

These paragraphs hardly admits of argument. The allegation is that the state, in paying for public services of the same kind and character to men and women equally qualified according to standards which the state itself prescribes, arbitrarily pays less to Negroes than to white persons. This is as clear a discrimination on the ground of race as could well be imagined and falls squarely within the inhibition of both the due process and the equal protection clauses of the 14th Amendment. As was said by Mr. Justice Harlan in Gibson v. Mississippi 162 U.S. 565, 591:

"Underlying all of those decisions is the principle that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination on the part of the General Government, or by the States, against any citizen because of his race. All citizens are equal before the law. The guarantees of life, liberty and property are for all persons, within the jurisdiction of the United States, or of any State, without discrimination against any because of their race. Those guarantees, when their violation is properly presented in the regular course of proceedings, must be enforced in the courts, both of the Nation and of the State, without reference to considerations based upon race."

Dealing with the precise question here involved, Judge Chestnut, in Mills v. Lowndes 26 F. Supp. 792, 801, said:

"While the State may freely select its employes and determine their compensation it would, in my opinion, be clearly unconstitutional for a state to pass legislation which imposed discriminatory burdens on the colored race with respect to their qualifications for office or prescribe a rate of pay less than that of other classes solely on account of race or color. If therefore a law were passed that colored teachers of equal qualifications with white teachers should receive less compensation on account of their color, such a law would clearly be unconstitutional."

In the later case of Mills v. Board of Education of Annapolis County 30 F. Supp. 245, Judge Chestnut applied the principle stated in holding that a discrimination as to pay of teachers in white and colored schools was violative of the constitutional protection, and that a colored teacher might invoke the power of the court so to declare. This we think is in accord with a long line of