance area, the six white children might be given "hardship" or other transfers to a nearby attendance area.

IV. *U. S. Office of Education Survey.*

The actual practices of school districts in setting up and administering attendance areas is not satisfactory (if at all) treated in the educational literature. To remedy this, and to supply a background of factual information as the "normal" procedures of school districts in a non-segregated environment, the U. S. Office of Education, in September of this year, conducted a survey of practices in a random sampling of non-Southern cities with populations over 10,000 (small communities and rural areas were excluded because ordinarily the school district and the attendance area are synonymous in them). The results of the survey are summarized in a chart which

follows this Section. The survey supports the following general conclusions:

(a) *Boundary Lines.*

Attendance areas are almost always established by administrative decision rather than by popular vote. In most cases, rigid boundary lines are drawn, and students are compelled to attend the school in the area in which they live (of the cities formerly having segregated schools, Washington, D. C., and St. Louis, Mo., seem to have adopted essentially this system in their plans to desegregate).

Some cities—*e. g.*, Washington, D. C.—have a few optional attendance areas in addition to the compulsory ones. And a few cities—*e. g.*, Baltimore—allow students to attend any school they wish; the only restriction is that if a school gets overcrowded, it will be zoned so that only residents of its vicinity may attend. The optional system has been criticized on grounds of maximum resource utilization, since certain popular schools may become overcrowded while others stand relatively empty. One educator, however, thinks this is a good technique, in that it focuses the attention of the school board on substandard schools and thus promotes equalization of facilities.

No school district surveyed permits discretionary assignment of pupils to schools without regard to residence.

(b) *Transfers.*

Transfers are in most instances strictly controlled and reluctantly granted except for change of residence. Unless manifest hardship such as the availability of certain types of desired instruction only in schools in other attendance areas can be shown, transfer is denied. In an earlier survey of 100 cities, in only two cities were children transferred merely on parental request without a showing of need. No evidence has been found that a racial justification is officially recognized as a valid reason for transfer in the cities included in this survey. (Washington, D. C., Superintendent Corning has said specifically that

it will not be, in setting up a bi-racial committee to process transfer applications.)

(c) *Voting.*

In only one city was popular vote ever employed to set attendance areas. This might be a ruse under which segregation could be perpetuated. However, popular vote is frequently the statutory technique for determining school district—as distinguished from attendance area—boundaries. The Southern districting pattern will necessarily change radically if desegregation is to be effectuated. The present pattern was set up in radically different circumstances. Negro and white attendance areas often overlap. (See Spartanburg, S. C., map, Sec. VI, *infra*.) Frequently if a district did not have enough Negroes to support a separate school they would be sent to an adjacent district. Further, school locations were not planned with desegregation in mind, and as a result facilities may not fit easily into a scheme for insulating the races from one another under conventional criteria for setting up attendance areas.

(d) *Sex.*

Relatively few schools other than parochial schools are segregated by sex. However, there seems no constitutional objection to such a practice, which may well be adopted by many Southern school districts to prevent social mingling.

(e) *Special Classes.*

Many school districts and schools have special classes for gifted, retarded or handicapped children. Selection may be made by guidance officials, teachers, or tests, but is of course open to abuse. It is possible that in many "integrated" schools separate sections of a given grade will look quite unintegrated. Doctoral dissertations on Negroes in the schools of the New York metropolitan area and in Detroit indicate the prevalence of such situations. Negro children tend in disproportionate numbers to be in the non-college preparatory manual arts or commercial

curricula, and in the class sections designed for the less intelligent students. Since, however, intelligence is no one race's monopoly, there will inevitably be some interspersal.

V.

As has been seen, the range of districting practices and the range of criteria for establishing attendance areas points against any uniform rule for districting in compliance with the Court's decision that segregation is unconstitutional. Local practices are both diverse, and ordinarily, defensible.

Certain maneuvers can, however, be detected in the light of sound educational practice. For example, a move to create a greater number of school districts where there were only a few *prima facie* suspicious. Similarly, the creation of tiny Negro school districts or attendance areas near to large white school districts or attendance areas would be hard to defend.

Another easy example would be a plan of arbitrary assignment of pupils to schools without regard to proximity, continuity or the other factors enumerated, and resulting in monoracial schools. This apparently is contemplated by legislation that has recently been enacted in Louisiana.

Finally, certain extreme forms of gerrymandering might be struck down by courts without constituting unreasonable judicial interference with legitimate administrative considerations. (This problem is discussed more extensively in Sec. V, *infra*.)

CHART SUMMARY OF SURVEY OF ADMINISTRATIVE PRACTICES

The following chart summarizes the results of the survey undertaken by the Office of Education in September 1954, with particular reference to attendance districting practices. The numerical references on the chart refer to explanatory notes which indicate in further detail the administrative standards used in the cities surveyed.

EXPLANATORY NOTES FOR FOREGOING CHART

1. *Standards for Permitting Transfers Among Attendance Areas:*

(a) Boulder, Colo.: "Requests for transfer are honored when there is room enough."

(b) Cleveland, Ohio: "Permission to attend another school shall be granted . . . pupils who in the judgment of the superintendent or his designated representative, for special reasons involving the discipline, health, safety or education of such pupils should attend a school not in the subdistrict in which they live It is earnestly hoped that parents will not request transfers for reasons that any parent in the district might advance equally well—such as the preference for another building, teacher, principal, or for the associations of another school. For it is obvious that transfers on such grounds cannot be generally granted, and it would be unfair to grant to one that which must be refused to another."

(c) Helena, Mont.: "The parents of any student may petition for a transfer . . . automatically granted for one year if it permits moving the child from a larger to a smaller class group Less than 5% of our children attend school outside of their attendance districts."

(d) Laramie, Wyo.: "Seldom transfer except from crowded class to smaller class."

(e) Long Beach, Calif.: "Types of Transfers Granted. A . . . for administrative, curriculum, or school adjustment reasons B . . . for health reasons C . . . for social and emotional reasons D . . . to utilize Special Educational Services." "Only in extreme cases" are type A transfers granted, the most common reasons being "overcrowded conditions in a given school or class and transportation hardship." "Physician's statement" required for type B transfers. Guidance personnel must be consulted for type C transfers.

(f) Milwaukee, Wis.: “. . . if a parent requested a transfer from one school to another it was granted in most cases if there was room in the receiving school. At the present time we find some of our schools very crowded and transfers to those schools are restricted.”

(g) New Haven, Conn.: “The Superintendent may assign any pupil . . . to any school irrespective of residence, if, in his judgment, the welfare of the child or of other children requires such assignment.”

(h) New York, N. Y.: New York, like a number of other cities, has rigid zones for elementary pupils, but quite a free transfer program for specialized training at the secondary school level.

(i) Pasadena, Calif.: “Since the abolishment of all neutral zones during the summer of 1954, no pupils—elementary or high school—have an ‘option’ among schools they may attend. . . . [F]or twenty-five or thirty years student transfers were rather freely permitted either through (1) transfer permits or (2) neutral zones, pupils living therein having free choice of attendance at any school adjacent to the neutral zone. Last year 1865 transfers were permitted. This year we have held the permits to 708; and the number will be further reduced next year.

“The question of racial segregation in the public schools has been raised to the extent that it requires more than passing attention. The Los Angeles County Counsel has rendered an opinion to the Pasadena Board of Education to the effect that “private discrimination is given effect in practice through the Board transfer and neutral zone policies, which thus brings about indirectly, segregated schools, a thing which all must admit could not be brought about directly by the citizens of Pasadena or the Board of Education. We believe that voluntary action taken by the Board of Education at this time to render its

position less vulnerable from a legal standpoint would be advisable."

It is noted also that in the Report of the Pasadena School Survey, page 560, there are two recommendations on this matter as follows: "That so-called neutral zones or neutral territory be eliminated. That the Board reconsider and redefine its policies and rules concerning the issuance of permits whereby a pupil may attend the school of his choice."

"All of the foregoing make it essential that a firm policy and firm rules and regulations be established by the Board of Education for the purpose of eliminating questionable practices." [Emphasis added.]

(j) Portland, Ore.: "Any transfer to another area is made through our department of child services in consultation with the medical profession and only for health reasons."

(k) Salt Lake City, Utah: ". . . a student must attend the school in whose district he lives unless an investigation by one of the school social workers, in conjunction with the school principal, teacher, and parents, indicates that a transfer would be clearly to the child's advantage."

(l) Seattle, Wash.: "Exceptions are made only when special courses are taught in certain schools, where conditions may be crowded in one school with extra room in the other, and in rare discipline cases."

(m) Stamford, Conn.: "Out-of-district placements made on basis of health, safety, or better school adjustment."

(n) West Hartford, Conn.: "Permission is granted if there is room in the classes the children will attend."

(o) Whittier, Calif.: ". . . transfers are made when they will serve to equalize class rolls or when, in the opinion of the Administrative Staff, a child's welfare will be served by placing him in a new situation."

2. *Prevalence of Optional Areas:*

(a) Cleveland, Ohio: "Optional areas may be established . . . where there is difference of opinion among parents on a given street or streets as to the school which is safer or more convenient for their children to attend, provided housing facilities are adequate to allow such a choice."

(b) Denver, Colo.: ". . . small optional territories where because of certain natural or artificial barriers it is actually more convenient or safer for a child to attend another school even though the distance is greater. . . . after he has once made a selection he is not allowed to attend the other school."

(c) Hartford, Conn.: ". . . pupils living on the 'boundary line' street are given an option."

(d) Lincoln, Nebr.: "In the elementary schools, pupils do not have an option In the secondary schools we have one small area in which an option is available."

(e) Pittsburgh, Pa.: ". . . some optional areas . . . from which pupils may go to two or three secondary schools. There are only a few optional areas involving elementary schools."

(f) Portland, Maine: ". . . less than 1% of the entire city area."

(g) Salt Lake City, Utah: "When one school building is crowded and an adjacent one has a little space, pupils living on the boundary are allowed to shift to the lower enrollment pattern."

(h) Shorewood, Wis.: ". . . in one instance we have what is called 'No-Man's-Land,' a small section between two districts. . . ."

(i) Terre Haute, Ind.: "In the elementary schools . . . permits are issued by the Central Office in case of necessity. Such cases usually include transportation by the individual child, or home conditions which necessitate the attendance in another district. Each case is reviewed individually, and a

small percentage of requests . . . are granted. In the senior high schools, each child has the option of attending two high schools."

3. *Limited Popular Participation in Establishing Attendance Area Boundaries:*

Cleveland, Ohio: ". . . any group of parents may petition the Board of Education for a boundary, and such requests may be granted if conditions permit."

Ogden, Utah: ". . . when crucial problems arise that affect people because of changes in boundaries, public meetings are usually held to discuss the matter with the intent of securing popular acceptance of any proposal made."

4. *Lewiston, Idaho.*

"The division of pupils among schools has not recently been a problem here hence our regulations are not so clearly defined."

5. *"Distance to School" Criteria in Establishing Attendance Areas:*

(a) Cleveland, Ohio: "Availability of Public Transportation, for Secondary School Pupils."

(b) Missoula, Mont.: "Anything over twelve blocks we consider excessive."

(c) Portland, Ore.: "We have attempted to locate schools so that no pupil has to travel over three-fourths of a mile. If the distance exceeds one mile, transportation is furnished."

(d) Seattle, Wash.: ". . . in general . . . elementary schools within a one-half mile radius of all homes."

(e) Shorewood, Wis.: ". . . no student has to walk more than one half mile to reach the nearest elementary school."

6. *Springfield, Mass.*

Springfield gives no choice at elementary school level, but free choice at high school level, since each high school (of four in city) is specialized.

7. *Stamford, Conn.*

"We use ability grouping as a basis of classroom organization within all grades (1-12)."

SECTION II.—SOUTHERN REACTION TO DECISION

This section of the report was planned as a state-by-state report on Southern plans resulting from the segregation decision. In large part, however, the necessity for such a report has been eliminated by the publication of the first issue of *Southern School News*. A copy of that publication is enclosed with each copy of this report. *Southern School News* contains an excellent state-by-state survey of activities in Southern states between the date of the decision and the end of August 1954. We believe that it is an accurate summary, and in almost all respects as thorough as we could have produced from study of Southern newspapers.

Southern School News is published by the Southern Education Reporting Service, a group of Southern educators and newspapermen. It seeks to report the adjustments being made by the states to the Court's decision. It is financed by the Fund for the Advancement of Education of the Ford Foundation—the Fund which financed the preparation of the Ashmore Report, *The Negro and the Schools*. The contributors to *Southern School News* are reporters and editors of Southern newspapers.

This section of the report will supplement *Southern School News* in only two respects: (1) an introductory summary of Southern reactions; and (2) a supplementary report of developments which are inadequately reported in the *News* or which occurred after publication of its first issue.

It should also be noted that certain post-decision developments are discussed in other sections of this report, *e. g.*, the discussion of plans to abolish public schools in Section IV.

