PUBLIC CORPORATIONS

(Continued from April Issue)

[§297] AA. *Report concerning persons sojourning; statutory provisions as to municipalities in regular provinces.* "When the province or municipality is infested with outlaws, the municipal council, with the approval of the provincial governor, may further require each householder of any municipal center or of any barrio of the municipality to make prompt report to the mayor or municipal councilor of the barrio, as the case may be, of the name, residence, and description of any person not a resident of such municipal center or barrio who may enter the house of such householder or receive shelter or accomodations therein. The report made to the municipal councilor of the barrio shall be transmitted by such councilor within twenty-four hours after its receipt to the mayor."[185]

[§298] BB. *Rewards.* "It is generally held that municipal corporations, unless authorized by statute, are not empowered to offer rewards for the arrest or conviction of offenders against the criminal law of the state, and that the power to provide for the general welfare does not confer such power. By virtue of express grant or or by necessary implication from power expressly granted such corporations may have the power to offer such rewards. When authorized to offer rewards the power may, and must, be exercised within its scope. It has been held that a municipal corporation may offer a reward for the arrest and conviction of a person for arson as a means of protection against fire, and such power has been held authorized under the welfare clause. The offer of a reward, when made by a municipal corporation empowered to make such an offer must be made by the proper municipal authorities."[186]

[§299] CC. *Schools; statutory provisions as to Philippine municipal corporations.* — 1. *Municipalities in regular provinces.* "It shall be the duty of the municipal council to establish and maintain primary schools in the municipality, to be conducted as a part of the public school system in conformity with the provisions of the School Law."[187]

"Special and professional schools. — After adequate provision has been made for the primary schools of a municipality, the council may establish and maintain intermediate, secondary, or professional schools; and with the approval of the Director of Public Schools, reasonable tuition fees may be charged for instruction in such institutions."[188]

"Cooperation of municipalities in maintenance of school, giving intermediate instruction. — Where the number of pupils eligible for intermediate instruction in any municipality is not sufficient to justify the maintenance by it of a school giving intermediate instruction or where the municipal funds are insufficient to make adequate provision therefor, the municipal council may, with the approval of the Director of Public Schools, cooperate with the authorities of any other municipality or municipalities in the same province in the maintenance of such a school."[189]

[§300] 2. *Municipalities in specially organized provinces.* "The municipal council have power by ordinance or resolution:

"* * * * *

"(g) *Schools.* — To establish and maintain primary schools, subject to the limitations of law.

"* * * * *"[190]

[§301] 3. *City of Manila.* "The Municipal Board shall have the following legislative powers:

"* * * * *

(d) To provide for the establishment and maintenance of free public schools for intermediate instruction and to acquire sites for school houses for primary and intermediate classes through purchases or conditional or absolute donation.

"(e) To establish secondary, and professional schools; and, with the approval of the Director of Public Schools, to fix reasonable tuition fees for instruction therein.

"* * * * *"[191]

[§302] DD. *Signs, billboards, and other structures or devices for advertising.* — 1. *In general.* "With the limitations to be discussed hereinafter, as a general rule municipal corporations may control and regulate the construction and maintenance of billboards, signs, and other structures or devices for advertising purposes. Such power may be expressly conferred or it may be implied; and it is usually derived from the police power of municipal corporations. For the preservation of the public health, safety, morals, or general welfare, municipal corporations may have the right to prescribe the manner of construction of such structures; to compel the use of safe material in their construction, as that the material be incombustible; to prohibit the erection of insecure billboards or similar structures; to restrict reasonably or limit their size, length, height, and location; to require that they be maintained in a secure and sanitary condition; to provide for their removal, if they become dangerous or unsanitary, and that at the expense of the owners; and to prohibit advertisements thereon of indecent or immoral tendencies. But such regulations must have some reasonable tendency to protect the public safety, health, morals, or general welfare; they must be reasonable, and not arbitrary or discriminatory; they must not unnecessarily invade private property rights. Following the general rule the power cannot be exercised merely for the benefit of adjoining owners or other particular individuals. Aesthetic considerations alone do not justify the exercise of the power. Some regulations may be reasonable in a particular locality or district of the corporation and unreasonable in other localities or districts; in such case a regulation, without qualification or limitation, applicable to signs or billboards alike in all portions of the corporation, is unreasonable.

