AMERICA'S NEED:
A NEW BIRTH OF FREEDOM

34th Annual Report —
American Civil Liberties Union
July 1, 1953 — June 30, 1954

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue   New York 10, N. Y.
Price 50¢
AMERICA'S NEED:
A NEW BIRTH OF FREEDOM

34th Annual Report —
American Civil Liberties Union
July 1, 1953 — June 30, 1954

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue   New York 10, N. Y.

Price 50¢
# Table of Contents

"Fresh Start on a Rocky Road"

By Patrick Murphy Malin ....... 3

I. Freedom of Belief, Speech and Association 9

- Censorship and Pressure Directed Against the Printed Word, the Stage and Screen, and the Airwaves .... 9
- The Principle of Diversification ....... 17
- Freedom of Meetings and Speech, Correspondence, and Movement; Right to a License ....... 18
- Lobbying and Petition ....... 23
- National Security: Safeguard and Restriction ....... 25
- Freedom in Education ....... 38
- Religion and Conscience ....... 46

II. Justice Under Law ....... 53

- The Police ....... 53
- Wiretapping ....... 57
- Procedure in the Courts ....... 58
- Procedure in the Federal Executive Departments ....... 64
- Procedure in Legislative Hearings ....... 72

III. Equality Before the Law ....... 77

- Equality in Relation to Race, Creed and National Origin ....... 77
- Labor ....... 86
- Self-Government ....... 91
- Women ....... 93

IV. International Civil Liberties ....... 95

V. Balance Sheet of Court Cases ....... 100

VI. Structure and Personnel ....... 113

VII. Membership and Finances ....... 120
FRESH START ON A ROCKY ROAD

PATRICK MURPHY MALIN
Executive Director

The 34th Annual Report of the American Civil Liberties Union outlines the main developments in the field of civil liberties, and the work of the ACLU, between July 1, 1953 and June 30, 1954. This introduction is a commentary, rather than a summary of that history; it is written on November 22, as close as possible to publication day, and deals with foreground events. It can profitably be read against the background of my introduction to our 1951-53 report.

In the months since the middle of 1953, civil liberties first were pushed downhill, and then rallied to make a fresh start in climbing a rocky road. The years ahead are likely to require many such fresh starts, but we should now—taking heart from some recent successes—concentrate on climbing as far as we can before the next reversal.*

There can be no dispute about which recent success is the biggest. It is the 9-0 decision of the United States Supreme Court on May 17 that segregation in public education is unconstitutional. An immense amount of thought and work, courage and forbearance, will still be needed in the specific application of the Court's great pronouncement of principle; and there will be much nullification of various kinds for some years, not only in the Deep South but elsewhere. But this historic decision is already proving to be far more than a legal capstone; it is an incalculably valuable psychological release of additional energy, channeled through all sorts of official and unofficial experiments toward ending anti-Negro discrimination—in employment and housing and other areas, as well as education. Ninety-one years from the Emancipation Proclamation are an unconscionable time, but we can now be more certain than ever that we are advancing steadily and rapidly. We know—and the world knows—that we can, by keeping everlastingly at it, put an end to organized discrimination before the end of the century.

Another unanimous decision was registered this year. Six impeccable United States Senators (though one has somewhat reneged in the last fortnight) recommended that the Senate as a whole should censure Senator Joseph McCarthy, partly on the civil liberties ground of his

conducted toward General Zwicker as a witness before the Permanent Sub-Committee on Investigations. It is too early to tell the exact terms in which the Senate will act on that recommendation, or by what margin of votes; and it is much too early to rejoice that another demagogue has been finally removed from public life, or even reduced to impotence. But the gods (aided by Edward R. Murrow!) have begun to destroy him whom they first made mad. The nation will be a long time paying for the damage, at home and abroad, which the Senate and the White House, the party machines and the people as a whole, too long allowed or even encouraged. But it is significant that, wherever the issue of Senator McCarthy was squarely joined in the Congressional elections just held, the candidate opposed to him was victorious. Fairness in legislative inquiry has taken a new lease on life.

Third among the recent successes which deserve special mention here is something less immediately tangible, but perhaps potentially most vital of all. The counter-attack by those who believe in variety and freedom throughout our institutions of formal education, against the assorted orthodoxies which seek to dictate educational content and method and personnel, has begun to be noticeably effective. Some institutions are still stupid and cowardly enough to cancel their participation in debates on the diplomatic recognition of Communist China, and many teachers still keep quiet about anything controversial for fear of losing their jobs. But it was the foundations which won in the fiasco of Congressman Reece's committee investigation of them. And you can scarcely pick up a mass-circulation magazine these days without finding an article which affords at least some support for freedom of inquiry and communication in public and private schools and colleges and universities. Columbia's bicentennial year, celebrating "man's right to knowledge and the free use thereof," is also the year when the National Association of Manufacturers issued a pamphlet upholding many academic freedom principles.

Thus, it is not necessary to be a blind optimist in order to take more satisfaction from the last six months than from any corresponding period for several years. On the other hand, it is not necessary to be a confirmed pessimist in order to remain basically anxious.

Because, for example, this is a year which has strikingly revealed the shape of many difficult things to come in intergroup relations, before we can bring about the end of organized discrimination. Look at the Trumbull Park public housing project in Chicago, where a host of policemen have been needed day and night for eighteen months to protect from violence the few Negro families who have bravely moved there and stayed there. It is going to take more than policing—more than any legislation, federal or state or municipal—really to solve such a problem. There is no complete substitute for people of every race
or creed or national origin learning to treat one another on the basis of individual quality. And this is especially difficult in the many cities and towns where there is not only a rapid growth, but a large inflow of set-in-their-way adults of various social groups.

Those same cities and towns—big and diverse, new and changing, like the country as a whole—have also this year become more agitated than ever before about juvenile delinquency and related problems, whose solution is often sought in ways which threaten civil liberties. Our natural shock and outrage at teen-age-gang vandalism and murder too frequently trap us into urging the police and the courts toward wholesale arrests and indiscriminate toughness, or into sanctioning the censorship of books and motion pictures and television programs. Those of us who believe in civil liberties as well as civic decency have our work cut out for us. We shall need to take every opportunity to join in preventive and constructive measures which will reduce juvenile delinquency without damaging due process and free speech. But we shall also on many occasions have to oppose even our best fellow-citizens, when their preoccupation with the risk of juvenile crime makes them forget that life is always a choice of risks, and that abandonment of due process and free speech inevitably produces far more harm than good.

Finally, this is a year in which individual liberty has suffered a number of conspicuous defeats in the name of national security. Robert Oppenheimer had his clearance withdrawn by the Atomic Energy Commission, and John Paton Davies was dismissed by the State Department—for alleged deficiencies in "character" or "judgment," whose documentation (so far as it has been publicly disclosed) leaves many of the most experienced and intelligent and patriotic men in the country profoundly skeptical as to whether justice was done. The Department of Justice accused Judge Youngdahl of bias in the Lattimore case, and yet did not appeal to the Supreme Court when he refused to disqualify himself! Republican campaigners rang the changes on a hodge-podge of security-risk statistics published by the Civil Service Commission. And liberal Democratic Senators, to fend off the charge of "twenty years of treason," took the lead in passing the Communist Control Act, the latest legislative violation of the vital principle that nobody should be barred from legal acts simply because he can be punished if he commits illegal acts.

The second session of the 83d Congress made other deep inroads into civil liberties, but it also served as a brake on bills proposed by the Administration which represented equally serious or worse threats. For example, the new immunity law, withdrawing under certain conditions the Fifth Amendment privilege of refusing to testify against oneself, may well be found unconstitutional; and even if found constitutional, it ignores the long-established need of a free society for protection against
any coerced confession. But the final version of the law is a vast improvement over the original bill, in that it gives the courts, rather than Congressional committees, the power to grant immunity. And, though Congress passed a law requiring the registration of Communist or front organizations' printing equipment, it refused to adopt the Attorney General's wiretapping proposal; or his loosely drawn proposals aimed at barring subversives from defense facilities, and at dissolving labor unions or other organizations found to be Communist-infiltrated.

The coming 84th Congress seems unlikely to pass, or even seriously consider, much legislation directly affecting civil liberties, either for good or for ill. Whatever degree of cooperation in foreign policy may be achieved by the Republican executive and the Democratic legislative leaders, they are almost certain to be engaged in a dog-fight over domestic matters—looking toward the 1956 elections. But it is probable that neither party will calculate that it can gain much credit for itself, or heap much discredit on its opponent, by proposing enactment or repeal of laws particularly affecting civil liberties. This will be good for civil liberties in that there will be fewer threats to freedom of speech and association incident to new bills aimed at plugging loopholes in national security. But it will be bad for civil liberties in that, for example, there will be no federal civil rights legislation.

The big difference between the 83d Congress and the 84th seems likely to be in the field of investigation. The chief subject of investigation will not be national security and loyalty, but the economic and other domestic policies and practices of the Republican administration. It is probably too much to expect that the House Committee on Un-American Activities will be eliminated, or that all Senate and House investigations in the security and loyalty area will be unified; but it may be hoped that the Senate Committee on Government Operations will stay out of that area. Whatever the Supreme Court may or may not do in limiting the scope of Congressional investigations when it decides the Emspak case, it seems likely that Congressmen and Senators will themselves define their scope more strictly. And considerable improvement in procedure seems likely to come from the recent report of the American Bar Association and the forthcoming report of the Senate Rules Committee.*

Congress also seems likely to render some service to civil liberties by ventilating the standards and administration of the government employee security program. The Civil Service Commission, the Department of Justice, and the security officers of the Department of State are going to have to answer a lot of embarrassing questions. Perhaps we shall even get some improvement in passport and visa administra-

tion. And perhaps we shall get some results from the recommendation which the Watkins Committee appended to its condemnation of Senator McCarthy's conduct in inviting federal employees to supply him with information: "... the leadership of the Senate [should] endeavor to arrange a meeting of the chairmen and the ranking minority members of the standing committees of the Senate with responsible departmental heads in the Executive Branch of the Government in an effort to clarify the mechanisms for obtaining such restricted information as Senate committees would find helpful in carrying out their duly authorized functions and responsibilities."

All in all, it should be possible for the national headquarters of the ACLU and its Washington office to spend much more time during the next year or so in giving effect to an inclusive and positive program, instead of always rushing at a moment's notice to try to put out fires. This does not imply less need for continuous and thorough acquaintance with Congressman and Senators and their staffs, with the heads of the executive agencies and their permanent officials; but it does mean that we may have much more opportunity than we have had during the last several years to use such contacts for quiet and lasting education, about the essential nature and high importance of free speech and due process and equality before the law in all their manifold and changing applications. For example, we should be unremitting in our offer of detailed practical suggestions to bring the standards and administration of the government employee security programs more nearly into conformity with civil liberties principles—whatever help the Supreme Court may or may not provide toward that end by its decision in the Peters case, which it has just accepted for review as the first such case since the Court's 4-4 division in the Dorothy Bailey case in 1951.

Of course, all bets are off if the present slackening of international tension ends, and everything begins to tighten again. But the immediate prospect is for a period in which the American people will show that they are measurably beginning to learn the lesson which they surely must learn in the long run—how to live in the midst of chronic international danger without self-destructive panic. And during that period, among other things, the ACLU should make every effort to expand and strengthen itself as an organization; and its state and local affiliates should do as comprehensive and constructive a civil liberties job as possible, both for the sake of that whole job currently and for the sake of community education in preparation for the renewal of worse strain.

Abraham Lincoln is my favorite saint in American political history. Not because he was perfect, but because, with his tenacious mind and his humble and contrite heart, he led us through the worst agony which we have yet endured in our continuous attempt to balance national unity and security with individual liberty. Every statesman, and every citizen,
of every liberal democracy, faces the same challenge; and the answer
can never be given once and for all. It must be worked out piecemeal,
always carefully and often painfully, in each new set of circumstances.

Today, in the midst of the twentieth century as in the midst of the
nineteenth, America's experiment in liberal democracy is being severely
tested. Will it continue to produce sufficient success, for both order and
freedom, in the new circumstances of bewildering complexity and
suicidal armament? I cannot say for certain, but I am predominantly
confident.

I suppose I am confident somewhat because I have spent such large
blocks of time over the last thirty years in many parts of the world,
particularly in working on the international refugee problem from
1936 to 1947. I have seen flourishing democracies and decaying de-
mocracies; I have seen fledgling tyrannies and consolidated tyrannies;
and I can bear witness that the United States is still, despite dust and
heat, a flourishing democracy. But the big point is not whether we who
work for civil liberties can draw much or little on the extrinsic motiva-
tion of optimism, or the equally extrinsic motivation of pessimism!
The big point is that our primary motivation for working in the cause
of civil liberties should—through good times and bad—be intrinsic to
that cause itself.

We work for civil liberties, not because we enjoy success and dislike
failure, but because we believe in civil liberties. We want this nation,
again and again forever, to have "a new birth of freedom."
Part I. FREEDOM OF BELIEF
SPEECH AND ASSOCIATION

We know that when censorship goes beyond the observance of common decency or the protection of the nation's obvious interests, it quickly becomes for us, a deadly danger. It means conformity by compulsion in educational institutions; it means a controlled instead of a free press; it means the loss of human freedom.

The honest men and women among these would-be censors and regulators, may merely forget that the price of their success would be the destruction of that way of life they want to preserve. But the dishonest and the disloyal know exactly what they are attempting to do—perverting and undermining a free society while falsely swearing allegiance to it.

President Dwight D. Eisenhower, Columbia Bicentennial speech, May 31, 1954

CENSORSHIP AND PRESSURE DIRECTED AGAINST THE PRINTED WORD, THE STAGE AND SCREEN, AND THE AIRWAVES

The American Civil Liberties Union remains firmly opposed to every form of censorship, whether it be by law, by administrative regulation, by intimidation from public officials, or by pressure from private organizations. The Union opposes censorship because it believes that any slight gain achieved by the elimination from the market place of a single unworthy publication which is not actually obscene, would be outweighed by the great harm done in infringing upon our constitutionally guaranteed right to freedom of expression.

1. Books and Magazines

Post Office Censorship. Certain issues of Sunshine and Health, a nudist magazine, were ruled obscene by the U.S. Post Office, but the magazine obtained a court injunction on the ground that its material was not obscene. The Government having appealed, the ACLU in 1954 filed a friend of the court brief on the issues of freedom of expression and publication. Obscenity can always be penalized under criminal law; but in the Sunshine and Health case there is no such finding by a court, the administrative regulation is applied broadly and without discrimination, and the Post Office action is fundamentally precensorship.
**Exclusion of Foreign Propaganda from the Mails.** The Reed Bill, which did not pass, would have legalized the present administrative regulation under which material is banned from the mails when it is sent by a person outside the United States who is a non-registered foreign agent, to anyone in this country, unless the recipient is a registered foreign agent. The ACLU position is that such legislation would not constitute censorship because any person within this country desiring such materials could get them from a registered foreign agent.

The actual working of the Post Office Department regulations has, however, caused the ACLU concern. Libraries, universities, and scholars with a legitimate interest in books and magazines originating behind the iron curtain have for many months found the delivery of such material slow, erratic, or non-existent; it is certainly improper for the Post Office to distribute any material under arbitrary rules and with apparent discrimination.

ACLU opposed a 1954 bill giving the Postmaster General power to determine whether a publication should be deprived of lower class mailing rates on the basis of its content. ACLU also objected to the proposed setting up of a presumption under which all organizations listed by the Attorney General and the House Committee on Un-American Activities were publishing Communist propaganda in each and every one of their publications. The bill died in committee.

**Voorhees Case.** The last ACLU report described the case of Lt. Col. Melvin B. Voorhees whose book, *Korean Tales*, was charged with violating Army censorship regulations. Of several charges only that relating to failure to submit a manuscript for censorship got as far as the Civilian Court of Military Appeals. That body, in July, 1954, ordered a new court-martial on the ground that the penalty for "what is essentially only a technical violation of a regulation is exceedingly severe." One of the three judges dissented, holding that the charges should have been dismissed outright. The Army has dropped the case.

**State and Local Censorship.** An extraordinary law passed in Alabama required that all textbooks or other teaching material used in the schools from the primary grades through senior colleges must carry a statement by the author or publisher indicating: 1—whether or not the author is or is not or ever was a member of the Communist Party, 2—an advocate of Communism, or Marxist Socialism, or 3—a member of any Communist-front organization listed by the Attorney General of the United States or Congress or any committee of Congress. The statement must also cover in the same detail all books or other written material cited in any textbook as parallel or supplementary reading. Practical persons pointed out that the law would require the certification of millions of books, and cost enormous sums to administer. The
Montgomery, Alabama, Advertiser, in a brilliant editorial reviewing the entire concept of freedom of expression, held that this law was "at best unworkable; at worst, a gross act of un-Americanism and imbecility." A test case was brought by the American Textbook Publishers Institute. On May 10, 1954, the Montgomery County Circuit Court held the legislation, which had passed the Alabama Senate 20-0 and the Alabama House 62-1, "void and unenforceable, and in violation of the due process clause of the Constitution of the United States."

The Civil Liberties Union of Massachusetts reports that a bill which would have set up a state censorship board appears to have died in committee. In Louisiana, a bill to license wholesalers and distributors of printed matter was introduced in the State senate, but was tabled and died. The Vermont House of Representatives by vote of 202-11 killed a bill to set up a state censorship board for school texts.

An instance of censorship by improper action of an official took place in Shaftsbury, Vt., where a history book which had in the first instance been commissioned by state officials, and subsequently approved by the state Board of Education, was removed from the shelves of a school library by the chairman of the local school board, and sent outside the state for review, to an undisclosed critic. Shortly thereafter, another member of the school board removed a second book from the shelves because it had been written, according to him, "by the Owen Lattimore gang." However, the school board members involved in the acts of censorship soon resigned and were replaced; the two books were restored to use. The subjective nature of censorship criteria was likewise shown in Milwaukee where the District Attorney, acting upon his personal views, ordered the withdrawal from sale of The Naked and the Dead, From Here to Eternity, and To Have and Have Not.

The dragnet nature of censorship activities is well illustrated by happenings in Illinois, where the Secretary of State, in control of the state libraries, ordered the withdrawal from circulation of "books relating to sex"; but he claimed that his subordinates were "overzealous" when they withdrew 6,000 books from circulation. For a time Twenty Thousand Leagues Under the Sea and Pilgrim’s Progress were labelled "for adults only."

Northern California ACLU protested the January 14, 1954 San Francisco raids in which police seized 70 books, 600 magazines, and 28,000 photographs for alleged obscenity. The ACLU challenged blind seizure, the assumption that nudity is obscene in itself, and the flat refusal of the D.A. to reveal the "yardstick" by which he adjudged publications to be obscene.

An important case was concluded in St. Paul, Minnesota, where a complaint against a book dealer for selling the allegedly obscene Women's Barracks was made by the president of the National Council
for Youth, an organization formed to protect children from allegedly unwholesome literature. Municipal Court Judge James C. Otis observed that the entire public must not be put in a straitjacket in order to protect the youthful and the impressionable, and that a book must be read as a whole. The Judge further said that "The history of obscenity laws demonstrates conclusively that conceptions of obscenity vary both as to time and space."

A general view of censorship leads the ACLU to believe that when situations become sufficiently clear to take the form of case action, censorship can be defeated; but that a great deal of censorship—or pre-censorship—is in such general form that legal testing is impossible.

**Private Group Censorship.** The whole question of private group censorship would be serious enough if it remained exactly that. But a chief difficulty is that such pressure often affects public officials. In San Antonio, Texas, a group of patriotic women circulated a book list of several hundred items (including *Moby Dick* and the *Canterbury Tales*) demanding their exclusion from the circulation holdings of the public library; only after wide public debate was the censorship action defeated by a narrow margin on the Library Board. Further west in Texas, the El Paso School Board refused to allow the use of a textbook which was attacked as "socialistic," presumably because it printed without comment the text of the United Nations Declaration of Human Rights.

**Pressure by Religious Groups.** Lay religious groups associated with the Catholic Church, have for some time regularly prepared lengthy lists of magazines and books which they deem improper. These lists are widely circulated among police chiefs and district attorneys and are often used as a basis for official action. In Hackensack, N.J., 13 dealers and distributors of books were arrested in a recent police drive against "indecent and immoral" literature; it appears doubtful whether the grand jury will bring in indictments against these persons, but in the meantime pressure has been exerted and censorship established. Less formally, members of church groups throughout the country are going from dealer to dealer protesting against display and sale of particular titles, to which procedure the ACLU does not object—and also threatening a general boycott, a clear infringement of freedom of expression.

**Comic Books.** General public concern has been shown about the violence, sadism, and sexualism of many comic books. The ACLU, of course, has no quarrel whatsoever with appropriate laws which punish obscenity or incitements to immediate illegal acts. Nor does the Union object in any way to general social action of an educational nature, or to private judgment, directed against any publication which appears to be in bad taste or otherwise unsuitable. But even in these areas, which
do not involve civil liberties, the Union cautions against too ready acceptance of preliminary or one-sided evidence; the problem is complex and calls for continued study by the best scientific methods. But on the question of censorship of comic books, the Union has no doubts. All censorship laws ever devised appear to rest upon vague definitions or to call for subjective judgments about the probable effects of beliefs or words—censorship law makes possible thought control.

2. Newspapers

Moved by a desire to bring order and balance to the treatment of news about Senator McCarthy, Palmer Hoyt, editor and publisher of the Denver Post, in 1953 prepared a memorandum for the guidance of his newspaper staff. ACLU study of this memorandum informally concluded that it offered valuable suggestions for fair treatment of persons accused; some uncertainty was felt about the advice to the news staff that it apply the principle of "reasonable doubt" to treatment of a story which it knew to be false, and that an element of self-censorship might lie in the suggestion that McCarthy stories be played down or given special headlines such as "Today's McCarthyism."

Mr. Hoyt agreed that the use of such headlines as "Today's McCarthyism" was inadvisable. Mr. Hoyt wrote the ACLU: "My plea is still for the whole story, not decorated with editorial handiwork—in text or in headline—but solidly conceived and fashioned as a documentary of all we must and should know in pursuit of the whole truth."

The right of press photographers to take pictures in the courtroom was raised in several cases. The ACLU has not intervened, because it believes that civil liberties have not been violated; the Union holds that the due process concept is paramount within the courtroom and superior to the ordinary right of the press to use any technique for covering the news.

In Pennsylvania the press and the libel law became entangled in the case of John Nicholas Donaducy, an Erie newspaper publisher whose Town Crier carried an article concerning alleged misconduct by an anonymous bartender and an anonymous social worker. In this criminal libel case, which resulted in conviction, the judge, in his charge to the jury, disregarded the defendant's claim that the article was published to inform the public and to discourage immorality. Instead of defining a libelous utterance as one which tends to breach the peace, the judge stated that the purpose of the law in question was to suppress "scandal sheets." The ACLU brief on appeal held that the judge thereby prevented "the jury from considering the defense of truth and proper motivation for the publication." The Pennsylvania Supreme Court has upheld the conviction; an appeal may be taken to the U.S. Supreme Court where the ACLU will seek to file a brief.
3. The Theatre and Motion Picture House

The M and La Ronde Cases. An important victory against the forces of censorship was embodied in the January, 1954 decision of the U.S. Supreme Court in the M and La Ronde cases. The M film had been banned in Ohio because it was allegedly harmful in that it undermined "confidence in the enforcement of law and government," and could lead "unstable persons to increased immorality and crime." The La Ronde picture was prohibited in New York on grounds of immorality. The ACLU intervening M brief said, "Surely, the court will not attempt to pinprick out vague lines between different media, based on degrees of harm, when the vital protections of the First Amendment are involved." The unanimous decision by the U.S. Supreme Court was without opinion, merely referring to the earlier decision in the 1952 Miracle case.

The Future of Film Censorship. Last year's U.S. Supreme Court decision in the Miracle case generally brought the moving pictures under the protection of the First Amendment; this decision also threw out "sacrilege" as a specific ground for the banning of a picture; the M case eliminates "harm" as a criterion and the La Ronde case eliminates "immorality." There yet remains to be settled the right of state authorities to pre-censor films on grounds of obscenity.

A likely result of the M and La Ronde decisions will be an attempt at clearer definitions of obscenity, harm, immorality, and so forth; it remains to be seen whether such rewritten laws can survive the charge of vagueness and indefiniteness. For example, an April, 1954 New York law gives expanded definition to the terms "immoral" and "incitement of crime." That portion of a film is immoral "the dominant purpose or effect of which is erotic or pornographic; or which portrays acts of sexual immorality, lust, vulgarity, or lewdness, or which expressly or impliedly presents such acts as desirable, acceptable, or proper patterns of behavior." The New York Civil Liberties Union contended that the new language added nothing, and asked what one would do with a Bible film presenting Salome's dance. On the incitement to crime issue, NYCLU was puzzled about the fate of those Westerns in which "bad sheriffs" are overthrown by "good citizens" acting "illegally."

Existing censorship laws and administrative regulations are clearly going to be subjected to further testing. For example, Ohio theatre exhibitors and owners believe that the entire Ohio censorship set-up is unconstitutional. It is interesting to note that in March, 1954, the Ohio state censor released several films previously banned: Mom and Dad, with the cut of a Caesarean birth scene, The Outlaw, with some cuts, The French Line, with a cut of one dance; he refused any release.
The Moon Is Blue. This film has within the last year probably been banned in more places than any other theatre offering: Ohio, Kansas, Maryland; Memphis, Detroit, Kansas City (Mo.), Providence, Lawrence (Mass.), Elizabeth, and Jersey City. Maryland state censorship suffered a serious defeat when Baltimore City Judge Herman Moser characterized prohibition of The Moon Is Blue as "arbitrary and capricious," and pointed out that the Maryland censorship statute failed to constitutionally define what was meant by "indecent," or "immoral." Judge Moser noted that the censor board members all differed in their definitions of what is objectionable, the chairman stating, "We have no set standards," the vice-chairman banning films because they were "trash," which he defined as meaning "just no good," and the third member of the board approving only films which he thought were suitable for his three grandchildren, all under twelve years of age. In Jersey City, the controversy over this film reached major proportions; finally, in June, 1954, County Judge George P. Naame dismissed the complaint of the Jersey City Commissioner of Public Safety; he said, "There was nothing in this film that portrayed, directly or indirectly, the dominant note of a presentation as erotic allurement 'tending to excite lustful and lecherous desire,' dirt for dirt's sake only, smut and inartistic filth with no evident purpose but 'to counsel or invite to vice or voluptuousness.'"

In Springfield, Mass., Bishop Christopher J. Weldon caused to be read in several Roman Catholic churches of the Springfield diocese a letter which reminded parishioners who had taken the Legion of Decency pledge not to see certain "objectionable" films and furthermore advised them not to patronize the theatre currently showing The Moon Is Blue. While not questioning the right of the Legion, or any other group, to advise its members not to see pictures deemed objectionable, the Hampden County Civil Liberties Union opposed the "threat of future economic reprisals" against a theatre for showing a picture.

Other Films. The Miracle again became a subject of controversy in Illinois when the Chicago Police Commissioner refused to issue a license on the grounds that the picture was immoral and indecent. Ultimately, the Illinois Supreme Court ruled that the Chicago censorship ordinance was constitutional, redefined immorality as obscenity—rather obscurely—and remanded the case to trial court for decision on the single ground of alleged obscenity. The producers and the ACLU have applied for a rehearing before the Illinois Supreme Court.

The French Line exhibitors have met with a variety of harassments and afflictions: in Boston a single dance sequence was ordered deleted; in Little Rock, Arkansas, the same dance was objected to by the censor-
ship board, and the entire film was condemned by the Legion of Decency and a local Catholic bishop; in St. Louis all houses showing the film lay for some months under a general boycott by the Catholic Archbishop (an action vigorously protested by the ACLU St. Louis affiliate); and in Beaumont, Texas, the exhibitor was indicted on criminal charges of showing an allegedly obscene picture, upon a complaint filed by the Women's Christian Temperance Union.

The *Salt of the Earth*, the story of a bitter labor-management dispute involving New Mexico mine-workers, met trouble in Chicago because of charges that persons associated in its production are Communists or sympathetic to Communism. Objection to showing the picture came from representatives of the American Legion and, allegedly, from the AFL Motion Picture Operators Union. The Illinois ACLU affiliate has protested strongly against an attempt to obstruct exhibition, because "only the free willingness or unwillingness of people to attend showings should determine whether and for how long a film is to be shown."

**Stage Shows.** Production on the legitimate stage has apparently run into fewer censorship difficulties during the past twelve months, perhaps because of the traditionally greater freedom of the theatre and the more limited impact, numerically, on the community. In Rhode Island, a criminal complaint against the producer of *Tobacco Road* was dismissed on the ground that the State had failed to produce in court the script actually used in production; the judge also noted that the play as a whole would have to be considered.

Objection to production on political grounds involved two plays, both in Chicago. *The Children's Hour* was threatened with police censorship and attacked by the American Legion because the author had been quizzed by a Congressional investigating committee; *Time Out For Ginger* was also threatened because a member of the cast had become suspect as the result of Congressional questioning.

4. Radio and Television

*FCC and Industry Policy Problems.* Although radio and television have not been confronted by any major cases of specific censorship during the past year, a number of large general problems remain to be solved by the Federal Communications Commission and the makers of industry policy. Noting the increasing public concern over the use of the airwaves for debates involving charges and countercharges and vituperation and innuendo directed at individuals, particularly relating to the McCarthy-Truman dispute, and other appearances by Senator McCarthy, the ACLU in May called on the FCC to hold public hearings on the issue of equal time to reply to attacks. ACLU Board Chairman Ernest Angell declared that "The time is ripe for searching review of
how this matter can best be handled in the public interest, convenience and necessity . . . " Mr. Angell’s letter set forth five relevant principles: 1—the principle of equal time for political candidates to reply to attacks, 2—the general rule that those attacked should have some right to respond, 3—the rights of supporters of political candidates to be heard, 4—the requirement of a generally balanced presentation of points of view on controversial issues, and 5—the duty of licensee to seek out representatives of all points of view. The FCC refused, saying that adequately clear rules exist.

A new policy of issuing licenses for three years instead of one year also led the officers of the ACLU Radio Committee to write to the FCC commissioners, stating their belief that a survey of standards of station programming is in order, in order that the public may compare the promise of programming with actual performance and in order to clarify Commission criteria of "public interest, convenience, and necessity."

Ohio State University Awards. As part of its general public-relations-education work, the ACLU national office arranged for a new program class in the Ohio State University Institute for Education by Radio-TV; the class deals with the civil liberties of free inquiry and expression, due process, and equality. The Institute’s annual contest resulted in the following awards: “Letter from Father,” “They Fought Alone,” “Civil Rights: An Evolving Concept in Democracy,” “American Forum of the Air,” and “The Independent Mr. Jefferson.”

THE PRINCIPLE OF DIVERSIFICATION

The ACLU has on many occasions argued for diversity among the media of communication, because it offers opportunity for the fullest expression of that opinion which is essential to the operation of democracy. During the past year, the question of diversity has arisen in three situations, all of which have elements of economic interest.

A variety of technical devices are on the market which would permit televising into the home by means of a subscription fee paid by the individual viewer or listener. Although the ACLU has no organizational concern with the competing technical and commercial interests involved, it is eager to see that whatever pattern of government regulation and licensing develops shall generally foster the widest possible freedom of expression. The ACLU is likewise following current hearings before the FCC relating to the licensing of ultra-high-frequency stations. UHF transmitters, less expensive, may in the long run offer an opportunity for both more diverse and more decentralized television programming.

In Clarksburg, West Virginia, a newspaper publishing company sought to intervene in proceedings in which a TV application was
being considered by the FCC, on the ground that licensing of the station would have adverse economic effect upon a local newspaper because of competition for advertising revenue. The FCC permitted the newspaper to intervene, "as a party in interest." ACLU Board Chairman Ernest Angell, objecting on behalf of the Union, said, "We are concerned that one medium of communication might deprive a different medium of communication of the right to present information and ideas to the public because it would be in competition with it."

**FREEDOM OF MEETING AND SPEECH, CORRESPONDENCE, AND MOVEMENT; RIGHT TO A LICENSE**

1. Freedom of Meeting and Speech

**American Legion-ACLU Indianapolis Controversy.** Indianapolis, national home of the American Legion, in November, 1953, became the center of a controversy about controversy, as a result of the Legion's attempt to ban a meeting of the Indiana chapter of the ACLU scheduled for the Indiana World War Memorial. After futile attempts to hire space in many Indianapolis hotels and fraternal society buildings, Indiana CLU finally found a meeting place in the parish hall of St. Mary's Roman Catholic Church, offered by its pastor, Father Victor L. Goosens.