1. INTRODUCTION

The following general pattern emerges from the summary of Southern reactions as reported in *Southern School News*, as supplemented. Immediate desegregation has been the exception rather than the rule. However, where desegregation has been attempted, there have been few examples of widespread protest. Desegregation has taken place primarily in areas where there are few Negroes, with the exception of such large cities as Washington and Baltimore. The states affected may be generally grouped into the following categories:

1. *Full Compliance*.—In four states, *Arizona, New Mexico, Kansas* and *Wyoming*, segregation had been permitted on a local option basis. There were no segregated schools in Wyoming. In the other three states, desegregation has either been completed or is in progress. For example, one of the few segregated school systems in New Mexico, in the town of Hobbs, was desegregated this fall without incident, despite the well-publicized predictions of violence by a local minister. In the *District of Columbia*, as well, the desegregation program is rapidly moving to completion.

2. *Partial Compliance*.—Local school authorities were permitted to desegregate this fall in three states—*West Virginia, Missouri*, and *Delaware*. A considerable number of communities in these states have done so. Most programs have gone into effect smoothly. There were difficulties in several communities in West Virginia, in Milford, Delaware, and in Baltimore. In *Maryland* the Attorney General advised the State Board of Education that no desegregation program could be initiated until this Court issued its decree. However, Baltimore schools are separately organized, and the city's Solicitor advised the School Board that it could desegregate immediately. Thus, Baltimore is the only city in Maryland which has attempted desegregation this year.

3. *Watchful Waiting*.—The majority of Southern states have neither attempted to desegregate immediately nor made elaborate plans to evade desegregation. In this group are: *Arkansas* (with the exception of desegregation in the towns of Fayetteville and Charleston), *Florida*, *Kentucky*, *North Carolina*, *Oklahoma*, *Tennessee*, and *Virginia*.

4. *Sharp Opposition*.—The states most active in formulating plans to avoid desegregation are: *South Carolina*, *Georgia*, *Mississippi*, *Louisiana* and *Alabama*.

2. [THE SOUTHERN SCHOOL NEWS, APPENDIX A TO THIS REPORT, SHOULD BE READ AT THIS POINT]

3. SUPPLEMENT TO SOUTHERN SCHOOL NEWS REPORT

The purpose of this sub-section is to supplement the *Southern School News* report on reactions to the segregation decision. This section summarizes developments inadequately reported in *Southern School News* or those which occurred after the publication of its first issue and is arranged in the alphabetical order of states used in the *News*.

[The supplement covers the period up to October 1. Since the completion of this report, Issue 2 of *Southern School News* has been published; it will be included herein as Appendix B when available. Issue 2 covers the period to about September 15, so that there will be some overlapping between it and this supplement. References to *Southern School News* hereinafter will be to Issue 1.]

A. *Delaware*.

1. *State Guides to Local School Boards*.

Some additional information has been obtained about the guides to local school districts issued by the Delaware State Board of Education. See *Wilmington Morning News*, August 28, 1954. (See discussion of Del., *Southern School News*, p. 3.)

The "suggestions" request local boards to report the status of desegregation studies to the state agency by

October 1. The portion of the "guide" of particular potential relevance in framing a decree follows:

"It is suggested that in formulating plans to end segregation, local boards may desire to consult with a committee composed of lay and professional groups in their districts in order that such groups may contribute to the planning and may, in turn, become acquainted with the problems, if any, involved.

"The function of this committee would be solely advisory to the local board of education.

"It is the sincere hope of the State Board of Education that all teachers presently employed and who have had successful experience will be retained in whatever pattern of integration that is ultimately developed.

"For the sake of educational continuity and for the sake of maintaining an adjustment status of individuals, it is strongly suggested that, where possible, pupils be allowed to complete the grade group in which they are presently enrolled, *e. g.*, a student attending the elementary school, grades 1-6, should be allowed to complete the six grades in that particular school situation.

"The same suggestion applies to the junior high school and senior high school divisions.

"School districts may contain one or more attendance areas. If more than one attendance area is contained in a school district, the following must be taken into consideration:"

[In an earlier version of these suggestions, see *Wilmington News*, August 20, 1954, the State Board had described the following comments as "cautious" to be observed by local boards because the State Board would not "condone any plans the intent of which is to circumvent" the desegregation requirement.]

"*Gerrymandering.*—It is obvious that schools in physical areas inhabited largely or altogether by Negroes will be attended mostly or entirely by Negro children. The same will be true of certain schools in white sections. This results from geographic location and has nothing to do with discrimination.

“If attendance districts, however, are so contoured as to skip houses or blocks or to extend geographic peninsulas and islands into physically unified areas solely for the purpose of including families of a particular race, it is reasonably certain that the districting would be regarded as an invalid invasion of desegregation requirements.’” (Harvard Law Review, v. 67, Number 3, Jan. 1954.)

[An earlier version of the suggestions, see *Wilmington News*, August 20, 1954, contained the following additional sentence at this point: “In other words, the criteria for determining attendance areas must be distance, contiguity, and ease of transportation.”]

*“Maintaining segregation in non-segregated schools.—*Negro pupils may not be separated for intra-mural activities in study halls, or classrooms, nor shall there be any racial seating arrangement in the classrooms or elsewhere in the schools.” (McLaurin v. Oklahoma State Regents, 339 U. S. 637 (1950).)

[At this point, the earlier version of the suggestions, *Wilmington News*, August 20, 1954, contained this added paragraph: “*Exclusionary Pressures—*Local school officials may not participate in nor actively encourage such local tactics as influencing Negroes to attend their own schools ‘voluntarily’ through the use of threats of one kind or another.”]

*“Administrative Practices.—*No board of education nor board of school trustees shall set up special examinations or any entrance procedures the purpose of which is aimed at excluding Negro pupils from white schools.

“If a school district has more than one building serving a given grade, attendance at a particular school could be decided by choice of the student provided, in the event of insufficient space at a particular school, preference should be given students residing nearest the school in question.

"The State Board of Education believes that constitutional requirements are met either by integration within the fixed attendance area or integration based on a single attendance area wherein freedom of choice is exercised to the extent that physical facilities will allow.

"The decision as to which type of attendance plan is established in a school district ultimately rests with the local board to present and explain the approved plan to the people of the district concerned."

Certain background to the issuance of these guides is reported in the *Wilmington News* of August 26, 1954. The proposed guides did not originally provide for an optional or "freedom of choice" method of determining attendance. (See also *Wilmington News*, Aug. 20, 1954, *supra*, for earlier version of suggestions.) The optional provision was suggested by a member of the State Board of Education. The President of the Delaware Congress of Parents and Teachers originally also supported the optional provision, but later, in a letter to the State Board, opposed it. His opposition argument was as follows:

"In its simplest form, *i. e.*, a district having two schools, freedom of choice will, inevitably, result in all white children applying to the 'white' school, together with an indeterminate number of Negro children.

"It is not likely to result in a great number of white children applying to the 'Negro' school.

"If plants and equipment of sufficient capacity existed, this method would provoke the least possible friction, although it would serve to further debilitate the educational programs available in the 'Negro' schools.

"If insufficient plant and equipment exists (and insufficiency is the pattern to be expected in Delaware at the present time), then any method of selection will result in more friction than the establishment of attendance areas

"In its most complex form, *i. e.*, a district having a number of schools, freedom of choice would result not only

in the same problem as in a smaller district, but would impose administrative burdens of a great magnitude. The Wilmington plan, [rigid attendance districts], whatever its shortcomings, is certainly more easily administered than it would have been had 'freedom of choice' been permitted."

As noted above, the guides finally issued by the State Board permit either a rigid attendance district plan or an optional plan.

2. *Milford, Del., Difficulties.*

The Delaware schools which have put desegregation plans into operation this fall are listed in *Southern School News*, p. 3. The only reported difficulties occurred in the most southern town in which desegregation was attempted, Milford, Del. Milford is a town of about 5,000 located in an agricultural area in southeastern Delaware. There are two schools in the district: a combined elementary and high school for whites, with an enrollment of 687, and a Negro elementary and junior high school with an enrollment of 237. The first step in the district's gradual desegregation plan was to permit graduates of the Negro junior high school to enter the white high school, rather than requiring travel to Negro high schools about 20 miles away. Eleven Negroes began to attend the white high school on September 7. About a week later, "hundreds" of parents began to protest; a number of mass meetings were held, and a petition with more than 1,000 signatures, demanding expulsion of the 11 Negroes, resulted. There were threats of violence. On September 21, the schools were closed "until further notice . . . in the interest of the safety of all the children." Several reasons for the protests were reported, including the fear of Negro children from a camp of Negro migrant workers nearby. Some residents were quoted as saying that they were not opposed to integration as such, but rather to "rushing through it," before the issuance of the Court's decree. [It should be noted that local schools are not re-

quired to desegregate immediately in Delaware, under the rules announced by the State Board of Education.] On September 22, the Milford School Board announced, after a meeting with the Governor and the State Attorney General, that the schools would reopen on September 27 under the previous desegregation plan. The Board threatened to resign if the State Board overruled its plans. When the State Board failed to take immediate action, the local School Board resigned. Thereafter, the Governor's office and the State Board announced that the schools would reopen as planned, under direct State auspices, on September 27. Over the weekend preceding the scheduled reopening, a mass meeting was held for the purpose of organizing a local chapter of the National Association for the Advancement of White People. Some 3,000 people are reported to have attended, but many of these had come from outside of the state. Speakers urged that parents keep their children out of school, rather than resort to violence. The school was reopened by state officials on September 27, and then returned to local control. On September 27, 10 of the 11 Negro students attended, but about 70% of the white students stayed away. Only 274 out of 892 enrolled in the elementary division of the school attended, and only 182 out of 670 in the high school division. A school official stated that "half of the absenteeism" was "due to fear of possible disorder" rather than desegregation as such. On the evening of September 27, the opponents of desegregation held another mass meeting, urging white parents to continue keeping their children out of school. Again the meeting, attended by about 750 persons, was organized by the National Association for the Advancement of White People. The chairman of the newly organized local chapter, an evangelist, urged a continued student strike, "no matter if it means bloodshed." The national president of the group, one Bryant W. Bowles, urged sympathy strikes in surrounding towns. Another speaker read a letter by a 14-year-old white girl claiming that a Negro boy had asked her to go to a movie

on a day when the schools had been closed. (The fear of social mixing seems to have been a continuing undercurrent in Milford. About a week before, when the schools were closed, local residents reported that a major reason was a "rumor" that a white girl had been asked to a dance by a Negro boy.)

On the following day, September 28, absenteeism at the Milford school was slightly reduced. However, the call for "sympathy strikes" was apparently effective. At the town of Lincoln, in the same school district, only 36 of 140 pupils attended classes at the elementary school. The State Superintendent of Schools announced that there was "no thought of applying the truant laws at this time." (Lincoln is the town which gave rise to most of the protest in the Milford district. 50% of its children are Negroes, and 30% of the Negro children come from a labor camp for migrant farm workers.) On September 29, absenteeism at Milford stayed about the same, but the "sympathy strike" spread to additional communities.

On September 30, the pro-segregation forces won. The new local School Board announced that "the board decided, in the interest of the welfare of the children and the community as a whole, to remove the 11 Negro students from the enrollment records of the Milford school." It added that the school assignment and necessary transportation of the Negro children were again problems for the State Board. They will presumably be required to return to the nearest Negro high school, about 20 miles away. The president of the National Association for the Advancement of White People credited the "victory" to the protests organized by his group. Hours before the Board's announcement, he stated to reporters that he had an understanding with high state authorities that the new Board would exclude the Negroes. He added: "Our meetings will continue. This is just the beginning. We are going to see that a thing like this

never happens again." The president of the NAAWP also stated that the Governor had offered a place on the new School Board to one of the local leaders of the group, but had been turned down. The new members of the Board stated that they had never met the president and had never attended one of the group's meetings.

In summary, some significant features of the Milford story should be noted: (a) The Milford area is the only one in Delaware which encountered difficulties with desegregation. It is the southern-most area in the state to attempt desegregation. (b) The original desegregation order did not come from a high source. Local school boards in Delaware could desegregate if they wished; no state authority or judicial order compelled it. The Milford Board decided to desegregate without advance warning and consultation with local residents. Local residents realized that, since the source of the order was local, local pressure might be effective in changing it. (c) Surrounding areas in Southern Delaware were not desegregating; there was apparently no attempt by local authorities to explain why Milford should be singled out. (d) Milford had a peculiar local problem in the presence of many Negro migrant workers whose children might be admitted to local schools under the Board's plan. (e) The activities of an outside organization, the National Association for the Advancement of White People, organized the protest, sponsored mass meetings, and crystallized local resentment. Some of the local residents kept their children out of school more because of fears of violence resulting from the activities of the pro-segregation forces rather than personal hostility to desegregation. (Little is known at this writing of the background of NAAWP president Bowles. He lists himself as an ex-Marine sergeant with 7½ years of service, including Korea. He was brought up in Tampa, Florida, the son of a "successful" farmer. He gives his present address as Washington, D. C. The Delaware State Police, after an investigation, announced

that Bowles was convicted in Baltimore last year on five counts of false pretenses, and that an earlier, Florida bogus check charge against him had been dropped after he made restitution.)

B. *District of Columbia.*

The details of the District's original desegregation plan are for the most part adequately reported in *Southern School News*, p. 4. This supplement will merely add some relevant details of the initial plan not reported in the *News*, and a report on the effectuation of the plan.