"Permits and absolute prohibition. While a municipal corporation may require permits for the construction and maintenance of such structures, the grant or refusal must not be left to absolute or despotic power or without reference to prescribed and duly enacted rules and regulations. While, under its power to regulate streets, it has been held that a municipal corporation may prohibit the erection of signs, sheds, or other obstructions on or over any part of the sidewalk, roadway, or neutral ground of certain streets, as in residential districts, and may compel the removal of such existing structures, the prohibition of the erection of structures designed for advertising purposes, however safe, sanitary, and morally unobjectionable, they may be, is warranted and invalid.

"Retroactive effect of regulations. Some of such regulations have been held to apply to structures erected prior to their passage or enactment; and they have been regarded as not offensive to the provisions of the organic law protecting vested interests or inhibiting retrospective legislation. Other regulations have been held not to apply to existing billboards and signs; and it has been held that any attempt to interfere with existing billboards, signs, etc., except to make them safe and secure, will be invalid provided they complied with the ordinances or regulations at the time of their erection. Even though the regulation may have no retroactive effect, it may apply to billboards or signs previously erected when there is a desire or necessity to remove them to some other place.

"Advertising truck. A regulation prohibiting the use of advertising trucks, vans, or wagons in the city streets has been valid, as an exercise of the police power.

"Official billposter. In the absence of express legislative authority, a municipal corporation cannot create the office of billposter and give him exclusively the right to post advertisements."[192]

[§303] 2. *Statutory provisions as to Philippine municipal corporations.* — a. *Municipalities in regular provinces.* "The municipal council shall have authority to exercise the following discretionary powers:

"* * * * * *

"(r) To regulate . . . signs, signboards, and billboards displayed or maintained in any place exposed to public view except those displayed at the place or at places where the profession or business advertised thereby is in whole or part conducted.

"* * * * * *"[193]

[§304] b. *Municipalities in specially organized provinces.* "The municipal council shall have the power by ordinance or resolution:

"* * * * * *

"(d) . . . To regulate . . . signs, signboards, and billboards, displayed or maintained in any place exposed to public view, except those displayed at the place or places where the profession or busi-

185 Sec. 2276, Rev. Adm. Code.
186 43 C. J. 431.
187 Sec. 2249, Rev. Adm. Code.
188 Sec. 2250, Id.
189 Sec. 2251, Id.
190 Sec. 2625, Rev. Adm. Code.
191 Sec. 18, Rep. Act No. 409.
192 43 C. J. 822-825.
193 Sec. 2243, Rev. Adm. Code.

ness advertised thereby is in whole or in part conducted . . .

"* * * * * * *"[194]

[§306] c. *City of Manila.* "The Municipal Board shall have the following legislative powers:

"* * * * * * *

"(ee) . . . to regulate or prohibit . . . the use of property on or near public ways, grounds, or place, or elsewhere within the city, for a display of electric signs or the erection or maintenance of billboards or structures of whatever material, erected, maintained, or used for the display of posters, signs, or other pictorial or reading matter except signs displayed at the place or places where the profession of business advertised thereby is in whole or part conducted.[195]

"* * * * * * *

[§306] d. *Power of mayors.* "If after due investigation, and having given the owner an opportunity to be heard, the mayor shall decide that any sign, signboard, or billboard displayed or exposed to public view is offensive to the sight or is otherwise a nuisance, he may order the removal of such sign, signboard, or billboard, and if same is not removed within ten days after he has issued such order he may himself cause its removal, and the sign, signboard, or billboard shall thereupon be forfeited to the municipality, and the expenses incident to the removal of the same shall become a lawful charge against any person or property liable for the erection or display thereof."[196]

[§307] EE. *Searches and seizures.* "A municipal corporation in the absence of express authority may not authorize the search for, and seizure of, property kept for unlawful use."[197]

[§308] FF. *Slaughtering animals and slaughterhouses.* — 1. *In general.* "The slaughtering of animals for food within municipal boundaries is a proper subject for regulation by municipal corporations, under the police power to protect the health of their inhabitants, unless especially governed by the superior power of a state statute. Following the general rules, slaughtering regulations must be reasonable and not arbitrary or discriminatory. In the exercise of its power a municipal corporation may prescribe the character of buildings and equipment for slaughterhouses; may provide for their inspection, the inspection of those employed therein, the inspection of the animals to be slaughtered and of their meats; and may prohibit the sale as food of animals not inspected and slaughtered at such slaughterhouses. It has been held that a municipal regulation providing that licensed slaughterhouses shall slaughter for the public without discrimination is valid. In some jurisdictions municipal corporations maintain abattoirs for the purpose of providing a place where cattle may be killed and prepared for food by those skilled in the work of that kind and under the control of regulations of the municipal corporation; such abattoirs are not intended to provide a place of business for slaughterers.[198]

