

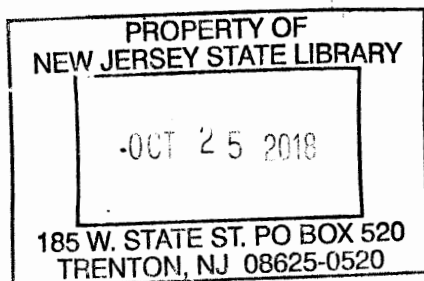


ANNOTATED BIBLIOGRAPHY

**HISTORICAL RECORD OF
MINORITY AND WOMEN-OWNED
BUSINESS ENTERPRISES
IN
PUBLIC AND PRIVATE
CONTRACTING IN NEW JERSEY**

**A Report Submitted to
NJ TRANSIT
and the
Governor's Study Commission on Discrimination in Public
Works Procurement and Contracts**

**by
The Afro-American Studies Program
University of Maryland at College Park**



9 NS
10
E19
1792f
v.15
c. -

Books and Articles

Aaron. "Income Taxes and Housing." American Economic Review 60, no. No. 5(December 1970): 789-806. Effect of the tax structure on formation of capital through home ownership.

Abrams. Forbidden Neighbors. 1955. Analysis of racial discrimination in the sale of housing.

Ando, Faith. An Analysis of Access to Bank Credit. Los Angeles: UCLA Center for Afro-American Studies, 1988. Provides strong evidence of discriminatory lending practices by commercial banks toward blacks in comparison with Hispanics, nonminorities, and Asians. Provides the basis for Bates' later work that also uncovers discrimination in lending to blacks in New Jersey.

Bates, Timothy. Discrimination and the Capacity of New Jersey Area Minority and Women-Owned Businesses. New School for Social Research, August 1991. The most comprehensive comparative analysis available of New Jersey Area small businesses by race, ethnicity, and gender. Contains evidence suggestive that present-day discriminatory practices limit the relative numbers of nonwhites or nonmales engaged in small business enterprise.

Bearse, Peter. "An Econometric Analysis of Black Entrepreneurship." In The Review of Black Political Economy, Spring, 111-134. 1984. Contains a statistical assessment of the presence of blacks in business ownership. Establishes that the representation of white women and racial minority groups in large corporate ownership is even more sparse relative to their numbers in the general population than their representation in the small business world.

Betts, Roy. "Construction in the 1980's." In Hispanic Business, 8. 1980. This article contains a discussion of the construction industry in the 1980's. The focus is on problems of minorities in construction. As part of this, a survey by the Associated Minority Contractors of America is discussed. The survey reported that the inability to get bonding has resulted in a number of minority contractors having to eschew business they had won under competitive bid.

Biamonte, Christiane. "Thesis Punctures Myth of 'Paradise.'" In The Times, A1, A8. Trenton NJ, 3 June, 1991. Reports on a senior honors thesis written by James Barlow at Princeton on the town

of Hightstown, New Jersey. Barlow offers evidence of the persistence of racial tension and inequality in Hightstown, engendered by white hostility toward blacks.

Blau, Francine and John Graham. "Black-White Differences in Wealth and Asset Composition." Quarterly Journal of Economics 105(May 1990): 321-340. This article contains an analysis of the level and composition of black and white household assets in 1986. They find that the level of black household wealth is substantially lower than that for white and that this is true even for households with similar income. In addition, the composition of assets differs by race with blacks holding more of their assets in checking and savings accounts and less in stock and other high yield assets.

Blumrosen, Alfred. Report of the New Jersey Commission on Civil Rights to the Honorable Richard J. Hughes, Governor and to the Legislature of New Jersey: On Matters Relating to the Work of Division of Civil Rights. Edited by Rutgers: The State University of New Jersey. 1964. This report examines the work of the New Jersey Division on Civil Rights and offers suggestions to the Commission regarding the need for the Division to more broadly interpret it's ability to proactively seek out discrimination and correct those acts counter to the State's Laws Against Discrimination.

Report on the Panel on Equal Employment Opportunities in Construction Trades in Newark, New Jersey. Rutgers: The State University, 1970. Professor Blumrosen provides an historical summary of the discrimination against Afro-Americans in the construction trade of New Jersey. He details the manner in which the construction trade in New Jersey was able to continue its discriminatory policy of a "closed shop" and deny access to apprenticeship programs and union construction jobs. He calls for the federal government to require compliance through more rigorous legislation and monitoring.

. "The Duty to Plan for Fair Employment: Plant Location in White Suburbia." In Rutgers Law Review. 1971. Argues that employers are obligated to consider any adverse impacts of location or relocation in suburbia on minorities, to assure fair employment opportunities for those minorities.

. Enforcing Equality in Housing and Employment Through State Civil Rights Laws. Rutgers Law School, 1974. This report

contains a discussion of discrimination in the building trades and housing in New Jersey. The authors discuss the development of a national plan or approach for rectifying discrimination in the construction industry. Evidence on under representation in construction apprenticeships and employment is tied to recommendations for the nature of affirmative action goals. In addition to statistical evidence on discrimination, the article contains court case histories and actual testimony from state officials on affirmative action programs.

_____. "The Law Transmission System and the Southern Jurisprudence of Employment Discrimination." In Industrial Relations Law Journal. 1984. Documents the marked rise in the representation of nonwhites working in "the higher occupational categories (professional and technical, clerical and craftspersons)" between 1970 and 1980. Argues that the increase must have been to the effects of antidiscrimination legislation.

Blumrosen et. al. "Enforcing Equality in Housing and Employment Through State Civil Rights Laws ." 1972. Documents relating to a Rutgers Law School project to assist the New Jersey Division on Civil Rights in enforcing anti-discrimination laws through administrative mechanisms.

Blumrosen, Ruth, "Wage Discrimination, Job Segregation, and Title VII of the Civil Rights Act of 1964." University of Michigan Journal of Law Reform 12, no. 3 (Spring, 1979). Discusses the nature and incidence of job segregation by race and sex, the relationship between job segregation and wage discrimination, and discusses the liabilities under Title VII. The author proposes a critical analysis of the wage discrimination theory and suggested remedies.

Browne, Robert S. "Wealth Distribution and Its Impact on Minorities." Review of Black Political Economy 4:4, no. Summer (1974). Argues that historical deprivations can be transmitted across generations, leading to the perpetuation of racial inequality.

Burchell et al., Mount Laurel II: Challenge & Delivery of Low-Cost Housing (1983). Technical analysis of fair share methodology, including explanation of relationship between housing and employment.

Burns, Michael. "The Exclusion of Women from Influential Men's Clubs:

The Inner Sanctum and the Myth of Full Equality." Harvard Civil Rights-Civil Liberties Law Review 18 (1983). A comprehensive review and analysis of the centrality of men's clubs to the conduct of business, their rights of privacy and association, the basis for challenging discriminatory practices, government involvement, judicial interpretation and enforcement.

Cartwright, D. and Zander, A. Group Dynamics. New York, 1960. A classic review of small group theories and survey of small group research.

Clayton, Dusty. "Tiger Inn Fetes 100th Anniversary Amid Pickets." Trenton Times, 21 October 1990. Sixty students and alumni picketed the Tiger Inn, Princeton University's last all-male eating club to demand that it change its admission policies.

Clements, A.V. Managers: A Study of their Careers in Industry. 1958.

Conk, Margo Anderson. The United States Census and Labor Force Change. 1980. Provides the backdrop of the industrialization for several major cities in New Jersey from 1870 to 1940.

Cook, Robert and K. Lynn Cairnes. "The Impact of Participation in Apprenticeship." In Proceedings of 42nd Annual Meetings of the Industrial Relations Research Association, 379-386. Atlanta, Ga., 1989. This study uses data from the National Longitudinal Survey in 1972 to estimate the effect of apprenticeship on earnings and employment. These results are compared to those on the impact of vocational and academic instruction programs. The authors find substantial returns to participation in these apprenticeship programs and conclude that those lucky enough to enter these programs enjoy economic rents. They find that women and minorities would reap especially large returns from being included in the pool of apprentices.

