

380614

NEW YORK

LEGISLATIVE DOCUMENTS

ONE HUNDRED AND SIXTY-SECOND SESSION

1939

VOL. XIX—Nos. 65 TO 69 INCL.



ALBANY
J. B. LYON COMPANY, PRINTERS
1939



STATE OF NEW YORK

SECOND REPORT

OF THE

NEW YORK STATE TEMPORARY
COMMISSION ON THE CONDITION OF THE
COLORED URBAN POPULATION

TO THE LEGISLATURE
OF THE STATE OF NEW YORK

February, 1939

Created by Chapter 858, Laws of 1937
Continued by Chapter 677, Laws of 1938



63 50M (1939) Document of State
STATE OF NEW YORK
HIS EXCELLENCY, HERBERT H. LEHMAN, GOVERNOR OF THE
STATE OF NEW YORK, in his annual message to the New York
State Legislature, delivered January 5, 1939, stated:

NON-DISCRIMINATION

One of the splendid provisions in the new Constitution forbids discrimination against any person in his civil rights on the ground of race, color or creed. The equal protection of the laws is the greatest blessing that can be conferred by a democracy upon its citizens. I recommend to your honorable bodies legislative action that will give real significance to the declared principle.

Among other suggestions, I urge that any legislation for low-rent housing require that the benefits of a project shall not be denied any person on the ground of race, color or creed.

As you know, the Labor Law now forbids any public utility from discrimination in employment on the ground of race, color or creed. A similar provision is contained in the Education Law with respect to employment in the educational system of the State. The principle of these laws is a most salutary one. I recommend to your honorable bodies that the principle be extended to all persons or corporations engaged in any business affected with a public interest and any business where public patronage is solicited. By so doing you will preserve and strengthen the basic structure of American democracy.

REPORT

To the Legislature of the State of New York:

Transmitted herewith for the consideration of your honorable bodies is the second report of the Temporary Commission on the Condition of the Urban Colored Population, created by chapter 858, Laws of 1937, and continued by chapter 677, Laws of 1938, with instructions to examine, report upon and recommend measures to improve the economic, cultural, health and living conditions of the urban colored population of the State, and to secure to the urban colored population of the State equal opportunity with the general population thereof for self-support, economic and cultural development to the extent, if any, that such opportunity does not exist.

Pursuant to your instructions, your Commission has made thoroughgoing, objective and impartial analyses of these conditions among the State's Negro population in comparison with those of the general population, which have served to bring out with a definiteness and a wealth of detail not hitherto available, the extent to which this race fails to enjoy equal opportunity with the general population of the State for self-support and economic and cultural development. Your Commission therefore includes in its report specific recommendations regarding legislative action to improve conditions of employment, housing, education, recreation and delinquency and crime among the State's Negro population—recommendations which are designed to assure the Negro population of the State *equal* opportunity with the general population for self-support and economic and cultural development. In explanation and support of these recommendations, your Commission includes in its report factual and statistical data prepared by its staff.

The membership of the Commission since its creation has been as follows:

MEMBERS OF THE COMMISSION

SENATOR JACOB J. SCHWARTZWALD, 6th District, Brooklyn,
Chairman

ASSEMBLYMAN HAROLD P. HERMAN, 1st District, Nassau
County, *former Chairman* (resigned)

ASSEMBLYMAN WILLIAM T. ANDREWS, 21st District, Manhattan,
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REVEREND MICHAEL MULVOY, New York City, *Secretary*

SENATOR JOHN J. HOWARD, 5th District, Brooklyn

SENATOR GEORGE LEE THOMPSON, 1st District, Brooklyn

ASSEMBLYMAN ROBERT W. JUSTICE, 19th District, Manhattan

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MRS. ELIZABETH ROSS HAYNES, New York City

MRS. LILLIAN ALEXANDER, New York City

SENATOR LEON FISCHER, 17th District, Manhattan (resigned)

SENATOR WALTER J. MAHONEY, 48th District, Buffalo
(resigned)

HENRY ROOT STERN, Nassau County (resigned)

FRANCIS E. RIVERS, New York City (resigned)

REVEREND JOHN H. JOHNSON, New York City (resigned)

EXECUTIVE STAFF OF THE COMMISSION

GERALD E. ALLEN, *Executive Director*

CHARLES L. FRANKLIN, PAULINE J. MALTER,
Director of Research WILLIAM PICKENS, JR.,
IRMA JULIAN COOPER, *Associate Counsel*
Ass't. Director of Research WILLIAM BLATT,
LEWIS MAYERS, *Assistant Counsel*
Counsel

INTRODUCTION

The creation of the New York State Temporary Commission on the Condition of the Urban Colored Population came as a result of years of concern on the part of State officials, members of the Legislature, and public-spirited citizens of the State with conditions affecting the Negro population of the State. Frequent letters and delegations directed toward the State's capital from New York City and other urban centers with large Negro populations further accentuated this concern, and even when viewed only in the light of the fragmentary material contained in reports of federal and state agencies, quickly led to a belief that conditions facing Negroes were extremely menacing—conditions involving low and inadequate income, disproportionately high numbers on relief, substandard housing, inequalities in the educational systems in the State, a dearth of neighborhood recreational facilities, alarmingly high rates of delinquency and crime, and other conditions making for economic and social disorganization in Negro communities. Members of the Legislature thereupon became convinced that these conditions should be exhaustively investigated and that remedial action should be taken to ameliorate them through legislation. Through appointments by the Temporary President of the Senate, the Speaker of the Assembly and the Governor, this Commission was created with the following responsibilities and powers:

1. To examine the economic, cultural, health and living conditions of the urban colored population of the State.
2. To report on the same to the Legislature on or before March 1, 1938.
3. To recommend measures deemed necessary to improve the condition of the colored population, giving it equal opportunity with the general population of the State for self-support and economic and cultural development.
4. To include in the report such amendments or additions to or revisions of the law as the Commission deems necessary to carry its recommendations into effect.
5. To meet anywhere in the State for the purposes mentioned with the power to take testimony, subpoena witnesses, require the production of books, records and papers and exercise all of the powers of a legislative committee under the Legislative Law.

During its first term, the Commission appointed the following Executive Staff: *Executive Director*, Lester B. Granger; *Research Director*, Dean S. Yarbrough; *Counsel*, Lewis Mayers; and *Re-*

search Assistants, Thomas MacDonald and Robert T. Custis. This staff concentrated its efforts primarily on the problems of employment and housing (deeming these to be basic to the condition of the Negro population) in New York City, the metropolitan region and in Buffalo and Albany. Four fact-finding methods were used:

1. Examination of public and private records. (Many such records, though not formally kept for this purpose, impart significant information regarding the condition of the colored population when interpreted in the light of the investigation.)
2. Questionnaires addressed to employers, trade unions, and State departments.
3. Community "samples" and interviews made by a small field staff. (The funds and time of the Commission manifestly did not permit a State-wide survey on a grand scale. Thus the field staff interviewed public officials and organizational heads, and checked the accuracy of information thus gained by interviewing selected samples of the colored population in communities outside of New York City.)
4. Public hearings in six centers of the State's colored population. (At these hearings citizens and public officials presented facts, opinions and recommendations regarding the condition of the colored population in response to questioning by members of the Commission.) Hearings were held at 7th District Court, 447 W. 151st Street, New York City, December 13th-16th inclusive—State Office Building, Buffalo, New York, December 7th-8th—State Office Building, Albany, New York, December 2nd—County Office Building, White Plains, New York, November 16th—Town Hall, Hempstead, New York, November 10th—I.O.O.F. Temple, 159-29 90th Avenue, Jamaica, New York.

After six months of work this staff prepared a report which was transmitted to the Legislature by the Commission, with the recommendation that the Commission be continued because the modest appropriation of \$30,000 to the Commission and the limited time necessarily affected the scope of the work and the amount of work that could be done. The Legislature thereupon continued the Commission by chapter 677, Laws of 1938, granting an additional appropriation of \$25,000.

During its second term, the Commission, with a new chairman and staff, followed the same general procedure but greatly expanded its work, both by way of covering additional urban centers and by broadening its scope to include new fields of study. The new urban areas covered were Rochester in Monroe County, Syracuse in Onondaga County, Binghamton in Broome County, Poughkeepsie in Dutchess County. Fields previously studied were

covered in broader detail; the field of education was considerably expanded; and the new fields of recreation, delinquency and crime were included. The present report contains some sections of the previous report with only minor revisions to bring materials up-to-date, but, on the whole, it represents a greatly expanded document supported statistically by tables and graphically by charts.

Additional public hearings were held at the following places: Old Appellate Division Courtroom, Borough Hall, Brooklyn, New York, November 1, 1938; Onondaga County Court, Syracuse, New York, December 8, 1938; City Council Chambers, City Hall, Rochester, New York, January 6, 1939; and 7th District Court, 447 West 151st street, Manhattan, New York, January 20 and 21, 1938.

Grateful acknowledgment is made by your Commission for the generous and invaluable cooperation of various citizens and organizations, among whom are the following: Heads of State, municipal and county departments who appeared personally before the Commission; members of citizens' cooperating committees who presented testimony at the hearings, the Director of Legislative Reference Section of the New York State Library who aided in collecting and compiling material bearing on existing statutes in this and other states, and on legislative proposals in this State; the National Association for the Advancement of Colored People and its branches throughout the State; the National Urban League and its affiliates in New York City, Brooklyn, White Plains, Buffalo and Albany; The Russell Sage Foundation; the Buffalo Foundation; the Welfare Council of New York City; the Tenement House Committee of the Charity Organization Society; and the Local Graduate Nurses' Association of New York; the Permanent Committee for Better Schools in Harlem; the Harlem Branches of the Y.M.C.A. and Y.W.C.A.; the Colored Orphan Asylum of Riverdale, New York; Vassar College, Administration Office and Department of Social Science; the Poughkeepsie City Planning Commission; the Binghamton Council of Social Agencies; the Binghamton Interracial Association; the Syracuse Council of Social Agencies and Community Chest; the Syracuse Interracial Commission; Social Science Department of Syracuse University; the Dunbar Association, Inc.; the Rochester Council of Social Agencies; the Rochester Interracial Commission; Social Science Department of Rochester University; the Rochester West Side Y.M.C.A. and Clarissa Street Y.W.C.A.; *The Voice*, newspaper of Rochester; and indeed many others not listed herein because of inadequate space.

This report is more than a document of statistical research; it is an analysis and exposition of human situations and relationships with a description of community and individual reactions to those situations and with a demonstration of their importance to the general welfare of the State. It finds support for its recommendations in Federal, State and municipal records, in the studies and experiences of responsible private organizations, in the inde-

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SECTION I
THE NEGRO POPULATION OF NEW YORK STATE

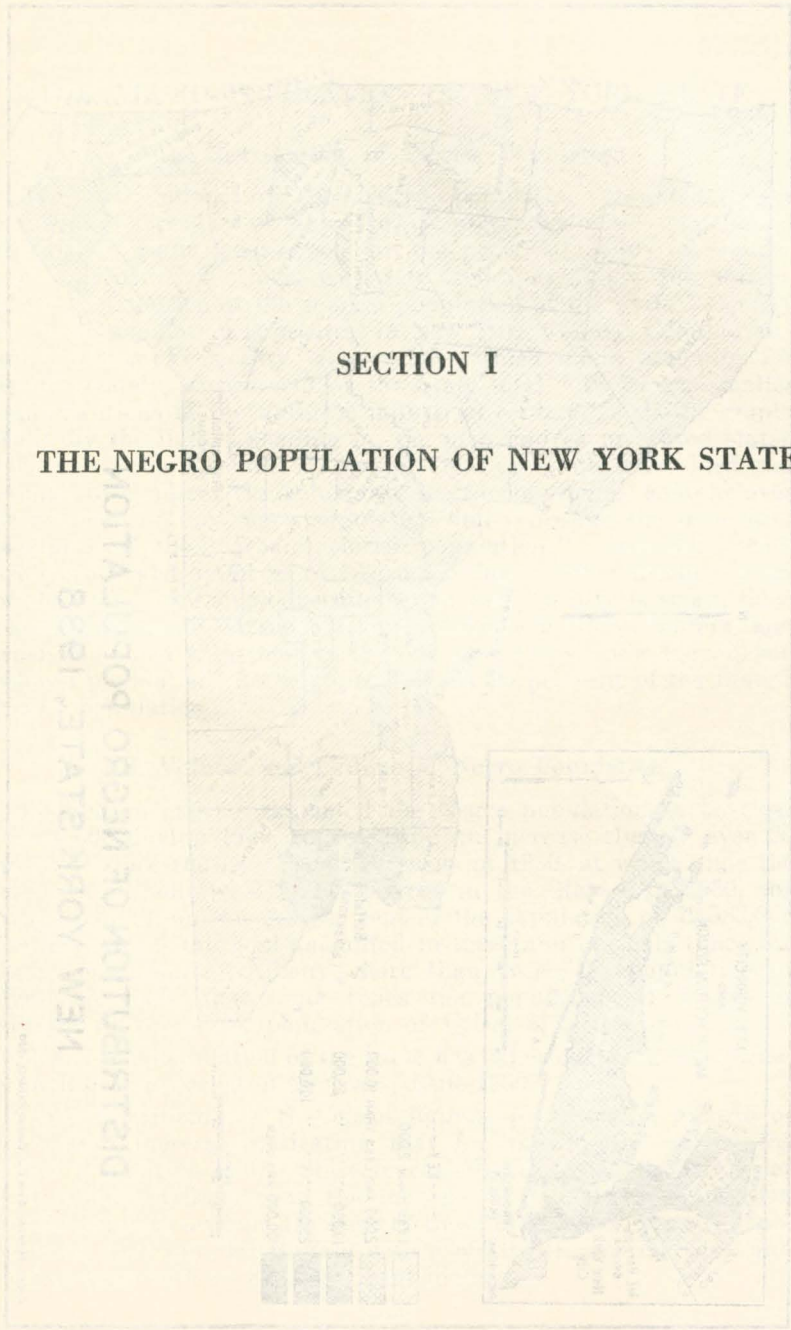
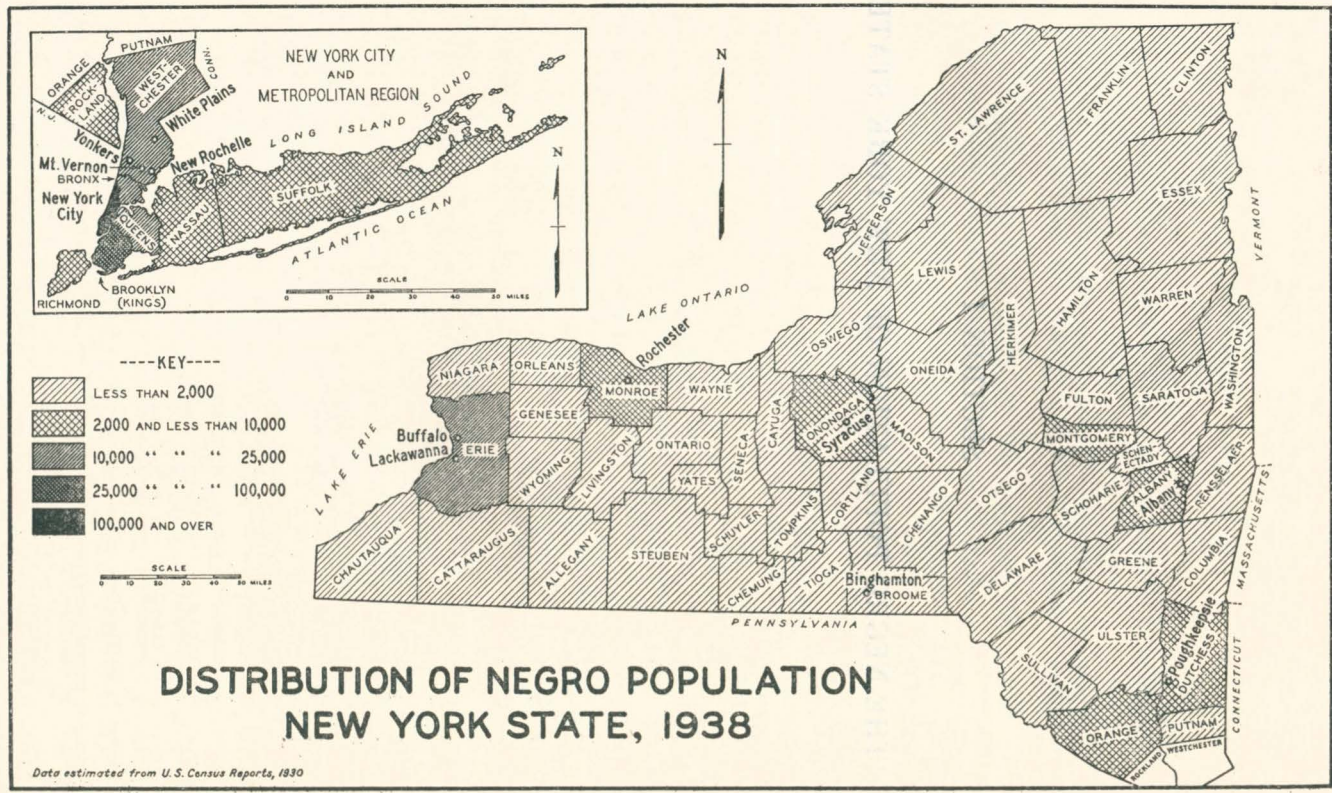


CHART I



THE NEGRO POPULATION OF NEW YORK STATE

A. Distribution of Negro Population

The distribution of the Negro population throughout the counties of the State of New York is presented in the map facing this page. Indicated thereon are the principal points of population concentration, which, with few variations, follow the pattern of the distribution of the general population of the State. Density of Negro population is greatest in New York County (Manhattan) and in New York City as a whole, which alone accounts for approximately 80 per cent of the State total. There are smaller concentrations in the up-State industrial centers, as shown graphically by the lighter shading on the map and as presented statistically in Table I below. These principal cities, as determined and ranked in terms of the volume of Negro population, contain over 88 per cent of the Negro population and represent the important locations of the "urban colored population." However, there are considerable numbers of Negroes living in other urban centers of the State. Although the number in each locality is small, they, too, are urban by virtue of their residence in these centers, and when combined with those in the principal cities, show the "urban colored population" to be approximately 95 per cent of the State's Negro population.

B. Volume and Growth of Negro Population

Population experts estimated the Negro population to be close to 500,000 during 1938, representing an increase slightly over 20 per cent since the last Federal Census in 1930, at which time the enumeration showed 412,814 Negroes in the State. In 1930, the Negro population was 3.3 per cent of the population of 12,588,066 for the entire State and amounted to three and one-half times the total population of Albany, more than twice the population of Syracuse, more than four times the population of Utica—or equaled the combined population of Utica, Syracuse and Albany.

The Negro population of the State has experienced a phenomenal growth over a period of 20 years, 1910-1930.

Table I, utilizing U. S. Census figures, presents the picture of this rapid increase, indicating that for the 20-year period the Negro population of the State increased approximately 207.6 per cent. More striking than the increase of the Negro population for the State as a whole are some of those increases in the principal cities as, for example: Buffalo with a 665.0 per cent increase, and Lackawanna with an 841.1 per cent increase.

TABLE I

Growth of Population in New York State, by Race, 1910-1930

STATE AND PRINCIPAL CITIES	1910		1920		1930		PER CENT INCREASE 1910-1930	
	Negro	Other	Negro	Other	Negro	Other	Negro	Other
STATE TOTAL.....	134,191	8,979,423	198,483	10,186,744	412,814	12,175,252	207.6	35.6
Principal Cities:								
New York.....	91,709	4,675,174	152,467	5,467,581	327,706	6,602,740	257.3	41.2
Buffalo.....	1,773	421,942	4,511	502,264	13,563	559,513	665.0	32.6
New Rochelle.....	1,754	27,113	2,044	33,569	4,644	49,356	164.8	82.0
Mt. Vernon.....	896	30,023	1,345	41,381	3,608	57,891	302.7	92.8
Yonkers.....	1,549	78,254	1,940	98,236	3,332	131,314	115.1	67.8
Rochester.....	879	217,270	1,579	294,171	2,679	325,453	204.8	49.8
Albany.....	1,037	99,216	1,239	112,105	2,324	125,088	124.1	26.1
White Plains.....	858	15,091	995	20,036	2,150	33,680	150.6	123.2
Laekawanna.....	197	14,352	269	17,649	2,051	21,897	841.1	52.6
Syracuse.....	1,124	136,125	1,260	170,457	1,899	207,427	69.0	52.4
Poughkeepsie.....	699	27,237	850	34,150	1,101	39,137	57.5	43.9
Binghamton.....	635	47,808	623	66,177	722	75,940	13.7	58.8

Source: Reports of Census Bureau, United States Department of Commerce.

One does not have to search very hard for the explanation of this great population movement; the answer is obvious. Here was a true and striking demonstration of the factors influencing population movements throughout the United States and the world. The fundamental and primary impetus underlying these unprecedented waves of Negro migration to Northern industrial centers like New York was the vision and realization of economic and cultural advantages—economic advantages primarily in more and better employment and housing, cultural advantages in the chance for education, and profitable use of leisure, in sum, all of those facilities which make for the cultural advancement of human beings. An added force behind Negro migration from the rural South was, of course, the whole array of painful hardships and handicaps to which Negroes were generally subjected because of a detrimental prejudice against them by virtue of their color and previous condition of servitude. The thought that living in the North would eliminate these serious obstacles loomed in the minds of these people—and so, they migrated.

Greater employment opportunities for Negroes in the North at that time came as a result of a combination of circumstances. The shortage of labor created by the expansion of industries in New York and the newly passed Federal restrictions on European immigration opened new employment opportunities for Negroes and whites from the South. There resulted tremendous influxes of thousands of Negroes and whites from even the most remote Southern areas—long-shoremen to fill shortages on New York

harbor docks, laborers for brick yards and cement mills of Dutchess and Ulster counties, and stalwart workmen for the steel mills of Erie County. Similarly, considerable numbers of Negro women found employment in domestic service in Brooklyn, the Bronx, Manhattan, and Nassau and Westchester counties for householders who found it profitable to work in the factories of New York City while hiring servants at a low cost for the upkeep of their homes. Employment agencies discovered and enjoyed a lucrative business, and employers found it profitable to send scouts into the deep South to recruit and transport thousands of workers, primarily Negroes, to fill the bountiful supply of jobs. Too, many others came voluntarily in search of the golden opportunities as described by their friends and relatives who preceded them.

The post-World War era, however, brought with it a complete change in the situation with respect to available jobs, for with the ending of the war there was a tremendous decrease in the demand for manufactured products. Although the production of these products did not decrease as rapidly as the demand for them, production was gradually curtailed, and there followed a gradual displacement of workers, usually those most recently hired—primarily Negroes. The employment problem was further magnified by the return of American soldiers for whom jobs had to be found, and by the rapid post-war advancements in technological developments in industry. The result of the working of all of these factors in connection with Negro workers has been their displacement, almost completely, from employment in industry in New York State.

In the meantime, however, this migration by Southern whites and Negroes which began during the World War has continued even throughout the depression for several reasons. In the first place, the distress suffered by unemployed families on relief in New York State is far less than that suffered by the same families in Southern states. Therefore, even the prospect of an unemployed status in New York does not deter a family seeking to escape practical starvation in isolated rural areas of the deep South, where relief budgets are sometimes as low as \$7.50 a month for a family of five persons. Further, in this State public relief methods have established a wage minimum below which workers may refuse proffered jobs. Some employers are unable, others are unwilling to pay wages which amount to even this relief minimum. Thus, the presence of unemployed whites and Negroes in the farming sections of Long Island has not prevented many small farmers from using Negro labor brought in for the purpose from Florida and neighboring states. Accounts in the *New York Post* of June 5, 1937, describe the experiences of its reporter investigating this practice. There is indeed tragedy for both the

employing and employed group in this situation, for after the harvest season these recently arrived migrants become unemployed, and move into the suburban communities to swell the number of unemployed already there. The next season, these in turn are ignored by local farm employers while new recruits from the South are brought in. Similarly, domestic workers who are already unemployed or working at low wages find a new competition from women and girls, still being imported by employment agencies fresh from the South, who will work for as little as \$20 per month. These newcomers, having found jobs—or relief—at higher than Southern standards, continue to lose no time in encouraging their relatives or friends from home to follow them.

C. Need of Special Study of Problems Facing Negroes

Be the causes of the migrations, of the employment of Negroes in the major industries, and of their subsequent displacement and replacement by white workers what they were and may still be, this large number of Negroes are at present in New York State. No group comprising so considerable a number within the total population can continue to suffer persistent insecurity without affecting the security of the whole. A fertile breeding ground is thereby furnished for serious social and economic ills with which the State is already concerned. Sound Americanism cannot be expected from a group which, to a substantial extent, is denied participation in the benefits of American democracy. Civic responsibility develops only out of civic opportunity. If it is true that the Negro population of the State is largely excluded from normal, healthful contacts with the community as a whole, is denied equal opportunity for economic, social and cultural advancement, and suffers from more than ordinary lack of security, then the State may expect that these one-half million persons will be victims of unscrupulous exploiters and will continue to furnish a large and ready following for irresponsible leadership.

The Harlem riot of March 19, 1935, may be taken as a symptom of these dangerous conditions. The invasion of Harlem's business section by thousands of Negroes was a destructive occurrence which resulted in a total of two million dollars of property damage. But this riot was recognized by expert observers as more than a mob action of malicious mischief. It was considered a spontaneous and an incoherent protest by Harlem's population against a studied neglect of its critical problems.

Even casual observation since that time has made it apparent that these problems are not confined to Harlem or to New York City, but are in large part encountered by the Negro population throughout the State. It is also apparent that these problems have grown in intensity as the population has grown in size.

The Legislature has recognized these conditions in the creation of this Commission with specific instructions to:

recommend such measures as such Commission may deem necessary to improve such conditions and to secure to the urban colored population of the State equal opportunity with the general population thereof for self-support and economic and cultural development to the extent, if any, that such opportunity does not exist.

SECTION II

SCOPE OF RECOMMENDATIONS

SCOPE OF RECOMMENDATIONS

Early in the course of the investigations pursued by the Commission, it became apparent that the conditions confronting the Negro population of the State spring from several quite distinct though closely related causes. As a population of low income, it suffers from conditions affecting low-income groups of all races. On the other hand, the Negro population is to a large degree kept in the low-income class by causes which do not apply with similar force in the case of other races; there are factors which frequently prevent Negroes from attaining a satisfactory economic, cultural or political status regardless of their income level.

These factors are closely interrelated, so that it becomes necessary to attack all phases of the problem by legislative action or otherwise. The Commission has taken the position, however, that it should not present recommendations on conditions which are due solely to a low-income status. Such measures would obviously apply equally to all citizens of the State who are suffering from inadequate income, whether white or Negro. Numerous measures looking to the improvement of low-income groups generally in the fields of health, housing, education, recreation and social security (to mention only a few of the major fields), are already before your honorable bodies and are the subject of constant study by appropriate State agencies.

Where adverse conditions affecting low-income groups are found to affect the Negro population in peculiarly aggravated form, however, the Commission has deemed it a duty to draw attention to such peculiarly aggravated conditions as furnishing further and stronger reasons for action by your honorable bodies on the ameliorative proposals before you.

Insofar as conditions affecting the Negro population are the result of active or passive discrimination against this group, the Commission deems it an especial duty to make specific recommendations and legislative proposals, for such discrimination is repugnant to the public policy as laid down in general terms in the Constitution of the State and the Nation, and as expressed by the people of this State through numerous legislative enactments.

Where the Commission was still deterred by lack of time or finances from investigating certain important aspects of these conditions to the necessary extent, specific recommendations or proposals are withheld, in the hope that further study at a later date will permit an exhaustive consideration of these fields. Having outlined its approach and methods, the Commission begs to present herewith its general findings and conclusions.

In the main body of this report, the Commission has made no attempt to include all the facts and evidence in those fields where conclusions have been reached and recommendations offered. Supporting facts are in the Commission's files, and can be made available for consultation by government agencies desiring more detailed information.

It became apparent that the broad distribution of the State's population is not uniform. A population of low income is concentrated in certain localities, and a large degree of economic stability is to be found in the low income class by areas which do not agree with the Commission's findings. There are factors which tend to stabilize the economic position of the low income class, and the Commission is of the opinion that the economic position of the low income class is not as precarious as it is generally supposed to be.

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EMPLOYMENT

I. General Introduction

SECTION III

EMPLOYMENT

TABLE II

General Introduction of General Workers, 1900-1905

EMPLOYMENT

I. General Considerations

Early in its deliberations your Commission arrived at the position that most of the problems confronting the Negro population arise primarily out of inadequate incomes. Low income of itself produces an impaired standard of living which necessarily gives rise to other serious economic, social and cultural problems. It is true that a raising of the group's income and a consequent improvement of its living standards may still leave other social problems to be solved, but it is also true that no successful attack on these secondary problems may be made until the basic handicap of inadequate income is removed. For this reason the Commission has given careful attention to the types and extent of employment available to the Negro population, and to a special consideration of the underlying factors restricting opportunities in certain other types of employment, for these in the last analysis determine the income level of the group.

A. The Negro Labor Force

Analysis of the composition of the Negro labor force of New York State reveals heavy concentrations in the marginal occupations and a corresponding few scattered here and there in the better-paid, skilled or white-collar occupations.

TABLE II

Number and Percentage Distribution of Gainful Workers, Ten Years Old and Over by Occupation and by Race, New York State, 1930

OCCUPATIONAL GROUP	TOTAL		NEGRO		OTHER	
	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution
All Occupations.....	5,523,337	100.0	239,305	100.0	5,284,032	100.0
Agriculture.....	267,373	4.8	2,258	0.9	265,115	5.0
Forestry and fishing.....	5,202	0.1	42	.....	5,160	0.1
Extraction of minerals.....	9,229	0.2	142	0.1	9,087	0.2
Manufacturing and mechanical.....	1,866,374	33.8	52,421	21.9	1,813,953	34.3
Transportation and communication.....	507,031	9.2	27,022	11.3	480,009	9.1
Trade.....	860,123	15.6	12,260	5.1	847,863	16.0
Public service.....	117,727	2.1	2,671	1.1	115,056	2.2
Professional service.....	446,071	8.1	8,325	3.5	437,746	8.3
Domestic and personal service.....	691,047	12.5	125,534	52.5	565,513	10.7
Clerical occupations.....	753,160	13.6	8,630	3.6	744,530	14.1

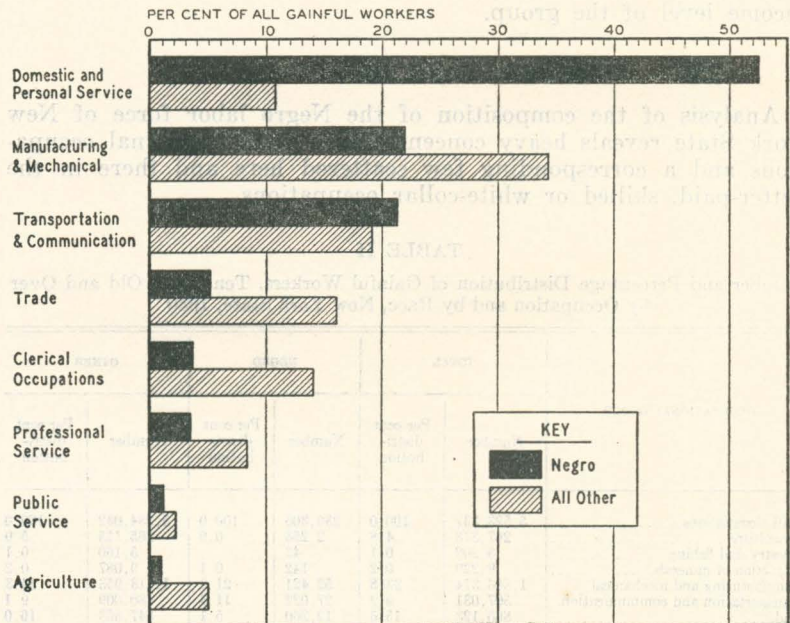
Source: Report of Census Bureau, United States Department of Commerce.

Reference to Table II shows that in 1930 there were 239,305 Negro gainful workers among the State total of 5,523,337. Negroes constituted 4.3 per cent of all gainful workers, but as shown above only 3.3 per cent of the general population, indicating that a greater proportion of the Negro population is forced to engage in gainful employment as a means of livelihood. It is seen also that a disproportionately large concentration of Negro workers, 52.5 per cent—over one-half of all Negro gainful workers—is found in domestic and personal service, while for the remainder of the working population only 10.7 per cent is found in this category. Further, 21.9 per cent was engaged in manufacturing and mechanical pursuits—primarily in the unskilled labor classes. Similar comparisons between the distribution of Negro gainful workers and the distribution of all other gainful workers among the major industrial groups are presented vividly in Chart II.

CHART II

Distribution of Gainful Workers, Ten Years Old and Over,
by Major Occupational Group and by Race

New York State, 1930



SOURCE: U. S. DEPARTMENT OF COMMERCE, REPORT OF CENSUS BUREAU

Thus, it is evident that practically 75 per cent of the Negro labor force of this State in 1930 was comprised of marginal workers, engaged in occupations which were among the least secure and the lowest paid. This heavy concentration of Negro workers in marginal occupations can be easily understood when we examine

the correspondingly large number of occupations in which they find practically no employment. The 1930 Census Report also shows 4 Negroes out of 4,401 male engravers, 368 Negroes out of 42,511 electricians, 60 Negroes out of 8,516 cabinet makers, and 505 Negroes out of 70,783 machinists. Furniture factories employing 8,267 whites reported only 66 Negroes. It is of interest that these are the trades which usually require apprenticeships. The fact that Negroes have been denied apprenticeship training, particularly in these industries which are highly organized and controlled by trade-union agreements, explains in part why they cannot enter these trades at later times.

Still more striking are the figures on white collar employment for women, for while 367,549 white women were reported employed as clerks in stores and other establishments as saleswomen, as stenographers and as typists, only 1,516 Negro women were thus employed, or 0.4 per cent.

These examples are sufficient to show that, for various reasons, vast areas of possible and preferred employment are barred to the Negro population, with the result that an overwhelmingly large proportion of Negro employables are forced into uncertain and poorly paid jobs. The causes behind this situation are discussed later in this report. For the present, attention is directed to the manner in which forces of the depression have played upon the submerged employment status of the Negro population.

B. Unemployment Among the Negro Labor Force

Probably the best recent figures available on unemployment are those compiled by the Federal Census of Partial Employment, Unemployment, and Occupations: 1937. Although this census was a voluntary registration by persons unemployed or partly employed between November 16 and November 20 in 1937—and

TABLE III

Persons Who Registered in the Unemployment Census, by Class and Race,
New York State, 1937

CLASS	Total	NEGRO		OTHER	
		Number	Per cent of Total	Number	Per cent of Total
Unemployed, including emergency workers.....	972,522	91,071	9.4	881,451	90.6
Totally unemployed.....	765,039	69,382	9.1	695,657	90.9
Emergency workers.....	207,483	21,689	10.5	185,794	89.5
Partly unemployed.....	322,161	21,935	6.8	300,226	93.2
Population, 1930					
Total (all ages).....	12,588,066	412,814	3.3	12,175,252	96.7
Age 15 to 74 (including unknown)...	9,257,537	320,826	3.5	8,936,711	96.5

Source: United States Census of Partial Employment, Unemployment and Occupations, 1937.

therefore does not present a complete picture, having been determined to be about 80 per cent complete on the basis of a sample checkup in selected localities throughout the country—it does bring to light some very interesting data which are used here for comparison of the unemployment status of the Negro labor force with that of the remainder of the working population, as shown in Table III above.

It is significant that although Negroes constitute but 3.3 per cent of the total population and 4.3 per cent of the gainfully occupied population, they comprised 9.4 per cent of all persons registering as unemployed and 6.8 per cent of those having partial employment. This analysis becomes even more significant when the number reported by the census is considered in terms of the total labor force of the groups compared. The number of Negroes registering as totally unemployed, as shown in Table III, *equalled approximately 40 per cent of all Negro gainful workers while for all other groups the corresponding percentage was but slightly over 15 per cent.* And, when partly unemployed workers are combined with the totally unemployed, approximately 50 per cent of the Negro labor force was reported while for all the others, this percentage was but 21 per cent. And, when one remembers that these figures are not complete, particularly because of greater non-registration among Negro workers, he must recognize the fact that these percentages are actually understatements of the severity of unemployment. This comparison dramatically shows that it is the fate of marginal workers to be the first hard hit and the first displaced in times of industrial depression.

The occupational distribution of persons who registered in the census is shown in Table IV.

TABLE IV

Persons Who Registered in the Unemployment Census as Totally Unemployed and as Emergency Workers, by Race and Occupational Group, New York State, 1937

OCCUPATIONAL GROUP	TOTAL		NEGRO		OTHER	
	Number	Per cent distribution	Number	Per cent distribution	Number	Per cent distribution
All occupations.....	972,522	100.0	91,071	100.0	881,451	100.0
Professional persons.....	48,164	5.0	4,145	4.6	44,019	5.0
Farmers (owners and tenants)...	3,242	0.3	98	0.1	3,144	0.4
Other proprietors, managers and officials.....	20,787	2.1	588	0.6	20,199	2.3
Clerks and kindred workers.....	193,282	19.9	6,619	7.3	186,663	21.2
Skilled workers and foremen.....	149,725	15.4	7,133	7.8	142,592	16.2
Semi-skilled workers.....	240,373	24.7	21,886	24.0	218,487	24.7
Farm laborers.....	13,297	1.4	532	0.6	12,765	1.4
Other laborers.....	128,847	13.2	16,364	18.0	112,483	12.8
Servant classes.....	69,536	7.2	25,658	28.2	43,878	5.0
Occupation not reported.....	11,571	1.2	1,758	1.9	9,813	1.1
New workers.....	93,698	9.6	6,290	6.9	87,408	9.9

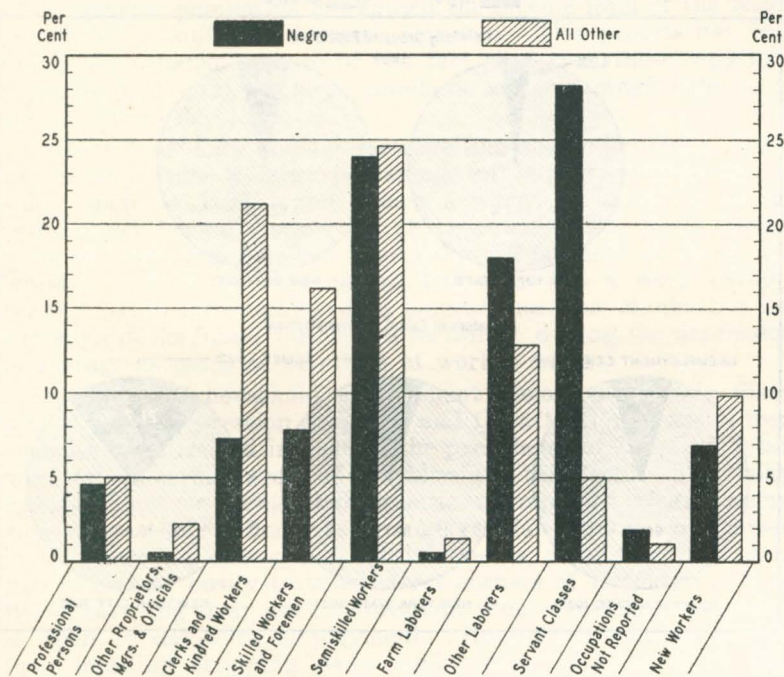
Source: United States Census of Partial Employment, Unemployment, and Occupations, 1937.