"As nuisance per se. Although the maintenance of a slaughterhouse is a legitimate business and not a nuisance per se, a slaughterhouse may be a nuisance when located near an inhabited locality. So under the rules as to the authority of municipal corporations over nuisances such corporations may declare slaughterhouses to be nuisances when the facts and circumstances warrant it; may provide the limits within which they may be erected and maintained; may demand their removal from particular districts, though they may have been established pursuant to ordinances authorizing them; and may even entirely exclude them from the corporate boundaries. But of course the facts and circumstances must show them to be nuisances in fact."[199]

[§309] 2. *Statutory statement as to Philippine municipal corporations.* — a. *Municipalities in regular provinces.* "It shall be the duty of the municipal council, conformably with law:

"* * * * * * *

"(q) To establish or authorize the establishment of slaughterhouses . . . and inspect and regulate the use of the same.

"* * * * * * *"[200]

[§310] b. *Municipalities in regular provinces.* "The municipal council shall have power by ordinance or resolution:

"* * * * * * *

"(y) *Slaughterhouses and markets.* To establish or authorize the establishment of slaughterhouses . . . and inspect and regulate the use of the same . . ."

"* * * * * * *"[201]

[§311] *City of Manila.* "The Municipal Board shall have the following legislative powers:

"* * * * * * *

"(cc) Subject to the provisions of ordinances issued by the Department of Health in accordance with law, to . . . prohibit or permit the establishment or operation within the city limits of public . . . slaughterhouses by any person, entity, association, or corporation other than the city.

"* * * * * * *"[202]

[§312] GG. *Sunday observance.* "The securing of the proper observance of Sunday may be the subject of reasonable police regulation by municipal corporations, either under the general police power, or under an express or implied grant of power for the purpose. The general statutes of the state on this subject fix the limit and measure of municipal police power, unless the charter expressly confers more. But the municipality need not cover the entire field of the statute; and an ordinance forbidding only a portion of the acts denounced by statute may yet be valid. In the exercise of the power under consideration municipal corporations may regulate the conduct of business on Sunday; may within reasonable limits prohibit work or labor on such day; may prohibit the sale of particular merchandise on that day; and may regulate Sunday amusements. While such regulations should not be discriminatory and must be reasonable, the fact that the municipal authorities to whom the power is delegated single out certain occupations does not operate as an unreasonable or illegal discrimination against those engaged in those occupations."[203]

[§313] HH. *Vehicles and means of transportation.* — 1. *In general.* "Subject to the limitations discussed hereinafter, ordinarily municipal corporations have power to regulate the traffic of vehicles of all kinds, commonly used within the corporate limits, as an exercise of their police powers, not inherent, but granted to the corporation expressly or impliedly. But such regulations must be reasonable, and not arbitrary or discriminatory. And the power to regulate such vehicles does not authorize prohibition. But under a grant of express power a municipal corporation may prohibit particular kinds of vehicles from operating on its streets or other public places. Vehicles merely passing through the municipality may not be included; but those may which belong to nonresidents if publicly used in the municipality, or if the route terminus is within it. The municipal corporation may prescribe what style of vehicles shall be used for public passenger service, but not for private use; what streets they must travel, if regular lines; and where hacks must stand; whether the driver may leave them; and what mark of distinction he shall wear. It may prohibit anyone from riding on the seat with the driver. It may also prohibit fast driving, but not slow driving; and may assess a penalty against a public conveyance for refusal to carry a passenger. It may confine vehicles to the righthand sides of the centers of streets, with reference to the directions in which they are severally moving, and may forbid the leaving of any vehicle standing on a street elsewhere than on the righthand side thereof with reference to the direction in which it faces. A municipal regulation which interferes with its lawful use of sidewalks by pedestrians and endangers the safety of pedestrians by permitting vehicles on the sidewalks is unreasonable and invalid.