Courant. "Racial Prejudice in a Search Model of the Urban Housing Market." Journal of Urban Economics 5 (1978): 329-345. Demonstration that a competitive housing market will not mitigate effects of white prejudice, but instead will establish competitive equilibria which are racially segmented and in which African-Americans pay more.

Cranmer, H. Jerome. New Jersey in the Automobile Age: A History of Transportation. New York, New York: D. Van Nostrand Company,

Inc., 1964. A history of transportation in New Jersey. Relates the impacts of the shifts from water transport to rail and land transport on the economies of local areas in New Jersey. Points out the role of railways in contributing to the growth of manufacturing industries in the State and the effects of automobiles on the growth of suburban communities. Provides a history of the origins of the Port of New York Authority and the friction between the states of New York and New Jersey over a variety of public policy and transportation-related issues. The failure to develop a comprehensive rail system connecting the States and the various rail lines is traced and the consequences for the alternative development of vehicle transport lines is detailed.

Cunningham, Barbara, ed. The New Jersey Ethnic Experience. Union City: William Wise & Company, 1977. A valuable compendium of historical essays on each of the major ethnic groups comprising New Jersey. Includes a chapter by Lee Hagan et. al. on the black population in New Jersey that is short but very useful.

Curvin, Robert: The Persistent Minority: The Black Political Experience in Newark. Ann Arbor, Michigan: University Microfilms International, 1975. Provides an historical account of the rise of political patronage and the destructive influence on black community life in Newark New Jersey. Documents the influence of black bosses in simultaneously delivering the vote to white political leaders in return for petty favors and thwarting major structural changes that would materially benefit the black community in the long-run. An important example is the role of the Newark Housing Authority in construction of high-rise housing. The political patronage system favored the concentration of blacks in a single location for the efficient delivery of the black vote; the community worried of the impacts on crime, and lack of access to social services.

Dahl, Robert. Who Governs? New Haven, 1961. Political scientist Dahl discusses the influence of the elite social class in American politics, particularly at the local level.

Danielson. The Politics of Exclusion. 1976. Classic study of the political bases of suburban housing exclusion.

Darity, William Jr. and Samuel Myers Jr. "Black-White Earnings Gaps Have Widened: The Problem of Family Structure, Earnings Inequality and the Marginalization of Black Men." In Afro-American

Studies Program Working Papers. University of Maryland at College Park, August 1991. Contains an up-to-date assessment of the relative economic status of black Americans as well as a statistical analysis of the factors contributing to that relative status. Particular emphasis is given to the relationship between family structure and patterns of individual and family income by race. Correspondingly detailed attention is given to the role of the female to male ratio in the black community in affecting the dramatic growth in low-income female headed families among blacks:

Darity, William and Myers, Samuel L. "Public Policy and the Fate of the Black Family." Humboldt Journal of Social Relations 14:1 & 2 ((Fall/Winter & Spring/Summer 1986/87)). Suggests that the deteriorating status of the black family is associated with the transition from a capitalist society to a managerial society. Suggests black male marginalization results in reduced numbers of marriageable men which, in turn, results in deprivation of black families.

Darity, William Jr. "Equal Opportunity, Equal Results, and Social Hierarchy." In Praxis International. 174-85, July 1987. Provides a critical assessment of competing concepts of equality ranging from pure procedural equality to pure equality of outcomes, as well as the intermediate case of Rawlsian "fair equal opportunity." The black neoconservative thinker, Thomas Sowell, is identified as a proponent of pure procedural equality and the implications of his perspective are pursued to their logical and disturbing limits.

Dedman, "The Color of Money: Atlanta Blacks Losing in Home Loans Scramble," Atlanta Journal and Constitution, May 1, 1988. Major investigative report concluding that banks are five times more likely to lend to whites than blacks of the same income; study based on banks' Community Reinvestment Act reports.

Department of Labor. Occupational Outlook Handbook. Washington, D.C.: Government Printing Office, April, 1988. The Handbook contains a detailed description of 225 occupations. It provides information on the nature of work, working conditions, earnings, and employment prospects in these occupations. The training or entrance requirements, in terms of education or apprenticeships, are also discussed.

Domhoff, G. William. Who Rules America? Englewood Cliffs, 1967. A demographic and psychological analysis of the American upper class, including its influence in the corporate economy, government, and the military.

----- The Powers That Be: Processes of the Ruling-Class Domination in America. New York, 1978.

----- The Bohemian Grove and Other Retreats. New York, 1974. An in-depth, narrative description of the activities of three of the most prestigious men's clubs in America: The Bohemian Club and Grove, Los Ranceros. Visitadores, and Roundup Riders of the Rockies. Includes an examination of the all-male elite power structure and the club culture which supports the entrenchment of the elites.

----- Who Rules America Now? Englewood Cliffs. 1983. This book is a sequel to Domhoff's Who Rules America? and extends the political analysis of class and power issues of the elites in corporate and political life. Chapter 6 includes an examination of the power structures at the local, community level. Wealth and income statistics provide indication of the extent to which power is controlled by a ruling elite class.

Elliott, Osborn. Men at the Top. 1959. Description of the inner sanctum of the Duquesne Club in Pittsburgh.

Emerson. "Freedom of Association and Freedom of Expression." Yale Law Journal (1964). This article discusses the difficulty in drawing the line between proscribed private behavior and constitutionally protected free association. Emerson discusses those situations which could determine the legitimacy of such involvements and indicates that there is a great need to be circumspect in delineating the activities of citizens.

Encyclopedia of Associations/International. 1991. Directory listing international groups and associations.

Falcocchio, John C. and Cantilli, Edmond J. Transportation and the Disadvantaged: The Poor, the Young, the Elderly, the Handicapped. Lexington, MA: Lexington Books, 1974. Discusses the impacts of changing mass transit policies on employment prospects of inner-city residents. Concludes that minor adjustments in transportation efforts designed to assist the poor

in getting to work are not likely to be cost-effective.

Farley. The Residential Segregation of Blacks from Whites: Trends, Causes and Consequences in Issues in Housing Discrimination, 14. U.S. Commission on Civil Rights, 1985. Statistical indices of degree of housing segregation in major metropolitan areas, with analysis of causes and trends.

Farley, et. al. Chocolate City, Vanilla Suburbs: Will the Trend Toward Racially Separate Communities Continue?, 319-44. 1978. Study of socioeconomic distributions by race; preference of African Americans to live in integrated neighborhoods.

"Federal Court Accepts Ivy Club Suit." In Trenton Times. 1991. The formerly male-only Ivy Club of Princeton University received the approval of a federal court to challenge a state decision which opened up the eating club to women. Eight years after student Sally Frank first filed a complaint and forced the eating club to admit women, the first woman was admitted last May.

Franzese, "Mount Laurel III: The New Jersey Supreme Court's Judicious Retreat." 18 Seton Hall L. Rev. 30 (1988). Useful description of the provisions of the Fair Housing Act of 1985.

Fujigane, Y. "The Private Club: Glitter, Prestige, and Cash Flow." In Tokyo Business Today, 5, 62-64. 1991. The City Club in Tokyo limits its membership to elite leaders of political, financial, and cultural circles. Describes the difficulties in establishing a private club of this nature with suggestions for orchestrating its success.

Galster. "Housing Discrimination and Urban Poverty of African-Americans." Journal of Housing Research 2, no. No. 2 (1991): 87-122. A conceptual synthesis of six competing explanations of the causes of African American poverty, concluding that if housing discrimination were eliminated there would be significant decreases in housing segregation, measures of school failures, and poverty rates.