The official reason given by the War Memorial management for withdrawing permission for the ACLU meeting was that it would be "controversial." Letters had been received from the American Legion and the Minute Women, protesting the meeting in the War Memorial, or anywhere else, on the ground that the ACLU was a front for Communist organizations. The Indianapolis Times, a Scripps-Howard paper, and the Indianapolis Star gave editorial backing to the ACLU's right of assembly and free speech, although at the same time stating their editorial dislike of the Union's activities.

National attention was focused on the affair when CBS commentator Edward R. Murrow devoted to it the major portion of his "See It Now" television program on November 24. Highlights of the program were the ACLU meeting, addressed by its national General Counsel Arthur Garfield Hays, and the Legion's State Executive Session.

In his statement for the Murrow show, Father Goosens pointed out that "all of us at some time or other are going to find ourselves in a minority group, ... if any one group is restrained from peaceful assembly by a non-governmental organization the liberties of all are in danger." ACLU national Executive Director Patrick Murphy Malin later answered the Legion's charges by citing the commendations given
the organization by President Eisenhower, former President Truman, and Governor Dewey. Malin also asserted that the Union's record of "thirty-three years of activity defending American freedoms is answer enough to this false charge."

**Indianapolis, Round Two.** In May, 1954, the Indiana CLU again asked for use of the War Memorial for a public meeting to be addressed by Paul G. Hoffman, industrialist, former Economic Cooperation Administration head, and adviser and personal friend of President Eisenhower. The Memorial trustees again rejected the Union, saying that the ACLU "just didn't qualify."

Public reaction indicated a considerable shift in opinion. The official publication of the Catholic diocese condemned the ban on the ACLU. The State Commander of the Veterans of Foreign Wars and the local head of the Order of the Purple Heart both attacked the second refusal of the hall as a denial of free speech, as did Congressman Charles B. Brownson. The Indianapolis Times in an editorial entitled "How Silly Can You Get?" said: "A little handful of aging heroes who pretend to speak for a great patriotic organization of American war veterans decreed several months ago that there wasn't going to be any Civil Liberties Union in Indiana—and even boasted they would bar it from any meeting place, public or private, in this State. They almost succeeded then. They did succeed in shaming Indiana in the eyes of the whole nation . . . at least these self-appointed censors of what we shall hear and think and join have convinced us completely of the real need for organized defense of civil, constitutional liberty in Indiana. . . . It is today being most grievously infringed."

Hoffman, in his speech warned that, "We must be on guard against any and every activity which puts in jeopardy our rights as individuals to determine for ourselves what we should think, what we discuss, and with proper regards to the rights of others, what we should do. . . ."

**Soap Box Cases.** Irwin Edelman was arrested in 1949 for making a sidewalk political address, under a Los Angeles anti-vagrancy ordinance, which Southern California ACLU counsel A. L. Wirin characterized as "drawn so loosely that any individual could be picked up and held as 'dissolute' should a law officer frown at his presence within the borders of Los Angeles." Edelman was given a ninety-day sentence, but released after forty-five days; his attorney at that time charged that the unsolicited remittance of the remainder of the sentence was an apparent legal device by the court to forestall a testing of the real free speech issue involved. In May, 1954, Edelman again mounted the soapbox to attack the Supreme Court ruling in the Rosenberg case, and found himself picked up for "failure to register" as a "lewd and dissolute" person. At the superior court level, it was held that Edelman's
right under the First Amendment had been infringed upon; the record was set straight both with respect to the 1954 controversy and the original 1949 decision.

Public tension over the Rosenberg case probably lay back of the conviction of Reuel S. Amdur for setting up a sidewalk table without a permit from the Berkeley, California, city council; on the table reposited a petition urging executive clemency for the convicted atomic spies. Counsel for the Northern California ACLU contended that the City Council had discriminated in issuing sidewalk table permits and denied Amdur the equal protection of the law guaranteed by the Fourteenth Amendment. A Superior Court opinion stated: "The city of Berkeley was under no duty to permit the use of tables on its sidewalks as an adjunct to the public forum, but if it has granted this privilege to some, it may not deny the same privilege to others under similar circumstances merely because its officials disagree with their views."

In Philadelphia, two pacifist speakers were arrested in July, 1953, for conducting a street-corner meeting. Their counsel, who served at the request of the ACLU, pointed out to a superior court that the meeting had been completely orderly and that the only interference with pedestrian or vehicular traffic came when the police tried to break up the meeting. The decision of the court, freeing the speakers, made clear that unlawful police interference with freedom of speech can be successfully challenged and that it is the duty of the police to keep traffic moving and protect the speakers, rather than to break up a meeting.

2. Freedom of Correspondence

An important case involving freedom of communication, that of Margo Skinner, came to the attention of the ACLU late in 1953. Miss Skinner, a Fulbright lecturer teaching in the Philippines, wrote a private letter to a friend in India; her letter reviewed what she believed to be the history of economic and political exploitation of the Philippines people; her analysis was severe, but in every way sympathetic to the people of her host nation. The friend published the letter in an Indian newspaper as an anonymous article, and without authorization from the writer. The U.S. Government appears to have investigated the question of authorship, and Miss Skinner’s contract was shortly thereafter terminated under condition No. 14 of the Fulbright Award contract, which refers to critical or idle comments regarding foreign governments or foreign customs which may offend the people of the host country. The ACLU believes that Miss Skinner’s discharge was improper because she had not violated her contract and because the penalty imposed upon her was a serious abridgment of the freedom of speech guaranteed to her as a citizen of the United States.
Anti-Ike Postcards. "Cowboy" Pink Williams of Caddo, Oklahoma, sent postcards through the mail inviting people who had voted for Eisenhower to a supposed convention where a "public kicking" would be administered to an animal which has the same name as a part of the human body. The Post Office Department ruled the cards "filthy and indecent." Williams contends that the Post Office ban is really a cover-up for political censorship; he also insists that postal regulations dealing with obscene matter do not apply here, and that far worse matter has actually been carried in the mails without objection. The case is in the courts. In the meantime, Williams has been elected Lt. Governor.

3. Freedom of Movement

One of the most valued privileges of United States citizenship is the right to move freely from one part of the country to another. Ordinarily, infringements of this freedom involve racial discrimination, labor controversy, or other kinds of social tension.

The New York Civil Liberties Union tested the constitutionality of the New York loitering law in the Bell case. Bell, and four other defendants, were waiting in a railroad station, and it was proved that they had not taken a train, and were not planning to do so. When questioned by a policeman as to their presence in the station, they stated that they had just arrived. NYCLU attacked the law as completely unconstitutional, and also said that it had been applied discriminately against the defendants, all Negroes, who were the only persons in the railroad station asked about their presence. The Court of Appeals avoided the constitutional issue by interpreting the law to mean that in addition to proof of loitering it must also appear that the accused had failed to give an explanation indicating that he was not a trespasser. Two members of the seven-member court, although concurring, held that this definition of the law still left it obscure and therefore unconstitutional.

The town of Defiance, Ohio, has begun enforcement of an 11 P.M. to 5 A.M. curfew law during which hours minors below 18 years of age may not go unaccompanied on the street. Penalties for violation fall on parents, up to 10 days in jail for a third offense. The ACLU will study the basic freedom of movement question involved, and possible violation of due process for imposing a penalty upon an individual for the act of another person.

A more reasonable approach to the problem has been suggested by a Union County (N.J.) grand jury which recommended "that if the Juvenile Court shall determine that the parents of a juvenile are responsible for the actions of the juvenile by reason of the neglect or indifference of such parents, the court may summarily punish them as for a violation of the Disorderly Persons Act."
4. Right to a License

Serious civil liberties issues arise when the special responsibilities of the professional man become entangled with his right of belief and association as a citizen. In 1953-54, important cases have involved physicians and lawyers.

Barsky Case. In 1946, Dr. E. A. Barsky was convicted of contempt of Congress for refusing to submit certain records of the Joint Anti-Fascist Refugee Committee to the House Committee on Un-American Activities. Subsequently, the Board of Regents of New York suspended him from medical practice for six months; on appeal, this action of the New York authorities was sustained by the U.S. Supreme Court in a 6–3 decision. Justice Burton writing the majority opinion held that the practice of medicine is a privilege, that the measure of discipline is discretionary, and that in this case it had been applied originally by a board of qualified doctors with subsequent review by a committee on grievances and ultimate review by the Board of Regents. Three important dissenting opinions were filed. Justice Black stressed the fact that there was no claim that Dr. Barsky had failed in his professional obligations or that his personal character was unsatisfactory; he said that "the right to test the constitutional power of a committee is itself a constitutionally protected right"; and argued that the Attorney-General's list was an attainder published in violation of the Constitution, and that Dr. Barsky "had a constitutional right to be free of any imputations on account of this illegal list." Justice Douglas addressed himself to the often-quoted statement of Oliver Wendell Holmes that a person "may have a constitutional right to talk politics, but he has no constitutional right to be a policeman." The Justice said that this argument carried to its ultimate reach means that a man "has no constitutional right to work," and that "it does many men little good to stay alive and free and propertied if they cannot work. To work means to eat. It also means to live." Justice Frankfurter said that he was "in substantial agreement" with the majority opinion, but pointed out that the New York courts admitted they had no jurisdiction to review the action of the Board of Regents even if it was arbitrary, and argued that the State should not be allowed partially to destroy a man's professional life on grounds of judgment not relevant to his fitness to pursue his profession. In this case, the ACLU filed a friend of the court brief at the Court of Appeals level.

Admission to the Bar. The Illinois ACLU has actively defended the constitutional rights of George Anastaplo who was denied a petition for admission to the Illinois Bar. Mr. Anastaplo graduated at the head of his class from the University of Chicago Law School, and found himself denied a certificate of fitness without statement of reason for that action.
The ACLU thought that all the circumstances of the situation indicated clearly that the applicant had been denied a certificate because of beliefs expressed or associations revealed when questioned by the Fitness Committee. The Illinois brief said: "In view of the close relation of lawyers to the exercise of the rights safeguarded by our State and Federal Bill of Rights, inhibition of freedom of thought and action on the spirit of lawyers destroys the free play of the spirit which all lawyers ought to especially cultivate, and makes for caution and timidity in their associations by potential lawyers..."

A most shocking case in this area was that of Ben G. Levy, an attorney denied permission to practice before a federal district court in Houston, Texas, because he is "associated with" a man "considered to be a member of the Communist Party [sic], at least he is referred to as a communist "openly [sic] and in publications." When Levy appealed to the District Court from the committee's ruling it developed that his association consisted in being employed at a salary of $25 a week, by the man who was reported to be a Communist. An appeal was taken to the U.S. Court of Appeals in Texas, which upheld the decision on the ground that Levy had failed to prove to the bar committee that his "private and personal character" is unexceptionable.

The New York State Bar Association in June, 1954 made a number of recommendations about lawyers, in relationship to the security problem, which range from the debatable to the dangerous: 1—lawyers who continue to be members of officially designated subversive organizations should be denied the right to practice, 2—lawyers invoking the Fifth Amendment before governmental inquiry committees should be suspended, 3—the Attorney General of the state should be responsible for bringing such cases before the local bar grievance committee. A final recommendation is potentially very dangerous; the committee report urged that the governor "from time to time" undertake formal investigations "into the status of any and all attorneys concerning whose loyalty doubts have been generated." The committee report has been submitted to the executive committee of the association.

**LOBBYING AND PETITION**

The right of Americans to address themselves to their officers of government and to their courts, national or local, has recently been tested in a number of important cases.

_The Lobbying Act._ A 5–3 decision by the U.S. Supreme Court has thrown some light on the Lobbying Act, but leaves several issues unresolved. Chief Justice Warren, writing for the majority, disposed of
the point that the law violates First Amendment freedoms by pointing out that Congress has the right to evaluate pressures upon it, and that "the hazard of such restraint [on freedom] is too remote to require striking down a statute which on its face is otherwise plainly within the area of Congressional power. . . ." The act covers a person who attempts to influence Congressional legislation "directly or indirectly," but the court apparently restricts the law's coverage to cases of "direct communication with members of Congress."

Justices Black and Douglas dissenting, protested that the standard applied to defendants was certainly vague at the time they committed the acts now charged against them as criminal, and that this law therefore violates First Amendment rights.

Howarth Petition Case. Nelson O. Howarth and other members of the Good Government Council of Logan County, Ill., submitted a petition to Illinois Circuit Court Judge Frank S. Bevan to appoint a special prosecutor in a case where it was alleged that the State's Attorney had shown marked laxity. Judge Bevan filed an order to show cause why the petitioners should not be held in contempt; on hearing, he found them guilty of filing an altered petition which deceived the court and constituted a fraud upon it. The Illinois ACLU joined with the Illinois Bar Association in filing a friend of the court brief to the effect that the contempt charge represented a grave threat to the fundamental rights of the plaintiffs. In a unanimous decision, the Illinois Supreme Court reversed the convictions; it held that no deception was intended or accomplished and that the petition "was filed by citizens to invoke the jurisdiction and action of the court and cannot alone constitute contempt."

Fulton Lewis, Jr. This well-known radio commentator was indicted in February, 1954, for criminal libel by a Maryland grand jury, because he wrote a letter to Maryland Governor Theodore McKeldin, allegedly "unlawfully and maliciously devising and intending to traduce, defame, and villify" the trial magistrate and the substitute trial magistrate of St. Mary's County, and to "bring the administration of justice by them to contempt." Lewis' letter to the Governor had stated that the regular judge "is completely incompetent, physically as well as mentally, and has rarely been able to sit on the bench since he took office." As for the substitute judge, his "mental, philosophical, and temperamental equipment," was alleged to be so inadequate as to contribute to the "disintegration and demoralization of law-enforcement throughout this section." Patrick Murphy Malin, ACLU Executive Director, protested: "Basic to our democratic faith is the right of a citizen to criticize governmental functions and to be privileged in his petitioning for the correction of such abuses." A Maryland court has dismissed all the charges.
In May, 1952, the pastor of a Virginia church preached a sermon criticizing the decision of a local judge; although the minister stated that the judge was an "honorable man," he was held in contempt. The Supreme Court held that false and libelous utterances about a judge's conduct were punishable, in the absence of a statute, only if they presented a clear and present danger to the administration of justice, and that "guilt must be established beyond a reasonable doubt."

NATIONAL SECURITY: SAFEGUARD AND RESTRICTION

1. The National Scene

General Statements of ACLU Policy. From September, 1952 to August, 1954 the Union, through deliberation by its Board and in its committees, and through Corporation referendum gave careful study to the problem of Communist Party membership. Attention was given both to legal problems and the manner in which non-legal sanctions are being applied by society. Following the February, 1954, ACLU Corporation Conference a tripartite committee was appointed, representing the three component parts of the Corporation—the affiliates, the National Committee, and the national Board of Directors.

The Committee made a unanimous report which was unanimously adopted by the Board on August 2. The first part reads:

"The American Civil Liberties Union is gravely concerned over the alarming extent to which the suppression of basic liberties and the corruption of historic safeguards have replaced legitimate police and judicial procedures required to safeguard the security of the country. We therefore stand against guilt by association, judgment by accusation, the invasion of the privacy of personal opinions and beliefs and the confusion of dissent with disloyalty—all of which are characteristic of the totalitarian tyrannies we abhor. The abuse by wrongful un-American methods of the rightful national aim to safeguard the security of the country not only betrays the noblest traditions of our history but also impairs the capacity for leadership of free peoples at this crucial time for freedom in the world.

"Civil liberties, born of centuries of the people's struggle for dignity and freedom, are a basic part of man's heritage. Freedom of religion, thought, communication, assembly, dissent, freedom from discrimination, and the right to due process of law are highly prized parts of the American heritage.

"Mindful of its responsibilities as a voluntary association of free citizens and in furtherance of its declared principles and purposes to defend the civil liberties of any person in the United States, we
today reaffirm the policy of the American Civil Liberties Union not
to have as an officer, Board member, committee member or staff
member, national or local, any person who does not believe in civil
liberties or who accepts the discipline of any political party or or-
ganization which does not believe in civil liberties or which is under
the control or direction of any totalitarian government, whether Com-
munist or Fascist, which itself does not believe in civil liberties or
in practice crushes civil liberties. The facts regarding any such matters
must themselves be the subject of responsible and appropriate con-
sideration in fair procedure.

"It is the continuing responsibility and policy of the American Civil
Liberties Union vigorously to defend the civil liberties of any person,
however unpopular that person or his views may be, and regardless
of any political party, organization, denomination, race or nationality
to which that person may belong.

"In considering the rights of members of the Communist Party, the
American Civil Liberties Union recognizes that problems have arisen
because of the dual nature of the Communist movement. It is both
a political agitational movement and a part of the Soviet conspiracy.
Insofar as it is the first, its members have all the rights of members
of other parties; to the extent that it is the second, its members may
in some particulars be restricted by law. The ACLU has recognized
this distinction in positions it has taken in the past with respect to
various laws and governmental actions affecting totalitarian move-
ments—Fascist, Ku Klux Klan as well as Communist—and will con-
tinue to do so in the future.

"In war and peace, the American Civil Liberties Union has defended
and championed, and pledges itself to continue to defend and cham-
pion the rightful civil liberties of any person or organization, the
essentials of academic freedom, fair hearings and due process, what-
ever be the issues of the hour, the temper of the times, the alarms
of crises and the pressures of groups.

"The concentration of the American Civil Liberties Union must
always be on the basic liberties of the people, the principles and
fair procedures of academic freedom, the Bill of Rights and the
Constitution of the nation which is in position to hold out so much
hope to the peoples struggling for freedom and peace in the world."

With respect to teachers the Board reaffirmed the 1952 ACLU policy
set forth in "Academic Freedom and Academic Responsibility":

"It is [a teacher's] duty . . . not to advocate any opinions or convic-
tions derived from a source other than his own free and unbiased
pursuit of truth and understanding. Commitments of any kind which
interfere with such pursuit are incompatible with the objectives of
academic freedom. . . . The ACLU does not oppose the ouster or
rejection of any teacher found lacking in professional integrity. . . .
On the other hand, the ACLU steadfastly opposes any ban or regulation which would prohibit the educational employment of any person solely because of his personal views or associations (political, religious, or otherwise). Even though a teacher may be linked with religious dogmatists or political authoritarians, the ACLU believes that he must nevertheless be appraised as an individual. . . . The ACLU will intervene in . . . cases involving the discharge of a teacher when action is taken by administrative officials without a prior unfavorable judgment by the teachers' colleagues based on professional incompetence, immoral conduct, or perversion of academic process."

On United Nations employment:

"1. The Union recognizes the Charter provisions governing personnel as an obligation of the United States and as basic to ACLU policy. They put international civil servants under the exclusive jurisdiction of the Secretary General and beyond the influence of any member state.

"2. Since, as has been repeatedly stated by United States officials, considerations of United States security are not involved in employment in the United Nations Secretariat, the tests which the Union has approved in relation to sensitive positions in United States government employment are not applicable.

"3. While the Union does not challenge the right of the United States, or of any member state, to make recommendations to the Secretary General and to establish an agency to examine its nationals employed, it opposes inquiry, by the United States or any other member state, into the beliefs or associations of its nationals employed by the United Nations, except in connection with possible subversive activities.

"4. The Union will in all appropriate cases defend the principles of due process of law in relation to all United States citizens employed."

Finally, with respect to specific cases, the Board adopted the following principles for office guidance: (a) with respect to the privilege against self-incrimination, the ACLU will oppose any employment penalty based solely on the claim of the privilege but not oppose such penalty if the matter under investigation involves possible unfitness for a particular employment, and (b) with respect to challenges of questions, the ACLU reaffirms support of such challenges when it finds them properly based on the Fifth Amendment or other limitations of authority.

Communist Outlawry. Norman Thomas, ACLU Board member, speaking before a House Judiciary Committee meeting, said, on behalf of the Union, that while the Communist Party movement is "indeed conspiratorial," the Communist Party itself when "it holds conventions, adopts platforms, nominates and endorses candidates, is engaged in a
legitimate and essential feature of our democratic way of life. . . . To outlaw the Communist or any other party engaged in legitimate political activities, however objectionable its program may seem to a majority, is to deny a basic democratic principle and invite subversive and ultimately violent action in place of the political action which the government has outlawed."

Although the law which finally passed was heralded as outlawing the Communist Party, it does not actually do so; the Party itself is not made criminal, nor is membership in it made criminal. It is, however, reduced to a kind of outlaw status by removing it from all ballots in all elections, depriving it of the right to sue in the courts, and preventing it from maintaining bank accounts. And a related new law requires Communist action and Communist front organizations to register their printing equipment, an obviously unconstitutional interference with free expression.

Probably the most important provisions of the law are those making it illegal for a Party member to hold office or employment in any labor union. With respect to vaguely defined "Communist-infiltrated organizations," Communist leadership must be eliminated, after being found to exist, before the unions can get bargaining rights under federal laws.

Depriving Communists of Citizenship. Earlier in the year, the ACLU Executive Director wrote to President Eisenhower commenting on the proposal to revoke the citizenship of persons convicted of conspiring to advocate violent overthrow of the government. Malin stated that he was under no illusions as to the nature of the Communist Party but that "the proposed law, using the Smith Act as its base, would be another sharp inroad on the principle of free speech, which, under the tension of international conflict is already subject to severe pressure. Such a law would create an additional penalty, not for conspiring to violently overthrow the government—the ACLU believes such conspiracy should be swiftly and firmly dealt with—but for conspiring to advocate such action." Belief was also expressed that any such legislation would be unconstitutional because "the Congress has no power whatsoever to interfere with American citizenship by birth." Legislation embodying the President's recommendation was passed by the Congress.

The Attorney General's List. In a speech before the American Bar Association on August 27, 1953, Attorney General Brownell stated that the National Lawyers Guild was Communist-dominated and announced that he proposed to place it on the "subversive" list and that a hearing would be held. Patrick Murphy Malin in a letter to the Attorney General, although congratulating him on the fact that a hearing was planned, stated strongly that there should be no announcement of any allegations or "determination" in advance of such a hearing; he was convinced that
prior announcement "undoubtedly prejudices the public against the organization, even though it may be finally cleared." The case will be tried on its merits this fall.

The Oppenheimer Case. On May 27, 1954, a Special Personnel Security Board, appointed by the Atomic Energy Commission, made its report in the case of Dr. J. Robert Oppenheimer, the nuclear physicist whose security clearance was under review. The Board found Dr. Oppenheimer to be a loyal citizen who had discharged his highly secret duties with discretion, but at the same time found reason to revoke his security clearance. Ernest Angell, Chairman of the ACLU Board of Directors, wrote the chairman of the AEC, raising important questions of due process and freedom of expression and belief.

The three due process points were these: 1—In reviewing Dr. Oppenheimer's continuing associations with alleged Communists did the Board judge fully these associations along with other facts about Dr. Oppenheimer's record, particularly the Board's own finding of his loyalty and discretion? 2—Did the denial of certain information to Dr. Oppenheimer, prior to the hearing—which was later revealed during cross-examination—interfere with the fair hearing to which every person is entitled? 3—Did the Board's consideration of classified material, to which Dr. Oppenheimer was not permitted access, to any great degree impair the hearing?

Mr. Angell's statement of the free speech and belief idea read:

"... The importance of free and full debate within government councils, even of matters of the highest security importance is also involved in the Board's statement that only technical judgment should be given by a scientist working on government programs, even though it acknowledges 'that any man, whether specialist or layman, of course, must have the right to express his deep moral convictions; must have the privilege of voicing his deepest doubts.'" [And of the scientist the ACLU said] "To such a mind, all life is interrelated and all thought about life must be given expression, if the truth is to prevail. To ask that a scientist categorically divorce the whole experience and the judgment of his life from his technical service would paralyze those qualities of mind which serve his country."

On June 29 the Atomic Energy Commission, by a 4-1 vote, ruled against the reinstatement of Oppenheimer's security clearance. The majority decision and opinion, signed by Commissioners Strauss, Zuckert and Campbell, rested on proof "of fundamental defects in his character" and "his associations with persons known to be Communists. . . ." The opinion reads "that Dr. Oppenheimer has consistently placed himself outside the rules which govern others. He has falsified in matters wherein he was charged with grave responsibilities in the national in-
terest. In his associations he has repeatedly exhibited a wilful disregard of the normal and proper obligations of security." The majority were silent on the question of Oppenheimer's loyalty. This opinion also referred to Oppenheimer's "persistent and wilful disregard for the obligations of security . . . evidenced by his obstruction of inquiries by security officials."

Commissioner Murray, concurred with the result reached, by a different line of reasoning and a different interpretation of the evidence. He excluded from his consideration the questions of Oppenheimer's error in judgment on the hydrogen bomb program and strongly objected to the view that enthusiasm for a program or policy could figure in a loyalty or security ruling. His main line of argument held that, for American citizens in government work, "their faithfulness to the lawful Government of the United States, that is to say their loyalty, must be judged by the standard of their obedience to security regulations . . . Dr. Oppenheimer was not faithful to the restrictions on the associations of those who come under the security regulations."

The opinion of Commissioner Smyth, dissenting, rested upon the answer which he found to the question whether, "Dr. Oppenheimer will intentionally or unintentionally reveal secret information to persons who should not have it. To me, this is what is meant within our security system by the term 'security risk'. Character and associations are important only in so far as they bear on the possibility that secret information will be improperly revealed. . . . There is no indication in the entire record that Dr. Oppenheimer has ever divulged any secret information."

**Smith Act Cases.** The most important ACLU intervention in Smith Act cases during the past year, on grounds of violation of free speech and association, has been in California. In a friend of the court brief filed jointly in the U.S. Court of Appeals by the national ACLU and the ACLU of Northern California, the two organizations argued that there was no finding that advocacy presented a clear and present danger. The brief also said that the lower court conviction of the Communists in this (the Yates-Schneiderman) case went far beyond the decision of the U.S. Supreme Court in the Dennis case because "the Trial Court appears to have equated danger and intent," and obliterated "the distinction between words tending to incite to action and words of discussion."

In a separate brief prepared by the Southern California ACLU, it was stated that: "A mere plan to teach the duty and necessity of overthrow does not in itself obstruct, impede, or frustrate the process of government. An infinity of hypothetical, perhaps never-to-be fulfilled, causes and effect lies between the plan—the conduct made criminal by the Smith Act, and the obstruction—the result which Congress would have the power to prevent."
In all, approximately one hundred Smith Act defendants have been brought to trial, and nearly all of these have been convicted.

1950 Internal Security Act Cases and 1952 McCarran-Walter Immigration Act Cases. The McCarran Internal Security Act of 1950 requires that organizations found to be Communist-action or Communist-front register with the Attorney General. The decision of the Subversive Activities Control Board that the Communist Party is a Communist organization within the definition of the Act, and whether the registration provisions are constitutional, is still before the federal courts. A number of hearings on whether certain groups are Communist-fronts are in progress before the SACB.

The complexities of the 1950 Internal Security Act are demonstrated by the decision in Berrebi v. Crossman, where the U.S. Court of Appeals in Texas had held that an alien resident who had been a member of the Tunisia Communist Party from 1937 to 1939, and who was lawfully admitted to the United States as a permanent resident in 1948, could not be deported because of his past membership; the Court noted that he could have been excluded and deported if he had been a member of the Tunisia Communist Party at the time of his entry to the U.S.

In Shomberg v. U.S., the U.S. Court of Appeals in N.Y. held that, under the new immigration law, an alien could be deported even though he might have become a naturalized citizen before the law's effective date, having filed his application for citizenship two days before that date. In another case, the Board of Immigration Appeals held that an adopted child seeking entry will be treated differently from children of blood kinship.

Perjury Cases. Books were closed on the William Remington case when the U.S. Supreme Court refused to review his perjury conviction. The ACLU had protested Remington's second indictment on the ground of wrongful grand jury proceedings and on the ground that an indictment for perjury in testimony given at one's trial for perjury constituted harassment and violated the spirit, if not the letter, of the Constitutional prohibition against double jeopardy.

The Lattimore case, which certainly involves civil liberties, has from the beginning been the subject of careful and continuous ACLU attention. The Union was chiefly concerned with the vagueness and indefiniteness of the first, third and fourth counts of the first indictment for perjury. The U.S. Court of Appeals in the District of Columbia in June, 1954 dismissed as unconstitutional the first and seventh counts of the indictment. Lattimore has been reindicted.

In a Senate speech on February 20, 1950, Senator Joseph R. McCarthy accused 81 State Department employees of Communism. One of these was Val R. Lorwin who had served the Department for many years; Lorwin is the only one of the group of 81 to have been indicted, in his
case for supposed perjury in lying to a Loyalty Board about alleged Communist affiliations. Then, in May, 1954, Assistant Attorney General Warren Olney III told a federal district court that the indictment of Lorwin had been obtained by misrepresentation. He said that the government lawyer who presented the case to the grand jury made two erroneous statements: 1—that the government had two FBI witnesses who would support the testimony of the single witness who appeared before the grand jury against Mr. Lorwin, and 2—that it was not necessary to call Lorwin or his wife because they would plead the privilege of the Fifth Amendment. It now appeared, said Mr. Olney, that the government did not have additional witnesses, and that both Lorwin and his wife had testified cooperatively and at length, before the Loyalty Board. The district court thereupon dismissed the indictment. Subsequently, William Gallagher, a trial attorney in the criminal division of the Department of Justice, was discharged; it was he who had presented the case against Lorwin before the grand jury.

The ACLU congratulated the Department of Justice on its just action in having the indictment dismissed, but expressed concern about Gallagher's statement that there had been a representation to the grand jury that he had corroboration of the basic charge. The Union said: "We believe that the grand jury may indict only on competent evidence produced before it, that it would be improper to have an indictment based on any representation by a representative of the Department of Justice, however well founded, that other evidence of guilt existed."

**The Doctor's Draft Law.** At present any person inducted under the so-called Doctors' Draft Law, who fails to qualify for or loses his commission, on loyalty, security or other grounds (such as pleading the Fifth Amendment), must be utilized in his professional capacity as an enlisted man. The ACLU is pleased by this recognition of the principle that men drafted as doctors must be used as doctors, but notes that apparently the only cases in which a drafted professional person has been finally deprived of, or denied, his commission have been those in which there was a refusal to answer questions relevant to an individual's security status; an appeal to the protection of the Fifth Amendment has meant automatic denial or revocation of a commission. The Union recalls the language of the U.S. Court of Appeals in Belfrage v. Shaughnessy: "an invocation of the Fifth Amendment is not ground at all for an inference of guilt nor of criminal proclivities. The privilege created by the Amendment is for the innocent as well as the guilty. . . ."

**Freedom of Belief and Association in Relation to Passport and Visa Cases.** In 1950 and again in 1952 the ACLU stated its opinion on the immigration, naturalization and deportation of members of the Communist Party and other totalitarian groups.
The Union holds that no alien should be deported from the United States for past or present membership in or affiliation with any organization, including the Communist, Fascist, Falangist, or other totalitarian party, at least until such organization is finally judicially determined to be a criminal conspiracy. To deport for mere membership in such an organization would be to punish aliens for beliefs and associations which may legally be held by citizens. Moreover, to deport for mere membership in an organization is to adopt the principle of guilt by association, which is an unnecessary and undesirable policy in this situation.

The ACLU will not oppose the refusal of permanent immigrant status to present members of the Communist, Fascist, Falangist, or other totalitarian parties. Since permanent immigration must be selective in any case, because only a limited number of persons may enter the United States each year, it is not unjustifiable to exclude members of these organizations, since they are dedicated to the overthrow of democratic government. Such exclusion, however, should not be applicable to members of the above-mentioned groups who desire to visit the United States on a temporary basis for any legitimate purpose, including attendance at meetings to discuss public issues or participation in cultural events. The Union will not, of course, oppose the establishment of fair security safeguards to be applied to such temporary visitors.

The Union will not oppose the denial of citizenship to persons who are members of the Communist, Fascist, Falangist, or any other totalitarian party at the time they apply for naturalization. It is not unreasonable for the government to determine that such persons cannot honestly be attached to the principles of the Constitution of the United States, as required by the oath of allegiance.

The ACLU as far back as 1952 recommended the appointment of an Appeals Board to the State Department Passport Division. The new Board, for which the ACLU has long pleaded, was appointed only in the Spring of 1954, five days after an individual who had been refused a passport filed suit asking for a decision on his appeal. The Appeals Board is a big step forward, although the Board will hear appeal only in cases involving Communist and other subversive allegations; persons denied passports for more homely reasons will not be heard.