"Charges and prices. Generally speaking, a municipal corporation, under its properly delegated police power, may prescribe rates for carriage by cab, hack, coach, omnibus, car, or other vehicle, used in transportation within the municipal boundaries.

"Delegation of power. While a municipality may vest upon designated officials or officers certain power of discretion to carry into effect the regulation under consideration, and in doing so may authorize police officers to require drivers to obey their directions in regard to the places which vehicles may occupy, it cannot confer upon

194 Sec. 2625, Rev. Adm. Code.
195 Sec. 18, Rep. Act No. 409.
196 Sec. 2243, Rev. Adm. Code, with reference to municipalities in regular provinces, Sec. 2625(a), Id., with reference to municipalities specially organized provinces, and Sec. 19, Rep. Act No. 409, with reference to City of Manila.
197 43 C. J. 451.
198 43 C. J. 319-320.
199 Id. 320.
200 Sec. 2242, Rev. Adm. Code.
201 Sec. 2625, Rev. Adm. Code.
202 Sec. 18, Rep. Act No. 409.
203 43 C. J. 436.

such officials unlimited discretion in prescribing the rules for the regulation of vehicles on the streets or other public places."[204]

[§314] 2. *Statutory provisions as to city of Manila.* "The Municipal Board shall have the following legislative powers:

"* * * * * *

"(v) . . . to regulate the speed of horses and other animals, motor and other vehicles, cars, and locomotives, within the limits of the city; to regulate the lights used on all such vehicles, cars, and locomotives; to regulate the locating, constructing, and laying of the track of horse, electric, and other forms of railroad in the streets or other public places of the city authorized by law; to provide for and change the location, grade, and crossings of railroads, and compel any such railroad to raise or lower its tracks to conform to such provisions for changes; and to require railroad companies to fence their property, or any part thereof, to provide suitable protection against injury to persons or property, and to construct and repair ditches, drains, sewers, and culverts along and under their tracks, so that the natural drainage of the streets and adjacent property shall not be obstructed.

"* * * * *"[205]

[§315] II. *Zoning.* — 1. *Definition, nature, and history.* "The verb 'zone' has acquired a comparatively new meaning, that is, to separate the commercial or industrial districts from the resident districts, and to prohibit the establishment of places of business in any designated residence district, or vice versa. In its original and primary sense, zoning is simply the division of a municipal corporation into districts and the prescription and application of different regulations in each district. Roughly stated, these regulations, which may be called 'zoning regulations,' are divided into two classes: Those which regulate the height or bulk of buildings within certain designated districts, in other words, those regulations which have to do with structural and architectural designs of the building; and those which prescribe the use to which buildings within certain designated districts may be put. Zoning ordinances are of comparatively recent origin. The subject of zoning has certainly become a very important branch of the law affecting municipal corporations."[206]

[§316] 2. *Source and delegation of power to municipal corporatoins.* "The power of municipal corporations to enact zoning regulations may be derived from constitutional or statutory provisions. Within its constitutional limitations the legislature may authorize such enactment. The power may also be derived directly from the constitution of the state; and state constitutional provisions conferring the power have been upheld as against the objection that they violated the federal constitution as a denial of the equal protection of the law, or discrimination. Also, the statutes conferring the power have been upheld as against the objection that they were violative of the federal constitution.

"Construction of statute. It has been held that statutes conferring upon the municipal corporations the power to enact zoning regulations should be liberally construed.

"Police power as sufficient source. It has been suggested that the police power residing in the state legislature is sufficient to authorize the enactment of zoning statutes, if done wisely; that zoning under the power of eminent domain is unwise; and that there is no necessity for constitutional amendment to provide for zoning."[207]