A. *Additional Details of Initial Plan.*

1. *Preperation for desegregation.*—While this Court was pondering *Bolling v. Sharpe*, the D. C. school board solicited and received the recommendations of many community organizations on the best way of integrating the dual system. The board limited its hearings to the *means* of integration. The groups represented viewpoints ranging from resigned acceptance of the plainly distasteful possibility to militant advocacy of integration. There was general agreement of three points: that if it came, integration should be initiated by a firm policy; that as a part of the transition white and Negro pupils should be assigned to schools on a residential basis; and that teachers should be hired on the basis of competitive examination without regard to race. On the other points there was considerable divergence of opinion, principally stemming from the question of whether integration should be immediate and complete throughout the system, or whether it should be carried out gradually. The school board had officially indicated that it favored a gradual approach.

2. *Boundaries.*—The criteria announced for setting the new boundaries of attendance areas were (1) optimum use of all school buildings, and (2) optimum accessibility of school buildings to the residences of pupils. To establish boundaries, each child filled out a residence card and IBM machines were set up to sort by city blocks, grade level,

and school previously attended. Each building principal was required to prepare a spot map to indicate places of residence of all his pupils.

3. *Assignments of Educational Employees—Teachers Now in Service.*—In general the plan is that they will remain in present assignments and will be transferred only to meet needs of the service and then only within the level and/or the subject matter fields of their preparation and experience. When vacancies occur or when there is need for additional teachers in a given school, assignments will be made in accordance with best use of available personnel. General fitness and adaptability for the assignment will control. Requests by teachers for transfer will be honored as at present if the transfers are in accordance with the needs of the over-all organization.

New Teachers.—a. All appointments will be made from a rated list resulting from examination to be held by a single Board of Examiners. b. All assignments of new personnel will be in accordance with needs of service.

4. *Outline of Administrative Steps for the Present School Year, as Announced by the School Superintendent.*—(1) Assigning pupils to schools on basis of new boundaries; (2) Prepare Board orders for changed assignments of teachers and officers where necessary; (3) Carry on programs of in-service training in intercultural relationships for all employees; (4) Conduct exams based on amended legislation; (5) Establish new eligible lists for teacher appointments; (6) Replan city-wide student activities such as sports, cadets, student government and musical; (7) Relocate all field officers where space is needed for classrooms; (8) Other administrative changes. The complete change-over is expected to be completed by September 1955.

B. *Effectuation of the Plan.*

After an abortive attempt of a group of parents to gain an injunction in the District Court to prevent the integration plan of the Washington schools from going into effect

prior to the issuance of this Court's mandate, the schools opened under the proposed plan. There was an apparent minimum of confusion and no reported difficulties.

In September, 1954, a total of 99,946 pupils enrolled in the public schools. Of this total 59,364 were Negro and 40,582 were white. There were 3,630 teachers: 1,943 Negroes and 1,677 whites. The plan to keep records without regard to race as was originally adopted has been changed for this year to allow the Board to keep the public informed as to the progress of integration.

Most of the 160 public schools were integrated to some degree. The general breakdown as reported immediately after the opening of schools was as follows:

1. Out of the 11 senior high schools, two remain all-white and one all-Negro. The rest are predominantly white, with the exception of one, approximating an equal racial enrollment (588 whites—346 Negro), and one predominantly Negro.

2. 21 Junior Highs, 14 are mixed with four of these having less than 10 Negroes. Two are predominantly Negro with a few whites and two are nearly equal (339 White—213 Negro; 244 White—436 Negro).

3. 121 grade schools, 27 have no integration (16 remain all-white and 11 remain all-Negro). The remaining schools have integration of varying degrees. One school has approximately equal racial attendance: 177 whites and 171 Negroes. Twenty-five schools have a racial minority of greater than 10% of the attendance, and in 45 there is a white minority of less than 10% of the enrollment.

4. Of the five vocational high schools, three remain all-white and the other two all-Negro.

5. One of the two teachers colleges remains all-Negro, while the other has 348 whites and 32 Negroes.

Although a breakdown as to faculties was not available, it was announced that many of the schools had integrated faculties. The PTA's have also announced plans to integrate "in the near future."

A map indicating the new attendance area boundaries in Washington is included in Section VI of this report.

After the start of school some 200 pupils attending schools under the new districting program filed transfer pleas with school authorities. Many of these were reportedly based on the "reluctance of both white and Negro parents to have their children attend schools in which they would represent a minority race." However, school officials insisted that they would refuse transfers based on racial grounds. Other transfer requests were by working parents who wanted their children to attend schools near their businesses rather than near their homes, and by parents with children enrolled in two different schools. All transfers were processed by a special bi-racial committee of educators. Parents' wishes were reportedly granted only where a child was "severely handicapped" by his new school location, based on the child's physical condition and distance to school.

The smooth operation of the first steps of the desegregation program encouraged D. C. School Superintendent Corning to accelerate the plan. As noted above, high school students other than those new to the system were not to follow the desegregated districting boundaries until February 1955. However, soon after the opening of school, the Superintendent decided that high school desegregation should be speeded up. The action was based on the smooth operation of the first part of the program and on the presence of vacancies in white schools, which were expected to be those to which most transfers would be sought. He requested "old" high school students to indicate whether they wanted to exercise their option of transferring under the new districting scheme. 436 students requested transfer, and the change-over has already begun. Only nine students sought to transfer from former white schools: eight to other former white schools, one to a former all-Negro school. The other students sought transfers from former

Negro schools. All but 30 of these requested transfers to former white schools.

The plan for desegregation in junior high and elementary schools, which was not expected to be in full operation until September 1955, under the original program, may be similarly accelerated. School authorities are now (Oct. 1) making an inventory of space in elementary and junior high schools to determine where desegregated boundaries can go into effect this fall.

C. Maryland.

Desegregation in Baltimore.—The plan for desegregation in Baltimore's school is fully reported on p. 6 of *Southern School News*. An unusual feature of the plan should be particularly noted: it largely retains the city's optional, "freedom of choice" system of determining what school a given child shall attend, rather than adopting the more usual system of determination by attendance areas with strict geographical boundaries. Baltimore uses attendance areas only in a few overcrowded areas of the city.

The following brings the *Southern School News'* report up to date (Oct. 1), by summarizing the experience with the operation of the Baltimore plan.

On September 16, Baltimore school authorities announced the results of desegregation under its largely optional system. The president of the School Board announced that "things are moving so smoothly there is no need for comment." Of 140,957 students, 55,331 are Negro. Only six white students chose to attend formerly Negro elementary schools. As a result, there is one white child in a school of 1,108 Negroes; three white students with 557 Negroes; and two white in another school of 1,291 Negro children. Most of the movement under the predominantly "freedom of choice" plan was by Negroes into white schools. There are small groups of Negroes in several formerly white high schools. Negroes are now enrolled in 36 formerly white elementary schools. In 27 of

these, there are 25 or less Negroes in schools with enrollments of between 160 and 1,325 white students in each. Heavy enrollment of Negroes is limited to five elementary schools, resulting in the following distributions: 152 Negro—765 white; 105 Negro—185 white; 321 Negro—382 white; 117 Negro—837 white; 107 Negro—168 white. Presumably the last group of schools is in non-optional areas—*i. e.*, areas in which, because of overcrowding, free choice of schools is not permitted, and in which the School Board has shifted large groups of Negro students into formerly white schools.

On September 8, one day after the opening of schools, several Baltimore parents and two organizations—one the National Association for the Advancement of White People—brought suit to compel school officials to maintain segregated schools. Apparently no order was issued, and desegregation proceeded smoothly. In a related move, delegates from 30 Parent-Teachers Associations in southern Maryland met “to formalize the organization of the Maryland PTA Council for separate Schools.” The President of the Maryland Congress of Parents and Teachers warned that local PTA’s might be expelled from the state group if they resisted desegregation.

After several weeks of smooth operation of desegregation, some difficulties were reported on September 30. The school involved was an elementary school with an enrollment of 558. The dispute centered on 12 Negro children, aged 4 and 5, attending kindergarten classes there. Up to 50 pickets paraded in front of the school with signs protesting desegregation. About 80% of the students failed to attend school on September 30. The Superintendent of Schools commented: “It looks like some of the germs have drifted down from Delaware.” [See the discussion of Milford, Del., *supra*.]

It was reported that residents of the area had been asked to keep their children out of school in a doorbell-ringing campaign. There is no evidence that the protest is being organized by an outside organization. It should

be noted, however, that the National Association for the Advancement of White People has been active in Baltimore. It was one of the plaintiffs in the suit to enjoin desegregation in Baltimore, see *supra*.

Disturbance in Baltimore spread as this report was being completed. There was violence at one high school on October 1; a crowd of 800 whites had gathered, and four Negro students were attacked. Five other schools were picketed. The enrollment at the high school is 1,780, of which 36 are Negroes. The principal of the school was quoted as saying that he believed the outbreak was the result of careful organization, including anonymous phone calls, by an unnamed group. Five persons, including one Negro, were arrested.

D. Opposition in West Virginia.

As noted on page 14 of *Southern School News*, several counties in West Virginia made plans to begin desegregation this year. State authorities had stated that local Boards of Education could choose to desegregate, but were not required to do so. In most areas which announced desegregation plans, the plans were executed smoothly. In several, however, difficulties developed.

The most publicized area in the state was White Sulphur Springs, Greenbrier County. Greenbrier County was the first county in the southern part of the state to attempt immediate integration. There are about 600 Negroes in the county's 10,000 school-age children. In the town of White Sulphur Springs, there are about 600 Negroes among the 2,643 residents. At the beginning of the school year, 25 Negro students were admitted to the town's high school. After about a week, 300 of the 440 students at the school marched through the streets protesting the admission of the Negroes. A similar demonstration took place in the nearby town of Randolph, where 100 students protested the enrollment of 14 Negroes. In White Sulphur Springs, a subsequent meeting of 700 adults voted to remove bodily any Negro who

attempted to enter the school. About 200 adults crowded into a meeting called by the Board of Education. The County Board of Education thereupon voted to cancel its integration orders, which had permitted students to enroll at schools closest to their homes. In rescinding the orders, the Board gave "crowded conditions" in white schools as its reason. Negro high school students in White Sulphur Springs were directed to return to the Negro high school nine miles away.

Other protests in the state were reported from Four States, Madison, and Philippi, W. Va. In Four States, mothers of 60 pupils at the grade school gathered at the school to protest the admission of 13 Negroes who had previously attended a school five miles away. 170 pupils were enrolled at the Four States school. The Associated Press reported on September 9 that parents were split about equally on the question of allowing Negroes to enroll. Many students were kept out of school for the first three weeks of the semester. On September 27, white parents met the school staff at the doors of the school and told them not to enter. The school was closed. The County Board of Education said it would seek immediate relief in the courts. On September 28, a local circuit judge, on motion of the County Board of Education, issued an injunction prohibiting 53 named parents from picketing the school. The judge termed the parents' picketing of the previous day "a rebellion against the Government." On the following day, September 29, school reopened without incident, and about 95% of the pupils attended.

Near Madison, W. Va., white students protested the admission of Negroes to their high school by leaving classes. However, after a brief walk-out, the white students returned to their desegregated classes. In another nearby high school, 21 white students went on "strike" against the admission of three Negroes to the 692-student school. The students returned to school the next day.

In the first protest in W. Va., on August 17, Philippi, W. Va., police were called to restore order when the

County School Board assigned a white teacher and a dozen white students to a formerly all-Negro school. About 200 parents gathered in the building in which the Board met. Parents of the students affected said that they would refuse to send their children to the assigned school. This incident is referred to in *Southern School News*, which states that "a more gradual changeover" is now planned.

SECTION III.—DESEGREGATION IN SCHOOLS PRIOR TO THIS COURT'S DECISION

This Section is limited to a survey of experiences in desegregation in the years immediately preceding the segregation decision. [Post-decision actions are reported in Section II.] Obviously, the reported experiences occurred primarily in Northern and Border States. However, a study of the methods of desegregation used and the problems encountered should be of value in formulating the decrees in the segregation cases.

Detailed and comprehensive studies of the experiences and practices in desegregation of schools prior to this Court's decision are few, although numerous cursory articles appear in various periodicals. All available types of material have been utilized in producing this summary of what has happened in the areas that have desegregated. No conscious effort has been made to do other than report the facts contained within the various materials. Any conclusions set forth herein are those of the various authors which were considered to be well-founded and helpful to the purpose of this condensation.

By far the most useful source in this field is a study conducted by Cornell University's Department of Sociology. This study was compiled from information furnished by field workers who personally visited 23 communities in six states in the late summer of 1953. Each of these communities had either recently completed or was in the process of desegregating its public schools. The information was gathered through interviews with

school officials, city and county officials, interracial agencies, informed citizens of both races and with students where possible.

A. *New Jersey.*

Art. I, Sec. 5 of the New Jersey Constitution adopted in 1948 states that "No person shall be denied the enjoyment of any civil . . . right, . . . nor be segregated . . . in the public schools, because of religious scruples, race, color, ancestry or national origin." After the adoption of the constitution, the problem concerning segregation and desegregation in the schools was turned over to a state agency, the Division Against Discrimination (hereinafter DAD). DAD started an immediate survey of the present status of the New Jersey schools and enlisted the aid of all local school superintendents.

