tions,[1273] the doctrine is most often associated with the application of the Equal Protection Clause to the states.[1274]

Certainly, an act passed by a state legislature that directs a discriminatory result is state action and would violate the first section of the Fourteenth Amendment.[1275] In addition, acts by other branches of government "by whatever instruments or in whatever modes that action may be taken" can result in a finding of "state action."[1276] But the difficulty for the Court has been when the conduct complained of is not so clearly the action of a state. For instance, is it state action when a minor state official's act was not authorized or perhaps was even forbidden by state law? What if a private party engages in discrimination while in a special relationship with governmental authority? "The vital requirement is State responsibility," Justice Frankfurter once wrote, "that somewhere, somehow, to some extent, there be an infusion of conduct by officials, panoplied with State power, into any scheme" to deny protected rights.[1277]

The state action doctrine is not just a textual interpretation of the Fourteenth Amendment, but may also serve the purposes of federalism. Thus, following the Civil War, when the Court sought to

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other constitutional rights are similarly limited—the Fifteenth Amendment (racial discrimination in voting), the Nineteenth Amendment (sex discrimination in voting) and the Twenty-sixth Amendment (voting rights for 18-year olds)—although the Thirteenth Amendment, banning slavery and involuntary servitude, is not.

[1273] The scope and reach of the "state action" doctrine is the same whether a state or the National Government is concerned. *See* CBS v. Democratic Nat'l Comm., 412 U.S. 94 (1973).

[1274] Recently, however, because of broadening due process conceptions and the resulting litigation, issues of state action have been raised with respect to the Due Process Clause. *See*, *e.g.*, Jackson v. Metropolitan Edison Co., 419 U.S. 345 (1974); Flagg Bros. v. Brooks, 436 U.S. 149 (1978); Rendell-Baker v. Kohn, 457 U.S. 830 (1982); Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982); Blum v. Yaretsky, 457 U.S. 991 (1982).

[1275] United States v. Raines, 362 U.S. 17, 25 (1960). A prime example is the statutory requirement of racially segregated schools condemned in Brown v. Board of Education, 347 U.S. 483 (1954). *See also* Peterson v. City of Greenville, 373 U.S. 244 (1963), holding that trespass convictions of African-Americans "sitting-in" at a lunch counter over the objection of the manager cannot stand because of a local ordinance commanding such separation, irrespective of the manager's probable attitude if no such ordinance existed.

[1276] *Ex parte* Virginia, 100 U.S. 339, 346 (1880). "A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State." Id. at 346–47

[1277] Terry v. Adams, 345 U.S. 461, 473 (1953) (concurring) (concerning the Fifteenth Amendment).