[§317] 3. *Existence and limits of power.* — a. *In general.* "As a general rule, subject to the limitations to be noted hereinafter, municipal corporations may enjoy the right or power to enact reasonable zoning regulations. Regulations to that effect have been upheld as against the objection that they were unconstitutional, as denial of due process or equal protection of the law, and that they were discriminatory. The power is not an inherent one; it can be exercised only when it is expressly conferred on the municipal corporation or rises by necessary implication. While it has been held that the power to enact certain zoning regulations cannot be exercised as an incident of the municipal police power, the weight of authority is to the effect that reasonable zoning regulations may be proper exercise of the municipal police power. But the question whether municipal corporations have power to enact zoning regulations often depends on the particular regulation in question. It depends on conditions. Under certain conditions and circumstances zoning regulations may be the constitutional and proper exercise of the municipal police power, but under other conditions and circumstances they may be considered unconstitutional as being an attempt to deprive owners of real property of their rights of dominion over it without due compensation or in an unreasonable manner. In this connection it should be noted that the police power of a municipal corporation must be responsive, in the interest of common welfare to the changing conditions and developing needs of growing communities. And, as it is the case with police powers generally, zoning regulations which may at one time be regarded as not within the power of a municipal corporation may, at another time, by reason of changed conditions be recognized as a legitimate subject of municipal power. Also, zoning regulations which may be regarded as within the power of one municipal corporation may not be so regarded as to another."[208]

[§318] b. *Limits on exercise.* — *In general.* "The power to enact zoning regulations by municipal corporations, if it exists, must be exercised subject to the limitations and restrictions which the legislature may have imposed upon the municipal corporation. It must be exercised reasonably, not arbitrarily, without discrimination. The regulation must have some tendency to promote the public health, public safety, and public welfare. The power of the municipality to zone is not limited to the protection of established districts, but extends to aid in the development of new districts."[209]

[§319] (2) *Matters considered.* "In determining whether a zoning regulation is valid two questions present themselves: (1) Whether the scheme of zoning is as a whole sound, that is to say, whether the method of classification and the districting is reasonably necessary to the public health, saftey, morals, or general welfare. (2) Whether the scheme of classification and districting has been applied fairly and impartially in each instance. It is difficult to isolate the several factors which may be considered in the enactment of zoning regulations. Such regulations may involve complicated and conflicting elements and interests. Zoning regulations must take into consideration the character of the district, the future development of the municipality, and the direction of municipal improvements. All questions affecting the public and private interests must be considered. The peculiar suitability for particular uses, the conservation of property values, the permanency of the structure and its use, are all matters to be considered. Zoning regulations must be in accordance with some well considered plan and must adopt a definite policy. They should describe with certainty the district or districts within which they are applicable. The authority to zone contemplates fixed areas with defined boundaries. To what extent it is necessary to zone the entire municipal boundaries often depends on circumstances, and also the rule may differ as to different municipal corporations. An absolute identity of treatment of particular parcels of land is not required. Under particular circumstances zoning may be limited to one street only. When the statute so requires it, zoning regulations should be in accordance with well-considered plans applying within the entire municipal boundaries."[210]

"Aesthetic Considerations. Aesthetic considerations alone do not justify the enactment of zoning regulations. But when once it is determined that regulation tends to promote the public health, public safety, or public welfare, aesthetic considerations may be considered in the enactment of the particular regulation."[211]

[§320] c. *Particular powers.* — (1) *Architectural design and structural designs.* Municipal zoning regulations may consist in regulating the architectural and structural designs of buildings within specified districts in regard to bulk, building lines, heights, open spaces, yards, etc. In the exercise of the power apartments, tenements, and like structures may be zoned and their height, bulk, open spaces, etc., regulated; as for instance, the particular

204 43 C. J. 440-442.
205 Sec. 18, Rep. Act No. 409.
206 43 C. J. 333.
207 43 C. J. 333-334.
208 43 C. J. 334-336.
209 43 C. J. 336.
210 43 C. J. 336-338.
211 State v. Harper, 182 Wis. 143, 158, 33 A.L.R. 269.

number of families for which such structures may be built may be regulated.[212]

"It is needless to . . . analyze and enumerate all of the factors which make a single family home more desirable for the promotion and perpetuation of family life than an apartment, hotel, or flat. It will suffice to say that there is a sentiment practically universal, that this is so. But few persons, if given their choice, would, we think, deliberately prefer to establish their homes and rear their children in an apartment house neighborhood rather than in a single home neighborhood. The general welfare of a community is but the aggregate welfare of its constituent members and that which tends to promote the welfare of the individual members of society cannot fail to benefit society as a whole. The entrance of one apartment house or flat into a district usually means the entrance of others, and while it may mean an enhancement of value of the adjacent property for the building of similar structures, it detracts from the value of neighboring property for home building. The man who is seeking to establish a permanent home would not deliberately choose to build next to an apartment house, and it is common experience that the man who has already built is dissatisfied with his home location and desires a change. In other words, the apartment house, tenement, flat, and like structures tend to the exclusion of homes. The home owner may move to another district but this may not be a sufficient solution . . . (of) his problem, for if no protection can be given to strictly home districts — such as is contemplated by a comprehensive and properly constructed zoning plan — he may be forced by the ever-increasing encroachment of apartments and flats to relinquish, if not altogether abandon, the benefits emanating from a permanent home site."[213]