The ACLU has sharply protested the government's restrictive visa policies affecting foreign observers seeking to attend United Nations sessions in New York City. One visa was denied, another was denied and then granted, and a third was granted with unusual restrictions—leading the ACLU to ask whether the person concerned was thought likely to "engage in subversive activities south of 28th Street and not north of it ... or north of 96th Street?"

Visa trouble is no respecter of persons. In the spring of 1954, Professor Paul A. Dirac, 1933 Nobel Prize winner and a professor of
mathematics at Cambridge since 1932, was refused a visa apparently upon the sole judgment of a U.S. consular officer in England; the State Department agreed to review this refusal after widespread newspaper notice which implied that the visa had been denied because Dirac's presence in the U.S. might lead to controversy. Another situation involved Professor German Arciniegas, renowned Latin-American scholar, diplomat, and leader of democratic thought, who has been in this country for some time. In the fall of 1953 he went to Europe equipped with a re-entry permit; he had the misfortune to return too rapidly by air, arriving after the central Immigration Office had shut down for business at the end of the day. Apparently, some derogatory information had in the meantime been lodged against him. The whole matter was cleared up early next morning although he was detained overnight on Ellis Island. The ACLU and the American Committee for Cultural Freedom moved rapidly and effectively in this case.

**Loyalty Oaths in Housing Projects.** The ACLU, in a number of cases throughout the country, is challenging the constitutionality of the Gwinn Amendment as violative of the free speech and due process guarantees of the First and Fifth Amendments to the Constitution. The law in question requires that occupants of certain low-rent, federally-aided housing projects must sign loyalty oaths, stating that they are not members of any organization listed by the Attorney General. The ACLU argues that in the "absence of a clear and present danger," Congress may not restrict free speech and association. As for the view that such housing projects are breeding places for subversive elements, the Union contends that the law controls not only subversive activities (which can be adequately taken care of under the criminal code), but also limits entirely legal activities. The Union also argues that the Gwinn Amendment lays down a rule of "conclusive guilt established by mere association without even the requirement that the member of the organization have knowledge of the alleged subversive purpose of the organization," and also finds relevant its previously stated general objections to the Attorney General's list. Gwinn Amendment cases have reached the appellate courts so far in New York, the District of Columbia and California; the lower courts have all upheld the law.

2. State and Local Action

A spectrum, ranging all the way from legislative enactment to the most informal private group action, characterized the 1953-54 local "loyalty" scene. Few new laws were passed, but there was certainly a great deal of prohibitive and inhibitive action.

The Texas legislature in 1954 passed a law stating that the Communist conspiracy constitutes a clear and present danger, and outlawing
the Communist Party and other organizations which advocate or teach "activities intended to" violently overthrow the government. The law provides for organizational dissolution and forfeiture and seizure of property, and "that no person convicted of any violation . . . shall ever be entitled to suspension or probation of sentence by the trial court. . . ." Although the law has not yet been tested, ACLU Staff Counsel Herbert M. Levy, notes that this Texas law would be entirely unconstitutional under a recent decision of the Pennsylvania Supreme Court (the Nelson case). There it was held that the federal government has preempted the field of anti-subversive legislation and that any state legislation which is at all similar would therefore be ruled unconstitutional. Furthermore, the Texas provisions on probation or suspension are obviously unreasonably discriminatory.

In force September 1, 1953, a Missouri election law aimed at Gerald L. K. Smith appears likely to hamper severely all minor parties seeking a place on the ballot. The St. Louis Civil Liberties Committee of the ACLU vigorously protested this legislation, pointing out that if all the difficult standards were actually met there would still remain areas of discretion far too broad in nature.

1953 California legislation requires that a loyalty oath be signed by all organizations seeking property tax exemptions. Numerous churches, a synagogue, a Quaker meeting, and the American Friends Service Committee refused to sign. The legislation also covers individuals who claim deductions for donations to religious, charitable, scientific, literary, social, welfare and educational organizations, and veterans.

Northern California ACLU, filing a brief on behalf of the First Methodist Church of San Leandro, contends that it is illegal to impose conditions upon constitutional rights, and that the power to tax is the power to destroy; the brief therefore touches upon what will undoubtedly be a central question about the constitutionality of the law—the constitutionally privileged position of religious organizations in conflict with current demands for affirmation of loyalties. Nathaniel Bliss, a wounded veteran, is challenging in court the constitutionality of the act which, because he refused to take the oath, denies him his $1000 property tax exemption. Southern California ACLU, which filed Bliss' suit, is protesting that "the tax exemptions which our state has awarded veterans for the demonstrated loyalty of their military service are now withdrawn unless they sign a special oath of loyalty."

The Civil Liberties Union of Massachusetts will seek to intervene and file a brief in the Hood case testing the constitutionality of a Bay State 1951 anti-Communist law. CLUM points out that 1—the Massachusetts legislation is inconsistent with the Internal Security Act of 1950, which declares Communist Party membership not to be illegal in itself, 2—the law prohibits free association without proof of sub-
versive activity, and it condemns organizations, and their members, without proper hearing or other due process.

Another recent Massachusetts law prohibits the employment by the Massachusetts Board of Educational Television of any person who has refused to answer the questions of a Congressional committee, nor may any such person appear on any program sponsored by the Board. CLUM made strong but unsuccessful efforts to have this sweeping disability removed.

Although numerous state and local official bodies apply unwisely repressive legislation, there appears to be relatively little irresponsible going beyond the law, at least in formal action. However, the New York Civil Liberties Union, in October, 1953, criticized the Municipal Civil Service Commission which had issued an order requiring applicants for employment to answer questions concerning past or present membership in "subversive" organizations. NYCLU said the order was "vague and indefinite," and "especially regrettable because it might disqualify an otherwise qualified applicant who may have held membership in an organization years ago when it was not considered subversive." The Commission was also reminded that the Attorney General's list is itself under attack on constitutional grounds.

Security and Private Employment. A difficult civil liberties question is raised by that part of private industry which carries on a mixed program of defense contract and non-military work. While appropriate security measures can properly be applied to workers dealing with classified material, or in sensitive operations, a problem arises with respect to other workers. Thus, General Electric requires each applicant for employment with it, whatever the nature of his work, to execute a pre-employment statement to the effect that he has no present or past connection or record of subversion, or failure of clearance. General Electric believes that it is desirable for Congress to set forth a general pattern for the screening of all persons in defense plants but that in the absence of such a program the company must assume the responsibility itself.

The ACLU, however, does not believe that a security program should be administered by private organizations, on the following grounds: 1—any applicant for employment inclined to espionage or sabotage would not hesitate to sign such a statement, 2—since private industry cannot properly have access to the files of government investigative agencies, there is no way in which it can test the guilt or innocence of a particular applicant on the "subversive" issue, 3—prior refusal of clearance by the government to classified information does not, necessarily, mean that a person could not be a valuable worker on non-classified material, 4—it is inappropriate for a private organization to
go beyond what the competent security officers of national defense require—in a way that necessarily infringes upon freedom of speech and association. The Union also recognizes legal difficulties: 1—no adverse inference can be drawn from refusal to testify before a legislative committee, in and of itself, and yet the private industry criteria make exactly this ruling, 2—certainly no adverse inference can be drawn when a person refuses to testify under the protection of the First Amendment. A discharge solely on the basis of refusal to answer in public hearings is not a proper basis for discharge. In summary, the ACLU believes that no private employer should arrogate to himself the power to determine what is best in the interests of national security.

The California State Un-American Activities Committee in August, 1953 recommended the dismissal of five employees of Pacific Gas and Electric, a private utility; the committee also recommended that liaison be established between it and private corporations with a view to screening our security risks. Northern California has strongly protested this action as exceeding the authority of the state committee and as a denial of due process to the employees concerned.

**Community "Nerves" and the School.** In March, 1954, New York City Councilman Robert E. Barnes introduced a resolution calling for the signing of a loyalty oath by all officers of Parent-Teacher associations. The NYCLU lodged a strong protest, pointing out that the proposed requirement would be a test oath of negative and intimidatory character, that officers or members of private associations should not be required to sign a special oath which is not required of elected officials, and that the requirement of such an oath is not the proper business of the City of New York and that the resolution is, in fact, unconstitutional. The resolution failed.

A revealing situation developed in Indiana when objection was raised to the reading by school children of the story of Robin Hood, allegedly Communist because it told of someone who robbed the rich to help the poor. The Sheriff of Nottingham, England solemnly denied the slur cast upon the enemy of his predecessor. The situation became somewhat more serious when the same critic demanded that all mention of Quakers be excised from the school texts because the Friends oppose war.

**Other Loose Procedures.** In Norwalk, Connecticut, it became known that the local post of the Veterans of Foreign Wars had set up a private screening board to pass on suspected subversives; the VFW requested reports on any "suspicious activity" among their fellow-townsmen; the committee would then "evaluate the evidence" and, if necessary, pass it on to the FBI. ACLU Executive Director, Patrick Murphy Malin, charged the Norwalk post with a campaign that "smacks of vigilantism . . . foreign to the American concept of due process." He noted that
the committee, by accepting and rejecting reports, would serve as "a censor of the information submitted to it, a role that should be played only by trained, governmental experts in anti-subversive work."

Later remarks by members of the local VFW indicated that a subversive might be "a guy who goes around town and sort of shows a point of view against our churches, schools, or system of government." Finally, the Norwalk post commander retreated, and was quoted as saying "there is no secret committee and there is no screening committee"; he also denied the past existence of such a committee.

**FREEDOM IN EDUCATION**

1. General Problems

The tensions of world-wide crisis inevitably affect the spirit of freedom which is central in the educational process. Although many of the specific issues which arise are part of the security problem, the essential conflict is between orthodoxy and authority on the one hand, and freedom of the mind on the other, for both students and teachers. The ACLU is glad to report that there have been numerous recent examples of the victory of the free mind which partly counterbalance unhappy instances of timidity and repression.

*The Question of Orthodoxy; Educational Foundations.* The Reece Committee, successor to the Cox Committee, undertook in 1954 a Congressional investigation of tax-free educational foundations. Preliminary statements by the committee research director and his associate alleged that many foundations had a strong inclination toward "leftism," "state-ism," "undue internationalism," and "globalism," and that interlocking directorates among the chief educational associations and the foundations virtually amounted to a conspiracy against traditional American values. Representative Wayne L. Hays, a member of the committee, became disgusted with the nature of the evidence; on one occasion he read a number of passages which the associate research director, then on the witness stand, said were "closely comparable" to "Communistic ideals"; Mr. Hays then revealed that the passages in question were taken from encyclicals by Popes Leo XIII and Pius XI.

The committee decided that rebuttal testimony by the foundations would be accepted only in the form of statements—admittedly to be made public—without opportunity for oral development or the advantages of direct examination or cross-examination.

*Orthodoxy; Lysenkoism.* Eight years ago, Professor Trofim D. Lysenko, Soviet geneticist, brought up-to-date the eighteenth century idea of Lamarck, French naturalist, who argued for the inheritance of
acquired characteristics. Lysenko's writings were closely integrated with the Soviet philosophical and social view. It was very widely held in this country that any American geneticist subscribing to Lysenko's theory might well be considered an example of servile submission to Communist Party line doctrine. Now, in 1954, reputable American biologists indicate that the evidence of the research laboratory demands further consideration of the Lysenko theory. But in terms of academic freedom at least one American scientist has, in the intervening years, been subjected to political and professional condemnation, although it appears possible that he may have had an earlier insight than his fellow-scientists. The ultimate in confusion was reached when, in July, 1954, Lysenko was subjected to bitter attack by Soviet officialdom.

Fear on the Campus. Anti-intellectualism has, unfortunately, sprung in some measure from unwise suggestions at high official levels. Thus, in July, 1953, a Jenner Committee report recommended the country-wide institution of systems of loyalty appraisal and surveillance for American colleges and universities. Senator McCarthy has also suggested that tax-free status be taken from educational institutions which do not handle their loyalty problems, particularly teachers pleading the Fifth Amendment, to his liking.

The ACLU is often asked whether current conditions have actually led to a state of fear on the American campus. The many educators associated with the work of the national and local ACLU organizations are generally of the opinion that such an unhealthy condition does exist. The Harvard Crimson sixth annual report on academic freedom quotes Dean Milton Muelder of Michigan State College as saying that investigations have "cast a pall, a shadow, creating doubt as to how far scholars can now go in discussing controversial issues," and President Virgil Hancher of Iowa State said, "the academic motto for 1953 is fast becoming, 'don't say, don't write, don't go.'" And Professor Milton R. Konvitz of Cornell believes that investigations have spread fear and bitterness "if not hysteria and panic" among American faculties.

The Illinois Civil Liberties Union in 1953 and 1954 conducted a survey of academic freedom and in a preliminary analysis announced conclusions supporting the view that a good deal of timidity and fear exists.

2. Security and Loyalty Problems

USAFI. In 1953 the Defense Department conditioned the granting of United States Armed Forces Institute contracts on the teachers' receiving security clearances. ACLU Executive Director Patrick Murphy Malin observed that "freedom in education, must, under the Constitution, be fully protected from infringement—however well-intentioned the regulation may be or however strong the sense of peril. In educa-
tion, as well as other areas, the Union is concerned lest governmental control extends so far as to impose strict conformity on our national life.” The proposed program would “open the door to a similar action by other government departments . . . [and] through the mere accident of their unemployment in an institution which desires to sign a USAF contract” individual teachers might find themselves subjected to security scrutiny and judgment. The ACLU agreed that security criteria should be applied by government authority in areas where classified information is made available to teachers, or in those areas where the government and the institution concerned agree on the sensitivity of the area of instruction. But, where security or sensitivity do not control operations, “employment and utilization of staff should be a matter for the authority and discretion of the institution.” “American educational institutions must preserve their right to employ and utilize teachers according to established educational criteria of professional competence, free from control by non-educational authority.”

**Fulbright Scholarship Cases.** In July, 1953, the ACLU protested the rescinding of a Fulbright scholarship granted to Brooklyn College professor Naphtali Lewis. On June 19, Dr. Lewis’ wife refused to testify about possible past membership in the Communist Party; at this session Lewis learned from Sen. Joseph R. McCarthy, chairman of the Senate Permanent Subcommittee on Investigations, that his Fulbright scholarship had been withdrawn. ACLU noted the likelihood of widespread belief that the State Department was yielding to pressure from an investigative committee. Patrick Murphy Malin’s letter to Secretary of State Dulles said that “no evidence as to Dr. Lewis himself has been made public which justifies the cancellation of his award . . . we assume, therefore, in the light of the June 19 hearings, that Mrs. Lewis’ past associations have been a determining element in the cancellation, but surely, even if her activities of the past could properly be considered (which we do not know) marriage in itself is not enough to justify a conclusion of guilt by association.”

The Margo Skinner case has been noted above, page 20.

**California Laws Affecting Teachers.** The Dilworth and Luckel Acts permit inquiry into the political beliefs of teachers and provide dismissal in event of non-cooperation. Both Southern and Northern California ACLU affiliates are testing these laws. Seven Los Angeles school teachers refused to answer before various bodies about their beliefs and associations, including possible Communist Party membership; one pointed out that she had signed in good faith a California loyalty oath. Other cases involve Clinton St. John, dismissed from Orange Coast College, and Harry C. Steinmetz, a San Diego State College professor. Steinmetz, although refusing to answer the question "are you presently
a knowing member of the Communist Party?" did tell the State Board of Education, "I have never in my life, nor ever will, belong to an organization that advocates force and violence against this state, the United States, or any part of it."

Northern California ACLU is representing eight "unfriendly" witnesses who refused to answer questions put to them by the House Un-American Activities Committee. The most important of these is John Mass, instructor in English at San Francisco City College. His offer to answer questions concerning Party membership before the Board of Education, was refused and he was served with a dismissal notice.

Several of these cases have been decided adversely to the teachers at the first level of court action; appropriate appeals are being taken and final decisions should soon be reached.

Northern California ACLU has interested itself in the case of a visiting professor at the University of California who in April, 1953 stated that he had been deprived of the privilege of teaching because of charges of past Communist affiliation, which threw doubt upon the truth of his Levering Act oath. The University's Committee on Privilege and Tenure was told by Chancellor Kerr that there was information believed credible to the effect that there had been Communist affiliations during the five-year period preceding the person's appointment to the university, but that he was not at liberty to release this information officially to the committee. Northern California ACLU believes that the case represents a "complete denial of the presumption of innocence, of the right to answer detailed charges duly made in support of any evidence produced and in the hands of the hearing body, of the right to be present when testimony is given, of the right to confront accusers, cross-examine witnesses—and, indeed, of the whole requirement and spirit of fair hearing and due process."

The New Jersey Investigation. A 1953 report by an official New Jersey commission noted that out of 264 superintendents and presidents of boards of education queried only 7 suspected the presence of subversive teaching or activity in the public school system. One of these did not identify himself, and the other six were not able to offer any actual information. Only 12 out of 309 PTA presidents suspected subversive or un-American activities, and again, no specific information was forthcoming.

Other Refusals to Answer. In the Novikoff case at the University of Vermont, a well-known cancer research expert, while not charged with any suspicious activities at the University, appears to have given unsatisfactory answers, to a hearing committee of teachers and trustees, about certain visits to former associates in other institutions. Perhaps his real difficulty lay in an unwillingness to discuss the names of per-
sons he had known who may have been members of the Communist Party; the case ended when he was dismissed with a year’s pay. Counsel for the national ACLU Academic Freedom Committee filed a brief with the Vermont Board of Regents, challenging the procedure and questioning the criteria applied by them. In Boston, George R. Faxon appears to have been discharged solely on the ground of his refusal to answer questions by the Jenner Committee; his case is being supported by the Civil Liberties Union of Massachusetts on constitutional grounds. In the Abraham Glasser case at the University of Rutgers, this law professor refused once more to answer questions put by a legislative committee because he claimed that he had answered them many times in the past and that further questioning represented harassment. Rutgers University still labors under the disability of a December, 1952 regulation by the Board of Regents requiring automatic dismissal of any teacher who refuses to answer a legislative inquiry; this provision has been vigorously opposed by the ACLU. Glasser was forced to resign.

The Parry Case. The ACLU does not ordinarily concern itself with properly arrived at faculty committee judgments in academic freedom cases. However, in the case of Dr. William T. Parry, the Niagara Frontier ACLU Chapter felt obliged to publish its serious doubts on such a judgment. Parry refused to testify freely and completely before the House Committee on Un-American Activities. A University of Buffalo faculty committee recommended that he be deprived of tenure and permitted to remain on the faculty only on a year-to-year basis. The Union affiliate applauded the faculty committee for “its full consideration of all the elements in Professor Parry’s record, . . . [and for] good procedure and apparently judicial consideration.” But, since the committee found no failure in professional responsibility to the institution, it should not have proceeded to the recommendation of “a severe penalty upon the fact of mere failure to reply . . . the vital point is . . . [that] penalty should not be meted out solely for refusal to answer . . . this fact should be taken into account and weighed in light of the particular circumstances of the case.”

Sanity at Work. In a notable change of policy, the Lincoln, Nebraska, post of the American Legion was instrumental in defeating a proposed loyalty oath bill aimed at the University of Nebraska. Previously, this same Legion post had condemned a history professor at the university for using a textbook published under the auspices of the Institute of Pacific Relations; this action was met by vigorous protest from students, faculty, the campus newspaper, and the Lincoln Star, all of which defended the professor’s right to select his own textbook. The change in the Legion’s thinking was confirmed when, shortly after
the withdrawal of the loyalty oath bill, a $1,000 grant was made by the Legion group to finance a university study of democratic ideas as taught and practiced in Nebraska schools.

"Subversive" Textbooks. Although a blank refusal to have anything to do with UNESCO literature sometimes operates in the schools, as in numerous California situations, a more typical pattern of censorship and invasion of academic freedom is that seen in the practice of the Denver School Board which unanimously approved in December, 1952 new criteria for the selection of textbooks and other instructional materials; the criteria were opposed by the Colorado ACLU, the Citizens Committee for the Denver Public Schools and the Denver Federation of Teachers. Opposition was directed mainly at two requirements: the first, that "so far as can be ascertained, the author supports the principles of American constitutional government," and the second that "the nature and content of the material are consistent with the principles of American constitutional government." It was pointed out that these standards would eliminate the work of many writers who happen to hold in past times or other countries different ideas of social and political organization to those presently held in the United States. The ACLU particularly queried Superintendent of Schools Oberholtzer on the dropping of Human Rights by Roger Baldwin, ACLU International Work Adviser. The superintendent replied that Mr. Baldwin’s pamphlet had been dropped because a reviewing committee had found in it "many broad and rather dogmatic generalizations"; he said that it had not to that time been returned to the list, although a new review committee would undoubtedly consider it along with fifty-one other pamphlets dropped in 1952.

3. Students: Democracy vs. Paternalism

The generally prevalent assumption that enrollment in an educational institution is a matter of privilege rather than a right, places the American student at this time in an unhappily vague position. He knows he has the right to freedom of inquiry and expression possessed by all citizens, but he does not know the degree or manner in which this right may be exercised in a particular institution where his presence is supposedly a matter of grace. Nor, if conflict arises about his right, does he ordinarily encounter established rules and procedure for the consideration of his case. Because of this picture the ACLU Academic Freedom Committee has begun a full-scale study of academic freedom and civil liberties problems of the American student.

Last fall the editors of the Red and Black, University of Georgia newspaper, were put under pressure by the university regents because of their stand against racial segregation. The particular issue involved
a Negro who had sued for admission to the university; as his case was about to be considered by the courts, he was reclassified from IV-F to I-A for military service. Roy V. Harris, an Augusta, Georgia, editor and political figure, attacked the editors of the college paper, calling them "a little handful of sissies and misguided squirts," and said that "the time has come to clear out all of these institutions of all Communist influences and the crazy idea of mixing and mingling of the races which was sponsored in this country by the Communist Party." He added that "the state of Georgia pays a big price to educate its college students. If the state is willing to spend this money it has the right to control what is taught and what is done at the university." The student editors resigned, and were followed by other editors who also resigned after faculty censorship was imposed; but the final spring edition of the Red and Black was still able to print a column headed, "Segregation Is Wrong."

Students at the University of Michigan are disturbed by the presence on the campus of a state police officer who is alleged to have asked the staff of the University of Michigan Daily whether certain students were politically O.K.

4. Academic Due Process

In April, 1954, the ACLU published Academic Due Process, which sets forth full and fair procedures for dealing with academic freedom cases in schools, colleges and universities. The pamphlet points out that the teacher, the institution, and the community have a stake in an academic freedom case: "all of these interests are best guarded by the application of a clear, orderly and fair procedure to the adjudication of a case. . . . Good procedure in academic freedom cases has the same excellent power that legal due process has in the courts—it substitutes the rule of law for the rule of men."

Two basic principles are set forth: full confrontation and presumption of innocence.

The pamphlet suggests that informal conciliation be attempted, with the teacher and administrative authorities seeking to settle the problem through study of the facts and exchange of opinion. For those cases where a full-scale hearing is necessary, detailed suggestions for orderly and fair procedure are offered. Collaterally, it is noted that summary suspension or dismissal of a teacher should be ordered "only when serious violation of law or immoral conduct is admitted, or proved before a competent court, . . . all charges should first be heard in formal hearings." Special attention is given to the problems of non-tenure teachers.

This pamphlet, prepared by the ACLU Academic Freedom Committee is especially timely in view of the pressures on education, grow-
ing out of legislative investigations and local attacks on schools and colleges. No similar formulation of academic due process appears to have been published by any national group.

Violations of Academic Due Process. The Colorado ACLU chapter has vigorously interested itself in the cases of several teachers who have been summarily suspended because their administrative superiors have received from Governor Thornton a statement that he had in his possession "official" or "authoritative" information raising serious questions about the suitability, i.e., the loyalty, of these teachers. The governor said that his information came from a responsible governmental source but refused to reveal its origin. These teachers, therefore, seem to have been suspended from work on the basis of charges unknown to them, unknown to their superiors, and unidentified as to source—all gross violations of academic due process.

Philadelphia Cases. During the past several months Philadelphia school teachers and college and university professors have been the victims of numerous high-handed violations of academic due process. Greater Philadelphia ACLU has released a report on the dismissals at Jefferson Medical, Temple, and on the school teachers.

In the Jefferson Medical College case, the Union made four charges: 1—"The Jefferson Professors were heard by the College’s Loyalty Board on one question, and fired on another." 2—the college refused to state the grounds for dismissal, 3—"faculty participation in the procedures which led to dismissal were so minimal as to be almost non-existent," and 4—"the college not only changed the rules governing the proceedings without notice but failed to notify the men and their attorneys that the change had been made." The hearings took place in August, 1953; on November 30, the men were summarily fired, and told that "Jefferson was under no obligation to have informed them of the change" in the rules.

Twenty-six public school teachers lost their jobs solely because of their refusal to answer the House Committee; none of them refused to answer questions put to them by the Philadelphia Board of Education and all of them signed a state loyalty oath.

In the case of Professor Barrows Dunham, of Temple University, when the ACLU submitted a statement of facts to Temple University for criticism, the University said that publication of an ACLU report would lead to release of further adverse information about Professor Dunham; he, however, authorized the Union to go ahead.

ACLU Citations. The ACLU national Academic Freedom Committee announced in 1954 the citation of individuals and organizations who have within recent months effectively demonstrated their belief
in the principles of freedom and equality in education. They included: the Scarsdale (N.Y.) School Board, the electorate of the Scarsdale school district, and the Scarsdale Inquirer; Professor Frank Richardson and Walter Van Tilburg Clark of the University of Nevada; John A. Mackay, president of Princeton Theological Seminary; Robert M. Hutchins, president of the Fund for the Republic; George D. Stoddard, formerly president of the University of Illinois, and the twenty-two heads of departments at the U. of Illinois who vigorously protested the dismissal of President Stoddard; Wendell S. MacRae of Penn. State University (whose case was discussed in the last ACLU report); and the trustees and administrative officers of Harvard University. Also, see below, page 80, for citations relating to discrimination against Negroes.

RELIGION AND CONSCIENCE

One group of difficulties in this area involved conflict between the beliefs and principles of individuals and organizations and the authority of the state, and in this group the largest number of particular cases involved conscientious objectors. A second group of difficulties derived from the attempts of religious organizations to utilize or to identify themselves with the authority of the state to a degree incompatible with the American constitutional principle of separation of church and state.

1. Conscientious Objectors

Notably complete records are maintained by the Central Committee for Conscientious Objectors of Philadelphia, although these records do not cover Jehovah’s Witnesses or Moslems. The Committee reports that for the period from June 30, 1953 to June 15, 1954 there were 63 prosecutions resulting in 48 convictions and 15 acquittals. Of the 48 convictions, 36 were for refusal to submit for induction by men denied I-O classification, 1 for refusal to report for civilian work, 1 for leaving civilian work, and 2 for failure even to register. The remaining 8 convictions were “second prosecution” cases, which the ACLU has particularly opposed as violative of the Constitutional prohibition against double jeopardy. The penalties imposed in the second prosecution cases were somewhat less severe than those reported last year: two men were placed on probation, two were given one-day sentences, and four were given two-year sentences. In the forty “first offense” conviction group, sentences averaging 27 months were imposed in 35 instances.

According to the attorney for Jehovah’s Witnesses, 138 members of that sect are presently in prison for violation of the Selective Service Act.

A number of important cases were decided in the conscientious
objection field. In the Alvies case, a religious man, with notably religious forebears, but not a member of any particular sect or organization, failed to report for induction. Judge Oliver K. Carter in San Francisco rules that "there is nothing in the statute or regulations which requires membership in a sect or organization in order to qualify as a conscientious objector." In the Dickinson case, the U.S. Supreme Court ruled 6-3 that Dickinson's refusal to be sworn into military service, on the claim that he was a minister of religion, was justified; although he dissented, Justice Jackson underscored the majority view that "The Board must find and record affirmative evidence that ... [the objector] has misrepresented his case—evidence which is then put to the test of substantiality by the courts."

In the Taffs case, the U.S. Court of Appeals for the Eighth Circuit held that CO status could not be denied to a man who admitted he was willing to use force in self-defense and that he would fight in a theocratic war. The court said: "Whether a certain war is theocratic or not, is a matter of religious belief into which we are forbidden to delve." The Sereda case involved a conscientious objector who is presently serving a three and one-half year sentence in the Federal Reformatory. The Immigration and Naturalization Service ruled that Sereda's refusal to report for induction into the Army constituted a crime involving moral turpitude, and furnished a base for deportation proceedings. This ruling was reversed by the Board of Immigration Appeals. The same Board overruled a second attempt to deport Sereda under the McCarran Act as an undesirable resident, by reason of his having violated the Selective Service Act; the Board held "he is a conscientious objector on religious grounds."

In a 1953 decision, the U.S. Supreme Court held that objectors should be given a "fair resume" of adverse information collected by the FBI. Later in the year, in the Evans case, Judge Carroll C. Hincks, then sitting in the U.S. District Court in Hartford, Connecticut, sustained the argument that it was impossible to determine whether or not a fair resume had been afforded unless the FBI report itself was made available for study; the judge ruled that only the names of informants should be kept secret.

2. Other Denials of Religious Freedom

**The Jost Case.** Arthur Jost, a Californian who is West Coast Director of the Mennonite Church Central Committee was born in Canada; he recently sought U.S. citizenship and was required to take the standard oath of allegiance which would have him swear to bear arms in support of his country. Upon refusal, he was denied the privilege of taking the alternative oath provided by law for conscientious objectors, on the ground that there was insufficient evidence that the Mennonite
creed required him to reject military service. In an unusual last minute procedure, the government, represented by the Solicitor-General, filed a written "confession of error" admitting that Jost's naturalization had been improperly denied by the lower federal courts. Apparently an individual's own religious training and belief may be the test of his conscientious objection.

**Jehovah's Witnesses.** Oklahoma Adjutant-General Roy W. Kenny banned a meeting of the Jehovah's Witnesses in the State Armory at Cushing, Oklahoma, and advised other state armory boards that they should not lease or rent places to the Witnesses. He stated that representatives of his office had met with the Witnesses before the final action was taken, the discussion clearly revealing that the aims and teachings of the Witnesses were opposed to the aims and teachings of the National Guard. He also pointed out that there was "much general feeling against their sect." The Rev. Frank O. Holmes, Unitarian minister in Oklahoma City, and ACLU State Correspondent, protested this discriminatory action.

### 3. Separation of Church and State

**Federal Law and Administration.** In June 1954, President Eisenhower approved legislation passed by Congress, revising the pledge of allegiance to the flag, which now reads "... one Nation, under God, indivisible, ..." Although this legislation may be no more than advisory, a recommendation by Congress without any legal effect, the widespread use of the revised pledge may well raise a test case of constitutional import. If the constitutional issue of separation of church and state is properly raised, the ACLU will file a friend of the court brief.

The American Humanist Association in the spring of 1954 strongly objected to the issuance of an eight-cent stamp bearing the words "In God We Trust." It was argued that such language opens the door to a definition of God and that, sooner or later, the non-believer in the official version will find himself a second-class citizen. The Association stated that it believed the Post Office decision to be the result of "clericalist aggression."

**The Church-State Problem and the Schools.** Two questions, that of the invasion of the public school by sectarian influence and practice, and that of the allocation of public funds to the support of sectarian schools, have in the past year demanded serious attention in several states. Problems of this kind should be solvable in terms of the constitutional provision with respect to the separation of church and state, particularly as set forth in the recent McCollum and Everson cases, but the force of the constitutional principle has been weakened in some
degree by failure to understand it, by some practice of mere lip service, and, occasionally, by outright defiance.

**Missouri Decisions.** A report by the Missouri Association for Free Schools indicated that 94 nuns were employed in 25 Missouri schools where their pay as teachers came from public funds. Total state and local tax support for these schools amounted to nearly one million dollars a year. In June, 1953, the Missouri Supreme Court ruled on two schools, formerly operated by the Roman Catholic Church as private parochial schools, but inducted into the free public school system in 1931. The court said that any "changes made had not been sufficiently substantial to make either of said schools a free public school"; the court also found that the two schools were "controlled in the main by members of recognized orders of the Roman Catholic Church and by officials thereof; each of said schools to a great degree is managed and administered in a manner to promote the interests and policies of the Roman Catholic Church and of adherents of the Roman Catholic faith." Finally, the court said that these were not free public schools within the meaning of the constitution and laws of the state of Missouri and therefore ineligible for support from public school funds and by public authority.