In 1947 there were 62 school districts in the state containing 292 schools with about 82,000 pupils and 3,181 teachers. Of the pupils, 80% were white and 19% Negro, while the teachers were 89% white and 11% Negro. Approximately one-half of the schools had both Negro and white students, 19% had Negro only and 28% white only. As to attendance areas, 42% of the schools had fixed geographical boundaries and 52% had no rigid boundaries and the remaining schools did not indicate the local practice. About 53% of the schools were found not to observe boundary lines for transfers from one school to another while 45% observed such lines and 2% made official exceptions in the transfer privilege.

The survey disclosed that in 1947, 52 out of the 62 school districts within the state contained one or more all-colored schools with all colored faculties. In nine of the 52 it was found that the cause was due to geographical or other reasons and was not purposeful segregation. In the 43 other districts it was determined to be deliberate segregation at the elementary school level and in one junior high, but in all senior high schools integration was universal throughout the state. The 43 districts where

segregation was found were located in the 10 southern counties. In these counties many of the citizens came from southern backgrounds.

New Jersey had a history of anti-segregation on a legal basis since 1881. However, it was only after the new constitution that any system of uniform integration was attempted. [It should be noted that New Jersey has, to some extent, done more than eliminate legally sanctioned segregation; it has attempted to compel integrated schools, rather than merely desegregating.] In their efforts toward desegregation and integration the DAD was armed with a statutory provision that state financial aid could be withheld from counties not obeying the new mandate. They worked closely with school officials in all of the communities and, rather than using this financial coercion, their work was done through persuasion, conference and conciliation.

Although the New Jersey boards enjoy a great deal of autonomy, a majority of the board members and school officials offered no great opposition to DAD efforts. As of June, 1948, 22 out of the 43 districts had completed plans and announced integration for the fall of 1948. 31 opened integrated in 1948. As of September, 1951, 40 of the 43 districts were integrated and the other three districts were under way. Three chief types of segregation revealed by the survey were (1) gerrymandered school districts; (2) inconsistent bus routes in rural districts; (3) schools located in the middle of segregated housing areas.

Four general methods were used to integrate: (1) Two to four room schools were closed and the teachers and students reassigned to the remaining buildings. The teachers with tenure were continued in the system while some without tenure, both white and Negro, were dismissed. (2) Construction of new consolidated schools for bi-racial enrollment with the closing of the smaller schools over a two-year period. (3) Transform Negro schools into intermediate or junior high schools with bi-racial enrollment in middle size communities. (4) In

the larger towns and cities, school districts were re-zoned and strict transfer regulations adopted with the result that all children tended to go to the school nearest their homes.

Two general patterns were followed by the boards in formulating and putting desegregation plans into effect. The first group originated plans independently and made a public announcement through meetings, etc. The other group asked for community participation in formulating a plan. The first method seemed to prove better in operation. Five communities were studied in New Jersey as to their experiences in desegregation of their public schools. All population figures given are based on the 1950 census.

1. *Camden*.—Population 123,955 with 5.5% Negro. The town is chiefly industrial. Segregation in all of the social pattern was accepted prior to World War II but there was some breakdown thereafter. There is residential segregation with a mid-town ghetto and the schools were located accordingly to support this pattern. This made it difficult to re-zone the districts. The school districts were re-run in 1948 and boundaries were "bent" to assure some representation of each major race. [This illustrates how New Jersey has sought compelled integration rather than mere desegregation; here it undertook a reversed gerrymandering practice.] School authorities tried to see that no abuse of the transfer privilege accorded the pupils was made. The teachers were given courses prior to the opening of school. There was some short-lived overt resistance by a few white families which consisted of petitioning the board to allow children to go to old schools.

During the first year there was evidence that both Negro and white parents transferred their children outside their proper districts by using guardian addresses to avoid desegregated schools. This practice was subsequently stopped by school authorities. Some difficulty also resulted when a Negro principal was appointed in an

integrated school, but it soon died away due to the personal popularity of the principal. The Camden experience showed that it was simpler to move Negro teachers and students into formerly white schools than to reverse the process.

In 1945 there were 20 schools for whites and seven for Negro, while in 1951 there were only 10 schools which had no Negro pupils and only one in which there were no whites. Negro teachers were also integrated throughout the system, but great care was taken in choosing the first Negro teachers to be placed in desegregated schools. There was some complaint by both groups of teachers about assignments in the desegregated schools.

From the board's standpoint the two main administrative problems were (1) the problem of redistricting; and (2) preventing misuse of the transfer privilege. In cases where residential segregation limited what could be done toward student integration, the board found that integration of the faculties helped broaden the student's outlook. No great resentment was encountered in parents.

2. *Salem*.—County population 49,508 with 14% Negro, while the county seat city of Salem had a population of 9,050 of which 26% was Negro. The town can be characterized as manufacturing. It has strong Southern ties with Maryland and Delaware, and the atmosphere is called "southern." There is no segregated pattern of housing, with Negro and white living together in the older sections of the town. Until recently nearly all functions (restaurants, theatres, etc.) were segregated and only since 1948 has there been any substantial change.

The Salem county schools had approximately 9,000 pupils, 9% of the Negro pupils were in segregated schools and 5% of the Negroes were integrated. Of the 1,881 city pupils, 11% of the Negroes were segregated and 4% integrated. An all-white elementary school was located next to an all-Negro school in the city. The high school was integrated, and the year before integration of the elementary schools was attempted some Negro students and teachers were moved into the junior high.

In preparation for integration the board adopted a "less said the better" attitude. No citizens' committees were contacted nor were teachers or students consulted. The plan adopted was most unusual. As the schools used homogeneous groups, rated according to ability, all students in the two groups were listed by grade on individual slips of paper and each grade was put into a separate container with no racial distinctions on the slips. Late in August each teacher drew her quota of students from the container. A few days before school opened, the board announced which schools would house the primary grades. No transfers would be allowed. Negro teachers were integrated into all three elementary schools. Of course, the fact that there were no school districts, no sharply segregated residential patterns and the size of the town helped make this system work. The random distribution system seemed to keep complaints as to favoritism and discrimination at a minimum, although desegregation ran counter to the individual preferences of many in the community.

3. *Burlington*.—Population 10,093 with 19% Negro (the county as a whole had 9% Negro). This is an old community, and there were Negro families there prior to the Civil War. The majority of the people are engaged in skilled and semi-skilled activity. There was residential segregation but not of the ghetto type as there are small Negro settlements in several neighborhoods. Social and religious activities are segregated.

Burlington had one high school, one junior high (7th and 8th grades) and five elementary schools, two of which were Negro. Prior to 1948 some 12 Negroes had been admitted to white elementary schools which were near their homes. The school board had tried over the years to equalize facilities.

In steps toward integration, a citizens' select committee (representing various segments of the community) was appointed and reported to the Board. The Board and committee worked out the plan for immediate desegregation which was then publicly announced. The plan was

to rezone the whole city. Every elementary school principal mapped where each child lived. From these maps new attendance areas were drawn based on location of students (proximity) and capacity of buildings. No transfers to avoid desegregation were to be allowed. The board announced the new districts and sent letters to parents before the end of the current school year (year prior to the change) and on the last day of the term the children were taken to their new schools for the next year where they were given talks on the new plan.

Teachers were reassigned and integrated after careful consideration. Some white pupils were moved to Negro schools which caused some temporary tension, but generally the program was effected without difficulty. Good planning by the board of education appears to have been responsible for ease of the change.

4. *Atlantic City*.—Population figures not given. This is a typical resort area with most citizens employed in services pertaining to the tourist trade. Although there had been some lessening of the color line in public intercourse, the general pattern was that of segregation, although there was no history of racial tension. The housing was completely segregated with the Negroes living in the northern part away from the city center.

After the new State law was adopted there was reluctance to make any change on the part of the board, due principally to the attitude of the superintendent. The plan adopted was to continue the town's optional or "school of choice" practice: any child could attend the school he wishes, provided there was room for him. No district lines were drawn; the board indicated that there were no mandatory boundaries. Only through NAACP pressure in 1948 was even this policy publicly announced.

When the elementary schools opened, it was technically true that they were desegregated by the "school of choice" rule. However, the practical difficulties due to the distance between the Negro homes and the white schools prevented Negro children from attending the white

schools (with the exception of two white schools which were near the Negro settlement). The junior high schools also remained segregated in fact. The next year a new superintendent was appointed and in the fall of 1950 the junior high schools were integrated as were the vocational school and one elementary school.

At the end of the 1949-1950 year DAD put pressure on the board for further integration and was considering the withholding of state aid. It was clear that "school of choice" gave white students the opportunity to retreat to more distant schools with lower Negro ratio and that they exercised this opportunity. In commitments to the DAD the board promised to improve the plan by setting boundaries and transferring students in accordance with the law, although due to the residential segregation some schools would remain segregated.

It appears that no desegregation would have occurred in this community without the legislation. However, it now seems that the present administration is making a genuine attempt at integration including some teacher integration.

5. *Mount Holly*.—Population 9,000 with 6% Negro. This city is located in Burlington County near the city of Burlington. The pattern here was at first one of resistance to desegregation. The initial resistance seems to have stemmed from the school board itself and the then school superintendent. By September, 1948, not only had no plans been made for integration, but for the first time the fifth and sixth grade Negro children were segregated in a separate building with one Negro teacher. DAD stepped in at this point and the board agreed to re-integrate these grades the following year. The board refused to desegregate or eliminate a two-room school (having 60 students) in a Negro neighborhood on the ground that it served the community in which it was located. The DAD threatened to withhold funds, but the board remained adamant. It seemed it would test the legality of the constitutional provision.

When the schools opened in 1950, a small group of Negro parents took their children to a white school and asked for admission. The admission was denied, but in the meantime no children had appeared at the segregated school. The board took no action for several days until it became apparent that the board would have to face the problem due to a compulsory attendance law for all children. It finally voted that the Negro school be closed and the children be placed in other schools.

The PTA's are now integrated, though the proportion of Negroes participating is small. Predictions of violence in the community did not materialize, and there was no organized opposition and few protests of white parents.

New Jersey Conclusions.—There was little evidence of community tension at various stages of desegregation in most communities. All were operating under a clear, unequivocal state directive which removed the possibility of effective hedging on desegregation. Unlike some of the other communities studied, there seemed to be a genuine interest in the problems of adjustment, and the communities tried to take personal relations into account in its policies and programs. Of the administrative practices developed, well-defined districts and clear-cut transfer rules seemed more effective both for desegregation and operating efficiency. Using careful selection, the placing of Negro teachers in schools with predominantly white student bodies apparently increased morale in both racial groups. The assignment of teachers, without giving them a choice of assignments, seemed to reduce tension and increase the feeling that assignments were made on the basis of ability only. The fact that the desegregation directive ran counter to the individual preferences of many people, including public and school officials, did not seem to prevent its effective use in most of the communities. In none of the communities studied does the "piecemeal" approach (as used in Mount Holly and Atlantic City) appear to have worked as harmoniously as a complete change under a carefully worked out plan of action.

B. *Cincinnati, Ohio.*

The Gradual Approach—This community has been described as “a Northern city with a Southern exposure” and it has a longer history of interracial schools than any other city included in the study. The laws of the State of Ohio had progressed from 1828–1829, when Negroes were expressly denied the benefit of free schools, through a period in the 1840's when separate schools were allowed, until 1887, when integration became mandatory. However, there was no practical enforcement of the 1887 law and communities wanting to avoid the law could do so.

The city's own policy has long been against compulsory segregation in the schools. However, this has not always been enforced and integration is not complete even now. In the past the board has been accused of gerrymandering districts, allowing transfers because of race, and assigning “troublesome” Negroes to all-Negro schools. In recent years these charges have been less frequent.

Cincinnati's industrial and political patterns make it a northern region and the upper socio-economic classes incline toward the North. There are few foreign-born residents (4%). The lower income groups have a closer identification with the South, many being recent migrants from Southern states. A partial dual school system was started in about 1900 and generally continued until World War II. In 1940 the Mayor appointed a committee to study the integration problem. The real move toward an integrated school system began in 1944.

The first all-Negro schools were in the better white residential neighborhoods to take care of the children of servants. Although there was no actual requirement that a child had to attend these schools, children from several school districts went there and all were, and are, Negro. The bulk of the Negro population of the city (which has grown greatly in the period 1940–1950—white grew 6% while Negro grew 41%) live in the “Basin,” located in the heart of the city. Three schools were built to serve this area during World War I. The building of

these schools was backed by Negro teachers who felt they were better geared to the needs of the Negro migrant youth. It is also possible that these teachers were concerned with job security. At present these schools have almost evenly divided faculties, while about 95 to 99% of the students are Negro.