Although the concentrations of Negro registrants are for the most part in the servant classes, semi-skilled workers, and other laborers, the minor concentrations in the other groups of skilled and white-collar workers indicate that the Negroes who have the training and experience for these types of work find great difficulty in getting it, if it is obtained at all. These comparisons are shown graphically in Chart III.

CHART III

Distribution of Persons Who Registered in the Unemployment Census as Totally Unemployed and as Emergency Workers,— by Race and Occupational Group

New York State, 1937



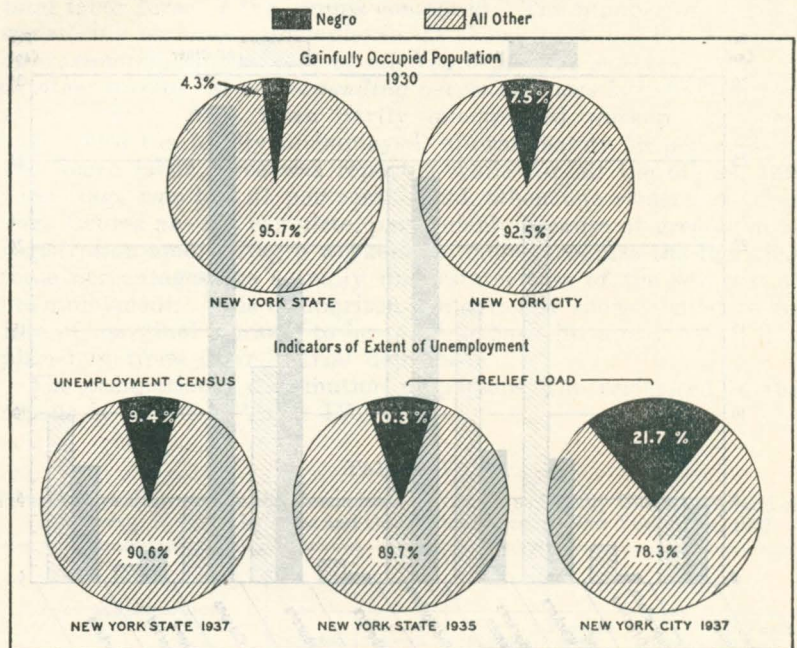
SOURCE: U. S. CENSUS OF PARTIAL EMPLOYMENT, UNEMPLOYMENT AND OCCUPATIONS: 1937

Other indicators of the extent of unemployment in the working population of the State further substantiate the contention that there is a great disproportion of unemployment in the Negro labor force. Out of 653,603 workers on relief in New York State in 1935, there were 67,614, or 10.3 per cent, Negroes, indicating that Negroes were forced on relief due to unemployment at approximately $2\frac{1}{2}$ times the rate of the white working population. In February, 1937, records of the New York City Emergency Relief Bureau indicated that Negroes, 7.5 per cent of the

city's gainfully employed population, constituted 21.7 per cent of the city's relief load, but received only 9.8 per cent of job placements made by the employment service of the Bureau. In other words, as the Director of the Bureau stated, "Negroes have one-half of a bad chance to get jobs." These and other records indicate that Negroes had been displaced from private employment at twice the rate of whites and were being reemployed at only one-half the rate of whites, as shown by their long duration on relief.

CHART IV

Extent of Unemployment Among Negroes Compared with Proportion of Negroes in Gainfully Occupied Population



II. Special Problems Facing Negro Workers and Extent of Employment

The foregoing analyses of the relative size, composition, and employment status of the Negro labor force convincingly reveal that Negro workers suffer disproportionately from a lack of employment in the skilled trades, semi-skilled factory work, and in the wholesale, retail and other commercial establishments of the State, as reflected in high unemployment and relief among them. These conditions aroused the suspicion of the Commission to the belief that some adverse factors, whether controlled by general economic forces or directed subconsciously or deliberately by

the State's employers of labor, must have been operating and are still operating against Negro labor's sharing equitably in available employment opportunities and must have therefore prevented its becoming integrated into the general labor force of the State. Investigations made by the Commission supported this belief, indicating that Negro workers were definitely and seriously handicapped by special problems. The most important of these problems are presented in the following paragraphs, which discuss at the same time the extent of employment among Negroes in New York City and in several cities in up-State New York.

Substandard Employment and Low Incomes

Great unemployment in severe disproportion to their numbers in the general population has caused the income level of the Negro population to suffer an extreme recession. This process has been found accentuated because of the fact that even those who have retained their jobs, in large numbers, suffered wage cuts to an almost unbearable level.

In New York City and the metropolitan region generally, Negro women constitute a large percentage of laundry employees. A study made in 1936 found women's wages in laundries as low as \$6 a week for a 60-hour week, (\$312 a year). The State Department of Labor reported last month that 73 per cent of the women laundry workers in 1936 earned less than \$15 a week (\$780 a year). Negro men employed as longshoremen on Manhattan and Brooklyn docks found themselves fortunate, during the depression, to average as much as two days of work a week.

Standards of household employment almost completely disappeared as the depression deepened and the attention of social work agencies was directed in 1936 to the prevalence of so-called "slave markets" in certain areas of Brooklyn and the Bronx. The "slave markets" are so designated because unemployed Negro women domestics, unable to find jobs through regular employment agencies or by answering newspaper advertisements, went out in desperation to certain busily traveled street corners of Brooklyn and the Bronx carrying their work clothes and thus advertising themselves as open to day-work employment. Housewives coming out for their morning shopping pause and "shop" for day-work help, going from one applicant to another until the lowest wage is found. Similarly, the women job-seekers would reject one offer after another seeking the highest possible wage offer. Under such deplorable conditions it is not surprising that householders find it very easy to secure day-work help for 15 and 20 cents an hour.

Although the Commission has not encountered instances of the "slave market" in up-State cities, it has found that similar unrestricted competition exists among domestic workers and that Negro women frequently work for wages as low as \$5 and \$6 a week on sleep-in jobs.

With unemployment or sub-standard employment the rule rather than the exception for the colored population, its income level is already indicated. A sampling of 450 Negro wage-earning families made by the Commission's staff in communities of Westchester, Nassau and up-State counties reveals that the average income per Negro family of 4.1 persons was \$20.19 a week, or \$1,049.88 a year, assuming 52 weeks of work each year.

More extensive figures are available for New York City in a report on family incomes made in December, 1937, by the United States Bureau of Labor Statistics. The report estimates the median income of white wage-earning families of New York City at \$1,721 while the median income of Negro wage-earning families was only \$1,266. In other words the employed Negro wage-earning family may expect, under recent conditions, to earn only 73 per cent as much as the employed white wage-earning family.

Combining relief and employed families of all classes, the study reveals that one-half of all native white families of New York City have incomes of less than \$1,814, but that one-half of all Negro families have incomes of less than \$837. This is to say that the poorer half of the colored population must live on an income which is only 46 per cent of that achieved by the poorer half of the white population.

When one considers either the Commission's figures for communities outside of New York City or the figures for New York City compiled by the United States Bureau of Labor Statistics, an appallingly low-income level is found to exist within the colored population. These figures are especially significant when they are compared with the findings of the Bureau of Research of the Division of Women in Industry and the Minimum Wage of the State Department of Labor in its study of adequate maintenance for women workers in New York City. The Commission learns that the Bureau purposely omitted Negroes from this study because their incomes were found to be too far below that of the average workers. Even so, the study found that for adequate maintenance and protection of health, the woman worker living alone needed \$1,192.46 a year and living as a member of a family \$1,058.31. Comparing these minimum requirements for a single woman with actual average income of \$1,266 a year with employed Negro wage-earning families with an income of less than \$837 a year for the poorer half of the Negro population in New York City, one is again brought to a realization of the grave economic problems faced by the Negro population throughout the State.

Employers' Attitudes

In its survey of employers' attitudes, your Commission has found several explanations for non-employment of Negroes. Some employers are indifferent, admitting that they have never bothered to investigate the presumed advantages or disadvantages involved. Others confess to personal prejudices regardless of any advantages

that might ensue. The large majority, however, even when favorably disposed to such employment, are fearful of injuring their business prospects by running counter to what they presume to be a public prejudice against the service of Negroes except in certain capacities. This prejudice is sometimes presumed to stem from the purchasing public, and at other times from white employees already on the job. Our investigation proves, however, that such presumptions are frequently unfounded or seriously exaggerated. For instance, the experience of New York City's Independent Subway with Negro platform guards and conductors proves unfounded the reluctance of officials of other subway systems who decline to employ Negroes in such capacities because "The public would rather be handled by white people than by colored people." Similarly, the timidity of telephone company officials who decline to employ "Negro girls side by side with white girls" is exposed as groundless by the fact that Negro and white young women of training and background identical with that of telephone company employees do sit side by side in amicable efficiency in numerous State and municipal departments, notably among which are the offices of the Welfare Department of New York City and the field offices of the State Employment Service, several of which even have Negro managers.

Your Commission, however, recognizes the fact that such prejudices do frequently exist. Almost invariably, they grow out of an acceptance of the popular stereotype which is imprinted on the public mind regarding the character, capabilities and ambitions of the "typical Negro"—a stereotype picturing him as imbued with certain racial differences which disqualify him for certain activities and associations.

It is not necessary to point out here that there exists no such character as a "typical Negro"—that there exist within the Negro population the same wide variations of type as exist in the white population. Recent studies by Dr. O. H. Klineberg of Columbia University and other eminent psychologists furnish ample evidence to establish this point. It is necessary, however, to recognize the existence of this stereotype and the necessity for its removal. Though created by historical prejudice and without logical basis today, it is a barrier to social progress—a barrier which can be removed in part if the State assumes the lead by recognizing its Negro citizens as an integral part of its general population, entitled to employment under the same conditions and on the same basis as all other citizens.

Job Restrictions

Your Commission's investigations of the causes behind these low-income conditions reveal the operation of deliberate as well as subconscious forces restricting the Negro to certain of the less desirable types of employment and generally barring him from the more desirable fields. The Commission found, for instance,

that financial and mercantile enterprises which employ hundreds of thousands of white-collar workers throughout the State give no consideration to Negroes for these jobs. Factory work is largely closed to Negro workers, except for the garment and fur trades and related industries in New York City. A carpet factory in Yonkers, which employs 6,000 workers at peak periods, employs no Negroes and is said never to have employed one in over 50 years of existence. Engineering, laboratory and transportation fields are occupations which Negroes may enter only after arduous effort, if at all. Public utilities, insurance companies and banks were found to have definite policies limiting or barring the employment of Negroes. The world's largest insurance company, located in New York City, writing more insurance among Negroes than all Negro insurance companies combined, reported the employment of not one Negro among its 20,000-odd employees in the State of New York alone. The State's largest public utility, employing a larger personnel than all the State's departments combined, included "perhaps a dozen Negroes" on its payrolls.

These conditions are themselves serious enough, but certain present tendencies, if not checked, point the way to even more serious employment problems for the colored population in the near future. During the last decade there has been a marked decrease in the proportion of all workers engaged in production occupations, a decrease caused by shifts in manufacturing activities and technological developments. Domestic and personal service showed a similar proportional decrease. On the other hand, during the same period workers engaged in trade, clerical and professional service occupations, which have been usually closed to Negroes, showed a proportional increase.

Throughout this decade, while industrial production was experiencing a decreased need of man-power, there was to be noted a shift of Negro labor into these very occupations, although in laboring and other marginal capacities. In other words, Negro workers during the past decade have shown a tendency to shift into contracting fields of employment, with the ironic probability that by the time they have entrenched themselves they will be under pressure to move to more fruitful areas. It must be emphasized, however, that this shift is not a voluntary one, but an unavoidable result of the fact that expanding employment fields are those generally barred to Negroes. It would seem, therefore, to be easily demonstrable that one great need of the Negro population is to be accepted into a wider area of the State's employment fields. Negro labor must be allowed to share more equitably in all employment opportunities of our industrial economy.

It is only fair to state that this has been the persistent aim of Negro workers, and that they have been prevented from achieving it by the opposition of community forces variously motivated. One of the major factors in this opposition is the disinclination of employers to use Negroes in any but casual or menial lines of

work. The great retail establishments throughout the State furnish striking examples of employer-opposition.

One of New York City's largest department stores is typical of retail firms in its attitude toward Negro employment and indeed is much more liberal than many. This store, which employs between 10,000 and 19,000 workers at different times during the year, has a staff of 175 Negro men. All of these Negroes are elevator operators or kitchen and cafeteria workers. Employment as stock clerks, shipping clerks, chauffeurs, mechanics, sales persons or office employees is completely barred to them, although many of them have college degrees and better references than the average white employee of this type. The top salary to which they may aspire is \$32 a week earned by one head elevator starter. The average salary, regardless of length of service or job record, is between \$19 to \$23 a week.

The New York World's Fair, in its administrative staff of 1,200 and construction crews of 700 persons, found employment for approximately 65 Negroes, among whom are maids, receptionists, night cleaners, attendants, one policeman, one draftsman, several mail-room workers, and two artists. This small number of jobs, mainly menial, is indeed an inequitable share for Negroes, especially in view of the fact that over seventy million dollars of New York City's public moneys have been invested in the Fair.

In up-State New York employment of Negroes in the large factories and wholesale and retail establishments is also practically non-existent. In Rochester, for example, our survey showed that of 35,120 employees in private firms, only 70 were Negroes. The largest firm, manufacturer of photographic equipment and supplies, employing 16,351 persons, reported *one* Negro porter and 19 construction workers engaged by a subsidiary corporation. Another firm manufacturing optical goods reported 3,000 employees—*no* Negroes; two clothing manufacturers reported 4,000 employees and *not one Negro* because they "are supplied with workers by the union upon requisition."

In Syracuse the survey covered 10,288 employees among whom were reported 15 Negroes working as laborers and cleaners.

In the "Triple Cities"—Binghamton, Endicott and Johnson City—only four Negroes were found among 28,932 employees in small and large factories and mercantile establishments. Startling was the discovery that the largest firm in the area, dealing in leather products, had but two Negroes among its average of 15,000 employees and that another large manufacturer, of mathematical apparatus, had no Negroes among its 3,985 employees.

In Poughkeepsie we note with interest that there are 12 semi-skilled Negro workers in a cigar factory. However, among the other 5,252 employees covered by our survey there were but seven Negroes in the unskilled categories.

Your Commission was at a loss to understand how Negroes in these and other communities in the up-State region managed to make a living and to survive starvation. Certainly, where they

have been unable through their own efforts to cope with this serious problem of no employment, it is the duty of the State to lend assistance.

On several occasions vigorous campaigns, accompanied by threat of boycott, have been carried on in Negro neighborhoods for the employment of Negroes in local stores and offices. Sometimes these campaigns have won slight concessions, but generally such concessions have been only temporary and the total number of jobs involved has been small. The most successful of these job campaigns was carried on in New York City's Harlem area, where several hundred clerks were estimated to have been placed during 1934 and 1935. It is significant, however, that several of the original sponsors of this campaign now express themselves as feeling that its final results did not justify the community effort involved in their accomplishment.

Besides being barred from many fields of employment, Negroes have frequently been concerned over loss of jobs long held by workers of their race. It has been charged that employers have, during the depression, deliberately discharged their Negro help to make places for whites. Among this type of employer would seem to be one of the largest bus companies, a subsidiary of a major eastern railroad. This company throughout 1937 employed 97 Negroes as "Bus Service Stewards," who accompanied the buses throughout long distance runs, and, among other services, handled the passengers' baggage. In January, 1938, all but six of them were summarily dismissed, in spite of statements from their superiors that their service was satisfactory. The places of 86 Negroes, who were employed at \$35 a month, were filled by creating the post of "Baggage Checkers," who were all white, and chosen from former drivers unemployed at the end of the travel season. There are 20 white baggage checkers employed at \$90 a month to load and unload the passengers' baggage. They are relieved for two-hour spells by Negro redcaps who receive no remuneration for these extra services.

Job Control

In considering specific proposals for action by the Legislature, the Commission has found it wise to classify various fields of employment according to the probable effectiveness of legislative action in each field. Manifestly, jobs directly in State employ are more susceptible to control by legislation than jobs in private industry. Likewise corporations acting under public charters giving complete or partial monopoly, or benefiting by subsidies from the public treasury, may be more amenable to public regulation than corporations owing no such debt to the State. The Commission has therefore classified employment under the following heads:

1. Jobs dependent upon the discretion of private employers,
2. Jobs controlled by agreements between employers and organized employees,

3. Jobs in the employ of the State or its subdivisions,
4. Jobs controlled by private organizations operating under the supervision of the State.

With respect to the power of your honorable bodies to affect employment conditions facing the colored population, this Commission has taken the following position :

1. Private Employment and Public Placement Services

The employment policies of private employers constitute a field not easily susceptible to legislative action. Improvement in this field will come about as a result of a gradually enlightened public opinion reflected in the employment policies of private managements. It is to be hoped that this and similar studies will impress upon employers the serious social problems resulting from their neglect of the job needs of a large portion of our population, and will further impress them with their responsibility for helping to correct these problems by according to the colored population a larger share in the economic opportunities afforded by the State. There is, however, a method by which the State can take remedial steps in the field of private employment without resorting to legislative action. The New York State Employment Service, now a unit of the Division of Placement and Unemployment Insurance of the State Department of Labor, has become the largest single employment agency in the State. A special tabulation showed that for the month of April, 1936, 661,905 persons were registered with the Division as applying for work and of these 50,783, or 7.6 per cent, were Negroes. During that same period there were 26,604 placements of which 8.0 per cent were Negroes.

From April, 1936, to March, 1937, non-white new applicants for work constituted 9.1 per cent of the Division's total new applicants, while non-white placements constituted 8.0 per cent of total placements. Non-white applicants for white-collar jobs during the same period constituted 2.3 per cent of all new white-collar applicants, while the placement of these applicants constituted 2.1 per cent of total white-collar placements. In New York City for the month of July, 1937, 83,175 persons were registered with the Division as applying for work and of these 9,223, or 11 per cent, were Negroes. During that same period there were 4,771 placements of which 381, or 7.9 per cent were Negroes.

It might seem, at least from the figures for the State as a whole, that the New York State Employment Service is satisfactorily meeting the needs of Negro registrants, since it has placed them in rough approximation to their proportion to the total registration. The Commission's study of the Division records, however, leads to a different conclusion—a conclusion, we hasten to point out, which is not to be construed as necessarily a reflection on the present administrative policies of the Division.

The Division of Placement and Unemployment Insurance is a recently organized division of the State Department of Labor. Its present program is based upon a realization of weaknesses that appeared in the old State Employment Service and is designed, as far as possible, to correct those weaknesses. The Division has taken into consideration the complaints previously made by Negroes that certain types of employment were not available to them through the State Employment Service, that frequently interviewers in the Department gave deliberate preference to white applicants and called Negroes only for the least desirable jobs or when whites were not readily available. Such action was not always due to prejudice of the interviewer, but sometimes to his anxiety to please the employer.

At the Westchester County Hearing the Commission heard testimony from well-trained young Negro women who had applied for white-collar employment and who were never referred to any type of white-collar jobs, because, they claim, the employment interviewer felt that employers would resent such referrals. Such complaints have frequently been made to the Commission, indicating that the colored population generally has held strong suspicions regarding the fairness of the State's employment service in dealing with Negro job applicants.

Your Commission is inclined to doubt that a blanket charge along these lines is or has been justified, although it does feel that former policies of the old service left room for unfair acts by racially biased members of the interviewing and clerical staff which have reacted to the detriment of numerous Negro applicants. The tendency of the old service to confine its Negro interviewing personnel to the Harlem office in New York City and in similar restricted capacities in other cities left the way open for a misuse of office routine by staff subordinates which would prevent Negro applicants from having full access to all types of job referrals.

The Commission feels that the present administration of the enlarged Employment Service under the Unemployment Insurance Law recognizes very clearly the dangers inherent in past policies and has set itself to correct them as rapidly as possible. The appointment of Negro eligibles from the interviewers' and clerks' lists has been made without reference to certain areas or capabilities and the free interspersions of Negroes among the personnel will, in the future, make it difficult for those exceptional employees who allow personal animus to enter their professional tasks to do so without their soon being reminded of their responsibility by their Negro colleagues.

The Commission does not, however, feel that the placement figures referred to above really prove that the employment needs of Negroes are as yet being satisfactorily met by the Division. These placements have been made almost entirely in the "traditional jobs" usually held by Negroes. Consequently, they have no effect on the problem as outlined in the preceding pages of this

report. The white-collar placements have been made for the most part among Negro employers or in businesses serving Negro neighborhoods, and in temporary jobs of emergency nature.

It has been the policy of the Division of Placement and Unemployment Insurance to adopt a "neutral" attitude concerning the employing prejudices of employers who place job orders with the service. The interviewer is not supposed to raise the question of employers' racial or religious prejudices and where none is expressed to make referrals of applicants regardless of racial or religious distinctions. Where the employer expresses a preference, on the other hand, the interviewer is supposed to offer no contrary suggestions but to fill the order as specified. Employers have reported to the Commission violations of this rule by interviewers, who have asked for the employer's racial preference when none had been suggested.

Even if such violation did not exist, however, your Commission feels that from the standpoint of the general welfare of the State, the Division cannot afford to be "neutral" in such a matter. This report has shown the anti-social results of employment discrimination. The experience of at least one State Employment Office has shown that many employers, if properly approached, will consider accepting referrals of Negroes, Jews or any racial group against whose referral prejudices have originally been expressed. The Commission feels that the Division should train its interviewers in making such approaches or should establish somewhere in its procedure a strategy for expanding employment opportunities which are now closed to workers of disadvantaged minority groups; a program, for instance, such as in process of development by the joint committee of the Advisory Councils of the Division.

2. Private Employment and Trade-Union Policies

In the field of agreements between employers and employees, i. e., collective bargaining, your Commission also finds certain difficulties of approach. Collective bargaining may be considered in one aspect a private agreement between an employer and his employees concerning only the interests of those responsible for the agreement. In another sense, however, such an agreement becomes a broader matter and one concerning the general public interest, for it involves not only wage levels for the persons in question and the standard of living of a portion of the community, but also, in the case of a closed shop, even the work opportunities available to those who are not participants in the agreement.

The State has recognized this fact in passage of the State Labor Relations Act by the Legislature of 1937. Under the terms of this act a labor union may appeal to the State for protection of its statutory right to collective bargaining, and for protection against alleged acts of discrimination on the part of the employer to the union or its members. In according such protection the

State has the right and assumes the obligation to insure that the protection thus given shall not support the union in unfair practices toward other workers.

That many unions are guilty of such unfair practices especially toward the Negro group, is a matter of proven fact. It is openly admitted, even by trade-union leaders, that a considerable number of international unions exclude Negroes from membership and privileges, either by provision in the international constitution, or by practices in the ritual of initiation, or by tacit understanding among their officers.

A report by the United States Bureau of Labor Statistics, "*Handbook of American Trade Unions*," 1936 edition, lists 18 international unions which exclude Negro membership by constitutional provision and four which admit them to separate locals only. A study by the National Urban League in 1930, "*Negro Membership in Labor Unions*," and a more recent study made by Dr. Charles L. Franklin in 1936, "*The Negro Labor Unionist of New York*," list 24 international unions which exclude by initiation rituals.

Inquiries were addressed by the Commission to these unions, 20 of which included in their combined memberships a total of 683,592 workers. Sixteen of them, accounting for 609,789, or 89.2 per cent of their membership, replied to the inquiries. Thirteen internationals state that their restrictive policies still held good. One reports that in 1936 "the word 'white' was eliminated, so that there is no discrimination against any colored men who have the qualifications to make application for membership in our organization."

Another states that the word "white" was eliminated from the constitution at the 1935 convention, as "practically meaningless," since "there are no colored telegraphers."

Still another reports that since 1936 the constitution was changed to permit admission of Negroes in separate lodges on roads where their employment "has become a permanent institution." No Negro delegates are permitted to represent such lodges at convention, federations or board meetings.

Two unions continuing their exclusionist policies state that their requirements for "white membership only" are based upon the employment practices of the industries in which they are organized.

The Commission has no complete figure showing the New York State membership of these unions, but it is sufficiently large and numerous to exercise an important influence on the policies of organized labor toward Negro membership.

Even where no discriminatory policies are authorized by their internationals, union locals frequently make a practice of excluding Negroes from membership due to prejudices of influential

members or officials. Sometimes Negroes are admitted grudgingly, but they are excluded from an equal share in the benefits of membership by being denied their regular turn on such jobs as are filled by the unions.

Refusal of membership to Negroes has been reported in many building trade-union locals, where again no constitutional bar to Negro membership exists and where discrimination is accomplished solely on the authority of local officials. Only a strong revolt on the part of the liberal members of the painters' union of New York City broke down a discriminatory policy which has been practiced toward the Negro painters of the city.

Negroes frequently suffer in trade-union employment through the job-filling policies established by the unions of which they are members. Some unions maintain hiring halls from which workers are sent in response to employers' requests. It was alleged that in a union of garage washers and cleaners, in which 50 per cent of the membership are Negroes, the hiring officials, all of whom are white, consistently discriminate against Negroes, sending them out on employers' calls only when no whites are immediately available. A union of motion picture operators in New York City, refusing admission to Negro motion picture operators for many years, first admitting them on an "auxiliary basis" and finally to regular membership, but restricted their employment, even today, to the Harlem area. Even in this area, it is charged that the jobs in the best paying theatres are reserved for whites.

It is with these considerations in mind that the Commission has recommended legislation designed in some measure to protect workers of minority groups from unfair discrimination by labor unions. The policy of our law, as developed both by the courts and the Legislature of this State, regards a labor organization as a beneficent cooperative association of workmen to unite their bargaining power for a contest with capital. When, however, such an organization, having or seeking a closed shop, i.e., a monopoly of employment in the particular craft or plant unit, deliberately practices racial discrimination it becomes an engine of oppression far more powerful than any combination of capital.

It is arguable that by so doing it forfeits all claim to the protection of our law, including even those statutory provisions which protect it from condemnation as a conspiracy in restraint of trade (General Business Law, sec. 340) and those which shield it, in its conduct of labor disputes, from the traditional processes of courts of equity (Civil Practice Act, secs. 876-a and 882-a). We do not, however, urge so extreme a view. Neither do we suggest any direct regulation by the State of the admission or referral practices of the offending unions—a course which, however logical, is obviously fraught with grave dangers. We do believe, however, that the State cannot consistently extend to labor organizations which so grievously injure a portion of our citizens in the elementary right to seek employment the special protection of the State Labor Relations Act, and of the tax-supported machinery for its

enforcement. No labor organization which practices racial discrimination in its selection of members, or in its designation of members to employers for employment, dismissal, etc., should, we submit, be entitled to the benefits of the act. Legislation to this effect (although relating solely to discrimination in admission) is already found in Pennsylvania, and we recommend a corresponding amendment to our own statutes. (See Bill No. 1, attached.)

In connection, however, with public utility employment, in which it is already the declared policy of the State that there shall be no denial of employment because of race, color or creed (Civil Rights Law, sec. 42), we believe that the Legislature may properly go farther, and expressly condemn closed shop agreements with unions which practice discrimination. This matter we shall discuss more fully at a later point in connection with public utility employment.

The objection may be advanced that the provisions proposed may afford an unscrupulous employer an additional weapon for resisting union pressure. Recognizing the force of this objection, we have recommended that the charge of discrimination may not be leveled against a union by an employer, but only by a person who asserts that he has been discriminated against by such union because of his race, or by an organization representing such race.

It is far from this Commission's intention, however, to take the position that the employment difficulties of the Negro population begin with this labor-union discrimination or end with its elimination. If this were true, we would expect to find that in those fields dominated by the newly-grown industrial type of union, a recent and marked expansion of Negro employment would have taken place, for it is true that these new industrial unions have generally been far more liberal in their racial policies of membership than have been the older and more conservative unions.

Actually, the entrance of the industrial union upon the organizing scene has not thus far created such an expansion except in rare and limited cases. Reference has already been made to a Yonkers carpet factory, said never to have employed a Negro in more than 50 years, which recently signed a contract with an industrial union. Negroes are still excluded from its employment, and the union's president admitted at a hearing of the Commission that the union had no plans for changing these unfavorable conditions, although its constitution states that membership is open to all workers regardless of race or creed.

The reason for this ineffectiveness of the union in promoting new job opportunities for Negroes lies in the trade-union philosophy that the union does not obligate itself to find jobs for its members but protects its members on the job after they have secured it. Even enlightened unions, therefore, take the attitude that it is the employers' responsibility to give the Negro worker a job and the union's responsibility to include him in membership and union benefits after he has secured his job.

3. Public Employment

Those jobs in the employ of the State or its subdivisions, generally included under the term "Public Employment," appear to your Commission as being sufficiently numerous and important to warrant special attention. Here is an area where the State has an opportunity to furnish other employers with a specific demonstration of the principle which is expressly embodied in our statutes—that the Negro shall receive equal treatment with other citizens in securing employment and other citizenship opportunities. Were there no other reason than this, public employment would warrant special attention. But there is another reason. Public employment opportunities constitute a great and growing part of the total field of employment opportunities in the State. While exact figures are difficult of compilation, it may be estimated that of the five and one half to six million persons employed in the State no less than 250,000, or from 4 to 5 per cent, were receiving their compensation from public funds (exclusive of those employed on relief projects).

There is still another standpoint, relevant to the present discussion but often overlooked, from which the public employee assumes an importance greater than his mere numbers indicate. Public employment is on the whole markedly more secure and stable than is private. To the extent, therefore, that public employment is found among the members of a given group, whether family, local community or racial community, it tends to be a valuable stabilizing force in the economic life of that group. The public employee, whether by his unimpaired purchasing power or by his assistance to other members of the group, tends to absorb the shocks which unemployment and irregularity of employment inflict upon him.

The Negro group suffers far more than does any other group in the State from unemployment and irregularity of employment. To the Negro group, therefore, the stabilizing values of public employment are more important than to any other group.

From the standpoint of Negro employment, the crucial question regarding any branch of the public service is: To what extent is the selection of appointees based upon a system of formalized competition open to all citizens on equal terms? Experience demonstrates that where such a system exists, qualified Negroes find employment in the public service on the whole with no, if any, more difficulty than do whites; and that where no such system exists, the proportion of Negro employment is, for whatever reason, likely to be very low. Consequently, in reviewing, as a field for the employment of Negroes, the various branches of public employment in the State, your Commission has given primary consideration to the question of the extent to which formalized competition exists. For this purpose the procedure followed in the labor service in some cities, in which names of qualified appli-

cants are placed on an eligible list in the order in which their applications were received, is regarded as competitive, as well as the competitive examination procedure followed in filling positions in the competitive class.

A. STATE SERVICE

The cardinal fact regarding the State service, numbering, as of 1938 approximately 42,900 persons, is that only a minority of these, totaling but 41 per cent, is selected by open competitive methods. As to the remainder, the appointing officer (nominally the head of the department, but in practice often a subordinate) has virtually as uncontrolled a discretion in appointment as has any private employer.

(1) Positions Filled by Open Competitive Method

In the competitive class, now comprising some 18,000 positions, appointments are made from eligible lists promulgated by the State Civil Service Commission, as the result of competitive examination. The opportunity for unfair discrimination against Negro applicants for such positions occurs only in the rating of experience or oral tests, or in the selection of appointees from the eligible list (the appointing officer being permitted to select any of the first three names on the list), or in determination of entrance salary.

With respect to the first possibility, the procedure of the Civil Service Commission is carefully designed to prevent any abuse. Though allegations of such abuse have been brought to our attention, our investigations thus far have not revealed its existence. The substantial number of Negroes on eligible lists in recent years is an indication that equal treatment probably exists here.

With respect to the second possibility, allegations have been made that the discretion entrusted to appointing officers in selecting one out of three eligibles for a vacancy has been abused in connection with Negro eligibles, who have been passed over, so it is alleged, in favor of white eligibles lower on the list and having no superior qualifications, and indeed having inferior qualifications in some cases. Satisfactory evidence in substantiation of such allegations is difficult to obtain in view of the nature of such cases. We have, on the other hand, been assured in writing by the heads of virtually all the State departments, in response to our inquiry, covering the years 1936 or 1937, that no Negro eligible was, during that period, passed over in favor of a white eligible lower on the list. Nevertheless, we submit for the consideration of your honorable bodies the question whether, with the present development of examination methods by the State Civil Service Commission, the discretion hitherto permitted the appointing officer has not outlived the necessity originally thought to exist for its

creation. Two methods for limiting this discretion of the appointing officer have been suggested:

- a. That he be not permitted to pass over the name of any eligible unless specially authorized to do so by the State Civil Service Commission.
- b. That he be permitted to exercise his discretion as at present, but be required to justify his discretion in passing over an eligible by a sworn statement of his reasons therefor, to be filed with the State Civil Service Commission.

Your Commission does not feel warranted in recommending the first and more drastic of these suggestions (which it is believed would in any event require a constitutional amendment for its realization). It has no hesitation, however, in expressing its view that the second and less drastic alternative should immediately be enacted into law. Such an enactment can in no way impede or impair the administration of the public business. On the other hand, it will guard against the possibility of abuse of discretion by appointing officers, and will help set at rest suspicions of racial discrimination where the facts afford no grounds for such suspicion. A bill directed to this end has been prepared by this Commission. (See Bill No. 2 attached.)

A similar bill was submitted to your honorable bodies by this Commission last year and was passed, but was vetoed by the Governor. (Senate Bill, Int. No. 974, Pr. No. 2394.) The reason assigned by the Governor for his veto was that the appointing officer "should have a free choice from among" the three eligibles certified to him. By further limiting this choice, I am advised by department heads and by many proponents of a strong Civil Service, we would seriously impair the efficiency of government administration under the Civil Service."

Your Commission is constrained to say that it does not regard this criticism as well-founded. It is not apparent how the proposed measure in any wise limits the discretion of the appointing officer. His freedom of choice remains wholly unimpaired, and indeed, even should he choose to abuse his discretion, no actual check is provided. The possibility of abuse is, however, somewhat reduced by the requirement that the appointing officer make for record his reasons for the exercise of his discretion.

Nor is the view of the department heads and the proponents of a strong Civil Service, upon whose advice the Governor relied, shared by all qualified persons. In the course of its hearings, the Commission has interrogated a number of public officers, both State and local, regarding the practicability of the proposal embodied in this measure. In no case has any such officer taken exception to the proposal, except on the score that it does not go far enough to be effective. Warm endorsement of the proposal has been had from experienced Civil Service administrators. The President of the State Civil Service Commission has expressed

herself as in favor of the proposal, as have also all the members of the New York City Commission. In the case of one important municipal department in the city of New York, the procedure proposed in this measure has been voluntarily adopted by the head of the department. The Commission strongly recommends the reenactment of this measure.

In the fixation of initial compensation, appointing officers have in the past enjoyed in many areas of the competitive class a considerable latitude, obviously susceptible of abuse for racial reasons, as well as for other reasons not related to the good of the service; and allegations have indeed been made in the course of our investigations that occasional instances of such abuse at the expense of Negro appointees have been known. The enactment however by your honorable bodies in 1937 of the so-called Feld-Hamilton Act (Laws 1937, chapter 859), providing a comprehensive scheme of grading of the entire State service and requiring all appointments to be made at the minimum salary in the grade, will presumably eliminate all possibility of such abuse in the future.

(2) Positions Filled at Discretion of Appointing Officer

The positions in the State service for which no lists are established by the Civil Service Commission, and for which the appointing officer thus makes his own selection, fall, for purposes of the Civil Service rules, into four classes, designated as exempt, non-competitive, labor and unclassified. The exempt class, is of course for the most part political, and need not here be considered. For the present purpose the remaining three classes may be treated as one. They embrace almost exclusively positions in the State buildings and in State institutions. While for the most part composed of positions of minor importance, they include not a few professional and technical posts, some carrying substantial compensation, notably in the various State educational institutions.

The extent to which the discretion thus entrusted to appointing officers in this extensive field may have been abused for the purpose of discriminating against Negroes is very difficult of accurate appraisal. Definite and conclusive evidence has been laid before the Commission that such discrimination has been practiced in positions in the labor class in the Albany force of the Division of Public Buildings in the Department of Public Works, where Negroes, though employed as cleaners in a grade carrying the minimum rate of compensation have been excluded from employment in the next higher grade. At the Albany hearing in 1937, frank admission of this practice was made before the Commission by the Superintendent of Public Buildings, who stated it to have been a practice of long standing in that department. Despite the fact that this condition was brought to the attention of the Superintendent of Public Works, no rectification has been effected.

Of the nearly 20,000 employees in the hospitals under the jurisdiction of the Department of Mental Hygiene, only six are Negroes

—and this despite the fact that there are in this service larger groups of employees engaged in occupation in which one would normally expect to find Negroes (the kitchen, dining room, bakery and laundry services alone having over 2,000 employees) and that several of the largest of the institutions in question are within the metropolitan area, one of them, indeed, the Manhattan State Hospital on Ward's Island, being only a short distance from Harlem. In the construction forces employed by the Department of Public Works, a force of fluctuating size, numbering at the height of the season as many as 15,000, Negroes are almost unknown. The total number of Negro laborers employed at the close of 1937, when the force numbered some 3,000, was 11, an average of one for each of the 11 districts in which this work is organized, the average being just as low in the districts bordering on the metropolitan area as in other parts of the State. These two services account for the overwhelming proportion of the State's employees whose employment is wholly in the discretion of the appointing officer. In certain other areas in this category, the percentage of Negro employment is slightly higher, but nowhere is it other than negligible.

To what extent the failure of the Negro to find employment in these services may be due merely to his failure to seek such employment—a failure which is often due to a conviction, sometimes not altogether well-founded, that his application will receive no consideration—and to what extent to the existence of a tacit understanding among departmental officers, not necessarily embodied in any formulated policy, that only whites are to be employed, your Commission is unable to state; and it is by no means certain that even an extended investigation which your Commission was not in a position to undertake would succeed in arriving at the whole truth of the matter.

Under present procedure, a citizen may make application for employment, it is true, but he has no way of knowing when applications are desired, how his application is recorded or his qualifications appraised, or whether appointments are made in accordance with those appraisals. It thus becomes virtually impossible to ascertain whether, in any given branch of the service which is recruited in this manner, the absence of members of a particular race is due to discrimination against that race or to the mere failure of members of that race to make application for employment.

