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jected all rigid determinants in this regard. The Court held that due process does not require a corporation to be within the territorial jurisdiction of the court if it has such contacts with the territorial forum that the maintenance of the suit does not offend the traditional notions of fair play.

Foreign insurance corporations which depend on good will and voluntary solicitations of existing members for new business and which are not represented by agents or brokers in the state are generally held not to be doing business in a foreign state.[8] Some courts in reaching the same result consider the situs of the execution of the contract as controlling,[9] and since, in the absence of agents, the place of execution and performance is the corporation's home state, the result reached is in accord with the majority view. However, a distinction is recognized between doing business by a foreign corporation which would subject it to the jurisdiction of a foreign court (not of its domicile), and doing business of the character that would subject it to the power of the state to impose regulations on its activities.[10] In this latter respect the courts have realized that the state has an interest in the insurance of its citizens in order to protect them from loss,[11] and that in protecting that interest the state may impose regulations on the method of sale and distribution of insurance contracts.[12]

In the instant case, the Court does not decide that the corporation's superficial contacts in a foreign state are sufficient to constitute doing business in the sense that the corporation is subject to an in personam decree of a court of the foreign jurisdiction. What has been done in the instant case is to affirm the authority of the state, by a reasonable exercise of its police powers, to regulate the sale of securities within its borders.[13]

CONSTITUTIONAL LAW—CIVIL LIBERTIES—SEGREGATION ON GRADUATE AND PROFESSIONAL SCHOOL LEVEL

In accordance with State law,[1] petitioner's application for admission to the University of Texas Law School was rejected solely because he was

8. Sasnett v. Iowa State Traveling Men's Ass'n, 90 F.2d 514 (8th Cir. 1937); Shwayder v. Illinois Commercial Men's Ass'n, 255 Fed. 797 (D. Colo. 1918); Pembleton v. Illinois Commercial Men's Ass'n, 289 Ill. 99, 124 N.E. 355 (1919); Minnesota Commercial Men's Ass'n v. Benn, *supra* note 6.

9. Storey v. United Shoe Co., 64 F. Supp. 896 (E.D. S.C. 1946); Allgeyer v. Louisiana, *supra* note 5. *But cf.* International Harvester Co. v. Kentucky, 234 U.S. 579 (1914).

10. Begole Aircraft Supplies, Inc. v. Pacific Airmotive Corp., 212 P.2d 860 (Colo. 1949).

11. Alaska Packers Ass'n v. Industrial Accident Comm'n, 294 U.S. 532 (1935).

12. Hoopeston Canning Co. v. Cullen, 318 U.S. 313 (1943); Osborn v. Oslin, 310 U.S. 53 (1940).

13. Hall v. Geiger Jones Co., 242 U.S. 539 (1917); Caldwell v. Sioux Falls Stock Yard Co., 242 U.S. 559 (1917); Merrick v. N. W. Halsey Co., 242 U.S. 568 (1917) (in which the "Blue Sky" laws of Ohio, South Dakota and Michigan were upheld); *cf.* Atlantic Refining Co. v. Virginia, 302 U.S. 22 (1938); Home Insurance Co. of N.Y. v. Morse, 87 U.S. 445 (1874); Paul v. State of Virginia, 75 U.S. 168 (1868).

1. TEX. CONST. Art. VII, §§ 7, 14; TEX. STAT. REV. CIV. §§ 2643b, 2719, 2900, (Supp. 1949).

a Negro. The State trial court continued his suit for mandamus for six months, by the expiration of which time a law school for Negroes was made available, and then refused to grant relief. On remand by the Texas Court of Civil Appeals, the trial court found the new Negro law school substantially equal to the established white law school. Four and a half years after the original application, the United States Supreme Court, on certiorari to the Texas Supreme Court, *held*, that the petitioner must be admitted to the University of Texas Law School because of a lack of equality in the facilities offered by the two schools. *Sweatt v. Painter*, 338 U.S. 865 (1950).

Opposed to the early belief that the Negro was an inferior subhuman being,[2] the decision in the noted case was heralded as a victory and given international publication.[3] The universality of interest in the problem and its existence is, however, overlooked by those who consider segregation to be based on stupidity, intolerance and a desire to avoid competition on the part of the Southerner.[4] In the United States it affects not only the Negro, but also Indians,[5] Mexicans,[6] and Asiatics.[7] Nor is it confined to the South, but extends north[8] and exists in every other area where minorities are to be found.