In another Missouri case decided at the same time, the state supreme court ruled that state money could not be used for the transportation of parochial school students. (The Everson case merely held that such transportation was permitted under the U.S. Constitution.)

**Colorado.** A state district court, in 1952, held that a Logan County school, staffed by nuns, did not adequately separate church and state. In June, 1953, the Acting State Education Commissioner ordered public funds withheld from four schools in another county, but he was later overruled by the Board of Education which accepted the argument that dismissal of fifteen teaching nuns in these schools would cause the closing of the institutions in an area where the majority of the population was Roman Catholic, and the accompanying argument that the Logan County decision was binding only in that district.

**Illinois; the Larson Case.** In June, 1953, after suit was filed, a group of teaching nuns resigned their public school posts in the Johnsburg schools. Early in 1954, an Illinois County Circuit Court eliminated as defendants the county superintendent of schools, and the state superintendent of public instruction, but also ruled that recent changes made were not sufficient to make the case moot. The Illinois ACLU has been actively supporting this test case in order to get a decision on the merits. In a brief before the Circuit Court, the ACLU stressed the following points: protection against future violations could be assured
only by a court decision on the legality of the challenged acts; if the suit were dismissed, practices prevalent in thirty other schools would require the filing of that many separate suits; although state officials say they do not know whether the acts complained of are illegal, they have taken no step to arrive at a determination.

**Kansas.** A 1953 report of the Kansas State Department of Public Instruction lists a total of 204 private and parochial schools in that state; of that number 144 are Catholic, and 42 are Lutheran. These schools employ a total of 708 teachers. The report further indicates that 70% of these teachers are not registered with their county superintendents of schools, as required by law; 44% of the schools do not report enrollment and attendance information as required by law; 13% of Kansas private and parochial schools operate an undetermined number of months each school year, although required by law to operate at least eight months; and county superintendents never visit 45% of these schools, although required by law to do so. The report also indicates that the salaries of teaching nuns are not subject to withholding tax according to the local collector of internal revenue, although local school boards consider these teaching nuns to be independent contractors and not church agents.

**Kentucky.** In this state 85 nuns are teaching in public schools in three counties. The state attorney general has refused to act on the question of public funds because the problem has not been presented to him by state or local officials. In October, 1953, the Louisville Courier-Journal ran a series of articles on the whole church-state problem in its relationship to schools, a series notable for its comprehensive and fair character. It was pointed out that Protestants will also have to examine their position; "Bible" courses are prescribed in certain schools, and "missionary teachers" turn over their salaries to their organizational connection, just as nuns turn their salaries over to their superiors.

Among the points raised in the brief submitted by the Free Public Schools Committee on the Kentucky test case are these: 1—the problem of unavoidable sectarian emphasis, created by the garb, symbols, and manner of life of teaching nuns, 2—dismissal of schools for religious holidays, 3—daily segregation of Roman Catholic pupils for religious instruction (note the McCollum case), and 4—the general question whether the state is aiding sectarian schools and thereby violating constitutional prohibitions. The situation is difficult because in some poor districts it can be argued that the churches are aiding public education rather than that the state is aiding sectarian education.

**Michigan.** In Michigan, the State Superintendent of Public Instruction found these characteristics to be present in a public school, from
which he found it necessary to withdraw state aid: 1—non-Catholic pupils were sent to outside schools, 2—teachers were supplied by Church authorities, 3—pupils were assigned profoundly sectarian reading, 4—the belief of the pupils that they were attending a Catholic school, 5—Catholic holidays were designated as official for the school, 6—the exemption of teachers from federal income tax as religious functionaries, and 7—a sign "St. Michael's School" above the building.

**Miscellaneous Church-School Problems.** In North Carolina, it has been the custom of the Ahoskie High School for twenty-eight years to conduct its graduation exercises in a Baptist Church. This was protested by a Roman Catholic priest who pointed out that "a tax supported school is identified with a particular denomination." It is significant that a similar protest was made by the national president of Protestants and Other Americans United for Separation of Church and State, himself a Baptist minister. In Portland, Oregon, Circuit Judge Alfred P. Dobson recently ruled that children attending parochial and other private schools must be admitted to the public school speech-therapy classes, despite the argument of the public school system that it should be responsible only for children within its jurisdiction and the fear expressed that there would be nothing to prevent religious schools from demanding and obtaining special services of other kinds, such as chemistry courses, and the like.

**New Jersey Gideon Bible Case.** In a unanimous decision, the New Jersey Supreme Court specifically enjoined the Rutherford Board of Education from distributing copies of the King James version of the New Testament and parts of the Old Testament, supplied by Gideon International, Inc., even though the school board had taken such precautions as seeking prior parental permission to distribute the Bibles and actually distributed them after school hours with a conscious attempt to draw as little attention as possible to the distribution. The test case was brought by Jewish and Catholic parents of school children, with the support of the American Jewish Congress and the Catholic diocese covering Rutherford.

The N.J. Supreme Court was convinced that the Gideon Bible is unacceptable to persons of both Jewish and Catholic faith and held that "the state, or any instrumentality thereof cannot, under any circumstances, show a preference for one religion over another." The U.S. Supreme Court has refused to review the N.J. decision.

**Religious Holidays.** Each year, the ACLU receives a number of protests against the observance of sectarian religious holidays in the public schools. The Union, from time to time, also learns of solicitation of funds by religious groups in public buildings, incidental religious
overtones to the Christmas holidays and the holding of sectarian religious exercises in "non-denominational" chapels in public buildings. The Union observes these practices and recognizes in them problems of separation of church and state, but, as long as more fundamental issues remain to be solved, the need to economize energy suggests the wisdom of not testing these practices at this moment.

**Family Problems.** The Appellate Division of the New York Supreme Court in a 3-2 decision affirmed the ruling of a lower court which held that a mother having custody of a twelve-year-old child was entitled to educate him in the mother's religion of Christian Science, although she had entered into a pre-marital agreement that all the children of the marriage were to be brought up in the Catholic faith. In Massachusetts, a Supreme Judicial Court decision is awaited on an appeal from a lower court which refused to allow the adoption by a Jewish couple of illegitimate twin children born to a Catholic mother. The lower court ruled that under Massachusetts law, despite the consent of the mother, and the probable service of the children's best interests, adoption across religious lines is prohibited.
Part II. JUSTICE UNDER LAW

No free-man shall be seized, or imprisoned, or dispossessed, or outlawed, or in any way destroyed; nor will we in any way condemn him, nor will we commit him to prison, excepting by the legal judgment of his peers, or by the laws of the land.

To none will we sell, to none will we deny, to none will we delay right or justice.

Magna Carta, Articles 39 and 40, 1215.

THE POLICE

During the past twelve months there have been reported to the ACLU fewer cases of overt brutality by police officers, but harassment and the improper application of detection methods continue to represent illegal action by the police or investigating authorities.

1. Brutality

Mistreatment of Prisoners. L. T. Jones, a Florida state prison official, was charged with beating prisoners with his fists and feet and a rubber hose because they had escaped or in order to get information from them. The U.S. Court of Appeals in North Carolina reversed an unfavorable lower court decision, holding that “federal laws may be violated within [state] prison walls.” ACLU Executive Director, Patrick Murphy Malin, congratulated Arthur B. Caldwell, chief of the civil rights section of the Department of Justice, on the first federal decision extending civil rights law protections even to criminals in confinement.

Illinois Cases. The Illinois ACLU, determined to make a full-scale attack upon police brutality, printed up poster-size photographs of the victims of rough handling, distributed them as handbills in the vicinity of each incident, and asked that witnesses come forward. The Chicago press cooperated fully in this campaign. Furthermore, an Illinois jury, in the Bucher case, awarded a verdict of $50,000 to the victim; the jury found, as a matter of fact, that Bucher had been attacked and shot without any cause or reasonable suspicion. In another Illinois case, an ex-convict was arrested in connection with a burglary, held for forty hours without booking, then booked on a disorderly conduct charge, and subsequently released. Because of the length of time he was held, he lost his job, and suffered actual damages amounting to $4,000. Illinois CLU took the case to court and the plaintiff received judgment of $4,000 from the jury. Notwithstanding, the court gave a judgment for only $40.
ANIMALS WILL KINDLY FOLLOW THEIR OWN RULES OF PROCEDURE

"FAIR IS FAIR"

HERBLOCK
© 1964 THE WASHINGTON POST CO.
The ACLU appealed to the Illinois Supreme Court on the ground that the right of trial by jury had been infringed upon; that court, although upholding the facts as presented by the Union, ruled that there was no question of constitutionality involved. A petition for re-hearing has been granted.

2. Other Unlawful Police Action

Greater Philadelphia ACLU, in October, 1953, took strong issue with Police Commissioner Thomas Gibbons' order to arrest on sight "for questioning" twenty-one alleged racketeers every time they might be seen in Philadelphia. Stressing that it took no position on the question of whether the men were racketeers, the ACLU said "if the Police Department has information that these men have committed crimes, let warrants be sworn out for their arrest, and let them be tried," but objected to repeated arrests without warrant. The case was soon closed; three men were arrested and charged with being "public nuisances," the district attorney said he had never heard of such a charge, and the magistrate dismissed the cases.

New York City. Last year's report carries the details of the alleged agreement between former New York City Police Commissioner Monaghan and the Criminal Division of the U.S. Department of Justice, providing for the investigation of all alleged police brutality cases by the New York City police rather than by the FBI. A Congressional committee wrote a report which was buried for many months but finally released in June of 1954; the majority report was critical of Commissioner Monaghan as overzealous in defense of his force and said that the question of whether such an agreement existed must be resolved against Monaghan. NYCLU sent a congratulatory letter to Representative Kenneth B. Keating, Chairman of the House Judiciary Subcommittee which made public the report, stating that "We are confident that the facts disclosed by your action will serve notice on public officials that secret agreements will not be tolerated when they affect the rights of citizens."

St. Louis and Minneapolis. Other ACLU affiliates are keeping tabs on illegal action. The St. Louis Committee has concerned itself with the improper arrest of venereal disease suspects; the Union has intervened on behalf of persons held improperly or with old records, or apparently persecuted by frequent arrests. The Minnesota ACLU is looking into the Minneapolis practice of holding arrestees in jail incommunicado for at least four hours, and perhaps a longer time. The authorities claim that money is not available to provide jailers who would facilitate immediate contact of such persons with their families or attorneys.

55
False Arrest Suit. Six years ago, two persons were among a group of pickets arrested during a N.Y. demonstration of the War Resisters League which demanded amnesty for imprisoned conscientious objectors; the arrests took place despite the fact that an inspector had approved plans for the demonstration. The defendants were acquitted in May of 1953; in October, a false arrest suit was settled out of court when Frank Fristensky, Jr., the police officer who caused the arrests, in 1953 first assistant Police Commissioner, agreed to insert in the court record of the case, a public apology: "I regret that I ordered the arrest of these persons conducting this demonstration, and I apologize for any inconvenience, embarrassment and discomfort they may have suffered."

Lie Detectors. The Due Process Committee and the Board of Directors of the ACLU have re-examined the general problem of the use of lie detectors. The Union's present view is that it is violative of civil liberties to use any compulsion, moral or legal, to require a person to take a lie detector test. The Committee noted that there is an insufficient number of experts to operate these tests, that many subjects show temperamental unsuitability for testing, and that other subjects are temperamentally suited to lying, thereby passing the test. The Union also believes that the fact of declining to subject oneself to the test, cannot be evidence of guilt; and that even if the test is purportedly voluntary—when offered to a large number of persons, many of whom will agree—it is still improper because it is, in effect, compulsory; finally, lie detector findings should not be admitted as evidence. It is agreed that no civil liberties objection can be made to a person's volunteering to subject himself to a test.

Registration and Fingerprinting. ACLU General Counsel Arthur Garfield Hays, writing on behalf of the Union, called on three New Jersey cities to revoke ordinances requiring the registration and fingerprinting of all non-resident workers; such regulations, Hays said, "cut directly across the rights of due process guaranteed each individual in the Fifth and Sixth Amendments, and are unwise and unnecessary." The ordinances had been adopted in an effort to check crime, particularly that occurring in hotels where out-of-state workers frequently gave false home addresses and references. Recognizing that a serious crime problem faces these communities, Hays noted the practice of New York owners of hotels who bond their employees, and suggested, as another alternative, registration and fingerprinting by the private employers.

Drunkometer Tests. A drunkometer is a device which measures the concentration of alcohol in the human system; suspects are asked to breathe into a simple apparatus which may be used in any police
station. Two courts have already handed down pertinent rulings. The Arizona Supreme Court has decided that the results of a drunkometer test may be admitted in evidence even though scientists disagree about its accuracy, although this disagreement may properly affect the weight to be given to the evidence. A New York Supreme Court decision held that a driver who has refused to submit to such testing may not have his license automatically revoked, without a hearing upon an adequate record.

**WIRETAPPING**

James Lawrence Fly, ACLU Board member and former chairman of the Federal Communications Commission, in May, 1954, presented to a Subcommittee of the Senate Judiciary Committee the Union's position on wiretapping. Terming wiretapping "destructive of personal liberty,"Fly said it was essentially dragnet in nature and "necessarily invades the most private relations of the many innocent in the hope of finding one guilty person. In the tapping of one private phone, the dragnet would involve the privacy of all persons using the phone, all persons called, and all calling in to anyone. . . . As a matter of physical necessity the wiretapper reaches all the confidential relations protected by our democratic system, e.g., husband and wife, parent and child, minister and parishioner, lawyer and client, doctor and patient."

After stating the ACLU's fundamental position, that of continuing opposition to all wiretapping, Mr. Fly turned to a consideration of the minimal safeguards which should exist in any permissive legislation. He recommended that: 1) authority to grant permission for tapping should rest only in federal judges and only on application by the Attorney General (the legislation favored by Brownell calls for ultimate authority to rest with the Attorney General), 2) tapping should be forbidden except on a reasonable basis for belief of actual, as opposed to potential, treason, sabotage, espionage, kidnapping, or threats of kidnapping, 3) complete records of application for approval should be kept, and taps should be approved for a maximum of 90 days, with a 90-day renewal permitted by specially designated federal judges, and monthly and annual reports cover the number of wiretaps sought, granted, and the number resulting in prosecution or conviction for each type of case, all such figures to be made public.

Powerful opposition to the wiretapping proposals of Attorney General Brownell was voiced in Congress; Senator McCarran introduced a bill which not only made illegal use of wiretap evidence in court but also reaffirmed the Congressional intent of 1934 to outlaw the practice itself; a permissive bill passed the House, but did not emerge from the Senate judiciary committee.
PROCEDURE IN THE COURTS

Attack on Federal Habeas Corpus. Forty states recently joined Pennsylvania in contesting the right of federal courts to grant habeas corpus writs in state criminal cases. In the Elliott case, a murderer, after exhausting all other remedies, sought such a writ. (See below, page 62, for further discussion of Elliott's particular problem.) The Pennsylvania Attorney General of the Commonwealth argued that the 1867 federal law was unconstitutional; Greater Philadelphia ACLU filed a friend of the court brief in opposition to the Pennsylvania position. On June 2, 1954, the U.S. Court of Appeals upheld the ACLU position, stating that the Fourteenth Amendment forbids states to deny due process of law, and the Constitution confers federal power to prevent states from doing a forbidden thing.

"General" Charges Illegal. In 1953, the Utah Supreme Court affirmed a decision expunging from a record parts of a report made by a Utah County grand jury, charging or imputing misconduct on the part of certain public officials, but not indicting them. The court held that a grand jury's function is to indict; if it does not have enough evidence to do so, "the possibility of damaging the reputation of blameless public officials overshadows the good which might result to the public from the filing of such a report." Similarly, federal district Judge Edward Weinfeld, in New York City, criticized a grand jury for condemning individuals without indicting them. He pointed out that one of the original purposes of the grand jury was to protect individuals against unfounded accusations of crime, and it was therefore very improper for the grand jury to accuse an individual who had not had an opportunity to defend himself in a court trial and could not even make public what he had said before a grand jury.

Harry Dexter White, who had held a number of high offices in the Truman administration, died of a heart attack while under a cloud of suspicion relating to possible espionage activity, although never indicted. In 1953, Attorney General Herbert Brownell, Jr., in a luncheon club address in Chicago, referred "to the case of Harry Dexter White and the manner in which it was treated by the prior Administration to illustrate how successful espionage agents had been in penetrating our government at that time, and how lax our government was at that time in meeting such a grave problem." Patrick Murphy Malin, Ernest Angell, Edward J. Ennis, and Arthur Garfield Hays, four of the chief officers of the ACLU, addressed a letter to the Attorney General. Recognizing the responsibility of the Department of Justice to investigate possible illegality or laxity, the ACLU letter objected to disclosure of material in investigative files. It was pointed out that the essence of fair judicial procedure will be destroyed if prosecutors, in support of their
accusations, may disclose specific investigative evidence concerning indi-
viduals elsewhere than in court or before administrative agencies; such 
revelation precludes the possibility of cross-examination and refu-
tation.

**Immunity Legislation.** Throughout its consideration in the recent 
session of Congress the ACLU opposed immunity legislation. A first 
objection by the Union was that such legislation would not clearly and 
explicitly protect against prosecution by any of the states, after a wit-
ness had testified before a Congressional committee or in a federal court. 
The ACLU also noted that almost any testimony given today by persons 
concerning alleged subversion results almost inevitably in public scorn 
and ridicule; even cooperative witnesses have suffered severe economic 
injury. "There should be some recognition of the right to privacy, 
especially where it concerns beliefs and associations unrelated to any 
real subversion." It was suggested, instead, Congressional committees 
advise a witness that an answer to a single inquiry concerning a certain 
subject would not require him afterwards to answer all other questions 
on that subject; this procedure would get around the major difficulty 
laid down by the Rogers case, where the Supreme Court held that a 
person has waived his privilege against self-incrimination to answer all 
related questions once he has answered a first question.

The bill as finally enacted into law in August, 1954, provides for a 
grant of immunity in Congressional investigations on a case-to-case 
basis if a majority of those voting in either House of Congress so agrees, 
or 2/3 of a full committee in proceedings before it, if a federal District 
Court approves, after notice has been given of the proposed grant to 
the U.S. Attorney General. A grant of immunity is also made possible 
in proceedings relating to national security or defense before grand 
juries or federal courts, where immunity may be granted by a federal 
District Court upon application by a U.S. Attorney if approved by the 
Attorney General. While the immunity granted protects a person from 
having his testimony used against him in any federal or state court, it 
is not clear whether he can still be prosecuted if his testimony gives 
investigators a clue to a crime he may have committed.

The Florida Supreme Court has recently ruled that a state immunity 
statute cannot require testimony if a witness is still open to federal 
prosecution.

**Due Process in Murder Trial Cases.** Dramatic last-minute action 
was taken by the ACLU through its staff counsel no less than four times 
in seven weeks in the Don Jesse Neal case. Prior appeals to the state 
courts and the U.S. Supreme Court having been unavailing, Neal was 
sentenced by a state court in Utah to be executed on June 19, 1954, for 
the 1951 murder of a policeman. The federal District Court in Utah
denied a petition for a writ of *habeas corpus* and refused a stay of execution. ACLU attorneys obtained a stay from the U.S. Court of Appeals in Denver on June 16, believing that Neal may not have had a fair trial; his counsel was not present when the jury verdict was returned, when he was sentenced to death, when a motion for a new trial was to be argued, and when the judge denied the motion. Trial Judge A. H. Ellett had also discovered that the victim's tear-stained widow had been seated next to the jury box but failed to inform defense counsel of her identity, thus depriving defense counsel of the opportunity to determine whether any of the jurors knew who she was and if their verdict had been influenced thereby. Despite the June 16 stay order, on June 17 Judge Ellett told the Sheriff to carry out the execution unless the state Attorney General and the county attorney both advised otherwise. ACLU again intervened and the proper advice was given to the Sheriff. Judge Ellett also threatened to send to jail for contempt all attorneys who had secured the stay in Denver including ACLU's national staff counsel and counsel from its local Denver affiliate, if they raised only the same questions that had been previously raised in the state courts—which were, in fact, the only questions which could be validly raised. The Court of Appeals affirmed the denial of the writ of *habeas corpus*. ACLU then asked Chief Justice Warren of the U.S. Supreme Court and Associate Justices Black and Clark for a further stay of execution, but this was denied. A petition for review by the high court was then filed—which could not be acted upon until October at the earliest—because the ACLU had learned that other serious charges were to be investigated which might involve additional constitutional points.

Counsel for Neal filed a petition for a writ of *habeas corpus* in the Utah Supreme Court on July 26, alleging that the prosecution at Neal's trial had knowingly used perjured testimony against him and had suppressed evidence favorable to him, and charging that his court-appointed attorneys had failed to raise vital defenses on his behalf. That court denied the writ on July 28; execution was now scheduled for August 3 and a new stay had again to be sought from the U.S. Supreme Court. ACLU thereupon asked both the Supreme Court of Utah and the Governor for a short stay to permit the location of a Supreme Court Justice, but these requests were denied. However, Mr. Justice Clark was found in Dallas and he granted a stay of execution pending determination by the Supreme Court on a new petition for review based on new grounds.

The local authorities, however, in an unprecedented series of events, refused to honor the stay order. Judge Ellett, a few hours before the scheduled execution, told the Sheriff to go ahead since that officer had not been served with a certified copy of the Supreme Court order, even though Governor Lee had wired the Sheriff that the stay was in effect.
Learning of this only two and a half hours before the time of execution, ACLU counsel protested to the Attorney General and the Warden of the prison, who agreed not to surrender Neal to the Sheriff. The Attorney General also obtained the agreement of the governor to issue a reprieve if that should become necessary. The Sheriff and the county attorney were warned that ACLU staff counsel would ask the U.S. Supreme Court to punish them for contempt if they took any moves to execute Neal in view of the well-known rule of law that anyone who is aware of a court order is bound by it. He also said he would ask for their prosecution as violators of the Federal Civil Rights Act. Nonetheless, the Sheriff and the county attorney drove to the prison and demanded that Neal be surrendered for execution. The Attorney General and the Warden refused to comply. The U.S. Marshal then served upon the Sheriff a copy of a wire sent to him by the Clerk of the U.S. Supreme Court, advising him of the stay. Judge Ellett had agreed to accept this as sufficient notice to stop the execution. The Sheriff and the county attorney thereupon left the prison.

**Evidence in Murder Cases.** The U.S. Supreme Court ruled that certain confessions obtained in the Leyra murder case could not be used. A psychiatrist gained Leyra's confidence by offering to treat him for a sinus condition, promised—on purported authorization of the district attorney—that he would not be charged with first degree murder, and obtained a confession. This original confession was recorded by the police, and immediately thereafter Leyra, interviewed by a police captain and two representatives of the district attorney's office, confessed for a second time. When this case, handled by the NYCLU, first reached the N.Y. Court of Appeals, the confession obtained by the doctor was ruled unusable. In 1954, a further decision by the high court ruled out the later confession made to the police and the prosecuting attorneys. The case was again sent back to trial court; it remains to be seen whether the state will undertake a third prosecution. In another New York case, that of Stein, Cooper, and Wissner, the trial court submitted to the jury the question of whether or not confessions by Stein and Cooper were coerced. The jury was told not to consider the confessions if they found them to have been forced but that the defendants might nevertheless be found guilty on other evidence. In a 6-3 decision the U.S. Supreme Court upheld the convictions. The court held that there were no conceded acts of coercive physical violence, and that, in determining whether there had been psychological coercion by lengthy questioning, the court would consider whether or not the persons being questioned were experienced criminals who could withstand what might otherwise be an overpowering interrogation. The court further held that the fact that the two defendants were being illegally detained when they confessed was not enough to void the confession. The majority also
ruled that the third defendant, Wissner, had no constitutional rights under the Fourteenth Amendment to cross-examine the two co-defendants whose confessions had been used against him. Justices Black, Douglas and Frankfurter dissented vigorously but variously on these issues.

In the Elliott case, referred to above, page 58, the defendant was sentenced to death after having pleaded guilty on a charge of murder; the court, in imposing the death penalty, rather than life imprisonment, was guided by the report of a court-appointed psychiatrist which said that Elliott "shows no evidence of being mentally ill." This finding was at variance with a long series of earlier reports on Elliott who had a protracted history of mental deficiency. Finally, the psychiatrist was himself committed to a mental hospital shortly after his report on Elliott. Nevertheless, the U.S. Court of Appeals ruled 4-3 to deny Elliott's petition for a writ of habeas corpus.

_Illegal and Unethical._ In the Circella case, the Chicago Immigration Director, allegedly knowing that a writ of habeas corpus had been applied for, nevertheless removed Circella from the jurisdiction of the local federal district court. Circella, a man with two felony convictions, was hurried to New York for deportation. The Illinois Civil Liberties Union protested both to local federal authorities and directly to the Department of Justice in Washington; Circella was returned.

In a unanimous decision the U.S. Court of Appeals in Washington, D.C., reversed a conviction because a secret agent of the prosecution joined the staff of the defense attorney and gave information to the prosecution. In this Caldwell case, the court held that the prosecution cannot have a representative present to hear the conversations of the accused and his counsel; even though actual prejudice to the defendant was not shown, the right to effective assistance by counsel under the Constitution was denied.

_Other Cases._ The Jelke case, reported last year, involved the exclusion of the public and the press from all of the trial proceedings in which evidence was given by the prosecution; this New York case involved abnormal sex practices. Several New York newspapers claimed before the Appellate Division that freedom of the press had been violated; the New York Civil Liberties Union and the ACLU National Council on Freedom from Censorship filed a friend of the court brief taking the position of the newspapers. Losing 3-2 at the Appellate Division level, the newspapers took their case to the Court of Appeals. In the meantime, Jelke's own case, in which he appealed on the ground that he had been denied a fair trial, was ordered back for retrial by the Appellate Division; the State has appealed this ruling. The present situation, therefore, is that due process in the criminal trial has thus
far been upheld, but the right of the press to attend all of the proceed-
ings remains unsettled.

In the Sacher case, the Supreme Court ruled 6-2 that it was unneces-
sarily severe punishment to disbar this attorney for his behavior in the
trial of the Communist 13 before Judge Medina.

**Revision of Conviction after Service of Sentence.** In a 5-4 deci-
sion the U.S. Supreme Court held in January, 1954, that a federal district
court had the power to vacate its judgment of conviction and sentence
even after the expiration of the full term of service. Robert P. Morgan
pleaded guilty in 1939 in a federal New York court and served a four-
year sentence. In 1950 he was convicted in a New York state court
and sentenced to a longer term as a second offender because of the
prior federal conviction. Thereupon, he contended that he had been
wrongfully convicted for the first offense because he had been denied
counsel. The decision of the U.S. Supreme Court granted Morgan the
power to use the writ of *coram nobis* to inquire into the constitu-
tionality of the conviction even though sentence had been served. The
majority opinion by Justice Reed said “Although the term has been
served, the results of the conviction persist. Subsequent convictions may
carry heavier penalties, civil rights may be affected.” Justice Minton
dissent and was joined by Chief Justice Warren and Justices Jackson
and Clark. The dissent noted the unexplained and lengthy delay in
bringing these proceedings, and the fact that Morgan did not claim
innocence; a writ of *coram nobis* should be available only to correct
errors of fact unknown to the court at the time of judgment, and here
all facts were known. Justice Minton admitted that the record of a
conviction might work a life-long hardship but believed that at some
point a judgment should become final. The ACLU, recognizing that
this decision may open the courts to a large number of new proceed-
ings, nevertheless feels that the decision advances due process of law
by offering a possible remedy for past violations of due process.

**Day in Court.** Louis S. Oliver has a farm on the west bank of the
Little Missouri River, in South Dakota. In December, 1953, he wrote
to the ACLU claiming that his children were forced to cross the stream
in order to reach the school to which they were assigned on the east
side. According to Mr. Oliver the nearest bridge is twenty miles away,
there are no regular nearby ferries, and the river can be forded only
for a brief period, and then, with danger. The Union was interested in
the fact that this complainant was told that the Circuit Court calendar
in South Dakota was too clogged to produce quick results. Without in
any way addressing itself to the merits of the case, the ACLU wrote to
Governor Sigurd Anderson urging that Oliver have his day in court.
A prompt reply was received from the governor and not long thereafter,
Mrs. Oliver was given permission to instruct her own children at home.
PROCEDURE IN THE FEDERAL EXECUTIVE DEPARTMENTS

Restrictions on Information. When President Eisenhower's security information order was released on June 17, 1953, the ACLU expressed general approval and singled out as specific improvements the elimination of the "restricted" classification and more specific definitions of other classifications, and reduction in the number of agencies having to classify security information. The Union's only criticism of the order was the failure to provide for a central authority outside of the government and "free of the prejudice of individual government agencies," which would act as a public defender of the public's right to information. By June of 1954 there were indications that some executive departments were tending to reintroduce, informally, complex or unnecessary classifications such as "for official use only."

Department of Justice. The investigating activities of Sen. McCarthy have, during the past year, led him to press on many occasions for information on the FBI files. Senator Fulbright at one point stated his belief that Senator McCarthy "gets any information he wants from those files." Attorney General Brownell immediately re-emphasized the inviolability of those records. The McCarthy-Army hearings did, of course, indicate that, in some form and by some route, the Wisconsin senator obtained something like FBI reports. Contrariwise, the ACLU had occasion to send a congratulatory telegram to the Attorney General on his refusal to declassify FBI reports on Fort Monmouth employees under fire, a refusal stood by despite pressure exerted on him during the McCarthy-Army hearings.

However, the Harry Dexter White case raised a number of serious due process problems on which the ACLU spoke out. The Union protested the fact that the charge of illegality or laxity against former President Truman, in handling espionage charges against White, a federal employee, was made by Attorney General Brownell in a public address rather than in formal proceedings before a grand jury or other hearing body. Second, former President Truman contributed to a threat to due process by not stopping the circulation of reports by his political associates that the Director of the FBI had agreed to the decision to retain Mr. White in government employment, thus making it difficult for the FBI to avoid public disavowal. Third, FBI and other prosecutory information should not be made public before a Congressional investigating committee (see above page 58). Last, although Mr. Hoover may have felt that he had to testify as he did before the Jenner Sub-
committee on the White case, the Union deeply regretted that, "in doing so, he departed from the FBI's admirable rule against public comment on its files and activities. . . ."

**Federal Employee Security Program Dismissals.** During the first few months of 1954, several of the executive departments released information about the number of persons severed from employment on security grounds. Unfortunate political capital was made of these dismissals, the impression being created that all persons discharged were disloyal, subversive, or similarly tainted. Finally, on March 1, 1954 the Civil Service Commission announced that of 2,224 ousted, 355 might have been subversive, and that no information was available on a group of 442 Defense Department discharges.

The ACLU position was presented in a letter to Philip Young, chairman of the Civil Service Commission. Noting the widespread confusion which existed, the ACLU stated that the breakdown is not based on the reasons for discharge but on "derogatory and unevaluated information." ACLU Executive Director Patrick Murphy Malin, said, "the principle of free speech and association, due process and equality, cannot flourish throughout the country if the public is continually dinned with fearful warnings that thousands of government employees today are disloyal." Malin stressed that "the failure to make explicit that derogatory file information is not tantamount to discharge, impairs the spirit of civil liberties by leading many people to believe that there were more loyalty risks in government than the facts show and thus to accept more and more curbs on civil liberties in the name of national security."

The Civil Service Commission program was also criticized on these grounds: (1) the indefinite standards, (2) the absence of any outside review, (3) the use of such vague criteria as "reliability" and "trustworthiness", (4) alleged use of ordinary economic stringency "Reduction in Force" criteria for the getting rid of employees whose personal political opinions may be disliked.

Malin concluded by emphasizing that programs can be devised which meet our free society's needs for both security and freedom.

**The Defense Department, the Military Services.** In October, 1953, the ACLU warned the Department of Defense against using loosely prepared lists of subversive organizations in determining security risks among workers in private defense industries having access to classified information. The Union also urged that the right to cross-examination be granted workers in hearings under the new Industrial Personnel and Facility Security Clearance Program. ACLU Executive Director Malin, in a letter to John A. Hannah, Assistant Secretary of Defense
in charge of manpower, said the Union was concerned about the reliance of screening and appeal boards on lists and other information regarding subversive groups outside the official list of the Attorney General. With respect to cross-examination, Malin said, "If there is anything in our Anglo-Saxon system of justice which distinguishes our democracy from Communist tyranny, it is that an individual may have the opportunity to disprove the charge against him by confronting his accuser; only by this method can the full truth emerge." The ACLU letter also congratulated the Defense Department for making clear that the denial of a security clearance is not the equivalent of a finding of disloyalty, and for the setting up of regional screening and appeals boards located close to industrial establishments; the Union urged, however, that a central review body be set up in Washington to insure uniform application of the criteria for determining an employee's status as a security risk and to guard against sectional prejudices.