Obviously, unless a regular procedure is established and publicly announced, there can be no assurance that racial discrimination will not be practiced; nor can there be confidence on the part of racial, religious, or other groups, or of the citizenry generally, that discrimination is not being practiced and that employment is determined on a basis of merit alone. We strongly urge:

- a. That the Civil Service Law be amended so that appointments in the labor class in the State service will be made

from eligible lists established under the direction of the State Civil Service Commission, qualified applicants to be placed on such lists in the order of their application; and

- b. That, as promptly as possible and to as great an extent as practicable, the State Civil Service Commission transfer positions in the non-competitive and labor class of the State service to the competitive classes.

Mere extension of regulations and classifications will, however, be a futile gesture unless the Civil Service Commission is furnished with funds adequate for the conduct of the examinations and clerical procedures necessary to give effect to such regulations. The Commission has in recent years been placed under an increasing burden incident to the establishment of new State services, composed largely of positions in the competitive class, and its appropriations have not been correspondingly increased. Inevitably there has been an increase of the number of provisional appointees in the competitive class, and an inability of the Civil Service Commission to institute any program for the transfer of positions in the non-competitive and labor classes to the competitive class (which program it has had under consideration for some time). These factors make for increasing possibilities of racial discrimination. An immediate and generous increase in the appropriations to the Commission, such increase being earmarked for the special purpose mentioned, is therefore strongly recommended.

B. CITY OF NEW YORK

The persons in the employ of the city of New York are selected to a greater extent than in any other area of public employment in the State, if not indeed in the Nation, by formalized open competition, the appointing officer being required to make appointments from eligible lists prepared for him by an independent examining body—the Municipal Civil Service Commission (pursuant to the Civil Service Law), or, in the case of teachers, the board of examiners of the Department of Education (pursuant to the Education Law). In the city service proper, numbering approximately 100,000, all but some 15,000 are so selected. In the teaching service of the city virtually all are so selected, the exceptions comprising persons in specialized supervisory positions. (The selection of members of the teaching staffs of the city colleges is however in the discretion of the appointing officers.)

The assurance of equal treatment in the city service has attracted many Negro applicants. There are to be found in this service Negro policemen, firemen, public health nurses, teachers, clerks, ticket agents and trainmen on the city-operated (“Independent”) subway, and a considerable number of employees in numerous other classes. Under the competitive system of promotion in force over many areas of the service, moreover, Negroes have secured promotion, in some cases to major positions. There

is a Negro police lieutenant, two Negro police sergeants and a Negro fire chief of battalion.

On the other hand, there appear to be few Negroes in certain groups of positions in which one would expect to find them—notably in the so-called labor class, comprising manual trades and employments, both skilled and unskilled. Appointments to these are made from eligible lists prepared by the Municipal Civil Service Commission, the names of the applicants being placed thereon in the order of application. No satisfactory conclusion as to the factors responsible for this condition has been reached.

Where appointment is made from an eligible list, the appointing officer has, under the rules, the right to appoint the second or third, rather than the first, of the highest three eligibles. The opportunity thus afforded for possible exercise of improper discrimination by reason of race by an appointing officer has already been mentioned. It is to be observed, however, that so far as concerns the city departments under the direction of the mayor, this possibility has been severely restricted by reason of the requirement imposed by the mayor (in force for some years) that any appointing officer who desires to pass over any name certified to him for a position in the competitive class, in favor of a name lower on the list, shall obtain permission from the mayor for such action, stating the reasons therefor. Information as to the number of times that such permission has been obtained is unfortunately not available.

In the departments not under the mayor, certification has been made to us by the heads of such departments that in no case during the period covered by our inquiry (1936 and 1937) was a Negro eligible passed over in favor of a lower white eligible.

There is, nevertheless, an unmistakable apprehension among Negro applicants for city positions that the discretion thus entrusted to the appointing officer may be abused to their disadvantage; and we are unable to say, from the limited inquiry we have been able to make, that this fear is entirely groundless. In any event, a procedure which generates suspicions that can be dispelled periodically by a legislative investigation is hardly satisfactory. We therefore renew, with respect to the city of New York, the recommendation made with respect to the State service, that any appointing officer passing over an eligible be required to record his reasons therefor. (Mention has already been made of the fact that in one of the principal city departments this practice is already followed by the appointing officer.) The recommendation is accordingly so framed as to cover both State and city services.

The positions, appointment to which are in the uncontrolled discretion of the appointing officer, numbering some 18,000, are found chiefly in the city hospitals.

With respect to the nursing staff, no complaint can be made with respect to the number of Negro nurses employed. Of the 4,511 nurses in the employ of the department, 982, or 21.7 per cent, are

colored. Examination of the distribution of these nurses among the several hospitals of the department suggests, however, that their appointment has resulted chiefly from a policy of racial segregation rather than from an impartial consideration of the merits of the several applicants for nursing positions, without regard to race or color.

Of the 26 city hospitals, 21, employing 70 per cent of the department's nursing staff in early 1938, had no colored nurses whatever; one, employing 6.2 per cent of the nurses, had only three colored nurses; and four, employing 23.8 per cent of the nurses, had 99.7 per cent of the Negro nurses. Your Commission notes with much gratification, however, that a short time after its New York public hearings in January, 1939, at which officials of the department testified, two Negro nurses were appointed to Bellevue hospital, a municipal hospital which had never engaged any Negro nurses. Yet, the evidence before us indicates clearly that this racial distribution of the city hospital nursing staff, unparalleled in any other branch of the public service, is the outcome of a deliberate policy of racial segregation, rather than, as has been sought to be conveyed, the result of the abandonment by white nurses of hospitals employing Negro nurses—an abandonment not experienced, curiously enough, in one of the most remote and otherwise less attractive of the city hospitals—the Sea View hospital for advanced tuberculosis cases, in which alone the policy of racial segregation has not been applied.

It is recognized that the unification of a number of hospitals formerly largely autonomous into a single system cannot be accomplished overnight. It is, nevertheless, our conviction that whatever may have been the historical factors which contributed to the existing situation, the time has come for a definite and determined break with the past.

As rapidly as practicable, the existing system of segregation should be broken down and abandoned in favor of a system in which the assignment of nurses to the several hospitals would be made on the basis of merit alone, without regard to color. The Commissioner of Hospitals has emphasized, in his testimony before us, the necessity of affording those charged with the administration of the hospitals the fullest discretion in the assignment of nurses, so that the best qualified nurse may freely be assigned to the particular variety of specialized nursing duty required. It would seem clear that the existing policy of racial segregation is wholly inconsistent with this requirement.

Indeed it is likely that this policy of racial segregation has at times resulted in the staffing of hospitals with inferior nurses. In a hospital staffed by Negro nurses, a Negro nurse of inferior qualifications will be chosen, as the Commissioner of Hospitals admitted, when white nurses of superior qualifications are available. Similarly, in case of a white staff, a superior Negro nurse may be passed over in favor of a less qualified white person. In either case, of course, the patients of the hospital concerned have

been given inferior nursing service because of their race—the racial segregation of nurses having corresponded, needless to say, to the predominant racial composition of the patient population of the several hospitals.

Under the present procedure, the appointment of the nurses of the departments in the several hospitals rests in the hands of the several superintendents, with little or no official central control. Indeed so autonomous is the position of each of the 26 hospitals that no procedure exists in the department for a transfer by a nurse from one hospital to another without severance from the payroll. Such a transfer can be accomplished only by the nurse procuring a promise of appointment in a hospital to which she desires to be transferred and then resigning from the hospital in which she is serving.

Without intending to suggest that this anomalous organization of the hospital system, unparalleled in any other department of the city government, has been consciously perpetuated for the purpose of making it impossible to lay at the door of the central administration responsibility for the segregation which has come to exist, we are constrained to say that the result has been to make it difficult to fix the responsibility. It is the conviction of your Commission that an adequate solution of the situation which has developed can be effected only by the centralization of control over the appointment and assignment of nurses in a single authority in the department.

We shall have occasion to make a similar observation with respect to the system used in the training schools for nurses operated in conjunction with several institutions of the hospital system.

We are pleased to record that although in the main the situation remains the same as it was when your Commission reported to your honorable bodies last year, there have been a few changes made since that time which warrant the hope that the complete equality of treatment urged by your Commission may eventually be brought about.

C. CITY OF BUFFALO

In the city of Buffalo, as in the city of New York, the selection of city employees from eligible lists (prepared for other than teaching positions by the Municipal Civil Service Commission, and for teaching positions by a board of examiners established pursuant to the Education Law) is the rule, although the proportion of city employees selected at the discretion of the appointing officer appears to be somewhat larger than in the city of New York. There are Negroes both in the city service proper and in the teaching service. Our limited investigations do not enable us to express an opinion as to the fairness with which these systems of selection are administered. Allegations of discrimination have reached us, but we are not prepared to express our opinion as to their accuracy. Some of them relate to the alleged passing over of Negro eligibles in favor of white eligibles lower on the list, a matter concerning which

we have already made recommendations. Others allege discrimination of such a nature as that susceptible of correction, should it recur, under the more general legislation shortly to be recommended.

Information sufficiently extensive has not been obtained to warrant a characterization as to those areas in which selection is at the discretion of the appointing officer. It is admitted, however, that no Negro has until 1937 been admitted to the nurses' training school attached to the municipal hospital, and this, in effect, means the exclusion of Negroes from the nursing service of the hospital.

Rectification in this field must be expected through the assimilation of positions in city institutions and in the non-competitive service generally, to the competitive and labor classes, a process already under way, as has been indicated, in the city of New York. Progress in this direction depends on the initiative of the local civil service commission. We shall advert at a later point to the desirability of increasing the influence of the State Civil Service Commission in this connection.

D. OTHER CITIES

In each of the remaining cities of the State there is, pursuant to the Civil Service Law, a municipal civil service commission operating under the more or less nominal supervision of the State Civil Service Commission. Complete data regarding the situation of the services totaling well in excess of 50,000, under the jurisdiction of these commissions, have been difficult to obtain.

Our information regarding several of the principal cities adjacent to New York indicates the employment of a few Negroes in positions as engineer, clerk, patrolman, welfare investigator, and playground attendant, as well as in the positions of cleaner, laborer, automobile mechanic and the like. This suggests that the Civil Service rules are being adhered to, but no information is available as to the extent to which Negroes may have attempted without success to enter the services of these municipalities or of those more remote from the city of New York.

The State Civil Service Commission has urged in its report to the Governor for 1936 that adequate provision be made for the effective exercise of the duty of supervision of the several municipal commissions imposed upon it by the Civil Service Law, by the creation of a bureau whose work would be to review and inspect continuously the work of the municipal commissions, and to report to the State commission the measure of observance of the merit system in each city of the State. Your Commission is strongly of the opinion that appropriate action by your honorable bodies on this recommendation would serve greatly to increase the confidence of the Negro population of the State, as of other groups, in the fairness and strictness of the administration of the merit system by the several municipal commissions.

So far as concerns the teaching services of the cities under consideration, our statutes contain not a single word expressive of even an intent, much less a plan, to insure that appointments therein shall be made, as required by the Constitution of the State, "according to merit and fitness, to be ascertained so far as practicable, by examination which, so far as practicable shall be competitive." The Legislature has seen fit, while recognizing teaching positions in these cities as being embraced in the Civil Service, to place them beyond the control of the municipal civil service commissions (Civil Service Law, sec. 8), and to provide no alternative machinery of selection.

Such exclusion does not by any means constitute a determination, however, that it is impracticable to make appointments to such positions "according to merit and fitness, to be ascertained so far as practicable, by examination, which, so far as practicable, shall be competitive;" for precisely such a system of making appointments has, as already noted, been provided by statute for the cities of New York and Buffalo. That it would be equally practicable to do so for at least some of the larger cities of the State seems to us indisputable. Only thus can any meaning be given, so far as the teaching service of the cities are concerned, to the existing statutory provision (Penal Law, sec. 514) prohibiting racial discrimination in public employment. Only thus can Negroes be assured an opportunity for employment in the teaching services of the cities, an opportunity they now wholly lack, as our limited, but on this point sufficient, investigations indicate.

Certainly there should be no objection to the promulgation by the board of education of each city of formalized regulations for the selection of its teachers, providing for the creation, by some regular procedure, of eligible lists—regulations, which will no doubt in due course provide for some form of competitive examinations or formalized appraisal of candidates for at least the more common positions.

Legislation requiring the adoption of such regulations by the several boards of education, under the supervision of the commissioners of education, is recommended. (See Bill No. 3, attached.)

We deem it our duty to advise your honorable bodies that the Commissioner of Education has expressed to us his considered opinion that the appointment from eligible lists of teachers in the cities under consideration would not be in the best interests of the schools of the State and his belief that any attempt in that direction would be opposed almost unanimously by all the educational forces of the State. Inasmuch as the Commissioner has declined, on the ground that "the situation is so intricate and the reasons so involved," to communicate his reasons to us at this time, we are unable to form any opinion as to the validity thereof.

On the other hand, we have had before us the superintendents of schools of several of the cities of the State, both large and small, and have interrogated them as to the practicability of the proposal

under discussion. Without exception they have expressed a favorable view. In the light of these expressions, we feel constrained to question the correctness of the Commissioner's belief that any attempt in the direction contemplated by the measure proposed would be opposed almost unanimously by all of the educational forces of the State.

E. VILLAGE, COUNTY AND TOWN SERVICE

The civil employees of the several villages, counties and towns of the State, other than those in the teaching service, number some twelve to thirteen thousand. Of these only a minority are in the competitive class. From such incomplete information as the Commission has been able to assemble, it would seem that in the village and county services adjacent to the city of New York, in which Negroes would perhaps be expected to be found, they have gained but little foothold in the services in which selection is in the discretion of the appointing officer. The total field of employment here is of course much smaller than that of the State or municipal service, and in any event much of it is found in areas in which there are few Negroes. Nevertheless, we deem it proper to urge here, as in the State service proper, the reduction of the area in which selection is wholly in the discretion of the appointing officer, and the extension of the competitive examination and of the labor class registration procedure. The control of these services rests, except in the case of Nassau County, with the State Commission, and we repeat here what has already been said regarding the necessity of the more adequate financing of the State Commission's activities.

SUMMARY

The improvement of the position of the Negro in public employment is to be sought primarily in the extension of formalized competitive procedures for selection. Promotion, salary increases and retention are also matters in which the possibility of discriminatory action by a superior officer should be checked, as much as practicable by formalized procedures. Such protective procedures lie, however, in the province of administrative rather than of legislative action; and we therefore forbear laying any extended discussion of them before your honorable bodies.

We are of the opinion, however, that there should be, in our statute, more effective provisions than now exist for bringing to light, and correcting, any particular case of racial discrimination that may occur. It is indeed shocking to learn that our statutes contain no provision whereby a department of the State government may be compelled, even through administrative procedure, to abandon its long-standing practice of excluding Negroes from entrance or promotion to a group of positions carrying a somewhat higher salary rate than those of another similar group in which Negroes are regularly employed.

The sole reference in our statutes relating generally to discrimination in public employment is that found in the Penal Law, in a provision primarily designed to deal with other matters. The provision in question (Penal Law, sec. 514), as originally enacted, made it a misdemeanor to exclude any citizen "by reason of race, color, creed or previous condition of servitude," from "equal enjoyment of any accommodation . . . furnished by innkeepers or common carriers or . . . theatres or other places of amusement or . . . common schools or public institutions of learning, or . . . to deny, or incite another to deny, such equal enjoyment, etc. In 1918, this statute was amended by inserting the words "public employment" parallel with the words "equal enjoyment." So far as we can ascertain, no prosecution founded on an alleged refusal, denial or incitement of denial of "public employment" to the complainant by reason of his race or color has ever been instituted, nor is it likely that any will be. Always there is involved the question of the relative fitness of the applicant for such employment; with the resulting impossibility, except perhaps in the most glaring case, of demonstrating that the refusal or denial of employment was due to the race or color of the applicant. It is our belief that a statute, designed to bring exposure and correction of abuse by administrative inquiry, rather than its punishment by criminal prosecution, is much to be desired. We have accordingly drafted proposed amendments to the statutes, providing for investigation of allegations of racial discrimination in appointment to the public service by the appropriate civil service commission, State or municipal. (See Bill No. 4, attached.)

Notwithstanding our belief that administrative rather than penal procedure should be chiefly relied upon for the prevention and correction of discriminatory practices in the public service, we do not favor abandoning the penal weapon. On the contrary we urge that it be strengthened. To this end, and in the belief that discrimination in public employment cannot satisfactorily be treated as at present, through merely an item in a provision dealing primarily with discrimination in places of public accommodations, we propose an entirely new section of the Penal Law dealing with this subject. (See Bill No. 5, attached.)

Both in this statute and in that providing for administrative redress against discrimination, we have incorporated the novel but self-evident principle that a preference shown by an administrative officer, whether in appointment or retention, for a less qualified person as against a better qualified person of a different race, color or creed, is presumptive evidence of racial discrimination.

4. Public Works Employment, Public Utilities, Insurance Companies and Banks

A. PUBLIC WORKS EMPLOYMENT

Though most of the workers engaged on public works construction are not directly in the employ of the State, their jobs are to a large extent controlled by the State or its subdivisions hiring the

contractors involved. Specific legislation has been passed forbidding racial discrimination in employment by public works contractors or sub-contractors or their employees. Complaints of Negroes regarding difficulties in obtaining employment on construction work which is carried on by contractors under contract with the State or its municipalities, have been heard for some years. Some evidence pointing to such difficulties at the present time has been laid before this Commission. The Commission has not had sufficient opportunity to examine thoroughly even those complaints which have been received, for they cover a wide area of both territory and types of contract work. The Commission feels, however, that the persistency of these complaints furnishes strong basis for suspecting that discrimination against Negroes continues to exist on a number of contract jobs, in spite of the legislative enactment of 1935 referred to above.

So far as discrimination does exist, it must be attributed not only to the attitude of contractors, themselves, but also to the practices of labor unions. Testimony before the Commission points to this conclusion. Closed shop agreements between such labor organizations and contractors on public works projects are not common, but it is common to find these contractors choosing their workers from the membership of particular craft unions even without formal union agreement. This is done because the contractor knows that generally in this State the building and construction trade unions are sufficiently powerful to control the labor supply, and for him to insist upon non-union workers where a union can supply sufficient workers would easily precipitate a strike.

When the employer restricts himself to union membership in choosing his workers, and when such a union bars the membership of Negroes or refuses to designate them for jobs in fair proportion, a form of racial discrimination on public works projects results. It is a form of discrimination particularly difficult to reach directly because responsibility for the situation can be passed back and forth between the contractor and the union. It is, however, an especially significant form of discrimination since Negro citizens as taxpayers are denied their right to secure employment on public construction which they help to finance out of the public funds. It is a problem which requires and should have exhaustive and continuous study.

Frequently, however, discrimination can be traced to the contractor or sub-contractor or a foreman or superintendent in his employ. In such cases our statutes have already attempted to supply a remedy. By an enactment of 1935 (Labor Law, sec. 220), every State or municipal public works contract is required to continue provisions prohibiting racial discrimination in employment by the contractor or sub-contractor, or by the employees of either of them, a penalty being provided by way of a deduction from payment of the contract price (of \$5 per day per employee dis-

criminated against) or by cancellation of the contract, or the forfeiture of all payments thereunder.

Although excellently intentioned, this statute has proven to be ineffective in actually removing discrimination on public works contracts. Such ineffectiveness is attested to by the fact that your Commission has been unable to discover a single case of a contractor or his subordinate being charged formally with violation of the law, as well as by the fact that complaints of discrimination continue to be made with the same general fervor and with the same frequency as previous to the passage of the law.

The principal weakness of the statute lies in the fact that it provides no machinery for the enforcement of the contract provision thus made mandatory. The duty of enforcing the provision against discrimination is apparently intended to rest with the department or public official with whom the contract was made just as in the case of other provisions of the contract. If such were the expectation, it can easily be seen to be founded on a failure to appreciate the difference between these provisions against discrimination and the provisions of the contract generally.

A detailed inspection of the work by experienced officials or sub-contractors can readily detect a breach by the contractor of the substantive provisions of the contract, but such inspection would fail to detect a breach of the contract against discrimination. Even should the Negro suffering from discrimination complain to the department or official for whom the contract is being performed, this will hardly bring effective results. Such an official is not ordinarily skilled in or equipped for the task of quasi-judicial inquiry which the sifting of such a complaint requires. Still more important is the fact that the matter lies outside of his field of interest, which is the due and speedy completion of the works contract. The question of racial discrimination may be considered irrelevant to, if not actually inconsistent with, such speedy completion and the official might easily refrain from pressing the inquiry for lack of interest. The evidence given before this Commission has, more than once, clearly indicated this lack of interest.

It is our belief that the duty of the investigating and passing upon complaints of discrimination should be vested by the statute in some officer wholly removed from any responsibility for the completion of the work. The Industrial Commissioner seems to us the most suitable officer for the purpose. Appended is a proposed enactment, vesting in him such power of investigation, and making the stipulated deduction from the contractor's payment follow automatically from his findings. (See Bill No. 6 attached.) Provision is also made in the legislation proposed for the enforcement of the cancellation and forfeiture provisions of the contract. In order to furnish redress to the complainant, provision is also made for the recovery by him of a civil penalty, as in the case of a violation of the statute prohibiting racial discrimination in places of public accommodation.

B. PUBLIC UTILITIES

Public utilities of the State present one of the major areas in employment. A single utility alone, the New York Telephone Company, employs 10 per cent more persons than all the departments of the State government combined. Another utility, the Consolidated Edison System, made up of several constituent companies, also employs more employees than does the State of New York. Public utility employees (embracing in that term railroad employees as well as employees of rapid transit railroads, surface railroads, bus and street car lines, gas, electric, telephone and water companies) number upwards of a quarter of a million persons, constituting, it is estimated, something over 4 per cent of all persons in the State gainfully employed and nearly 5 per cent of all persons gainfully employed in the city of New York. Manifestly, unless Negroes are given equal opportunity in this vast area of employment, the grievous conditions resulting from their lack of employment with so many private employers are seriously aggravated. It is not only simple justice that the public utilities of the State, drawing their income through monopolistic franchises from the public as a whole, should employ Negroes on equal terms with whites; it is also of the highest importance to the State, both as a guardian of the health and happiness of its population and in its financial interest, that this large section of the population should be given an equal opportunity for earning its livelihood.

That this equality, demanded by simple justice and by the State's own interest, does not exist, has long been a matter of common knowledge. The inquiries made by your Commission in this connection have not exhausted the subject, but they furnish incontrovertible proof that the common impression on this subject is not only well-founded, but, if anything, fails to appreciate the gross inequity of the situation.

Observations concerning the metropolitan area are of paramount importance, because in that area alone is concentrated so large a proportion of the Negro population of the entire State that the complete exclusion of Negroes from any important class of public utility employment constitutes prima-facie and, in the case of some classes of employment, even conclusive evidence of deliberate discrimination. Even in this area we have excluded from consideration the employees of interstate railroads, numbering for the State some 85,000. Of the total of approximately 135,000 other public utility employees in the area, only 1.3 per cent are Negroes. Of the 1,837 Negroes who do find employment with the utilities in this area, nearly 60 per cent are found in such categories as porter, cleaner, matron, maid, washer, elevator runner and the like, which notoriously represent among the lowest paid, if not the lowest paid, classes in the organizations in question, and which offer no possibilities of promotion. An additional 25 per cent are employed as laborers, section hands and the like. In various large groups of employees, as in the case of telephone

exchange operators, clerical employees, trainmen, conductors and motormen on rapid transit lines (except on the municipally operated subway), and conductors and drivers of street cars and buses, Negroes are virtually non-existent.

Even more appalling are similar employment conditions in the up-State survey covering Rochester, Syracuse, Binghamton, and Poughkeepsie, which disclosed only 7 Negroes among 11,862 public utility employees—as in the metropolitan region, these Negroes held the most menial jobs, 2 being janitors, 2 porters and 3 maids.

Interrogated as to the reasons for the exclusion of Negroes from these claiming a right to employment, the executives of the utilities involved have in some cases offered no explanation other than that the employment of whites exclusively has long been traditional. In a few cases, however, it was frankly admitted that the exclusion of Negroes was deliberate. The justification offered in these cases was that the employment of whites and Negroes side by side would impair the efficiency of the service rendered. None of those who expressed this view were able, however, to point to any experience which justified such a belief; and all have admitted that the experience in the public service, including a large utility enterprise—the city of New York Independent Subway—has disclosed no difficulties.

The principal utility of the State, in point of numbers employed, has stated that it has,

“over a period of years, given much consideration to the question of employing Negroes but has always concluded that Negroes could not, because of force prejudice, be harmoniously introduced into its force. This conclusion has been based entirely on the management’s belief and conviction in the matter and no trial that would either verify or disprove this opinion has been made.”

It is gratifying to be able to report that this company has stated to us, that when its force situation and the volume of business again require it to add new people, it will, after consideration of the situation of former employees who have been laid off and who are seeking reemployment, make a trial by employing in certain sections of its force a number of Negroes who appear to be qualified.

Not a few of the utility executives whom we have called before us have, however, attempted to explain away the complete or almost complete absence of Negroes among their employees on the basis that the Negro population, for no cause whatever, has failed to make application for the positions in question. In response to the suggestion that the failure of Negroes to make such application, if there has indeed been such failure, has been due to the belief among the Negro population that application by Negroes for these positions would be a mere waste of time, these utility repre-

sentatives have assured the Commission that such an impression, if it has existed, is wholly unfounded. But none of them has taken any steps to correct this misapprehension.

The Commission feels it obligatory to record its belief that the explanations thus offered were not put forward in good faith; that the belief which has been entertained by the Negro community, that no honest consideration would be given the Negro applicants for the positions in question, has been well-founded. The utilities of both the metropolitan area and the up-State region have pursued in this connection a policy which, if normally unjustified when pursued by a private employer, is far more so when pursued by a public utility. There has been a reprehensible failure on the part of those charged with the management of these monopolistic institutions to recognize the obligation which they owe the public from which they derive their existence and support—the obligation to deal fairly with all groups in the population.

But it is not merely a moral or social obligation that is here involved. Since 1933 it has been the law of this State, enacted, as is well-known, in the effort to improve the employment opportunities of the Negro population of the State, that no public utility shall “refuse to employ any person in *any capacity*, in the operation or maintenance of a public service on account of the race, color or religion of such person” (Civil Rights Law, sec. 42) [*Italics ours*]. Responsible executives of some of the principal utilities of the State have not even paid to this law the nominal recognition involved in bringing it to the attention of those of their subordinates who are charged with the selection of employees. Indeed, some subordinate officers having control of the employment of large classes of employees were even wholly unaware of the existence of the law, until it was brought to their attention in connection with the hearings of this Commission.

The responsible officers of one of the largest utilities of the State, the one which has unequivocally stated that it has always excluded Negroes from employment and has made no change in its practices since the enactment of the statute, have announced that they regard such practices as lawful and intend to make no change therein; their reason being, apparently, that Negroes are not “refused” employment because of their race, but are merely not selected because of their unsuitability due to their race.

Such bland disregard by responsible public utility executives of the statutes of this State suggests at once that the statute is defective. Its weakness is indeed so manifest that presumably it was considered by the executives in question that its provisions could be disregarded with impunity. That weakness is twofold.

- a. No provision whatever is made for the enforcement of the prohibition.
- b. What is forbidden is not the maintenance of a standing policy of discrimination against Negroes, but the refusal

of employment on account of race (or religion) in a particular instance—an act almost impossible of proof in any particular instance.

It is our conviction, because such proof is impossible, that no mere revision, however impeccable, from a technical standpoint—nor even a proposed revision, designed to effect technical improvement, which has been prepared—will make the present statute effective. The effort is as clearly doomed to failure as would have been an attempt to uproot the spoils system in the public service by merely enacting that no person should be denied employment therein by reason of lack of political influence.

In this field, as in the field of public service, there is necessary not a mere negative prohibition but a positive program for insuring equality of opportunity—a program that will assure fair treatment, and will give assurance to all Negroes that such fair treatment does in fact exist. To accomplish these ends, we recommend the application to public utility employment of the principle laid down by the Constitution of the State for the public service, that all appointments shall be made on the basis of merit, and shall be filled under procedure open equally to all.

Specifically we propose that wherever practicable the public utilities of the State be required to adopt a formal procedure in employment, which procedure shall provide, among other things, for public announcement of prospective vacancies and of the qualifications therefor for public invitations for applications, for the acceptance of applications from all citizens of the State, for the grading, of such applications with reference to previously formulated standards on competency and qualifications, for the preparation of eligible lists based upon such grading, and for the making appointments from such eligible lists in regular order, consideration of race, color or creed to be expressly excluded at each step in the procedure.

We do not recommend that the employment officers of the several utilities be superseded, as in the case of public service, by an independent agency. We propose that the utilities continue, as at present, to do their own employing, but that they do so in pursuance of previously formulated procedures, insuring equal opportunity and equal consideration for all applicants and under the watchful supervision of a duly constituted State agency. A bill intended to effectuate these purposes has been prepared. (See Bill No. 7 attached.)

While these measures will, we believe, do much to insure a fairer treatment of the Negro by the utilities themselves, they leave untouched an aspect of the matter which has already assumed importance and which, all signs indicate, will become increasingly important as time goes on. Within the last few years large groups of utility employees have been brought under "closed shop" agreements between the utilities and labor organizations. If such labor organizations do not admit Negroes to mem-

bership, or if having admitted them they do not afford them equal treatment when members are to be designated to the utility for employment, the policy of the statute is set at naught. We therefore propose that it shall be made unlawful for a labor organization, equally with a utility, when a close shop agreement is in force between them, to practice racial discrimination. (See Bill No. 8 attached.) Moreover, we propose that before such an agreement may be entered into, opportunity shall be given for objection thereto by any citizen on the ground that the labor organization proposing to enter into such agreement practices racial discrimination, and for public inquiry into and determination of the merit of such objection. (See Bill No. 9, attached.) Mindful though we are of the objection invariably urged against any type of statutory regulation of labor organizations, that it places a weapon in the hands of the foes of organized labor, we still feel convinced that no labor organization which honestly practices equality has anything to fear from these proposals.

C. INSURANCE COMPANIES AND BANKS

Intermediate between the field of public utilities operating under monopolistic franchises and the field of purely private competitive enterprise freely open to any citizen who may wish to engage in it, lie those institutions which enjoy a measure of statutory protection from potential competition. Banks and insurance companies are in this latter category because no competitor may invade their field without procuring authorization therefor from the appropriate State officer.

We believe that the quasi-public character which these financial institutions thus enjoy, places upon them a social obligation to deal fairly with all groups in the State in the matter of employment. We believe further that when one of these institutions assumes a size so vast that its employees constitute a veritable army, and its employment policies become an appreciable factor in the total field of clerical employment (in which field the employees of these institutions are of course chiefly found), the obligation resting upon its officers to deal unbiably with all groups in the population becomes especially grave. Especially is this so when it is considered that these institutions operate chiefly with the funds, not of stockholders, but of the general public. Incontestably is it so when these funds come from the general public exclusively, as they do in the savings banks and mutual insurance companies. The directors of these mutual insurance companies (and the four principal mutual life insurance companies in the city of New York are easily the largest employers of clerical help in the State) owing no duty to stockholders, and enjoying self-perpetuating positions of trust over the savings of the masses, owe an especial duty to establish in the organizations under their control the principle of equality of opportunity for employment for all qualified citizens regardless of race or color. When it is

appreciated that the four principal mutual life insurance companies in the State employ in the aggregate within the State, and chiefly in clerical capacities, almost as many employees as does the State of New York, the nature of that obligation becomes even more evident. That they have not recognized this obligation seems equally evident. It is a matter of common knowledge, which our investigation has sufficiently substantiated, that Negro clerks are virtually unknown in banks and insurance companies. Although there is ground for the contention that the power of the Legislature to establish the principle of equal opportunity exists in this field as fully as in the field of public utilities, we do not at this time recommend any legislation in this direction, but express the hope that the responsible officials of those institutions will by their own initiative make further exploration of legislative possibilities unnecessary.

The State has a special obligation in this field which should not escape attention. By successive statutes the State has raised the age of compulsory school attendance to a point where in effect a large proportion of the children of the State are compelled to attend several years of the high school course, if not indeed the entire course. These statutes apply to all children, regardless of color; and the inevitable result is an increasing number of Negro, as well as white, high school graduates and near-graduates, whose aptitudes or inclinations, in some cases, cause them to prepare for and look forward to clerical employment. Inasmuch as the problem is so largely one of the State's own creation, the State is therefore under a special obligation to take all possible measures to increase employment for Negroes in this field.

SECTION IV

HOUSING

HOUSING

I. General Considerations

For a real understanding and full appreciation of the significance of data presented in this section of the report minimum knowledge of circumstances and conditions, generally responsible for the development of blighted residential areas and poor housing conditions, is required, since the majority of the Negro population of New York State finds itself living in such areas. Considering the general problem of substandard areas, or sections of a community which are deteriorating, the Housing Survey Committee of the Poughkeepsie City Planning Commission observed that blighted areas may be defined as any areas or sections of a city where, as a result of economic, social or other conditions there is a big discrepancy between the value placed upon property by the owner and its useful value, under existing circumstances, to the public at large and, from the point of view of your Commission, to the Negro residents of the State. Foremost among factors underlying the development of these areas are: (a) decreasing land values over a period of years; (b) shifts of population, and of business; and (c) failure to make or maintain improvements over an extended period. Similarly, these factors may be traced to others, affecting the failure of land values to keep up with owners' expectations, such as: (a) loss in population; (b) marked change in character of population; or (c) failure of business and industry to expand in that particular section.

In normal times, the general population tends to move out of these areas with substandard housing conditions. However, in recent years the depression checked this intra-city migration, and the loss of earning power has compelled many families who would otherwise move to remain in an effort to obtain low rents.

Your Commission has found, however, that the Negro population is affected in an entirely different manner than the general population, for it has found itself consistently denied the opportunity to secure improved living conditions in better neighborhoods, whether or not the needed income is available. As a matter of fact, evidence before the Commission has compelled the inescapable belief that throughout the State efforts have been made to shift the Negro population to the deteriorating areas of cities.

Before an objective analysis of these deterring forces is made in the subsections below, the Commission points the fact that coexisting with substandard housing in blighted areas are many health, fire, and general welfare menaces. There is a close correla-

tion between various social problems, such as crime and delinquency, etc., and poor housing, particularly when there is also a lack of recreational facilities. Directors of the Poughkeepsie Housing Survey were well aware of these considerations when they stated:

It cannot be emphasized too strongly that conditions which have an effect upon the lives of a considerable percentage of the population of a city must also affect the lives of the remainder. This effect may develop directly in matters of public health and general welfare, or indirectly through the increased burden such conditions place upon a community, through the additional cost of police and fire protection, clinics, and courts rendered necessary by their existence.

These problems are considered at length in sections of the report on crime and delinquency and recreation.

Immediate attention, however, is directed to those special problems confronting Negroes in their efforts to provide themselves with adequate housing facilities. For the most part, illustrative materials for this analysis are drawn from housing conditions as they affect Negroes in New York City and in the metropolitan region. Conditions in several of the up-State localities included in the study are presented in a later section on housing of Negroes in this region.

II. Special Problems Facing Negro Tenants and Prospective Owners Illustrated by Housing Conditions in New York City and the Metropolitan Region

A. Residential Segregation

Residential segregation in the State of New York is a social development unauthorized by law and dependent entirely upon public attitudes for its continuance. It is a further manifestation of that popular "stereotype" which considers Negroes as "different" and therefore justifiably to be separated from the rest of the population. A similar "stereotype" applies with regard to groups of various nationalities or religious faiths, except that the color factor makes its retention and continuance of a separate district for Negroes more feasible than for groups whose difference is based only on customs of living or language.

Thus, there is no section of New York State where residential segregation is not practiced against Negroes. In almost any community an inquiring stranger, visiting for the first time, can be directed by a passerby to some area "across the tracks" where Negroes constitute a heavy majority in the population of a given ward or census tract.

Your Commission does not propose here to discuss the ethical questions involved in the residential segregation of any portion of the population. It is content to view the actual situation as an inevitable product of long-time community forces which have consistently operated toward the present situation. Whatever the reasons for its creation, and whatever its justification or lack of justification, the fact remains that the "Negro section" of nearly every city has developed far past the desires of its creators and has produced social problems which seriously endanger the community at large.

These social problems are of many different kinds, each far-reaching in its importance to the State and frequently referred to in the testimony of informed persons appearing before the Commission. This testimony brings out clearly the interaction of three distinct social forces that are involved in the existence of a restricted Negro residential district: (1) a determination on the part of surrounding community that the Negro district shall not expand; (2) the natural and irresistible pressure for expansion from within the Negro population; (3) the readiness of profit-seeking individuals who stand in a position to benefit from the conflict involved between the first two forces. Out of such a situation there results an eventual expansion of the Negro district, but it is accomplished with a maximum of friction and resentment from adjoining communities, and a minimum of understanding among the races of the issues involved, with a considerable amount of exploitation of Negroes by socially irresponsible groups and individuals.

The Commission, however, has chiefly concerned itself for the present with the following points: What types of housing are available to Negro families? How far do they satisfy: (1) the ability of Negroes to pay, (2) the community requirements for health, safety and beauty, and (3) the standards of fair rentals or purchase prices existing elsewhere? On each of the points the Commission is convinced that residential segregation is an enemy to community welfare.

Fair prices in leasing and purchasing property, like commodities, are obtained, in a democratic competitive society, through the ability of the purchaser and lessee to shop in an open market without restraint or restriction. The practice of open-market shopping affords the prospective buyer an opportunity to obtain the best possible commodity for the lowest possible price. Any other arrangement in a free society is not only unfair as judged by democratic standards, but must lead toward the establishment of a monopoly—in this instance a landlord monopoly—potent with dangerous complications.

Although it has been the policy of the State and city of New York to depend upon private enterprise and free competition among owners of realty to provide each inhabitant with the best housing that can be profitably furnished for what he can afford to pay, the fact is that the Negro inhabitant has been denied the

benefits of such a policy through racial discrimination and residential segregation.

B. Housing Scarcity

The creation of the Negro district deliberately encourages the development of a landlord monopoly. It produces an artificial scarcity of housing for this special group and enables landlords to set rentals up to the maximum their tenants can pay, rather than maintain a rental level met by tenants elsewhere for similar accommodations. We shall refer later to the iniquitous results that grow out of this unhealthy housing situation, but for the moment we concern ourselves with the practices by which Negroes are kept restricted to specified residential areas and districts.

Residential segregation is practiced most easily in cases where the group affected is a renting rather than a purchasing group, for it is manifestly far easier to discover the racial identity of tenants of rented property than of property buyers who may be dealing through a third party. Since the incomes of Negro families do not permit property buying, save in exceptional cases, their segregation is thus facilitated.

In small communities the pressure of public opinion is usually sufficient. Property holders, who are responsive to the prejudices of some of their neighbors, will usually hesitate about offering their property to Negro tenants, even though they themselves may have no prejudices against such a step. Real estate agents are threatened with the probable loss of their customers if they violate the rule of racial residential patterns. Thus, in New York City, the metropolitan region, and in the average community of the State, Negroes may rent only property which is immediately adjacent to property occupied by Negroes. For example, in Buffalo, banks holding property in districts occupied by Negroes are charged with refusing to rent to Negro tenants any property not previously occupied by members of their race. In Jamaica, county of Queens, witnesses testified that relators, handling property for the Home Owners' Loan Corporation, refused to rent or sell any of this property to Negroes unless it is in a Negro district.

