

Section 80.5, giving illustrations of how the regulations affect to the "major programs of the Department," provides the following illustration (illustration 7):

"Each applicant for a grant for the construction of educational television facilities is required to provide an assurance that it will, in its broadcast services, give due consideration to the interests of all significant racial or ethnic groups within the population to be served by the applicants."

Such a policy, requiring that television channels not be used to force a segregated stream of thought, is also consonant with the policy of the Federal Communications Commission, see *Anti-Defamation League v. KTYM*, 34 United States Law Week, 2717. Indeed, in the recent case of *WLBT* (Jackson, Mississippi) the FCC ordered the station, as a condition for renewal, to: "immediately have discussions with community leaders, including those active in the civil rights movement . . . as to whether its programming is fully meeting the needs and interests of its area." The Commission required that the licenses "make a detailed report as to its efforts" in meeting these requirements. See *United Church of Christ v. FCC*, 359 F. 2d 994 (D.C. Cir. 1966) (reversing the FCC on other grounds).

Both the Commissioner and the FCC acted in the same spirit. It violates the Fourteenth Amendment for federally sponsored channels of communication to be used to espouse only one view among those competing for an audience in the marketplace of ideas. Where the view chosen uses publicly financed facilities, with public sanction, to preserve segregation, the justification for action is especially clear.

Just as the Commissioner of Education has the authority to prescribe rules to prohibit discrimination in the program content of educational television program (federally financed), he has the authority to provide such rules for the purchase of books.

II. SUCH GUIDELINES WOULD NOT UNCONSTITUTIONALLY STRETCH THE MEANING OF TITLE VI: INDEED, THESE GUIDELINES WOULD STRIKE DOWN "THOUGHT CONTROL" BY LOCAL SCHOOL BOARDS AND FREE THE CHANNELS OF COMMUNICATION AND IDEAS

When school officials refuse to allow any books which espouse integration, it is "thought control" at its most perverse. The First Amendment prohibition on laws or practices which curtail speech apply to the states as well as to the federal government. See *Cox v. Louisiana*, 379 U.S. 559. And the actions of school boards restricting thought fall squarely within the First and Fourteenth Amendments' sanctions. *Bates v. Little Rock*, 361 U.S. 516. Particularly because children are involved, and particularly because the school is a principal source of the community's ideas, there must be the fullest and freest interplay of thought.

And these First Amendments burdens, while they hurt all children, hurt young Negroes most. It is they who are singled out for opprobrium by the "officially blessed" literature; it is they who are shown as fit for slavery but not for civilization. And cutting out all books and literature which portrays the cause of Negro advancement, will have the result of discouraging other Constitutional rights—the right to vote, the right to speak freely, the right to participate in public affairs.

"Thought control" is a sinister matter; and it is especially sinister when it has racial discrimination as its purpose and effect. The cruel and uneven burden of such "thought control" should not be financed by federal money; such financing is prohibited by Title VI of the Civil Rights Act and the Fourteenth Amendment itself.

Mr. DANIELS. I feel the Office of Education does have jurisdiction in this matter to withhold funds from States and local school boards which refuse to integrate their schools.

Likewise, I think the same policy may be followed here.

Mr. HOWE. I don't think we are in disagreement here. I did not intend to state that I feel we have no power. It does seem to me that there is a very tender issue related to, first of all, I believe it is title VI of the Elementary and Secondary Education Act in which we were clearly forbidden to enter into matters of curriculum and secondly the relationship of that particular enactment to this portion of the Civil Rights Act which you cite.