The law of Texas,[9] sixteen other Southern states,[10] and the District of Columbia[11] provide for separation of the races in school. Such enactments for the segregation of races have been held valid and not to violate provisions of the Constitution of the United States when substantially equal privileges were furnished the separated groups within the state,[12] by the state,[13] and at

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2. *See* Scott v. Sanford, 19 How. 393 (U.S. 1856) *passim*.
3. *Heman Sweatt's Victory*, Life, October 16, 1950, p. 64.
4. See Ross, Book Review, 4 MIAMI L.Q. 409 (1950).
5. See Piper v. Big Pine School Dist., 193 Cal. 664, 226 Pac. 926 (1924); Ammons v. School Dist., 7 R.I. 596 (1863).
6. See Westminster School v. Mendez, 64 F. Supp. 544 (S.D. Cal. 1946), *aff'd*, 161 F.2d 774 (9th Cir. 1947).
7. See Gung Lum v. Rice, 275 U.S. 78 (1927).
8. See Dorsey v. Stuyvesant Town Corp., 87 N.E.2d 541 (1949); 4 MIAMI L.Q. 102 (1949).
9. See note 1, *supra*.
10. ALA. CONST. Art. XIV, § 256, ALA. CODE tit. 52, § 93 (1940); ARK. DIG. STAT. § 11535(c) (1937); DEL. CONST. Art. X, § 2; DEL. REV. CODE § 2631 (1935); FLA. CONST. Art. XII, § 12; FLA. STAT. § 228.09 (1949); GA. CONST. Art. VIII, § 1; GA. CODE ANN. § 937 (Supp. 1947); KY. CONST. § 187; KY. REV. STAT. ANN. § 158.020 (1943); LA. CONST. Art. XII, § 1; MD. ANN. CODE GEN. LAWS Art. 77, § 192 (1939); MISS. CONST. Art. VIII, § 207, MISS. CODE ANN. § 6276 (1942); MO. CONST. Art. XI, § 3, MO. REV. STAT. ANN. § 10349 (1943); N.C. CONST. Art. IX, § 2; N.C. GEN. STAT. ANN, § 115-2 (1943); OKLA. CONST. ART. I, § 5; OKLA. STAT. tit. 70, § 455 as amended Laws 1949, Art. 20, § 9; S.C. CONST. Art. XI, § 7; S.C. CODE ANN. § 5377 (1942); TENN. CONST. Art. XI, § 12; TENN. CODE ANN. § 2377 (Williams 1934); VA. CONST. Art. IX. § 140; VA. CODE ANN. § 680 (1942); W. VA. CONST. Art. XII, § 8; W. VA. CODE ANN. § 1775 (1949).
11. 18 STAT. part 2, § 306, as amended; D.C. CODE § 31-1112 (1940).
12. State of Missouri *ex. rel.* Gaines v. Canada, 305 U.S. 337 (1938) (rejecting State's offer to pay tuition at Negro law school in adjoining state).
13. Piper v. Big Pine School Dist., *supra* note 5 (the state was not excused from providing educational facilities for Indian children by virtue of the fact that within the same school district the federal government maintained an Indian school).

the same time as they were made available to students of other races.[14] This "separate but equal" rule, asserted in school segregation cases, was adopted from *Pessy v. Ferguson*,[15] in which it was held that a statute requiring public carriers to separate their passengers according to a racial classification did not violate the Fourteenth Amendment to the Federal Constitution so long as equal facilities were available to each race. In determining the equality of school facilities, consideration has been given to size and value of the school building and property, location of school and transportation, expenditure per pupil, length of term, number and qualifications of teachers, courses of study available, and opportunities for extra-curricular activities.[16] Recently, in a white graduate school to which a Negro had been admitted on a segrated basis, the Court found a lack of equality of treatment because of restrictions which interfered with discussion and exchange of views with other students.[17] *Equality* has thus become a fulcrum by which the courts have progressively forced several states[18] to abandon their segregation policy in the graduate and professional school level.