Refusal of property to Negro would-be tenants is also accomplished by restrictive covenants among property owners, providing that none of the property involved in the covenant shall be occupied by persons of certain racial or religious groups. The legality of covenants of this type has been attacked in the courts by Negroes who have bought property in such areas, but decisions have been rendered upholding the right of the covenanters in their contention. The most recent case of this nature is now under appeal before the Appellate Division of the State Supreme Court, Second Department.

Another method of restricting Negro occupancy is by the inclusion of clauses in leases which prohibit the leasing or sub-leasing of apartment facilities to "undesirable tenants." In such cases,

of course, to be a Negro is to be undesirable. Many landlords do not go to such troublesome lengths to accomplish exclusion of these undesired tenants. When confronted by Negro apartment- or house-seekers they merely raise the rentals to an exorbitant figure, far beyond any possible ability of the Negro to pay. They may accept rental deposit "pending investigation." The deposit is held a few days and then returned to the applicant with the explanation that other tenants of the house object to his presence. This maneuver protects the landlords from any accusation of being personally prejudiced. Most landlords, however, do not even make these pretenses. When approached by Negro applicants for dwellings they merely give a frank "no Negroes wanted" in reply, and under present conditions there is nothing for the Negro family to do but to retreat to that district which has been set aside for it by community opinion and property owner contrivances.

C. High Rents

An inevitable consequence of this situation is an artificial scarcity of dwellings available to Negro tenants and a consequent overcrowding of those accommodations available. Especially is this true in the area of low-cost dwellings, for the first and natural result of a housing scarcity is the raising of rents.

Our examination of social surveys by public and private agencies, of rent studies by private and public social bodies, of special community studies and reports, of testimony from public officials and private real estate agents and of field investigations by the Commission's staff furnishes incontrovertible evidence that the Negro family in the State of New York generally, and with rare exceptions, pays a higher rental than does any other racial or religious group. The difference between what the Negro family pays in rent and what a white family in the same community pays for similar accommodations varies, in the communities studied by the Commission, from 10 per cent to 58 per cent higher rental for Negroes.

The United States Bureau of Labor Statistics in the report previously referred to shows that at all income levels between \$500 and \$3,000 the Negro family in New York City pays higher rents than white families in the corresponding income level.

A representative of New York City's Charity Organization Society testified before the Commission in December, 1937, on housing conditions affecting the families known to that agency. For the 8,232 families served throughout the city median rental was \$23.94 a month. For the 1,285 families served in Harlem the median rental was \$30.08 a month. The lower rent was paid by white families whose income had dropped from an average of \$25 in 1929 to \$16.90 last year. The higher rent was paid by Negro families whose income during the same period dropped from \$22 to \$14.39. Thus the families earning \$2.51 less per week paid

\$6.14 more per month for approximately the same housing accommodations.

Negro families of higher income also pay more for rentals than whites in similar or identical apartments. Typical of a large number of cases reported and investigated is that of a large apartment house in the Amsterdam Avenue section of Harlem which replaced white tenants with Negroes. Up to January, 1935, whites paid \$60 per month for five-room apartments; in July, 1935, Negroes paid \$75 per month for the same five-room apartments, though a maintenance staff of seven workers was reduced to four.

Conditions are similar in the up-State cities as is shown later in this section; however, reference is made here to testimony that in Buffalo Negro families pay \$18 to \$21 for four-room houses or apartments similar in condition and neighborhood to those for which Polish and Italian families pay \$10 to \$12. For five-room apartments and houses, Negroes pay \$18 to \$29.50 as compared with \$15 to \$18 paid by Italians and Poles in similar districts.

In Yonkers a group of houses occupied by whites rented for several years at \$35 to \$40 a month. When leased to Negroes the rents were immediately raised to \$75 a month. In Rockville Center cases were found where houses rented at \$30 a month to whites, and where these rents were raised to \$60 when Negroes assumed tenancy.

Even at the risk of overemphasis, your Commission desires to point out that these excessive rents are paid by a group whose income has already been shown to be subnormal. Although it has been estimated by socio-economists that 20 to 25 per cent is a normal proportion of family income to expend for housing, we find Negro families paying a proportion of income which varies from a minimum of 25 to 30 per cent to a few cases of 60 to 70 per cent. Such a rental proportion cannot be paid without disastrous sacrifice of other needed family services—clothing, food, medical service and recreation. Loss of these services is inevitably and invariably reflected in the tax bill which the State pays for hospitals, welfare agencies and correctional institutions.

D. Physical Condition of Housing

The same housing monopoly which has created a high-rent level for Negro residential districts produces housing deterioration in those same districts. With dwelling space at a premium, the landlord is under less compulsion to maintain his property in good condition to attract tenants. Thus the Commission has found frequent instances where owners of apartment houses have immediately reduced maintenance personnel when Negro tenants have been accepted. On the other hand, where housing has deteriorated from age to a condition where ordinary renovation will no longer keep it tenanted by whites, there is a general disposition for landlords to seek Negro tenants. This is shown clearly in a memorandum prepared by a prominent New York City

realtor for the attention of members of the Real Estate Board, which states in part:

I believe a logical section for Negro expansion in Manhattan is East Harlem. At present this district has reached such a point of deterioration that its ultimate residential pattern is most puzzling. Many blocks have a substantial section of their buildings boarded up or demolished and a goodly percentage of those remaining are in disrepair and in violation of law. . . . "An influx of Negroes into East Harlem would not work a hardship on the present population of the area, because its present residents could move to any other section of New York without the attendant racial discrimination which the Negro would encounter if he endeavored to locate in other districts. . . .

The Negro tenants, in turn, play their unwilling part in physical deterioration of their districts. They are forced to overcrowding in order to pay high rentals; congestion of itself, is destructive to property. Landlords, anticipating such a result, relax their building supervision. City building and sanitation departments wink their eyes at violation of municipal codes—and rapid decline of the district sets in.

Your Commission finds that as a result of these causes an appalling housing condition exists throughout the metropolitan area and the entire State so frequently as to affect thousands of Negro families and to endanger seriously the health and morals of the entire State population. These conditions are not confined to the crowded areas of Manhattan or Brooklyn, but also exist in beautiful and exclusive residential areas.

The Honorable George B. Serenbetz, police justice of Hempstead, described numerous homes in that town which were occupied by Negro tenants in defiance of personal or community safety. "A one-story stable converted into a dwelling, without running water, a hand pump in the yard, and immediately to the rear of the pump two out-door toilets used by 43 persons."

In Piermont's "Mine Hole," a blighted area tenanted by Negroes, inspecting public officials found "a man living on the third floor of an apparently uninhabitable cement block building in three tiny rooms with a smoke blackened ceiling, barely six feet high, in the ridge of the roof, with no window more than 18 inches square, no light but that of a kerosene lamp, and a place where a person might crouch over an oil stove in the blackness of an unlighted and unventilated room."

Beautiful Oyster Bay has its "Battery," a squalid district described by one protesting citizen as "a menace to civilization." A squatters' colony in New Rochelle is adjacent to and behind some of the city's beautiful estates, containing as reprehensible housing conditions as are to be found anywhere in the State. A White Plains

social worker said of one Negro district, "These houses compare with the worst hovels to be found in the deep South. These places have no toilet facilities, no place to take a bath, no electricity, gas or heating system."

In Hempstead, L. I., 65 per cent of the houses occupied by Negroes are in poor or only fair condition. In Brooklyn a study of homes occupied by 7,240 Negro families showed them to be mainly one-family houses converted into two or three-family apartments. About 80 per cent are older than 35 years and in fair or poor condition. Forty per cent of the families lack hot water and 15 per cent lack central heat and indoor private toilets.

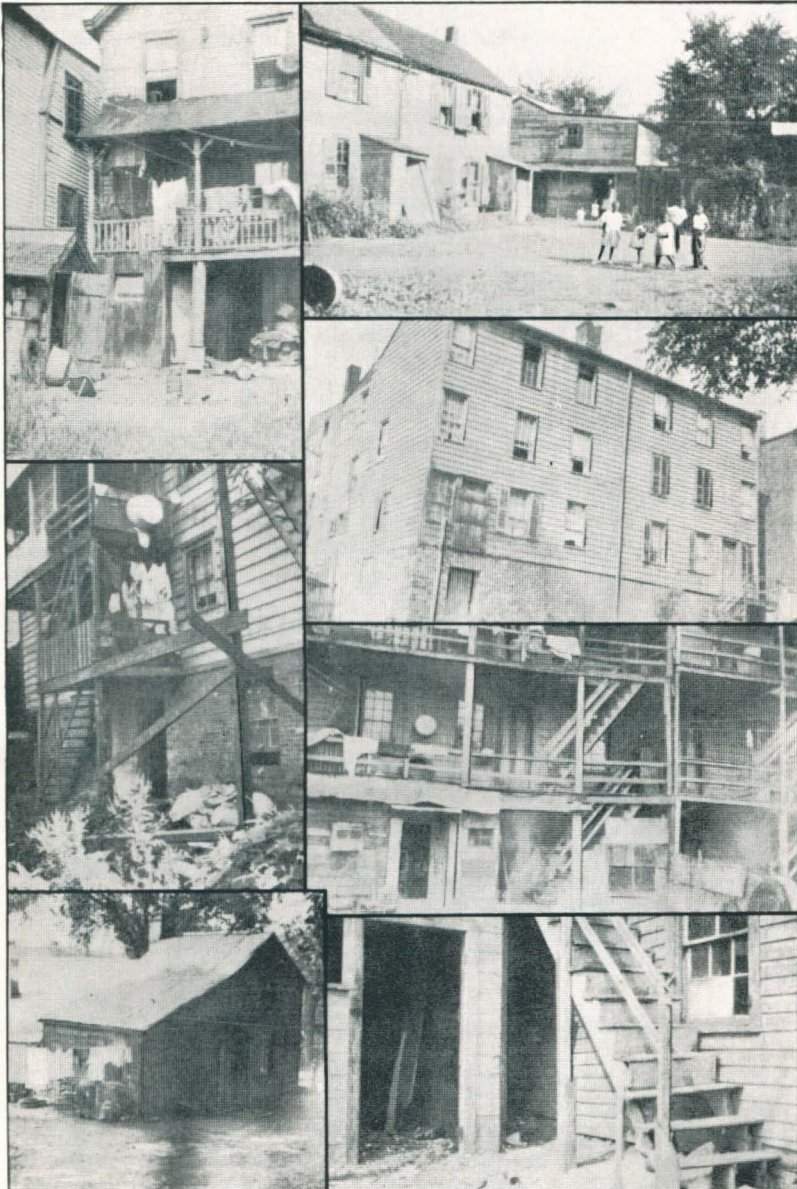
In Harlem, 12 per cent of dwelling structures lack heat, 15 per cent lack hot water, 30 per cent have no bathing facilities and 31 per cent have hallway toilets. Eighty-five per cent of the residential structures are more than 35 years old in the Harlem sections having 75 to 90 per cent Negro population. In these sections with 75 per cent Negro population, 17.3 per cent of the dwellings are in first-class condition, 65 per cent in second-class condition, 16.7 per cent in third-class condition and 1.0 per cent of the dwellings in fourth-class condition.

It is upon such evidence as this that your Commission has based its judgment that in addition to dangerous congestion and an unreasonably high-rent level the segregated Negro district encourages a physical neighborhood deterioration which creates additional problems for the community-at-large.

In such a situation public officials frequently find themselves caught on the horns of a dilemma. Some, to be sure, have been indifferent to the situation and have evidenced therein a serious laxity in performance of their official duties. Others have testified before the Commission to a real concern, but also to a sense of inadequacy. Mr. Langdon Post, tenement house commissioner of New York City, testified that for his department to enforce the local ordinance against overcrowding would be impossible without a force larger than the police force, and that, even if possible, such enforcement would create a chaotic condition.

Officials of smaller municipalities and unincorporated areas have been confronted with the equally undesirable alternatives of allowing Negro families to remain in dangerous dwellings or enforcing building and health regulations to condemn these dwellings and thereby turn the families out with no other buildings available.

After testimony given before the Commission concerning the condition of housing among Negroes in Yonkers and the naming of specific buildings which violated local ordinances, the building department of that city chose the latter alternative and condemned buildings which housed 14 Negro families. Although this action removed a danger from one source it immediately created additional danger from another source, for to remove 14 families with no dwelling vacancies to receive them, merely meant crowding them into occupied dwellings already congested, thereby creating additional health and moral hazards for the families concerned.



Courtesy of Poughkeepsie City Planning Commission

E. Congestion

Your Commission finds residential congestion to greater or less degree as an invariable accompaniment of the segregated Negro district. At each public hearing the Commission received eloquent testimony verifying the fact that residential segregation has crowded too many families into too few dwellings.

Congestion is frequently accepted as an unavoidable concomitant of metropolitan life, and stories of overcrowding in Negro districts therefore fail to make the impression they deserve. In studying the figures of the New York City Housing Authority, however, we find that population density in dwelling space in Harlem in 1930 was as high as 671 persons per acre in one block and 620 persons per acre in another block. One block in Harlem, from West 140th Street to West 141st Street, between 7th and 8th Avenues, is reputed to be the most crowded dwelling area in the world.

Such congestion is to be expected when we consider that in the last 25 years the Negro population of Harlem increased 600 per cent, while its area expanded by only 20 blocks north and south and three blocks east and west. Thus, in a city area of 262 blocks is confined a congested black population equal in size to twice the entire population of the State's capital city.

Smaller communities generally present a similar congested situation, not because of a housing shortage, but because of the artificial restrictions referred to above. In Rockville Center, L. I., for instance, houses that were occupied by seven Negro families were ordered demolished in the interest of health and safety. There was no other dwelling in Rockville Center available for these seven Negro families with 35 members, and they were reported to have moved to Jamaica.

But Jamaica and Queens County Negroes also reported a severe housing scarcity. Eight families of Flushing received eviction notices prior to the demolition of their dwellings to make parking space. Two months later only two of these families had found other quarters in Flushing, and these only by crowding into apartments already occupied. For White Plains, New Rochelle and Yonkers, conditions were found to be similar—or worse, and for other cities studied the conditions are as described in the following paragraphs.

III. Housing of Negroes in Selected Cities in up-State New York

The operation of forces affecting Negroes in relation to residential segregation, scarcity of housing, congestion, and exorbitant rents for substandard housing is just as serious a problem in up-State New York as in New York City and the metropolitan region. There was every evidence that these problems existed in all cities covered by the Commission's survey in this region, and for this reason they will not be discussed further in this subsection, which will deal primarily with descriptions of conditions as found in

several cities, with comparative analyses between the white and Negro populations whenever data are available for that purpose. The general proposals with respect to remedial and corrective actions on these problems appear at the close of this section on housing.

POUGHKEEPSIE IN DUTCHESS COUNTY

The Poughkeepsie City Planning Commission has recently completed the tabulations and final report for a housing survey conducted in that city during the summer of 1938. Careful examination of the contents of this report in the light of observations already made by this Commission revealed that they undoubtedly contained the best available up-to-date data on housing conditions, and the Commission found it interesting to note that these conditions in Poughkeepsie were amazingly typical of those in other up-State cities visited. For that reason, considerable attention is given this city even though its Negro population is not quite as large as that of Syracuse or Rochester, for example.

The Poughkeepsie housing survey included approximately 95 per cent of the city's Negro population. This consisted of 269 different family groups, or 15.3 per cent of the 1,758 family groups covered by the survey. The report stated, "These Negro families are segregated in parts of Areas III, IV and V." The "areas" referred to are substandard areas selected for study, other sections of the city being "obviously above any possible minimum standard as to make a survey there necessary. Areas IV and V contain the greatest proportions of Negroes, Area V being predominantly Negro with 57.7 per cent of families in the area. It is important to note carefully the area set-up, for when data are not actually broken down by race, relative conditions are obtainable only indirectly by comparison of areas. *At any rate, it should also be pointed out that the significance of comparisons between Negroes and whites is minimized because these comparisons are limited to substandard and blighted areas. The relative severity of housing conditions among Negroes would be more clearly shown if they were compared with conditions in areas where the survey was not necessary—areas in which Negroes are not permitted to live.*

By way of comparison, it is interesting to study the Planning Commission's general description of Area I—having only 3.5 per cent Negro families—and Areas IV and V having 34.7 and 57.7 per cent Negro families, respectively:

Area I—" . . . considered in two parts—major portion gives a general impression of cleanliness and green shrubbery—general well-kept appearance—probably due to predominance of owner-occupied structures—great number of gardens—and stretches of vacant lots covered with vegetation—latter factors obscure conditions of small buildings of cheap construction crowded on long, narrow lots, rear buildings and vacant structures also in evidence—section largely residential in nature.

“. . . section—adjacent to railroad yards—in extremely dilapidated condition. ‘Down-at-the-heel’ buildings, dark hallways, decaying porches, beams, and stairways give a general air of hopelessness and stagnation—few industries and factories scattered through section increase general appearance of desolation.”

Area IV and V—“. . . unlike Areas I, II, III consist of scattered blocks of substandard houses rather than complete areas—characterized by small blighted sectors, usually surrounding some industrial plant, and—often situated within residential neighborhoods of a better character—outstanding feature—dilapidated, unpainted houses; yards filled with rubbish, used car parts, garbage, and a marked lack of adequate sanitary facilities—*areas contain 54 per cent of the outdoor toilets in city limits*—wholesale food and fruit markets, in certain of these sections contribute to the many obnoxious odors prevalent in area.”

In the light of the environmental settings of predominantly white areas and the predominantly Negro areas, we may proceed to make some general analyses.

A. Income and Rent

Income and rent data have been compiled separately by race and presented graphically in the report. For purposes of our study, these have been converted into actual figures. Table V shows annual income data.

TABLE V

Distribution of Families Covered by Housing Survey, Showing Annual Income and Race, Poughkeepsie, New York, 1938

INCOME GROUP	NEGRO		WHITE	
	Number	Per cent distribution	Number	Per cent distribution
All Groups.....	260	100.0	1,421	100.0
Under \$500.....	48	18.5	215	15.1
\$500- 999.....	125	48.1	583	41.0
1,000-1,499.....	63	24.1	388	27.4
1,500-1,999.....	19	7.4	175	12.3
2,000-2,499.....	5	1.9	45	3.1
2,500 and over.....	0	0.0	15	1.1

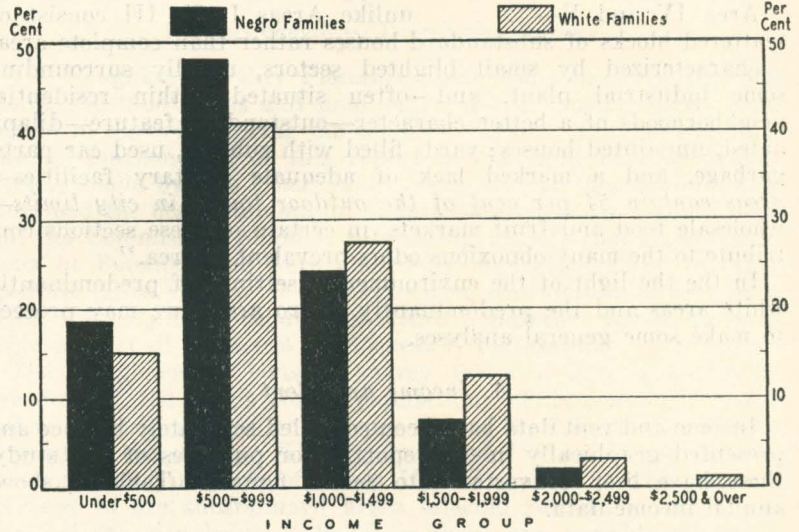
Source: Derived from *Housing Survey, Poughkeepsie City Planning Commission, 1938.*

Approximately 91 per cent of Negro families had annual earnings of less than \$1,500 as compared with 83 for whites; 67 per cent of Negro families had annual earnings of less than \$1,000 while but 56 per cent of white families fell in this group. This concentration of Negro families in the low-income groups is shown dramatically by Chart V.

CHART V

Percentage Distribution of Families Covered by Housing Survey
Showing Race and Annual Income

Poughkeepsie, New York, 1938



SOURCE: DERIVED FROM HOUSING SURVEY, POUGHKEEPSIE CITY PLANNING COMMISSION, 1938

The amount of the income becomes all the more important when viewed in terms of the monthly rentals paid by families.

TABLE VI

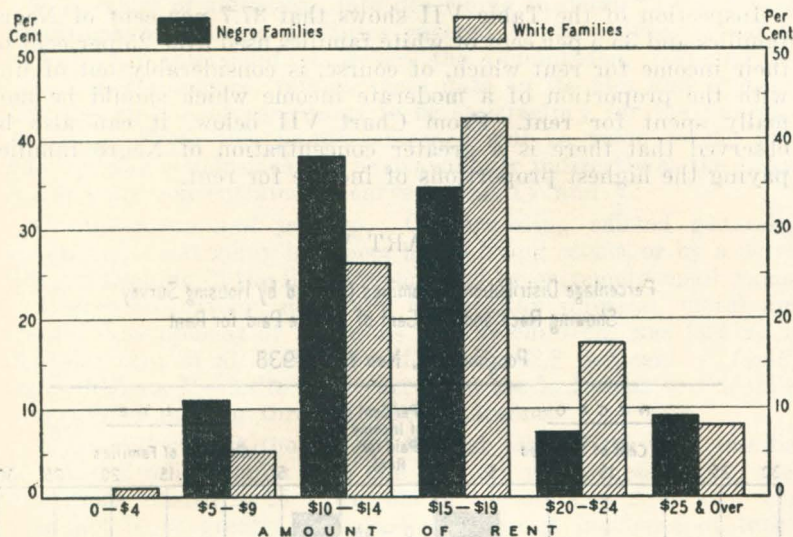
Distribution of Families Covered by Housing Survey, Showing Monthly Rent and Race, Poughkeepsie, New York, 1938

RENT GROUP	NEGRO		WHITE	
	Number	Per cent distribution	Number	Per cent distribution
All groups.....	268	100.0	1,463	100.0
Under \$5.....	0	0.0	15	1.0
\$5- 9.....	29	10.9	74	5.1
10-14.....	103	38.1	384	26.2
15-19.....	93	34.6	620	42.4
20-24.....	20	7.3	261	17.2
25 and over.....	25	9.1	119	8.1

Source: Derived from *Housing Survey*, Poughkeepsie City Planning Commission, 1938.

CHART VI

Percentage Distribution of Families Covered by Housing Survey
Showing Race and Monthly Rent
Poughkeepsie, New York, 1938



SOURCE: DERIVED FROM HOUSING SURVEY, POUGHKEEPSIE CITY PLANNING COMMISSION, 1938

While 73 per cent of the Negro families paid between \$10-\$19 monthly rent, 60 per cent of white families paid this amount. There is, however, a slightly greater concentration of Negro families toward the lower extremity of this range of rent groups. Chart VI shows the picture graphically.

TABLE VII

Distribution of Families Covered by Housing Survey, Showing Per Cent of Income Paid for Rent, by Race, Poughkeepsie, New York, 1938

PER CENT OF INCOME PAID FOR RENT	NEGRO		WHITE	
	Number	Per cent distribution	Number	Per cent distribution
All groups.....	260	100.0	1,414	100.0
Under 9%.....	15	5.7	59	4.1
10%-14.....	44	17.0	269	19.0
15 -19.....	73	28.3	317	22.4
20 -24.....	29	11.3	269	19.0
25 -34.....	54	20.7	284	20.5
35 -44.....	20	7.6	108	7.5
45% and over.....	25	9.4	108	7.5

Source: Derived from *Housing Survey*, Poughkeepsie City Planning Commission, 1938.

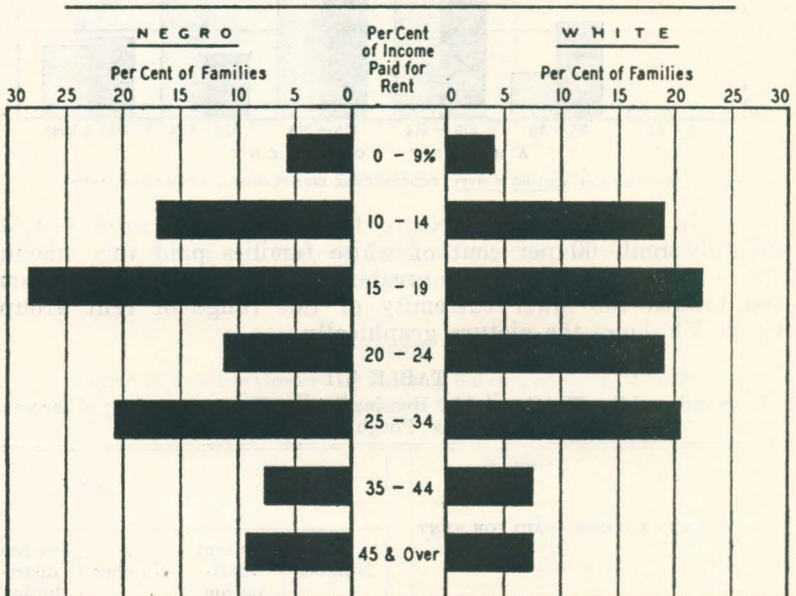
The proportion of a family's income that must be spent for rent is an index of the ability of the family to protect itself against the menaces of ill health and generally poor welfare, for if a disproportionately high amount is used for rent, adequate food, clothing and other necessities cannot be provided.

Inspection of the Table VII shows that 37.7 per cent of Negro families and 35.5 per cent of white families used over 25 per cent of their income for rent which, of course, is considerably out of line with the proportion of a moderate income which should be normally spent for rent. From Chart VII below, it can also be observed that there is a greater concentration of Negro families paying the highest proportions of income for rent.

CHART VII

Percentage Distribution of Families Covered by Housing Survey
Showing Race and Per Cent of Income Paid for Rent

Poughkeepsie, New York, 1938



SOURCE: DERIVED FROM HOUSING SURVEY, POUGHKEEPSIE CITY PLANNING COMMISSION, 1938.

The general deduction from the income-rent analysis is that although Negro families fall in the lowest income groups, they pay substantially the same rent as whites, and pay on the whole a greater proportion of their income for rent. And, in return for this relatively large expenditure, *they generally get the worst of the substandard housing facilities*—worst from considerations of structural conditions, maintenance, service, and environmental

conditions. The brief section immediately following this paragraph goes into these considerations.

B. Structural Conditions of Housing

Vast tables of statistical data describing in detail the structural conditions of housing facilities covered by the survey could be included at this point; however, the Commission, realizing the inadequacy of space, retains these data in its files and deems a spot description of conditions to be satisfactory for the purposes at hand. From this point, reference will be made to the area number, and conclusions can be drawn only indirectly as the Negro families are concentrated in survey areas IV and V.

Overcrowding and privacy. Overcrowding existed generally, shown in a great many instances by no living rooms, or by a necessity for sleeping in the living rooms, and by extremely small rooms. A degree of privacy, necessary for healthy physical, moral and mental development of adults as well as children, was lacking in 25.2 per cent of all units visited but in 42.8 per cent of family units in Area V—units where access to the bedrooms or the toilet necessitated passing through other bedrooms.

Light and air. Although but 9.6 per cent of the total families occupied dwelling units with one or more windowless rooms, such conditions existed in 27.9 per cent of the units in Area IV. One need not be so greatly surprised at the high incidence of tuberculosis among Negroes when a factor such as the lack of direct sunlight in housing is taken into account.

Toilet and bathing facilities. Of all dwelling units 15.5 per cent had no private toilet facilities; corresponding figures for Areas IV and V were 26.8 and 35.4 per cent, respectively. In Area V, 17.7 per cent of the dwelling units had only outdoor privies, which were often used by two, three, four and even six families. In 64.7 per cent of units in Area I and 74.7 per cent of units in Area V, the kitchen faucets or, in many cases, outdoor spigots are the only "bathing facilities" available.

Lighting and heating. Kerosene lights and stoves, and wood and coal stoves substitute for the absence of electric or gas facilities in 34.1 per cent of family units of Area V. Also, 58.3 per cent of occupants of this area complained that their units were inadequately heated.

General conditions. Public halls were almost always improperly lighted, if lighted at all; basements and cellars, where they existed, were usually wet or damp. Fire hazards were greatly increased by no remote exits, narrow hallways and stairs, and the accumulation of combustible materials in cellars, attics, under stairs or in living units.

Neighborhood conditions. The existence of many shops, stores, garages, small factories, etc., not in Area I but scattered throughout Area II, III and IV, impairs the peaceful, decent and quiet

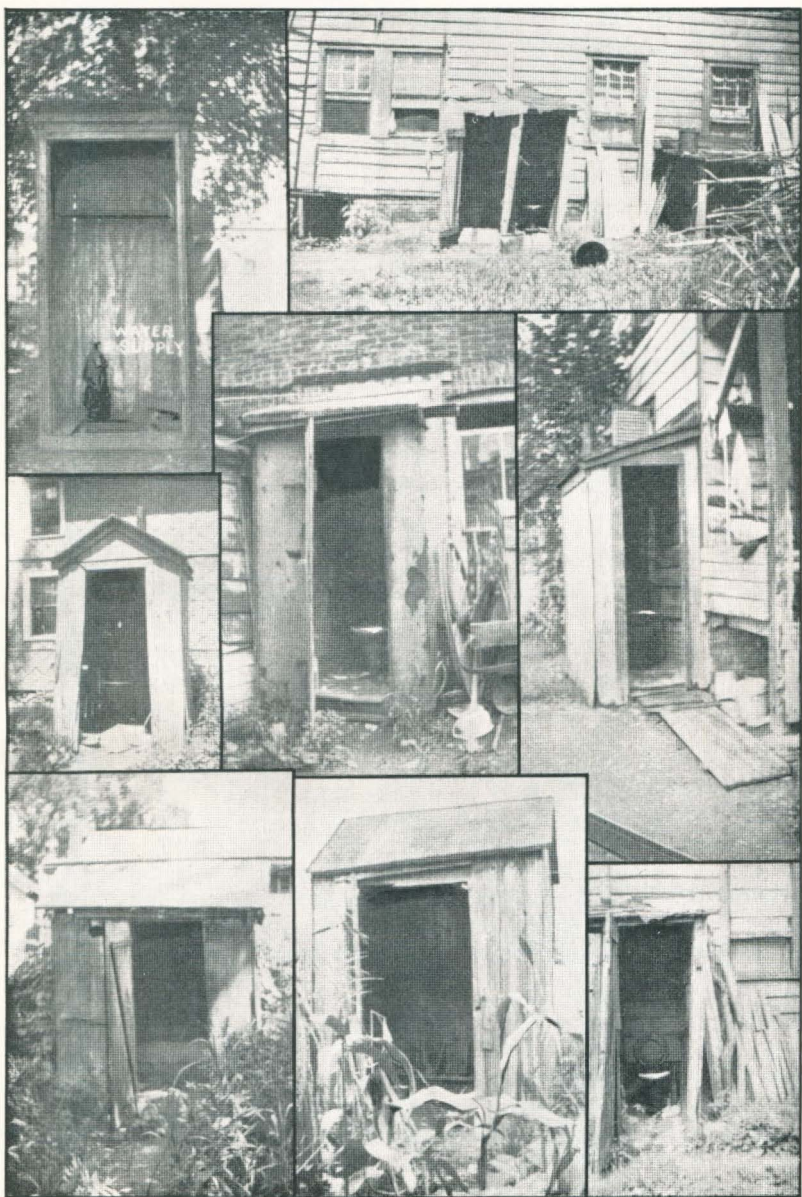
neighborhood characteristics which mean much to wholesome family life. The close proximity of buildings prevents sunlight and air circulation and causes general overcrowding. This condition prevails in 66.9 per cent of structures in Area II, 62.2 per cent in Area III, and 67.9 per cent in Area IV. Finally, in Area II, 31 per cent of structures were used for other than residential purposes while in Area III and IV, 23.3 and 32.4 per cent of the structures were used for other purposes.

The Commission does not wish to make it appear that all Negro families live under such condition, but it recognizes that the exceptions are in fact relatively few. Evidence before the Commission does show, however, that as a general circumstance the Negro population is usually housed in the most substandard structures in the blighted areas. Also, impoverished groups of other races find themselves living under similar circumstances, but as soon as their incomes are again regular and adequate, they leave such areas. However, it is the lot of the Negroes, it appears, that they must remain the victims of residential segregation on account of race. It is against this vicious condition that the Legislature of the State can take effective action.

BINGHAMTON IN BROOME COUNTY

The Commission was not as fortunate in finding for Binghamton as it did for Poughkeepsie, recent available data on housing conditions existing among its population. As a matter of fact, Binghamton has no housing authority or similar body; nor has its planning commission been active in this field. Perhaps, the fact that this city is called the "Parlor City" may be an explanation of this apparent lack of interest—and indeed Binghamton does give the appearance of having been very well planned and well kept. Independent investigations by the field staff of the Commission working in cooperation with a local housing committee yielded some interesting findings. To be sure, there are some unkept and neglected "spots in the parlor"—small blighted sectors in which the majority of the Negro population resides. The brief housing survey, which by no means pretends to be complete or exhaustive, covered the entire Negro population of 188 families consisting of 112 boys, 114 girls, 308 men and 289 women—one of the smallest concentrations of Negro population in a major industrial center of the State. The most important of the findings of the survey are summarized in the Table VIII, included below.

Casual inspection of the table might convey the impression that housing conditions are not so poor in this city. That impression is possibly because dwelling units in all wards in which Negroes reside have been grouped together for this summary, thus including a few good dwellings. However, one needs only to take a brief walk through the sections of the city where the majority of Negroes are located in order to see at a glance the seriously acute problems



Courtesy of Poughkeepsie City Planning Commission

TABLE VIII
Selected Features in Housing Facilities for Negroes, Binghamton, New York, 1938

FEATURE	Number	Per cent of total
Total units covered.....	198	100
Occupancy		
Owner-occupancy.....	48	24
Tenant-occupancy.....	150	76
Structural condition of units		
Good condition.....	35	18
Major repairs needed.....	132	66
Beyond repair.....	31	16
Cellars in units		
Without cellars.....	65	33
With cellars.....	133	67
Heat in units		
Furnaces.....	67	34
Stoves.....	131	66
Light in units		
Electric lights.....	168	85
Other lamps.....	30	15
Fuel in units		
With gas.....	151	76
Without gas.....	47	24
Hot water in units		
Without running hot water.....	61	31
With running hot water.....	137	69
Bath facilities		
With bath tubs.....	150	76
Without bath tubs.....	48	24

in these sections. Specifically, the upper State Street section in Ward 11, the Clinton Street section in Ward 1, the Kenwood Avenue section in Ward 6, and the Sherman Place section in Ward 7 are not at all any less blighted than the worst of the substandard areas of Poughkeepsie, as described above.

The Commission believes that as in other sections of the State the Negro people of Binghamton suffer the double handicap of inadequate incomes and residential segregation in their searches for desirable living quarters.

SYRACUSE IN ONONDAGA COUNTY

The story of the housing of the Negro population repeats itself in Syracuse, but Syracuse has taken cognizance of its general and Negro housing problems, and has created a housing authority which at present is responsible for the development of a low-cost housing project. The Negro community is casting an apprehensive glance on the ground work which has already been done, wondering to what extent they will profit along with the other residents of the substandard areas on the fringe of which the project is rising.

Before considering this point, however, we should at least consider the general conditions which made necessary the construction of low-cost housing in Syracuse. The extent to which the Negro population was affected by the blighted areas of Syracuse may be considered a reasonable indicator of the extent to which they should share the improved facilities.

Prior to the selection of a site for the housing project, the Housing Authority made a survey of three standard areas in two of which Negro families lived. Other than a breakdown by race in the analysis of household heads, the statistics compiled do not indicate race. Comparison must therefore be made only indirectly by considering conditions in the areas in which Negroes live with those where they do not live. The majority of Negro families live in Area II, some in Area I and none in Area III. The following table shows various features of the characteristics of the inhabitants and characteristics of occupancy for the areas studied.

TABLE IX
Characteristics of Inhabitants and of Occupancy in Areas of Study
Syracuse Housing Survey, 1937

CHARACTERISTIC	AREA I		AREA II		AREA III	
	Number	Per cent	Number	Per cent	Number	Per cent
<i>Race of Head of Household</i>						
All races.....	343	100	1,704	100	379	100
White.....	258	75	1,392	82	379	100
Negro.....	85	25	296	17	0	0
Other.....	0	0	16	1	0	0
<i>Tenure of Dwelling Units</i>						
All occupants.....	343	100	1,718	100	379	100
Owner-occupancy.....	74	22	225	14	71	19
Tenant-occupancy.....	269	78	1,483	86	308	81

Source: Syracuse Housing Authority.

Most of the households have annual incomes under \$1,000, the proportions being 74 per cent for Area I, 68 per cent for Area II, and 81 per cent for Area III. Monthly rentals average about \$16.50 although a considerable number in Areas I and II pay higher amounts. Observations of the Commission indicate that the Negro tenant, as in Poughkeepsie, is affected by the "income-rent proportion," having to pay over 25 per cent of his income for rent.

Because of the great similarity of conditions affecting Negroes in Syracuse and those in Poughkeepsie, the Commission feels it unnecessary to dwell at length on similar analyses for Syracuse. However, the outstanding structural and other conditions of housing in the three areas of Syracuse are summarized in Table X.

TABLE X

Structural and Related Conditions of Housing in Areas of Study — Syracuse Housing Survey, 1937

STRUCTURAL AND RELATED CONDITIONS	PERCENTAGE OF DWELLING UNITS AFFECTED		
	Area I	Area II	Area III
Water supply — not in dwelling units.	5	1	6/10
Toilets and Baths			
No toilet in dwelling units.	10	7	12
Toilet fixtures in bad condition.	30	14	11
Toilets not in sanitary condition.	13	10	8
No private bath in dwelling units.	40	22	41
Artificial lighting — dwelling units without electricity. . .	13	6	2
Fire and accident Hazards			
Heating appliances not in conformance with codes. . .	74	78	81
Electrical wiring not in conformance with codes. . . .	78	77	79
Chimneys improperly constructed.	49	29	34
No remote exit in building over 1 story high.	18	25	12
Narrow stairways.	34	33	30
Excessively steep stairways.	36	26	25
Stairs in bad condition.	20	17	12
Structural conditions			
Structures beyond repair.	22	15	12
Structures needing major repairs.	56	43	51
Residential structures without basements or cellars. . .	22	21	8
Land Use			
Structures covering more than 60% of land.	50	57	43
Structures 6 ft. or less from adjacent building.	47	43	28
Neighborhood			
Structures for purposes other than residence.	69	38	33
Stores.	14	5	3
Manufacture plants.	12	3	6
Warehouses.	9	4	3
Commercial garages.	7	5	3

Source: Syracuse Housing Authority.