**The Radulovich Case.** Lt. Milo Radulovich in 1953 was threatened with dismissal from the Air Force because of anonymous charges of pro-Communist sympathy lodged against his father and his sister, although no charge was made against him personally. A board of three colonels recommended Radulovich's dismissal as a security risk. At this point Edward R. Murrow presented the case on his television documentary, "See It Now." There the lieutenant himself asked how he could be held responsible for the views of other adults; he wondered whether his own children would some day be held "guilty by relationship." Within a very short time Air Force Secretary Talbott reversed the ruling of the military board.

**The Barry Miller Case.** Barry A. Miller was drafted June 20, 1952. On May 19, 1954 he received a commendation for loyalty, leadership, dependability, and earnestness. But, on December 2, 1953, he had been asked to explain membership in the Independent Socialist League and the Socialist Youth League in earlier years, both organizations on the Attorney General's list; he was also asked about a Politics Club he belonged to in 1947 and 1948. Miller's answer admitted membership in both "socialist" groups but he insisted that they were not subversive and pointed out that the organizations are awaiting hearings on their protest against being placed on the Attorney General's list. Miller said that the Politics Club was a regular University of Chicago student's organization. Later Miller was demoted to the lowest grade of service and issued an "undesirable discharge."

The case came to the attention of Norman Thomas, ACLU Board member, who wrote to Secretary of the Army Robert T. Stevens calling the Army itself unfair for failure to grant a hearing. Mr. Thomas said that its action appeared to be "a votive offering to the Grand Inquisitor,
Joe McCarthy or . . . proof that the Army is equally bad." "It seems to me," Mr. Thomas wrote, "that a man is entitled to a hearing for which he has asked, before he receives a serious stigma of an undesirable discharge, and not after . . . . After considerable delay, Mr. Thomas was informed that Miller's derogatory discharge had been withdrawn and that a new one would be given under "honorable conditions."

Court Martial Decisions. By a 2-1 vote, the U.S. Court of Military Appeals reversed the conviction of Cpl. Austin Wilson and Pvt. Benny Harvey for murder; the two soldiers had been sentenced to death for allegedly murdering a Korean civilian. All three judges agreed that there was failure to observe the Uniform Code of Military Justice which provides that military personnel cannot question a suspect without first telling him of the nature of the accusation and advising him that he does not have to make a statement, and that any statement may be used against him; the Code further provides that no statement made in violation of this provision can be received in evidence in a court-martial.

An important decision was given by the U.S. Court of Appeals in Washington, D.C. holding that an ex-serviceman, now a civilian, could be taken back to Korea from Pittsburgh to stand trial for a murder allegedly committed in Korea while he was still in service. Ex-serviceman Robert W. Toth complained that this was unconstitutional. An appellate court has ruled that it was not a violation of due process to transport Toth back without any hearing, whether civilian or military, as to whether probable cause existed for his arrest. The U.S. Supreme Court has been asked to review this decision. ACLU believes that transporting a man half-way around the world to face a military trial without an appropriate hearing is a violation of due process of law.

Immigration, Visa, and Passport Due Process Cases. There have been in 1953-54 many complex cases relating to alien immigration and deportation, temporary visas, and the issuance of passports which involve fair procedure, rather than freedom of expression or discrimination. The Department of Justice, through its sub-division for Immigration and Naturalization, and the State Department are the chief federal executive agencies concerned.

The Accardi Case. The U.S. Supreme Court in a 5-4 decision, held recently that due process was violated when the Attorney General sought to influence the decision of the Board of Immigration Appeals in the case of Joseph Accardi. When suspension of deportation was denied, he appealed to the Board; however, prior to the Board's decision, the Attorney General had circulated a confidential list of "unsavory characters," which included Accardi's name; Accardi claimed that this action made it impossible for the Board to exercise independent
judgment when it turned down his appeal. The majority opinion of the high court, written by Justice Tom Clark, himself a former Attorney General, upheld Accardi's claim that the list and related publicity "amounted to public pre-judgment by the Attorney General." And since Accardi charged that the Board had failed to use its own discretion, he should be given a chance in court to prove this. In a dissenting opinion by Justice Jackson, joined by Justices Reid, Burton and Minton, it was pointed out that the Attorney General's decision not to suspend deportation is legal, and that "we do not think its validity can be impeached by showing that he over-influenced members of his own staff, whose opinion, in any event, would only be advisory."

**Kessler De-Naturalization Proceedings.** ACLU attorneys won an important victory for Mrs. Reba Kessler, who was threatened with denaturalization and possibly later deportation, when the U.S. Court of Appeals in Philadelphia reversed a lower court revocation of her citizenship on the ground that she had falsely sworn that she had never been arrested. According to the government she had been arrested no less than seventeen times in 1929 and 1930, in the course of picketing; each time she was arrested she was discharged by a magistrate and went back to the picket line. The Circuit Court upheld the ACLU attorney's contention that there was no deceit involved in Mrs. Kessler's statement and that the grave penalty of revocation of citizenship should not be visited upon her for failing to report arrests which themselves were illegal because they were not for the violation of any law.

**Coast Guard Screening.** The U.S. Court of Appeals in San Francisco held that the failure to adequately inform three merchant seamen of the grounds upon which they had been denied clearance under the security program violated due process of law. Refused clearance, the men accepted employment on American merchant ships and criminal prosecution was then begun against them. The court, in its unanimous opinion said, "... no good reason appears why the Commandant cannot apprise the seaman of the bases for the initial determination with such specificity as to afford him notice and an opportunity to marshal evidence in his behalf; the same is true of the examination before the appeals board."

The Coast Guard thereupon amended its regulations to provide for a bill of particulars to be given persons against whom charges are made, and offered new hearings to anybody previously denied clearance. ACLU's staff counsel notified all persons known to have been denied clearance of the new regulations, and also requested all affiliates to take similar action.

Northern California ACLU has been particularly active in Coast Guard security screening cases. Up to June 18, 1954 it has disposed
of 41 cases, and 22 others are pending. The affiliate states that its experience under the new regulations has been unsatisfactory; the bill of particulars fails to give sufficient information on which to base a defense.

**General ACLU Action on Immigration and Passport Procedures.**

In a letter to the Attorney General, ACLU Board Chairman Ernest Angell commented favorably on a number of proposals by the Department of Justice which would permit judicial review of deportation orders: 1) recognition of the principle of equality before the law which "would give aliens the right to seek court determination whether the facts found by the government in the alien's case were supported by substantial evidence," 2) the proposal that an alien be allowed to seek court review on his deportation order without waiting until he had been taken into custody, and 3) proposals that the place at which the court review would be sought would be the same as that at which the deportation proceedings were conducted, and that the alien need not produce the entire administrative record of his proceedings—two provisions which would eliminate heavy expense. The second and third of these proposals appear to have the force of law under court decisions later in 1954.

Two further important improvements are needed. An alien who is abroad has no right to any kind of a hearing if his application for a visa is denied. He may not even be told the reasons for his exclusion. Angell pointed out that, "our devotion to our democratic principles is tested abroad by the way we treat aliens." A second injustice of the existing law affects persons living abroad who claim citizenship but may be prevented from suing in U.S. courts to establish that claim. By the denial of certificates of identity the State Department can even foreclose the possibility of adjudicating the citizenship claim. (A federal district court has now ruled that the Administrative Procedure Act prevents this.)

Edward J. Ennis, ACLU Board Vice-Chairman, and Irving Ferman, the Director of the ACLU Washington office, conferred in the spring of 1954 with Mrs. Ruth Shipley, head of the Passport Division of the State Department, concerning the general passport problem. In reporting to the ACLU Board, Mr. Ennis noted: 1—the Passport Division could see no need for procedures for notice of hearings, charges and appeals for individuals who have been denied for reasons other than alleged Communist affiliation, such cases being directly decided without formal procedure, 2—the denial of a passport to Max Shachtman, secretary of the Independent Socialist League, was on the sole ground that he is an officer of an organization on the Attorney General's list which has not yet had a hearing; if the organization in question, the Independent Socialist League is successful in its suit to be removed from the list, the Passport Division would presumably give Shachtman his
passport, 3—in the case of dramatist Arthur Miller, the matters requiring full investigation could not have been handled in the two or three days afforded by the exigencies of the writer's travel schedule; Mrs. Shipley said it was not true that requests for renewals of passports from writers were automatically referred to Washington as a special class.

Ernest Angell expects soon to discuss with Secretary of State Dulles the chief civil liberties problems in the passport-visa area.

Exit Visa Cases. Han-Lee Mao, a Chinese student who had finished his studies in this country, wished to return to his native land. He was called in to talk to an Immigration Inspector and subsequently denied permission to leave because he had "scientific knowledge and training" which "might be utilized by Communist China." During this interview he was not advised of his right to counsel. The U.S. Court of Appeals in the District of Columbia ruled he should have been granted a hearing. Other cases of this kind are appearing in considerable number.

Galvan Case. A deportation order was issued against Robert Galvan on the sole ground of his membership in the Communist Party, without any proof that he knew its purpose to be violent overthrow of the government or advocacy of such action. Galvan, a member from 1944 to 1946, had offered to make amends by rejoining the Party as an undercover agent for the government. At the time he was a member, its candidates appeared on California election ballots. In a 7-2 decision, the U.S. Supreme Court upheld the constitutionality of that provision of the 1950 Internal Security Act making the deportation possible, but implied doubts as to the wisdom of the legislation. The Court construed the law to mean that as long as Galvan had joined the Party knowing that it was the Communist Party, and did so of his own free will, he was deportable "whatever view one may have of the wisdom of the means which Congress employed to meet its desired end." Even if he was unaware of the Party's advocacy of violence, the Court ruled, he was under the law. The Court stated that while the procedural safeguards of due process must be kept in deportation proceedings, the Congress has virtually unlimited scope under past decisions in regulating the deportation of aliens. Justice Black dissented, for he was "unwilling to say . . . that . . . this man may be deported from our land because of joining a political party that Congress and the Nation then recognized as perfectly legal." Justice Douglas, also dissenting, stated that when aliens are to be deported, "it must be for what they are and do, not for what they once believed." While not an ACLU test case, ACLU attorneys participated in the Supreme Court appeal on behalf of Galvan.

Maezlu, Mezei, Barrow and Matranga Cases. Four cases which illustrate the complexities of procedural detail in this area have had active ACLU support during the past year. The Maezlu case has finally reached
a position where a district court trial will be held on the constitutional issue of the right of the government to deny suspension of deportation on the basis of undisclosed evidence. Maeztu would have been deported by now if the ACLU had not succeeded in getting an injunction holding up such action for a year in order that time might be had for judicial proceedings. Ignaz Mezei, born in Hungary, first came to the United States in 1923 and lived here as an alien until 1948. He returned to Europe in 1948 purportedly to visit a dying mother in Roumania; he did not reach Roumania but stayed in Hungary for nineteen months, returning to New York in 1950. The Attorney General ordered him excluded without a hearing on grounds that his entry was prejudicial to the interests of the United States; a hearing was denied because of the Attorney General's opinion that publication of the confidential evidence against him would also be prejudicial to public interest. In March, 1953, Mezei lost his case before the U.S. Supreme Court. ACLU supported a bill to give him a hearing, and in December, 1953, Attorney General Brownell ordered a hearing for Mezei because of his belief that his power to exclude without a hearing "should be exercised sparingly." The public press had made much of this case because it appeared that Mezei had been unable to find any foreign country which would accept him and appeared doomed to spend the rest of his life on Ellis Island. Hearings were held in 1954 and the Board of Immigration Appeals ruled against Mezei on the ground that he had been convicted of petty larceny in 1935, had once been a member of the Communist Party, and that his immigration visa had been procured by fraud. However, the Attorney General has released Mezei on parole until his departure from the United States can be effected.

Reuben A. Barrow, a Honduran, was admitted to this country in 1951 as a permanent resident and holds first naturalization papers. His difficulties began after a fight with a fellow-crewman in Japan; his life threatened, he skipped ship and stowed away on another vessel to return to the U.S. and his pregnant wife. Under the McCarran-Walter Act, Barrow was ordered excluded from this country without a hearing. Northern California ACLU, contending that Barrow's actions were involuntary and did not represent a true stowaway case, appealed to the Board of Immigration Appeals in Washington, but Barrow lost. In the meantime, Congressman John J. Allan, Jr., of Oakland, California, had introduced a private bill in Congress to allow Barrow to remain in this country; the Immigration Service has granted a last-minute stay of deportation.

In the Matranga case the U.S. Supreme Court refused to review the decision of a U.S. Court of Appeals holding constitutional the reliance of the Attorney General upon confidential information as a basis for denying suspension of deportation to an alien who had illegally entered the country.
PROCEDURE IN LEGISLATIVE HEARINGS

1. The History and the Problems

The 83d Congress has appropriated close to three quarters of a million dollars for its three major investigating committees: the Senate Internal Security Subcommittee, the House Un-American Activities Committee, and the Senate Subcommittee on Permanent Investigations. These committees have directed their investigations toward subversion in government, Communist infiltration of the teaching profession, the State Department's Information Program, and Communism in defense plants and in Army research centers.

Wide concern about the deprivation of individual liberty caused by abuses of this investigative process was shown by the introduction of 20 corrective proposals in Congress. Two Congressional subcommittees were authorized to hear testimony on proposals dealing with mandatory codes of procedures for Congressional committees. On August 4, 1954, the ACLU, through its Washington representative, presented its views to a House Rules subcommittee. In addition to calling for the improvement of hearing procedures, the Union urged the Committee to study the constitutional limitations which should be imposed, particularly with respect to the First Amendment. On July 7, 1954 two Union spokesmen, Ernest Angell, Board Chairman, and Irving Ferman, the Union's Washington representative, similarly testified before the Senate Rules Committee in support of Senator Kefauver's resolution, S.Res. 256.

The Union's interest in abusive investigative procedure was manifested long before the current probes into the area of subversion were begun. In 1936, the Union protested to Senator Black, Chairman of the Senate Lobby Investigating Committee, the issuance of blanket subpoenas calling for telegraph company copies of telegrams sent or received by corporations or individuals, without notice being given to the senders or receivers. In 1938, the object of the Union's protest was Senator Minton, Chairman of the same committee, for his intended retaliatory use of income tax returns against witnesses. Likewise, in 1939, the Union protested to Senator O'Mahoney, Chairman of the Temporary National Economic Commission, when he ordered production of papers by Jones and Laughlin Steel Corporation which would have constituted an inquiry into the views of the company and its personnel.

The ACLU approach to the problem of investigative abuses is two-fold. First, strong and persistent support has been given to all efforts which would provide due process and a fair hearing for witnesses under subpoena. Second, in relationship to particular cases, the Union has attempted to safeguard those personal beliefs, actions, and association which fall under the Constitutional protection of the First Amendment.
2. Proposed Code of Procedure

The Union's interest in due process led it to support S. Res. 256, introduced by Senator Kefauver, on behalf of himself and eighteen other senators. The salient features of the Kefauver Code are these:

Committee Action.

1. Approval of full committee for appointment of investigating subcommittees with less than three members.
2. Selection of investigating committee staff and personnel subject to approval of the majority of the committee members.
3. Written notice to be given committee members prior to committee meeting, unless waived by the majority of the committee.
4. The resolution setting forth the subject and scope of committee hearings or investigations to be specific and amendable only by majority vote of the full committee.
5. Submission of any official committee report to all members 24 hours prior to its consideration by the committee.
6. Testimony taken in executive sessions not to be released by members of staff without prior authorization by majority of the full committee.

Provisions Covering the Rights of Witnesses.

1. Twenty-four hours' notice to be given to witness called by the committee; the subject matter on which the witness is to be interrogated to be outlined.
2. The right to make an oral statement or submit a sworn statement to be given to every witness, and the statement to be included in the transcript of the hearings.
3. Release of statements or material adversely affecting an individual by a member or staff employee to be prohibited, unless there has been prior or simultaneous release of a rebuttal statement.
4. A person adversely affected by testimony taken in public hearings to be given the right to cross-examine witnesses in public hearings, to be represented by counsel, and to subpoena witnesses and documents on his behalf—at the discretion of the Committee.
5. Persons adversely affected by the release of testimony taken in executive sessions to be given the same right to cross-examine, etc., as if the testimony had been taken in public hearings. Also, no derogatory testimony to be publicly given against anyone, unless the Committee first in executive session determines the charges warranted.

Supervision and Enforcement.

The Vice-President and four other members of the Senate to be constituted a group to receive complaints and investigate viola-
tions of these rules. They may advise the committee chairman of their findings, and present their findings to the Senate with such recommendations for remedial action as they deem appropriate. (The ACLU considers this aspect of the Kefauver code to be of the utmost importance.)

However, as to the effectiveness of these measures, Ernest Angell emphasized in his testimony before the Senate Subcommittee:

"What we are afraid of is that the American public may come to believe that once a code of fair procedures is laid down, there is nothing more that needs to be done to insure fairness, and that all hearings thenceforth will be fair. This is not so, for the simple reason that much that is unfair can be done within the limits of the fairest code.

"A code can never touch the demeanor of a committee chairman or its members, and the proper demeanor of the committee may be essential to fairness. The code can never reach browbeating, or improper or illogical inferences drawn by the committee chairman from what has been testified to.

"There are only two protections against such behavior: self-restraint, and the assumption by Congress of its own responsibility, quickly and on its own motion, to censure or take other proceedings to let it be known publicly that fairness and decency are essential, that we must ourselves not be un-American even when we are investigating un-American activities."

3. The Protection of the First Amendment

The ACLU has considered it to be one of its chief obligations during the past year to offer support to persons whose beliefs, actions, and associations have been subjected to improper inquiry by Congressional investigating committees. Believing that the public now understands that the protection afforded by the Fifth Amendment relates to criminal prosecutions, the ACLU has emphasized the much larger problem of the freedom guaranteed by the First Amendment.

**Lamont Case.** The Union protested that portion of the questioning of Corliss Lamont, writer and former ACLU Board member, by the Senate Subcommittee on Investigations which infringed on his right not to reveal his political opinions and associations. All the questions Mr. Lamont refused to answer were either irrelevant to the scope of the Committee's inquiry or infringed upon his rights as under the First Amendment. The Committee's charter did not authorize it to undertake an investigation into the authors of books purchased by the government; its mandate under Congress was to investigate the "economy and efficiency" of government operations. On the second point, the Union said: "the naked question in this case is whether the government can investi-
gate any author or any book. If inquiries into associations of those who write books is possible in Mr. Lamont’s case, it is possible in the case of every author, of the editor of every newspaper.” Lamont has been indicted for contempt.

In the course of the same hearing the Union protested Senator McCarthy’s making public executive session testimony, after claiming that Lamont had been invited to appear in public session, when in fact he had not.

**Emspak and O’Connor Cases.** ACLU action in the Lamont case is related to similar Union action in the cases of Julius Emspak and Harvey O’Connor. Emspak, an official of the United Electrical Workers Union, refused to answer questions before the House Un-American Activities Committee about his alleged affiliation with the Communist Party and the Communist organization and his union associates; he pleaded both the First and Fifth Amendments. He was cited for contempt and, when the case reached the U.S. Supreme Court on a challenge of the House Committee’s power to investigate in the area of political associations, the ACLU filed a friend of the court brief stressing three points: 1—the First Amendment violation of free speech which is inherent in the House Committee’s mandate solely to investigate propaganda, 2—the Committee’s admitted purpose to “expose Communism,” which departed from its mandate, and 3—the particular questioning of Emspak in violation of his First Amendment rights. O’Connor, an author, refused, under the First Amendment, to answer questions put to him by the McCarthy committee. In a public statement Executive Director Patrick Murphy Malin said that, “To refuse to answer under the First Amendment is a wholly proper challenge to questions concerning political associations.” The Union brief in the Emspak case emphasized that no legislator has the right to expose anything merely for the sake of exposure; “our government is one of limited powers as the Tenth Amendment makes explicit.” Warning was given that the House Committee’s operations have tremendously circumscribed the exercise of free speech as demonstrated by the excessive intolerance of dissent so prevalent in the country today.

**Chief Justice Warren.** In February 1954, the ACLU protested the procedure of the Senate Judiciary Committee investigating the fitness of Chief Justice Earl Warren to appointment on the U.S. Supreme Court. Unproved and unsupported charges and allegations were made part of the record of public hearings without any preliminary evaluation of the truth of the charges and without any examination of the informants by the Committee.
4. Other Violations of Due Process

The Union protested the issuance of a subpoena to former President Truman by the individual action of the chairman of the House Un-American Activities Committee, in violation of that committee's own rule requiring majority vote before subpoenas are issued for a new inquiry.

The operations of the Senate Subcommittee under the chairmanship of Senator Joseph R. McCarthy, on several occasions, in the opinion of the ACLU, violated due process. Dr. J. B. Matthews was given appointment to the staff at almost the same time that public notice was given to a forthcoming article by him charging the Protestant clergy of the country with manifold sympathy to the Communist cause. Almost immediately, Matthews found it necessary to resign under heavy pressure. The ACLU found it to be a violation of the principle of civil liberties for his resignation to have been forced without opportunity for him to be heard on the charges of irresponsible authorship made against him. Later, the ACLU protested the unfair treatment of General Zwicker.

In connection with the McCarthy-Army phase of that committee's work, the Union urged that the right of cross-examination be granted to all witnesses, and particularly stressed the right of Senator McCarthy—insofar as he appeared as a witness—to have full right of cross-examination. And at the beginning of these hearings, the Union recommended, in the interest of fairness, that a committee other than the Senate Permanent Subcommittee on Investigations hear the McCarthy-Army dispute.
Part III. EQUALITY BEFORE THE LAW

Our Constitution is color-blind. . . . The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved.

Mr. Justice Harlan, alone dissenting in Plessy v. Ferguson, 1896.

We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.


EQUALITY IN RELATION TO RACE, CREED AND NATIONAL ORIGIN

The May, 1954 decision of the U.S. Supreme Court banning racial segregation in public schools is undoubtedly the most important victory of the past fifty years in the warfare against discrimination. The Court overthrew the 1896 Plessy v. Ferguson doctrine which held that discrimination does not exist if separate but equal educational opportunity is provided. In hailing the decision, the ACLU said, "Its effect will be felt not only by the thousands of school children who will now, for the first time, enjoy their education on a truly equal basis. It will be felt in the far corners of the world, wherever America's faith in its democratic concepts is challenged falsely by Communist propagandists."

Judge J. Waties Waring, ACLU Board member, had himself, while sitting on the federal District Court bench, ruled against discrimination in several cases. He noted general agreement on the wisdom of the court in asking for arguments as to the manner in which the decision should be implemented, and said that the NAACP had also helped the situation by stating that Negro leadership would be patient and would be cooperative with Southern authorities, although of course reserving the right to court action where the rights of Negroes are denied.

It is significant that this decision was made at a time when the South itself was of differing mind about racial equality. For example, in February 1954, at the very time the court was deliberating, Washington, D.C., witnessed the racial integration of two receiving centers, the district jail, a public hospital, a training school, and six public
NO SEGREGATION IN PUBLIC EDUCATION

LIBERTY BELL, 1934
housing projects. In contrast, one week after the Supreme Court decision the Louisiana State Senate passed by a vote of 32–1 a resolution denouncing the decision as “intolerable, impracticable, and unenforceable.” These are random samples of forward-looking action and outright hostility. But taking all things together, and without in any way minimizing the quantity or the seriousness of the tasks which remain to be solved, the ACLU is of the opinion that the Negro American will move with increasing rapidity toward the acquisition of his full rights.

1. The School

Over the next two or three years particular significance will attach to the handling of the segregation problem in the Washington, D.C., schools. President Eisenhower has made it clear that he expects the District, under the direct control of Congress, to offer general leadership both in pattern and in timing. H. M. Corning, District Superintendent of Schools, has already announced that segregation will be totally ended by September of 1955: “The schools will hereafter operate as a single system, and . . . no reference will be made in any way to racial differences among its pupils or employees.” Immediate attention will be given to such chief problems as faculty assignment and rating and school zoning.

It should be remembered, of course, that the struggle against discrimination is a never-ending one; gross inequalities such as that between white and Negro are paralleled by other problems. For example, the American Jewish Committee in a study of admission policies of medical schools in New York State between 1950 and 1953 noted a marked decline in discrimination; nevertheless, some medical school admission committees still use unreliable personality criteria to reject Jewish and Italian applicants while accepting other students who are scholastically inferior.

Fraternities. The Humanist in 1954 reviewed the history of fraternity bias over the past five years. In 1949 it looked as if the national fraternity offices would support the elimination of bias regulations, but in succeeding years a reversal took place—despite the fact that the charters of forty local chapters have been suspended or withdrawn. The national headquarters of the fraternities have run into difficulties because any national ruling to end discrimination is challenged by those who ask why a private social group cannot select whom it will for membership.

In 1953 the New York State University, which comprises two medical colleges and nine teachers colleges, met the discrimination issue head-on. President William S. Carlson ordered all student social organizations to sever their connections with national fraternal groups.
and to eliminate bias in the selection of their members. Carlson said that "it would be sophistry for the State University to vigorously combat discrimination in its admissions and academic policies, and, at the same time, condone those practices among the extra-curricular organizations recognized by it." On this ruling a unanimous federal court decision in June, 1954, held that "a state may adopt such measures, including the outlawing of such organizations as it deems necessary to do its duty of supervision and control of its educational institutions."

The recently organized National Committee on Fraternities in Education, under the presidency of Professor A. M. Lee, chairman of the Department of Sociology at Brooklyn College, has launched a nationwide campaign to combat discrimination in fraternity membership. ACLU chapters have also been active. For example, Colorado ACLU has been looking into the problem of Alpha Chi Sigma, national chemistry fraternity. The University of Colorado ruled that professional fraternities must be non-discriminatory, but the Board of Regents overruled this decision by holding this particular fraternity to be social.

Citation. The national Academic Freedom Committee of the ACLU in 1954 cited eight members of the faculty of the School of Theology of the University of the South (Sewanee), for resigning in protest against the refusal of the school to admit Negro students, thereby ultimately forcing a reversal of this discriminatory policy. Cited in connection with the same incident was the Very Rev. James A. Pike, Dean of the Cathedral of St. John the Divine in New York, who refused to deliver a scheduled baccalaureate address at the University of the South and to accept an honorary degree from that institution, because of the discriminatory policy then in force.

2. The Home

The question of discrimination in any particular public housing project apparently finds its solution, in 1954, by the complex interaction of legal precedents, administrative practice, and the sentiment of the community. Thus, the New Jersey Superior Court issued an injunction against the Elizabeth Housing Project prohibiting any quota system or any segregation. On the other hand, the National Committee Against Discrimination in Housing, an organization with which the ACLU cooperates, criticized a report by the President's Advisory Committee on Housing because it has "failed to come to grips with the challenge of a racially restricted market to a free competitive economy."

Trumbull Park Homes, Chicago. Donald Howard and his family, followed by ten other Negro families, in 1953 moved into a Chicago Public Housing project, formerly occupied only by whites. The sur-
rounding neighborhood expressed its displeasure and mobs of more than a thousand persons were soon gathered together; vegetable throwing developed into stone throwing, and eventually fires were set. More than a year later the Chicago police force was still obliged to patrol the neighborhood and to offer special protection to the Negro families involved. The NAACP reports that at one time as many as 1,200 policemen, one-sixth of the Chicago force, were on duty. Illinois ACLU has been extremely active, both in observation of the incidents and in the urging of every appropriate kind of public pressure upon city officials.

The Howards, after a year of incredible harassment, have felt obliged to leave; the other families remain. The heart of the difficulty lies in feeble police and court action. In the seven and a half months ending March 31, 1954, one hundred and fifty-five adults were arrested, of which number one hundred and fifteen were actually charged. Of the seventy-eight cases disposed of, twenty-three were fined up to two hundred dollars, two forfeited bonds, one individual was placed on probation, and one got a year in jail. Until this weak record is improved, it seems likely that trouble will continue.

**Restrictive Covenants.** In a June, 1953, decision, the U.S. Supreme Court held 6–1 that a person could not sue for damages another person who had broken an agreement prohibiting the sale of property to persons not of the white race. The majority opinion, written by Justice Minton, held that under the circumstances of this case, the defendant would have the right to raise the question of the unconstitutionality of the enforcement of such a clause by the courts, though the persons whose constitutional rights were violated, the non-whites, were not before the court. Southern California ACLU attorneys filed a brief as friend of the court.

**Domestic Relations.** In a Washington state case of potentially great importance a white couple were divorced, the mother retaining custody of the children. Upon her marrying a Negro, the father of the children by the first marriage fought to regain custody on the ground that life in the new home would not be to the best advantage of the children; his contention was upheld in a lower court. The State of Washington ACLU has intervened upholding the right of the mother not to be penalized by her mixed racial marriage; the case will soon be argued before the state Supreme Court.

3. The Job

The employment picture, like that in education, shows a mixed picture of reluctance, apathy, successful readjustment, and clear steps forward.
The Federal Scene. Twenty-two bills touching on discrimination in employment were introduced in the recent Congress; only one of these, the Ives-Humphrey Bill, was reported out and it was not voted on. This bill, which has enforcement provisions would "prohibit discrimination in employment, because of race, color, religion, national origin, or ancestry." The bill would govern persons, employers, employment agencies, labor organizations in interstate commerce transactions, and all federal government contracts.

Government Contracts. President Eisenhower's deep interest in problems of discrimination was evidenced by his appointment in August, 1953, of the President's Committee on Government Contracts, with Vice-President Nixon as chairman. In April, 1954, a subcommittee of this committee announced the text of a revised non-discrimination clause for contracts executed by the United States government. The new clause defines the prohibited discriminatory employment practices and requires contractors to post it in conspicuous places.

The State and Local Picture. The National Association of Inter-Group Relations Officials reports that fair employment practice legislation was introduced in the legislatures of nineteen states; Kansas passed a law, without enforcement provisions, and Indiana slightly strengthened existing law. California applied FEP principles to public works and bound the contractors to observance. The only fully enforceable law passed in 1953 was in Alaska. Municipal regulations go into effect in Erie, Pennsylvania, on January 1, 1955.

The California Employment Service, in its first year's report on the operation of a provision banning job discrimination, states that, of the 91,000 job offers received by it, 475 had discriminatory provisions; 351 of these were corrected by the offerers, and 125 were refused handling by the Service. Reports from the San Francisco employment area indicated larger employment opportunity for Japanese, Filipinos, and Negroes; persons in these groups are now being used as departmental managers and supervisors in private business. On the other hand, in Manhattan, situated in the parent state of FEP legislation, 65 percent of the commercial employment agencies are reported willing to service orders for stenographers which specify that only "white, Protestants" will be accepted.

FEP With Teeth. Two Negroes sought without success to join Connecticut Local 35 of the International Brotherhood of Electrical Workers (AFL) in order to secure employment. In reply to the Connecticut Commission on Civil Rights, the IBEW business agent emphasized the desirability of limiting membership to ensure steady employment, stated that nearly all new members were relatives of members and
added that the carpenters union had found Negroes "irritating and not good mechanics." Despite a Connecticut Supreme Court ruling, the general membership of the union refused to admit the men. The Assistant Attorney General thereupon applied for a citation of contempt; the union was fined $2,000 and a further penalty of $500 a week was ordered to begin within a few days. The two men were at once elected to membership and effective action was immediately taken to get them jobs. This is the first decision of a highest state court upholding a regulatory order issued under provisions of a state fair employment practices act, and the first case to move all the way to effective contempt punishment.

In Detroit, the State Employment Security Commission ruled a worker to be ineligible for unemployment benefits because of misconduct; he had quit his job rather than work with a Negro fellow-union member. The American Federation of Labor gave full support to the ruling of the state authority.

Vision. The International Harvester Company has undertaken a real revolution in employment practice in its southern plants. A general procedure of integration has led to much upgrading of Negroes with accompanying higher output and improved morale, and virtually no friction. Later, a wildcat strike at the Harvester plant in Memphis protested the promotion of a Negro to an "all-white" department. Walter Reuther, CIO President, informed both the management and the local union that the ordinary grievance procedure would not be available to workers disciplined by management for this strike.