-----, "Residential Segregation and Interracial Economic Disparities: A Simultaneous-Equations Approach." Journal of Urban Economics 21 (1987): 22-44. A simultaneous-equation model of metropolitan housing discrimination, with analysis of the relationship between economic status, employment opportunities and patterns of housing segregation.

Gates, A. "The Perk Report." In Working Women, 8. 1990. Leaner corporate operations are becoming a necessity for the 1990s. The conspicuous perks of the 1980s are losing favor, although for 1% of the top employees, perks still include memberships in elite clubs.

Geismar, Joan. The Archaeology of Social Disintegration in Skunk Hollow: A Nineteenth Century Rural Black Community. New York: Academic Press, 1982. A bit too narrowly focused on the non-extant community of Skunk Hollow from the perspective of the archaeologist to provide general insights into the black experience in New Jersey. However, the first chapter does contain useful historical information on blacks in New Jersey, much of which is replicated later in Giles Wright's book.

Geraghty, Coleen. "Clubs: The Art of Clubbing Prestige with Profit." Asian Finance 13, no. 6(May 1987). Clubs in Asia today are viewed as important stepping-stones for the upwardly mobile middle class. "Clubbing" is being used by many young Asian executives as a means to advance business opportunities.

Greater Newark Urban Coalition. The Local Public Work's II Minority Participation Program. Newark, NJ, 1980. This report contains an analysis of Local Public Works construction programs in Newark New Jersey in 1977. The report focuses on whether these projects succeeded in achieving the mandated 10% minority set aside for each grant. The report concludes that these goals were generally not reached and that the government needs to actively develop mechanisms to identify potential minority contractors.

Hahn, ed. "People and Politics in Urban Society." Urban Affairs Annual Reviews (1972). Survey of attitudes towards housing which concludes that African Americans prefer to live in integrated housing but fear the burden of being first in a neighborhood.

Hamilton, Stephen. "Apprenticeship for Adulthood." In The Free Press. New York, 1990. This book looks at how youth are provided with the skills needed for success in the labor market if they do not go onto college. It looks in depth at the American apprenticeship system and contrasts it to the system present in other countries like Germany. In addition, the history and current state of the vocational school system is analyzed.

Harrison, Bennett. Urban Economic Development. Washington, 1974.

One of the leading critiques of the "Ghetto Dispersal" thesis expounded by John F. Kain. Argues that there is no difference in the quality of jobs held by blacks in and out of suburbs, that racial discrimination in the labor market restricts opportunities to blacks even if they moved out of the ghetto and nearer suburban markets, and that dispersal of the ghetto may disperse the ghettos problem but would not improve black employment. Offers an alternative of ghetto economic development.

Hawlely and Rock, eds. Segregation in Residential Areas. 1973. Social science analysis of racial and socioeconomic factors in the choice of where to live.

Heckman, James J. and Brook S. Payner. "Determining the Impact of Federal Antidiscrimination Policy on the Economic Status of Blacks: A Study of South Carolina." In American Economic Review, 138-77. March 1989. Present statistical evidence to support the hypothesis that the opening of Southern manufacturing to black employment, particularly in the case of South Carolina, was due to the effects of federal antidiscrimination programs.

Hill, Herbert. Black Labor and the American Legal System: Race, Work and the Law. Washington, D.C.: The Bureau of National Affairs, Inc., 1977. Explores the perception of black workers and the remedies they sought to eliminate job discrimination. History of the evolution of American law concerning employment discrimination.

Huttman and Jones. "American Suburbs: Desegregation and Resegregation." In Urban Housing Segregation of Minorities in Western Europe and the United States, edited by Blauw Huttman, and Saltman, 344-354. Analysis of the movement of African Americans to suburban areas and the reasons why they live in segregated suburbs, with discussion of the resegregation process and of integration maintenance.

Ihlanfeldt and Sjoquist. "The Impact of Job Decentralization on the Economic Welfare of Central City Blacks." Journal of Urban Economics 26 (1989). Journal of Urban Economics. Study of the effects of job decentralization on net earnings of white and African American low skill workers, concluding that both suffer lower earnings but that losses are more permanent for African Americans than for whites.

Interracial Committee of the New Jersey Conference of Social Work. New Jersey's Twentieth Citizen: The Negro. 1932. The summary version of the report of the results of a 1932 survey in the state of New Jersey that provided the basis for a comparative examination of the black and white populations. Contains information on occupational status, education, income, housing conditions, etc., from a survey taken in the midst of the Great Depression.

Jackman, M.R. and Jackman, R.W. "Racial Inequalities in Home Ownership." Social Forces 58:4 (1980): 1221-1234. Home ownership data controlled for socioeconomic status, family composition and location indicates that African-Americans are much less likely to own homes than comparably situated whites, and that (except in the South) their homes are worth less than those of whites.

Jones. The Puerto Rican in New Jersey. 1955. Narrative of Puerto Rican life in the state, including study of housing discrimination.

Joseph, "A Community Remembers," in Blacks in New Jersey - 1983: Perspectives on Mount Laurel II, 4th Annual Report of the New Jersey Public Policy Research Institute, pp.51-67 (1983). History of African-American settlement in Mount Laurel.

Kain, J.F. "Housing Segregation, Negro Employment and Metropolitan Decentralization." Quarterly Journal of Economics 82 (May 1968): 175-198. Explores a number of hypotheses relating housing segregation to black employment. Shows that job opportunities became spatially dispersed throughout metropolitan areas after World War II. Labor markets expanded in suburban areas and concentrated in inner city areas, where black workers were concentrated as a result of housing segregation. The result was a spatial separation of jobs and residents among black workers. Kain proposes the dispersal of the ghetto as the solution to the black employment problem.

Kain, J.F. and Quigley, J.M. Housing Markets and Racial Discrimination: A Microeconomic Analysis. 1975. Detailed study of racial discrimination in the St. Louis housing market.

Kanter, Rosabeth. Men, Women, and the Corporation. 1977. Sociological and economic analysis of corporate processes which impede women's leadership. Case study of power and opportunity

structure of one American company.

Keating. "Open Housing in Metropolitan Cleveland." In Urban Housing Segregation of Minorities in Western Europe and the United States, edited by Blauw and Saltman Huttman, 367-373. 1991. Study of highly segregated housing pattern in Cleveland, attributable to discrimination rather than economics.

Kelley, Charles. Apprenticeship Training in New Jersey. New Jersey Department of Education and Department of Labor and Industry, June, 1973. This report provides an analysis of apprenticeship training programs in the state of New Jersey. It discusses both union and nonunion training programs and minority involvement in those programs. It provides both a general historical overview of apprenticeships and a review of the state of apprenticeships in New Jersey. Finally, a survey is undertaken of the characteristics of apprentices and their views on apprenticeship programs.

Kovarsky, Irving. "The Negro, Apprentice Training Programs, and Testing." In Research in Apprenticeship Training, 180-190. University of Wisconsin: Center for Studies of Vocational and Technical Education, 1967. This article looks at the tensions that arise between the desire to provide access to skilled trades for minorities and laws which allow testing as an admission requirement for apprenticeship programs. The author argues that given the past history of discrimination and exclusion in the skilled trades, that racially neutral testing policies will not be sufficient to insure access. In addition, the author feels that the use of interviews and other admissions policies that are on the surface race neutral have a disparate impact on minorities given their inferior educational background.

Lamar, Mallach and Payne, Mount Laurel At Work: Affordable Housing in New Jersey, 1983-1988, 41 Rutgers L. Rev. 1197 (1989). Study of compliance with Mount Laurel doctrine, including demographic analysis of residents of completed projects; minorities severely underrepresented.

Lawlor, Julia. "Minorities: Women on the Sidelines." Report. The USA Today, 9, August 1991, 2B. Extends the discussion in an earlier article. Indicates that even when white females reach upper management status they have "staff" rather than "line" positions.