In Table X percentages have been used to facilitate comparisons of the areas. Casual glances down the several columns of percentages of the total number of dwelling units affected by the features under consideration lead to the obvious conclusions that Areas I and II are by far the worst of the three studied as substandard areas. Area III, by far the "superior blighted" area, has no Negro families. Conditions in all areas, however, were so wretched that the Syracuse Housing Authority immediately began a low-cost housing project.

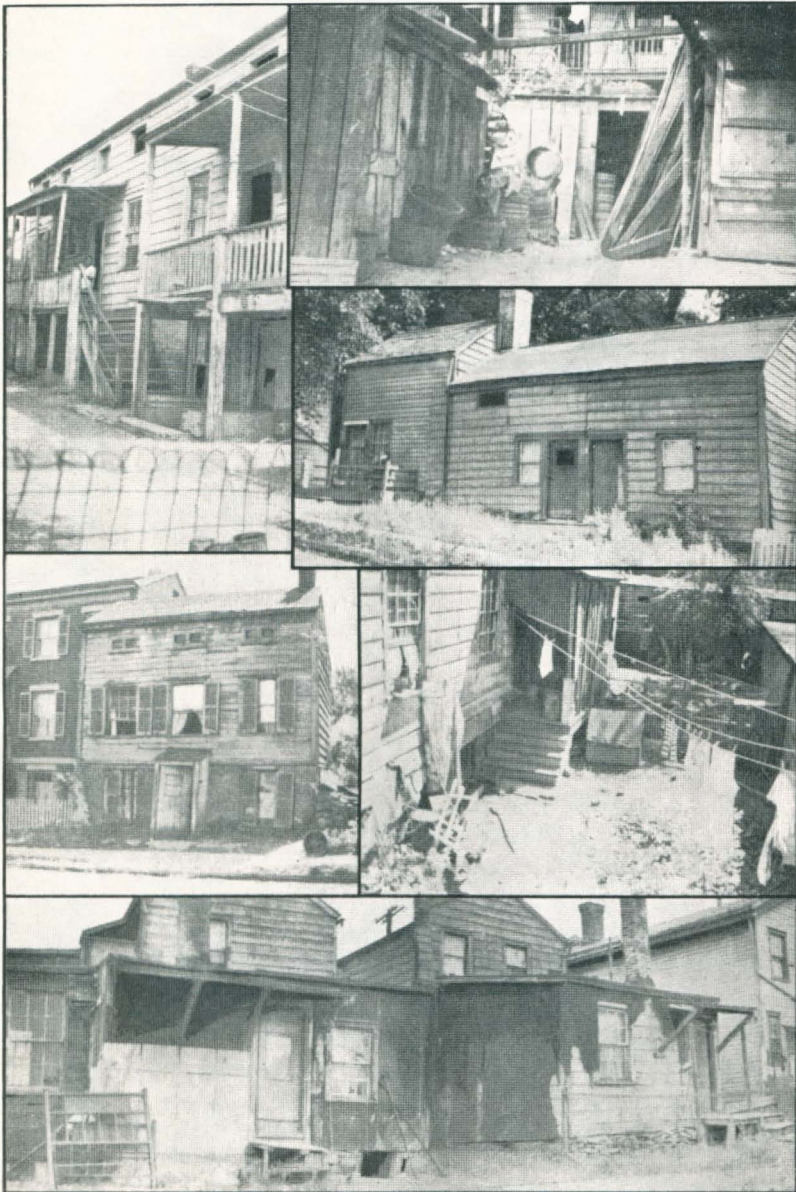
In further reference to the Syracuse low-cost housing project now under construction, it should be stated that the structures will comprise 678 family units. The project includes about seven city blocks, two of which were entirely occupied formerly by Negroes.

At the Syracuse public hearings conducted by the Commission it was questioned whether or not there was a rule that those people who vacated these premises are entitled to some sort of preference when the occupancy occurs in the new project. The Authority's Executive Director stated that it stands to reason that the people who suffered most seriously and who were driven to particularly bad temporary conditions because of the development would be given priority. To be sure, Negro residents of Syracuse have suffered seriously—not only during their temporary displacement to make room for the new project but long before the housing survey was even begun. The Executive Director also testified: "So far as the present specific planning is concerned, there is no attempt toward making a specific and exclusive provision for this or that group of color, race, religion, or anything of that kind." And, also he stated that "... It (the Authority) is planning its projects for the people of the lower-income groups who are now residing under substandard conditions." Indeed, the Commission commends the Syracuse Housing Authority for this statement of policy and hopes that it will be strictly adhered to when the dwelling units are assigned. Such a procedure would assure Negroes an equitable share of the units, for it is undeniable that they are in the lowest of the lower-income groups and that they live under the most substandard of the substandard conditions.

ROCHESTER IN MONROE COUNTY

Rochester, too, has several blighted and generally substandard areas. The character of the population and the character of the structural and other conditions of the residential buildings of these areas follow almost exactly the patterns described for the other cities discussed above. In Rochester, too, the great bulk of the Negro population is found to be more or less restricted to these areas for housing facilities. And, it is the conclusion of the Commission that Rochester cannot escape the charge that its Negro citizens have been prevented from sharing with the general population equal access to housing accommodations for which they may be able to pay.

Although Rochester is a very highly organized community in relation to matters concerning social work, social and economic research, etc., it is somewhat backward when viewed in terms of recent trends in programs for adequately housing the population. It was not until very recently that it manifested an interest in studying the housing conditions facing its population. This interest was undoubtedly given impetus by a sample survey of housing conditions among Rochester Negroes, conducted in 1938 by *The Voice*, a newspaper. The city is at present conducting a city-wide housing survey through the Rochester Bureau of Municipal Research, covering all of the substandard areas.



Courtesy of Poughkeepsie City Planning Commission

Although the sample survey was incomplete in practically every respect, and does not contain data for comparison of conditions among Negroes with those among the general population, some of its findings are summarized in Table XI.

TABLE XI

Summary of Findings from Sample Housing Survey Among Negroes, Rochester, 1938

CONDITION STUDIED	THIRD WARD	SEVENTH WARD	EIGHTH WARD	ELEVENTH WARD
	19 Families involving 88 persons	62 Families involving 192 persons	19 Families involving 109 persons	15 Families involving 79 persons
Structural conditions				
Dark rooms.....		15	4	4
Leaks in roof or ceiling.....	6	14	13	7
Broken sewer pipes.....	7	11	3	1
Cellar with trap door.....		12	6	1
Cellar with outside door.....		5	3	4
Cellar wet or damp.....	18	29	16	
Cellar with cesspool.....		1		
Heat and light facilities				
Furnace (central heating).....	9		11	8
Stoves (total number found).....	35	77	24	23
Gas.....	5	1	6	6
Electricity.....	18	45	13	10
Lamps (total found).....	2	17	5	2
Toilet and bath facilities				
Defective toilets.....	10	15	13	8
Bath facilities.....	10	37	14	9

Source: *Housing Survey*, *Voice Newspaper*, Rochester, New York, 1938.

Analysis of the figures for the family dwelling units in the city wards, in which the spot sampling was made and in which the concentrations of Negroes are found, indicates, at least in terms of the totals for each ward, that housing facilities for Negroes are generally unsafe, improperly heated and lighted, and unsanitary, thus constituting a formidable menace to the safety, health, and general comforts of family life.

The extent to which similar conditions exist among whites in the lower income groups and of practically the same economic status is not altogether known to the Commission, for lack of time prevented an exhaustive survey of such conditions. However, an indication of the relative conditions among the whites may be obtained from one of the preliminary tabulations of data gathered by the city-wide survey mentioned above. This was the only tabula-

tion available at the time this report was being prepared, and it presented in its entirety in Table XII.

TABLE XII
Rent Paid by Condition of Dwelling Unit for Blocks containing both White and Negro Families, Rochester, New York, 1938

	(Wards 7, 8 and 11)					
	GOOD CONDITION			MINOR REPAIRS		
	White	Negro	Total	White	Negro	Total
\$4.99 and less.....	1	.....	1	8	.....	8
5.00 to 9.99.....	10	.....	13	63	10	73
10.00 to 14.99.....	64	3	67	193	36	229
15.00 to 19.99.....	63	3	66	193	27	220
20.00 to 24.99.....	56	5	61	88	5	93
25.00 to 29.99.....	26	.....	26	17	8	25
30.00 to 34.99.....	4	.....	4	5	5	10
35.00 to 39.99.....	4	.....	4	4	.....	4
40.00 and over.....	3	.....	3	.....	.....	.....
Unknown.....	3	.....	4	.....	.....	.....
Owner.....	230	2	232	271	4	275
	461	16	477	842	95	937
	MAJOR REPAIRS			UNFIT FOR USE		
\$4.99 and less.....	.....	.....	.....	.....	.....	.....
5.00 to 9.99.....	7	5	12	9	5	14
10.00 to 14.99.....	50	32	82	37	13	50
15.00 to 19.99.....	155	51	206	44	18	62
20.00 to 24.99.....	85	19	104	18	1	19
25.00 to 29.99.....	42	8	50	4	2	6
30.00 to 34.99.....	9	1	10	1	.....	1
35.00 to 39.99.....	1	.....	1	.....	.....	.....
40.00 and over.....	1	1	2	.....	.....	.....
Unknown.....	.....	1	1	.....	.....	.....
Owner.....	89	2	91	15	.....	15
	439	120	559	128	39	167

Source: *Housing Survey*, Rochester Bureau of Municipal Research, 1939.

This table shows that rents paid by Negroes and whites for similar dwelling units in blocks containing both Negro and white families are on the whole approximately equal. Although this particular sample does not substantiate with the contention that Negroes generally have to pay greater rents for similar housing accommodations, a rearrangement of the figures disclose some additional interesting information, as presented in Table XIII.

Strikingly indicated in this table is the fact that for this sample 59 per cent of the Negro families occupy dwelling units either in need of major repairs or unfit for use. The corresponding ratio for whites is but 31 per cent. Only 6 per cent of whites live in such units. Stated differently—although Negro families constitute 12.6 per cent of the total number of families in the sample under study, they occupy only 3.3 per cent of all dwelling units

TABLE XIII

Occupancy of Dwelling Units for Block Containing Both White and Negro Families,
by Condition of Dwelling, Rochester, New York, 1939

CONDITION OF DWELLING UNITS	OCCUPANCY					Per cent Negro of total
	Total	NEGRO		WHITE		
		Number	Per cent distrib- ution	Number	Per cent distrib- ution	
All Units.....	2,140	270	100	1,870	100	12.6
Units in good Condition.....	477	16	6	461	25	3.3
Units needing Minor Repairs....	937	95	35	842	44	10.1
Units needing Major Repairs....	559	120	45	439	24	21.4
Units unfit for Use.....	167	39	14	128	7	23.1

Source: Derived from *Housing Survey*, Rochester Bureau of Municipal Research, 1939.

in good condition, but 23.1 per cent of those unfit for use. Surely, this example lends great weight to the Commission's often stated belief that Negro families invariably are housed, on the whole, in the worst of the substandard housing. And, the Commission states again that it is its firm conviction that limiting forces, particularly that of residential segregation, as described in the early paragraphs of this section of the report, place unjustifiable hardships on the Negro population of Rochester and the State of New York in their efforts to obtain that type of housing that would permit equal opportunity with the general population of the State for economic and cultural development.

IV PROPOSALS

In the report submitted to your honorable bodies last year, the Commission, after noting the encouraging progress toward low-cost housing then being made in various directions by the State, said:

It is not our purpose to add to the abundant discussion which this subject has already had and doubtless will have before your honorable bodies. We deem it our duty, however, to urge the deplorable housing of large portions of the urban colored population upon you as a very special reason why this subject should have your very prompt and decisive consideration. We urge also upon any administrative authority to which, in connection with any projects for construction or renovation which may in due course be entered upon by the State or any of its subdivisions, the determination of sites may be entrusted, that it give a full measure of consideration to the needs of those areas of the several cities or villages in which the Negro population chiefly resides. Finally, we urge

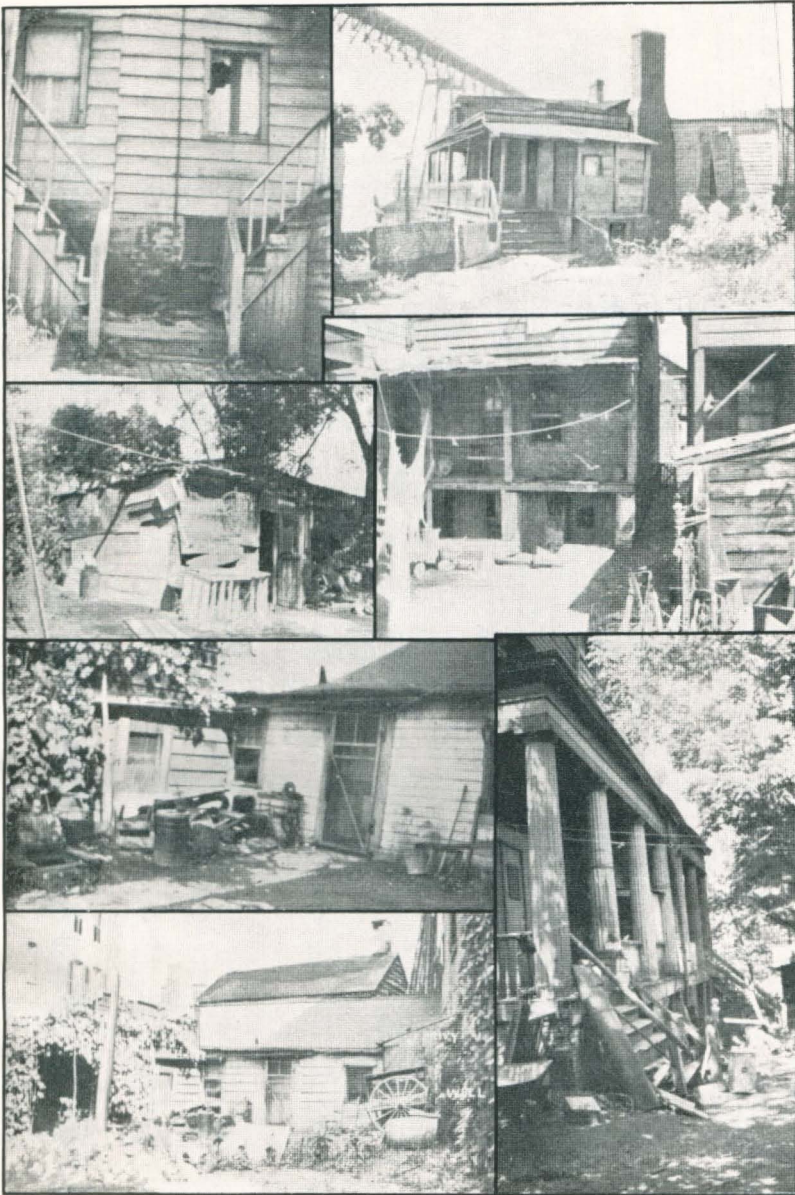
that the State at this time, while State-aided housing is still in its infancy, set its face firmly against the extension to publicly financed housing of the practice of segregation which characterizes nearly all privately owned housing in this State and which has characterized the few publicly financed projects thus far completed.

However sharp the break with inherited traditions, we believe that if the State announces the principle that publicly financed housing is to be open on equal terms to all citizens, regardless of race, no injury will be done to the aims of the rehousing program, and major advance will have been made toward the ultimate solution of the racial problem of the State. We believe that this announcement with legislative provisions to insure its enforcement is an essential part of housing legislation.

The impetus given to the low-cost housing program by the Federal Housing Act and by the Housing Amendment to the State Constitution, both enacted since the submission of the report above quoted, lend added force and importance to the recommendations made last year.

With respect to the proposition urged by us last year that there should be adopted, in connection with any housing legislation, provisions designed to prevent racial segregation in housing projects, it should be noted that a provision having this in view was included in one of the several proposals in the Constitutional Convention, out of which grew the present Housing Amendment, but was not included in the amendment as finally adopted. It is not believed that this action of the convention reflected any belief on the part of those responsible that segregation in housing projects was desirable. Rather do we believe that the omission of the provision was due to a belief that the provision was subsidiary in nature and could properly be effected by legislation. We believe that the time is ripe for the enactment of such provision, and we have accordingly drafted a legislative proposal to this end. (See Bill No. 10, attached.) This proposal, it may be noted, aims to preclude racial segregation not only in publicly financed housing projects, but also in housing projects constructed or operated by limited dividend corporations created pursuant to the State Housing Law, which projects, under the terms of that law, are exempt from taxation.

Added force is given to this recommendation by the newly adopted provision of the Constitution, which forbids discrimination against any person in his civil rights on account of race, color or creed. In his message to your honorable bodies at the opening of the present session, the Governor recommended "legislative action that will give real significance to the declared principle. Among other suggestions I urge that any legislation for low-rent housing require that the benefits of the project shall not be denied any person on the ground of race, color or creed."



Courtesy of Poughkeepsie City Planning Commission

SECTION V

EDUCATION

EDUCATION

I. General Considerations

On the part of the Negro citizens of New York State there has been a growing consciousness of the value of education as fundamental to the self-support, economic, and cultural development of any people. The expansion of this consciousness throughout the Negro population and the increasing recognition by all that education, in the broad meaning of the term, is essential to the survival of a people in our competitive industrial and political economy are repeatedly given impetus by employers who, denying any practices of discrimination, continually state that the major and most important consideration to them is merit—merit as measured by formal academic training as well as by experience. And, further, the Negro population has long ago come to the realization that a liberal education, or at least training in the fundamentals, is necessary not only as a prerequisite for increasing its earning power and actual income but also as a basic determinant in the proper expenditure of income, in the appreciation for good housing facilities, in normal family living, and in the wise and profitable use of leisure time—all of which affect, in turn, its general physical well-being and determine the extent of problems of social maladjustment such as crime and delinquency. Lack of education for a considerable portion of the general population may be adversely reflected in the general public welfare of the State. On the other hand, education makes for a more complete assimilation of the Negro citizens into the general population of the State and thereby gives them greater assurance of “. . . equal opportunity with the general population thereof for self-support and economic and cultural development.”

In New York State there are public and private institutions of learning which, according to the statutes on the law books of the State, should provide all of the citizens with equal opportunity for accommodation, advantages, facilities and privileges that these institutions may have to offer. In the course of its studies, the Commission has investigated the extent to which the Negro citizens of the State have enjoyed such equal opportunity throughout the political subdivisions of the State which have been charged with the responsibility of administering their local school systems with a great degree of autonomy. Although the Commission did not have adequate time to make an exhaustive analysis, it has taken testimony from public officials and has examined public records as well as records of responsible private organizations functioning in this field. In spite of the generally accepted view that the educational system of the State is very nearly an ideal of democratic administration, data assembled led to the apparently indisputable conclusion that Negroes do not, in every respect and in all localities,

receive equality in educational opportunities in the State—especially in districts having a predominance of Negro population. Particular attention was given only to certain questions relating to the admission of Negroes to various institutions, to administrative problems such as zoning, to provision of proper programs, and competent personnel, and to problems dealing with the adequacy and physical condition of buildings and equipment. The problem of Negro personnel in school systems—particularly those outside of New York City—has been discussed above in the section on employment. It might be pointed out at this point, however, that the absence of Negro teachers in schools where pupils of their race attend in considerable numbers leaves these pupils with the impression that Negroes do not have capabilities of being teachers or of holding positions of authority. Too, it does not allow for that certain inspiration that Negro students, as other students, get from seeing members of their race in authority along with members of other races.

II. Public Elementary and High Schools

With respect to these types of schools racial discrimination most usually occurs in considerations involving zoning regulations, the physical conditions of school building and other facilities in zones having a predominance of all Negroes, and in the types of courses offered at these schools. The Commission noted with interest that in the up-State region such considerations do not create problems as serious as those in New York City, primarily because this city has rigidly defined areas with heavy Negro population concentrations. For this reason, New York City is treated separately from the up-State region.

A. NEW YORK CITY

Working in cooperation with the Brownell Commission and more recently with this Commission, the "Permanent Committee for Better Schools in Harlem" studied these problems in New York and prepared a brief report. Inasmuch as your Commission did not have ample time to study the problems in detail, we have summarized the principal findings of this report in the paragraphs below:

Conditions in the High Schools

Zoning Regulations Which Discriminate Against the Negro Student

There is obvious segregation in sending all Negro girls to Wadleigh, Textile and Haaren High Schools. Commercial girls from P. S. 136 may choose Julia Richman. Special handicraft girls may go to Washington Irving.

There is also obvious segregation of Negro boys from P. S. 139 to DeWitt Clinton, Haaren and Textile High Schools. Those recommended may go to Stuyvesant and Townsend Harris. The principal of P. S. 139 made special requirements for the boys of his school in May, 1937. Such requirements for entrance of high school are not set by the Board of Educa-

tion; and no other junior high schools have such rulings. Because of the pressure exerted upon him by community groups, he changed these requirements the next term to read as follows:

Boys may go to the school of their choice but the principal may say whether this choice is a wise one. He reserves the right to send a written statement to this effect along with the student's application.

Boys from P. S. 184 face virtually the same conditions of segregation. They may go to DeWitt Clinton, Haaren and Textile High Schools. A very select few go to Stuyvesant although Benjamin Franklin is located just eight blocks south and a few blocks east of this junior high school.

Following are several examples which explain the discriminatory nature of specific zoning regulations of the various high schools:

Benjamin Franklin (Boys):—Zone: North—Harlem River; East—Harlem and East Rivers; West—Fifth Ave.; South—Indefinite. Although this school almost borders the Harlem community, this zoning regulation excludes the main part of this community.

George Washington High School (Boys and Girls):—Zone: North—City Line, Bronx; East—Broadway, East Fordham Road, Jerome Avenue crossing Harlem River at 155th Street, through Edgecombe Avenue, St. Nicholas Avenue to 125th St. to Morningside Avenue, to 110th St.; South—110th St. to Hudson River; West—Hudson River. This school also is easily accessible to the Harlem community yet the zoning regulation excludes the major portion of the community. The history of the zoning regulations for this school shows that the boundary has constantly changed as the Negro people moved into territory zoned to George Washington. Only after a hard fight on the part of community groups was even this small concession which now exists won.

Haaren High School (Boys and Girls):—Zone: No zoning restrictions. Although this school is farther away from Harlem than either of the above two schools, Negro students are sent here. It is significant that George Washington is a new, modern building while Haaren is the old DeWitt Clinton building.

Wadleigh High School (Girls):—Zone: No zoning restrictions. Since zoning is the policy of the Board of Education, this school which is located in the heart of Harlem should have zoning restrictions which would operate to prevent the school from becoming a segregated school.

The Case of Wadleigh High School

There exists a tendency on the part of the Board of Education to isolate Wadleigh and to segregate Negro girls. In the past, junior high schools 159, 101, and 43, predominantly white, sent their girls to Wadleigh, but in recent years these

girls may choose to attend any high school such as new Julia Richman and new George Washington. Predominantly Negro junior high schools, however, continue to send students to Wadleigh.

This situation aroused protests from the "Permanent Committee for Better Schools in Harlem" and from the Wadleigh Parents' Association. When it was proposed to the Board of Education that 600 girls living as far east as Edgecombe Avenue be transferred to George Washington from Wadleigh to relieve some of the segregation, the board completely nullified this proposal but changed the zoning boundary for these transfers from Edgecombe Avenue to Convent Avenue. A school census at Wadleigh showed that 530 white students and about 80 Negro students would have been transferred from Wadleigh. Thus, segregation would have been intensified. Further discussions led to the establishment of the zoning regulations listed above for George Washington which went into effect this February, 1938.

The main building of Wadleigh is between 35 and 40 years old with inadequate lunchroom, gymnasium or laboratory equipment. The 135th Street annex which formerly housed many Wadleigh girls is being converted into a music and arts school. The 102nd Street annex is on the two top floors of an old, drafty building and is inadequately equipped for a high school. Because of these conditions, Wadleigh has been asking for a new building. The Building and Sites Committee of the Board of Education, however, recommended a site for an academic West Side high school for girls, not specifying Wadleigh as that school. This seems to be a discriminatory attitude of the Board of Education, and it is reasonably believed that the school to which all Negro girls will be sent will be the old Wadleigh. Simultaneously with this, the character of Wadleigh is becoming vocational although the school is not equipped for this purpose.

The Case of Girls High School of Brooklyn

The Girls High School is the oldest public high school in the city. The building, erected early in the school's life, is over 40 years old. About 25 years ago, Girls High was one of the finest in the city, maintaining high scholastic standards and offering only the academic course. In recent years, Negroes have moved into the neighborhood in increasingly large numbers. The school population has correspondingly increased in the number of colored girls. In the lower terms they are about 25 per cent of the new admission.

The general trend toward making the school an industrial one and the plan to change its location make one skeptical as to the type of school that will be left for the neighborhood. It is said that the new school will not be zoned, so that those girls who have the ability and want to receive academic training

may attend. However, the junior high schools may remove the academic subjects and substitute industrial courses. Thus, the chances for Negro girls to attend an academic school will be fewer.

The policies followed at both Wadleigh in Manhattan and Girls High in Brooklyn are: (1) shunting all Negro students into old, dilapidated buildings; and (2) instituting industrial courses in these schools, thus denying the Negro student the opportunity of academic and commercial training.

Your Commission wishes to emphasize that the democratic ideal of education upon which the school system is built demands the removal of all zoning restrictions, as reported by the "Permanent Committee for Better Schools in Harlem," which discriminate against the Negro students with respect to the school which they may attend or the type of course which they may take.

Courses Given in Schools Which Negro Students May Attend

Wadleigh High School:—Although originally this school was predominantly academic and commercial, in the last few years vocational and industrial courses were introduced. With each year more emphasis is placed on these courses although the building is not adequately equipped for them. A general course has been introduced in which the student may major in domestic art and domestic science, thus equipping herself only for domestic work when she graduates. Failing students are encouraged to take this course.

Girls High School:—The school now has a general, an academic and a commercial course. Homemaking, art, weaving, millinery, sewing, and pottery have been introduced for girls who fail the academic subjects such as language, mathematics, and science. Also, there is a progressive course permitting a girl to be promoted on the basis of effort rather than achievement.

As has been indicated above, the annexes of Textile and Haaren high schools specialize in vocational subjects, but the equipment for these subjects are either completely lacking or extremely poor. The bulk of the Negro students are sent to these annexes. Haaren 103rd Street annex has no music classes. Pupils sing in assembly for which they receive credit. No mathematics is given in this building, no equipment for the teaching of science courses provided.

The Commission agrees that instead of "diluting" the curriculum for failing students, it should be enriched by including English, history, language, mathematics, and science courses. Inasmuch as even well-trained Negroes find greater difficulty in obtaining employment than do white persons of even mediocre training, every effort should be made against limitation of opportunities for Negroes, that they may at least acquire the type of training which would enable them to compete on par with the general population of the State.

Conditions in the Elementary Schools

The elementary schools present greatly similar problems, except that they are more acutely handicapped by poor and inadequate equipment and the resulting overcrowding. Added problems facing most elementary schools, especially because of the tender ages of their pupils, are the extremely vicious neighborhood conditions against which these schools must protect their pupils. The unpublished report of the Mayor's (Mayor LaGuardia) Commission on Conditions in Harlem in 1936 described one school, which is much the same today, as follows:

Let us take a look at, perhaps, the worst of these schools, P. S. 89, at the corner of 135th Street and Lenox Avenue, which was built in 1889, and had an addition made to it in 1895. This school contains in an extreme degree all the bad features of the schools of Harlem. First of all, within a radius of two blocks of this school, there are 18 beer gardens, six liquor saloons, four moving pictures, and two hotels alleged to be disreputable, besides one solid block of rooming houses known to be the center of vice and hide-outs of venders of narcotics and other criminals. If one attempts to enter the building, one must be careful to step between or walk around unemployed men seated on the steps of the entrance. After entering the school building, an offensive odor greets one as he passes up the stairs leading to the principal's office and the classrooms.

The physical appearance of the principal's office was typical of the building. . . . While this school has classes from the kindergarten to the sixth grade, the seats are of the type suited to kindergarten children. These seats are naturally uncomfortable for the majority of the children in the school who are over eight years of age. The classrooms are dark and stuffy; the blackboards are old and defective; and the wooden floors are dirty and offensive. At the time the visit was made to this school, 10 of the 45 rooms were out of use because of a recent fire. This school, which is classified as a partially fireproof building, had had six fires during the past four years. This school, like other schools in the Negro area, is overcrowded and therefore must run two sessions. Moreover, the school has no gymnasium or library and is generally lacking in the educational equipment which is deemed necessary in modern schools of its grade.

Another elementary school was described by another reliable report in this manner.

P. S. 170 has the largest registers of all Harlem schools. Since Harlem schools have larger registers than schools in other sections of the city, it may be concluded that P. S. 170 has the largest group registers in the city.

With 101 classes in a school equipped for 59 classes the short time schedule has been introduced. Five hours of work must now be crowded into four. This means that the children in our school receive one week less of instruction each month. This applies to every class from the kindergarten through the fifth year. Subjects like drawing, music, nature, literature and the like are cut to the barest minimum. In a neighborhood where the children are so rarely exposed to the beauty of life, these very subjects should be presented to the fullest extent.

The building now housing P. S. 170 was built in 1899. In the 38 years of its existence only minor repairs have been made and the building is now in a state of disrepair.

The windows are so old that they rattle annoyingly when the wind blows. There have been times when opening or shutting a window has caused one of the panes to fall out into the courtyard or into the classroom. While it is true that the custodian has promptly replaced the missing pane, he has been unable to prevent a recurrence. There is decided danger in such a situation.

The halls and stairways are very cold and draughty. The rooms are very unevenly heated, many of them so insufficiently heated that the health of teachers and children is considerably impaired. One of the obstacles to the proper heating of the building is the rolling door situation which provides a good medium for draughts.

Some of the rooms with rolling doors suffer, too, from a lack of adequate blackboard space. In addition, singing and other activities can be heard from room to room. Sometimes even the moderate voice of the teacher is audible between rooms.

In most of the rooms artificial lighting must be used all day. Electric bulbs are not replaced until completely worn out. But the dim yellow light given out by old bulbs is often too poor to work by.

Many of the teachers have complained about paint and plaster falling from the ceilings and walls. A child sitting directly underneath or looking up at the moment of the descent of one of these chunks of plaster might be seriously injured. This is a hazard not to be overlooked. Repainting might solve the problem.

The furniture, desks, seats, closets, are in a sorry state. Many desk drawers cannot be locked. Closet doors are broken. Children's seats are split into two sections. Some of the children's desks have long been without book boxes.

The children's lunchroom is almost beyond description. The odor from a nearby toilet combined with odors of food and disinfectant make the place practically unenterable. In addition, the doors near the lunchroom are not only kept locked but a wooden bar has been placed through some of them so that they are not even opened for a thorough periodic ventilation. Since no soap or towels are provided for either teachers

or children, the children eat their lunches with dirty hands. They sit close together on benches with their coats on. Immediately after their lunch they leave this stuffy, poorly ventilated wing of the courtyard for the cold outdoors. At this time of the year the possibilities of frequent and prolonged colds are very great. . . .

It is, of course, needless to continue citing such examples, for it is quite obvious that these reports show the physical conditions of schools in this area to be poor and greatly inadequate. Overcrowding, too, is a very serious problem because the size of classes affects, to a great degree, the character of the teacher's work. Scientific investigation has not as yet provided precise measures of the effect of class sizes upon instructional results, but practical experience indicates that large groups of pupils under one teacher do not constitute proper and favorable teaching conditions—mainly because the teacher has no adequate opportunity to deal with the individual child and his needs. It has been brought to the attention of the Commission that similar conditions exist, but in less degree, in a few other sections of the city. Your Commission deplures these conditions not only among Negroes but also among other groups. It feels definitely that the situations in Harlem and in Brooklyn, as they affect Negroes, show subtle discriminatory practices which are in turn adversely affecting a substantial portion of the general population in that area.

B. UP-STATE NEW YORK

Your Commission is happy to observe that conditions in elementary and high schools such as those described above were not found in the up-State cities visited. Negro children have participated more or less equally in the facilities provided for elementary and secondary education. In Rochester the total pupil population in December 1938 was 46,973 and the Negro pupil population was 572, or 1.2 per cent, while Negroes in Rochester constitute about 1.0 per cent of the population of school age. In Poughkeepsie Negroes constitute about 2.5 per cent of the entire population and 5.0 per cent of the pupils. Syracuse, Binghamton and other urban centers undergo similar experiences in the elementary and secondary schools. Local school authorities stated that no problems arose because there were no school districts in which there was a predominance of Negroes—or where they equaled as much as one-third of the pupil population for the district. Any failure on the part of these authorities to provide equal and adequate facilities in these districts, according to the local people, would have resulted in wholesale protests by the whites whose children attended these schools.

Many of the local Negroes, however, have stated to the Commission that even though their children attend these schools with equal facilities, etc., there is, on the part of the teachers, a marked

lack of interest in, sympathy with, and understanding of Negro pupils. They do not properly advise or encourage the pupils with respect to their continuation beyond the compulsory school ages. Of course, this whole problem is closely tied up with the problem of normal school training, vocational guidance, etc., which is discussed below.

III. Public Vocational Schools

Because Negro workers meet with so much resistance in finding jobs in skilled operations and because it is almost impossible for them to break down this resistance without adequate training, it is especially essential to Negro school children that there shall be no additional bar or discouragement offered them in their search for vocational training. Unfortunately, the vocational guidance which is available to Negro school children often gives the effect of being a hit or miss affair. Even white vocational guidance counsellors who are sympathetic to the aspirations of their Negro pupils are frequently not sufficiently informed as to the possibilities that lie in store for them.

Many counsellors are not particularly interested in the Negro's effort to break down existing occupational barriers; others feel that the effort is largely hopeless and are concerned with the psychological effect of occupational frustration upon their students after graduation. They therefore encourage and advise him away from occupational fields in which they presume that Negroes now have difficulties in finding work. Sometimes their presumptions are justified, at other times they are completely unfounded. In either case the school system is guilty of helping foster an unfavorable occupational pattern which has traditionally operated to the disadvantage of the colored population.

Not infrequently such misguidance by counsellors is more selfishly motivated in official school practices. The vocational schools, unlike the purely academic schools, are continually called upon to justify the reason for their existence, and that justification is frequently based upon the number of their graduates placed in jobs. Under these circumstances it is easy to understand why the administrative authorities of local schools, in order to keep their placement records high, institute a policy of discouraging Negro students from taking courses in which placement officials will have difficulty finding them jobs.

In the case of the New York City vocational schools it is charged that trade-union influences help to shape such a policy. An industrial advisory committee helps to set the policies of the vocational schools; included thereon are trade-union representatives, and it is stated that these trade-union representatives have, on occasion, added their voices to the counsel of those who would restrict vocational training opportunities for Negro children. In these ways a general policy of vocational training for Negroes is developed which is best described in the exact words of a New York City educator:

“Let’s not mince words; let’s be practical about this matter—the Negro is not employed in certain trades, so why permit him to waste his time taking such courses.”

Though, as has already been pointed out, the present educational system of the State leaves corrective measures entirely in the hands of local communities, the Commission feels obliged to point out in this report that the withholding of any course represents a policy narrow in outlook and vicious in consequence. It is the completion of a vicious circle in that Negroes cannot find jobs without training and they are refused training because they might not be able to find the jobs.

An enlightened educational system can afford to admit no other principle except that intelligent and industrious application coupled with work skills will eventually break down color barriers in the world of industry and commerce.

IV. Normal Schools—Colleges and Universities—Nurses’ Training Schools—Hospitals

Normal Schools

In most cities other than New York City, graduates of the city, county or State normal schools constitute the supply of teachers from which the public school systems recruit their personnel. Admission to and graduation from these normal schools therefore becomes almost an absolute prerequisite for employment as teachers in these cities. Thus, arbitrary non-admission of Negroes to these schools may be presumed to be a type of discrimination which precludes their chances for employment in these school systems. Evidence presented to the Commission leads to the belief that this matter seriously affects the opportunities of Negro aspirants to the teaching profession in the public schools of their home cities. This subtle form of racial discrimination is effected through three principal methods, namely: (1) prejudiced consideration of Negro applicants leading to their nonadmission to the normal schools; (2) continued discouragement to Negroes who do gain admittance to discontinue their courses before completion; and (3) well directed efforts to secure positions out of regular school system or out of the city—usually in Negro schools in the South—for those few who “are allowed” to graduate.

Testimony taken by the Commission at the Rochester and Syracuse public hearings well illustrates these forms of discrimination, and how they are effected in cities visited by the Commission and in other cities to whose education authorities inquiries from the Commission were directed. With respect to the first method of discrimination, prejudiced consideration of Negro applicants, the Rochester situations are cited. It was testified by reliable citizens of Rochester that the last Negro applicant to be admitted to the Rochester Normal School, which has since been discontinued, was

required to agree through oral oath that she would not attempt to seek employment in the Rochester public school system. Desiring to get her normal school training, which is theoretically available to all citizens of the city, this young woman entered the school under these alleged terms, subsequently graduated in the upper quartile of her class, and later obtained a position in Washington, D.C., where she is employed at present. This was denied by the officials of the Rochester Board of Education who pointed to the fact that there is *one* Negro among the 2,004 public school teachers—a graduate of the Rochester Normal School. Other testimony disclosed, however, that during the entire existence of the Rochester Normal School, over 25 years, there have been but four Negro graduates—the one now in Washington, the one now teaching in Rochester and two others who formerly taught in Rochester. It is noted with interest that at no one time was there more than *one* Negro teacher in the Rochester system. When the other two were separated from the system by death and marriage, the present teacher was engaged. These conditions leave grave suspicions that there exists the practice of racial discrimination in Rochester. Recently, the Rochester system has been drawing from the nearby Brockport and Geneseo State Normal Schools. Other evidence before the Commission revealed that at the beginning of the present term last September a Negro honor graduate from a Rochester high school was denied admission to the Brockport Normal School. Despite her expressed desire to attend the school and subsequently to try her skill at being a teacher, she was advised by the school authorities that she probably would do better by trying some other field. Although the Commission is aware that in many cases such advice and guidance are conscientiously given such applicants, there still remains a suspicion that there is an interplay of racial prejudice in cases such as those cited.

With respect to the second point, discouragement of Negroes to continue their training after admission to a normal school, the Commission has been advised on numerous occasions by some of the people so affected that such conditions were existent. And, it has been reported that in some instances, such discouragement has been fortified with threats and in fact the deliberate failure of some of these students.

The third method of indirect discrimination against Negro graduates—securing for them positions other than those in public schools systems—is best illustrated by cases in Syracuse, which has *no* Negro among its 1,390 classroom teachers. There have been two Negro graduates from the Syracuse Normal School, and there is at present one Negro girl in the next graduating class. Of the two graduates, both of whom were acknowledged to have been better than average students, one, a Puerto Rican, secured a position through the principal of the school to teach English in Puerto Rica; the other, an American Negro, was shunted off into a very meager position in a nursery school attached to a private Negro

social agency. The Commission has been reliably informed that at the present time these school authorities are attempting to find a similar job for the Negro student in the graduating class and that there is fear on the part of the Negro community that if such a job is not found, this Negro girl may, like her predecessors, be unable to obtain a position in the city school system. The implications in these conditions are quite obvious, and were it not for the authenticity of the evidence presented, your Commission would be reluctant to believe that such subtle forms of racial discrimination were deliberately practiced.