By 1950 Negroes represented almost 16% of the metropolitan population. In the city itself only 11% of the population was Negro as there were small Negro settlements in many of the suburbs. 40% of the Negroes lived in the slums of the Basin. This residential segregation pattern forces between 85 to 90% of the Negro pupils into schools where the student body is predominantly (75% or more) or completely Negro. No conscious effort appears in the actions of the school board to maintain this system of segregation, although the board still retains separate white and colored eligibility lists for teachers. The board is starting a redistricting program which, if continued throughout the city, will be a definite step toward integration. The number of schools with some Negro pupils is increasing slowly, caused chiefly by the shift of Negro families moving out of the Basin.

Integration of teachers started slowly in 1944. All white faculties expressed a considerable amount of opposition but through individual discussion with the principal the opposition subsided. In 1948 an integrated faculty was started in a school where only about 20% of the pupils were white. Other than a few individual parental complaints, no organized objection was raised. By 1953 five elementary and two junior high schools had integration in about equal proportions.

Cincinnati Conclusions.—There was state legal support and some local tradition of integration. However, this legal basis within which integrated schools could be established had existed for many years before local mores sanctioned such a move. The upper socio-economic classes were generally tolerant and gave some support. The Mayor's Committee and other civic groups bolstered the

school officials' efforts. Interracial activity increased in other areas before any considerable move toward any integration in the schools was begun. The city is characterized as "conservative" and its steps in desegregation have reflected this. The process has been extremely slow. In 1953, 15 years after salient movements of change were seen, the city is just planning for its first Negro teachers in the high schools. The changes to bring about desegregation have been spasmodic and on an individual rather than the over-all basis. No massive steps have been taken.

C. Indiana.

In this border state an Act of 1853 provided that no Negro should "derive any of the benefits of the common schools of the state." From 1877 to 1949 the law provided that the local school boards could decide whether the elementary or secondary schools, both or neither, were to be segregated. As a result, all possible combinations of local practices were to be found within the school districts throughout the state.

During the 1920's a move toward further segregation in the schools was accelerated when some of the school boards (principally in Indianapolis) came under the influence of the Ku Klux Klan. The Klan control of the schools was broken during the 1930's and during World War II a movement to change the state law gained in popularity.

In 1949 a bill was passed by the legislature abolishing and prohibiting separate schools "organized on the basis of race, color or creed, and prohibiting racial or creed segregation, separation or discrimination in the public schools, colleges and universities in the state . . ." (H. 242, App'd March 8, 1949.) The statute contains considerable detail providing specific time limits for the accomplishment of desegregation. The general scheme outlined in the statute was for immediate desegregation of all children entering kindergarten, first grade, first year of junior high and first year of senior high in the fall of 1949, by allowing them to attend the schools within their

home districts. Limited delays were provided for situations where facilities and equipment were not immediately available; the deadlines were September 1950 for elementary schools, September 1951 for junior high, and September 1954 for senior high schools. However, there were no provisions included for enforcement. Due to its detailed and somewhat ambiguous nature, it was possible for the various communities to engage in elaborate interpretation of its provisions so as to gain delay in acting or initiating other devices to continue segregation.

1. *Indianapolis*.—Population 425,000 with 16% Negro. This metropolitan area with strong southern elements had integrated schools until the 1920's when the KKK influence brought about segregation. An all-Negro high school was erected under Klan impetus in 1927 and the practice was also established of taking Negro children out of their home districts to attend all-Negro schools located in other areas. In 1947, out of a total of 81 elementary schools, 14 were all-Negro, 59 all white and eight integrated. The all-Negro high school was still so maintained.

In 1947 Negro groups presented candidates to contest some of the school board seats. In May 1948, through the activity of the NAACP and other Negro groups, a request was presented to the board to allow all elementary school children to go to the school in the district in which they lived and to allow Negro high school students to attend the school of their choice. The board did not act on the request and the NAACP threatened suit in October, 1948. A fact-finding report was made by the board which showed that there were 27 non-segregated kindergartens and that parents had some difficulty explaining why, when the children entered the first grade, they were segregated. No incidents of difficulty were reported in any of the integrated schools.

In the fall of 1948, white children (some 200 involved) were withdrawn from a school where Negro children had been admitted for the first time. The boy-

cott took the form of a protest to the board on the ground that other schools which could have been opened to Negro students had not been opened. The board did not take a firm stand but merely stated that the action had nothing to do with race but was merely done to provide equal facilities. The pressure on the board for action increased, but when the legislature met in 1949 most of the activity was shifted to that body. The newspapers gave strong support to desegregation. When the bill passed, the board informally admitted that they would now be forced to integration faster than they had wished it.

Actually, the residential pattern of segregation was such in Indianapolis that segregation would in fact be continued for most of the Negroes regardless of any plan adopted for school desegregation. Nevertheless strong resentment to segregation appeared. The "piecemeal" approach that had been adopted by the board, instead of proving a gradual solution, appeared to be a factor creating neighborhood distinctions, dissatisfactions, and antipathy to the prior board decisions.

After the new Act was passed, the superintendent submitted a plan for compliance. The plan was to provide integration for all students entering the first semester of elementary school, kindergarten, and the first year of high school. The board interpreted the new act to mean that junior high schools were to be considered a continuation of and included as elementary schools, and therefore they would not receive integrated classes until 1955 rather than 1951. In districting the schools, for the first time the board specifically considered distance from the pupil's residence to the assigned school. The policy announced was that the beginning elementary students were assigned to the school nearest their homes, but district boundaries might be modified if the pupil lived over one mile from any public elementary school, and if no transportation was available, or for other justifiable reasons which had previously been a ground for transfer. Grades other than the first years of elementary and high schools were to re-

main in a status quo. As to the high schools, transfers would be allowed beginning students if the student lived more than two miles from the designated school and less than two miles from another or for other valid reasons. This general plan of the board was at best the minimum allowed by the new law.

These vague plans left parents in doubt especially since it was announced that the two mile and one mile circles were only for the basis of accepting *transfers* and not for *assignment*. The selection of which school a child would attend was actually up to the parent. The board was accused of hedging and the papers criticized the plan as "cynical" and that it left colored parents in the position of having to take their children to a hitherto white school without any clear-cut recognition of their right to do so. Approximately 200 Negro students entered all-white schools on the first application of the policy.

It was not until August 1953 that district maps were made available for interested parties and school principals. There was some evidence that the two and one mile lines were distorted, in some cases due to transportation and topographical features. However, in the case of the high schools, it seemed that "optional" areas were directly related to Negro residential areas.

The previously all-white high schools by 1953 had become integrated in all years, and most high schools had about 6 to 8% Negro students while the highest had 13%. The previously all-Negro high school remained so. By October 1953, desegregation was completed in the elementary schools through grade 4. Forty-seven elementary schools enrolled both Negro and white pupils. In 43 of these there was a Negro minority while four had a white minority. Twenty-seven schools enrolled white only and 10 remained all Negro. These latter 37 schools were located in residentially segregated areas.

During the four-year transition to definite school districts, the procedures for transfers were made increasingly

specific, and it was explicit that no transfer would be made by reason of race, color, or religion. However, elementary transfers were still handled by principals and no set patterns had been made. There was evidence that district lines were not strictly adhered to, and the burden of school selection still appeared to rest with the parents in many instances.

Teacher integration was not begun until 1951. The general pattern is still one of white teachers in all-white schools and all Negro in all-Negro schools with predominance of white in desegregated high schools and an occasional Negro in desegregated elementary schools. There is still a ceiling on the number of Negro teachers that can be hired. There was no evidence of teachers trying to hold on to students for job security as was found in some of the other studies.

The Negro students who continued to choose Negro schools seemed primarily concerned with such considerations as transportation and extra-curricular activities. Some student adjustment problems and teacher prejudice were reported. Throughout the process of desegregation the board had requested no publicity. Although this was not abided by 100%, there was evidence that this lack of communication caused difficulty between the board, principals and parents.

2. *Smaller Indiana Communities.*—These communities will not be discussed in any great detail but will only be used to illustrate some specific plans and problems encountered in compliance with the new law.

a. *Gary.*—Population 134,000 with 29% Negro and 10% foreign-born. This predominantly industrial town is what might be termed a "new town," built principally under the auspices of U. S. Steel Corporation. The Negroes and foreign-born live in the same general area, resulting in a pattern of residential segregation. Few Negroes have been able to move out into other sections of the city. The city has had a history of racial flareups, particularly in the 1940's.

In 1945 a school strike occurred when the white students of one of the high schools walked out in objection to having Negro students in the school. The board, however, met this crisis by adopting a firm policy of integration. This caused many of the other local community institutions to be shocked into action, and in the end the strike leaders and other supporting community influences redefined their aims to take credit for the "democratic" results in adopting integration and got behind the plan of the board to make integration work. The integration plan was started in 1947, prior to the state law's adoption, with the schedule calling for integration of the beginning classes in the 1st and 6th grades. At present, any segregation in the schools is due to the residential segregation. The school districts are drawn to approximate natural neighborhoods and no transfers of whites outside their home district in order to avoid integration have been permitted.

The integration of faculties started later than that of pupils but has progressed at a fairly good rate. The school board and administration were firm in their policies after integration was started. An integrated PTA and other groups are presently functioning with strong backing from the board.

The secret of Gary's success in a rather tense area seems to have been a quick marshalling of strong leadership by the board and other community forces to take command of the situation when initial difficulty was encountered.

b. *South Bend*.—The population of this city increased 14% during the period 1940-1950 to 101,288 while the Negro population increased 129% during the same period. The town has distinct residential segregation, and the schools serve the residential area in which they are located. The integration program was well planned and went into effect with little friction. Negroes now attend 19 out of 22 public schools and are not excluded from extra-curricular activities. The schools have developed an SOS system through which teachers, social workers,

and community leaders are alerted in the event of tensions between the racial groups.

c. *Elkhart*.—Population 36,000 with 4% Negro. This city has residential segregation, and the Negro school was located in and served the Negro area. The high school was always integrated and Negro teachers had been employed in the school system since 1929. Distinct segregation had been followed since 1930. In 1947 pressure was applied to the board by a Negro group and the CIO. No progress was made at first, and the board was reluctant to make any change. In 1948 the NAACP entered the fight, and the Association attorney made a personal appeal to the board which was apparently very effective as it moved the board to action. The board adopted a plan to (1) abandon the Negro school; (2) absorb its teachers into the system as roving specialists; (3) and make an equal distribution of Negro pupils among the grade schools to avoid any overcrowding. Forum meetings were held on the program, and the new plan worked smoothly when it went into effect.

d. *New Albany*.—Population 29,346 with 4% Negro. The Negro population is concentrated in one major and several minor areas throughout the city. There is a general segregation pattern in the community life. The town is located, like Jeffersonville, across the river from Louisville, Kentucky, and both of these Indiana communities have a southern flavor.

Desegregation was aided in New Albany by the fact that the maintenance of a dual school system was proving expensive and because the Negro high school was in very bad condition physically. The new law helped the board out of a difficult practical problem that it faced. The board adopted a progressive plan of integration starting with the first grade and moving through the twelfth. The residential pattern still kept the picture of segregation, but by 1952 there were 50 Negroes in the high school and 18 in desegregated elementary schools. The parents of children in the all-Negro elementary school were given

the opportunity to choose another school. However, it appeared that there was a strong feeling among the colored citizens to keep the school because it provided a community center for them in an otherwise segregated situation. Even the high school students made use of it as they were not accepted in the extracurricular activities at the integrated schools. The all-Negro school also gave employment to the Negro teachers who had not been integrated into the remainder of the school system.

Student relationships appeared good between the races, but few of the Negro parents, although officially invited, attended PTA meetings. Before integration there had been 75 Negro students in high school but in 1953 there were 50. There was evidence that one of the chief reasons for this was the less appealing extracurricular life for the Negro in the integrated school.

e. *Jeffersonville*.—Population 14,685 with 13% Negro. In this town adjoining New Albany about 10% of public school student body was Negro. The integration plan adopted was to cover all levels of the system, starting with the elementary division. In the spring of 1954 there were over 50 Negroes in the high school, about 150 in the junior high and 265 in the elementary school. However, only one elementary school had an equal proportion of Negro and white students.

Negro teachers without tenure were dismissed on the coming of integration and some were prevented from obtaining tenure in anticipation of desegregation. Those with tenure were transferred to non-teaching jobs with the exception of two that were assigned to rather specialized classes. Although there was no strong reaction to integration, there was evidence that the superintendent would not hire other Negro teachers due to community sentiments.

f. *Evansville*.—Population 128,636 with 7% Negro. This community across the Ohio River from Kentucky had strong Southern sentiments. In 1948 the mayor appointed a committee to study methods of reducing dis-

crimination, and the immediate results were the end of discrimination in city parks and theatres.

Preparation for school integration was done by holding of public forums. There was considerable pressure asserted to have the board ignore the new state law. However, the PTA's backed integration. When the board announced its plans for integration, it was able to say that they were the result of the public meetings.

Evansville had overlapping school districts, resulting from the segregation previously followed; each child lived in both a white school district and a colored school district. The plan adopted was to maintain the duplicate district system, but allow every child who enrolled in September 1949 in kindergarten, grade 1 or grade 9 the choice of enrolling in either of the two schools in whose district he resides. In compliance with the law the choice was to be gradually extended to all children in all grades. The board would continue the same bus routes as before. This system left parents with the option of what school the child would attend.