Refusing to consider over-ruling the validity of segregation statutes, the Court's decision in the noted case turned on consideration of the *equality* of facilities. The Texas State University for Negroes with its five professors; student body of 23; library of 16,500 volumes; practice court; and legal aid society; was found to be not substantially equal to the white University of Texas Law School with its faculty of sixteen full-time and three part-time professors, some of whom enjoy national recognition as authorities in their field; 850 students; 65,000 volume library; law review; moot court facilities; and scholarship funds. Attention was not only given to the new school's physical plant, library, faculty, and curriculum, but also to two other attributes, which no new school can possibly have: distinguished alumni and rich tradition. Thus, the "separate but equal" rule of *Plessy v. Ferguson*, first used to sustain the constitutionality of seperation of the races, was employed by the Court to avoid segregation.

By whittling down the *Plessy v. Ferguson* rule to a point where no new graduate school can be considered equal to a long established graduate school (because of a lack of prestige and alumni in the former), the court saves the graduate school from the interference of the intolerant individual who must now practice his prejudices unaided by the coercive power of the law.[19] In theory, it is difficult to distinguish graduate and professional schools from the lower level schools. But, in practice, it is obvious that fewer persons are affected on the graduate level and therefore harmony is

14. Sipuel v. Board of Regents, 332 U.S. 631 (1948).
15. 163 U.S. 537 (1896).
16. See Note, 103 A.L.R. 713 (1936).
17. McLaurin v. Oklahoma, 340 U.S. 70 (1950) (Negro pursuing studies leading to Doctorate in Education, assigned to classroom seat in row reserved for colored, special table in library and in cafeteria, thus restricting ready intercourse with other students).
18. Arkansas, Delaware, Kentucky, Maryland, West Virginia and Oklahoma.
19. *Cf.* Shelley v. Kraemer, 334 U.S. 1, 22 (1948).

more readily attained. The solution of the problem in the lower schools is and should be left to time[20] and legislative action.[21]

CONSTITUTIONAL LAW — DUE PROCESS — NOTICE BY PUBLICATION IN SETTLEMENT OF ACCOUNTS OF STATUTORY COMMON TRUST FUND

Trustee of common trust fund filed a petition for judicial settlement of accounts as prescribed in a statute authorizing the establishment of the common trust fund.[1] When the first investment in the fund was made, the trustee notified each beneficiary by mail. The notice given in this petition was by publication as set out in the statute.[2] The beneficiaries so served were not all within the jurisdiction of the court. *Held*, that under the Fourteenth Amendment, the statutory notice does not afford due process of law to those beneficiaries whose place of residence is known, but is sufficient to those beneficiaries whose whereabouts could not reasonably be ascertained. *Mullane v. Central Hanover Bank & Trust Co.*, 70 Sup. Ct. 652 (1950).

In the determination of what constitutes due process of law with respect to adequacy of notice under the Fourteenth Amendment, a distinction is usually drawn between actions in rem and in personam.[3] A proceeding in personam is against the person based on jurisdiction of the person,[4] while a proceeding in rem, against property, involves jurisdiction over the res to be adjudicated by the court.[5] Actions in personam are further distinguished from those in rem since, in the latter, a valid judgment is obtained without personal service of process, while personal service is a condition precedent to a valid judgment in personam.[6] Proceedings quasi in rem, against a person in respect to property within the jurisdiction,[7] include those actions to adjudicate interests of persons designated and constructively served as unknown.[8]

The adequacy of service by publication depends on whether it is reasonably calculated, under the circumstances, to give the necessary parties an actual knowledge of the proceedings and an opportunity to be heard.[9] The

20. See 2 BEVERIDGE, LIFE OF JOHN MARSHALL, 21 (1919) (these "distinctions and prejudices exist to be subdued only by the grave.").
21. *See* Carr v. Corning, 182 F.2d 14, 16 (D.C. Cir. 1950).

1. N.Y. BANKING LAW § 100-c.
2. N.Y. BANKING LAW § 100-c (12).
3. Pennoyer v. Neff, 95 U.S. 714 (1877).
4. McCormick v. Blaine, 245 Ill. 461, 178 N.E. 195 (1931).
5. *See* Beck v. Otero Irr. Dist., (D. Colo.), 50 F.2d 951, 953 (1931).
6. White v. Glover, 138 App. Div. 797, 123 N.Y. Supp. 482 (1st Dep't 1910).
7. Hill v. Henry, 66 N.J. Eq. 150, 57 Atl. 554 (1904); Gassert v. Strong, 38 Mont. 18, 98 Pac. 497 (1908).
8. 3 FREEMAN, JUDGMENTS § 1522 (5th ed. 1925).
9. Milliken v. Meyer, 311 U.S. 457 (1940).