-----, "Labor Dept. Shrugs Off 'Glass Ceiling' Study." The USA Today,

9, August 1991, 1B. Reports on a Labor Department study that indicates that although white females can rise further up the corporate hierarchy than racial minorities they still are precluded from access to upper management positions.

Liepmann, Kate K. The Journey to Work. Edited by Dr. Karl Mannheim. Oxford University Press. An older treatment of the theoretical importance of distance between the job and home on the development of communities. Examines relationship between the cost of journey to work, rents and wages. Concludes that the burden of the daily journey --even with the aid of public transportation--often overshadows the essential services it renders. The journey to work, sound in principle, has been allowed to outrun its usefulness so as to cause harm to individuals and communities.

Light, Ivan. Ethnic Enterprise in America. Classic study of the development of business and enterprise among American ethnic groups. Identifies two key characteristics: the importance of credit (including revolving credit associations) and the role of criminal activity.

Lott, A.J. and Lott, B.A. "Group Cohesiveness and Interpersonal Attraction." In Psychological Bulletin, 259-309. 1965. Properties of small group composition and behavior determine group-as-a-whole phenomena.

Lynton, Edith. Behind Closed Doors: Discrimination by Private Clubs, 323. 1975. A report based on the City Commission on Human Rights Hearings, Vol. 3, 1975. Report of 1975 hearings in New York City, cited in Burns.

Mallach, The Tortured Reality of Suburban Exclusion: Zoning, Economics and the Future of the Berenson Decision, 4 Pace Env. L. Rev. 37 (1986). Analysis of New Jersey and New York exclusionary zoning cases by planning expert who was deeply involved in plaintiffs' cases in both states.

Marcus, K. "Club Membership: An Unresolved Issue for Judicial Nominees." Washington Post. This article discusses the all-male Olympic Club of San Francisco, and the ongoing debate of its discriminatory policy, particularly in light of Federal Judge Anthony Kennedy's urging to shed its restrictive by-laws. The club narrowly defeated a referendum to amend its by-laws to admit

women.

Marshall, Ray and Vernon Briggs. Equal Apprenticeship Opportunities. University of Michigan: Institute of Industrial Relations, 1968. This article looks at black participation in apprenticeship training programs. They focus attention on the experience in New York City of the Worker Defense League Apprenticeship program. Under this program potential minority applicants to apprenticeship programs had to undergo an extensive screening process and were given tutoring on the skills needed to pass the admission tests for many of the skilled trades. It was found that this program was so successful that it created a situation in which minorities were more successful than whites on the union admission tests.

Massey and Eggers. "The Ecology in Inequality: Minorities and the Concentration of Poverty." American Journal of Sociology 95, no. No. 5(March 1990). Examination of trends, 1970-80, in geographic concentration of poverty among whites, African Americans, Hispanic Americans and Asians in large metropolitan areas

McIntyre, Ples. "The Effects of Discrimination in Apprenticeship Programs on the Employability of Negro Youth: An Atlanta Study." Unpublished MBA Thesis. Atlanta University, 1990. This Master's thesis contains an analysis of the history and evolution of apprenticeship programs in the city of Atlanta. The author looks at the future role of apprenticeships in our society given the increased need for skilled workers. He also examines the extent to which discrimination has served to exclude minorities from apprenticeship programs. The author concludes that discrimination has served to directly excluded blacks from unions and hence apprenticeship programs. He further, states that this exclusion deprives black youths of role models and hence makes them less likely to aspire to working in these craft occupations even after discrimination has diminished.

Meyer, Bruce. "Why Are There So Few Black Entrepreneurs." In National Bureau Economic Research, working paper no. 3537. 1990. This article provides an econometric analysis of why black and white rates of entrepreneurship vary. The focus is particularly on testing whether it is the absence of financing or liquidity constraints that inhibit black entrepreneurship. They find that blacks do not appear to be any more likely to form businesses in industries with low

capital requirements than in those with high requirements. Thus, the lack of assets does not appear to explain the relatively low rate of black business formation.

Myers, Samuel L. "Economics of Crime in the Urban Ghetto." In Review of Black Political Economy. 1978. Explores the economic aspects of participation in illegitimate activities in urban ghetto areas. Discusses the institutional structure in which labor market and for-profit criminal decisions are made within ghettos.

Myers, Samuel L. and Phillips, Kenneth E.. "Housing Segregation and Black Employment: Another Look at the Ghetto Dispersal Strategy." In American Economic Review, 2, 298-302. May, 1970. A review and analysis of the "Ghetto Development vs. Dispersal Debate." Examines the theoretical basis for the case against the Ghetto Dispersal strategy. Provides evidence from CETA data showing that wages increase for workers who travel from central city to suburban areas and job offer probabilities in the suburbs exceed those in the inner city, supporting the contentions of Kain. But, consistent with Harrison, uncovers evidence of extensive housing segregation in the suburbs as well; thus, dispersal of the ghetto fails to necessarily move black workers closer to jobs. Blacks tend to gain in employment when job opportunities expand near their neighborhoods, a finding consistent with the ghetto development argument.

National Research Council/Highway Research Board. A Key to Change: Urban Transportation Research. Edited by Fred Burggraf and Herbert P. Orland. Washington, D.C.: National Academy of Sciences National Research Council, 1962. Reviews a wide range of options designed to improve urban transportation, reduce congestion and serve the needs of changing metropolis. Argues that part of the transportation policy problem is related to changing land use patterns and the low level of priority given to research on the implications of these changes. States the need for empirical analyses on, among other things, demand elasticities for various modes of transit.

New York - New Jersey Transportation Agency. "Journey to Work: Manhattan Central Business District." New York: New York - New Jersey Transportation Agency, 1964. Provides the results of a 1961 initiated survey of journey to work from the entire New York Metropolitan Region to mid-Manhattan. Based on 200,000 replies received from questionnaires distributed to employees in mid-

manhattan. Principal findings include the fact that New Jersey residents heavily rely upon bus and multiple transport modes and thereby require one to one and a half hours commute each way.

Noble, David. Forces of Production: A Social History of Industrial Automation. Oxford University Press, 1984. Focuses on the postwar automation of the American metal-working industry. Explains how technology is shaped by the military, corporations, universities and other institutions.

Payne, "Housing Rights and Remedies: A 'Legislative' History of Mount Laurel II", 14 Seton Hall L. Rev. 889 (1984). Legal developments between the first and second Mount Laurel cases..

Payne, "Rethinking Fair Share: The Judicial Enforcement of Affordable Housing Policies", 16 Real Estate Law Journal 20 (1987). Critique of Mount Laurel methodology, particularly failure to reach exclusion of the poor from older suburban areas.

Pettigrew. "Attitudes on Race and Housing: A Social-Psychological View." Segregation in Residential Areas 21 (1973). , edited by Hawley and RockSurvey of attitudes towards housing which concludes that African Americans prefer to live in integrated housing but fear the burden of being first in a neighborhood.

Powell, R. "Race Religion, and Promotion of the American Executive." In College of Administrative Science Monograph. Ohio State University, 1969. Study sponsored by the American Jewish Committee. Researchers interviewed corporate executives with regard to the professional advantages provided by social clubs.

Quinn, R., Kahn. The Chosen Few: A Study of Discrimination in Executive Selection. Ann Arbor: Ann Arbor: Survey Research Center, 1968. Social factors play a prominent role in selecting corporate executives.

Rawls, John, 1971. A Theory of Justice. Cambridge: Harvard University. Contains the exposition of philosopher Rawls' well-known and controversial maxi-min principle. Also includes an interesting development of Rawls' concept of "fair equal opportunity", his notion that procedural equality should be supplemented by a program that provides additional resources for those who start the social game with endowment disadvantages.

Report of the Panel on Equal Employment Opportunities in the Construction Trades in Newark. 1970. This report contains a summary of the evidence gathered during hearings in Newark New Jersey on the implementation of Executive Order 11246. The hearings were held in 1970 and look at the nature of employment practices on federally funded construction projects. They document a failure on the part of construction unions to admit, refer, or provide apprenticeship training to minorities. It documents this discrimination both statistically and through reference to court cases and administrative decisions where there was a question about the presence or extent of discriminatory behavior.