Colleges and Universities

Admission of Negroes to colleges, universities and other educational institutions (other than medical and nurses' training schools which are discussed below) supported in whole or in part by public funds or by contributions solicited from the general public, is generally granted throughout the State with few or no discriminatory practices. However, the full participation of Negroes in all accommodations, advantages, facilities and privileges is not always permitted, or only permitted under conditions of segregation. Particularly is this true with respect to Negro women and to residence in dormitories. The attitude is typified by the reply given to a Negro girl by the dean of a college, who said to her: "Now what would mothers think if they came to a dormitory and found you living with their daughters?" With respect to other activities, etc., there are also examples of discrimination and segregation as, for example, the renting of private swimming pools for Negro girls rather than permitting them to have such facilities along with and at the same time as other students. Examples such as these can be given; however, such a listing is not necessary to convince the Commission that Negroes are denied equal opportunity to share in the facilities offered by these institutions.

V. Nurses' Training Schools—Medical Schools

Similar to the handicaps and inequalities of opportunities involved in the admission of Negroes and their graduation from the normal schools in various municipalities of the State are the serious direct and indirect effects of their exclusion from nurses' training schools and from medical schools, particularly those from which municipal hospitals obtain their medical and nursing staffs, for in these cases, too, there are inequities not only in educational opportunities but also in the employment opportunities resulting from such education. Particularly in the up-State region is this true, for in New York City there are opportunities for Negroes to get at least a measure of such training—although in segregated institutions, for the most part.

Nurses' Training Schools

In connection with the Commission's study of the qualifications governing the admission of applicants to nurses' training schools, both tax-supported schools and private schools working in conjunction with municipal hospitals, some very interesting facts about policies, practices and general point of view with respect to the admission of Negro applicants have been discovered. Of 33 nurses' training schools attached to hospitals in up-State New York, 32 do not admit Negroes. The one exception is the Nurses' Training School of the Buffalo Municipal Hospital, which three years ago admitted one Negro woman "as an experiment of doubtful value." Although one year later the experiment found this student leading her class of 100 nurses, no other Negro applicants were accepted in the classes admitted during the last two years. In New York City the training of Negro nurses is confined to two institutions in which there are no white students—a segregated system. It appears to the Commission that among the factors causing such restrictions are those relating to qualifications, the requirement that student nurses must live in residence, the methods of selection of applicants, etc.

Testifying before the Commission on the admission of Negro students, the Director of the School of Nursing, Syracuse University Hospital—which has an agreement to handle all personnel matters of the Municipal Hospital of Syracuse, stated ". . . our students are accepted not only on scholastic qualifications but personal qualifications, family background, and so many factors that enter into their lives in schools of nursing, and it may involve another angle that has not come up previously and it would be so much different from the white applicant . . ." It is clear from such a statement, and it is a reasonable statement of qualifications as considered by other schools throughout the State, that considerable leeway is given the persons passing on applications. The interplay of personal attitudes, prejudices, presumptions, etc., is obviously uncontrolled. It is probably because of such freedom as this that the Superintendent of Nurses, Kings County Hospital, Brooklyn, New York, for ten years has been under obviously erroneous impressions—impressions such as expressed in her testimony as follows:

. . . speaking now of the colored person who is the black person,—we have had people who have been a great success, people who have come through, including Negroes, but I don't think that the Negro for the most part, any more than the Indian of whom we graduated two,—choose(s) nursing. . . . I think that there are other fields of work in which these people are happier and enjoy and, that they do not care to become nurses. I may be mistaken, I don't know, but you are asking for an opinion. . . . but I have seen them in other lines of work very successful, and I do not think that the

average Negro girl does want to make those personal contacts which a nurse must make—she must work very hard, she must serve,—a nurse must sometimes get down on her hands and knees. . . .

And, the significant feature of the whole matter was her admission that she had never consulted Negro girls about the validity of her impression, had never come in contact with Negro nurses, and was unaware of the fact that there are two municipal hospitals in New York City which are staffed almost exclusively with Negro nurses. Another director of a nurses' training school, testifying on the question of admission of Negro students, said: "I think it should be taken up with the student body to see if they have any objections." When asked whether or not the student body determined the policies of the school, set up its curricula, and otherwise ran the school, she could merely reply that the student body was a self-governing body and that they would have to decide at any rate. Obviously, the fact that Negroes have been arbitrarily and systematically excluded from these schools can be reasonably presumed to be the result of discriminatory practices or of a laxity on the part of the proper officials in assuring all of the citizens equal opportunity for the facilities offered by the schools.

As pointed out above, New York City has in the past attempted to dodge the issue by setting up an apparently segregated system. Your Commission believes that the present system of permitting each nurses' training school attached to a municipal hospital to select its students from among applications made at such hospital has operated in a discriminatory manner against Negroes and has allowed for the segregated set-up. At the public hearings in New York the counsel to the Commission, in interrogating the Director of the Division of Nursing in the Department of Hospitals, city of New York, made the following statement and directed the question:

The Commission has been interested in that question because of the difficulty it has experienced in finding out why it is that, despite the fact that the department has insisted that it practices no policy of segregation in nurses' training schools, there have been absolutely no Negro pupils in Bellevue or Kings County Hospitals training schools, and there has been nothing but Negro pupil nurses in Harlem and Lincoln Hospital training schools. Doesn't it seem to you that a central system of selection would enable you to deal with this problem so as to satisfy the public that there is no policy of segregation?

The director felt that they should be allowed to apply wherever they wish to train.

In addition to segregation in nurses' training schools there are other discriminatory practices. Most important among them are the questions of the commuting of pupil nurses to the central school for certain courses given there alone, the question of equal oppor-

tunity for graduate nurses to obtain the additional educational work offered in the staff-education program of the department, and questions involved in housing the graduate nurses. Certain courses, particularly those in psychiatry, are given at the central school at Bellevue, and students from all affiliated city nursing schools are required to attend. In the case of graduate nurses certain courses of a special character are organized from time to time and the "interested" hospitals are notified to invite to these courses graduate nurses working in the particular fields. It appears that Harlem and Lincoln hospitals have been considered by the department officials not to be "interested" hospitals, although Negro nurses in these hospitals desired to take such courses in these staff-education programs. Once in a while, however, a Negro nurse or two could not by any justifiable reason be passed over. In all cases these courses have been given, for both graduate and student nurses, at some central hospital such as Bellevue or at times at the Presbyterian Hospital. Through the department, arrangements have been made to house the nurses for the duration of the course in order to avoid so much commuting from their respective nurses' homes to the central schools. At practically all times, housing facilities have been inadequate thus making it impossible for the department to house all the students, the selections being made on the basis of "distance and extent of inconvenience incurred." As yet, a Negro nurse has never been given this advantage. Although Bellevue is located at 29th Street, white nurses from Metropolitan Hospital at 79th Street have been housed for special courses while Negro nurses from Harlem Hospital at 136th Street and from Lincoln Hospital at 159th Street have been required to commute.

When the Commission called this to the attention of the Director of the Division of Nursing and indicated that considerations of equity might suggest that she rotate the arrangements in view of the inadequate housing facilities to accommodate all the students to whom these affiliated courses are given, so that the burden of commutation would be distributed equally among all schools, the director simply stated that she did not think it was a problem.

The effect of the denial of these special post-graduate courses to Negro nurses was bitterly demonstrated a short time ago when the Department of Hospitals appointed a white nurse as supervisor in the obstetrical division of the Lincoln Hospital because the Negro nurses, who had had 8 to 10 years of experience in obstetrics, could not be so appointed because they lacked the type of post-graduate training as is made possible by these special courses.

In view of the facts presented above, the Commission is again compelled to conclude that there is reasonable evidence to support the charge of inequalities in consideration given Negroes seeking nurses' training and also in the training of Negro pupil and graduate nurses in the tax-supported nurses' training schools of the State.

Medical Schools—Hospitals

Admission of Negroes as students in medical schools attached to or affiliated with municipal hospitals, as staff members of municipal hospitals, or as internes in municipal hospitals or private hospitals caring for city patients, is also practically non-existent in up-State New York and existent almost entirely under a segregated system in New York City. In early 1938, it was found that in a sample of 58 hospitals outside New York City none accepted Negroes as internes; none included Negroes on the consulting staff; only one reported a staff member; and five stated that courtesy privileges were extended to Negro physicians. This sample does not give the full extent of the inequalities in opportunities to Negro medical students and physicians, for many of the municipal hospitals are managed by private medical schools under contract with the municipalities. Negroes are denied admission to these medical schools just as they are denied admission to the nurses' training schools, from which the staff, internes, etc. for these hospitals are secured. Typical of such arrangements are the Syracuse Memorial Hospital and School of Medicine and Dentistry of Syracuse University and the Strong Memorial Hospital and Rochester School of Medicine and Dentistry of the University of Rochester. Both of these schools have contracts to operate the municipal hospitals with respect to personnel—doctors, internes, nurses, etc. Both schools use their own student graduates in these hospitals and both schools of medicine exclude Negroes. Indirectly, therefore, Negroes are excluded not only from educational training but also from employment opportunities arising therefrom.

Perhaps, the boldest example of such discrimination against Negroes is indicated in the letter which the Dean of the School of Medicine and Dentistry of the University of Rochester sends to Negro applicants. The letter reads as follows:

The Admission Committee on several occasions has discussed carefully with the President the question of Negro students in this school of medicine. It is possible for this school to give the work of the first two years, but it would be impossible for us to offer clinical training, particularly in obstetrics, which is of fundamental importance in the clinical curriculum. Under the circumstances, therefore, we feel that it would be much wiser for you to apply to several of the schools who can, and do, give adequate clinical training to Negro students. The transfer from a completed second year to another school is always difficult so that it is better to enroll in the school in which the student plans to carry through the entire four years.

This letter has been most effective in excluding Negro students, for although there have been many applicants, there has never been a Negro medical student at that school.

At the Rochester public hearings conducted by the Commission, the dean of the school and director of the hospital stated that it was

their belief that admission of Negroes to the medical school and nurses' training school would cause wholesale objection on the part of white patients in the hospital where they practice, would cause the white students to quit instantly and would cause a serious disrupting of the entire program of the hospital. They admitted that they actually based their assumption on no practical experience and that they were not acquainted with the fact that Negroes attend many university medical schools, other than those of Negro colleges and universities. When informed of the fact that a Negro woman had been admitted to the Nurses' Training School of the Buffalo Municipal Hospital, not very far from Rochester, and that not one student nurse had resigned or even voiced an objection, these officials could do no more than shrug their shoulders. And, when confronted with the testimony that in the City of Rochester itself there were three Negro physicians whose practices were 60 per cent, 75 per cent and 95 per cent white—involving all types of cases including obstetrics—these officials were at a loss for a reasonable explanation of their opinions. Obviously these were simply conjectures, and the entire situation is an example of flaunted discrimination against Negroes—in violation of the Civil Rights Law and the Tax Law of the State of New York.

In New York City, problems confronting Negro doctors and internes are similar to those for Negro graduate and student nurses. Negro internes are permitted only at Harlem, Sea View, and Lincoln Hospitals. Staff positions held by Negro physicians are also limited to hospitals where there is a predominance of Negro patients.

The Commission feels strongly that such discrimination in advantages for education and experience derived from free access to the professional training facilities of hospitals in the State deny Negroes equal opportunities to acquire the skill, practice and training necessary to prevent their exposure to competitive disadvantages in their profession.

V. Proposals

The provisions in the Civil Rights—declaring that all persons within the jurisdiction of the State of New York are entitled to the full and equal accommodation, advantages, facilities and privileges of any “kindergarten, primary and secondary school, high school, academy, college, university or professional school, extension course or any other educational facility supported in whole or in part by public funds or by contributions solicited from the general public”—furnish only an imperfect remedy for the inequalities discussed above. On the one hand, a Negro applicant would face grave difficulties in establishing in a criminal, or even in a civil court, that his or her exclusion was due to something other than his or her lacking qualifications for admission. On the other hand, even a successful proceeding under the present statute would not necessarily result in the admission of the rejected applicant.

It is to be observed that while the statute requires that all persons be treated equally "subject only to the conditions and limitations established by law and applicable alike to all persons," the statute makes no provision for establishing, whether by law or otherwise, the "conditions and limitations" governing admission to educational institutions; and indeed we find, in connection with the nurses' training schools in question, that the regulations governing admission have not been published. It is obviously desirable in all institutions supported in whole or in part by public funds, that there should be published, and officially filed, not merely the minimum requirements for admission, but also the procedure followed in selecting those to be admitted from among the applicants possessing minimum qualifications for admission when, as not infrequently happens in such institutions, the number of such applicants exceeds the available accommodations of the institution. Proposed legislation designed to provide for such public announcement and to compel adherence to the requirements and procedures so announced is appended. (See Bill No. 11, attached.)

The proposed legislation is framed for incorporation in the Education Law. Should it be so incorporated, power will be automatically vested in the Commissioner of Education, by virtue of existing provisions, to issue necessary corrective orders including, where appropriate, an order for the admission of the applicant wrongfully denied admission.

With respect to institutions not supported by public funds, the problem is more difficult. However, the tax exemption enjoyed by these institutions presents both a reason for insisting upon equality of treatment by them and a means of compelling such equality of treatment. The Legislature has already recognized this by a provision in the Tax Law enacted in 1935 prohibiting any tax-exempt non-sectarian educational institution from denying the use of its facilities to any person otherwise qualified by reason of race, creed or color. So far as we have been able to ascertain, the provision has not yet been invoked or applied. A possible reason is to be found in the fact that the language of the provision is capable of being construed as merely a declaration of legislative policy, and not as commanding a denial of tax exemption to educational institutions disobeying the provision. A bill designed to remove this doubt was accordingly submitted. (See Bill No. 12, attached.) In this connection, your Commission desires to record its belief that the principle of the provision under discussion should be extended to all the numerous types of institutions exempted from taxes. There would seem no reason why any organization seeking tax exemption on the ground of its public character should be permitted to deny its facilities to any qualified person.

SECTION VI

RECREATION

RECREATION

I. General Consideration

It is now a universal point of view that recreation is a basic public utility—one whose far-reaching influence not only affects the health and well-being of the individual but also involves an intimate relationship to community welfare. With the rapid growth of our urban centers and the resulting overcrowding and general congestion, on the one hand, and with the enactment of progressive, humane labor legislation limiting hours of employment, on the other hand, it becomes imperative that citizens of the State be given ample opportunity to use their off-duty time in a manner that will make for better and richer community life. One can hardly overestimate the value and importance of recreational activity and leisure-time play to the individual, the family, the community, the State, and to the Nation. Health, vigor, character building and training for manhood, and crime prevention are the benefits to the child; pleasure, relaxation, health, greater earning capacity and more wholesome life are the benefits for the adult; and to the community, State and Nation there are the advantages in the development of a more rugged and sturdy people and a contented and more wholesome citizenry. The significance of these factors has been imprinted upon the public mind, and the public at large has come to acceptance of the responsibility for providing safe and adequate play space for its children and suitable recreation facilities for its youth and adults.

It is not the desire of the Commission to present at this point a dissertation on the merits of recreation; it simply wants to emphasize strongly the importance of this activity as a vital force in the physical, intellectual and cultural development of the population of the State. The exclusion of or limitation on any segment of the population with respect to equal opportunities for participation therein may reasonably be assumed to be discriminatory action impeding its chances for growth and development with the general population. In this connection particular emphasis will be placed on public (tax-supported) recreation because it pertains primarily to the masses—and thus affects the bulk of the Negro population—and presents problems which materially affect any community as a whole. However, reference will also be made to semi-public recreation and commercial recreation.

We will summarize our general observations with respect to inequalities suffered by the Negro population in its participation

in these types of recreation, and then cite illustrative materials describing situations in the several urban centers of the State.

Existing public recreational facilities—such as playgrounds, parks, beaches, public school facilities, etc.—throughout the State are generally open to Negroes without restriction. Indirectly, however, the Negro population suffers a decidedly unfair, and seemingly discriminatory, disadvantage, for on the whole these facilities are not readily accessible to the concentrations of the Negro population. One of the major principles in determining the proper location of a playground or park is that it be situated within a reasonable walking distance of the population it is to serve. This principle is also followed in locating the schools in a community. This consideration is fundamental because people are not inclined to go far distances—particularly out of their immediate neighborhood—to satisfy their desire for recreation. In the urban centers, they will usually not go more than four or five blocks—and, when there are physical barriers such as busy thoroughfares to be crossed, this distance is much shorter.

The Commission has grave suspicions that there is some inequity in the location of public playgrounds in relation to the concentration of Negro population. Generally, save for a few exceptions, the adequate public recreational facilities have been found unreasonably inaccessible to the Negro population. In many instances, heavily populated Negro sections have been found completely devoid of public recreational facilities, and such sections have been those where there were great housing congestion, poor homes and large families of small financial means. To be sure, out of such areas have come a goodly portion of the juvenile delinquents and adult delinquents and criminals in these cities. Municipalities such as these would greatly promote the rehabilitation of both lives and property in these substandard areas by providing even a minimum of playground and park facilities and supervised recreational activities.

The seriousness of handicaps to Negroes because of an inadequacy of public recreation facilities available to them in any community becomes all the more evident when the participation of Negroes in semi-public recreation is considered. Foremost among this type of recreation are the Y.M.C.A., the Y.W.C.A., the Boy Scouts, and various community houses and settlement houses. Throughout the State it is the general rule that Negroes are denied membership and thereby participation in the recreational program of these agencies—except under segregated set-ups, in some cases. Your Commission regards segregation of Negroes in separate branches, auxiliary bodies, etc. of such organizations an overt act of discrimination because of color or race. Obviously, therefore, in sections of communities where there is a lack of public recreation facilities Negroes suffer doubly, for the semi-public institutions, except under conditions mentioned above, fail to be for Negroes the substitute which the white youth and adults find them to be.

Having not been provided with adequate public and semi-public recreational facilities, the Negro youth naturally frequent more often the places of commercial recreation. Most numerous among these in the Negro community are the neighborhood theatres, dance halls, billiard and pool rooms, grills, etc. The Commission was appalled at the great number of young Negro boys and girls throughout the State who, because of inadequate public and private recreational facilities, are virtually forced to frequent "grills." Unscrupulous criminals and racketeers, under guise of business men, operate many of these "grills"—which in many cases are dens and dives operated under pretense of legitimate business establishments, and in which dope peddlers and persons of immoral character congregate because of the "easy prey among the young ones." The Commission feels that a laxity on the part of the law enforcement officers has contributed greatly to the development and continued existence of such conditions. The primary cause, however, has been inadequate recreational facilities for which these children and their wage-earning parents are not and cannot be responsible but for which the communities must be deemed solely responsible.

II. New York City

Specific situations in the several urban centers of the State presented here should be viewed in the light of these conditions. As conditions have been uniformly more acute in cities in the up-State region, but little discussion is given the New York City area.

The Negro population in New York City is concentrated in Harlem and in the Columbus Hill district in Manhattan, and in the Bedford-Stuyvesant area in Brooklyn. In Manhattan 17 per cent of its total area is park and playground area, or in other words 1.34 acres per 1,000 persons in the population. In Harlem, however, corresponding figures are 8.7 per cent of total area constituting parks and playgrounds, or 0.43 acres per 1,000 persons in the Harlem population. The distress caused by this disproportionate area allotment is further accentuated by the distribution of the parks and playground facilities. It is reported that because distances to playgrounds for some segments of the Harlem population are so unreasonably great, practically one-half of its population, or about 125,000 persons, go without recreation provided by public parks and playgrounds. With respect to facilities attached to public schools, it is noted that in no Harlem public school is there a play area as large as one acre, and, in fact, the total play area of all schools combined equals slightly less than four acres, as compared with the minimum present-day educational requirements of five acres for each school of average metropolitan size. Further, the fact that 25 streets were closed to traffic during certain hours of the day in order to make temporary "play-grounds" is also an indication of the inadequacy of facilities in this area.

According to the New York City Housing Authority a count taken on a clear summer day in 1934 showed 15,000 Harlem children playing in the streets, and 1,653 in the playgrounds, indicating in another way the inadequacy of playground area. The Commission looks with some satisfaction, however, upon the recently developed Colonial Pool and Playground, extending from 145th Street to 153rd Street along Bradhurst Avenue. Development of public recreational facilities such as these would do a great deal to relieve the situation in Harlem and to contribute, through proper use of leisure, to the cultural advancement of the residents of this area.

In Brooklyn, New York, conditions are considerably more serious than in Manhattan. In the greatly congested areas containing heavy concentrations of Brooklyn's Negro population, there are no suitable public recreation centers or playgrounds, other than two small parks located on the fringe of certain areas. A make-shift recreational program has been provided recently in the inadequate facilities of the public school located in the heart of one of these areas and having a proportion of Negro students greater than any other school in this area. This program, carried on under W.P.A. supervision, is in progress only between 3 P.M. and 5 P.M. daily. Several other public schools also have limited services of the W.P.A. for similar, but much less adequate, playground activities after school hours. Public tax-supported recreational facilities are simply non-existent in the most densely populated area which has no settlement house or community center. The principal social agency located in this area, Y.M.C.A., does not admit Negroes to participation in its recreational activities. There are, however, a segregated "Colored Y.M.C.A." on Carlton Street and a separate "Colored Y.W.C.A.," both of which are far distant from the population they could best serve. Although these agencies and a few other small agencies are doing a commendable work with their inadequate facilities, there is a crying need for greatly increased recreational activities and character-building agencies in these congested areas. The following excerpt from a recommendation submitted to the city of New York by social agencies of Brooklyn serves well to illustrate further the situation:

PLAN FOR THE PROPOSED COMMUNITY HOUSE FOR THE
— AREA OF BROOKLYN

Of the hundred thousand Negroes in Brooklyn, by far the greater number reside in the — area. No recreational or social service facilities now exist in this area; nor is there a single settlement house to cope with the serious maladjustment and delinquency which abound here. To remedy this long-standing evil, the following recommendations are submitted to the city authorities:

W.P.A. Grant for the Construction of a Community House:
A community house, similar in design to the one now being

erected for the Negroes in Harlem, should be constructed forthwith, the money to be obtained from a W.P.A. grant.

Experienced Administrative Personnel:—The administrative personnel should include full-time workers on salary with social service experience; and, in addition, such social and recreational counsellors as can be recruited from (public and private agencies).

A Full-Time Social, Health and Recreational Program:—The program of activities should include recreation and athletics; a health station, a music center, parental and adult education, clubs for adolescents and adults, a guidance clinic, a nursery school, and social service courses for the training of leaders for community work.

A Complete and Modern Plant:—Plans should be drawn for the provision of certain indispensable features: a stage, a gymnasium, a swimming pool, showers, an auditorium, club rooms.

An Unobjectionable Location:—Since the site contemplated is in a congested Negro section, it is expected that there will be no objection raised by property owners. The effective operation of such a center will do much to improve the tone of the neighborhood and so help to keep property values up.

Respectfully submitted,

THE COMMITTEE ON ACTION—
AND—COMMITTEE FOR THE
PROMOTION OF INTERRACIAL FELLOWSHIP

Miss Bessie Saxon, Bedford Branch, Brooklyn Bureau of Charities

Mr. Robert J. Elzy, Head of the Brooklyn Urban League

Mr. Adolph Gillis, Principal of P.S. No. 3

Rev. Walter A. R. McPherson, Pastor, Lewis Ave. Congregational Church

Mr. Alexander F. Miller, National Ass'n for the Advancement of Colored People

Rev. Shelby Rooks, Pastor, Nazarene Congregational Church

Mr. Jesse Willjam Stitt, Pastor, March Ave. Baptist Church, Chairman

III. Up-State Region

As pointed out above, the public, semi-public and commercial recreational facilities available to Negroes in the up-State region of the State indicate glaring inequalities when compared with availability of such facilities accessible to the white population. In its work in this region, the Commission cooperated closely with local groups of white and Negro citizens who studied these problems objectively and made reports on the basis of their findings. Only a few of the up-State cities are included below.

For Rochester, New York, the conditions facing the Negro population are described in the following excerpts from the report of a

Rochester Subcommittee on Recreation cooperating with your Commission. In the Third Ward where there is one of the heavy concentrations of Negro population, there are the following facilities for recreation:

Clarissa Street Playground:—This comprises three lots provided rent free by the Genesee Valley Trust Company. It is about three-fourths acre and is not fenced in. It is under joint sponsorship of the Y.M.C.A., Board of Education and the municipal department. It isn't fully equipped as a playground, having only one baseball diamond, one slide, one sand box, and three swings. When a game of baseball is on, it is not possible to conduct any other game on the field. This being the only playground in the ward and in this immediate vicinity, it is largely frequented by Negroes. A movement is on foot to have the city purchase either this site or some other in this community. There is a definite need in this ward for play space.

Schools:—(a) There is one grammar school in this ward, Number 8. It is well attended by Negroes. Its playground is only one acre. This proves to be inadequate as a playground; (b) Madison High does not lie in this ward. However, it is attended by the Negro high school students of this district. It is a good mile and a half from the center of the Negro district. It is one of the best equipped high schools in the city for recreational activities. Also, in this school the West Side "Y" conducts its physical program during the winter months. However, the participation is limited to "Y" members. The great distance prevents many from enjoying the privileges.

Third Ward:—Y.W.C.A.—(Clarissa Street Branch):—This is a small two-story room house. It is used as a meeting place for small clubs and social groups. A few of the rooms have been fixed to accommodate women transients. There is no gym or play room connected with the house. However, at times the furniture in one of the rooms is moved aside to give play space to about ten small children.

It is impossible to carry on a well balanced recreational program with the limited space. Yet, the branch is doing a noble piece of work in providing some leisure-time activity for Negro girls and women in the form of handicraft work and group discussions.

Y.M.C.A. (West Side Branch):—A one-story concrete building where Mount Olivet Baptist Church began as a Chapel in 1912 has been used for the past five years by the Y.M.C.A. as a branch to serve the Negro men and boys belonging to that institution. The building has one room, the main floor, and a basement. The main room is equipped with two tables, an improvised pingpong table, three checker tables which are also used as card tables, a piano, a bookcase, a desk and chairs.

Last summer the interior of the building was redecorated. The main floor was made attractive by cleaning and painting the walls. The basement was made-over from a damp, dismal hole into a rather comfortable clubroom. Thirty-nine cafeteria chairs were imported from the Central "Y" and placed in the basement. This room is used by clubs and several Negro and white organizations, scout troops, and adult education students. Due to the activity of organized club groups and the many community programs held at the branch, there is little or no space for play. This lack of play space greatly handicaps the branch in its effort to conduct a varied and well-organized program.

To conclude the report on this ward one can truthfully say that it has practically no recreational facilities for Negroes. Its two social agencies are inadequately equipped to render the desired and necessary service one would expect from such institutions. Its one playground cannot be classified as one. Its one grammar school does not have sufficient play space. We find that in this ward, which houses about 30 per cent of the city's total Negro population, that crime and delinquency is steadily increasing. We can assume that lack of recreation in the form of parks, gyms, playgrounds, etc. . . . is partly and largely responsible.

The other concentration of the Negro population in Rochester is found in the Seventh Ward, which has these facilities. This is really a problem ward. It has about 29 per cent of the city's total Negro population. It is one of the most densely populated wards in the city. Juvenile delinquency is very great. The nearest playground that meets the Board of Education's minimum standard for elementary schools is over a mile from this ward. The one high school important to this district because it draws the majority of the high school students in it has a play area of 0.9 acre. This school, like Madison in the other Negro district, has a well equipped gym and a swimming pool in which the Negro students take an active part in all classes. One grammar school, Number 9, is adjacent to this district. It has a play area of 1.4 acre. The school's gym is used for recreational purposes in the evening by the Board of Education. This program touches a small number of Negroes. There is one Center, the Baden Street Center, in this district which carries on a conservative recreational program. However, it is not equipped to conduct a full recreational program that would take in most of the needy youth of the district. There is no park within walking distance. One finds that the problem touches the Italians, Jews, and other minority groups, but they have the privilege of seeking recreation in nearby districts.

There is no question that this ward with its large population and its many social problems along with inferior housing is in

dire need of a recreational program which calls for more playgrounds, gyms, centers, and parks. Much careful planning will be necessary to even begin remedying the many evils.

The committee's survey revealed that conditions such as these did not generally exist in city wards where the population was almost entirely white.

The Syracuse Subcommittee on Recreation utilized to a great extent a recent survey of outdoor recreational facilities made by the Syracuse Housing Authority. In describing the areas heavily populated by Negroes, the Authority wrote: "While in these congested areas of the city there is plenty of land devoted to streets, there is a tragic lack of general open spaces, playgrounds and parks." At another point it stated:

This area is now served by Wilson Playground. The D.L.O.W. railroad, with adjacent strip of land used for industrial and business purposes, already constitutes a border for the neighborhood. The prominence of this border is likely to increase with the elevation of the tracks. Wilson Playground is used by both children and adults. While it is one of the smallest playgrounds (2.27 acres), it has one of the greatest attendances (over 2,000 children per week). Its location is not central; as far as long-range planning, a change in location should be considered, particularly providing more space for the use of adults. . . . Play space for children of kindergarten age is utterly lacking and should be provided within as many blocks as possible, together with some landscaped space for passive recreation of women. The Montgomery Street section of the area under discussion has no parks or playground, with the exception of Billings Park (very small with no recreational facilities).

Indeed, it is not at all surprising that conditions such as those described in the general discussion above exist in Syracuse, for the lack of recreation is most certainly very conducive to the growth of crime and delinquency.

The Binghamton Subcommittee on Recreation, cooperating with the Commission, found that for this city:

Recreational facilities in districts populated by Negroes as compared with other districts in the city of Binghamton, New York, reveal that they are practically non-existent, and also that the out-door play areas which are available are woefully inadequate in essential facilities, as:

- (1) sufficient play space;
- (2) suitable sanitation;
- (3) trained supervisory personnel; and
- (4) supervised activities.

In the very heart of the largest colored community there is a public school with adequate playground facilities, which, however, does not have, and has never had, a Negro supervisor, or a play-director, nor even an attendant. The committee finds that the benefits of the N.Y.A. and the W.P.A. recreational facilities were not made equally available to Negroes, and that in most instances little or no consideration was given to their need or pleas. During the winter season, a small group of colored boys have the use of the gymnasium in the school, but they are compelled by the Education Department to pay a fee of two dollars (\$2) per night, or approximately \$1 per hour since its use is limited to but one evening per week. It is a deplorable condition when the only suitable recreation facility available to the Negro as a group must be rented by him, and especially so, since the facility rented, is a public school building which Negro citizens as taxpayers help to maintain.

In Binghamton, Negroes have no central meeting place, or a community center, where they can gather as a group for recreational purposes or for cultural improvement. This, too, is deplorable as compared to the abundance of adequate facilities available to all groups of the white people. Among the numerous facilities available to the white groups are—the Y.M.C.A., Boys' Club, Girls' Club, N.Y.A., Boy Scouts, Girl Scouts; summer camps, school buildings, public parks, State parks, State armory,—not to mention numerous private fraternal and other civic clubs and community centers. The Negroes of Binghamton have little or no access to any of the above, and have none of their own adequate for their needs.

The committee learned that the many attempts of the Negro to make use of some commercial recreational facilities have been frowned upon, and on several occasions out-right refusals of service have been made by the operators and by their employees to Negroes, for no other reason than that they were Negroes.

For Binghamton, therefore, it appears that recreational opportunities, particularly public, for Negroes are not even in a minor measure on a parity with those for the general population of the city.

Before drawing this section of the report to a conclusion, your Commission points to the fact that the cities cited above are typical of conditions in other up-State urban cities. The same story is repeated for Erie County including Buffalo City, Albany County including Albany City, Dutchess County including Poughkeepsie and Westchester County including several of the State's urban centers. The Commission feels that the continued denial to the Negro citizens of the State those values and advantages derived from adequate playground and park facilities with properly organized and supervised recreational activities—especially in view of their generally low economic status as measured by their low

incomes and poor housing facilities and as influenced by their lack of equal educational opportunities—and by all reasonable consideration, a discriminatory practice against the efforts of this race to enjoy equal opportunity with the general population of the State for self-support and economic and cultural development—a discriminatory practice which detrimentally affects their intellectual growth, their health and physical well-being, their moral character as indicated by disproportionately high crime and delinquency rates among them, and in general their whole lives. And, your Commission also points to the fact that these serious conditions among the Negro population are promptly and directly reflected in the general public welfare of the communities and of the entire State of New York.

SECTION VII
DELINQUENCY AND CRIME

DELINQUENCY AND CRIME

I. General Considerations

Coexisting with low income and the lack of funds to provide the necessities of life; with sub-standard housing and congestion, making home conditions unsatisfactory and rendering parental care of children insufficient; with poor educational facilities; and with a dearth of play space for children and public recreation for adolescent youth and adults (particularly in the evenings, causing them to frequent commercial recreation centers of which some are of questionable benefit), are usually excessive rates of juvenile delinquency and adult crime. Although there are some conflicting opinions as to the precise causes of delinquency and crime, it is generally agreed that these forms of social maladjustment are resultants of unfavorable relationships, influences, or conditions in home, school, or neighborhood, in one or more, or in all. And, even if there is a question as to whether the adverse circumstances enumerated above are causal factors underlying these forms of anti-social behavior, it must be admitted that they are at least factors of explanatory relevance. Such factors must therefore be given serious consideration when one views the life of a people in a community which is rife with delinquency and crime.

In previous sections of its report, your Commission has pointed out that these contributory conditions exist to an exorbitant extent in communities inhabited by the majority of the Negro population of the State. Further, we emphasized that these conditions prevailed through no fault of this race, but rather to a great extent through subconscious and deliberate, direct and indirect discrimination against this race. The Commission now points to the fact that this race is additionally penalized by having to bear the brunt of the social cost of these serious economic and social evils. On the one hand, it suffers inequalities in economic and cultural opportunities, and, on the other hand, it is plagued with their concomitants—these forms of anti-social behavior. Although increased preventive and correctional facilities for the more expeditious handling of cases would materially reduce the volume of delinquency and crime among Negroes, your Commission feels that the removal of the basic and deep-rooted contributory factors indicated above is a more fundamental consideration which would result in a tremendous social saving to the communities and the State, and would afford the Negroes of the State greater equality for sharing with the general population of the State opportunities for self-support and economic and cultural development.

In order that the seriousness and detrimental effect of these problems on the Negro community and on the general welfare of the State may be fully appreciated, there are presented in the

following paragraphs brief analyses of the extent of delinquency and crime, their character as indicated by type of offense, adequacy of corrective and preventive facilities, and related problems. For the most part, the discussions will be centered about New York City, which, having approximately 85 per cent of the Negro adolescent population and 80 per cent of the Negro adult population of the entire State, has been found to be an environment most fertile for and conducive to the existence of juvenile delinquency and adult crime. However, reference will also be made to the conditions found in the other urban centers of the State.

II. Juvenile Delinquency

New York City

The most recent report of the Court of Domestic Relations of the City of New York (1937) boasts that "new appearances in the Children's Court in 1937 were fewer in number than has been the case during any calendar year since 1902." In striking contrast to this decrease is the alarming increase in the volume of Negro appearances before the court, for it is equally true that in 1937 Negro appearances were greater in number, except for a difference of 17 in 1935, than during any year since 1902. The total appearances since 1919 (figures on Negroes not available prior to 1919), showing race, are as follows:

TABLE XIV
New Appearances in Children's Court, New York City, 1919 - 1937

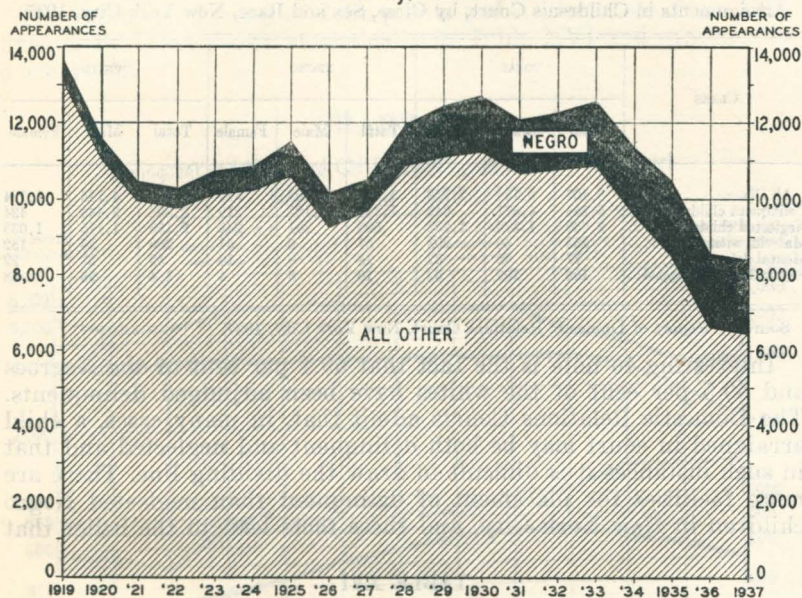
YEAR	Total number	Negro	Other	Per cent negro
1919.....	13,627	575	13,052	4.2
1920.....	11,582	492	11,090	4.2
1921.....	10,445	476	9,969	4.6
1922.....	10,286	505	9,781	4.9
1923.....	10,716	591	10,125	5.5
1924.....	10,858	624	10,234	5.8
1925.....	11,512	907	10,605	8.0
1926.....	10,147	856	9,291	8.5
1927.....	10,518	830	9,688	8.1
1928.....	11,944	1,110	10,834	9.3
1929.....	12,445	1,330	11,115	10.6
1930.....	12,718	1,475	11,243	11.6
1931.....	12,094	1,421	10,673	11.7
1932.....	12,261	1,479	10,782	12.1
1933.....	12,563	1,680	10,883	13.4
1934.....	11,339	1,745	9,594	15.4
1935.....	10,458	1,954	8,504	17.7
1936.....	8,552	1,925	6,627	22.5
1937.....	8,407	1,937	6,470	23.0

Source: Reports of Domestic Relations Court, New York City.

Indeed, while the total number showed a decrease—and this decrease, of course, was among all races other than Negroes—of 38.3 per cent from 1919 through 1937, the number of Negroes actually increased 236.9 per cent over the same period, or from 4.2 per cent of the total in 1919 to 23.0 per cent of the total in 1937.

The picture is presented graphically in Chart VIII.

CHART VIII
New Appearances in Children's Court
New York City, 1919-1937



SOURCE: REPORTS OF DOMESTIC RELATIONS COURT, NEW YORK CITY.