The result was that only 18 Negroes were enrolled in the formerly white schools. It seemed that the policy of most of the Negro families was "let's wait and see." By 1952 some 50 Negroes had enrolled in integrated schools and by 1953 one Negro had entered the white high school. It must be noted that in this city the Negro schools had been about equal to those of the white and that the all-Negro high school was the center of the Negro community's cultural life. Also, all schools had free transportation facilities.

If the program continues as it is now progressing, it is estimated that upon completion of the process as prescribed by the law and local policy, 7.5% of the Negro elementary school children may be expected to be in desegregated schools. The average increase in the first three years after 1949 was less than 11 Negro students distributed among six schools.

As in Indianapolis, the plan here requires the parents to take the initiative. There was also evidence that after the example of New Albany and Jeffersonville there was a fear among the Negro teachers that if all-Negro schools went out so would their jobs. The Negro students seemed to prefer the all-Negro school for the extracurricular activities.

D. Illinois.

This state never had a specific segregation law, although an act of 1858 providing for apportionment of school funds to school districts with Negro population was interpreted to allow segregation. In 1874 a law was passed providing for fines against anyone who excluded or aided and abetted exclusion of children from the public schools by reason of color. In 1909 and 1945 these provisions were amended and "strengthened" but apparently they were ineffective at accomplishing any over-all desegregation. In 1949 an amendment was added to the school appropriations bill that "No part of the money appropriated by this act shall be distributed to any school district in which any student is excluded from or segregated in any public school, within the meaning of 'The School Code,' because of race, color or nationality." (Ill. Stats., 1949, p. 53, H. B. 1066).

Upon request of the State Superintendent of Schools, the Attorney General ruled that, "responsibility for certification as to whether schools were segregated should rest upon the local County Superintendent of Schools." This differs from the New Jersey interpretation where the enforcement responsibility was given to the state agency (DAD). In Illinois, the local county superintendents are elected from the community they serve.

Cairo.—This is probably one of the most nearly Southern communities in its identification with Southern mores, attitudes, and sentiments. Some evidence was presented that about 90% of the inhabitants had Southern backgrounds; however, it does not fit traditional Southern

patterns. It appears to be a rather unique community of extremes characterized by little social or economic security of the white citizens and by deep-seated racial prejudice.

The population of the city has been decreasing since 1930. In 1950 the population was 12,123 of which 36% was Negro. Segregation in the community had always been accepted as a matter of fact. The average income is substantially below the state and national averages with 59% having yearly incomes of less than \$2,000. The city's population is also below the state and national educational averages. The so-called "old families" are the social leaders although the income pattern does not correspond to the social pattern. Within the Negro community, as in the white, most families fall into lower socio-economic level and the Negro middle class is made up of the teachers, ministers and doctors who stand the most to lose by racial difficulty.

The Negro vote is necessary to successful political candidates. As a result there was some inclusion of Negroes in public agencies. However, the bulk of the Negroes had little faith in these officeholders so they did not represent leadership within the Negro community.

There was segregation throughout such community functions as parks, theatres, hospitals, etc. However, the residential pattern was not one of complete segregation as there were Negro families in 15 out of the city's 16 precincts. Housing and sanitation conditions were poor. While 37% of the city dwellings were occupied by Negroes only 22% of these were owner-occupied, and little care was given to the remaining rented property by landlords.

On such a background was the new state law of desegregation to be effected. Cairo had never complied with preceding desegregation laws and after the 1949 law a special state legislative committee investigated the situation in Cairo's county. It was found that nothing was being done to comply and the committee found that the Superintendent of the Cairo schools was the main ob-

stacle to the elimination of segregation. The Superintendent stated that no Negroes had requested transfers to the white schools; as a result, he obtained release of the state funds. No public statement had been made regarding any desegregation in Cairo, and since there were no districts or zones for school purposes nor any militant leadership among the Negroes, the situation remained as it was before the law was enacted.

The schools in Cairo had always operated as a completely dual system for Negroes and whites. In 1950 there were 11 schools: seven elementary, three of which were for Negroes; two junior highs, one for each race; and two senior high schools, one for each. The Negro principals were the only contact between the Negro teachers and the white school administration.

In January, 1952, the NAACP stepped into the picture and a mass meeting (500 attended) was called at which the new law was explained, and Negro parents were encouraged to try to register their children in white schools at the beginning of the next semester. Radio facilities were also used, and a conference with school authorities was had. The board seemed to regard the NAACP as "outsiders." The board would not make any public statement about a plan and would not district the town, but did agree to transfer upon parents' requests. The board seemed to feel that there would be few such requests.

The increase in community tension dated from this meeting. No one was neutral in the ensuing conflict. At the beginning of the new semester some 84 requests for transfers were received from Negro parents. However, no requests were received from upper or middle class Negro parents as they were the most susceptible to the veiled and open threats of retaliation being made among the white residents. The parents requesting transfer were for the most part people who had little to lose and were convinced their children would receive better educations at the white schools.

From the time of the meeting with the school board, there seems to have been no direct contact between the groups promoting desegregation and the white officials responsible for formulation of a plan. Channels of communication were stopped as radio and newspapers refused further cooperation with the NAACP. The interested groups within the communities withdrew into themselves, and the resulting tensions were noticeable throughout the community. The white community appeared united in its opposition to integration, but it was only the "hoodlum element" that was connected with the extra-legal means of intimidation.

During January, 1952, a white NAACP lawyer had his home stoned. Anonymous letters and threatening phone calls were received by the Negroes active in the program. White business and professional men refused to serve the family of the white lawyer of the NAACP. Also, the middle class Negroes who had a vested interest in the status quo exerted strong influence against transfers. Negro school personnel were most bitter in their attacks on those wanting desegregation.

The law enforcement agencies, both municipal and state, were alerted for possible riots. The night before the school term was to open, crosses were burned in areas where the largest number of transfers had been received. Despite this action some Negro parents took their children to the white schools the next day. A group of whites who had formed near a school were dispersed by police.

The board issued a statement that children who had requested transfers should go to the old school and await instructions. Feeling that this was a delay, the Negro parents did not obey and took the children to the white schools. They were told to go to Negro schools or go home. The majority went home. By the end of the week 10 children had been transferred to formerly all-white schools.

On January 29, 1952, the tension was at its peak. At 11 o'clock the silence was shattered by the explosion of

a bomb on the back steps of a Negro physician. No one was injured, but the property damage was substantial. The police made some arrests of suspects as a result of the bombing. Also, seven Negro leaders and the white attorney for the NAACP were arrested on charges of "unlawfully, maliciously and wickedly" conspiring to place two Negro children in a situation where their life would be endangered and of unlawfully forcing the children to attend Cairo Junior High School against their will. No true bills were returned against these persons nor the persons charged with the bombing.

By the end of the semester only 17 Negroes were in desegregated schools with six of those in one school. At the beginning of the fall term of 1952, the technique used to some degree was to register all white children first and then say that there was no room for Negro children without overcrowding the school. Some few Negroes were registered to keep the Board within the law. At the end of the school year there were 60 Negro students distributed among five schools, the maximum being 19 in the junior high, and 17 in one grade school.

There was no advance preparation of teachers or students before Negro children appeared. Teachers were merely instructed to avoid incidents. In the group of Negro children transferring there were few good students. Few problems were noted by teachers between the two races at the elementary level. There was more difficulty at the higher levels, but the turmoil soon died down. Negro principals and teachers tried very hard to hold on to students, particularly the good ones. The evidence establishes that the Negro children who transferred were subjected to strong pressures by both whites and, even more so, by many within the Negro community who were opposed to desegregation.

Summary.—Cairo had almost completely failed in developing a plan or program of action. No foundation was presented upon which the desegregation could be ideologically based as was established in many of the

other communities. Despite all of the adverse elements, desegregation did occur and the tensions died away. The community reluctantly settled into a new pattern. As this study ended, the "integration" of the Negro students in Cairo was largely that of physical occupancy of space within the schools.

E. *Arizona.*

The first segregation law was adopted in 1909 and required segregation in all schools other than high schools, and in those segregation was permissive, provided there were twenty-five or more Negroes in the district registered for high school. In 1950 a bill to abolish segregation was defeated on referendum by two to one. In 1951 the legislature passed a bill making segregation permissive. The clause stated, "The board of trustees may segregate groups of pupils in all schools other than high schools, and provide all accommodations made necessary by such segregation." It is to be noted that no mention was made of race as a basis for segregation and at the same time, segregated high schools were prohibited. The only motivation for communities to desegregate or integrate under this law would have to be a conviction from within the community that integration was the right approach to education.

1. *Phoenix.*—Population 105,000 with 15% Negro. Greater Phoenix has a population of about 225,000 and of this number over half are Mexican-American (hereinafter M-A), with some 2,000 off-reservation Indians. The remaining group of so-called Anglo-Americans has a predominant number of persons from Southern backgrounds. Phoenix is in the center of a large agricultural area.

The city of Phoenix has an unusual school administration system. There are 12 independent elementary school districts each with its own superintendent and a three-member board. The high school district encompasses these 12 districts and has its own superintendent and five-member board. By reason of the residential pattern,

only two of the elementary school districts were greatly concerned with the racial problem; a third had a few Negroes. The high school board was, of course, vitally concerned with the problem.

Since World War II there had been a fairly steady breakdown of segregation in the other public and private affairs of the community. Two years after the permissive law was passed, Phoenix announced plans for partial integration. This largest city in Arizona had had segregated schools since World War I (four elementary and one high school for Negroes only). These segregated schools were located in the three districts where the great bulk of Negroes lived and children from other districts were transported to the Negro schools. Some county districts also paid for and transported Negro children into the segregated Phoenix schools.

In 1953, the high schools were re-zoned and students were to attend schools nearest their homes. The Negro high school was retained as an "open" school without any regard to re-zoning. Any student in the high school district could attend this school. The reason given for taking this action regarding the Negro high school was that the Negroes might miss their own extracurricular activities and that the Negro teachers there employed might be out of work otherwise. The board seemed to feel unofficially that the Negro students would return to their high school when stiffer competition was met in the integrated schools.

One elementary school district also started integration under a plan whereby children in kindergarten and the first grade would attend the school nearest their home.

No plans were made in either the high school or the elementary district to integrate the Negro teachers into the system. However, the high school district board changed its mind and decided to eliminate the Negro high school in 1954 and incorporate the teachers within the system. Prior to this announcement there had been considerable

evidence of Negro teachers attempting to retain their students and hence their jobs. In the first year of permissive transfer, Negro high school attendance decreased by only 100, from 450 to 350 students.

Phoenix illustrates that a complex system of administration creates even greater than normal problems in desegregation. It also makes it more difficult for community leadership backing desegregation to operate effectively to aid the change. There was little or no evidence that there would be violent or well-organized resistance to continued desegregation.

2. *Tucson*.—Population of greater Tucson is about 100,000, while that of the city itself is 45,454, with 6% Negro and 20% M-A. There are no solidly Negro residential areas as the Negroes tend to live in M-A neighborhoods. The general picture of segregation has been improving in recent years. The parochial schools are integrated.

There are two school districts governed by one board, one for high school and the other for the elementary and junior highs. There are 29 elementary schools, six junior highs and one high school (which had never been segregated). Prior to any integration there was only one school for Negroes with all grades up to high school. It had 450 students with 21 teachers. The facilities of the schools were fairly equal.

The real move to integration in this area can be traced to the able and dedicated school superintendent. Five years before the new law was passed, the superintendent began conferences with the board, administrative staff and PTA's about integration. The local press also supported integration. In the spring of 1951 the superintendent entered into talks with principals and other civic groups.

The plan finally adopted was to integrate in one move. New school zones were worked out on the basis of proximity of students to schools and capacity of buildings. As a result, most of the elementary schools had some

Negro pupils. The old all-Negro school was the only one where the Negro students exceeded 50% of the enrollment.

The move to integration was accompanied by orientation meetings for both parents and children. The Negro teachers were distributed throughout the system, but there were Negro teachers only where there were Negro students. No transfers were permitted to avoid integration and very few transfers were requested. What few objections were received were from M-A parents. No strong friction either between students or teachers was reported.

F. Integration in Protestant Theological Seminaries of the South.

This summary is based upon a rather brief study. Thirty institutions representing most of the Protestant faiths were studied. There have been (up to 1952) 117 Negroes enrolled in these institutions and of these 65 were undergraduate students. Of the total enrollment, institutions in four states (Texas, Missouri, Kentucky, and Virginia) had 112 of these. At first applications for admission by Negroes were very few and there were no policies formulated by the institutions to deal with them. As the applications increased in number, the institutions met them in three general ways: (1) Five admitted applicants immediately; (2) 20 studied the problem and by formal action opened their doors (a few of these making stipulations as to residences); (3) five refused to accept any Negro at present time.

The only school reporting any sort of incident was the University of the South where hesitancy on the part of the Trustees in admitting Negro applicants caused a faculty furor, but finally the doors were opened.

The degree of integration varies. In 10 of the institutions the same privileges are accorded to all students. Others had some dormitory and dining facility limitations imposed on the Negro. Reception on the campus has

been universally good, while the community acceptance has varied.