Rogers, Barbara. Men Only: An Investigation into Men's Organizations. London, 1988. An investigation of elite men's and working-class clubs in Great Britain.

Rose. "The all-black town: Suburban prototype or rural slum?" Urban Affairs Annual Reviews (1972). Study of suburban segregation, concluding that African Americans tend to be concentrated on the edge of urban ghettos, rather than being spatially dispersed throughout suburbia.

Rotary Guidebook. London, 1985. Rotary International handbook describing its activities, membership criteria, and policies.

Rowan, Richard and Lester Rubin. Opening the Skilled Construction Trades to Blacks. Philadelphia, Pa.: University of Pennsylvania Press, 1972. This book provides a study of the Washington and Indianapolis Plans for minority employment in the construction industry. It contains an overview of the history of blacks in the various construction trades. In addition, special attention is paid to the history and evolution of the state of the industry in Washington and Indianapolis. The structure and record of the affirmative action plans of those cities are also discussed.

Sager, "Tight Little Islands: Exclusionary Zoning, Equal Protection and the Indigent." 21 Stan. L. Rev. 767 (1969). Early and influential critique of exclusionary zoning practices.

Schaar, John. "Equality of Opportunity and Beyond." In Equality NOMOS IX, edited by J. Roland Pennock and John Chapman, 228-49. New York: Atherton Press, 1967. A devastating critique of equal opportunity as pure procedural equality. The author argues that

equal opportunity in the sense of pure procedural equality is a recipe for fixing social stratification patterns from generation to generation, creating de facto a caste system. The author writes at one point in the text (p.241): "[The idea of equality of opportunity] whereas it seems to defend equality..really only defends the equal right to become unequal by competing against one's fellows."

Schwemm. Housing Discrimination: Law and Litigation, ch. 18. 1990. Legal aspects of redlining practices. Complete treatise provides full treatment of all aspects of the law of housing discrimination.

Shelton. "The Costs of Renting Versus Owning a Home." Land Economics 44, no. No. 1(Feb 1968): 59-72. Detailed analysis of benefits of owning compared to renting, including impact of federal tax advantages of homeownership.

Shuster, John. "Career Patterns of Former Apprentices." In Occupational Outlook Quarterly. 1959. This article traces the career patterns of apprentices. The analysis is based on a survey of those apprentices who completed their training in 1950. It show that a substantial portion of them remain in their trades and also advance to become supervisors and contractors. The article has information on the attitudes of these former apprentices toward their training programs as well as some demographic information on their backgrounds.

Spero, Sterling and Abram Harris. The Black Worker. New York, 1931. The classic study of black labor in the United States from slavery times through the 1920s. A profound exploration of racial divisions among the working class and the historic processes of exclusion of black labor from employment through union activity by white labor.

State of New Jersey, Commission on Sex Discrimination. Sex Discrimination in the Employment Statues, 2-3. 1979.

"State Power and Discrimination by Private Clubs: First Amendment Protection for Nonexpressive Associations." In 104 Harvard Law Review. 1835 (1991). This anonymous article focuses on the difficulty in balancing the two important and vital concepts of freedom of opportunity and freedom of association. It discusses the value of private associations and the need to continue such organizations, but suggests that without courting "an intolerable

degree of government intrusion into private preferences," there must be a guarantee of access to important economic and social opportunities.

Stevens, Richard L. "Measuring Minority Business Formation and Failure." In The Review of Black Political Economy, Spring, 72-6. 1984. A valuable examination of the factors associated with business formation and failure by race and ethnicity. The author compares the business experiences of Asian, Hispanic, and African Americans. Demonstrates that the failure rates were significantly higher for minority enterprises than the national rate using 1972 and 1977 data.

Stuart, Reginald. Black Contractors' Dilemma, 5-23. Nashville, Tenn: Race Relations Information Center, August, 1971. This article looks at the barriers that minority contractors face from banks, bonding firms, other contractors, and from unions. The analysis is based on interviews of contractors, government officials, and surety company agents. The article contains a detailed discussion of the nature of surety contracts and the barriers that the inability to acquire insurance pose for blacks.

Swinton, David. "Racial Inequality and Reparations." In The Wealth of Races, edited by Richard America. Westport: Greenwood Press, 1990. Makes a similar argument to that made by Robert Browne (see annotation above) concerning the intergenerational transmission of racial inequality. Also seeks to measure the costs to blacks of slavery and Jim Crow as a basis for calculating an estimate of the sum required for reparations.

Terrell. "Wealth Accumulation of Black and White Families: The Empirical Evidence." Journal of Finance 26, no. No. 2(May 1971): 364. African American families found to have lower mean net wealth than white families.

The Port of New York Authority. Metropolitan Transportation - 1980. New York: The Port of New York Authority, 1963. A 1963 planning document designed to provide guidance to decision makers concerning transportation facilities to serve the New York-New Jersey Metropolitan Region. Projected a steady increase in regional employment growth, outmigration of the elderly exceeding immigration of the young, and stable manufacturing employment. Had nothing at all to say about employment and demographic changes among Hispanics, blacks or other minorities.

Thomas, Ralph. "Davis-Bacon Act Hurts Minority Contractors." In Minority Business Enterprise. This article discusses the impact of the Davis-Bacon Act on minority contractors. The author is the Executive Director of the National Association of Minority Contractors. He argues that the Davis-Bacon Act tends to reduce the employment of minority laborers and have an adverse impact on minority contractors because they are disproportionately nonunion contractors. The effect on contractors is the result of prevailing wage aspects of the law and because the extra administrative burdens placed on firms wanting to comply with the law's requirements.

Vennoch. "...And the Ladies of the Clubs." In Boston Globe, B5. 1988. Boston's all-women's club faces criticisms of exclusionary policies.

Wagenheim. Puerto Ricans in the U.S. Report No. 58, Table 4. The Minority Rights Group, 1983. Survey of the history and current status of Puerto Ricans in the United States, with summary data on socioeconomic conditions.

Washburn, Wilcomb. The Cosmos club of Washington. Washington, D.C., 1978. A history of the previously all-male Cosmos Club on the occasion of its hundred birthday.

Whatley, Warren C. and Gavin Wright. "Getting Started in the Auto Industry: Black Workers at the Ford Motor Company, 1918-1949." Unpublished manuscript. University of Michigan at Ann Arbor, 1991. Demonstrates that when Henry Ford first decided to open the Ford Motor Company to black labor--where black workers were then disproportionately confined to the foundry--the response of black labor to the opportunity was dramatic.

Williams & Norman, Exclusionary Land Use Controls: The Case of Northeastern New Jersey, 22 Syracuse L. Rev. 475 (1971). Early and influential study of exclusionary zoning, particularly in New Jersey.

Wright, Giles. Afro-Americans in New Jersey: A Short History. Trenton: New Jersey Historical Commission, 1988. An excellent, concise history of the black population in New Jersey. A valuable blend of demographic data and anecdotal reportage. Certainly the best reference I found on blacks in New Jersey.

Selected Cases

Abbott v. Burke, 119 N.J. 287 (1990).

New Jersey's system of financing public education violates the state constitution insofar as poorest districts are not afforded educational opportunity comparable to the wealthiest districts.

AMG Realty Co. Warren Township, 207 N.J. Super. 388 (1984).

Adopts and explains fair share methodology with emphasis on housing-jobs linkage.