The most probable explanation for the phenomenal jump, out of proportion even with the corresponding increase of 123 per cent in the Negro population of these age groups, may be found in the failure of agencies, both public and private, cooperation with the court to have extended their benefits to the Negroes arrested—particularly those involving cases of minor, trivial, and incidental delinquency. The tremendous importance of the effective work of such agencies rendering service antecedent to court appearance was demonstrated by the sharp decline of approximately 2,000 cases from 1935 to 1936 and the lesser decline from 1936 to 1937. The fact that the number of court appearances of Negroes continued to increase does indicate, it seems reasonable to conclude, that Negro children did not receive such antecedent services. In speaking of the bureaus and agencies cooperating with the court, its 1937 report stated, among other things: "On the other hand, in

Manhattan it appears that the lack of case work facilities for Negro children makes the court a chief resource for the group. Moreover, the presence of numerous private agencies for other groups has given complainants access to resources which in other boroughs might come to the bureaus (of adjustment). . . ." Attention is now directed to an analysis of these new appearances or arraignments before the Children's Court.

Table XV shows the class, sex and race of the total arraignments during 1937.

TABLE XV
Arraignments in Children's Court, by Class, Sex and Race, New York City, 1937

CLASS	TOTAL			NEGRO			WHITE		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
All Classes.....	8,407	6,154	2,253	1,937	1,408	529	6,470	4,746	1,724
Delinquent children.....	5,214	4,571	643	1,346	1,127	219	3,868	3,444	424
Neglected children.....	2,659	1,376	1,283	506	261	245	2,153	1,115	1,038
Material witnesses.....	263	60	203	57	6	51	206	54	152
Mental defectives.....	77	45	32	18	8	10	59	37	22
Physically handicapped..	194	102	92	10	6	4	184	96	88

Source: Report of Domestic Relations Court, New York City, 1937.

Interesting to note is the fact that 69.4 per cent of the Negroes and 59.5 per cent of the whites have been adjudged delinquents. The Domestic Relations Courts admit that, in many cases, a child arraigned in court may be both delinquent and neglected and that in such instances it is difficult to draw the dividing line. There are more facilities for placement of delinquent than neglected Negro children in New York City, and these facts lead to the belief that

TABLE XVI
Delinquent and Neglected Children Arraigned in Children's Court, New York City, 1925-1937

YEAR	DELINQUENT				NEGLECTED			
	Total	Negro	Other	Per cent Negro	Total	Negro	Other	Per cent Negro
1925.....	6,970	543	6,427	7.6	4,542	364	4,178	11.1
1926.....	6,209	544	5,665	8.8	3,938	312	3,626	8.1
1927.....	6,181	489	5,692	7.9	4,337	341	3,996	7.8
1928.....	7,481	739	6,742	9.8	4,463	371	4,092	8.3
1929.....	8,024	903	7,121	11.2	4,421	427	3,994	8.3
1930.....	8,179	959	7,220	11.7	4,539	516	4,023	9.6
1931.....	7,434	843	6,591	11.3	4,660	578	4,082	11.1
1932.....	7,437	825	6,612	11.1	4,824	654	4,170	12.4
1933.....	7,845	1,003	6,842	12.7	4,718	677	4,041	13.5
1934.....	6,442	1,053	5,389	16.3	4,897	692	4,205	14.3
1935.....	6,061	1,323	4,738	21.8	4,397	631	3,766	16.6
1936.....	5,138	1,330	3,808	25.9	3,414	595	2,819	16.6
1937.....	5,214	1,346	3,868	25.8	2,659	506	2,153	17.4

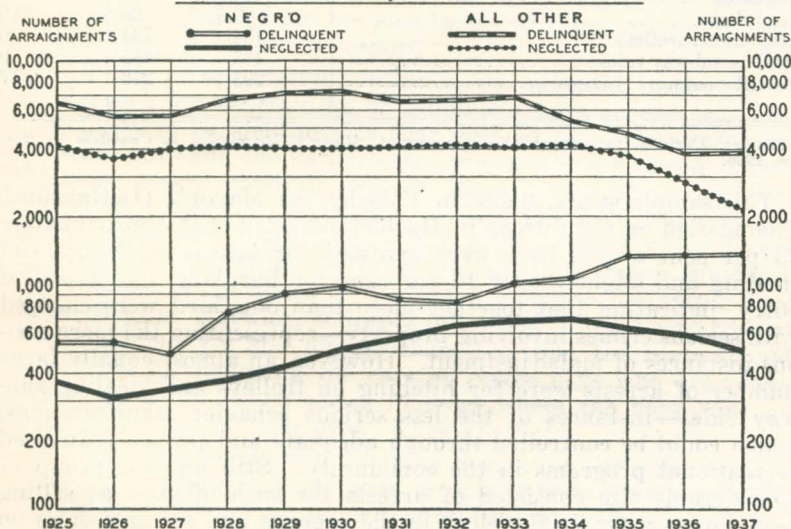
Source: Reports of Domestic Relations Court, New York City.

this explains in part the larger proportion of Negro children adjudged delinquent. Even though it has also been charged that there is a tendency to adjudge more border cases among the Negro youth as delinquents, because not as many of this group received the aid of cooperating public and private social agencies before actual arraignment in court, the Commission sees in this condition the result of the more devastating forces of family disorganization among Negroes due to their low economic status, housing facilities, etc. Both among whites and Negroes there is a slightly greater number of neglected children among the males, and it is believed that similar explanations are in point.

The volume and trend of delinquents and neglects, etc. from 1925 through 1937, are shown statistically in Table XVI and graphically in Chart IX.

CHART IX

Delinquent and Neglected Children Arraigned in Children's Court
New York City, 1925-1937



SOURCE: REPORTS OF DOMESTIC RELATIONS COURT, NEW YORK CITY.

Among the delinquents there have been minor fluctuations, but there is a definite downward trend for the whites while at the same time there is an upward trend among Negroes. Among the neglected children, however, the trends for the Negro and white children have fluctuated at more or less the same rates. (See possible explanations in paragraphs above.)

A brief analysis of the type of allegations against delinquents and neglected children also presents some interesting findings.

Recent and complete data showing allegations by race are not available in the published or unpublished reports of the Domestic Relations Court; it is therefore necessary to consider a sample study, which for the purpose at hand will serve quite adequately.

TABLE XVII

Offenses Charged Against Boys and Girls Arrested in the Harlem Area, 1930 to 1934, Inclusive

CHARGE	Total	Boys	Girls
All charges.....	1,710	1,547	163
Larceny, robbery, stealing.....	393	386	7
Incorrigible wayward minor.....	133	89	44
Burglary, unlawful entry.....	218	177	41
Hold-up.....	40	40	0
Malicious mischief.....	105	99	6
Assault.....	64	58	6
Neglected.....	125	83	42
Auto theft.....	20	20	0
Hitching on trolleys.....	134	134	0
Stealing subway rides.....	185	185	0
Miscellaneous.....	293	276	17

Source: Derived from unpublished manuscript, *Mayor's Commission on Condition in Harlem, 1936*.

This sample study, made in 1936 by the Mayor's (LaGuardia) Commission on Conditions in Harlem, revealed that approximately 25 per cent of the boys were arrested for larceny, robbery and stealing and slightly over 10 per cent for burglary and unlawful entry, indicating that together more than one-third were charged with serious crimes involving property—representing the more serious instances of maladjustment. However, an almost equally large number of arrests were for hitching on trolleys and stealing subway rides—instances of the less serious behavior manifestations, which could be controlled through adequate and properly directed recreational programs in the community. Still another group of considerable size consisted of arrests for such offenses as selling newspapers after 7:00 o'clock in the evening and shining shoes on the street. "Certainly," the report says, "these latter offenses are bound up with the generally low economic status of the families in the community. . . ." This, of course, is given considerable weight by the fact that at that time in 1936 there were 42,235, or 21.9 per cent, Negro cases among the 194,975 relief cases for the city as a whole. It is further significant that there appears to be direct correspondence between Negro non-support cases in the family court and Negro children before the Children's Court. Such factors indicate widespread family disorganization primarily due to economic insecurity. Arrests indicating instances of habits endangering health and morals were not great in number.

Equally serious is the problem of handling the cases, especially Negro cases, disposed of by the Children's Court. The general procedure is that children from the court are sent on remand or by commitment to public and private institutions specializing in the care of neglected, delinquent, or physically handicapped children. The problem of inadequate institutional care for Negro cases has been and still remains one of paramount importance and one with which the court and agencies are continually confronted. The seriousness of the entire situation was expressed with deep insight by Justice Edward F. Boyle, presiding justice of the Children's Court in 1934, in letters to His Honor, the Mayor of New York City, and His Excellency, the Governor of the State of New York. Excerpts from these letters are as follows:

The need, however, for a much greater preventive program not only as to Negro children themselves but also in regard to their homes and their surroundings will not be seriously questioned by anyone who has been in fairly close touch with the conditions. Compared with others the Negro child is sadly under-privileged from the standpoint of community resources as is pointed out in the report.

If the present trend continues, the splendid institution at Warwick for the training of delinquent boys opened last year is likely to be identified as time goes on as an institution for Negro boys and the harder cases among white children. Some of the Negro children held at Warwick might be paroled, indeed it would seem they are entitled to parole, but they are kept on at the institution because they have no proper homes to go to or perhaps no home at all. Mr. James Marshall, President of the Board of the New York State Training School for Boys at Warwick, is deeply interested in the Negro boys at the school. He and his associates feel that the State should provide for financing the care of Negro boys who are ready for parole in foster homes in cases where the boys have no proper homes of their own. They are right.

For years the Hudson Training School for Girls consistently declined to receive Negro girls, especially from New York City, beyond a very narrow numerical limitation, on the ground that there was "no room for them." It took a long time to get that institution to relax a rule which amounted almost to exclusion and when relaxed it was only because the Attorney-General intervened with an opinion to the effect that what was defended by the institution authorities as "classification" was in point of fact discrimination and therefore unconstitutional. There was thereafter some relaxation of the rule but relatively only slight. One cannot read the report, it seems to me, without realizing some degree of doubt as to the sincerity of the officials at Hudson Training School in the matter. The intake of Negro girls has increased there but the average

census remains almost constant; they are paroling Negro girls sooner than others, apparently in order to keep down the number of Negro inmates and leave room for a gradual intake of new Negro commitments to satisfy the implications raised by the opinion of the Attorney-General, before referred to.

It may develop into something worse than a problem unless the community begins to realize and react adequately to its size, its significance and its complexity. It is the problem of no special group although a great deal has been done through private initiative thus far towards mitigating its severity. What is essential now is that the city itself, representing community interest and responsibility, step into the foreground of the situation. With the advice and substantial help of groups who are most willing to cooperate so as to ameliorate the conditions pointed out—groups who have been trying to shoulder most of the burden alone thus far—the City of New York must find a way out. This particular phase of the Negro problem, caring properly for children, is probably the most urgent of all the varied phenomena peculiar to the main problem. It is the highest and possibly the least selfish form of service that one group of humans can render to another. Failure of the community to meet its reasonable demands would be indefensible, unthinkable.

The predictions have come to pass with a surprising degree of exactness. The New York State Training School for Girls practices open segregation—an overt form of discrimination. Of the total school population of 457 there are 144 Negro girls of ages from 12 to 16 years. Of the 19 cottages 4 are allotted to the Negro girls. The superintendent of this school reports that several of the white matrons of the cottages are prejudiced against Negro girls. She attempted to justify the practice of segregation on the basis of an assumption, not based on any experience whatsoever, that it would make Negro girls unhappy if they were mixed with the white girls in cottages with these white matrons. Testifying before the Commission at its New York City hearing, a member of the Board of Visitors stated that this institution was planning to experiment with one cottage with mixed races, as a basis for future action on the matter. The Commission approved such a general plan but vehemently objected to the immediate plan which was to put the *problem* Negro girls in a cottage with the *problem* white girls and to use the outcome of this "experiment" as a basis for future arrangements in housing the girls. Such action and plans are obviously illogical, for one cannot reasonably expect a satisfactory outcome from such an experiment. Prejudice and discrimination are evident—so much so that there is doubt of the sincerity of authorities in their administration of the institution. This is almost typical of the attitude of a large proportion of the institutions toward Negro children adjudged delinquent and neglected.

Institutions accepting delinquent and neglected children during 1937:

	Delinquent	Neglected
All institutions	27	44
Public	4	3
Private	23	41
Catholic	13	21
Other accepting Negroes.....	3	8

All public institutions accept Negroes; of the private institutions the Catholic usually accept Negroes. The number of other private institutions accepting Negroes is indicated in the tabulation. Since most Negro children arraigned are Protestant, in effect only 7 of 27 institutions accept Negro delinquents and only 11 of 44 institutions accept Negro neglected children.

The Society for the Prevention of Cruelty to Children has a shelter provision for delinquent and neglected children (committed) in the court. They find the Negro child to be a very difficult proposition as they do not know where to send him. The superintendents of the S.P.C.C. in both Brooklyn and Manhattan agree that the Negro child must wait for an indefinite period after commitment before placement in some institution can be arranged. Records of the Brooklyn S.P.C.C. show that two Negro girls to be sent to the New York State Training School for Girls had been kept from March 1937 until November 1938 before placed. This is really an improvement, however, for in 1933 the average stay in the S.P.C.C. shelter was a period of 16 $\frac{1}{3}$ days for white children and 23 $\frac{1}{3}$ days for Negro children.

Among the Protestant agencies, the largest number of cases have been carried by the Colored Orphan Asylum, at Riverdale, New York, which in September, 1937, cared for 322 children in the institution and 436 in boarding homes.

The oldest children's agency in New York caring exclusively for dependent and neglected Negro children, it has offered institutional care for over 100 years, and for over 20 years has offered both institutional and foster home care. In recent years the demands made from this organization have far exceeded its resources, and over a year ago it was obliged to curtail its intake until such time as its facilities might be increased. Board and staff are ready to expand the association's service as soon as means can be found. As a result of a survey by the State Department of Social Welfare many changes have been made. At present, the plans, school and case work are all being thoroughly studied so that all possible improvements, including facilities, may be made. It is to be hoped that finances soon may be obtained so that this organization, so long the outstanding Negro child-caring agency, may function in accordance with the needs of the children it is chartered to serve.

The Commission is heartened just a little, however, by the following citation from the 1937 Report of the Domestic Relations Court:

In view of the great concern expressed by this court in prior reports over the plight of the neglected Negro child in this city, it goes without saying that it is a matter of the greatest satisfaction that two definite programs, one in the making and the other now actually functioning, were instituted last year.

In our report for 1936 we mentioned the interest of the Welfare Council and Federation of Protestant Welfare Agencies in the work of Lewis Evans and the demonstration unit for the care of Negro children in Chicago which he directed. Under the sponsorship of these New York City agencies and others the plans for a Negro child placing bureau in this city have gone ahead. A very strong Board of Directors with Miss Dorothy Straus as chairman has been organized. A general program has been proposed and approved by the mayor, the Inter-Departmental Coordinating Board for Child Welfare and the Commissioner of Public Welfare. The mayor has agreed that the city will provide quarters, light and heat for such a project without cost. It is sincerely hoped by all concerned with the problem and acquainted with the proposed plan, and those developing and directing it, that the relatively small amount of money needed to finance the proposed bureau for the preliminary period may be obtained without too great delay.

The Protestant Episcopal City Mission Society has actually undertaken the project which we mentioned in our annual report for 1935. Under the direction of Dr. L. Ernest Sunderland it opened last summer at West Park, New York, the Wiltwyck School, a child-caring institution for neglected Negro boys under 12 years of age. Early last July this court sent to Wiltwyck 42 boys for the summer months. At the end of this period many of those boys were returned to their homes greatly improved. Some were continued and the vacancies have been filled. There are now about 58 boys at Wiltwyck. The school is ably directed and seems to be endeavoring to establish itself as a permanent service along acceptable lines.

The community is indeed deeply indebted to the Protestant Episcopal City Mission Society for Wiltwyck and to the Welfare Council and Federation of Protestant Welfare Agencies for having inaugurated and sponsored so fine a program to meet a most urgent situation.

While these are indeed noble efforts, they can hope to accomplish, at most, only a small fraction of the work that must be done if these serious problems are to be ameliorated. Your Commission

feels further that in the interest of the general welfare there should be greater public effort, in the absence of private, to remove the basic causal conditions underlying the disproportionately high delinquency rates and to provide more adequate corrective and preventive facilities for those unfortunates who have already fallen victims of their vicious environments.

Up-State New York

Your Commission observed that the published reports of the principal up-State city and county children's courts show, on the whole, that Negro juvenile delinquency in these areas is relatively less serious than in New York City. In 1937 there were 35 Negro children, or 7.7 per cent of the 453 children before the Children's Court of Dutchess County. In Binghamton, only 6 Negro children were reported among 130 arraignments before Children's Court during the period November 1937 to October 1938. Similarly, in Syracuse there were only 12 Negro boys and girls among the 474 children under care of the Onondago County Children's Court during 1937. Probation cases numbered 29 for Negroes out of a total of 786 in Rochester in 1937 and cases under investigation numbered 107 Negroes out of a total of 1,628 in Rochester in 1937. In Buffalo and Albany the percentage of Negro children before the County Children's Courts is similarly slightly higher than the proportion of Negro children to all children of the age groups considered. We further hasten to observe, however, that we have grave suspicion whether these reports indicate a *complete* picture of the situation.

Previous sections of this report have consistently emphasized that conditions contributory to juvenile delinquency exist in the up-State region to as great a degree as in New York City. There exists also in this region Negro families of low economic status, wretched housing conditions, severe lack of adequate and character-building recreational facilities, etc.

The testimony of a criminologist regarding Buffalo housing is significant on this point:

In Buffalo, where we have studied the delinquency areas, we found the largest proportion of delinquency, weighed per population, age groups and numbers, comes from the particular neighborhoods of bad housing . . . if the Negro were included in the Federal Housing Project, delinquency would be materially lessened in Buffalo.

Your Commission's investigations lead to the belief that these factors are as devastating in their operation against the Negro youth in these areas as in New York City, and that the records referred to above tend to minimize the extent of juvenile delinquency among children of Negro families who live under the conditions described above. Several explanations for such a situation may be considered.

As in New York City, the utter lack of proper and adequate private institutional facilities in the up-State region for the care of Negro delinquent and neglected children together with open discrimination against their admittance to public institutions for this purpose creates a two-fold problem for the courts. As a consequence there is a tendency on the part of these courts to dispose of Negro delinquents in the easiest manner possible. Illustrations of this situation may be found in Binghamton, Poughkeepsie, Syracuse and Rochester, since the proportionate disposition of Negro juvenile offenders through the "informal conference" method was much greater than that of white offenders disposed of through this method. Analysis of this situation revealed, in the first place, that Negro youth were arrested on less provocation than whites and, in the second place, that even the more serious cases, with few exceptions, were disposed of through this easy method. However, these methods are, in the main, of little corrective or preventive effect. It appears from the evidence presented to the Commission that this course is followed in these and other up-State cities primarily because of the limited institutional facilities for proper handling of cases which should be handled by institutional care. Your Commission feels such action is detrimental to the future development of the Negro youth. Institutional care should be given where it is needed and especially when its major purpose is to be of a preventive or rehabilitative value. The failure of the proper authorities to remove these unfortunate persons from the environments which school them in crime allows the development of more serious criminal tendencies in them which reflect both in very high recidivism among Negro juvenile delinquents and which result ultimately in adult criminal behavior. It is the duty of public officials to demand that these unfortunate children be admitted to the proper institutions and that all barriers of prejudice be removed.

III. Adult Delinquency and Crime

Your Commission feels that it did not have ample time to make a comprehensive analysis of the problem of adult delinquency and crime among the State's Negro population, and of the extent to which the disproportionately high existence of these forms of anti-social and criminal behavior among this race, as compared with the general population, is the result of limitations suffered by this race in sharing with the general population equal opportunity for self-support, economic and cultural advancement. Such a comparison by race would have required careful analyses of police records and reports of the principal cities of the State as well as summarized reports on crime statistics for the State as a whole. As in New York City, which accounts for approximately 80 per cent of the adult Negro population, most published reports of police commissioners or other officials do not include tabulations showing the race of criminals. In view of the lack of time for making

special tabulations from the basic records, we are forced to limit our discussion to a few general observations and to the presentation of those statistics which were readily available.

Environmental conditions and factors contributory to adult delinquency and crime are generally the same as those which are conducive to juvenile delinquency. The most important of these causal factors have been enumerated above. However, in addition to these—particularly dire poverty, improper and inadequate housing facilities, family disorganization, poor and inadequate educational and recreational facilities, and generally vicious environments—serious results evolve from the failure of proper authorities to provide the Negro juvenile delinquents with correctional and preventive care in the early stages of their tendencies toward delinquency. For example, the lack of adequate public and private institutional care for Negro juvenile delinquents has often forced their early return to the very conditions which influenced their behavior in the first instance. These unfortunate children are therefore “schooled and re-schooled” in environments fertile for the development of recidivists. One is not greatly surprised, therefore, to find among the State’s adult criminals a proportion of Negroes out of correspondence with the proportion of Negroes to the total population in these age groups.

State-wide statistics on the criminal condition of the State are compiled annually by the Commissioner of Correction from reports of district attorneys, heads of State, county and local departments, bureaus or institutions dealing with criminals. These reports are not complete because of various administrative procedures in their collection, differences in definitions, and various other reasons. However, even though incomplete, statistics of crime from the arrest of the offenders to the passing of sentence or his or her release from custody may be used as a sample showing the type of persons representing the crime problems of the State.

Reference to Table XVIII reveals the startling proportion of Negro males and females, being 15.3 per cent and 42.5 per cent,

TABLE XVIII
Persons Arrested by Race and Sex, New York State, 1936

RACE	ACTUAL NUMBER			PER CENT DISTRIBUTION		
	Total	Male	Female	Total	Male	Female
All races.....	25,699	24,164	1,535	100.0	100.0	100.0
Negro.....	5,368	4,715	653	20.9	15.3	42.5
All others.....	20,331	19,449	882	79.1	84.7	57.5

Source: Seventh Report of Commissioner of Correction, New York State, 1936.

respectively, among the State's criminal population. These alarming proportions of Negro women, especially, can be traced almost directly to those economic factors—primarily the lack of employment opportunities and poor housing—which make for the widespread family disorganization which is so characteristic of the Negro community and a great contributory factor to adult delinquency and crime. Also revealing is a consideration of the type of offenses charged against Negro arrests as compared with all others.

TABLE XIX

Persons Arrested, by Race, Sex, and Major Offense, New York State, 1936

MAJOR OFFENSE	ALL RACES			NEGRO			ALL OTHERS		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
All offenses.....	25,699	24,164	1,535	5,368	4,715	653	20,331	19,449	882
<i>Major offenses:</i>									
Homicide.....	425	390	35	135	117	18	290	273	17
Robbery.....	2,281	2,208	73	640	596	44	1,641	1,612	20
Assault.....	4,656	4,233	423	1,686	1,370	316	2,970	2,863	107
Rape.....	1,420	1,416	4	285	284	1	1,135	1,132	3
Burglary.....	4,454	4,400	54	703	687	16	3,751	3,713	38
Forgery.....	658	586	72	38	27	11	620	559	61
Larceny.....	2,777	2,415	362	412	281	131	2,365	2,134	231
Larceny, auto.....	1,526	1,507	19	215	210	5	1,311	1,297	14
Receiving stolen property.....	700	656	44	83	69	14	617	587	30
Weapons, possession (felony).....	878	842	36	220	206	14	658	636	22
Weapons, possession (misdemeanor).....	583	560	23	147	136	11	436	424	12
Fugitive.....	425	394	31	82	72	10	343	322	21
Pickpockets—jostling.....	495	481	14	198	196	2	297	285	12
Unlawful Entry.....	328	324	4	63	62	1	265	262	3

Source: Seventh Report of Commissioner of Correction, New York State, 1936.

Robbery, burglary, larceny and picking pockets or jostling account for almost 40 per cent of all arrests for both the Negro and other groups. The more serious offenses of homicide and assault combined account for approximately 35 per cent of Negro arrests but only about 17 per cent of all other arrests. This classification—in this sample—shows 50 per cent of Negro women charged with assault. Although offenses relating to prostitution and immoral conduct are not prominent in this sample, other data in the Commission's files show that in New York City especially a goodly proportion of the Negro female arrests result in that charge.

Table XX is included below simply to indicate the disposition of arrests. It should be noted that the convictions reported in Table XX may include cases carried over from previous years. A direct comparison of the proportion of arrests that result in convictions cannot be drawn from these statistics; however, they do show that both Negro males and females constitute a higher proportion of convictions than arrests.

Scrutiny of the tables, especially in the light of the adverse economic and social circumstances of Negro communities through-

TABLE XX

Persons Convicted, by Race and Sex, New York State, 1936

RACE	ACTUAL NUMBER			PER CENT DISTRIBUTION		
	Total	Male	Female	Total	Male	Female
All races.....	12,320	11,805	515	100.0	100.0	100.0
Negro.....	2,644	2,421	223	21.5	20.5	43.3
All others.....	9,676	9,384	292	78.5	79.5	56.7

Source: Seventh Report of Commissioner of Correction, New York State, 1936.

out the State, would show on the whole direct reflections of the Negroes' lack of complete integration into community life in step with the population as a whole. Severe economic stress may be considered an important causal factor in such offenses as burglary, robbery and larceny. Similarly, the more serious offenses may be traced to the vicious economic and social evils prominently existent in highly disorganized communities in the State.

In concluding this brief consideration of juvenile delinquency and adult delinquency and crime, your Commission again desires to call the attention of your honorable bodies to its previously stated conviction that although increased preventive and correctional facilities for the more effective and expeditious handling of cases would materially reduce the volume of delinquency and crime among the State's Negro population, the removal of the basic and deep-rooted contributory factors indicated above is a more fundamental approach to the whole problem—an approach which would undoubtedly result in a tremendous social saving to all communities, would affect favorably the public welfare of the State as a whole, and would afford the Negro citizens of the State greater equality for sharing with the general population of the State opportunities for self-support, economic and cultural development.

SECTION VIII

PLACES OF PUBLIC ACCOMMODATION

PLACES OF PUBLIC ACCOMMODATION

Our principal statute designed to secure to all persons, and particularly to Negroes, admission to and equal treatment in places of public accommodation is found in the Civil Rights Law, sections 40 and 41. Additional provision of a similar but less comprehensive nature are found in the Penal Law, section 54. Although the list of places enumerated in the latter statute is much less inclusive than that contained in the former, it covers one class of facility which is not included in the former, namely: "any accommodation, facility or privilege furnished by . . . cemetery associations." It also punishes as already set forth exclusion from and denial of (or incitement to denial of) public employment by reason of race, creed or color. We shall confine our attention to the provisions of the Civil Rights Law.

The inclusive character of those provisions, as respects the classes of places covered, may readily be seen from the following, in which those places are grouped in 10 classes, a few changes in the sequence of the statutory enumeration being necessitated by such grouping:

1. *Lodging Accommodations*

"inns, taverns, roadhouses, hotels whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest."

2. *Eating Places*

"restaurants, eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises."

3. *Drug Stores*

"drug stores,"

4. *Medical Facilities*

"dispensaries, clinics, hospitals,"

5. *Bath Houses, Gymnasiums*

"bathhouses," "gymnasiums,"

6. *Barber Shops*

"barber-shops,"

7. *Places of Amusement and Recreation*

“theatres, motion picture houses,” “roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys,” “shooting galleries, billiard and pool parlors,”

8. *Conveyances*

“airdomes,” “garages, and all public conveyances operated on land or water, as well as the stations and terminals thereof.”

9. *Public Libraries*

“public libraries,”

10. *Educational Institutions*

“kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the Regents of the State of New York; and any such public library, kindergarten, primary and secondary school, academy, college, university, professional school, extension course, or other educational facility, supported in whole or in part by public funds or by contributions solicited from the general public.”

The last category enumerated, that of scholastic institutions, clearly falls in a category distinct from the preceding nine. Manifestly, scholastic institutions are not, like the other establishments mentioned, freely open to all persons even of the white race, admission being restricted ordinarily to those who meet specified educational prerequisites. For this reason the enforcement of equality of opportunities for Negroes for admission to these institutions does not seem to us properly grounded upon these statutes. We have accordingly, at an earlier point, where the problem of equality of educational opportunities for Negroes is considered, proposed further legislation dealing with this matter, and we shall not therefore consider it here.

Inclusive as this list is, it fails to include several types of places which seemingly should be included. Among retail establishments in which necessities are sold only drug stores are included. No reason is apparent why this particular type of establishment should be included in the act since the likelihood of Negroes being denied or having been denied free access to service in such stores seems remote. Either this particular type of establishment should be eliminated from the act or all other retail establishments should be included. It is our belief that the latter alternative should be adopted. Evidence before us indicates difficulties experienced by Negroes in obtaining service or attention in certain types of retail establishments selling ordinary necessities, such as clothing. A bill to this end is submitted. (Bill No. 13.)

Our attention has been called to one further type of exclusion of Negroes from public places which in our judgment calls for remedy, the present statute being silent on the subject. From information laid before us it appears that Negroes are from time to time denied access to the public elevators in multiple dwellings, even when visiting the premises on the invitation of tenants therein. We therefore recommend that public halls and elevators of all structures within the State occupied by two or more tenants or by the owner and one or more tenants shall be included as in the statute as places of public accommodation. The bill submitted herewith makes provision to this effect also.

With such fragmentary information as we have been able to assemble, the conclusion seems warranted that although the statute is, in the main, not fully observed within the city of New York, observance is far less general in the suburban communities of the metropolitan area and up-State generally. Denial of service to Negroes in eating places is still frequent apparently in not a few communities. Reluctance, if not downright refusal, to receive Negro patients, and denial of equal accommodations when received in hospitals enjoying tax exemption, or even aid from public funds is not unknown. In certain communities, although Negroes are not excluded from theatres, they are not sold seats in the orchestra floor, and if perchance they obtain tickets for such seats, difficulties are placed in the way of their occupying them. There is reluctance and occasional refusal, even in the city of New York, to grant them hotel accommodations.

The act provides for both a civil penalty, to be recovered by the person aggrieved, and for criminal prosecution. Civil penalty actions have been successful in a number of cases. Criminal prosecutions appear to have been less successful on the whole. So far as we can judge, however, the principal cause for the failure of the statute to stamp out the practices at which it is aimed has been the reluctance of the aggrieved Negro to press his case in a community frequently hostile to his claim and sympathetic with the violator of the statute before a court whose officials, if not whose judges, are likely to share the community attitude.

Limitations of time and resources have precluded any detailed study of the considerable number of cases which, even within the last decade, have been brought in the various courts of the State under the statute. Such a study would have for its purpose to discover the obstacles, if any, which are encountered by Negroes in their attempt to secure redress from or punishment of those guilty of violating the statute.

It is to be observed that so far as criminal proceedings are concerned, the offense being a misdemeanor, the accused is not entitled to a trial by jury in the city of New York, but is entitled to such trial (by a jury of six men) on demand everywhere outside the city of New York. From the standpoint of effectiveness of the enforcement of the statute, the situation is obviously just the reverse of what it should be. In New York, a jury, were it available, would ordinarily

be strangers to the defendant and might be expected to act with some degree of impartiality, as indeed the record of civil proceedings within the city where a jury has been demanded by the defendant seems to attest. In the smaller communities, however, the jury is more than likely to be acquainted with, or at any rate to know of, the defendant and to strain the evidence and the law in his favor. In this matter, as indeed in all matters in which the statute may run counter to the prevailing feeling of the local community, no doubt a better enforcement of the statute could be secured were proceedings to be held in a place removed from the particular restricted area in which the violation of the statute took place; removal to a county seat, for example, would in many cases be salutary.

There is, however, another method by which the enforcement of the statute may be safeguarded against the unwillingness of local juries to give it effect. Virtually every one of the places of public accommodation enumerated in the statute operates under a license or permit; and there seems to be no reason why the licensee should be permitted to violate the statute of the State and yet continue undisturbed in the enjoyment of his license. We therefore recommend that violation of the statute be proper ground for the suspension or, in aggravated cases, the revocation of such license, in an appropriate proceeding instituted before the proper licensing authority. Precedent for such legislation is found in the existing statute governing the sale of alcoholic beverages (Alcoholic Beverage Control Law, sec. 132a, subd. 6, as added by Laws of 1934, chapter 579). A proposed bill for this purpose is appended. (See Bill No. 14, attached.)

SECTION IX

SUMMARY AND RECOMMENDATIONS

SUMMARY AND RECOMMENDATIONS

Summary

The foregoing sections of this report to your honorable bodies have presented analyses of the factors underlying the economic, cultural, health, and living conditions of the State's urban colored population. Before recommending specific legislative proposals for the improvement of unfavorable conditions, your Commission desires at this point to summarize briefly its findings:

The "Urban Colored Population"

1. The "urban colored population," constituting approximately 95 per cent of the State's Negro population, is concentrated primarily in New York City, which alone accounts for over three-fourths of the State total. There are small concentrations in the State's large industrial centers among which are Buffalo, New Rochelle, Mt. Vernon, Yonkers, Rochester, Albany, White Plains, Lackawanna and Syracuse.
2. The Negro population of the State was estimated at 500,000 as of 1938. The 1930 Census reported 412,814, which represented an increase of 207.6 per cent since 1910, when the Negro population was 134,191. During the same period the white population increased by 35.6 per cent to a total of 12,175,252 in 1930.
3. The unprecedented waves of Negro migration to New York came as a result of bitter prejudice in the South and of the fundamental and primary impetus underlying all population movements—the vision of economic and cultural advantages—more and better employment and housing facilities, opportunities for education, profitable use of leisure, and free access generally to facilities which make for economic and cultural advancement. This vision was only partially realized for a short period during the war-time and post-war industrial booms, but economic and social evils among the Negro population grew in seriousness and intensity as the Negro population increased in size.

Employment and Income

1. Practically 75 per cent of the Negro labor force consists of marginal workers engaged in occupations which are among the least secure and lowest paid—principally in domestic and personal service and in the unskilled labor groups. Various restrictions, mainly discriminatory, have effectively barred Negro workmen from the skilled and semi-skilled trade and professions.

2. The Negro population suffers unusually serious economic insecurity due to a lack of equal opportunities for employment in industry, commerce, public utilities, and other employment. It suffers from unemployment with severely disproportionate intensity as shown by recent census figures, by the relatively greater number on relief and their long duration on relief. Authoritative records indicate that in recent years Negroes have been displaced from private employment at twice the rate of whites and were being reemployed at only one-half the rate of whites.
3. State laws have been found inadequate to correct inequalities in employment opportunities for Negroes. Public utilities, forbidden by a law of 1933 to discriminate against employment seekers because of their race or creed, are found to have made no provisions against the occurrence of such discrimination, and at least one admitted the continuance of discriminatory policies.
4. The law which presumes to protect workers seeking employment on public works contracts is found to have no adequate machinery for its enforcement.
5. The State itself is not free from criticism with respect to its policies affecting Negro applicants for jobs in public service employment.
6. The employment practices of several State departments, forbidden by legislative authority to discriminate because of race in the public service, are found open to serious question of discrimination against Negro citizens.
7. The income status of the Negro population is reflected by conditions in New York City where the poorer half of the Negro families earn an average annual income which is less than 50 per cent of the average income earned by the poorer half of the white population.
8. The income of the average Negro family in the State of New York is too low to maintain a healthful and decent standard of living.

Housing Conditions and Housing Problems

1. The Negro population with but few exceptions, particularly outside New York City, is restricted to housing facilities in blighted and deteriorating areas, partly because of low income and partly because of a public acceptance of residential segregation.
2. Such restrictions have produced a scarcity of housing for Negroes, have raised rents beyond reasonable levels of those paid by the white population for similar accommodations. They have forced many Negro families, against their will, to occupy dwellings unfit for human habitation.

3. On the whole, Negroes throughout the State are forced to live in the most substandard of the substandard housing facilities in communities occupied by both Negroes and whites.

Education and Educational Facilities

1. Negroes do not, in every respect and in all localities throughout the State, enjoy equality in educational opportunities—especially in school districts having a predominance of Negro population.
2. In certain areas zoning regulations have resulted in obvious segregation of Negro students to certain elementary and secondary public schools. It has been found that in such zones there is usually indirect discrimination through the failure of the municipalities to give prompt and proper attention to gross inadequacies in school facilities; to the replacement of old, dilapidated and deteriorated school buildings with accident, fire and health hazards; to severe overcrowding, with detrimental effects on instructional results; and to curricular revisions to provide a wide selection of courses which would permit students in these schools to get the same type of training as the general population.
3. Vocational guidance available to Negro students often gives the effect of a hit or miss affair. Even counsellors who are sympathetic to the aspirations of their Negro pupils frequently are not sufficiently informed as to employment possibilities for these pupils. Administrative authorities of some of the vocational schools, desiring to make high placement records for their schools, discourage Negro students from taking courses preparatory for employment in which their placement is difficult. This attitude is epitomized by the words of a New York City educator who stated: "Let's not mince words; let's be practical about this matter—the Negro is not employed in certain trades, so why permit him to waste his time taking such courses."
4. Municipalities outside New York City usually obtain public school teachers from among graduates of the normal schools attached to the public school systems. The apparent desire to preclude employment of Negroes as teachers has caused some and administrative officials to deny, arbitrarily, admission of qualified Negro applicants to these schools; other administrators discourage the continuation of those few Negro students whose admission could not possibly be denied; and still other officials make deliberate efforts to find for Negro graduates employment outside of the school sys-

tems—usually in some local Negro social agency or in some Negro school in the South.

5. Some municipal nurses' training schools attached to municipal hospitals have openly refused to admit qualified Negro applicants, solely because of their color. New York City has permitted the development of an apparently segregated nurses' training school system. Exclusion of Negroes from these schools has not only denied them opportunities for training, but has precluded their chances for employment in the hospitals which usually obtain their personnel from among graduates of these schools. Segregation has resulted in the denial to these students of certain specialized courses as well as caused other serious inconveniences.
6. Similarly, admission of Negroes as students in medical schools attached to or affiliated with municipal hospitals, as staff members of municipal hospitals, and as internes in municipal hospitals or private hospitals caring for city patients, is practically non-existent in up-State New York and exists almost entirely under a segregated system in New York City where such admission is restricted to certain municipal hospitals usually having a great predominance of Negro patients. Such discrimination in education and experience derived from free access to the professional training facilities of hospitals in the State deny Negroes equal opportunities to acquire the skill, practice and training necessary to prevent their exposure to competitive disadvantages in their profession.

Recreation and Recreational Facilities

1. Public and other recreational facilities—playgrounds, parks, etc.—although generally open to any person who chooses to make use of them, are on the whole relatively inaccessible to the Negro neighborhood as compared with the white neighborhood and grossly inadequate in the centers of Negro population concentrations.
2. Denial to the Negro citizens of the State those values and advantages derived from adequate playground and park facilities with properly organized and supervised recreational activities—especially in view of their generally low economic status, their poor housing facilities, and their lack of equal educational opportunities—is by all reasonable considerations a discrimination against their efforts to enjoy equal opportunity with the general population for improvement of their health and physical well-being, their moral character, their intellectual growth, and their general cultural development.