Special problems noted as a result of the integration in order of importance were: (1) Inadequate scholastic background of the Negro students; (2) Failure of the college community to measure up to the degree of integration found on the campus; (3) Housing and dining restrictions.

[The best summary of the general subject of "Racial Integration at the University Level" is found in Chapter 5 of the Ashmore Report, "The Negro and the Schools."]

G. *General Summary and Conclusions.*

[The following are generalizations and conclusions drawn by social scientists whose reports were used in preparing this section. The conclusions here reported appeared to have substantial basis in the materials collected.]

Four general types of "gradual" desegregation appear to have been used:

1. *Deadline.*—Specified time schedule is set up for specific steps from desegregation to integration.

2. *Time for Preparation.*—The type of preparation is specified and time for completion of preparation before and during desegregation.

3. *Segmental Progressive Desegregation.*—Plan for progressive desegregation in limited units of the organizational structure.

4. *Quota Desegregation.*—Limits on the number of Negroes to be introduced in a given unit at any one time.

These approaches listed above are generally found in combination. Thus, where there is a statement of arbitrary time, beyond period of one year, for the completion of desegregation, such plan is accompanied by an elaborate preparatory program and, more significantly, by a plan of segmentalized progressive desegregation. Gary and Indianapolis, Indiana, are illustrative of this principle.

Types of "immediate" desegregation were found to use one of the following approaches:

1. Abolishing segregated Negro facility and admission of Negroes into previously white facility.
2. Opening of all facilities without regard to race or color.
3. Ruling that white facility cannot exclude Negroes—but leaving the option to Negroes whether they will seek admission to white facility or continue in all-Negro one.
4. A combination of 1 and 2 above with recognition or specification of the time which might be required for the necessary administrative adjustments in order to effect the desegregation.
5. Non-segregation policy instituted at the founding of the institution.

In the various plans adopted by the communities within the studies some distinct advantages and disadvantages appear: (1) Under the optional or "school of choice" system in areas where conditions of residential segregation exist, segregation tends to be retained. The psychological "burden of proof" is put upon the Negro parents and children and the white children are allowed to retreat to the more remote schools. (2) A firm policy of geographic districting with a minimal allowance for "hardship" transfers, seems to give a decisive force to the integration of the schools. (3) In general, a clear-cut policy, administered with understanding but also resolution, is the most effective within a given community. Where the law permitted gradual or permissive change, application of the policy was subject to more criticism than where no alternatives were allowed.

It seems fairly clear that School Boards and school officials can generally tip the balance one way or the other as to the ease in which the transition is made. The school administrators' policies on publicity varied from prohibition to complete cooperation with news agencies and the results of desegregation did not seem to be cor-

related with any publicity aspect of the process. There were no instances reported of unfavorable publicity for desegregation except in the initial stages of vacillation by the school administrators. Where the policy adopted by the school boards was clear-cut and well-defined, the radio and press gave good and favorable coverage.

Although over-all the friction between pupils has been slight, it is clear that channels of communication between students and school administrators and parents should be kept open to report incidents and progress quickly.

The matter of integrating faculties is generally regarded as more of a problem than mixing classes. Where public school desegregation was made in communities in which residential segregation was prominent, immediate assignment of white and Negro teachers to schools or classes predominantly of the other race seemed to provide the initial step toward full integration by giving students experience in interracial communication and participation. It was generally thought that faculty integration should accompany pupil integration. Fear of job loss by the Negro teachers and school officials can hurt the move to desegregate the schools. The fear of dismissal of Negro teachers was proved well-founded in several communities.

Desegregation is generally proceeding in most of the non-Southern cities at a rate determined by the willingness of the individual community leaders to put the issue to the test. There is always some degree of opposition to desegregation, but incidents of overt violent resistance have been quite rare. Desegregation was accomplished in instances where there was initially strong opposition as well as instances where there was minor opposition.

Active resistance and the rare instances of violence seem to be associated with desegregation under the following conditions: (1) Ambiguous or inconsistent policy adopted; (2) Ineffective policy action; (3) Conflict between competing governmental authority or officials.

The accomplishment of efficient desegregation with a minimum of social disturbance appears to depend upon:

A. A clear and unequivocal statement of policy by leaders with prestige and other authorities;

B. Firm enforcement of the changed policy by authorities and persistence in the execution of this policy in the face of initial resistance;

C. A willingness to deal with violations, attempted violations, and incitement to violations by a resort to the law and strong enforcement action;

D. A refusal of the authorities to resort to, engage in or tolerate subterfuges, gerrymandering or other devices for evading desegregation.

E. An appeal to individuals concerned in terms of their religious principles of brotherhood and their acceptance of the American traditions of fair play and equal justice.

SECTION IV.—THE POSSIBLE USE OF PRIVATE SCHOOLS, PUBLICLY SUPPORTED

The abolishment of the public school system as such has received more than perfunctory attention in some southern states. However, it is significant that no plan has been advanced that would do away with public support for free education; the hope is that by transferring existing facilities to private bodies and supporting them by direct public aid, free education on a segregated basis can be maintained and the compulsions of the Fourteenth Amendment can be avoided. In most states the actual mechanics of how this will be done have not been considered or at least have not been made public. Apart from any issue of segregation, the adoption of any such plan by a state will present tremendous difficulties as a practical matter, and the actual consummation of such a plan will undoubtedly be a last resort measure which, if the state desires to maintain a comprehensive free school system of any merit, will probably fail in its original purpose to avoid the Court's decision.

(1) *Southern Plans to Abolish Public Schools.*—South Carolina seems to have been the first state to give serious thought to a private school plan. In April 1951 the South Carolina legislature formed a standing committee to study the problems that would arise if the Supreme Court declared segregation unconstitutional. In January 1952 Governor Byrnes asked for a constitutional amendment to repeal the section of the state constitution, Art. XI, § 5, requiring that the state “provide for a liberal system of free public schools for all children between the ages of six and twenty-one years” This was heralded as a preparedness measure and on that note was approved at the polls in November 1952. Subsequent ratification by the legislature took place in March 1954. The standing committee created in 1951 became active after the decision of this Court was handed down; their interim report advocated a calm approach and business as usual for the time being. No specific plan for the abolition of the public school system has as yet been proposed, and it is not at all clear that any such plan will be forthcoming.

The Georgia legislature has passed a proposed constitutional amendment providing for grants of state, county and municipal funds to citizens of the state for educational purposes” in discharge of all obligations of the state to provide education for its citizens.” Its fate depends on a general election in November. Again it is only a measure designed to clear the way for private schools; no specific plan has been proposed, nor is it clear that Georgia will put any such plan into effect.

In the early sessions of the Alabama legislature in 1953 a bill was introduced to provide for “the establishment, operation, financing and regulations of free private schools.” Part I contained the necessary amendments to the state constitution, and Part II contained the outlines of a specific plan. It authorizes 10 or more patrons of any public elementary or secondary school in the state to incorporate a “free private school for the education of

their children." The corporation would be authorized to buy and rent real estate, build and administer schools, etc., as well as decide what pupils should attend. Public school funds would be divided into allotments or per-pupil shares, and parents of pupils accepted for enrollment would assign the allotments to their respective schools. This bill met with little success in the 1953 legislature.

Subsequently, a special legislative committee was appointed to study desegregation problems. It prepared a report with the help of a committee of the State Bar Association. On September 22, the report was submitted to Governor Persons of Alabama. Although the report was not made public by the committee, the nature of its suggestions leaked to the press.

According to Birmingham and Montgomery newspapers, the report suggests authorization to abolish the public school system. It proposes eight changes in the state constitution. It would eliminate all references to public schools in the constitution. Section 256, which now provides for a segregated public school system, would be changed to authorize the legislature to establish non-state operated schools and to permit "the grant or loan of public funds and the lease, sale, or donation of real or personal property to or for the benefit of citizens of the state for educational purposes." The amendment states that it is Alabama's policy "to foster and promote the education of its citizens," but adds that "nothing in the Constitution shall be construed as creating or recognizing any right to education or training at public expenses, nor as limiting the authority or the duty of the Legislature . . . to require or impose conditions or procedures deemed necessary to the preservation of peace and order."

To avoid "confusion and disorder," the proposed amendment would permit parents to choose to send their children to "schools provided for their own race." The plan also includes a provision authorizing the legislature

to designate school officials as "judicial officers," to protect them against legal action and to require the state to defend them in court.

Chances for passage of these amendments do not seem strong at present. Apparently the legislative committee wanted the Governor to call an immediate session of the legislature. Governor Persons is reported to be opposed to this. Although hostile to desegregation, he is said to be against abolition of public schools. Governor-elect Folsom is said to share this view. There is not likely to be any action on the proposed amendments until early 1955, when a special legislative session to revise the entire constitution is expected to be called.

In May 1954 the Mississippi Senate, after House approval, refused to pass a proposed constitutional amendment which would have permitted the legislature by a two-thirds vote to abolish the public school system throughout the state, or by a majority vote authorize counties and municipalities to do so on a local level. On July 30 Governor White met with a bi-racial group and was rebuffed in his attempt to force "voluntary" segregation on the Negroes through threats of withholding state aid to Negro schools during the next year. Governor White became angry and called a special session of the legislature for September to reconsider the proposed constitutional amendment. It has now been passed by the legislature and will be submitted to popular vote in the December election.

Thus, of the four states which have considered abolishing public schools, only South Carolina is in a position to do it now. Moreover no state seems to have given serious consideration to the problems a private school system would raise: how would compulsory attendance be enforced, how would the civil service status of teachers and their retirement benefits be affected, how would the curriculum be controlled, etc. Any plan adopted would be wasteful and detrimental to education within the

state; moreover any substantial amount of supervision would on its face defeat the purpose of creating private schools.

(2) *Present Status of Public Aid to Private Schools.*—It was thought useful to examine what precedents exist for the establishment of publicly supported private schools. It can be safely stated that no state today has a comprehensive program of public aid to private schools. The reasons for this are many. In the early part of the 19th century, the public school system as we know it today did not exist, and public aid to private educational institutions, religious or otherwise, was not uncommon. However, as the recognition of state responsibility for public education grew, and states adopted public school systems and compulsory attendance laws, the states' need for and support of private schools came to an end. Indeed, after 1850 the use of public funds for private schools was found unconstitutional in most states as an unauthorized use of public money and more often as violating provisions relating to separation of church and state. In line with this view, which became more and more popular politically, most states adopted constitutional provisions or statutes prohibiting the use of public money for private education. Thus today direct aid to private schools, while it exists in isolated cases, is of little or no moment in the over-all educational picture.

Some specific instances where public funds have been used to aid private schools directly should be noted; whether all the instances outlined below still exist is not known since material on this question is sparse and only one limited attempt to make a comprehensive study of the area has been made, by Rev. Richard J. Gabel in 1937.

Maine is the only state which seems to have retained any general system of public aid to private education up to the present. Recent information on the Maine situation is available, in a 1952 doctoral thesis. (See Bibliography, *infra*.) The Maine system is known as the Academy system. Although it is found in other New

England states as well, Maine is the only state in which it still has substantial vitality today. The system is a holdover from pre-public school days, when the only secondary schools in existence were private academies established through private philanthropy or by religious institutions. These schools have been kept alive by the state for several reasons: the sparse population of Maine, the relative cost to a town of sending its children to a private academy as opposed to creating its own public school, and peculiar laws and politics of the state which have resulted in substantial aid to the academies. Today the state supports its own public school system and confers aid on a small group of private academies which have managed to survive through the years. Until recently the aid took three forms: (1) special state grants to particular academies, somewhat dependent on politics; (2) general direct aid from the state in limited amounts based on a formula based upon the courses given by the academy, the number of students in attendance, and general approval by the state of the standards of the academy, *i. e.*, length of school years, etc.; and (3) contract aid. Under the last, any town which did not have a secondary school of its own could contract with a nearby academy to send its children to the academy—thus in effect paying their tuition. A town which thus contracted became eligible to receive state aid, which resulted in the state paying about half the tuition cost. If the income of an academy from contracts with any one town amounted to more than half of the other income of the academy [including for some strange reason direct aid from the state], the academy was required to have a joint board, *i. e.*, a board made up of the private trustees and the local officials of the contracting town. In 1951 direct general grants from the state under category (2) above were eliminated; all general aid in the future will go through the contracting town. This, of course, will not stop special grants, but it will force more academies to have joint boards and will probably bring about the

demise of some marginal academies. However, the academy system is well entrenched, and while it has received adverse comment from many quarters, it will not die in the foreseeable future in view of the cost of replacing it. It may be noted generally that the academies are primarily directed to preparation for college, usually have a general curriculum, and quality as Class A schools in relation to the public school system as a whole. While the academies provide only a small percentage of public education in Maine, and that only in the smaller communities, it is clear that they are at present an integral part of the educational system.