Associated General Contractors of California, Inc., v. City and County of San Francisco, et.al., __ F. 2d __, 1991 WL 255916 (9th Cir. 1991)

The Court found.. "large statistical disparities between the percentage of contracts awarded to MBE's and the percentage of available MBE's." Using the City and County of San Francisco as the "relevant market", the statistics in the case compare the number of available MBE prime construction contractors in San Francisco with the amount of contract dollars awarded by the City to San Francisco-based MBE's for the 1987-88 fiscal year. Testimony taken at more than ten public hearings indicated that City departments continued to discriminate against MBE's and WbE's and continued to operate under the "old boy" network" in awarding contracts.

Autote Ltd. v. NJ Sports & Expo Authority, 85 NJ 363 (1981).

This case discusses the professional services exception to bidding requirement; i.e., installation and servicing of a complex computer network. This exception could encompass more and more contracts, particularly in the high technology industries and have a possible adverse impact on M/WBE's.

Carbo Construction Co. v. Utilities Authority, 233 N.J. Super. 116 (App. Div. 1989).

Example of financial requirement which may have impacted MBE/WBE adversely. Middlesex County Utilities Authority (MCUA) bid specifications violated Local Public Contracts Law. One provision would have required MCUA to retain 2% from each

monthly progress payment to be held for the guarantee period for repairs, corrections, or replacements which the contractor fails to make. At the end of the year, if the work was in good order, the retainage would be paid to the contractor. Another provision retained 2% from each progress payment as security. Retainage was one of the subjects of 1979 amendments to the Local Public Contracts Law.

Carney, Inc. v. City of Trenton, 235 N.J. Super. 372 (App. Div. 1988).

Rejected bidder on contract for construction on municipal water works project challenged award to another contractor. Discussion of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.. Court held that local public contracts law did not prohibit naming of multiple subcontractors for each branch of work identified in bid proposal without contracting with each of them after the contract was awarded. But see Saldo.

Cone Corporation, Inc. v. Hillsborough County __ F. Supp. __, 1991 WL 239502 (M.D. Fla. 1991).

After finding that the statistical evidence in the case indicated that there was discrimination specifically in the construction business commissioned by the County, not just in the construction industry in general, the Court found persuasive the following types of anecdotal evidence:

testimony from a former County Commissioner that MBE contractors had complained during his tenure; complaints from MBE's that prime contractors were unavailable or refused to speak to them when approached; complaints that prime contractors would accept estimates from MBE but not submit them; complaints that primes would take the minority bids around to find a non-minority who would underbid the MBE; complaints that non-minority subcontractors and contractors got special prices and discounts from suppliers which were unavailable to MBE purchasers.

Contractors Association of Eastern Pennsylvania, et. al. v. City of Philadelphia, __ F. 2d __, 1991 WL 190731 (3rd Cir. 1991).

The opportunity to investigate past and current practices of predominately majority owned contractor organizations and their members in the public and private construction industries must be

adequate.

Coral Construction Co. v. King County, 941 F. ed 910 (9th Cir. 1991).

The 9th Circuit stated the a race-based preferential program will only be valid if "actual, identifiable discrimination has occurred within the local industry affected by the program." Id. p. 915; or, if the [governmental actor enacting the set-aside program] perpetuated the discrimination to be remedied by the program either through active discrimination or "passive participation", such as the continued "infusion of tax dollars into a discriminatory industry. Id. p. __.

This Court cautioned that reliance on data from outside its boundaries could result in "societal discrimination" becoming the factual basis for the M/WBE program; thus, it felt that the enacting jurisdiction should limit its factual inquiry to the presence of discrimination within its own boundaries.

On the relationship between statistical and anecdotal evidence, it had this to say: "...anecdotal evidence, standing alone, suffers the same flaws as statistical evidence. Indeed, anecdotal evidence may even be less probative than statistical evidence in the context of proving discriminatory patterns or practices. While anecdotal evidence may suffice to prove individual claims of discrimination, rarely, if ever, can such evidence show a systemic pattern of discrimination necessary for the adoption of an affirmative action plan. Id. p. 919....Without a statistical foundation, the picture is incomplete. Strict scrutiny demands a fuller story...." Id. p. __.

DeSimone v. Greater Englewood Housing Corp. No. 1, 56 N.J. 428 (1970).

Relaxation of strict land use controls to permit subsidized housing that would help alleviate racial segregation in Englewood.

Fanale v. Borough of Hasbrouck Heights, 26 N.J. 320 (1958).

Exclusion of apartment houses from community sustained, pre-Mount Laurel.

Fisher v. Township of Bedminster, 11 N.J. 194 (1952).

Five acre zoning approved, pre-Mount Laurel.

Frank v. Ivy Club, 120 N.J. 73 (1990)

Female undergraduate student brought a claim of gender discrimination in membership selection against eating clubs which served Princeton University students. The State Division of Civil Rights dismissed the claim and the student appealed. The Superior Court, Appellate Division, vacated and remanded. Thereafter, a fact-finding conference was conducted. The Division of Civil Rights issued a finding of probable cause that the clubs had discriminated against women in selecting members. The Superior Court, Appellate Division, 228 N.J. Super. 40, 548 A.2d 1142, reversed and remanded. The Division of Civil Rights appealed. The Supreme Court of New Jersey held that (1) the eating clubs are subject to the Law Against Discrimination, NJSA 10:5-1 et seq., based on their symbiotic relationship with the university which itself was subject to the law; (2) the clubs illegally discriminated against women by their policy of rejecting female applicants for membership; and (3) clubs could not be offered the option of disassociating themselves from the university in lieu of abandoning their discriminatory policy. The Court state that central to the resolution of the case was whether the clubs are "places of accommodation" within the meaning of the Law Against Discrimination, or are exempt because they are "distinctly private." The university provided a source of members to the club and the club fed a majority of the university upper-class undergraduate students. Therefore; the court concluded that the Clubs had an integral relationship of mutual benefit with the university which deprived them of private status.

Hills v. Gautreaux, 425 U.S. 284 (1976).

Dispersal of public housing to mitigate segregative effects of prior public housing policies. See also 690 F.2d 616, 620 n.1 (1982) for history of prior litigation. See also 707 F.2d 265 (1983); 101 F.R.D. 704 (1984) for subsequent litigation.

Huntington Branch, NAACP v. Town of Huntington, 844 F.2d 826 (2d Cir.), aff'd 488 U.S. 15 (1988)(per curiam).

Leading case on application of Title VIII effects test to local zoning decisions that disproportionately disadvantage minority households by excluding low and moderate income housing.

In re Petition for Substantive Certification Filed by the Township of

Warren, 247 N.J. Super. 146 (App.Div., 1991).

Unsuccessful challenge to Regional Contribution Agreements on grounds of disparate racial impact.

In re Honeywell Information Systems Inc., 145 NJ Super 187 (App Div 1976).

This case illustrates the advantage of having one's foot in the door. State RFP invited proposals for a total data processing system, including hardware, software, conversion, maintenance and training. It outlined the State's performance requirements, and left to the discretion of the bidders the determination of the components of the system which would accomplish the desired goals. IBM and Honeywell both submitted a proposal with IBM submitting the lowest bid. IBM was awarded the contract. Honeywell object to IBM's bid calculation because IBM had deducted purchase option credits of nearly a million dollars in connection with the release of equipment already in use by the State. Honeywell argued unsuccessfully that the bids should be evaluated without consideration of these credits. The Court held that IBM did not gain a competitive advantage by its prior non-competitive rental contract, which led to its ability to offer substantial credits.

Jersey Central Power & Light Co. v. Local Unions 327, 749, 1289, 1303, 1309, and 1314 of International Brotherhood of Electrical Workers, 508 F. 2d 687 (3rd Cir. 1975).

The Court faced with the issue of whether, in reducing a company's work force, an employer is obligated to comply with collective bargaining agreement provisions requiring layoffs in reverse order of seniority, or whether the employer is obligated to implement the provisions of a conciliation agreement made with the EEOC, held that the provisions of the collective bargaining agreement must govern despite the fact that minorities and women would be disproportionately affected.

Jackson v. Concord Company, 54 N.J. 113 (1969).