Delinquency and Crime

1. Through no fault of their own there exists to an alarmingly excessive extent in Negro neighborhoods all of those basic contributory conditions and causal factors underlying high delinquency and crime rates. A few such conditions and factors are: disorganized families primarily because of low incomes; insufficient parental care for children primarily due to the fact that both parents are forced to work; poor educational facilities; a dearth of play space and recreational facilities; and generally vicious environments.
2. Exorbitantly high delinquency and crime rates among Negroes can be traced directly to the conditions described above.
3. The volume of delinquency and crime among Negroes is accentuated because of inadequate preventive and correctional facilities, public and private, for the expeditious handling of the problem. Particularly is there a lack of adequate public and private institutions for Negro delinquent and neglected children.
4. Further, the volume of delinquency and crime in Negro neighborhoods will not be materially reduced until the basic, deep-rooted, contributory conditions and causal factors are removed. This task is most certainly one which falls within the scope of public action.

Recommendations

The few summary statements made above serve to demonstrate convincingly that the Negro population of the State does not enjoy "equal opportunity with the general population thereof for self-support, economic and cultural development." Further, these summarizations show that the economic and social condition of the State's Negro population is gravely impaired by forces, directly or indirectly discriminatory in nature, which through their adverse effect on the security of the Negro population threaten the general welfare of the State as whole.

Your Commission feels justified in stating that the principle and intention, frequently avowed by the State government and the people of the State of New York, to accord all constituent population groups equal opportunity to share in the rights and privileges of citizenship have been disregarded by some local government authorities who have been reluctant to remedy unfavorable conditions which make it impossible for Negroes to share equally such rights and privileges of citizenship. Failure

of these local government officials to act—and the additional fact that these conditions have State-wide implications and seriously affect the general public welfare of the State—makes it imperative that action be taken by the State Legislature—“legislative action,” in the words of His Excellency, Governor Herbert H. Lehman, “that will give real significance to the declared principle” of the equal protection of the laws irrespective of race, color or creed.

Your Commission therefore recommends for the attention of your honorable bodies specific legislative proposals as follows:

- A. Amendment of Labor Relations Act to exclude from the protection thereof such unions as wish to bargain only for certain racial or religious groups of workers while denying other groups the privilege of membership or the opportunity for employment.
- B. Strengthening existing provisions of law prohibiting racial discrimination in employment by contractors performing State or local public works contracts and by public utilities, and requiring, in the case of public utilities, the institution of formal procedures for the selection of employees without regard to race, color, or creed.
- C. Prohibiting any form of racial or religious discrimination in public employment, and setting up procedures for inquiring into and rectifying any such discrimination.
- D. Amending the Civil Service Law, by requiring appointing officers who may pass over an eligible in favor of a lower eligible to make sworn certification of the reasons therefor.
- E. Making provision for extending to all cities in the State formalized procedures in the selection of teachers in the public schools, such as are now in force in the cities of New York and Buffalo.
- F. Regulating contracts of public utilities with their employees to the end that a labor union having a closed shop contract with a utility may not practice discrimination against members or applicants for membership.
- G. Prohibiting racial discrimination or segregation in any housing project operated by a public housing authority or owned by a limited-dividend company and exempt from taxation.
- H. Regulating the procedure for admission to public educational institutions to insure that qualified applicants for admission shall not be excluded by reason of race, color or creed.
- I. Making express the withdrawal of tax exemption from educational institutions which deny the use of their facilities, by reason of race or color to persons otherwise qualified.

J. Supplementing existing statutory provisions designed to insure to all persons equal facilities and privileges in places of public accommodation by providing for the suspension or revocation of the license of any place of public accommodation denying such equal facilities or privileges; and enlarging the definition of places of public accommodation.

In submitting these legislative proposals, the Commission realizes that there is need for State-wide action beyond that which can be accomplished through legislation alone. Laws can set the pattern for community improvement, but they reach maximum effectiveness only with the support of an aroused public opinion which understands their importance. It is to be hoped that thoughtful civic leaders will give consideration to the problems outlined above and the legislative proposals made for their correction, and will lend effective influence to arouse the necessary public support.

Respectfully submitted,

JACOB J. SCHWARTZWALD,
Chairman

WILLIAM T. ANDREWS,
Vice-Chairman

MICHAEL F. MULVOY,
Secretary

JOHN J. HOWARD

GEORGE LEE THOMPSON

ROBERT W. JUSTICE

JAMES E. OWENS

AUGUSTINE A. AUSTIN

DR. EDWARD JONES

MRS. ELIZABETH ROSS HAYNES

MRS. LILLIAN ALEXANDER

February 27, 1939

SECTION X

PROPOSED LEGISLATION

BILL NO. 1

AN ACT to amend the labor law, in relation to labor organizations practicing discrimination

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and one of chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," as added by section one of chapter four hundred and forty-three of the laws of nineteen hundred and thirty-seven, is hereby amended by inserting therein a new subdivision, to be subdivision five, to read as follows:

5. *The term "labor organization" as defined in the preceding subdivision shall not include any labor organization which by ritualistic practice, constitutional or by-law prescription, by tacit agreement among its members, or otherwise, denies a person or persons membership in its organization by reason of his race, color or creed, or which by regulations, practice or otherwise, denies to any of its members, by reason of his race, color or creed, equal treatment with all other members in any designation of members to any employer for employment, promotion or dismissal by such employer. A determination that a labor organization so denies membership or equal treatment shall be made by the Labor Relations Board only if there shall be laid before it a verified petition setting forth that the petitioner, or, if the petitioner be an association having for its purpose the protection or the furtherance of the interests of persons of a given race, color or creed, some person of such race, color or creed, has been so denied membership or equal treatment by such labor organization, and the board, after due hearing, of which such labor organization shall have due notice, shall find the allegations of such petition to be sustained.*

§ 2. This act shall take effect immediately.

BILL NO. 2

AN ACT to amend the civil service law, in relation to appointments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifteen of the laws of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," is hereby amended, by adding thereto a new section, to be known as section fourteen-d, and to read as follows:

§ 14-d. *Discrimination against eligibles in the competitive class.* Whenever, in making appointment to any position in the competitive class, pursuant to section fourteen of this chapter, from among those graded highest in an open competitive examination, an appointing officer shall appoint or give employment to any person graded lower in such examination than any other person or persons whom such appointing officer might lawfully have appointed to or given employment in such position, and who was willing to accept such position or employment, such appointing officer shall within five days after making such appointment or giving such employment enter upon the records of his office a statement in writing of his reasons for appointing or giving employment to the person so appointed or given employment, and his reasons for failing to appoint or to give employment to the person or persons so graded higher in such examination, and shall, within the same period, transmit a copy of such statement to the state civil service commission if the position is in the state service, and if in the city service, to the municipal civil service commission of the city, certifying under oath that the said statement is a true and complete statement of his reasons for the acts referred to therein, and that such acts were not done by reason of the race, color or creed of any person so appointed or given employment, or of any person not appointed or given employment. Until such certified statement is filed with it as herein provided, the civil service commission shall not approve any payroll containing the name of the person so appointed or given employment.

§ 2. This act shall take effect September first, nineteen hundred and thirty-nine.

BILL NO. 3

AN ACT to amend the education law, in relation to appoint

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eight hundred and seventy-two of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," is hereby amended by adding thereto a new subdivision, to be subdivision five-a, and to read as follows:

5-a. In a city having a population of less than four hundred thousand, recommendations for appointment to the teaching service and supervising service, and for promotions, shall be made from the first three persons on appropriate eligible lists prepared pursuant to regulations adopted by the board of education of such city and approved by the commissioner. Such regulations shall provide for the preparation of such eligible lists according to merit and fitness, to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive. Such regulations may authorize the commissioner to constitute appropriate examining boards to conduct such examinations and may regulate the procedure of such examining boards.

§ 2. This act shall take effect September first, nineteen hundred and thirty-nine.

BILL NO. 4

AN ACT to amend the civil service law, in relation to discrimination in public employment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifteen of the laws of nineteen hundred and nine, entitled "An act in relation to the civil service of the state of New York and the civil divisions and cities thereof, constituting chapter seven of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section fourteen-c, and to read as follows:

§ 14-c. *Discrimination on account of race, color or creed prohibited.* 1. No person, having authority or control over, or discretion in, the selection or appointment of persons for employment in the civil service of the state, or of any of its civil divisions or cities, or over the promotion, or fixation of compensation, or dismissal of persons in such service, shall, solely by reason of the race, creed or color of any person, deny to such person any employment, promotion or increase of salary, or dismiss or suspend such persons from employment. A violation of this section shall be adequate ground for the removal from office or employment of any officer or employee of the state, or of any city, village, town, county or other subdivision of the state, committing such violation.

2. Any person who shall be denied appointment to any employment in the classified service of the state or of any of its civil divisions or cities, or who, being so employed in such service, shall be denied promotion or increase of salary, or shall be dismissed or suspended from service, such dismissal or suspension being stated to be due to reduction in the number of positions of the kind occupied by such person, or to the lack of work in such position, and who believes such denial of employment, promotion or salary increase, or such dismissal or suspension, to have been made solely by reason of his race, color or creed, may file a verified petition with the state civil service commission, if the position be in the state, county or village service, and if in the service of a city, with the municipal civil service commission of such city, setting forth the facts, and his reasons for such belief, and praying for such redress as the said commission may deem proper.

3. Upon such petition being filed with such civil service commission, the commission shall promptly order a hearing to be held for the purpose of inquiring into the truth of such allegation, due notice of such hearing being given to the petitioner and to the officer who shall have made the appointment or promotion or who shall have ordered the salary increase or the suspension or dismissal referred to in the said petition, as well as to any person who it may be alleged in such petition was appointed or promoted or given a salary increase or retained in service in violation of the

provisions of subdivision one of this section. If upon such hearing the commission shall find that the petitioner was denied appointment, promotion or increase of salary, or was dismissed or suspended solely by reason of his race, color or creed, the commission shall cause such finding to be entered of record in its office and shall transmit a certified copy of such finding to the petitioner and to the officer or board by whom he was so denied appointment, promotion or increase of salary, or was so dismissed or suspended, and it shall thereupon be the duty of the said officer or board to rescind, if necessary, the aforesaid unlawful appointment, promotion or salary increase, and to appoint, promote or increase the salary of said petitioner, or to restore the said petitioner to service, as the case may be.

4. If, upon the hearing of a petition filed with it pursuant to subdivision two of this section, a municipal civil service commission shall find that the allegations of the petition are unfounded, and shall dismiss the same, but one or more members of the said commission shall dissent from such finding and such order of dismissal, the petitioner may file a petition with the state civil service commission praying for a review of such finding and a reversal or modification of such order. Upon such petition the state civil service commission shall proceed in the same manner and shall have the same power as in the case of a petition filed with it under the preceding section hereof.

5. In any hearing before a civil service commission pursuant to subdivision three or subdivision four of this section (a) whenever it shall appear that a person has been denied appointment to a vacancy, and that such vacancy has been filled by the appointment of another person less qualified to discharge the duties incident to such employment, and that the person so appointed is of a race, color or creed different from that of the person denied appointment, there shall be a presumption that the person denied such appointment was so denied by reason of his race, color or creed; (b) whenever a person shall be promoted or shall receive an increase in salary, and it shall appear that another person of a different race, color or creed from the person receiving such promotion or increase of salary was, by reason of superior qualifications for the duties incidental to the position involving such promotion or increase of salary, or by reason of better record of service, or by reason of a greater length of service, or for some or all of said reasons more deserving of such promotion or increase of salary, there shall be a presumption that the failure to promote such person or to increase his salary was due to his race, color or creed; (c) whenever a person is dismissed or is suspended, such dismissal or suspension being stated to be due to reduction in the number of positions of the kind occupied by such person, or to the lack of work in such position, and some other person occupying a similar position and of a different race, color or creed from the person so dismissed or suspended is retained in employment, and it shall appear

that the person so dismissed or suspended from employment is by reason of superior qualifications for the duties incident to such employment or by reason of a better record of service, or by reason of a longer service or for some or all of said reasons, more deserving of retention in the said employment than the person so retained, there shall be a presumption that the dismissal or suspension of the person so dismissed or suspended was due to the race, color or creed of such person.

§ 2. This act shall take effect September first, nineteen hundred and thirty-nine.

BILL NO. 5

AN ACT to amend the penal law, in relation to discrimination in employment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," is hereby amended, by adding thereto a new section, to be known as section five hundred and fourteen-a, and to read as follows:

§ 514-a. *Discrimination in employment.* 1. Any person who, having authority or control over, or discretion in, the selection or appointment of persons for employment in the civil service of the state or of any of its civil divisions or cities, or in the service of any public utility corporation under the supervision of the public service commission or of the transit commission or over the dismissal of persons in such employment, shall, solely by reason of the race, color or creed of any person, deny to such person any employment, or dismiss or suspend such person from employment, is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars and not more than five hundred dollars or by imprisonment for not less than thirty days and not more than ninety days, or by both such fine and imprisonment.

2. Whenever it shall appear that a person has been denied appointment to a vacancy in any such service, and that such vacancy has been filled by the appointment of another person less qualified to discharge the duties incident to such employment, and that the person so appointed is of a race, color or creed different from that of the person denied appointment, there shall be a presumption that the person denied such appointment was so denied by reason of his race, creed or color.

3. Whenever a person is dismissed from a position in such service or is suspended from such service, such dismissal or suspension being stated to be due to reduction in the number of positions of the kind occupied by such person, or to the lack of work in such position, and some other person occupying a similar position and of a different race, creed or color from the person so dismissed or suspended is retained in employment, and it shall appear that the person so dismissed or suspended from employment is by reason of superior qualifications for the duties incident to such employment or by reason of a better record of service, or by reason of a longer service or for some or all of said reasons, more deserving of retention in the said employment than the person so retained, there shall be a presumption that the dismissal or suspension of the person so dismissed or suspended was due to the race, color or creed of such person.

§ 2. Laws repealed. Section forty-two of the civil rights law, as added by chapter five hundred and eleven of the laws of nineteen hundred and thirty-three, is hereby repealed.

§ 3. This act shall take effect immediately.

BILL NO. 6

AN ACT to amend the labor law in relation to provisions in contracts prohibiting discrimination in employment of citizens upon public works

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and twenty-e of chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," as added by chapter one hundred and fifty-eight of the laws of nineteen hundred and thirty-five, is hereby amended to read as follows:

§ 220-e. 1. Provisions in contracts prohibiting discrimination on account of race or color in employment of citizens upon public works. Every contract for or on behalf of the state or a [municipality] *municipal corporation* for the construction, alteration or repair of any public building or public work shall contain provisions by which the contractor with the state or [municipality] *municipal corporation* agrees:

(a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race or color discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates:

(b) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employe hired for the performance of work under this contract on account of race or color:

(c) That there may be deducted from the amount payable to the contractor by the state or [municipality] *municipal corporation* under this contract a penalty of five dollars for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and

(d) That this contract may be canceled or terminated by the state or [municipality] *municipal corporation*, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

2. The term "municipal corporation" as used in this section and in the two succeeding sections of this chapter includes a city, county, village, town, school district, sewer district, water district, or any other district or territory authorized by law to issue bonds, corporate stock, certificates of indebtedness or any other obligations whereby a municipal corporation agrees to pay a stated sum of money.

2. Chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section two hundred and twenty-f, and to read as follows:

§ 220-f. *Investigation of violation of contract provisions.* 1. Upon a verified petition being filed by any person with the commissioner setting forth allegations tending to establish that a contractor under a contract with a state or municipal corporation for the construction, alteration or repair of a public building or public work, or a subcontractor or any person acting on behalf of such contractor or subcontractor, has breached the provisions of such contract with the state or municipal corporation contained therein pursuant to the preceding section of this chapter, the commissioner shall order a hearing to be promptly held for the purpose of inquiring into the truth of the allegations of the said petition, of which hearing due notice shall be given to the petitioner and to the contractor or subcontractor, or both, as the case may require. Upon a finding by the commissioner that the contractor or subcontractor, or some person acting on behalf of such contractor or subcontractor, has committed a breach of the aforesaid provisions of the said contract, the commissioner shall cause such finding to be made of record in his office, and shall transmit a certified copy of such finding to the comptroller of the state, if the contract be with the state, or if it be with a municipal corporation, to the officer or board of such municipal corporation charged with the approval for payment of claims of contractors for work done for such municipal corporation. Upon receipt of such certified copy of such finding, it shall be the duty of the comptroller, or of such officer or board to deduct from the sum due or to become due to such contractor under such contract the penalty provided for by such contract pursuant to subdivision c of the preceding section of this chapter.

2. If the commissioner shall find that the said violation of the conditions of the contract aforesaid constitutes a second or repeated violation thereof he shall also forward a certified copy of his findings to the head of the department of the state or of the municipal corporation by whom such contract was entered into on behalf of the state or municipal corporation, and such head of department shall make such finding of record in his office, and shall further place upon the records of his office, a statement of his determination of the question whether, pursuant to the provision of the contract required by subdivision d of the preceding section of this chapter, the said contract shall be cancelled or terminated, or whether the moneys due or to become due thereunder shall be forfeited by reason of such second or subsequent violation, together with a statement of his reasons for said determination; and shall certify a copy of such determination and of such statement of the reasons therefor to the commissioner.

§ 3. Chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section two hundred and twenty-g, and to read as follows:

§ 220-g. *Action for penalty. Any contractor having a contract with the state or a municipal corporation for the construction, alteration or repair of any public building or public work, which contract contains the provisions required by section 220-e of this chapter, and any subcontractor thereunder, and any person acting on behalf of such contractor or subcontractor, who shall commit any breach of any such provisions shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby or by any resident of this state, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside.*

§ 4. This act shall take effect September first, nineteen hundred and thirty-nine.

BILL NO. 7

AN ACT to amend the labor law, in relation to employment by public utilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifty of the laws of nineteen hundred and twenty-one, entitled, "An act in relation to labor, constituting chapter thirty-one, of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section two hundred and twenty-h and to read as follows:

§ 220-h. *Employment by public utility corporations. Every public utility corporation shall file with the commissioner, at such times in such form as he shall prescribe, a statement of the number of its employees in each class of employment, and of its procedure in selecting or promoting such employees. The commissioner shall thereupon institute an inquiry to determine to what extent it is practicable, in the case of each corporation, to require the adoption by such corporation of regulations governing appointment and promotion of such employees, as hereinafter provided, and shall make findings accordingly. Upon a finding that it is practicable to require the adoption of such regulations by a corporation the commissioner shall issue an order directing the corporation to submit to him, within a time specified in the order, proposed regulations for the procedure to be followed in the appointment of employees of the classes specified in such order.*

2. *Such proposed regulations shall contain provision (1) for giving due public notice of the willingness of the said corporation to receive applications for employment from persons not in its employ, such notice to specify the nature of the duties of the position, the qualifications required of applicants, which requirements shall not include any requirements as to the race, color or creed of the applicant, and the salary rate; (2) for making available to all persons who may apply therefor, forms for making application for such positions, which forms shall not include any inquiry or make provision for any notation as to the race, color or creed of the applicant; (3) for maintaining proper record of all applications received and of the disposition of such applications; (4) for appraising or rating on a cooperative basis the qualifications of each applicant from whom an application shall have been received, such rating to be on a comparative basis for all applicants having minimum qualifications, and for disregarding the race, color or creed of the applicant in making such appraisal or rating; (5) for establishing lists of eligible applicants, the name of the several eligible applicants to be placed upon such lists in the order determined by such comparative appraisal or rating of their qualifications, except that persons formerly employed by the corporation may be placed thereon without regard to such appraisal or rating; (6) for the appoint-*

ment to each vacancy as it occurs of the applicant whose name appears first on such lists.

3. If the commissioner shall find that the proposed regulations so submitted do not comply with the requirements set forth in subdivision 2 of this section, he may require the utility to submit changes in such regulations or may himself modify such regulations. When the commissioner shall find that the proposed regulations as submitted or re-submitted to him or as modified by him, are consistent with the said requirements, he shall approve such regulations and shall make an order setting forth such approval and fixing the date upon which such regulations shall go into effect.

4. If any public utility corporation shall fail, within the time specified in an order made by the commissioner pursuant to subdivision 1 of this section, to submit the proposed regulations required by such order, the commissioner shall promulgate regulations for the procedure to be followed by such corporation in the appointment of employes of the classes specified in such order, which regulations shall have the same force and effect as if approved by him pursuant to subdivision 3 of this section, and shall make an order fixing the date upon which such regulations shall go into effect.

5. Any officer, agent or employee of a public utility corporation, who, having authority or control over, or discretion in, the selection of persons for employment by such corporation, shall, solely by reason of the race, color or creed of any applicant for employment by such corporation in a class of employment as to which the commissioner shall have approved or promulgated regulations for employment pursuant to the provisions of subdivision 3 or subdivision 4 of this section, violate with respect to the application, appraisal, rating or appointment of such applicant, any of such regulations, and any officer, agent or employee of such corporation who shall have instructed any other officer, agent or employee of such corporation to commit such violation, or shall have issued any general order or instruction pursuant to which such violation shall have been committed shall for each and every violation thereof be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby or by any resident of this state, to whom such person shall assign his cause of action, in any court of competent jurisdiction in the county in which the plaintiff or the defendant shall reside. No public utility corporation shall pay any judgment which may be recovered against any of its officers, agents or employes in any action brought under this subdivision, or reimburse any of its officers, agents or employes, or any other person, who may have paid such judgment.

6. In any action brought pursuant to the provisions of the preceding subdivision of this section, whenever it shall appear that the defendant has committed a violation of the regulations

approved or promulgated by the commissioner, and that the plaintiff has been aggrieved thereby, and that some other person of a race, color or creed different from that of the plaintiff has been advantaged, preferred or benefited thereby, there shall be a presumption that such violation was committed by reason of the race, color or creed of the plaintiff.

7. The commissioner at any time may, and upon a verified petition filed with him by any person, shall institute an inquiry into the application or administration by a public utility corporation of any regulations affecting such corporation approved or promulgated by him pursuant to the provisions of subdivision 3 or 4 of this section. The petition, if any, the corporation, and any officer, agent or employee of the corporation who may be named in such petition, or whom the commissioner may deem to be affected thereby, shall receive due notice of any hearing which may be held by the commissioner in connection with such inquiry. The commissioner shall cause his findings to be made of record in his office, and shall furnish a copy thereof to the petitioner, if any, and to the corporation and any such officer, agent or employee thereof. In any action brought pursuant to the provisions of the preceding subdivision of this section against any officer, agent or employee of any public utility corporation, who shall have had due notice of any hearing held by the commissioner in the prosecution of an inquiry under this subdivision, and who shall have duly received a copy of the commissioner's findings therein, such findings shall be received in evidence against such officer, and shall be presumptive evidence of the facts therein found.

8. A copy of this section shall be prominently displayed by each public utility corporation for which regulations shall have been approved or promulgated by the commissioner pursuant to subdivision 3 or subdivision 4 of this section, in each of the rooms in which blanks for making application for employment in positions affected by such regulations are distributed or applications for such employment are received.

9. The term "public utility corporation," as used in this section shall mean every corporation within the jurisdiction of either the public service commission or the transit commission under the provisions of the public service law.

§ 2. This act shall take effect immediately.

BILL NO. 8

AN ACT to amend the penal law, in relation to discrimination by labor unions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section five hundred and fourteen-b and to read as follows:

§ 514-b. *Discrimination by officers of labor organization having contract with public utility.*

1. *Any officer, director, agent or employee of any labor organization having an agreement with a public utility corporation whereby such corporation agrees to confine employment in a designated position or class of employment to members of such labor organization, who shall solely by reason of the race, color or creed of any person refuse to admit such person to membership in such labor organization, or hinder or obstruct or attempt to hinder or obstruct the admission to membership of such person, shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars or not more than five hundred dollars, or by imprisonment for not less than thirty days and not more than ninety days, or by both such fine and imprisonment.*

2. *Any officer, director or agent or employee of any labor organization having an agreement with a public utility corporation whereby such corporation agrees to confine employment in a designated position or class of employment to members of such labor organization and to employ only such members of such labor organization as shall be designated by such organization, who shall, solely by reason of the race, color or creed of any member of such labor organization neglect or refuse to designate such member for employment under the procedure in force in such organization for making such designation for which he is eligible to be designated or who shall hinder or obstruct, or attempt to hinder or obstruct the designation of such member for employment, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars or not more than five hundred dollars or by imprisonment for not less than thirty days and not more than ninety days, or by both such fine and imprisonment.*

3. *The term "labor organization" as used in this section means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.*

4. *The term "public utility corporation" as used in this section means a corporation subject to the jurisdiction of the public service commission or of the transit commission under the provisions of the public service law.*

§ 2. This act shall take effect immediately.

BILL NO. 9

AN ACT to amend the labor law, in relation to agreements between public utility corporations and labor unions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fifty of the laws of nineteen hundred and twenty-one, entitled "An act in relation to labor, constituting chapter thirty-one of the consolidated laws," is hereby amended by adding thereto a new section, to be known as section two hundred and thirteen, and to read as follows:

§ 213. *Agreements between public utility corporations and labor organizations. No public utility corporation shall enter into any agreement with any labor organization whereby the public utility corporation shall agree to confine employment in a designated position or class of employment to members of such labor organization, or to discharge from its employ in such position or class of employment persons who do not become members of such organization, unless the state labor relations board shall first certify to such public utility corporation that such labor organization admits to its membership on equal terms all inhabitants of the state without regard to race, color or creed.*

2. *Where a public utility corporation shall enter into an agreement with a labor organization whereby the public utility corporation shall agree to confine employment in any given position or class of employment to members of such labor organization or to discharge from its employ in such position or class of employment persons who do not become members of such organization, it shall not, at the time of making such agreement or at any time thereafter, agree with such labor organization to employ in such positions or class of employment only such members of such organization as may be designated to it by such organization, unless the state labor relations board shall first certify to it, upon the request of such organization, that the procedure employed by such organization, for the designation by it of members to be employed by such public utility corporation, assures the designation on equal terms of all members of such organization without regard to race, color or creed.*

3. *Upon the request of a labor organization to the state labor relations board that the board certify to a public utility corporation either of the matters mentioned in the two subdivisions of this section next preceding, the board shall fix a date for hearing upon such request, and shall give due public notice thereof. Upon such hearing, such labor organization shall present evidence tending to show the truth of the matter of which certification is requested, and any person or organization may present evidence tending to contradict such evidence. The board shall thereupon enter upon its records a finding that the request is or is not*

warranted, and shall certify, or refuse to certify, accordingly. Where a certificate has been made to a public utility corporation upon the request of a labor organization, the board shall, upon request of such labor organization, thereafter make a like certificate to any other public utility corporation.

4. Upon a verified petition being laid before the board by any citizen of the state, setting forth that a labor organization at whose request a certificate has been made to a public utility corporation pursuant to the provisions of the preceding subdivisions hereof is no longer entitled to the said certificate, by reason of its exclusion of persons from membership solely because of their race, color or creed, or by reason of its refusal, solely because of the race, color or creed of a member, to designate such member for employment, as the case may be, the board shall order the labor organization to show cause upon such petition why such certificate should not be revoked. The board shall after due hearing enter upon its records a finding that the revocation of such certificate is or is not justified, as the case may be. Should it find that revocation of such certificate is justified, it shall revoke such certificate, and shall give notice of such revocation to the corporations to which such certification was made; and upon the tenth day following the receipt of such notice of revocation by any corporation, any agreement between such corporation and such labor organization, to the making of which the certificate was prerequisite, shall become void and of no effect.

5. The term "public utility corporation" as used in this section means any corporation subject to the jurisdiction of the public service commission or of the transit commission under the public service law.

6. The term "labor organization" as used in this section means any organization which exists and is continued for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

7. No agreement between a public utility corporation and a labor organization in force when this act goes into effect shall be affected thereby; but any renewal, extension or modification of such agreement made after this act goes into effect shall be deemed a new agreement for the purpose of application thereto of the provisions of this section.

§ 2. This act shall take effect on September first, nineteen hundred and thirty-nine.

BILL NO. 10

AN ACT to amend the state housing law with relation to discrimination against tenants

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter eight hundred and twenty-three of the laws of nineteen hundred twenty-six, entitled "An act to promote the public health and safety by providing for the elimination of unsanitary and dangerous housing conditions, to relieve congested areas, and the construction and supervision of dwellings and for the letting of apartments at reasonable rentals; repealing article two-a of the public buildings law relating to the bureau of housing and regional planning and making an appropriation to carry out the provisions of this act," is hereby amended by adding thereto a new section to be known as section ninety-a and reading as follows:

§ 90-a. 1. *Every housing authority created pursuant to provisions of this act shall admit to tenancy in every project under its ownership, operation or management all persons eligible therefor, without regard to race, creed or color, and shall afford to all tenants of a project without regard to race, creed or color, the full and equal accommodations, advantages, facilities and privileges afforded to tenants of such project generally. No such authority shall, in allocating or assigning to any tenant or prospective tenant the quarters to be occupied by him in any project take into consideration the race, creed or color of such tenant or prospective tenant, or shall directly or indirectly concentrate, segregate or attempt to bring about the concentration or segregation of, tenants in any project or any portion of project or in any particular structure or part of any structure thereof, by reason of or on the basis of the race, creed or color of such tenants.*

2. *The provisions of subdivision one of this section are hereby made applicable also to any project of which the buildings and improvements created in connection therewith, owned or operated by any public or private limited dividend housing company existing pursuant to the provisions of this act, have been exempted from taxation by the municipality in which such project is located pursuant to the provisions of this act.*

3. *Any officer, agent or employee of any housing authority or of any public or private limited dividend housing company, who on behalf of such authority or of such company, causes, procures, aids or incites a violation by such authority or such company of the provisions of subdivision one or subdivision two of this section, shall be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby in any court of competent jurisdiction*

in the county in which the plaintiff or the defendant shall reside; and shall also be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than ninety days, or both such fine and imprisonment.

§ 2. This act shall take effect immediately.

BILL NO. 11

AN ACT to amend the education law, in relation to admission to schools and colleges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," is hereby amended by adding thereto a new section to be known as section ninety-eight-a, and to read as follows:

§ 98-a. *Requirements for admission to school and college.*
1. *The board of trustees, or like governing board, or if there be no such board, the director, superintendent, principal or president of every school, academy, college, professional school, training school, normal school or other educational institution supported in part or in whole by the state, or by any county, city, village, town, district or other subdivision of the state, shall file with the commissioner a copy of the regulations governing the admission of pupils or students to such school, academy, college, training school, normal school or other such educational institution. Such regulations shall set forth in detail the educational, physical, and other requirements for admission. If, owing to the prospective excess of applicants over the accommodation available therefor, the governing board or director of such institution shall have reason to believe that it will be impossible to admit as pupils or students all qualified persons making application for admission, such governing board or director shall incorporate in such regulations a statement of the procedure to be followed in selecting pupils or students from among the qualified persons who may apply for admission, such procedure to provide for competitive examination or rating of the several applicants, and for the selection for admission of those found by such competitive examination or rating to be possessed to a superior degree of the qualifications required of candidates for admission. Such regulations shall specifically provide that no consideration shall be given in passing upon applicants for admission, or in selecting for admission among qualified applicants those possessed to a superior degree of the qualifications required of candidates for admission, to the race, color or creed of the applicant.*

§ 2. This act shall take effect immediately.

BILL NO. 12

AN ACT to amend the tax law in relation to exemption from taxation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision six of section four of chapter sixty-two of the laws of nineteen hundred and nine, entitled "An act in relation to taxation, constituting chapter sixty of the consolidated laws, is hereby amended to read as follows:

6. The real property of a corporation or association organized exclusively for the moral or mental improvement of men and women, or for religious, bible, tract, charitable, benevolent, missionary, hospital, infirmary, educational, public playground, scientific, literary, bar association, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes. But no such corporation or association shall be entitled to any such exemption if any officer, member or employee thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes. The real property of any such corporation or association entitled to such exemption held by it exclusively for one or more of such purposes and from which no rents, profits or income are derived, shall be so exempt, though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon, if the construction of such buildings or improvement is in progress, or is in good faith contemplated by such corporation or association; or if such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more such purposes shall be erected upon said premises or some part thereof. The use of any such real property as a polling place upon days of registration and election shall not be deemed to impair any exemption from taxation otherwise applicable thereto. The real property of any such corporation not so used exclusively for carrying out thereupon one or more of such purposes but leased or otherwise used for other purposes, shall not be exempt, but if a portion only of any lot or building of any such corporation or association is used exclusively for carrying out thereupon one or more such purposes of any such corporation or association, then such lot or building shall be so exempt only to

the extent of the value of the portion so used, and the remaining or other portion, to the extent of the value of such remaining or other portion, shall be subject to taxation; provided, however, that in case any such corporation, organized exclusively as an institute of arts and sciences for the general purposes of the encouragement of the study of and the advancement of knowledge in the arts and sciences within a city of more than one million population, shall hereafter acquire real property within such city and the building located thereon which shall have been constructed and maintained as an academy of music and which shall continue to be maintained and operated by such corporation as an academy of music and for otherwise furthering the purposes for which such corporation was organized, such real property and the building located thereon shall not be taxed even though a portion thereof may be leased or otherwise used for the public performances of opera or concerts, lectures, graduation exercises or of such other non-commercial uses for the purposes of income or revenue, so long as such income is necessary for and is actually applied to the maintenance and support of such academy of music; and provided, however, that a lot or building owned and actually used for hospital purposes, by a free public hospital, depending for maintenance and support upon voluntary charity, shall not be taxed as to a portion thereof leased or otherwise used for the purposes of income, when such income is necessary for, and is actually applied to the maintenance and support of such hospital and further provided that the real property of any fraternal corporation, association or body created to build and maintain a building or buildings for its meeting or meetings of the general assembly of its members, or subordinate bodies of such fraternity and for the accommodation of other fraternal bodies or association, the entire net income of which real property is exclusively applied or to be used to build, furnish and maintain an asylum or asylums, a home or homes, a school or schools, for the free education or relief of the members of such fraternity or for the relief, support and care of worthy and indigent members of the fraternity, their wives, widows or orphans, shall be exempt from taxation, and provided also that the real estate owned by a library free to the public, or held in trust by an educational corporation for free library purposes, if such library or corporation is situated outside of the city, shall not be taxed as to that portion thereof leased or otherwise used for purposes of income, when such income is necessary for and actually applied to the maintenance and support of such library. Property held by any officer of a religious denomination shall be entitled to the same exemptions, subject to the same conditions and exceptions, as property held by a religious corporation. Property held by trustees named in a will or deed of trust or appointed by the supreme court of the state of New York for hospital, public playground and library purposes, as set forth in this subdivision, shall be exempt to the same extent and subject to the same conditions and exceptions as if held by a corporation.

Property held for hospital purposes in the name of a corporation organized for the purpose of managing and controlling a hospital for the use and benefit of a city shall be exempt to the same extent and subject to the same conditions and exceptions as property of a corporation organized exclusively for hospital purposes.

No. (education) corporation or association that holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of this section shall deny the use of its facilities to any person otherwise qualified, by reason of his race, color or religion. *The real property of any such corporation or association that denies the use of its facilities to any person otherwise qualified by reason of the race, color or religion of such person, in violation of the foregoing provision shall not be exempt.*

§ 2. When to take effect. This act shall take effect immediately.

BILL NO. 13

AN ACT to amend the civil rights law in relation to equal rights in places of public accommodation and amusement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section forty of chapter fourteen of the laws of nineteen hundred and nine, entitled "An act relating to civil rights, constituting chapter six of the consolidated laws," is hereby amended to read as follows:

§ 40. Equal rights in places of public accommodation, resort or amusement. All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any such place shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities or privileges thereof, or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed or color, or that the patronage or custom thereat, of any person belonging to or purporting to be of any particular race, creed or color is unwelcome, objectionable or not acceptable, desired or solicited. The production of any such written or printed communication, notice or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee, proprietor, superintendent or manager thereof, shall be presumptive evidence in any civil or criminal action that the same was authorized by such person. A place of public accommodation, resort or amusement within the meaning of this article, shall be deemed to include inns, taverns, road houses, hotels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest, or restaurants, or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt liquors are sold; ice cream parlors, confectioneries, soda fountains, and all stores where ice cream, ice and fruit preparations or their derivatives, or where beverages of any kind are retailed for consumption on the premises; [drug stores], *retail stores and establishments*, dispensaries, clinics, hospitals, bathhouses, barber-shops, *beauty parlors*, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, gymnasiums, shooting galleries, bil-

liard and pool parlors, public libraries, kindergartens, primary and secondary schools, high schools, academies, colleges and universities, extension courses, and all educational institutions under the supervision of the regents of the state of New York; and any such public library, kindergarten, primary and secondary school, academy, college, university, professional school, extension course, or other educational facility, supported in whole or in part by public funds or by contributions solicited from the general public; garages, [and] all public conveyances operated on land or water, as well as the stations and terminals thereof; *public halls and public elevators of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants.* Nothing herein contained shall be construed to include any institution, club, or place of accommodation which is in its nature distinctly private, or to prohibit the mailing of a private communication in writing sent in response to a specific written inquiry.

§ 2. When to take effect. This act shall take effect immediately.

BILL NO. 14

AN ACT to amend the civil rights law, in relation to discrimination by public licensees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter fourteen of the laws of nineteen hundred and nine, entitled "An act relating to civil rights, constituting chapter six of the consolidated laws," is hereby amended, by adding thereto a new section, to be known as section forty-one-a, and to read as follows:

Section 41-a. Suspension or revocation of license. Whenever a license shall be or is required for the operation or conduct of any place of public accommodation, resort, or amusement, as defined in section forty of this chapter, or for the sale of food, beverages or other articles therein, it shall be and is hereby declared to be a condition of every such license, that the person to whom such license is granted shall extend and make available to all persons within the jurisdiction of this state the full and equal accommodations, advantages, facilities and privileges of such place of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons. Every such license shall be and hereby is made subject to suspension or revocation for breach of the said condition.

2. Upon a verified petition being filed by any person with the official or body of the state, or any city, village, town or county which may now or hereafter have authority to suspend or revoke the license of a place of public accommodation, resort or amusement, or for the sale of food, beverages or other articles therein or, if there be no officer or body having such power, upon such petition being filed with the officer or board which granted or has power to grant such license, setting forth facts tending to show that a person holding such license has breached the condition of said license aforesaid, the said official or board shall promptly order a hearing upon the allegations of such petition, of which hearing the petitioner and the licensee shall have due notice. Upon a finding by the said official or board that the said licensee has committed a breach of the said condition, the said official or board shall suspend the license of the said licensee for a period of not less than one month.

3. If the said officer or board shall, by reason of systematic or repeated breaches of the said condition find that the said licensee has deliberately and intentionally breached the said condition, it may suspend said license for a longer period than one month or may revoke the said license. All fees paid thereon shall be forfeited and the bond, if any, given by said licensee to secure faithful compliance by such license with the terms of such license or of the law under which such license is granted, shall be forfeited.

4. The term "license" as used in this section shall include every license, permit or authorization by whatever designation such license, permit or authorization may be known, required under any statute of this state or regulation made pursuant thereto, or under any local law, ordinance, resolution, regulation or other provision enacted by or under the authority of any city, village, town or county.

§ 2. This act shall take effect immediately.