Voluntary associations, while nominally private groups, often achieve a quasi-public status because of their relationship to the practice of a profession. Civil Rights in the United States, 1953, published by the American Jewish Congress, and the NAACP, notes that in 1947, Negroes were excluded from the state and county medical associations of all the southern and border states; by 1953 they had been admitted to 27, including 7 state associations. In 1954, Dr. Peter N. Murray became the first Negro president of a medical society in the United States—the New York County Medical Society, largest in the country.

Peonage. In extreme cases, federal law is applied against forced labor to work out a debt. Thus, in Alabama, a Birmingham federal court jury convicted two farmers of holding terrorized workers on their farms in slavery.

4. The Vote

Only Alabama, Arkansas, Mississippi, Texas and Virginia continue the poll tax, Tennessee having dropped from the restrictive group in 1953. The "cumulative" aspect of the tax in Alabama has been cut to
two years. But the NAACP plans test cases to halt discriminatory qualifying tests in Alabama, where out of 800,000 Negroes of voting age, only 30,000 to 50,000 appear to be registered. A significant election took place in Atlanta where Rufus E. Clement, a Negro, was elected to the school board. Of the 22,000 votes cast for him, at least 13,000 must have come from white voters; it is certain that he carried a majority of the white wards in the city.

Discrimination against political rights, involving religious beliefs, attracted attention in Michigan where a new law now permits absentee ballots when elections fall on religious holidays. More than 10,000 voters in Detroit took advantage of the new law when election day fell on Passover.

5. Military Service

The military service Secretaries appeared to be carrying out the President's directive looking toward the integration of all Army units, the elimination of segregation in military post schools, and the establishing of common facilities for all armed personnel. Separate facilities for Negro civilian employees have been eliminated in all but one of the Navy's 60 bases and installations in the south. Some doubt has been cast upon the rate of progress by the resignation of Lester Granger, Executive Secretary of the National Urban League, from his post as consultant to the Navy on racial integration.

Nineteen fifty-three also saw the last of government operated schools on military installations which practiced segregation. Beginning in January, 1954, schools operated by local authorities on military posts, in which segregation is practiced, were to begin a process of integration to be concluded in 1955.

6. Public Places

Progress is apparently more difficult with respect to discrimination in public places. NAIR0 reports that in 1953, Connecticut, Massachusetts, Oregon and Washington strengthened their legislation on this point but that better laws failed of passage in nine other states. Colorado, Illinois, and Iowa ACLU affiliates have been active in this work.

In the Iowa Surf Ballroom case an action was begun under a criminal statute which prohibits segregation in public places. In Justice of the Peace Court no violation was found because the Justice ruled the ballroom not to be a place of public amusement. A civil action was then begun in federal District Court, and a verdict for $500 was returned by the jury. The Iowa Civil Liberties Union filed a friend of the court brief.

**Interstate Common Carriers.** The famous Henderson cases which in 1942 and 1952 tested the policy of the Southern Railway with re-
spect to the seating of dining car clients apparently bore their final fruit in 1953. The Railway has advised the Department of Justice that henceforth passengers are to be seated in order of their entrance into the diner. In June, 1954, the ACLU announced its unqualified support of a bill in the House of Representatives which would bar segregation in buses and railroads engaged in interstate commerce.

**Pools and Rinks.** Three years of determined effort by the Greater Philadelphia Branch of the ACLU successfully brought to bear the force of the Philadelphia Accommodations Act of 1938, which provides criminal penalties for discrimination against anyone in public places because of race, color, or religion. A further gain has been made by the obtaining of an injunction in the Boulevard Pool case. Coincidentally, the city's Commission on Human Rights obtained an agreement among skating rink operators to discontinue discriminatory practices, although in May, 1954, it was reported that an attempt is being made to get around a voluntary agreement by the use of "membership cards."

**The Concert Hall.** Marian Anderson, one of the most distinguished musical artists in the world, in 1953 appeared in regular concert performance in Constitution Hall in Washington, D.C., from which she had been barred, since 1939, because of her color, by the Daughters of the American Revolution.

7. The Blight of Violence

Although the NAACP reported no lynchings in the United States in 1953, NAIRO noted 195 burnings and bombings, arising from racial friction, scattered through the country—by no means confined to the southern states. In Birmingham, Alabama, a Negro dentist began the construction of a house in a white area where friction had previously been noted; in May, 1954, it was burned, according to the authorities a case of arson. In Cairo, Illinois, segregation has been an issue, particularly with respect to the schools. A white citizen who has been opposed to segregation has had garbage thrown on his lawn, oil smeared on the steps of his house, and stones and bricks thrown through the windows. He has also received threats of extreme violence. Reference has been made above to the most severe and extensive instances of violence, those occurring in Trumbull Park, Chicago.

Both Greater Philadelphia ACLU and the national office protested on a general issue to Governor Benjamin Fine of Pennsylvania who had indicated in a speech his objection to FBI investigations of alleged violations of civil rights by state or local officers. It was pointed out to him that the federal laws under which the FBI operated were designed for the exact purpose of preventing abuse of such civil rights by state and local officials.
**Anti-Jewish Violence.** In Newton, Massachusetts, a young boy was beaten up by a teen-age gang after they had asked him whether he was a Jew. In Philadelphia similar beatings took place—with sentences imposed in juvenile court; the president of a synagogue was struck by a rock, and several attempts to set fires were reported. Other acts of violence were reported in New York City, Minneapolis, and Denver.

**LABOR**

**Democracy in Labor Unions.** The ACLU's campaign for democracy in labor unions took a major step forward with the adoption by the AFL Upholsterers' Union of North America of a recommendation made by ACLU in its 1952 statement, *Democracy in Labor Unions*. The AFL union agreed to establish an independent tribunal to hear the appeals of members who claim their democratic rights have been denied by the union; the tribunal's organization was completed in the spring of 1954. Executive Director Malin sent the ACLU's congratulations to the AFL union, stating "your action can serve as a guide to other unions to adopt similar procedures of self-control, which will avoid the need for legislative action, a step which should be avoided if at all possible."

The ACLU's Labor Committee, while encouraged by the Upholsterers' Union action, pressed its study of how to implement democracy in labor unions. The main conclusions reached were summarized in a "bill of rights," which stressed:

"1. The rights of the member of a union to function as such shall not be denied except on reasonable grounds [. . . and only if such rights] are denied equally to all other members;

"2. Membership in a union shall not be denied on account of race, religion, or national origin;

"3. The right to speak freely, to address the members, to petition the officials or to criticize any activities of the union or its officials shall not be denied except upon grounds which indicate a clear and present danger to the union;

"4. In the event that any member of a union is charged with any wrongdoing, he shall be presented with a clear and concise statement of the acts constituting the wrongdoing, he shall be presumed to be innocent of such wrongdoing until proved otherwise, and shall be given an opportunity to rebut all testimony against him, which shall be made openly, and in the presence of the alleged wrongdoer.

"5. Hearings on wrongdoings within the union shall wherever practicable be open to all members of the union. The triers of the facts shall be independent of the person or persons making the accusations, and their decision based upon the evidence shall be in writing, a copy of which shall be sent to the accused."
"6. The union shall provide orderly appeal procedures, and where possible punishments recommended shall be held in abeyance pending appeal in the event of such.

"7. The union shall provide that the last appeal shall be to the agency created below, which shall be independent of the union."

Concerning the independent hearing boards, the ACLU recommended that panels of hearing officials be set up throughout the U.S.; they should be permanent bodies suggested by such agencies as the American Arbitration Association, state arbitration or mediation agencies and like bodies, with the agreement of the labor federations. They would handle both charges against members by union officials and complaints by members against any labor official.

**Government Curbs on Communist-Controlled Unions and "Subversive" Employees in Private Defense Industries.** The strain of balancing national security with individual freedom was clearly shown in the labor field, where governmental action to check alleged "subversion" increased. The government's security investigations of persons employed by private industry and working on classified material has been in effect for several years, and while the ACLU has sought and won changes in the hearings that gave such workers better protection, it has not quarreled with the need for the program itself. Persons working on secret, classified data in defense plants are employed in "sensitive" posts, and in such cases, national security dictates governmental check-ups. (See above, pp. 36, 37.)

However, in the past year, emphasis has been placed on unions considered to be under Communist domination in sensitive defense industries, where the danger of espionage or sabotage is a possibility. In addition, the government's sights have been trained on possibly subversive individual workers employed in "defense facilities" and therefore a threat to security. Both President Eisenhower and Attorney General Brownell incorporated bills to cover these points in their general "anti-subversive" program proposed to Congress. Senator Butler proposed a bill that would grant to the Subversive Activities Control Board—when a charge is made that a union is controlled or dominated by past or present members of the Communist Party or Communist-front organizations—the power to issue a complaint and, until a final decision is reached, to deprive the union of the right to act as a collective bargaining agent. When the issue was first debated by Congress, the ACLU's Labor Committee authorized the following summary statement:

"In furtherance of its single objective, defense of civil liberties, the ACLU recognizes that the reality of the threat of Communist totalitarianism may necessitate non-employment of those persons employed in sensitive positions, who, by virtue of their devotion to the
Communist cause, and their employment in such positions, could
damage our national security. The ACLU, in making this accom-
modation between freedom and security, has stressed that the defini-
tion of what is a sensitive position and a security risk should be
exactly defined.

Interest soon focused on two administration proposals introduced by
Senator Ferguson in the Senate and Mr. Reed in the House. One of
these created a new category of Communist "infiltrated" organizations,
set up procedures for their dissolution, and permitted the Subversive
Activities Control Board to oust any of the union’s leaders before the
order might be reviewed in the courts. ACLU opposed the bill because
of the vagueness of the definition of what a Communist infiltrated
organization is and the failure to restrict the bill’s applicability to
unions in defense plants, and its possible application to private organi-
zations which are not labor unions. The other bill dealt with the elimina-
tion of suspected security risks from employment and defense facilities.
The ACLU opposed this bill because of its failure to provide any guide
as to which positions were to be considered sensitive, the vague defini-
tions which might permit the law to apply to virtually any industrial
facility, and the failure to recognize that the government and the govern-
ment alone should determine who is a security risk. A variety of other
bills were reported out of committee. Finally passed was the bill de-
scribed above, p. 28.

The government crack-down on "Communism" in labor unions was
also shown by the prosecutions brought under the provision of the Taft-
Hartley Act, which barred unions from the services of the NLRB if
their officers did not sign non-Communist loyalty oaths. The ACLU
some years ago aided, on First Amendment grounds, in the challenge
of the oath, but the Supreme Court ruled it constitutional. The govern-
ment then pressed perjury indictments against several labor figures who
had signed the oath, and obtained convictions in the cases of Ben Gold,
president of the Fur Workers Union, and Clinton Jencks, an official
of the Mine, Mill and Smelter Workers Union. The ACLU did not
intervene in the perjury cases, as these were solely factual questions
which a jury had to decide.

The NLRB ruled that unions whose officers are under perjury indict-
ment for giving false information about the oaths will not be granted
certification until the court proceedings are ended. Under certain con-
ditions, the NLRB said, it would permit unions whose officers were
facing perjury charges to take part in representation elections, but
should such unions win the election, certification would be withheld.

After Gold’s conviction he was again re-elected and took the non-
Communist oath. But the NLRB rejected his affidavit and ruled that
the union was no longer in compliance with the law—clearly depriving itself of benefits under the NLRB Act. He finally resigned his office.

**Picketing.** The ACLU generally has defended the right of labor to picket as an exercise of the First Amendment guarantee of speech and association, but this defense has not been absolute. The ACLU has recognized, that in certain cases, under certain circumstances, limits may be placed upon expression of opinion. Policy has been adopted stating that while a picket has the right to occupy the streets and to convey his thought by signs, when the sign or language used by a picket is fraudulent or libelous, or where violence on the part of the union and those picketing would be inextricably intertwined, picketing may be controlled by law. The ACLU has also supported the limitation that traffic must be kept open for pedestrians and vehicles to insure access to places picketed. It has also recognized that there is no right to picket where the picketing is for the purpose of defeating a contract resulting from certification, except that where the contract is up for renewal, picketing—as a legitimate type of electioneering—may be conducted during the normal electioneering period.

ACLU's present concern is that in recent years picketing has extended past the boundaries of communication of ideas, and may have entered the area of coercion. As this report was written, the ACLU Labor Committee was working on a statement which would protect picketing as a method of transmitting ideas and information, but would draw the line at coercive use.

In the winter of 1954 major New York newspapers were shut down because of a strike by the engravers' union. A picket line was set up which other newspaper unions honored. The ACLU's action was confined to a plea to both the unions and the publishers to consider the public's right to receive news and information.

A large-scale struggle involved a strike of approximately 1,500 sugar-cane plantation workers in Louisiana, which began on October 1, 1953, and was directed primarily against four of the major sugarcane producers in Louisiana. Union recognition was sought. Soon there were reports of violence against union members; injunctions against legal picketing were issued, in violation of the First Amendment. An FBI investigation was begun of the violence, though its results are not yet known. The eviction suits were all held up either through settlement of the cases or by stays pending appeals. In four lawsuits, injunctions were granted against the picketing of mills and plantations, distributing literature containing "false" information and any other action impairing the grinding of sugar. Appeals were taken to the Louisiana Supreme Court. Shortly afterwards, the strike was settled, though the many cases growing out of it are still on the court dockets.
State Action to Control Gangster-Dominated Unions. One of the major labor developments in the past year was the full-scale effort of law enforcement authorities to rid the New York waterfront of crime and racket-controlled unions. The major target was the International Longshoremen's Association, an AFL affiliate, which the investigation of the New York Crime Commission alleged to be the source of gangster influence and corruption. The old ILA was expelled and a new AFL-ILA union was chartered to represent the dock workers. However, by the spring of 1954, the new union had failed to win two representation elections conducted by the National Labor Relations Board. The first election was marked by AFL charges, upheld by the NLRB, of intimidation of dock workers and was thrown out. The second election was won by the old ILA by a small margin.

The ACLU, which had no way of passing on the merits of the charges of intimidation at the election, did not intervene then, but was highly critical of the ILA's use of "mass picketing marked by coercion and terror tactics" in one dispute with the AFL Longshoremen at a Brooklyn pier. James S. Kerney, Jr., chairman of the ACLU's Labor Committee, and the Reverend John Paul Jones, head of the NYCLU, telegraphed the ILA's executive vice-president, Patrick J. Connolly,

"Labor organizations, no matter what their affiliation, have every right to publicize their grievances through orderly picketing, and our courts have upheld this under the constitutional guarantee of the First Amendment. But when mass picketing marked by coercion and terror tactics is used to prevent workers who wish to work from gaining entrance to and departure from their jobs, such practices must be vigorously criticized. . . . Such violence will undermine the legal principle upon which the right to picker is based."

Legislation was adopted by the New York and New Jersey legislatures establishing a Waterfront Commission to regulate labor practices. The law bars any labor organization from collecting dues or assessments from members if any of its officers or agents is a convicted felon who has not been pardoned; it requires the registration of all longshoremen, the licensing of all stevedores, port watchmen, hiring pier superintendents and hiring agents, the abolition of "public loaders" and the substitution of state-operated employment information centers for the controversial "shape-up" hiring practice.

The constitutionality of the registration provision was unsuccessfully challenged in the courts by the old ILA; a special three-judge federal court ruled the law was a proper exercise of the police power exercised after the revelations of "grave abuses" in the hiring methods of dock workers. The Supreme Court refused to review the decision.

The New York Civil Liberties Union spelled out its position in a legal memorandum. Some regulation of the waterfront was not in-
appropriate, the NYCLU said, stating there is "justification for restricting employment to persons of good character and ... previous conviction of a crime has some bearing on the problem." The memorandum noted that the Commission had discretion to remove, for persons seeking a license, the disqualification against persons convicted of a crime if the individual's record is clear for the past five years.

NYCLU criticized the prohibition against collection of money for unions if any officer or agent has been convicted of a felony, calling it "wholly arbitrary and an unjustified restriction on union activities." Opposition was also expressed by the NYCLU to that part of the law limiting the employment possibilities of workers who advocate overthrow of the government by force and violence or knowingly belonging to groups that so advocate, on the Union's traditional ground of opposing all restrictions on advocacy and speech, this side of the "clear and present danger" line. Furthermore, security is the concern of the government.

A due process objection was made by the NYCLU to the provision of the law concerning licenses for longshoremen. The law stated that a license could be denied if the Waterfront Commission found that the presence of a particular individual created "a danger to the public peace or safety." Since no criteria were included to judge the danger, this provision leaves the door open to all kinds of arbitrary decisions, the NYCLU said.

The national ACLU Labor Committee also studied the waterfront law and made the following additional points: (1) provision should be made for back pay for persons eventually cleared by the commission; (2) objection should be made to a provision which might prohibit a person from retaining his license merely because he had been out of work for a period of time, and the section barring "floaters" from employment.

One additional problem arising out of the waterfront situation was the denial to dock workers of state unemployment compensation benefits, if they were not cleared for dock employment. The NYCLU offered legal aid to any person, "who, because of arbitrary action of either state or the city, is denied the right to employment and consequently is ineligible for compensation." The compensation ruling was changed after the NYCLU used its good offices to alert state officials to this violation.

**SELF-GOVERNMENT**

1. Indians

The twelve months covered by this report saw increasing pressures develop in Congress for the enactment of a series of bills intended to "emancipate" the American Indian—primarily by the withdrawal of
federal services and of federal responsibility for the management of land properties held in trust for the various tribes. While Indians are a much-forgotten minority, they are not enslaved and have not asked to be "emancipated." They are United States citizens, entitled to vote and free to move about the country like all other citizens. It is true, of course, that under treaties signed with the U.S. generations ago, Indians are to some extent wards of the government.

In the closing days of its 1953 session, Congress passed H.R. 1063, the so-called Law and Order Bill. It authorizes any state to assume complete civil and criminal jurisdiction over all Indian reservations within its borders. The ACLU joined other organizations in asking for a presidential veto on the ground that without consent of the tribes concerned, it would force the abandonment of much tribal self-government. President Eisenhower, however, signed the bill, observing that it should be amended to make it applicable only when the tribe concerned agrees to the change. Congress has not acted on this proposed amendment. No state, however, has yet apparently taken advantage of the situation to start its own law enforcement on reservations.

In February, 1954, representatives of some forty different tribes, including over 80,000 Indians, gathered in Washington to register their opposition to a series of "withdrawal" and "emancipation" bills. Roger Baldwin and Jeffrey Fuller were present for the ACLU and pledged the Union's full cooperation in opposing the legislation—in line with the policy that no Indian rights guaranteed by treaty with the U.S. should be abrogated unilaterally without the consent of the Indians involved.

Baldwin also urged the delegates to think in terms of preparing a long-range plan under which the tribes themselves would assume full responsibility for their land holdings, acting as corporations, since it is obvious that federal wardship cannot last indefinitely.

In June, 1954, the Union registered its opposition specifically to five of the proposed "withdrawal" and "emancipation" bills; the so-called "Termination" Bills, the "Competency" Bill, the Butler-Malone Bill, and the Goldwater Bill. The weight of Indian opinion, as expressed through tribal councils and inter-tribal organizations, is almost 100 percent united against these measures. For example, the Seminoles fear that without knowledge of the American competitive economic system (and two-thirds of the Seminole tribe do not speak English), they will not be able to earn enough to pay their taxes and thus they will lose their lands. Incidentally, although much of the Seminoles' land is swamp, rumor has it that oil may be found under the marshes, and many believe that oil—and perhaps uranium—is one of the chief reasons for the current pressures to "emancipate" the Indian.

The "Termination" Bills would end federal services without insuring that the states would continue them, would cut off federal credit funds,
would encourage the changing of tribal property into individually-owned parcels of land, thus ending tribal organization as such. The "Competency" Bill would deprive Indians declared "competent" of the use of Indian schools and hospitals and would encourage them to shake off their tribal responsibility while still retaining their right to a share of tribal property. The Butler-Malone Bill would dissolve Indian tribes as organizations and would require individual distribution of property. The Goldwater Bill would make Indians with less than half-Indian blood ineligible for Indian services and would remove their property from trust status; by basing the right to government services on blood percentage rather than need, it would intensify feelings of racial difference.

None of the measures singled out for ACLU criticism got through the 83d Congress, but the so-called "Utah Bill" withdrawing federal services from many of that state's Indians was passed.

2. Hawaii and Alaska

For a time it appeared that the recent Congress might support President Eisenhower's view that Hawaii should be admitted to statehood, but the principle of "political balance," which has operated before to defeat action, combined with a sincere desire to be even-handed to Alaska, led to the Hawaii Statehood Bill being combined with that for Alaska. The result was a stalemate; no bill was passed.

**WOMEN**

*Equal Rights Amendment.* Revived interest in the equal rights amendment, which passed the Senate in the recent Congress, led the Women's Rights Committee of the ACLU and the National Board to review again its position on this constitutional proposal. No reason was found to change the view that the specific issues to be covered by the proposed amendment had become so minor that they should not be handled by constitutional change. The principal remaining discriminations against women are not based primarily on law, but on custom and practice, which the amendment would not touch.

*Child Care Expenses.* The House Ways and Means Committee, early in 1954, drew up legislation permitting certain reductions for child care expenses by widows, widowers, and legally separated persons, but not by married couples, except where the husband is incapable of self-support. ACLU Executive Director Patrick Murphy Malin addressed a letter of protest to Chairman Daniel E. Reed of the House Committee, stating the ACLU opinion that "the proposed legislation is a denial of civil liberties to women because it places them under a special disability
based on their sex. . . . Under such a law, women would not have the same freedom as men to move in and out of the labor market. It would be something akin to the means test, one of the chief discriminatory practices against women which have blocked their effort to achieve full equality.” The Union therefore urged the Ways and Means Committee to reconsider the child care deduction provision, “and to make it apply equally, whatever its scope may be, to men and women alike, unmarried and married.”

The Union also criticized Reed for his comment, as quoted in the press, that “we decided that the tax law should not encourage mothers to leave the home except in cases of dire necessity.” While noting Congressional concern over the “problem of a changing labor force during a time of economic readjustment,” ACLU said, “we do not believe that even these causes justify your statement which could be interpreted as invading the freedom of the American family to determine how it shall run its home life. Your remark, if correctly quoted, would place the Ways and Means Committee outside the scope of its responsibility for writing of tax legislation to a general ordering of private lives.”
Part IV. INTERNATIONAL CIVIL LIBERTIES

June, 1953 to June, 1954

THE SENATE

The Union's concern with American participation in the civil rights activities of the United Nations found little encouragement and no progress during 1953-54, due primarily to the controversy over the treaty-making power. Although the Bricker Amendment to the Constitution—which would have made ratification of United Nations conventions on civil and political rights virtually impossible—was defeated by a narrow margin in the Senate, the Department of State has declined to submit any of the pending treaty proposals. Thus the convention for the political rights of women and the genocide convention remain without prospect of U.S. action. The UNESCO conventions for free entry without duty on educational, scientific and cultural matter are held up in the State Department. The Union has backed all these measures.

The ACLU opposition to the Bricker Amendment is based on a belief that the government of the United States should continue to have the power—subject always to limitations—to enlarge the rights of American citizens at home, by treaties, agreements or otherwise. It should continue to have the power—subject to the same limitations—to participate, by treaties, agreements or otherwise, in the development of universal standards of human rights (including the rights of American citizens abroad).

Limitations are available to check any abuse of power by the President in making treaties:

"Even a fully ratified treaty is already, without any such [Bricker] amendment, subordinate to all provisions of the federal constitution (including those dealing with individual liberties and those dealing with States' rights), and to constitutional federal laws enacted subsequently to the ratification of the treaty; the Senate, before ratifying a treaty, may make any reservation it wishes to safeguard State constitutions or laws, or federal laws enacted prior to the ratification of the treaty; if a treaty is not self-executing, there is additional protection in the necessity of Congressional action before it becomes effective.

"An executive agreement is already, without any such amendment, not only subordinate to all provisions of the federal constitution and to constitutional federal laws enacted subsequently, but also powerless to supersede State constitutions or laws or prior federal laws; no constitutional change is needed to achieve any other limitations on executive agreements."

95
THE UNITED NATIONS

In the United Nations, where the Union's representatives attended the many briefing sessions of the United States delegations on human rights issues, lack of progress was equally discouraging. While the Commission on Human Rights finally after five years of debate completed two covenants—one on political and civil, the other on social and economic rights—they did not contain the essential provision which the Union and most non-governmental agencies had strongly urged, for the right of access to the United Nations by aggrieved parties. The U.S. position, shared by other major countries, leaves to ratifying governments alone the right to bring complaints of violations of human rights—a most unlikely event.

The proposals advanced by the U.S. delegation for United Nations action to promote human rights were not reached for discussion. The Union supported these proposals for international studies, national reports of actual progress and technical aid to member States, but not as substitutes for the covenants.

UN Personnel Policy. The controversy over the discharges of some twenty American employees of the United Nations by the Secretary-General as a result of both Senatorial and grand jury inquiries into "subversion," on Fifth Amendment grounds, came to a head in the 1953 Assembly after the Administrative Tribunal, appeals agency of the Assembly, had handed down awards of money damages in most of the score of cases, holding the discharges unwarranted.

The U.S. opposed payment of any of the awards. Decision was referred to the International Court of Justice for an advisory opinion, presumably binding. The Union supported by representations to the U.S. delegation the supremacy of the judicial body.

The Assembly's request for an advisory opinion brought from the Court in June, 1954, a 9-3 decision upholding the final jurisdiction of the Administrative Tribunal in all personnel cases decided by it, and denying the right of the Assembly to overrule it. The United States has announced through its UN ambassador that it will contest the Assembly's acceptance of the advisory opinion.

The Assembly changed personnel rules to correct most of the ACLU grievances concerning lack of due process. It made subversive activities, not beliefs and associations, a ground for discharge. It narrowed the discretion of the Secretary-General and widened that of the appeals tribunal. It authorized a special committee headed by an appointee of the International Court of Justice to pass on all subversion cases.

The U.S. through the Presidential International Agencies Employees' Loyalty Board has continued to screen all American international civil
servants on grounds of loyalty or security, for the purpose of making recommendations to the Secretary-General, a procedure not opposed by the Union.

A dangerous bill, pending for a year in the House after passing the Senate, would have made it a crime for any U.S. citizen to take any international public agency job without prior clearance by the Attorney General. The Administration opposed it. The ACLU opposed it. It did not pass.

**Entry of Foreigners to the UN.** The controversy between the United Nations and the United States over interpretation of the Headquarters Agreement as it affects the entry of foreigners having business with the UN continued without satisfactory conclusion. The U.S. merely promised to give every disputed case prompt consideration at high levels. Under the McCarran Act, foreigners with present or past associations with subversive movements (meaning Communist in practice) are barred as security risks, and may be admitted only by the exceptional authority of the Attorney General for temporary periods and specific purposes.

Two issues arose in the 1954 UN sessions. One concerned the British representative of the Women's International Democratic Federation, who was finally admitted to attend the Commission on Women and the Economic and Social Council only on condition that her movements be confined to a small area of mid-Manhattan in which the UN is located.

Another incident concerned a representative to the Economic and Social Council of the World Federation of Trade Unions, barred on the ground he had taken part in an attempt on the life of the Shah in his native Iran, although he had previously been admitted to the U.S. for a UN session after that attempt. ACLU protested because the UN Headquarters Agreement provides for the admission of any representative of an approved agency, and there was no question of danger to the national security.

**Passports.** The State Department continued to deny passports to American employees of the United Nations to go abroad on UN business if they had not been cleared by the Presidential Board. The Union protested in vain the unreasonable interference with UN business.

**U.S. COLONIES**

**Puerto Rico.** Puerto Rico as the largest of U.S. island "possessions" became an issue in the United Nations when the U.S. announced in 1953 that it would no longer file reports on it as a non-self-governing country. The U.S. contention, backed by the Puerto Rican government under its new constitution, was that it satisfied any reasonable test of self-government. Opposed were the Independence and Nationalist
Parties, contending that colonialism still dominated a country subject to federal laws which it had no part in making.

The Assembly committee refused to hear the opponents in accordance with precedent, although urged by the Union and others; it then decided (by a widely divided vote) that Puerto Rico meets the test laid down and that the U.S. is relieved of further reporting on it. The Assembly thus asserted for the first time its disputed power to decide when a country becomes self-governing.

As a result of the controversy Roger Baldwin was invited by Governor Luis Munoz Marin of Puerto Rico to visit the island and discuss issues raised in the Assembly debates. He did so in January, 1954. The Union has since joined in opposing bills in Congress calling for a status for Puerto Rico between statehood and independence, taking the position that it will follow the lead of the island government and legislature in whatever steps they think practicable to clarify the present somewhat confused jurisdictions between Commonwealth and federal law. Some would go so far as to propose that no federal law shall apply to Puerto Rico without the consent of its legislature. Particularly strong is the feeling against drafting Puerto Ricans into the U.S. army without Puerto Rican representation in Congress (save by a non-voting Commissioner).

After four fanatic Nationalists shot wildly from the gallery of the House of Representatives during a spring session in 1954 to protest "colonialism"; federal agencies rounded up many Nationalists and former Nationalists in New York, Chicago and Puerto Rico. Island police arrested many more in the Island. Although no connection was shown between Nationalists and Communists, the few Communist leaders in the Island were also arrested. Nationalist leaders are held under the Island's sedition statute, similar to the federal Smith Act. The Union's counsel in Puerto Rico has intervened in cases where prosecutions appeared unrelated to criminal acts.

On the mainland, the federal government secured, in late May, conspiracy indictments against eleven Nationalists charging a plot to overthrow the government by violence, based on connections with the four terrorists. The leader of the Nationalists, Dr. Albizu Campos, arrested under Island law in Puerto Rico, had praised their act. The Union is examining the conduct of the cases to determine whether issues of civil right not associated with acts of violence are involved.

Virgin Islands. The government of the Virgin Islands became an issue with efforts to amend the Organic Act of 1936, widely opposed because of its limitations on self-government. The voters in a referendum split, however, on reforms, deciding only by a narrow majority that they want an elective governor, a single legislature, a single treasury and a resident commissioner in Washington. Roger Baldwin also visited the three islands to inquire into the controversy, invited by the
governor and the legislative councils. He found such wide disagreement as to remedies that the Union, with the American Virgin Islands Civic Association, has recommended an unofficial constitutional convention.

While this exploration was pending, bills to revise the Organic Act were reported out in both Senate and House. Leaders of the Islands' Legislative Assembly vigorously protested, as did the Union, the Civic Association and the National Association for the Advancement of Colored People. The bills were passed and signed by the President.

**Pacific Island Possessions.** No issues arose concerning U.S. island possessions in the Pacific, save for a minor incident in Samoa where an American citizen deported summarily by the governor appealed against the order. The Union protested the lack of due process, and the Department of the Interior agreed it requires remedy.

Somewhat oblique issues of civil rights arose in the protests of Islanders removed from their homes for the hydrogen bomb tests, an issue aired in June before the UN Trusteeship Council, on which the Union took no position. Natives on Okinawa protested to the Union through the Japanese Civil Liberties Union against land seizures by the military authorities without adequate compensation or hearings. The Union is taking up the problem with the Defense Department.

**OCCUPIED COUNTRIES**

Despite the continued occupation of Germany and Austria by the Allied Powers, controls have been so slight and services so reduced that no occasion prompted ACLU activity. Contacts with civil rights agencies have been maintained. A few cases required adjustment.

**ORGANIZATIONAL ACTIVITY**

The Union called attention of local branches to two United Nations anniversaries celebrated throughout the country—United Nations Day in October, anniversary of the Charter, and December 10, anniversary of the adoption of the Universal Declaration of Human Rights in 1948. The Union joined the National Committee for United Nations Day.

A printed leaflet was distributed on pending international issues on which action by individual members was urged. The Union continued its membership in the Conference Group of U.S. National Organizations on the UN, and was represented on its bureau. Affiliation with the International League for the Rights of Man, UN consultant agency, was maintained, Roger Baldwin serving both as its chairman and the Union representative. The Union was also among the 100 organizations represented at the annual conference on U.S. leadership in the UN, called by the American Association for the UN.
Part V. BALANCE SHEET OF COURT CASES

This Balance Sheet omits, because of space limitations, some appellate court decisions, and most trial court decisions in cases not being appealed. Decisions of the Court of Military Appeals are not given. A "Supplementary [mimeographed] List of Civil Liberties Cases, 1953-54" may be obtained from the ACLU for the sum of 10 cents (one free copy available to contributors of $5.00 or more).