Expansion of remedies available in housing discrimination cases brought under New Jersey's Law Against discrimination.

Keyes Martin & Co. v. Director, Div. of Purchase, 99 N.J. 244 (1985).

Conflict of Interest. Decision to award contract for state lottery advertising contract to agency other than lowest bidder appealed by lowest bidder who was denied award on basis of public interest. The president of Keyes Martin, the lowest bidder, had business dealings with the Chairman of the Lottery Commission and Commission recommended to Director of Division of Purchase and Property that Keyes Martin's bid be rejected. Keyes Martin had been the successful bidder or vendor for several years and it was the current vendor performing advertising and promotional services under a contract awarded by the Division.

Kiwanis International v. Ridgewood Kiwanis Club, 806 F. 2d 468 (3rd Cir. 1986), petition for rehearing denied in 811 F. 2d 247 (3rd Cir 1987).

Kiwanis International sought an injunction to prevent Kiwanis Ridgewood, a chapter of Kiwanis International, from using Kiwanis International's federally registered collective service marks because the Ridgewood chapter had admitted a female member. Kiwanis Ridgewood and the admitted female member filed a state action to enjoin Kiwanis International from terminating the Chapter's license. The two actions were consolidated. The District Court ruled in 627 F. Supp 1381, 1393-94 (D.N.J. 1986) that New Jersey's Law Against Discrimination prohibited the discriminatory policies upon which the licensing agreement between Kiwanis International and Kiwanis Ridgewood was conditioned and upon which the revocation was based. The Court of Appeals reversed and held that Kiwanis International, an organization of hundreds of thousands of members, may discriminate on the basis of sex by denying membership to women and may force unwilling New Jersey licensed clubs to do the same because the organizations are not places of "public accommodation." The Court of Appeals concluded that the Kiwanis Ridgewood Club was not a place of public accommodation because the "evidence of membership practices and policy does not reflect an open and unrestricted invitation to the community at large to join Kiwanis Ridgewood." There is a vigorous dissent which describes the decision as being based on "archaic assumptions."

Laufman v. Oakley Building and Loan Co., 408 F.Supp. 489 (S.D. Ohio, 1976).

Successful Title VIII challenge to bank's redlining practices.

Lenox Awards, Inc. v. Div. of Purchase and Property, 1 NJAR 94 (1980).

While DPP of DOT (Division) erroneously bypassed Lenox's lower bid, Lenox lacked standing. However, ALJ also found that both bidder had communicated with Division employees prior to the opening of the bids to tilt the bidding system to their advantage, contrary to NJSA 52:34-12(c).

Levitt & Sons, Inc. v. Division Against Discrimination, 31 N.J. 514, 523 (1960).

New Jersey Law Against Discrimination is constitutional and may be applied to private developers whose only contact with public financing is purchasers' mortgage assistance from federal government.

Lill v. Director, Div. of Alcoholic Bev. Control, 142 N.J. Super. 242 (App. Div. 1976).

Example of how a case for state participation in discrimination could arise in a contract case.

Lionshead Lake, Inc. v. Wayne Township, 10 N.J. 165 (1952).

Large minimum building size zoning approved, pre-Mount Laurel.

Mele v. U.S. Dept. of Justice, 395 F. Supp. 592 (D.N.J. 1975).

Plaintiff, a white job applicant, brought an action against the International Brotherhood of Electrical Workers No. 52 (IBEW) alleging "reverse discrimination". In dismissing plaintiff's complaint and approving the affirmative action plan at issue, the Court found no conflict between the limitations on quota hiring in Title VII for the 1964 Civil Rights Act and the requirement of minority hiring goals for federal construction contracts. The Court stated that Congress, by enacting Title VII, could not have intended to protect those white males who have traditionally dominated the labor unions.

Mendez v. City of Newark, 13 N.J. Super. 261 (Law Div. 1975).

City rejected highest bid for municipally owned property, after public sale, without explanation.

Metro Broadcasting Inc. v. Federal Communications Commission, et.al.,
__U.S.__, 110 S.Ct. 2997, (1990), decided with *Astroline*
Communications Company Limited Partnership v. Shurberg Broadcasting
of Hartford, Inc., et. al.,

The case held that benign race-conscious measures mandated by Congress - even if those measures are not "remedial" in the sense of being designed to compensate victims of past governmental or societal discrimination - are constitutionally permissible to the extent that they serve important governmental objectives within the power of congress and are substantially related to achievement of those objectives. The vigorous dissent of argues for the application of the *Croson* standard and, in the alternative, contends that the programs do not satisfy even the intermediate level of review enunciated by the majority.

Michigan Road Builders Association v. Blanchard, 1991 WL 58870 (W.D. Mich. 1991).

In determining that the State had not acted unconstitutionally when setting aside a percentage of contracts containing federal funds for DBE's, the court noted that the "overriding distinction between the federal program held constitutional in *Fullilove* and the state and city programs held unconstitutional in *Croson* is Congress' hand in the *Fullilove* program and [the program under consideration in the case].

Milwaukee County Pavers Association v. Fiedler, 922 F. 2d 419 (7th Cir. 1991).

The Seventh Circuit stated: "The joint lesson of *Fullilove* and *Croson* is that the federal government can, by virtue of the enforcement clause of the Fourteenth Amendment, engage in affirmative action with a freer hand than states and municipalities can do. And one way it can do that is by authorizing states to do things that [states] could not do without federal authorization.

Mississippi University of Women v. Hogan, 458 U.S. 718, 102 S. Ct. 331, 73 L. ED. 2d 1090 (1982).

The Court invalidated a state statute which excluded males from enrolling in a state-supported professional nursing school. The statutes at issue in the later cases of *Coral Construction v. King County, supra*, and in *Associated General Contractors v. City and*

County of San Francisco, 813 F.2d 92 (9th Cir. 1987) were measured by this standard. If the statute passes the strict scrutiny test required to support a race-based remedy, the statute will surely pass constitutional muster if it is applied to WBE's.

Morie Energy Management, Inc. v. Badame, 241 NJ Super. 572 (App. Div. 1990) .

Cape May Housing Authority sought "facilities management control system" in connection with building renovation. Original bid specifications, which were prepared by a principal of plaintiff, Morie, required bidders to provide a system for which Morie was sole distributor or some equivalent system. Based upon recommendation of its consulting architect, Authority deleted provision allowing for provision of some equivalent system from its bid proposal. Consequently, bidders were required to provide the Morie system. Only Morie and one other contractor submitted bids and Morie was the lowest bidder. The unsuccessful bidder sued and the trial court concluded that the brand name limitation in the specifications violated NJSA 40A:11-13 of the Local Public Contracts Law.

National State Bank v. Long, 630 F.2d 981 (3d Cir., 1980).

Upholding New Jersey's antiredlining law.

New Jersey Builders, Owners and Managers Association v. Blair, 60 N.J. 330 (1972).

Unsuccessful challenge to Division on Civil Rights' Landlord Reporting Rule.

Pied Piper Ice Cream, Inc. v. Essex Cty. Park Comm., 132 N.J. Super. 480 (App. Div. 1975).

Example of attempt to avoid public bidding requirements. Ice cream company filed complaint against county park commission to set aside contract between commission and defendant ice cream company. Commission had received informal bids from two parties and awarded three-year contract to sell ice cream and refreshments throughout county park system to one party and denied other party a hearing.

Oakwood at Madison v. Township of Madison, 72 N.J. 481 (1977).

Decision between first and second Mount Laurel cases, softening compliance requirements; not followed after Mount Laurel II.

Portillo & Sons, Inc. v. Council of Borough of New Milford, N.J. 349 (1977).

Example of neutral provision with discriminatory effect. - Discussion of reasons for strict compliance with bidding specifications. Defendant's waiver of certain deviations from its bidding specifications in awarding a garbage scavengers contract was unlawful. No suggestion that defendant acted for any reason other than to secure the most advantageous financial arrangement for the municipality.