"With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play enjoyed by those in more favored localities — until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable come very near to being nuisances."[214]

"Discussion of, and reason for, rule. — Restriction of the use of land to buildings each to be occupied as a residence for a single family may be viewed at least in two aspects. It may be regarded as preventive of fire. It seems to us manifest that, other circumstances being the same, there is less danger of a building becoming ignited if occupied by one family than if occupied by two or more families. Any increase in the number of persons or of stoves or lights under a single roof increases the risk of fire. A regulation designed to decrease the number of families in one house may reasonably be thought to diminish that risk. The space between buildings likely to arise from the separation of people into a single family under one roof may rationally be thought also to diminish the hazard of conflagration in a neighborhood . . . It may be a reasonable view that the health and general physical and mental welfare of society would be promoted by each family dwelling in a house by itself. Increase in fresh air, freedom for the play of children and of movement of adults, the opportunity to cultivate a bit of land, and the reduction in the spread of contagious diseases may be thought to be advanced by a general custom that each family live in a house standing by itself with its own curtilage. These features of family life are equally essential or equally advantageous for all inhabitants, whatever may be their social standing or material prosperity. There is nothing on the face of this by-law to indicate that it will not operate indifferently for the general benefit. It is a matter of common knowledge that there are in numerous districts plans for real estate development involving modest single-family dwellings within the reach as to price of the thrifty and economical of moderate wage earning capacity."[215]

"The power is not an inherent one, it must be expressly granted or rise by necessary implication, and in many instances the existence of the power has been denied, as for instance, prohibiting the erection of four-story apartment houses, prohibiting the erection of frame office buildings, prohibiting the erection of one-story buildings within a particular district, prohibiting the erection, within a specified district, of buildings to be used by more than one family, prohibiting the erection of a four-family flat within a residential district, prohibiting the erection of two-family houses within a district. In any event the power must be exercised within its scope. Thus, a regulation providing that no buildings shall be erected, altered, or used as a residence for more than one family, but not regulating the size of the lot or specifying how far buildings shall be separated, is not authorized by statute authorizing municipalities to regulate the location of industries and buildings with a view to promote the public health, safety, and general welfare. Also, authority to regulate the 'manner and method of building' does not authorize the restriction of the location of one-story buildings. The regulations must have the tendency to promote the health, safety, or general welfare. The power must be exercised reasonably, not arbitrarily, and without discrimination, although reasonable classification may be permitted."[216]

212 43 C. J. 338-368.
213 Miller v. Los Angeles Bd. of Public Works, 195 Cal. 477, 493, 234 P 881.
214 Euclid v. Ambler Realty Co., (U.S.) 47 Sup. Ct. 114.
215 Brett v. Brookline Bldg., Comr., 250 Mass. 73, 78, 145 N.E. 269.
216 43 C. J. 339-340.

(To be continued)

TEXT OF COURT . . . *(Continued from page 220)*

"Segregation of White and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of the law, therefore, has a tendency to retard the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racially integrated school system."

Whatever may have been the extent of psychological knowledge at the time of Plessy V. Ferguson, this finding is amply supported by modern authority, any language in Plessy V. Ferguson contrary to this finding is rejected.

We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the fourteenth amendment.

Because these are class actions, because of the wide applicability of this decision, and because of the great variety of local conditions, the formulation of decrees in these cases presents problems of considerable complexity. On reargument, the consideration of appropriate relief was necessarily subordinated to the primary question — the constitutionality of segregation in public education. We have now announced that such segregation is a denial of the equal protection of the laws. In order that we may have the full assistance of the parties in formulating decrees, the cases will be restored to the docket, and the parties are requested to present further argument on questions 4 and 5 previously propounded by the court for the reargument this term. The Attorney-General of the United States is again invited to participate. The public education will also be permitted to appear as amici curiae upon request to do so by September 15, 1954, and submission of briefs by October 1, 1954.

It is so ordered.