as embodying a presumptively invalid racial classification."[1306] It is thus not impermissible merely to overturn a previous governmental decision, or to defeat the effort initially to arrive at such a decision, simply because the state action may conceivably encourage private discrimination.

In other instances in which the discrimination is being practiced by private parties, the question essentially is whether there has been sufficient state involvement to bring the Fourteenth Amendment into play.[1307] There is no clear formula. "Only by sifting facts and weighing circumstances can the nonobvious involvement of the State in private conduct be attributed its true significance."[1308] State action has been found in a number of circumstances. The "White Primary" was outlawed by the Court not because the party's discrimination was commanded by statute but because the party operated under the authority of the state and the state prescribed a general election ballot made up of party nominees chosen in the primaries.[1309] Although the City of Philadelphia was acting as trustee in administering and carrying out the will of someone who had left money for a college, admission to which was stipulated to be for white boys only, the city was held to be engaged in forbidden state action in discriminating against African-Americans in admission.[1310] When state courts on petition of interested parties removed the City of Macon as trustees of a segregated park that had been left in trust for such use in a will, and appointed new trustees in order to keep the park segregated, the Court reversed, finding that the City was still inextricably involved in the maintenance and operation of the park.[1311]

In a significant case in which the Court explored a lengthy list of contacts between the state and a private corporation, it held that the lessee of property within an off-street parking building owned and operated by a municipality could not exclude African-Americans from its restaurant. The Court emphasized that the build-

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[1306] *Crawford*, 458 U.S. at 539, quoted in *Seattle*, 458 U.S. at 483. *See also* Dayton Bd. of Educ. v. Brinkman, 433 U.S. 406, 414 (1977).

[1307] Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961) (private discrimination is not constitutionally forbidden "unless to some significant extent the State in any of its manifestations has been found to have become involved in it").

[1308] 365 U.S. at 722.

[1309] Smith v. Allwright, 321 U.S. 649, 664 (1944).

[1310] Pennsylvania v. Board of Trustees, 353 U.S. 230 (1957). On remand, the state courts substituted private persons as trustees to carry out the will. *In re* Girard College Trusteeship, 391 Pa. 434, 138 A.2d 844, *cert. denied*, 357 U.S. 570 (1958). This expedient was, however, ultimately held unconstitutional. Brown v. Pennsylvania, 392 F.2d 120 (3d Cir.), *cert. denied*, 391 U.S. 921 (1968).

[1311] Evans v. Newton, 382 U.S. 296 (1966). Justices Black, Harlan, and Stewart dissented. Id. at 312, 315. For the subsequent ruling in this case, *see* Evans v. Abney, 396 U.S. 435 (1970).