Prowitz v. Ridgefield Park Village, 122 N.J. 199 (1991):

Mount Laurel units to be assessed for local property tax purposes at controlled prices, not market values.

Rutan v. Republican Party of Illinois, 641 F. Supp. 249 (C.D. Ill 1986)

Employees, applicants for employment and taxpayers brought an action against the Republican Party of Illinois, Republican party officials, the Illinois Governor, and Illinois government officials alleging that the defendants conspired to create an employment system motivated and directed by political considerations. The District Court dismissed the plaintiffs' claims for failure to state a claim upon which relief could be granted and held that the use of political considerations in hiring, promoting, transferring and hiring laid-off state employees did not deprive plaintiffs of their First Amendment rights. The Court also stated that plaintiffs had failed to show that the defendants singled out a particular group for disparate treatment and selected a course of action for the purpose of causing adverse political effects on the identifiable group. The Court of Appeals, Seventh Circuit, affirmed the holding in 641 F. Supp. 249 in part, and remanded initially in 848 F.2d. 1396, and affirmed and remanded on rehearing *en banc* in 868 F. 2d. 943. Certiorari was granted. The U.S. Supreme Court in 110 S.Ct. 2729 (1990) held that the plaintiffs had stated a claim upon which relief could be granted. The Court stated that (1) promotions, transfers, and recalls based on political affiliation or support are impermissible infringements on public employees' First Amendment rights, and (2) conditioning hiring decisions on political belief and association violates applicants' First

Amendment rights in absence of vital governmental interest.

Shelley v. Kraemer, 334 U.S. 1 (1948).

Racially restrictive covenants in private deeds are unenforceable when enforcement is sought in courts of law.

Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 67 N.J. 151 (1975)(Mount Laurel I).

Exclusionary zoning is not consistent with the general welfare; developing communities must zone for fair share of regional need for low and moderate income housing.

Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel, 92 N.J. 158 (1983)(Mount Laurel II).

Recognizes extensive remedial powers of special courts to enforce Mount Laurel doctrine; applied to communities throughout the state.

Terminal Construction Corp. v. Atlantic City Sewage Authority, 67 NJ 403 (1975).

Local authority, after competitive bidding pursuant to the Local Public Contracts Law, awarded 5 construction contracts to Plaintiff, Terminal. The construction project was 75% federally funded and the federal government required a right of prior approval with respect to each contractor in order to assure that each contractor complied with the equal opportunity provisions contained in federal laws and regulation. Pursuant to this end, contract specification required the apparent low bidder to attend a pre-award conference with the Federal EPA where the bidder was to specify what affirmative action he had taken or was prepared to take to assure equal employment opportunity on the project. No award could be granted until the federal agency determined that the contractor met agency standards. Terminal was found to be lowest bidder but Terminal informed the Authority that it had made an error and sought to be relieved of its bid. In an attempt to invalidate its bid, Terminal filed this suit alleging that the attempt to award the contracts before the pre-award conference had been held amounted to a material variance from the bidding. The Authority argued that this specification was not material and could be waived. The Court held that the

requirement that contractor comply with equal opportunity requirements was of such materiality that it could not be waived.

Trap Rock Industries, Inc. v. Kohl, 59 N.J. 471 (1971) cert. den. 405 U.S. 1065 (1972).

Illegality. Commissioner of Transportation did not act unreasonably when he temporarily suspended contractor's classification for bidding on the basis of an indictment charging the corporate contractor's majority stockholder with conspiracy to bribe.

Tuma v. American Can Company et. al., 373 F. Supp. 218 (1974).

A sex discrimination action filed by women who had held the lesser position of "Inspection Assistant" which had been eliminated as opposed to "General Inspector" which was not eliminated and for which they had been effectively barred by NJ female labor laws (subsequently repealed). The judge held that they had done nothing affirmatively to indicate that they wanted the job and thus had not suffered from the exclusion. Their unions failure to process a grievance was insufficient to establish a breach of the duty to provide fair representation.

United Building and Construction Trade Council of Camden County v. Mayor and Council of Camden, 88 NJ 317 (1982) rev'd 104 S.Ct. 1020 (1984).

Challenge to NJ Treasury Department's approval of a municipal ordinance requiring that at least 40% of employees of contractors and subcontractors working on city construction projects be Camden residents.

United Building and Construction Trades Council of Camden County and Vicinity v. Mayor and Council of the City of Camden, 88 NJ 317 (1982).

Association of labor organizations challenged state approval of city provisions establishing a 25% minority hiring goal for contracts with the City of Camden. The NJ Supreme Court held that: (1) in approving the city's affirmative action ordinance, the State Treasurer did not act outside the scope of his statutory authority under the Law Against Discrimination; (2) the State Treasurer's approval was not an abuse of administrative agency

discretion; (3) the State Treasurer's approval of minority hiring goals, including the 25 percent goal for Camden did not violate the equal protection clause; and (4) the 40% hiring quota for city public works projects was also constitutional and was not preempted by state statute.

U.S. v. United States Association of Journeymen and Apprentices of Plumbing and Pipefitting Industry of U.S. and Canada Local Union No. 24, 363 F. Supp. 808 (D.N.J. 1973).

Action brought by U.S. Attorney General against various unions, associations of contractors and apprenticeship committees for injunctive relief from interference with the implementation of Executive Order 11246 forbidding racial discrimination in employment opportunities by government contractors.

The District Court held that the selection and referral procedures as well as other acts of union and apprenticeship committees resulting in under-representation of blacks and Spanish-surnamed persons in unions were violations of the Civil Rights Act of 1964, section 701 et seq., 42 U.S.C.A., section 2000e et seq.

The Court ordered the parties to provide an adequate remedial decree and specific relief was granted to persons found to have been discriminated against. The Court noted that Local 52 did not admit a black into the union until 1966. In 1971, Blacks made up 2.7 percent of the union's membership while 1970 Census Bureau statistics reflect that black persons constituted 30 percent of the population of Essex County, the jurisdictional base of Local 52. The Court also noted that the union had consistently opposed programs which would train persons from minority groups in the electrical field and had instituted practices which, even if facially neutral, had a disparate impact on minorities.

The Court explained that tests or other measuring devices, may be utilized to select applicants for union membership provided the tests are not designed, intended or used to discriminate by reason of race, color or national origin. However, when an examination disqualifies a proportionately higher degree of minority applicants then the union must demonstrate by appropriate data that the examination is a reasonable measure of performance for the job for which the examination is being used. The unions' failure to do so demonstrated the invalidity of the examination under the Civil Rights Act of 1964.

United States v. Yonkers Board of Education, 624 F.Supp. 1276 (S.D.N.Y., 1985).

Extensive recitation of facts linking housing and school discrimination in racially-divided city.

United States v. International Union of Elevator Constructors, Local Union No. 5, 538 F.2d 1012 (1976)

Action against a union local whose jurisdiction included 10 counties in New Jersey. In granting relief to overcome the present effects of past discrimination, the Court found that Local 5 had never referred a black to an employer as a new probationary helper; further, that Local 5 had exercised its partial control of work opportunities in the trade to the complete exclusion of blacks.

Vickers v. Gloucester Township, 37 N.J. 232 (1962).

Exclusion of mobil homes permitted, pre-Mount Laurel; notable for Justice Hall dissent giving first articulation of the general welfare/"fair share" theory of the Mount Laurel cases.

Watkins v. Resorts International Hotel and Casino, Inc., 124 NJ 398, (1991)

Casino Reinvestment Development Authority provides financial assistance to businesses. Under NJSA 5:12-181 proceeds received by the Casino Reinvestment Development Authority are set aside for investment in M/WBE's.) In this case, minority bus owners sought relief pursuant to the Law against Discrimination and the Casino Control Act stating that they had been targets of discrimination. Merits not reached because of jurisdictional defects.