FAVORABLE DECISIONS IN THE U.S. SUPREME COURT

1. The unanimous decision holding state-imposed segregation in education unconstitutional as a violation of equal protection of the laws. (Brown case)

2. The unanimous decision holding federally-imposed segregation in education in the District of Columbia unconstitutional as a denial of due process of law. (Bolling)

3. The unanimous decision holding unconstitutional the ban imposed on the motion picture La Ronde in New York on the ground that the movie was immoral. (Commercial Pictures Corp.)

4. The unanimous decision holding unconstitutional the ban imposed on the motion picture M in Ohio on the ground that the movie was not harmless or amusing, but was harmful because it was a horror picture undermining confidence in law enforcement which might lead unstable persons to immorality and crime. (Superior Films Inc.)

5. The 5–3 decision holding that confessions, obtained shortly after an original confession had been secured through mental coercion and invalid promises of immunity, could not be introduced in evidence in a state criminal prosecution without violating due process of law. (Leyra)

6. The unanimous decision holding that systematic exclusion of persons of Mexican descent from grand and petit juries violated the equal protection clause of the Fourteenth Amendment. (Hernandez)

7. The unanimous decision that the federal immunity statute prevents the use in a state criminal prosecution of testimony given by a subpoenaed witness before a congressional investigating committee. (Adams)

8. The 5–4 decision holding that due process had been violated when the Attorney General had prejudged a case and sought to influence a decision of the Board of Immigration Appeals, which resulted in denying suspension of deportation. (Accardi)

9. The 5–4 decision that a federal prisoner may contest his conviction even after his sentence has been served on the ground that his constitutional rights were violated. (Morgan)
10. The 6–3 decision that a person may not be denied Selective Service classification as a conscientious objector, simply because the authorities did not believe his statements, without some proof incompatible with the registrant's claim of exemption. (*Dickinson*)

11. The unanimous decision, upon confession of error by the government, that uncontradicted testimony by a petitioner for naturalization that he is a conscientious objector could not be disregarded by the naturalization court on the basis of the judge's personal predelictions. (*Jost*)

12. The 8–0 decision that a federal District Court committed error in deciding that an alleged attempt to bribe the jury foreman was made in jest and should be ignored, when the defense counsel were not informed of the incident. (*Remmer*)

13. The 4–4 decision which in effect upheld the decision of the U.S. Court of Appeals in Washington, D.C., holding that an alien against whom a deportation order is outstanding need not wait until he is in custody to test the legality of the order by habeas corpus, but may bring a declaratory judgment suit in advance thereof. (*Rubinstein*)

14.–16. The refusal to review lower court decisions outlawing segregation on Houston golf courses (*Holcomb*), in a Texas junior college (*Wichita Falls*), and a San Francisco public housing development (*Backs*). 

17. The refusal to review the decision of the U.S. Court of Appeals in St. Louis that a Selective Service registrant's belief in and approval of "theocratic wars" do not preclude his classification as a conscientious objector. (*Taffs*)

**FAVORABLE DECISIONS IN LOWER FEDERAL COURTS**

1. The decision of the U.S. Court of Appeals in Philadelphia upholding the federal law giving federal courts the power to grant writs of habeas corpus in state criminal cases. (*Elliott*)

2. The 2–1 decision of the Court of Appeals in Washington, D.C., holding that a preliminary injunction should have been issued pending the determination of whether the Attorney General had acted improperly in prejudging whether the National Lawyers Guild should be placed on his so-called subversive list, and determination of whether the Attorney General's procedures violate due process of law.

3. The decision of the Court of Appeals in North Carolina holding that the whipping of prisoners by a state penitentiary official is a criminal violation of the Federal Civil Rights Act. (*Jones*)

4. The decision of the Court of Appeals in Washington, D.C., holding that an alien is entitled to a full and fair hearing before being denied permission to return home, in a case where a Chinese scientist had been
denied permission to return to China because he has scientific knowledge and training which allegedly might be used by Communist China. (Mao)

5. The decision of the Court of Appeals in San Francisco holding that the failure to adequately inform three merchant seamen of the charges upon which they had been denied clearance under the Coast Guard Security Program violated due process of law. (Gray)

6. The decision of the Court of Appeals in New York that no unfavorable inferences may be drawn from the exercise of the privilege against self-incrimination. (Belfrage)

7. The 2–1 decision of the Court of Appeals in Washington, D.C., holding that threats of prosecution to compel witnesses to turn over papers to a congressional committee, when the witness appeared without counsel and was not advised of his right to counsel and his privilege against self-incrimination, amounted to compulsion, and that papers so obtained from him by the committee cannot be legally admitted in evidence in a trial against him as it is the result of an unconstitutional search and seizure (Nelson)

8. The decision of the Court of Appeals in Washington, D.C., reversing the conviction of a defendant because his right to counsel was denied, in that a secret agent of the prosecution had joined the defense attorney staff and given the prosecution information. (Caldwell)

9. The decision of the Court of Appeals in Texas that membership in the Communist Party terminated before entrance into the United States in 1948 was not a ground for deportation. (Perren)

10. The two decisions of the Court of Appeals in New York and St. Louis that a selective service registrant's belief in and approval of "theocratic wars" does not preclude his classification as a conscientious objector. (Hartman, Taffs)

12. The decision of the Court of Appeals in New York City that an alien need not wait until he is arrested to test in court the validity of a deportation order by a writ of habeas corpus, but may seek a declaratory judgment on the question before arrest. (Pedreiro)

13. The decision of a District Court in New York City admitting a person to citizenship though he had been called a Communist by a masked witness before a congressional investigating committee. (Mazel)

14. The decision of the District Court in Washington, D.C., holding that Sunshine and Health and certain other nudist publications were not obscene, in which the question has been raised whether the power granted to the Postmaster General to stop the delivery of all mail addressed to the publisher of obscene material is a violation of free speech. (On appeal)

15. The decision of the District Court in New York City that the rule of the Immigration Service prohibiting turning over of the deportation record by an alien to his attorney without approval of the Immigration Service should not be used to bar access to the record for determining whether a court case can be brought. (Maeztu)
16. The decision of the District Court in Puerto Rico that a naturalized citizen did not lose his citizenship by remaining abroad beyond the permitted period when the State Department by its silence had misled him into thinking that he could stay longer (Gay)

17. The conviction in the District Court in Kentucky of a local police chief under the Federal Civil Rights Act for interference with the freedom of the press by arresting a newspaper photographer and destroying negatives of pictures which had been taken of the police chief during a raid on a local “Playtorium.” (Gugel)

18. The decision of the District Court in San Francisco that a naval reserve officer's offer to resign prevents his being discharged summarily under the loyalty program, making unnecessary his removal on security grounds, precluding his being discharged without a full due process hearing. (McTernan)

19. The decision of a District Court in San Francisco that a doctor who refused to execute an Army loyalty certificate on the ground of his privilege against self-incrimination was entitled to an honorable discharge. (Levin)

FAVORABLE DECISIONS IN STATE COURTS

1. The decision of the Pennsylvania Supreme Court that a state sedition law is unconstitutional because it invades a field Congress regulated completely in the Smith Act. (Nelson; to be appealed)

2. The decision of the Supreme Court of Nevada reversing a discharge of a university professor for discussing general educational policy and practice despite a threat of dismissal. (Richardson)

3. The unanimous decision of the New Jersey Supreme Court holding that a Board of Education cannot distribute free copies of the Gideon Bible to public school children through use of public school machinery. (Tudor; on appeal)

4. The decision of the Illinois Supreme Court reversing a contempt of court conviction against the members of a local good government group for filing with a court a petition to appoint a special prosecutor in certain cases where the state's attorney had allegedly shown marked laxity. (Howarth)

5. The decision of the Virginia Supreme Court reversing the conviction of a local minister for contempt of court for criticism of a local court decision and the judge. (Weston)

6. The decision of the Supreme Court of Missouri holding unconstitutional that state's mental health statute (the model statute proposed by the old Federal Security Agency), insofar as it permits enforced hospitalization without notice, hearing or opportunity to defend, and without a court appearance. (Fuller)
7. The decision of the Supreme Court of Missouri that public schools controlled by a religious group and conducted in accordance with sectarian beliefs could not constitutionally receive public funds. *(Berghorn)*

8. The decision of the Supreme Court of Missouri that state funds could not constitutionally be used for transportation of parochial school pupils. *(McVey)*

9. The decision of the Florida Supreme Court that a state cannot force self-incriminating testimony merely by giving immunity from state prosecutions and that a witness can claim his privilege when the testimony tends to subject him to federal prosecution. *(Mitchell)*

10. The decision of the Utah Supreme Court that a grand jury is not empowered to make a report charging or implying misconduct by public officials against whom no indictment is returned. *(In re Report of Grand Jury)*

11. The decision of the New York Court of Appeals narrowing the coverage of the anti-loitering law to cases where the loiterer fails to give an explanation indicating that he is not a trespasser. *(Bell)*

12. The decision of an intermediate appellate court in New York ruling that the holding of a prostitution trial behind closed doors violated defendant’s right to a public trial. *(Jelke)*

13. The decision of an intermediate appellate court in California holding that the vagrancy law could not be used as a means of reprisal against a person making unpopular speeches. *(Edelman)*

14. The decision of an intermediate appellate court in California that permits to set up sidewalk tables to get petitions signed could not be refused on a discriminatory basis. *(Amdur)*

15. The decision of a trial court in Maryland dismissing the criminal libel indictment against Fulton Lewis, Jr.

16. The decision of a lower court in Alabama holding unconstitutional a state law requiring statements in text books affirming that the authors of those books and any others listed therein are not so-called subversives, on the ground that this was arbitrary, repressive and unworkable. *(American Book Co.)*

17. The dismissal of charges in a trial court in California made against 46 persons out of 400 rounded up in a mass raid on a Negro section without warrants, made upon every business establishment open in the section, to find gamblers, prostitutes, dope peddlers and addicts.

18. The decision of a local court in Maryland overruling the Censorship Board’s ban on the motion picture *The Moon is Blue* imposed on the ground that it was indecent and immoral, because arbitrary and capricious in the absence of standards of definitions.

19. The dismissing of obscenity charges by a state court in Rhode Island against the producer of the play *Tobacco Road* on the ground that the play must be judged as a whole and that the prosecution had not presented enough of the script for the jury to make a proper judgment.
20. The decision of a New York Supreme Court that a person could not be barred from being a policeman merely because he had once signed a Communist Party nominating petition, and after such a court decision had been made, could not be barred merely because he had resorted to the court for assertion of his rights. (Hamilton)

21. The decision of a New York Supreme Court that the New York statute permitting the Motor Vehicle Commissioner to revoke a driver's license on a drunken driving charge solely because the driver refused to submit to a blood test, violated due process since it does not require lawful arrest and does not give the driver a hearing upon an adequate record. (Schutt)

UNFAVORABLE DECISIONS IN THE U.S. SUPREME COURT

1. The 5-4 decision that introduction in a state prosecution of evidence secured by an unconstitutional placing of a concealed microphone in a garage, hall, closet and bedroom does not violate due process of law. (Irvine)

2. The 7-2 decision that an alien may be deported for past membership in the Communist Party even if he was unaware of the Party's advocacy of violence, so long as he knew it was the Communist Party he joined. (Galvan; petition for rehearing pending)

3. The 6-3 decision holding constitutional the suspension of a doctor from medical practice in New York solely because of his conviction of contempt of Congress resulting from legal advice and his attempt to challenge the constitutionality of the House Committee on Un-American Activities and its jurisdiction. (Barsky)

4. The 7-1 decision that a Maryland statute excepting gambling misdemeanor prosecutions in a designated county from a state ban on admission of illegally seized evidence in misdemeanor cases does not violate the Equal Protection Clause of the Fourteenth Amendment. (Salsburg)

5. The 7-2 decision affirming the decision of a lower federal court refusing to hold unconstitutional any of the provisions of the New York-New Jersey Compact (approved by Congress) licensing employment on New York's waterfront. (Linehan)

6. The refusal to review the decision of the U.S. Court of Appeals in New York upholding the conviction of William Remington for committing perjury during a trial for perjury, though the government had engaged in unlawful conduct in the first case.

7. The refusal to review the decision of the U.S. Court of Appeals in New York holding constitutional the Attorney General's reliance upon confidential information as a basis for denying suspension of deportation to an alien who had illegally entered the country. (Matranga)
8. The refusal to review the decision of the Court of Appeals in San Francisco that a person ruled an American citizen by an American consulate abroad could nonetheless be detained by the Attorney General upon his arrival here for determination by the Attorney General of the citizenship claim. (Yee)

9. The refusal to review a decision that in state criminal prosecutions, the U.S. Constitution does not require that an accused appearing without counsel be advised of his rights before a plea of guilty is accepted. (Shropshire)

UNFAVORABLE DECISIONS IN LOWER FEDERAL COURTS

1. The decision of the Court of Appeals in New Orleans affirming, on procedural grounds, the refusal to admit a member of the Texas bar to practice law before the federal court in Texas on the ground that he was employed in the law office of a lawyer popularly supposed to be a Communist. (Levy; to be appealed)

2. The decision of the Court of Appeals in Denver holding that denial of right to counsel in a state criminal trial for murder, at the time of return of verdict, sentence and motion for a new trial, is not of itself a violation of due process of law, in the absence of demonstrable prejudice, and that such prejudice could not be found in the denial of an opportunity to defense counsel to raise the question of improper influence upon the jury. (Neal)

3. The decision of the Court of Appeals in San Francisco that an alien who had been a member of the Communist Party in 1939 to 1940 so as to get a job to secure food and shoes for his ten children, could constitutionally be deported for such past membership. (Garcia; on appeal)

4. The decision of the Court of Appeals in New York that an alien could be deported under the Immigration and Nationality Act of 1952 although he might have become a naturalized citizen prior to the law's effective date, because he filed his application for citizenship two days before the law became effective. (Shomberg)

5. The decision of the Court of Appeals in San Francisco upholding the ban on importation of Henry Miller's Tropic of Capricorn. (Besig)

6. The decision of the Court of Appeals in Chicago that Selective Service classification as a conscientious objector may be denied solely because the beginning of the registrant's religious activities coincided with pressing induction activities. (Simmons)

7. The decision of the U.S. Court of Appeals in Washington, D.C. holding that the military may apprehend a discharged soldier to take him back to Korea for trial of a criminal offense committed there, without a hearing on whether probable cause existed. (Toth; on appeal)
8. The decision of the Municipal Court of Appeals in Washington, D.C. holding constitutional the Gwinn Amendment which bars members of organizations on the Attorney General’s so-called subversive list from living in certain federally-assisted housing projects. (*Rudder; on appeal*)

9. The decision of the District Court in Washington, D.C. that under the former loyalty program a federal employee might be discharged on loyalty grounds solely on the basis of secret unsworn derogatory reports. (*Peters*)

10. The conviction of the West Coast Communist leaders under the Smith Act in the absence of a finding of a clear and present danger, and granting of permission by the judge to the jury to find the defendants guilty even if their advocacy was so formulated so as to induce mere discussion and not action. (*Yates*)

11. The decision of a District Court in New York City holding that a second prosecution for the same offense does not violate double jeopardy when a mistrial had been declared at the first trial because of the prosecution’s tampering with the indictment, and that non-religious conscientious objectors may constitutionally be denied exemption from serving in the armed forces. (*Bendik; on appeal*)

12. The decision of a District Court in New York City that the antitrust laws are not applicable to the theatre. (*Shubert Bros.; on appeal*)

**UNFAVORABLE DECISIONS IN STATE COURTS**

1. The decision of the Supreme Court of Illinois holding motion picture pre-censorship constitutional while narrowing the concept of immorality and obscenity but in terms which make it vague. (*ACLU; on petition for rehearing*)

2. The decision of the Supreme Court of Pennsylvania upholding the constitutionality of that state’s loyalty act. (*Pechan Law*)

3. The decision of the Utah Supreme Court denying a hearing on a petition for a writ of habeas corpus to a person convicted of murder who alleged that the prosecution had knowingly used perjured testimony and suppressed evidence, and that his court-appointed attorneys had engaged in affirmative misconduct. (*Neal; to be appealed*)

4. The decision of the Washington Supreme Court that when a witness in a civil suit refuses to answer a question on the ground of the privilege against self-incrimination, the jury may draw an adverse inference against him though this could not be done in a criminal trial. (*Ikeda*)

5. The decision of the North Carolina Supreme Court that a mistrial need not be declared in a murder trial when several jurors became in-
toxicated and that therefore retrial is not barred by double jeopardy. *(Crocker)*

6. The decision of the Supreme Court of New Jersey probably narrowing a lower court decision which required a local prosecutor to cease all efforts to interfere through a citizens committee with distribution of books he deems obscene, though the precise effect of the decision is obscure. *(Bantam Books)*

7. That part of the decision of the Virginia Supreme Court, in its opinion upholding the reversal of the conviction of a minister for criticism of a local court, stating that criticism of local court decisions may be punished where there is a statute so permitting. *(Weston)*

8. The decision of the New York Court of Appeals denying leave to appeal the decision of an intermediate appellate court holding that a person might be denied employment as a cleaner in the subway for refusal to answer unauthorized questions as to Communist connections. *(Peltzman)*

9. The unanimous decision of an intermediate appellate court in New York holding that the Gwinn Amendment, barring members of organizations on the Attorney General's so-called subversive list from living in certain federally-assisted housing projects, was constitutional. *(Peters; on appeal)*

10. Decisions of an intermediate appellate state court in California holding that a teacher may be dismissed solely because of the plea of the privilege against self-incrimination before a congressional committee, though he offered to answer all question concerning Communist Party membership for the Board of Education. *(Mass, Berber)*

11. The decision of an intermediate appellate court in New York upholding the refusal of the Yonkers School Board to allow a "peace" organization to use a public school building for a meeting on the ground that the meeting would be controversial though the schools are generally open for meetings of private organizations. *(Ellis; on appeal)*

12. The decision of an intermediate appellate court in New York holding that while a juror has the right to criticize publicly the court and judge in which he served, and that any investigation of the charges must be free from undue prejudice, the judge nonetheless has the right to subpoena a critic of his court and require him to testify before him regarding his criticism. *(Hill; on appeal)*

13. The decision of an intermediate appellate court in California that an automobile driver's refusal to submit to a drunkometer test when arrested for drunken driving, is admissible against him in a prosecution for that offense. *(McGinnis)*

14. The conviction in a trial court in Pennsylvania for criminal libel of a newspaper publisher in a case where the judge had precluded the jury from considering the defense of truth and proper motivation, and permitted a conviction on the mere basis that the publication was a "scandal sheet." *(Donaducy; on appeal)*
15. The decision in a lower court in the state of Washington that a mother could be deprived of custody of her child on the ground that her subsequent interracial marriage prejudiced the best interests of the child. *(Lesser; on appeal)*

16. The decision of a trial court in Illinois permitting eviction from a public housing project of a person who had not complied with a state law requiring foreswearing of membership in unnamed and undefined communist organizations as a condition of occupancy of public housing projects. *(Blackman; on appeal)*

17. The decision of a lower court upholding the constitutionality of Virginia’s anti-miscegenation law. *(Naim; on appeal)*

18. The decision of a juvenile court in Utah depriving two parents of the custody of their children unless they affirmatively encourage their children to abide by the marriage and sexual laws of Utah, in disregard of the religious belief to the contrary held by the parents. *(Black; to be appealed)*

**PENDING CASES**

*other than those listed in earlier sections as on appeal*

**U.S. Supreme Court**

1. Reargument of an appeal from a conviction for contempt of Congress, in a case raising the question of whether the First Amendment prohibits the House Committee on Un-American Activities from asking questions concerning political beliefs and associations. *(Emspak)*

2. An appeal from the decision of the Iowa Supreme Court holding constitutional a burial lot contract’s provisions limiting burial privileges to Caucasians. *(Rice)*

3. An appeal from a decision of the Court of Appeals in Washington, D.C. holding that a summary criminal contempt judgment could be entered against an attorney at the end of the trial by a trial judge who had allegedly subjected the attorney to great provocation during the trial. *(Offutt)*

4. Petition to review a decision of the New York Court of Appeals on the ground that a public school teacher could not constitutionally be discharged solely because of the exercise of the privilege against self-incrimination before a congressional investigatory committee (the constitutional points were not mentioned in the New York opinion). *(Dani--man)*

**Lower Federal Courts**

1. In the Court of Appeals at New Orleans, reconsideration ordered by the U.S. Supreme Court of a decision involving constitutionality of segregation in Louisiana’s state university. *(Tureauad)*

2. In the Court of Appeals in Ohio, reconsideration ordered by the
U.S. Supreme Court of a decision involving segregation in a Kentucky public park. (Muir)

3. In the Court of Appeals in Washington, D.C., a case testing the constitutionality of the requirement that a Communist-action organization (the Communist Party) register under the provisions of the McCarran Internal Security Act of 1950. (Communist Party v. SACB)

4. In the Court of Appeals in San Francisco, a case testing the constitutionality of a Post Office order, made without notice or hearing, impounding all mail addressed to a mail order merchandiser pending the outcome of an administrative hearing on the charge that she is using the mails to sell obscene articles. (Standard)

5. In the Court of Appeals in Philadelphia, an appeal from the conviction of Pennsylvania Communist leaders in which the trial judge denied a hearing on the existence of a clear and present danger, and improperly stated the facts to the jury on which he based his finding of clear and present danger, thus probably prejudicing the jury. (Nelson)

6. The trial of Harvey O'Connor for contempt of Congress for refusing to testify before Senator McCarthy's Subcommittee on Government Operations as to whether he was a member of the Communist Party at the time he wrote material later used by the government in its overseas libraries, on the ground that the question was irrelevant to the inquiry and violated his First Amendment rights as an author. (Trial adjourned pending Supreme Court decision in Emspak case.)

7. In a District Court in Chicago, trial of an indictment under the Smith Act solely on the basis of knowing membership in the Communist Party with intent to bring about violent overthrow of the government as speedily as circumstances would permit. (Lightfoot)

8. In the District Court in Washington, D.C., a case testing the denial of a passport to the former chief judge of the Court of Military Appeals, solely because of the ideas the applicant intends to expound in Germany. (Clark)

9. In the District Court in Washington, D.C., a case seeking an injunction against the denial of a passport on the sole ground of the applicant's active membership and officership in an organization on the Attorney General's so-called subversive list when that organization has not yet been afforded a hearing. (Shactman)

10. In a District Court in New York City, a case testing whether the Attorney General had disqualified himself because of prejudgment in determining whether an organization should be listed on his so-called subversive list and determination of whether the Attorney General's procedures violate due process of law. (National Lawyers Guild)

11. In the District Court in San Francisco, a civil action to deport Harry Bridges because of alleged perjury in having denied membership in the Communist Party.
12. In the District Court in Washington, D.C., the trial of a case seeking a permanent injunction against the deportation of a couple who had legally entered the U.S. and had been denied suspension of deportation on the basis of confidential information never disclosed at their deportation hearing. (Maestu)

13. In a District Court in Oklahoma, a case testing whether the Post Office could ban anti-Eisenhower administration postcards from the mails on the grounds of obscenity because of the use of the three-letter word sometimes used to describe a donkey, in reference to cattlemen receiving blows (kicks) from the Administration. (Williams)

14. In the District Court of Washington, D.C., a case testing whether a person can be deported for past membership in the Communist Party on the basis of testimony of a police official that he had seen the alien's membership records and cards almost two decades ago, when the alien is denied the right to subpoena such records and cards now in the possession of the Los Angeles Police Department. (Mita)

15. In the District Court in Newark, N.J., a civil rights suit to remedy the discharge of a public school teacher allegedly solely because he is a conscientious objector and would not swear to bear arms in defense of the country. (Moore)

16. In the Court of Military Appeals, a case testing the power of the Armed Forces to censor the writings of military personnel. (Voorhees)

State Courts

1. In the Illinois Supreme Court, an appeal from a decision denying a petition for admission to the Illinois Bar, apparently solely because of expressed unorthodox political and philosophical beliefs without any evidence of Communist subversive activities or interest. (Anastaplo)

2. In the New York Court of Appeals, an appeal from the decision of an intermediate appellate court in a Gwinn amendment case (other test cases pending in courts in Cal., Chicago, Denver, Buffalo, Newark, (N.J.), and Washington, D.C.)

3. In the Florida Supreme Court, reconsideration ordered by the U.S. Supreme Court of a decision involving segregation in a Florida Law School. (Hawkins)

4. In the Supreme Judicial Court of Massachusetts, an appeal from the decision of a lower court refusing to permit the adoption by a Jewish couple of children of a Catholic mother who wanted them to be brought up as Jews. (Goldman)

5. In the Supreme Court of Puerto Rico, an appeal from the conviction of Ruth Reynolds for advocating the violent overthrow of the government solely because of taking an oath during a fund-raising speech that she would sacrifice her life and give up her fortune for the Nationalist Party.
6. In an intermediate appellate court in California, several cases testing the constitutionality of that state's Dilworth Act, which requires teachers to answer questions concerning Communist Party membership irrespective of their knowledge of the Party's nature.

7. In an intermediate appellate court in Kentucky, a proceeding seeking a new trial for two persons arrested for disorderly conduct in distributing literature, when there was no testimony taken under oath against them, no cross-examination of witnesses, and no opportunity to prepare a defense and secure counsel. *(Merson & Long)*

8. In a trial court in Ohio, a petition by Ohio theatre owners to restrain all activities of the Ohio Censorship Board. *(Superior Films Inc.)*

9. In a trial court in Massachusetts, a case testing the constitutionality of a 1951 Massachusetts statute making membership in the Communist Party criminal. *(Hood)*

10. In the trial court in California, cases testing the requirement of loyalty oaths from organizations, including churches, seeking property tax exemptions.

11. In a trial court in California, cases testing the constitutionality of the 1953 act requiring loyalty oaths for securing veterans' exemptions on property taxes.

12. In a lower court in Kentucky, a case testing whether the use of state funds for public schools can be barred where nuns teach in their clerical garb. *(Rawlings)*

13. In a trial court in Illinois, a case challenging the requirement that a Lutheran send her child to a public school which had been operated as a Catholic parochial school. *(Larson)*

14. In a California trial court, a damage suit by 23 actors and writers, who had refused testimony before congressional committees, against the major motion picture concerns, charging concerted blacklisting in employment in the movie industry. *(Wilson)*
Part VI. STRUCTURE AND PERSONNEL

GENERAL MEMBERSHIP AND THE CORPORATION

General members are persons or organizations contributing annually two dollars or more, and students in schools or colleges—in groups of not less than 25—each contributing one dollar or more. The corporation is composed of members of the Board of Directors, the members of the National Committee, and the boards of the local affiliates (acting as units). The National Committee is elected by the general members, and the Board of Directors is elected by the National Committee and the other members of the corporation.

Corporation Officers

Chairman—Ernest Angell
Secretary—Katrina McCormick Barnes
Assistant Secretary—Herbert Monte Levy
Treasurer—B. W. Huebsch
Executive Director—Patrick Murphy Malin

Board of Directors

Chairman—Ernest Angell
Vice Chairman—Edward J. Ennis
General Counsel—Morris L. Ernst and Arthur Garfield Hays

Mrs. Katrina McCormick Barnes
Mrs. Dorothy Dunbar Bromley
Earl Brown
Richard S. Childs
Norman Cousins
John F. Finerty
H. William Fitelson
James Lawrence Fly
Osmond K. Fraenkel
Walter Frank
Varian Fry
Lewis Galantiere
Walter Gellhorn
John Haynes Holmes
B. W. Huebsch
John K. Jessup
John Paul Jones
Dorothy Kenyon
James Kerney, Jr.
Alonzo F. Myers
Herbert R. Northrup
Elmer Rice
Telford Taylor
Norman Thomas
J. Waties Waring
William L. White
C. Dickerman Williams

113
National Committee

Vice Chairmen—Pearl S. Buck, Lloyd K. Garrison, Dr. Frank P. Graham
and the Rt. Rev. Edward L. Parsons

Sadie Alexander
Thurman Arnold
Bishop James Chamberlain Baker
Roger N. Baldwin
Alan Barth
Francis Biddle
Julian P. Boyd
Van Wyck Brooks
James R. Caldwell
Dr. Henry Seidel Canby
Prof. Robert K. Carr
Dr. Allan Knight Chalmers
Stuart Chase
Grenville Clark
Prof. Henry Steele Commager
Morris L. Cooke
Prof. Albert Sprague Coolidge
Prof. George S. Counts
Prof. Robert E. Cushman
Elmer Davis
J. Frank Dobie
Mervyn Douglas
Dr. Frederick May Eliot
Prof. Thomas H. Eliot
Walter T. Fisher
Dr. Harry Emerson Fosdick
Dr. Willard E. Goslin
Abram L. Harris
Earl G. Harrison
Quincy Howe
Palmer Hoyt
Dr. Robert M. Hutchins
Dr. Charles S. Johnson
Gerald W. Johnson
Dr. Mordecai W. Johnson
Dr. Percy L. Julian
Benjamin H. Kizer
Dr. John A. Lapp
Prof. Harold D. Lasswell
Mrs. Agnes Brown Leach
Max Lerner
Prof. Robert S. Lynd
Prof. Archibald MacLeish
E. B. MacNaughton
John P. Marquand
Mike Masaoka
Prof. Robert Mathews
Dean Millicent C. McIntosh
Dr. Alexander Meiklejohn
Dr. Karl Menninger
Donald R. Murphy
Dr. J. Robert Oppenheimer
Bishop G. Bromley Oxnam
James G. Patton
A. Philip Randolph
Elmo Roper
Morris Rubin
Dr. John Nevin Sayre
Bishop William Scarlett
Prof. Arthur Schlesinger, Jr.
Joseph Schlossberg
Robert E. Sherwood
Lillian E. Smith
Edward J. Sparling
Prof. George R. Stewart
Mrs. Dorothy Tilly
Prof. Edward C. Tolman
William W. Waymack
Aubrey Williams
Dr. William Lindsay Young
Benjamin Youngdahl

National Executive Staff

Executive Director—Patrick Murphy Malin
Assistant Directors—Alan Reitman and Jeffrey E. Fuller
Research Director—Louis Joughin
Staff Counsel—Herbert Monte Levy
International Work Adviser—Roger N. Baldwin
Washington Office Director—Irving Ferman
(Room 601-2, Century Building
412 Fifth Street, N.W., Washington—REpublic 7-8123)

Personnel Changes

Board of Directors. Five of the Board members listed in the
1951-53 Report are not now on the Board: Mr. Wechsler who resigned
because his work prevented his attending meetings: Messrs. Lamont,
Miller, Pitzele and Seymour, whose terms expired in 1953. The following five members have been added:

Earl Brown, assistant editor, *Life* Magazine
Lewis Galantiere, writer, Radio Free Europe
John K. Jessup, chief editorial writer, *Life* Magazine
Alonzo F. Myers, professor of education, New York University
C. Dickerman Williams, lawyer, former Board member who resigned in 1951 to take a post with the U.S. Dept. of Commerce.

The Board now numbers 31 of a maximum 35 provided under the by-laws.

**National Committee.** Roger N. Baldwin has resigned as chairman, but continues on the Committee; the post will be filled in the very near future. Five of the members listed in the 1951-53 Report are not now on the Committee: Bishop Francis J. McConnell, who died in August, 1953; Jos Dos Passos, who resigned in January, 1954; Robert Morss Lovett, William Mauldin and Will Rogers, Jr., whose terms expired in 1953.

The following six members have been added:

Robert K. Carr, professor at Dartmouth College, New Hampshire
Albert Sprague Coolidge, professor at Harvard College, Massachusetts
Gerald W. Johnson, newspaperman, Maryland
E. B. MacNaughton, president, Oregonian Publishing Company, Oregon
Robert Mathews, professor at Ohio State University, Ohio
Donald R. Murphy, editor, *Wallace's Farmer* and *Iowa Homestead*, Iowa

The National Committee numbers 75.

**Officers.** Whitney North Seymour's declination of renomination to the Board leaves a vacancy of vice-chairmanship in the Board officers.

**Staff.** A number of changes in staff took place in March of this year: George E. Rundquist, formerly Field Director, left the national staff to become full-time director of the New York Civil Liberties Union; Jeffrey E. Fuller, formerly Membership Director, was named an Assistant Director in charge of membership and affiliates; Mrs. Marie M. Runyon joined the staff as Membership Secretary; Louis Joughin became full-time Research Director; Clifford Forster, formerly Special Counsel, resigned to attend to personal business.
THE WORK OF THE ACLU WASHINGTON OFFICE

The creation of the ACLU Washington, D.C. office, in November, 1952, marked a significant advance in the Union's history.