Vermont and New Hampshire have provisions allowing for contract aid to academies similar to those existing in Maine. However, the practice is sharply limited compared to Maine, and to recent information is available. Most Connecticut academies have been incorporated into the public school system. However, the city of New London has retained three private academies within its high school system. The resulting situation is somewhat unique. These free private schools were created by private bequests during the 19th century. The city, rather than establishing its own high school system, began to give direct aid to these private schools when the need arose. The schools themselves were operated by self-perpetuating boards of trustees. As the need for more schools grew, the City established additional elementary and secondary schools of its own. Thus in 1949, when a study by the Department of Education at Yale was made, the city budget contained allocations for three privately owned high schools, operated by three independent and separate boards, in addition to appropriations for the city's own school system. Indirect control could be exercised only through the threat of withholding funds. General dissatisfaction with the existing system prompted the Yale study. The report, without qualification, condemned the public-private mixture as economically wasteful and impractical because of the lack of coordi-

nated control. It also found that the academy system inhibits community exercise of its responsibility and duty to control and operate the public schools.

New York seems to have had an academy program pretty much on the same basis as Maine, Vermont, and New Hampshire. However by 1931 only a few academies receiving state aid were left; most communities had their own public school or had acquired the private academies. North Carolina has a strong private school background and as of 1928 a few private schools were still receiving state aid on a contract-pupil basis. It is still one of the few states not having a constitutional provision against such aid; however, it is questionable whether direct state aid has continued to the present day. Tennessee has also permitted contract aid to private academies, but the amount of that aid has steadily fallen off. It is doubtful that it still exists today.

Undoubtedly there are other isolated cases of direct state aid to private secondary schools. However, such instances are probably extra-legal and a product of a peculiar situation. On the college level no state seems to have a general program of state aid to private universities, although some aid exists in the form of state scholarships and specific grants for specific purposes. However such grants are sporadic.

The significance of existing examples of direct public aid to private education in regard to the problem before the Court seems negligible. No state has created private schools and subsequently supported them in order to fulfill its obligation to provide free schools. The instances of aid that do exist are a product of the past, are slowly dying out, and today are clearly insignificant on the secondary school scene.

Indirect aid to private schools is more generally practiced today and assumes many forms. The most generally accepted means of such aid is the exemptions of non-profit private schools from local property taxes. A few states provide textbooks for private schools; the prac-

tice of providing free bus transportation for private schools is more general, prevailing in at least 12 states. Other isolated instances of indirect aid exist, such as the exemption of lunches and buses transporting children to school from the Ohio sales tax. However it is clear that the aid given indirectly is very small and could in no way alone serve to support a private institution. Even utilizing all such precedents of indirect aid, a southern state could not successfully support a private school system; some form of direct aid would be necessary.

(3) *Conclusions.*—No state today maintains on any material scale a program of direct or indirect aid to private education in lieu of its own public school system. The Southern states, if they attempt to support a free private school system, will create a unique educational system without precedent. Will such schools still be subject to the constitutional bar against segregation? Will their operation be "state action" subject to the Fourteenth Amendment? Two approaches to finding state action in "private" activities seem to be generally recognized: (1) is the ostensible private entity exercising a governmental function, or (2) is there any direct connection or nexus between the private entity and the state. [See Note, 61 Harv. L. Rev. 344 (1948); Note, 29 Ind. L. J. 125 (1953); Article, 67 Harv. L. Rev., 377, 405 (1953).]

In the instant situation it can be strongly argued that the private schools to be created will be fulfilling a recognized governmental function—the provision of free education at the elementary and secondary school level. It may be unwise to stop the analysis there, however. Parochial schools, admittedly private and independent, fulfill this same function, and yet it seems clear that they should not fall within the purview of the Fourteenth Amendment. The operation of elementary schools is certainly not an exclusive governmental function, nor should it be.

Thus, a finding of some nexus with the state may be a prerequisite to a conclusion of "state action" here. Two possible bases for finding such a nexus may be suggested; state control of the operation of the "private" school, or substantial state financial aid to the school. Most states now exercise some form of limited control over private schools, such as the imposition of safety regulations, the setting of health standards. Moreover, states indirectly control such matters as length of the school year and minimum educational standards, granting or withholding state approval of a school as an accredited educational institution. However, such control is limited and usually indirect. Such indirect control should not be the basis of finding a nexus. However if a southern state, directly or indirectly, attempts to control the operation of the school in detail, covering such things as attendance, finances, teachers, etc.—matters beyond the public health and safety or minimum educational standards—a nexus should be found.

On the other hand, a nexus could be found solely on the basis of state financial aid. A dichotomy between direct and indirect aid could be drawn without having substantial ramifications on existing private institutions. This, of course, would in many cases necessitate a close scrutiny of some indirect schemes of aid which in effect result in direct aid. Perhaps the dichotomy could be phrased in terms of substantial and insubstantial aid; this would require setting a standard as to whether the aid given provides the primary support of the school or merely alleviates some of the financial burdens carried by private schools generally.

In summary, it is difficult to visualize a Southern plan to substitute "private" schools for public education which could not be found to be "state action" within the Fourteenth Amendment. Moreover, such a conclusion could be reached without the necessity of labelling all private schools as state action.

SECTION V.—JUDICIAL SUPERVISION OF SCHOOL
DISTRICTING

The initial purpose of this Section was to investigate the precedents involved in the judicial supervision of *electoral* districting to see whether they could shed any light on the problems the courts would encounter in overseeing *school attendance* districting. However, the investigation proved almost wholly fruitless. Most courts have refused even to inquire into electoral districting, regarding the matter as political. What few decisions there are on the subject have merely looked at disparities in the *size* of electoral districts, implying that this was about the limit of the judicial function. There is no case where the gerrymandered *shape* of electoral districts has been successfully attacked.

As has already been noted in Section I, *supra*, the drawing of boundary lines for attendance areas will be a significant manipulable factor in maintaining segregated schools. Judicially enforceable limitations on the shape of districts will be difficult to phrase. "Normal" or "reasonable" shapes for attendance areas are elusive concepts. Legitimate administrative considerations—topographical features, man-made hazards, transportation facilities, school capacity, population distribution—can produce a great variety of shapes in districting.

Despite the conglomeration of proper and often local factors relevant to districting, and the consequent limitation on judicial competence in this area, it may be possible to phrase general standards to which attendance boundaries must conform. And although the courts have had little experience in supervising electoral or school districting, the few reported cases indicate that the task is not an impossible one.

Guides for districting must necessarily be vague. An example of general but not meaningless standards is found in Leflar and Davis, *Segregation in the Public Schools—1953*, 67 Harv. L. Rev. 377, 411:

"If attendance districts are so contoured as to skip houses or blocks or to extend geographical peninsulas and islands into physically unified areas solely for the purpose of including families of a particular race, it is reasonable certain that the districting would be regarded as an invalid evasion of desegregation requirements. On the other hand, a geographically compact and physically reasonable district might well be approved judicially even though it were deliberately planned as all-Negro or all-white."

[See also the Delaware State Board of Education's standards, Sec. III, *supra*, with its emphasis on "distance, contiguity, and ease of transportation" as the proper standards in districting.]

Recent developments provide a few illustrations of the kinds of problems which may be expected to come before courts with respect to districting:

(1) *Hillsboro, Ohio*, is a small town in the southeastern part of the state. Of its population of 5,126, about 1,200 are Negroes. Junior and senior high schools have been integrated for about 20 years, but elementary schools have been operated on a segregated basis. In 1953, before this Court's decision, the school board voted to desegregate, under a two-year program. Negro leaders did not want to wait. Therefore, at the beginning of this school year, 50 of the town's 67 Negro elementary school children, out of a total enrollment of 900, enrolled in the schools nearest their homes; only 17 reported to the all-Negro Lincoln School. The school board thereupon redistricted the town; under the resulting scheme, about 90% of the Negro children were placed in the Lincoln School District. No white children were assigned to the Lincoln School. At first, the Negro children refused to abide by the new districting plan. School authorities claimed their action was based on "overcrowded conditions." Thereupon, an action was brought in the federal district court to enjoin the school authorities from execut-

ing the new plan, on the ground that it was a scheme to continue segregation. A hearing was set for September 29. At the hearing, a faculty member of Ohio State University testified that Hillsboro had been redistricted "along racial lines," and that this had been admitted by the Hillsboro school superintendent. The City Solicitor testified that the rezoning had been carried out on a strictly residential basis. Federal District Judge Druffel refused to issue an injunction immediately; he deferred decision until this Court issued its decrees in the segregation cases. He was quoted as saying:

"The United States Supreme Court is setting the pace. There is no use for a lower court to make a decision which may be contrary to the policy of the United States Supreme Court."

(2) In *Englewood, New Jersey*, a hearing has been scheduled for September 28 by the State's Division Against Discrimination on charges that the school board discriminated against Negroes in rezoning attendance area boundaries. [The Division (DAD) is the agency charged with supervision of the state's desegregation program, discussed in Sec. III, *supra*.] This appears to be the first formal action against a board of education since DAD began its operations. Earlier this year, the board had changed school district lines, allegedly to relieve overcrowding in two schools. The board insists such action was essential and affected children of both races. The schools affected are an elementary and a junior high school in the town's Fourth Ward, which is predominantly Negro. The boundary lines of the schools' attendance areas were extended by the board to enclose almost the entire Ward.

(3) The type of local action which may lead to widespread litigation in the future is illustrated by recent events in *Kirkwood, Missouri*. The town recently adopted strict geographic attendance areas with the result that 75 Negro children will be transferred to the nearby white school and 63 white children to the nearby

Negro school. The white residents whose children will be in a minority in the previously Negro school are now seeking to transfer the subdivision in which they live from Kirkwood into a neighboring school district which has no Negro students. This will be decided by a special election at which the transfer must be approved by the majority of the voters of the entire district. Such moves are bound to occur elsewhere and may result in legal action.

Resort to courts on charges of gerrymandering will not present altogether novel problems to the judiciary however. The following are illustrative of the relatively few reported cases in this area:

1. *State ex rel. Lewis v. Board of Education of Wilmington School District*, 137 Ohio St. 145, 28 N. E. 2d 496 (1940). There were four elementary schools in town. The child of the relator, a Negro, had been assigned to an allegedly all-Negro school, rather than the one nearest his home. The parent sought to compel admission to the nearest school in a mandamus proceeding. The Ohio Supreme Court affirmed denial of relief. It found no continuing pattern of discrimination against Negroes; and stressed that statutes gave boards of education wide discretion to assign children "as in their opinion will promote the interests of education in their districts." It noted that the overcrowding of schools nearest to the relator's home made some assignments to other schools "manifestly . . . necessary," and refused to substitute its discretion for that of the board in determining the reassignments. [See also *State v. Lockland City Board of Education*, 1 Ohio Supp. 139 (1937)].

2. *Webb v. School District No. 90*, 167 Kan. 395, 206 P. 2d 1066 (1949), is perhaps the most thorough judicial exploration of a challenged districting scheme. The litigation arose in one of the Kansas towns in which segregated schools were not permitted under state law. There

were two elementary schools, South Park and Walker. For years, the school board had illegally sent white students to the former, Negroes to the latter. Negroes did not seek admission to the white school until 1947, when a new white school was built. In 1948, the school board established attendance area boundaries for the town, as a result of which the segregated system was maintained. Negro parents brought this mandamus action. The court appointed a commissioner to determine the facts. The commissioner's report stressed the inequality of the facilities, and recommended that the board equalize the schools. The Supreme Court of Kansas found that the emphasis on inequality was largely irrelevant under the state's desegregation requirement. It relied particularly on the following fact findings by the commissioner:

"15. . . . The school board did, at a special meeting held on May 15, 1948, adopt a resolution fixing the boundary of the attendance areas of the two schools. The metes and bounds of these attendance areas does not divide the district East and West or North and South, but meanders up streets and alleys and by reason thereof all of the Negro students are placed in the Walker School attendance area. Under this allocation, the white children walk past the Walker School. . . .

"16. The designation of the school area for each of the two schools . . . clearly establishes that the two areas were not designated on a territorial, school census, or any other reasonable basis and such action taken by the officers of the school district was therefore arbitrary. . . ."

The Supreme Court stated: "Thus we have a record showing that the school board by a process of gerrymandering created the Walker School attendance district by meandering up streets and alleys so that all of the Negro children would be within that district. To add to this we have a map of the school district." The map revealed a horseshoe-shaped white district surrounding the Negro one.

"There seems no dispute but that some of the white children had to walk past the Walker School house to get to the South Park School Thus we have a clear case of the school board doing by subterfuge, that is, by the arbitrary creation of an attendance district within the [school] district itself and thereby segregating the colored children from the white children, what it could not do directly."

In its judgment, the Supreme Court held that the school board could set up attendance areas within the school district. "This allocation must be made, however, upon a reasonable basis without any regard at all as to color or race of the pupils within any particular territory. The standards and facilities of each school must be comparable. Colored and white pupils must be permitted to attend either school, depending on convenience, or some other reasonable basis." In the meantime, all pupils were to be admitted to the South Park School, until facilities were equalized. "This court regards the present action of the school board as arbitrary and unreasonable and an attempt by subterfuge to bring about segregation This court will retain jurisdiction of this case to the end that the conduct of the district board may conform to the judgment."

3. In several early state cases, courts struck down as invalid segregation schemes whereby school authorities effectively separated races by individual assignments of children on various administrative grounds, rather than gerrymandered attendance areas. See, e. g., *Dove v. Independent School District*, 41 Iowa 689 (1875); *Knox v. Board of Education*, 25 P. 616 (Kan. 1891).

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