An ACLU office in the nation's capital is recognition of the fact that civil liberties problems are no longer almost completely solvable in a framework of litigation. These problems have become matters of national mood and temper, particularly affecting Congress and the officials of the U.S. government. Congressmen make the laws, and the officials exercise the discretionary power of the federal executive agencies. It is the significance of the Washington scene which has led the Executive Director, in his foreword to this 34th Annual Report, to place an important emphasis on the legislative record and administrative practice of the government during the past year, and to discuss the probable course of civil liberties legislation during the opening months of the 84th Congress.

The day to day work of the Union has therefore called for new functions. It is constantly necessary that those charged with the making of legislation, and those who administer the laws, be acquainted with the information and opinion about civil liberties which the ACLU can offer. The national office and the affiliates also need to be informed of the developing patterns of legislation and executive action which affect the interest of the Union.

New functions have necessitated new techniques. The Director of the ACLU Washington office has particularly charged himself with establishing contacts with those members of the legislative and executive staffs who are actively at work on civil liberties problems. He has also arranged for the appearance of ACLU spokesmen who testify before congressional committees. Third, he has regularly reported important developments to the national and affiliate offices.

A further activity of the Washington office has been the study of the informal pressure groups which operate in the capital. This work has both a positive and negative aspect. It should be noted that there are important pressure groups which work for the preservation of our civil liberties as well as those which would subvert them.

As in previous years the ACLU has cooperated with the National Civil Liberties Clearing House, an information and research agency which furnishes to its more than forty organizational members reports on the legislative history and position of bills before Congress for consideration.

In short, in a time of ferment and great tension, the ACLU believes that it is a matter of prime importance to be actively at work for civil liberties in the vital center of our nation's government.
MAJOR LOCAL ACLU ORGANIZATIONS

California

American Civil Liberties Union of Northern California*
503 Market Street San Francisco 5
Rt. Rev. Edward L. Parsons, Chairman; Ernest Besig, Director

Southern California Branch, ACLU*
5927 Sunset Boulevard, Los Angeles 28
Edmund W. Cooke, President; Eason Monroe, Executive Director

Colorado

Colorado Branch, ACLU
1870 Broadway, Denver 2
Charles A. Graham, Chairman; Harold V. Knight, Executive Director

Chapter in Boulder

Connecticut

Hartford Chapter, ACLU
Robert Satter, 111 Lafayette Avenue, Hartford 6, Chairman

New Haven Civil Liberties Council
Prof. Ralph S. Brown, Jr., Yale Law School, New Haven, Chairman

Illinois

Illinois Division, ACLU*
19 South LaSalle Street, Chicago 3
Rev. Arthur Cushman McGiffert, Chairman; Edward H. Meyerding, Director

Indiana

Indiana Civil Liberties Union
P.O. Box 6147, Indianapolis 20
Rev. Barton Hunter, Chairman; Miss Jeanette Berman, Secretary

Iowa

Iowa Civil Liberties Union
4211 Grand Avenue, Des Moines 12
Kenneth Everhart, Chairman; Miss Garnet Guild, Secretary

Maryland

Maryland Civil Liberties Committee
10 East Centre Street, Baltimore 2
Dr. Gertrude Bussey, Chairman; Fred E. Weisgal, Chairman, Executive Committee

Massachusetts

Civil Liberties Union of Massachusetts*
14 Beacon Street, Boston 8
Dr. Allan Knight Chalmers, Chairman; Luther Macnair, Director

Chapters in Hampden, Hampshire and Worcester Counties

* Indicates an office is maintained.
Michigan

Metropolitan Detroit Branch, ACLU
Rev. Edgar M. Wahlberg, Chairman; Mrs. Kathleen J. Lowrie, Hilltop Lane, Birmingham, Secretary

Minnesota

Minnesota Branch, ACLU
15th and Washington Avenues, S.E., Minneapolis 14
Earl R. Larson, Chairman; Robert C. McClure, Secretary-Treasurer

Missouri

St. Louis Civil Liberties Committee
7717 Walinca Terrace, St. Louis 5
Glenn L. Moller, Chairman; Mrs. Ralph Streeter, Secretary

New York

New York Civil Liberties Union*
170 Fifth Avenue, New York 10
Charles A. Siepmann, Chairman; George E. Rundquist, Executive Director
Chapter in Queens

Niagara Frontier Branch, ACLU
Prof. Clyde W. Summers, University of Buffalo Law School, Chairman

Ohio

Ohio Civil Liberties Union*
740 West Superior Avenue, Cleveland 13
Oscar H. Steiner, Chairman; Rev. Edwin A. Brown, Executive Director
Chapters in Akron, Cincinnati, Cleveland, Columbus, Dayton, Oberlin, Toledo, Yellow Springs and Youngstown

Pennsylvania

Greater Philadelphia Branch, ACLU*
260 South 15 Street, Philadelphia 2
Alexander H. Frey, President; Spencer Coxe, Executive Director

Washington

State of Washington Chapter, ACLU
1114 Thirty-seventh Avenue North, Seattle 2
Rev. Aron S. Gilmartin, Chairman; R. Boland Brooks, Secretary

Wisconsin

Wisconsin Civil Liberties Union
408 West Gorham Street, Madison 3
Morris H. Rubin, Chairman; Mrs. Arthur Miles, Secretary

* Indicates an office is maintained.
## STATE CORRESPONDENTS

(In states and territories where the Union does not have organized local branches, these correspondents assist the ACLU by securing information and giving advice on local matters. They do not represent the Union officially.)

<table>
<thead>
<tr>
<th>State</th>
<th>Correspondent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Morrison B. Williams, Route 1, Box 15, Autaugaville</td>
</tr>
<tr>
<td>Alaska</td>
<td>Victor Fischer, 1601 F Street, Anchorage</td>
</tr>
<tr>
<td>Arizona</td>
<td>C. M. Wright, 128 North Church Avenue, Tucson 1</td>
</tr>
<tr>
<td>Arkansas</td>
<td>George G. Iggers, 118 Izard Street, Little Rock</td>
</tr>
<tr>
<td>Delaware</td>
<td>William Prickett, 404 Equitable Building, Wilmington</td>
</tr>
<tr>
<td>Florida</td>
<td>John B. Orr, Jr., 228 Northeast Second Avenue, Miami</td>
</tr>
<tr>
<td>Georgia</td>
<td>Morris B. Abram, 515 Healey Building, Atlanta</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Miss Mildred Towle, YWCA, 1040 Richards Street, Honolulu</td>
</tr>
<tr>
<td>Idaho</td>
<td>Alvin Denman, Idaho Falls</td>
</tr>
<tr>
<td>Kansas</td>
<td>Albert C. Eldridge, Institute of Citizenship, Manhattan</td>
</tr>
<tr>
<td>Kentucky</td>
<td>Grover G. Sales, 607 Marion E. Taylor Building, Louisville</td>
</tr>
<tr>
<td>Louisiana</td>
<td>George A. Dreyfous, 1609 National Bank of Commerce Building, New Orleans</td>
</tr>
<tr>
<td>Maine</td>
<td>Prof. Warren B. Catlin, Bowdoin College, Brunswick</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Jo Drake Arrington, 411 Hawes Building, Gulfport</td>
</tr>
<tr>
<td>Montana</td>
<td>Leo C. Graybill, 609 Third Avenue North, Great Falls</td>
</tr>
<tr>
<td>Nebraska</td>
<td>Prof. Frederick K. Beutel, U. of Nebraska, College of Law, Lincoln</td>
</tr>
<tr>
<td>Nevada</td>
<td>Martin J. Scanlan, 130 South Virginia Street, Reno</td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Winthrop Wadleigh, 45 Market Street, Manchester</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Emil Oxfeld, 744 Broad Street, Newark 2</td>
</tr>
<tr>
<td>New Mexico</td>
<td>Sumner Stanley Koch, 1306 Galisteo Parkway, Santa Fe</td>
</tr>
<tr>
<td>North Carolina</td>
<td>James Mattocks, Professional Building, High Point</td>
</tr>
<tr>
<td>North Dakota</td>
<td>Harold W. Bangert, 404 Black Building, Fargo</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Rev. Frank O. Holmes, First Unitarian Church, Oklahoma City</td>
</tr>
<tr>
<td>Oregon</td>
<td>Allan Hart, 730 American Bank Building, Portland 5</td>
</tr>
<tr>
<td>Puerto Rico</td>
<td>Guillermo Cintron Ayuso, P.O. Box No. 4566, San Juan</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>Gurney Edwards, 1109 Hospital Trust Building, Providence 3</td>
</tr>
<tr>
<td>South Carolina</td>
<td>John Bolt Culbertson, P.O. Box 1325, Greenville</td>
</tr>
<tr>
<td>South Dakota</td>
<td>U. G. Reininger, 701 South Menlo Avenue, Sioux Falls</td>
</tr>
<tr>
<td>Tennessee</td>
<td>Jordan Stokes III, 315 Warner Building, Nashville</td>
</tr>
<tr>
<td>Texas</td>
<td>Prof. Clarence E. Ayres, University of Texas, Austin 12</td>
</tr>
<tr>
<td>Utah</td>
<td>Prof. Charles P. Larrowe, University of Utah, Salt Lake City</td>
</tr>
<tr>
<td>Vermont</td>
<td>Louis Lisman, 166 College Street, Burlington</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>George H. T. Dudley, Box 717, Charlotte Amalie, St. Thomas</td>
</tr>
<tr>
<td>Virginia</td>
<td>Moss A. Plunkett, Box 492, Roanoke</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Horace S. Meldahl, P.O. Box 1, Charleston</td>
</tr>
<tr>
<td>Wyoming</td>
<td>Rev. John P. McConnell, 408 South 11th Street, Laramie</td>
</tr>
</tbody>
</table>
Part VII. MEMBERSHIP AND FINANCES

Fiscal Year February 1, 1953, through January 31, 1954

Although the Union’s membership and income continued to grow during the 1953-54 fiscal year at substantially the same healthy rate as in each year since 1950, the demands made upon the organization again resulted in greater expenditures than income. Consequently, the general reserve fund was reduced from about $72,000 at the beginning of the twelve months to approximately $61,000 at the end. (Most of this reserve is actually needed in the form of cash to get the ACLU through its relatively “lean” income months of February through September, the first eight months of the fiscal year, when monthly expenditures have in recent years always been greater than monthly income.)

The membership of the national ACLU and its integrated affiliates grew from 21,284 on February 1, 1953, to 24,978 twelve months later. A record 5,775 new members were enrolled, but 2,081, also a record, had to be dropped from the rolls as delinquent in dues, resigned, deceased, etc. Thus the net gain was 3,694, or about 17%, for the year. The Northern California branch, not integrated as to membership and finance, claimed 3,000 members of its own in January, 1954. Thus the Union had altogether about 28,000 members in early 1954.

DUES AND CONTRIBUTIONS

The national organization and its integrated branches received a total of $216,065 in basic income from membership dues and contributions —up almost 33% over the 1952-53 figure of $162,695. Other income, primarily in the form of a magnificent $25,000 bequest from the estate of the late Mrs. Thomas W. Lamont, and the last $10,000 of the Lasker Project grant, brought the total received to $254,218.

During the twelve months, over 25,200 separate contributions were sent to the national office, averaging $8.17 each. As in previous years, about 20% of the contributions were under $5; 55% between $5 and $9; 20% between $10 and $24; 3% between $25 and $49; 1% between $50 and $99; and 1% of $100 and over.

Contributors of $200 or more during the 1953-54 fiscal year were: William Prescott Allen, Texas; Mrs. Helen D. Marston Beardsley, California; Dr. Nelson M. Blachman, District of Columbia; David H. Blair, Jr., New Jersey; Miss Julia C. Bryant, Connecticut; Andrew H. Burnett, California; Lawrence B. Buttenwieser, Illinois; Mrs. Esther Smith Byrne, California; Mr. and Mrs. Roger S. Clapp, Massachusetts; Miss Fanny
Travis Cochran, Pennsylvania; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; the Rev. Stephen T. Crary, Massachusetts; Joseph E. Davies, District of Columbia; Mrs. Margaret DeSilver, New York; Mrs. Thomas M. Dillingham, California; Robert T. Drake, Illinois; Henry C. Ferguson, District of Columbia; Mrs. Stanton A. Friedberg, Illinois; Miss Gloria Gartz, California; W. C. Goodhue, California; Herbert G. Graetz, Massachusetts; William Roger Greeley, Massachusetts; Richard Grumbacher, Maryland; Mr. and Mrs. Gilbert A. Harrison, District of Columbia; Arthur Garfield Hays (for the Ellen Hayes Fund), New York; the International Ladies Garment Workers Union, New York; Miss Ethel L. Johnson, California; Mrs. William J. Korn (for the Mayer Family), New York; Mrs. Agnes Brown Leach, New York; John Frederick Lewis, Jr., Pennsylvania; Dr. Linus Pauling, Jr., Hawaii; Professor R. B. Pettengill, California; Frank C. Pierson, Pennsylvania; Dr. Dallas Pratt, New York; George D. Pratt, Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; H. Oliver Rea, New York; Harold L. Renfield, New York; B. Nathaniel Richter, Pennsylvania; Miss Charlotte Rosenbaum, Illinois; R. H. Scott, California; Mrs. Alice F. Schott, New York; A. Joseph Seltzer, Michigan; Henry W. Shelton, California; Mrs. Eleanor Lloyd Smith, California; the Swarthmore College Chest, Pennsylvania; Miss Anne L. Thorp, Massachusetts; Mr. and Mrs. Frank Untermyer, Illinois; George Weiner, Illinois; Norman Williams, Jr., New York; and the Workers Fellowship of the Society for Ethical Culture, New York. Anonymous contributions of $236, $325, and $2,000 were also received.

EXPENDITURES

1953-54's expenditures totalled $265,261—26% over 1952-53's outgo of $210,200. More than half of the increase took the form of greater amounts transferred back to integrated affiliates out of contributions received from members in their areas: $73,644 in 1953-54, as against $42,620 in 1952-53.

Aside from the ACLU's regular operations, the Maxine Hilson Estate trust fund, set up to pay Roger Baldwin's part-time salary as International Work Adviser, showed a net profit of $103 in dividends and from the sale of securities, after the salary and expenses were paid. Also, the Union supervised the expenditure of $827.22 allocated by the Robert Marshall Civil Liberties Trust for disbursement in accordance with the Trust's specific instructions on legal fees and expenses in certain civil liberties cases of the Trust's own choosing.
Membership and Finance, 1954-55 Fiscal Year

A membership of 28,000—a net gain of about three thousand in the first nine months of the fiscal year—was reached on October 31, 1954, by the national ACLU and its integrated affiliates. Membership income during these same nine months was up about 21% over the corresponding total in 1953. Special efforts are now under way to increase the rate of income growth during the closing months of the fiscal year (which ends January 31, 1955) so as to keep all expenditures this year within regular membership income. If the Union's small reserve funds are to be protected, or built up to adequate size, everyone must cooperate in getting more members and more money.

1953-54 MEMBERSHIP ENROLLMENT

<table>
<thead>
<tr>
<th>NUMBER OF MEMBERS FEBRUARY 1, 1953</th>
<th>21,284</th>
</tr>
</thead>
<tbody>
<tr>
<td>New members enrolled during fiscal year</td>
<td>5,775</td>
</tr>
<tr>
<td>Dropped: delinquent, resigned, deceased, etc.</td>
<td>2,081</td>
</tr>
<tr>
<td>Net increase during fiscal year</td>
<td>3,694</td>
</tr>
</tbody>
</table>

| NUMBER OF MEMBERS JANUARY 31, 1954 | 24,978 |

1953-54 FINANCIAL REPORT

<table>
<thead>
<tr>
<th>INCOME</th>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>New members' initial contributions</td>
<td>5,775</td>
<td>$34,338.98</td>
</tr>
<tr>
<td>Membership renewals</td>
<td>15,481</td>
<td>142,888.04</td>
</tr>
<tr>
<td>Special Funds contributions</td>
<td>3,962</td>
<td>38,838.39</td>
</tr>
<tr>
<td>TOTAL MEMBERSHIP INCOME</td>
<td>25,218</td>
<td>$216,065.41</td>
</tr>
<tr>
<td>Investment income (income less expenses, and profit less loss on securities sales)</td>
<td></td>
<td>loss: 209.67</td>
</tr>
<tr>
<td>Executive Director's honorariums</td>
<td></td>
<td>830.00</td>
</tr>
<tr>
<td>Sale of pamphlets</td>
<td></td>
<td>1,071.76</td>
</tr>
<tr>
<td>Royalties: The Judges and the Judged</td>
<td></td>
<td>260.84</td>
</tr>
<tr>
<td>Lasker Grant for NYCLU and Field Project*</td>
<td></td>
<td>10,000.00</td>
</tr>
<tr>
<td>Bequests from the estates of former members:</td>
<td></td>
<td>26,200.00</td>
</tr>
<tr>
<td>Mrs. Florence C. Lamont</td>
<td></td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Mrs. Morris L. Fineman</td>
<td></td>
<td>1,000.00</td>
</tr>
<tr>
<td>Miss Grace A. Strickley</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>Herbert C. Rowberg</td>
<td></td>
<td>100.00</td>
</tr>
<tr>
<td>TOTAL, ALL INCOME</td>
<td></td>
<td>$254,218.34</td>
</tr>
</tbody>
</table>

* Lasker Grant for this fiscal year was actually received in January 1953.
EXPENDITURES

GENERAL OPERATIONS

EXECUTIVE SALARIES (6 employees) ........................................... $ 43,400.38

CLERICAL SALARIES (16 employees) ........................................... 48,932.94

OTHER ADMINISTRATIVE EXPENSES

Rent ................................................................. $ 6,310.00
Equipment and repairs ........................................... 1,407.41
Stationery .......................................................... 3,013.53
Office supplies and services .................................. 5,028.77
Lettershop services ........................................... 1,168.82
Postage ............................................................. 7,576.98
Telephone and telegraph .................................. 3,286.76
Board meetings .................................................. 797.11
Executive Director's travel .................................. 1,165.37
Books, subscriptions, clippings, etc .................... 1,112.94
Payroll taxes and insurance .................................. 3,917.45
Auditor ............................................................. 1,650.00
Bank charges ...................................................... 583.96
Interest on loan .................................................. 673.33

Total ................................................................. $37,690.43

Less share of above expenses allocable to New York Civil Liberties Union ........................................... 800.00

$36,890.43

MEMBERSHIP SERVICES

Civil Liberties monthly paper .................................. 4,272.26
1951-1953 Report ................................................... 7,195.60
Membership maintenance services ...................... 1,203.72
Membership promotion ....................................... 11,159.60
Special Funds appeals ....................................... 2,099.22

$ 25,930.40

CASES AND CAUSES

C. L. R. Jones deportation case, U.S. Supreme Court ................................................................. $ 932.29

The Miracle movie censorship case, U.S. Supreme Court ................................................................. 463.53

Tobacco Road theatre censorship case, Rhode Island state courts ............................................. 300.00

Ralph Cooper and Collis English ("Trenton Two") life sentence appeal, New Jersey Supreme Court ................................................................. 300.00

M movie censorship case, U.S. Supreme Court ................................................................. 293.99

Jessie Brinn court-picketing case, New York courts ................................................................. 273.40

Black wire-tapping case, New York courts ................................................................. 263.73
Lenz academic freedom case, hearings before N.Y. State Commissioner of Education 200.00
Peltzman loyalty oath case, New York courts 170.75
Twenty-seven actions under $100 608.30

\[ \text{\$3,805.99} \]

**EDUCATION**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pamphlets and reprints</td>
<td>$2,182.32</td>
</tr>
<tr>
<td>Public Relations Committee</td>
<td>373.88</td>
</tr>
</tbody>
</table>

\[ \text{\$2,556.20} \]

**FUNCTIONAL COMMITTEES**

<table>
<thead>
<tr>
<th>Committee Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Freedom Committee</td>
<td>$266.14</td>
</tr>
<tr>
<td>National Council on Freedom from Censorship</td>
<td>296.99</td>
</tr>
<tr>
<td>Indian Civil Rights Committee</td>
<td>339.50</td>
</tr>
<tr>
<td>Labor Civil Rights Committee</td>
<td>132.22</td>
</tr>
<tr>
<td>Radio Committee</td>
<td>132.25</td>
</tr>
<tr>
<td>Other committees</td>
<td>20.74</td>
</tr>
</tbody>
</table>

\[ \text{\$1,187.84} \]

**INTERNATIONAL CIVIL LIBERTIES**

984.11

**WASHINGTON**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACLU Washington office: executive salary, clerical salary, office, rent, expenses, etc.</td>
<td>$15,236.58</td>
</tr>
<tr>
<td>Contribution to budget of National Civil Liberties Clearing House</td>
<td>2,500.00</td>
</tr>
</tbody>
</table>

\[ \text{\$17,736.58} \]

**LASKER PROJECT: NYCLU AND FIELD**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Field Director - NYCLU Executive Director's salary, and his secretary's</td>
<td>$9,143.14</td>
</tr>
<tr>
<td>ACLU field expenses: travel, etc.</td>
<td>1,048.63</td>
</tr>
</tbody>
</table>

\[ \text{\$10,191.77} \]

**TRANSFERS TO INTEGRATED AFFILIATES**

(Their share of contributions received by the national ACLU from members in their areas)

<table>
<thead>
<tr>
<th>Branch Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Southern California Branch</td>
<td>$17,112.94</td>
</tr>
<tr>
<td>Illinois Division</td>
<td>16,640.00</td>
</tr>
<tr>
<td>Greater Philadelphia Branch</td>
<td>12,000.00</td>
</tr>
<tr>
<td>Civil Liberties Union of Massachusetts</td>
<td>9,136.16</td>
</tr>
<tr>
<td>New York Civil Liberties Union*</td>
<td>7,700.00</td>
</tr>
<tr>
<td>Ohio Civil Liberties Union</td>
<td>5,292.27</td>
</tr>
<tr>
<td>Minnesota Branch</td>
<td>842.63</td>
</tr>
<tr>
<td>Wisconsin Civil Liberties Union</td>
<td>780.25</td>
</tr>
</tbody>
</table>

* The salaries of the NYCLU's half-time Executive Director and his secretary were paid from the Lasker Grant. See above.
<table>
<thead>
<tr>
<th>Organization</th>
<th>Balance (dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Louis Civil Liberties Committee</td>
<td>761.66</td>
</tr>
<tr>
<td>Maryland Civil Liberties Committee</td>
<td>693.33</td>
</tr>
<tr>
<td>State of Washington Chapter</td>
<td>559.38</td>
</tr>
<tr>
<td>Iowa Civil Liberties Union</td>
<td>458.00</td>
</tr>
<tr>
<td>Colorado Branch</td>
<td>432.37</td>
</tr>
<tr>
<td>Indiana Civil Liberties Union</td>
<td>396.50</td>
</tr>
<tr>
<td>New Haven Civil Liberties Council</td>
<td>361.50</td>
</tr>
<tr>
<td>Metropolitan Detroit Branch</td>
<td>333.00</td>
</tr>
<tr>
<td>Niagara Frontier Branch (Buffalo)</td>
<td>129.50</td>
</tr>
<tr>
<td>Hawaii Chapter*</td>
<td>35.00</td>
</tr>
</tbody>
</table>

$73,644.49

EXPERTURES, GRAND TOTAL: $265,261.13

**BALANCE SHEET**

*as of January 31, 1954*

<table>
<thead>
<tr>
<th>Asset</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash</strong></td>
<td>$33,560.79</td>
</tr>
<tr>
<td><strong>Airlines deposit</strong></td>
<td>425.00</td>
</tr>
<tr>
<td><strong>Loans receivable:</strong></td>
<td></td>
</tr>
<tr>
<td>Civil Liberties Union of Massachusetts</td>
<td>3,000.00</td>
</tr>
<tr>
<td>Ohio Civil Liberties Union</td>
<td>2,600.00</td>
</tr>
<tr>
<td>Greater Philadelphia Branch</td>
<td>2,500.00</td>
</tr>
<tr>
<td>Illinois Division</td>
<td>550.00</td>
</tr>
<tr>
<td><strong>Investments—at book value</strong></td>
<td>33,990.09</td>
</tr>
<tr>
<td><strong>Furniture and fixtures</strong></td>
<td>6,000.00</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td>$82,625.88</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Liability</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accounts payable</strong></td>
<td>$91.15</td>
</tr>
<tr>
<td><strong>Withholding and payroll taxes payable</strong></td>
<td>1,550.34</td>
</tr>
<tr>
<td><strong>Bank loans payable</strong></td>
<td>20,000.00</td>
</tr>
<tr>
<td>Robert Marshall Civil Liberties Trust:</td>
<td></td>
</tr>
<tr>
<td>special loyalty case reserve</td>
<td>37.28</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES</strong></td>
<td>$21,678.77</td>
</tr>
</tbody>
</table>

**NET WORTH**

| **General Reserve February 1, 1953**       | $71,989.90  |
| **LESS excess of expenditures over income, 1953-54 fiscal year** | 11,042.79 |

**Balance, Net Worth, January 31, 1954**     | $60,947.11  |

**TOTAL, LIABILITIES AND NET WORTH**         | $82,625.88  |

* Hawaii Chapter did not achieve regular status as a recognized ACLU affiliate.
INCOME
From investments .................................. $ 2,417.73
Profit on sale of securities .......................... 1,385.72
TOTAL INCOME ....................................... $ 3,803.45

EXPENDITURES
Mr. Baldwin's part-time salary ..................... $ 3,600.00
Accounting ............................................ 100.00
TOTAL EXPENDITURES ................................. $ 3,700.00

EXCESS OF INCOME OVER EXPENDITURES .......... 103.45

NET WORTH (cash and investments—book value)
Balance February 1, 1953 ............................ $39,662.75
ADD excess of income over expenditures ........... 103.45

BALANCE, JANUARY 31, 1954 ........................ $ 39,766.20

Certificate
In our opinion the accompanying balance sheets and statements of income and expenditures, subject to adjustments for the differences between the book and market values of the securities held, present fairly the financial position of the American Civil Liberties Union, Inc., at the close of business January 31, 1954, and the results of its operations for the fiscal year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

APFEL AND ENGLANDER
Certified Public Accountants

A copy of the complete auditor's report will be sent on loan to any member on request. The ACLU's financial and accounting methods are endorsed by the National Information Bureau, 205 East 42nd Street, New York 17, N.Y., a private agency organized to help maintain sound standards in philanthropy and to provide contributors with information and advice.

Contributions to the American Civil Liberties Union are not deductible for income tax purposes since the Treasury Department has held that a "substantial part" of the Union's activities is directed toward influencing legislation. The ACLU itself pays no taxes other than Social Security, Old Age Benefit and Workmen's Compensation levies in connection with its employees' salaries.
ACLU PUBLICATIONS AVAILABLE — DECEMBER, 1954

You may order by number from ACLU at 170 Fifth Avenue, New York 10, N.Y. All prices are postpaid. Quantity price schedule, in general: 25 or more copies—deduct 20% from single copy price; 100 or more—deduct 40%. Single copies of any available pamphlets will be mailed free to contributing members (dues of $5 and up) on request. Please indicate membership status when ordering.


2. CIVIL LIBERTIES VERSUS THE SMITH ACT. Brief statement of ACLU policy on this controversial law. 1951, 5 pages, 5¢.


8. THE SUPREME COURT AND CIVIL LIBERTIES. By Osmond K. Fraenkel. A legal analysis of how far the Court has protected the Bill of Rights. 1952, 92 pages, 50¢.

9. ACADEMIC DUE PROCESS. The ACLU's statement of desirable procedures in cases involving academic freedom. 1954, 8 pages, 10¢.


11. TWENTY QUESTIONS ON CIVIL LIBERTIES. A quiz which will tell you where you stand on policies followed by the ACLU. 1954, 2 pages, free.

12. DEMOCRACY IN LABOR UNIONS. The ACLU's report and statement of policy on this controversial question. 1952, 16 pages, 25¢.


14. THE PROBLEM OF CENSORSHIP IN PUBLIC LIBRARIES. A 1952 statement by Luther H. Evans, former Librarian of Congress. 1954, 1 page, free.


19. CIVIL LIBERTIES AND THE INTERNATIONAL SCENE. Summary of the most important human rights issues before the U.N. 1953, 4 pages, 5¢.

Published by others, distributed by ACLU:

30. IS FEAR DESTROYING OUR FREEDOM? An illustrated article by Leo Rosten, from Look. 1954, 5 pages, 10¢.


32. DILEMMAS OF LIBERALISM. An address by Francis Biddle, published by the Roger N. Baldwin Civil Liberties Foundation. 1953, 24 pages, 25¢.

33. THIRTY-FIVE YEARS WITH FREEDOM OF SPEECH. An address by Zechariah Chafee, Jr., published by the Baldwin Foundation. 1952, 40 pages, 25¢.


127
39. DON'T TAP THE BILL OF RIGHTS. An article on wiretapping by Irving Fe-
man, the ACLU's Washington representa-
tive. Reprinted from Machinists Monthly
40. SEGREGATION AND THE
SCHOOLS. A Public Affairs Pamphlet on
the historic Supreme Court decision. 1954,
28 pages, 25¢.
41. DEAN ERWIN N. GRISWOLD'S
SPEECH ON THE FIFTH AMEND-
MENT. Address by the Dean of the Har-
vard Law School, from Harvard Law
School Record. 1954, 2 pages, 5¢.
42. PRESIDENT TRUMAN'S VETO
MESSAGE ON THE INTERNAL SE-
CURITY ACT OF 1950. From the Con-
gressional Record. 1950, 4 pages, 5¢.
44. UNIVERSAL DECLARATION OF
HUMAN RIGHTS. Published by United
Nations. 1954, 8 pages, 5¢.
48. PRESENTING THE INTERNA-
TIONAL LEAGUE FOR THE RIGHTS
OF MAN, with which the ACLU is
affiliated. 1954, 6 pages, free.

Join the American Civil Liberties Union!

ACLU members of the following classification receive Civil Liberties each month and
this 1953-54 Annual Report (and future annual reports), and are entitled to single
copies of some 25 pamphlets currently available:

PARTICIPATING MEMBER .......... $100
COOPERATING MEMBER .......... $50
SUSTAINING MEMBER .......... $25
SUPPORTING MEMBER .......... $10
CONTRIBUTING MEMBER .......... $5

Associate Members at $2 receive Civil Liberties and the annual report. Weekly bulletin
is available on request to contributors of $10 and over.

Members living in the following states and areas also belong to the respective local
ACLU organization, without payment of additional dues: Southern California, Colorado,
Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, Ohio, Washington (state),
Wisconsin, and Greater New York, Philadelphia, St. Louis, Detroit, Buffalo, Hartford,
and New Haven. If you live in one of these states or city areas, your chapter will auto-
matically receive a share of your contribution. (The same applies to all new branches
organized.) The more you give the larger its share. Be as generous as you can!

AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue, New York 10, N.Y.

The ACLU needs and welcomes the support of all those—and only
those—whose devotion to civil liberties is not qualified by adher-
ence to Communist, Fascist, KKK, or other totalitarian doctrine.

Here is my $________________________ membership contribution to the work of the ACLU.

_________________________________________ PLEASE PRINT CLEARLY __________________________

NAME _____________________________________________

ADDRESS ___________________________________________

CITY_________________________ ZONE__ STATE_____________________

Occupation __________________________________________

128
YOU HAVE AN INTEREST IN CIVIL LIBERTIES!
SO — JOIN* THE
AMERICAN CIVIL LIBERTIES UNION!

The ACLU is the only permanent national non-partisan organization defending the Bill of Rights for all—without distinction or compromise. It depends on its members for all its funds.

The Union needs and welcomes the support of all those—and only those—whose devotion to civil liberties is not qualified by adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

YOU CAN HELP DEFEND AMERICAN LIBERTIES!
JOIN THE ACLU TODAY!

See Membership Blank On Page 128

*If you already belong, won’t you pass this copy of “America’s Need: A New Birth of Freedom” on to a friend, when you have finished it, urging him or her to join the ACLU.

Bequests

Provision is often made in wills for gifts to agencies which serve the public interest. Members are urged to give serious consideration to the work done by the Union in defense of civil liberties when planning legacies. Bequests should be drafted to refer to the American Civil Liberties Union, Inc., a corporation organized under the laws of New York State, with headquarters in New York City. Address: 170 Fifth Avenue, New York 10, N. Y.

Price of this pamphlet: 50¢ postpaid. For quantity prices, see page 127.